

**BRITISH NEW GUINEA DEVELOPMENT  
COMPANY LIMITED ORDINANCE AMEND-  
MENT ORDINANCE, 1924. <sup>(1)</sup>**

No. 13 of 1924.

**An Ordinance to further facilitate the carrying out of the Reconstruction Scheme of the British New Guinea Development Company Limited by declaring the meaning and effect of certain enactments contained in the “British New Guinea Development Company Limited Ordinance, 1923,” and for other incidental purposes.**

Preamble.

**W**HEREAS the British New Guinea Development Company Limited a Company incorporated on the eleventh day of February, 1910, under the *Companies' (Consolidation) Act, 1908*, in England (herein referred to as “the old Company”) was reconstructed under a scheme of reconstruction duly sanctioned by an Order made on the twelfth day of July, 1922, in the Chancery Division of the High Court of Justice in England and is now in course of being wound-up voluntarily: AND WHEREAS the old Company so reconstructed was on the seventeenth day of July, 1922, duly incorporated under the said Act under the same name (which reconstructed company is herein referred to as, “the new Company”): AND WHEREAS the old Company pursuant to powers duly conferred upon it in that behalf under the said Act and its Memorandum and Articles of Association had issued certain Mortgage Debentures carrying interest: AND WHEREAS on the tenth day of November, 1919, and on the fifth day of October, 1921, respectively the old Company of the one part and the Oceana Consolidated Company Limited a Company incorporated under the said Act in England (herein referred to as “the Oceana Company”) of the other part executed certain Indentures having relation to the Debenture issue aforesaid of the old Company whereby amongst

(1) Particulars of this Ordinance are as follows:—

Date of assent by Lieut.-Gov.	Date notified in Papua <i>Govt. Gaz.</i> as not disallowed by Gov.-Gen. in Council.	Date on which came into operation.
29.7.1924	24.12.1924	29.7.1924 ( <i>Ordinances etc.</i> of Papua, 1924, p. 39)

other things it was covenanted and agreed that the Oceana Company should become and act as Trustee for the Debenture Holders of the said Debentures with certain powers authorities discretions and obligations in the said Indentures respectively set forth and the old Company covenanted and agreed with the Oceana Company to make and do or cause to be made and done all such acts deeds registrations and things which might in the opinion of the legal advisers of the Oceana Company be necessary to vest in the Oceana Company by way of first specific mortgage certain real and personal property in the said Indentures mentioned according to the respective tenures thereof in accordance with the laws of Papua: AND WHEREAS pursuant to the said last-mentioned covenant the old Company executed and caused to be registered certain Mortgages Bills of Sale Encumbrances and other securities over the real and personal property aforesaid and all such securities were and each of them was subsisting and valid securities and security over the said property at the date of the incorporation in England of the new Company namely the seventeenth day of July, 1922: AND WHEREAS pursuant to the said scheme of reconstruction the new Company determined to issue certain Mortgage Debentures to a certain amount carrying interest and secured upon the assets of the new Company and on the twenty-seventh day of October, 1922, the new Company of the one part and the Oceana Company of the other part pursuant to the said scheme duly entered into and executed a certain Indenture having relation to the said Debenture issue of the new Company whereby amongst other things it was covenanted and agreed that the Oceana Company should become and act as Trustee for the Debenture Holders of the said Debentures with certain powers authorities discretions and obligations in the said Indenture set forth and the new Company covenanted and agreed with the Oceana Company to make and do or cause to be made and done all such acts deeds registrations and things which might in the opinion of the legal advisers of the Oceana Company be necessary to vest in the Oceana Company by way of first specific mortgage certain real and personal property in the said Indenture mentioned according to the respective tenures thereof in accordance with the laws of Papua which said property was the same as the property mentioned in the aforesaid Indentures dated respectively the tenth day of November, 1919, and the fifth day of October, 1921: AND WHEREAS pursuant to powers in that behalf contained in the above-mentioned Act and the Memorandum and Articles of Association of the new Company certain of the said last-mentioned Debentures were issued and power was reserved to issue further Debentures ranking in point of security *pari passu* with the Debentures so issued: AND WHEREAS under Section 3 of the *British New Guinea Development Company Limited Ordinance, 1923*, it is provided that the Lieutenant-Governor may on the recommendation of the Court by Proclamation under his hand

COMPANIES AND BODIES CORPORATE—

and published in the *Gazette* declare that the provisions of the said Ordinance shall apply to the old Company and the new Company from a date to be therein specified: AND His Excellency John Hubert Plunkett Murray Lieutenant-Governor of the Territory of Papua on the twenty-ninth day of October, 1923, by his Proclamation made pursuant to the said section proclaimed and declared that the provisions of the said Ordinance should apply to the old Company and the new Company respectively from the said twenty-ninth day of October, 1923, which said Proclamation was duly published in the *Gazette* on the seventh day of November, 1923: AND WHEREAS under and pursuant to the provisions of the said Ordinance all the property of the old Company mentioned in the said last-mentioned Indenture vested in passed to and became absolutely the property of the new Company and the new Company has become and is deemed to be the owner registered owner registered proprietor or person entitled claiming interest or affected in the stead of the old Company for all the estate right title interest claim and demand which the old Company had therein on the twelfth day of July, 1922, subject however to the provisions of the said Ordinance: AND WHEREAS by the said Ordinance it is provided as follows—that is to say:—

“All mortgages liens securities bonds guarantees agreements contracts deeds documents instruments and writings whatsoever relating to any real or personal property or affecting any rights or interests therein or giving any right or remedy to or against any person not expressly excepted from the operation of this Ordinance and in which the name of the old Company appears and which were in existence at the date of such Order as aforesaid (namely the twelfth day of July, 1922) and have not previously to the date specified in the Proclamation as aforesaid (namely the twenty-ninth day of October, 1923) been released discharged conveyed assigned transferred or otherwise assured by the old Company shall immediately upon and from such last-mentioned date be read and construed as if the name of the new Company appears therein as on and from the date of the incorporation of the new Company (namely the seventeenth day of July, 1922) instead of the name of the old Company and shall operate and take effect accordingly.”

AND WHEREAS doubts have arisen as to whether the provision of the said Ordinance last hereinbefore set forth has had and has the effect of creating or continuing in favour of the Oceana Company as Trustee for the Debenture Holders of the new Company

valid subsisting and enforceable securities over the real<sup>1</sup> and personal property mentioned in the Indenture dated the twenty-seventh day of October, 1922, and it was intended by the said provision of the said Ordinance that the said securities executed by the old Company in favour of the Oceana Company over the real and personal property mentioned in the Indentures dated respectively the tenth day of November, 1919, and the fifth day of October, 1921, should be continue and remain valid subsisting and enforceable securities against the same property of the new Company in favour of the Oceana Company without any fresh execution registration or other act process or proceeding whatsoever and without the payment of any fees or duties whatsoever: AND WHEREAS it is expedient and necessary for the purpose of carrying the said reconstruction scheme into full force and effect and to effectually secure and protect the rights title authorities discretions powers duties and obligations of the old Company and the new Company and the Oceana Company as such Trustee as aforesaid and the Debenture Holders of the new Company to set all such doubts at rest and to declare the meaning and effect of the provision of the said Ordinance hereinbefore set forth.

Be it therefore enacted by the Lieutenant-Governor of the Territory of Papua with the advice and consent of the Legislative Council thereof as follows:—

1. This Ordinance may be cited as the *British New Guinea Development Company Limited Ordinance Amendment Ordinance, 1924*, and shall be read as one with the *British New Guinea Development Company Limited Ordinance, 1923* (herein referred to as "the Principal Ordinance.") Short title.

This Ordinance and the Principal Ordinance may be cited together as the *British New Guinea Development Company Limited Ordinances, 1923 and 1924*.

2. It is hereby declared and enacted that all mortgages liens securities bonds guarantees agreements contracts deeds documents instruments and writings whatsoever relating to the real or personal property which is mentioned in two several Indentures dated respectively the tenth day of November, 1919, and the fifth day of October, 1921, or any of such property entered into and executed by the old Company in favour of the Oceana Company as Trustee for the Debenture Holders of the old Company or affecting any rights or interests in such real or personal property in which the name of the old Company appears are to be and shall immediately upon and from the seventeenth day of July, 1922 (being the date of the incorporation of the new Company) be read and construed as if the name of the new Company appears therein instead of

Declaring the true meaning of Section 5 of the Principal Ordinance.

## COMPANIES AND BODIES CORPORATE—

the name of the old Company and are to and shall operate and take effect accordingly to the intent that (without however prejudicing or limiting the effect of the provisions of Section 6 of the Principal Ordinance) all the securities of every nature whatsoever whereby all or any of the property real or personal of the new Company mentioned in the Indenture dated the twenty-seventh day of October, 1922 (being the same property as the property mentioned in the two Indentures aforesaid) was mortgaged pledged assured or secured by the old Company in favour of the Oceana Company as such Trustee as aforesaid shall without any conveyance assignment transfer assurance application re-execution re-registration or other act process or proceeding whatsoever be and continue and remain according to their several natures valid subsisting and enforceable securities in favour of the Oceana Company as Trustee for the Debenture Holders of the new Company absolutely to the same effect as if immediately upon the incorporation of the new Company the new Company had executed such securities and each of them in relation to the debentures of the new Company referred to in the Indenture dated the twenty-seventh day of October, 1922, and all the said securities and each of them shall be continue and remain valid subsisting and enforceable as between the new Company (being the new party thereto) and the Oceana Company as Trustee as aforesaid and shall be deemed to have been and are to be and shall be as from the said seventeenth day of October, 1922,<sup>(2)</sup> construed as if they were and each of them was executed by the new Company in favour of the Oceana Company pursuant to the covenant in that behalf contained in the said Indenture dated the twenty-seventh day of October, 1922, and shall be subject in all respects to the provisions covenants conditions and stipulations in the said Indenture contained.

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(2) The date referred to (17th October, 1922) does not appear in any connection in this Ordinance. There are references, however, to 17th July, 1922 (the date of the incorporation of the new Company), and to 27th October, 1922 (the date of the Indenture between the new Company and the Oceana Company).