

No. 10 of 1994.

Land (Amendment) Act 1994.

Certified on : 16.5.94

INDEPENDENT STATE OF PAPUA NEW GUINEA.

No. of 1994.

Land (Amendment) Act 1994.

ARRANGEMENT OF SECTIONS.

1. Compliance with constitutional requirements.
2. Repeal and replacement of Section 69.

"69. APPROVAL OF CONTROLLED DEALINGS AND PERMITTED DEALINGS.

3. Amendment of Section 70 (withholding of approval in certain cases).
4. Transitional provision.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

No. of 1994.

AN ACT

entitled

Land (Amendment) Act 1994,

Being an Act to amend the *Land Act* (Chapter 185),

MADE by the National Parliament to come into operation on 1 January 1994.

1. COMPLIANCE WITH CONSTITUTIONAL REQUIREMENTS.

For the purposes of Section 29 of the *Organic Law on Provincial Government*, it is declared that this law relates to a matter of national interest.

2. REPEAL AND REPLACEMENT OF SECTION 69.

Section 69 of the Principal Act is repealed and is replaced with the following:-

***69. APPROVAL OF CONTROLLED DEALINGS AND PERMITTED DEALINGS.**

(1) In this section -

"controlled dealing" means a disposition of or a contract or agreement to dispose of a leasehold estate but does not include a transmission or a permitted dealing;

"instrument" means a document giving effect, or intended to give effect to a controlled dealing;

"leasehold estate" means -

(a) a Town Subdivision lease;

(b) a lease or sublease the term or remaining term of which exceeds 5 years;

(c) a lease or sublease for a term of 5 years or less which contains an option to renew for a further term which, together with the original term would exceed 5 years;

"permitted dealing" means a disposition of or a contract or agreement to dispose of a leasehold estate which has been prescribed as a dealing in respect of which Ministerial approval is not necessary to make it valid and effective;

"transmission" means the acquisition of title to or an interest in a leasehold estate consequent on the death or insolvency of the owner.

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"(2) A controlled dealing is void and of no effect unless it has been approved by the Minister.

"(3) Where the Minister refuses to approve a controlled dealing, he shall notify the reasons for his refusal to the person seeking the approval.

"(4) The grantee or transferee or intended grantee or transferee of a controlled dealing shall, within 28 days of the execution of the relevant instrument -

- (a) present the instrument to the Department for endorsement with a certificate of approval; and
- (b) lodge a duplicate or certified copy of that instrument with the Department.

"(5) A person referred to in Subsection (4), who refuses or fails to comply with Subsection (4), is guilty of an offence.
Penalty: A fine not exceeding K5,000.00.
Default penalty: A fine not exceeding K500.00.

"(6) A duplicate or certified copy prepared solely for the purposes of Subsection (4)(b) is not liable to stamp duty.

"(7) For the avoidance of doubt, it is hereby declared that a transfer, transmission or dealing with an estate or interest arising under or subject to the *Mining Act 1992*, *Forestry Act 1991* or the *Petroleum Act* (Chapter 198) is not a controlled dealing for the purposes of this Act."

3. AMENDMENT OF SECTION 70 (WITHHOLDING OF APPROVAL IN CERTAIN CASES).

Section 70 of the Principal Act is amended by adding the following new subsections:-

"(2) Unless the Minister has given his prior approval under Subsection (1)(b), a lessee shall not dispose of or enter into a contract or agreement to dispose of land the subject of a State lease unless the improvement and other covenants and conditions in the State lease have been fulfilled.
Penalty: A fine not exceeding K10,000.00.

"(3) Unless the Minister has given his prior approval under Subsection (1)(b), the owner of shares in a company, a major asset of which is a Town Subdivision lease, shall not dispose of or enter into a contract or agreement to dispose of or otherwise deal with those shares unless the improvement and other covenants and conditions in the lease have been fulfilled.
Penalty: A fine not exceeding K50,000.00.

"(4) A disposition or contract or agreement to dispose of or otherwise deal with shares, contrary to the requirements of Subsection (3), is void and of no effect.

"(5) For the purposes of Subsection (3), a disposition does not include a transmission."

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4. TRANSITIONAL PROVISION.

A dealing entered into before the commencement of the *Land (Amendment) Act 1993* shall be deemed not to be a controlled dealing for the purposes of Section 69(2) as amended by the *Land (Amendment) Act 1993* if, had it been entered into at any time after the commencement of the *Land (Amendment) Act 1993*, it would not have been a controlled dealing.

I hereby certify that the above is a fair print of the *Land (Amendment) Act 1994* which has been made by the National Parliament.

Clerk of the National Parliament.

I hereby certify that the *Land (Amendment) Act 1994* was made by the National Parliament on 23 February 1994.

Acting Speaker of the National Parliament.

