

PAPUA.



LAND ORDINANCE, 1911-1927.<sup>(a)</sup>

*An Ordinance to Amend and Consolidate the Law Regulating the Dealing with Lands in the Territory and for other purposes.*

[RESERVED 20TH NOVEMBER, 1911;

[ASSENTED TO 10TH APRIL, 1912.]<sup>(b)</sup>

**B**E it 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 *Land Ordinance, 1911.*<sup>(a)</sup> Short title.

In its construction the term—

Interpretation.

“Lieutenant-Governor” means the Lieutenant-Governor with the advice of the Executive Council;

“Cattle” includes horses asses and mules;

“Town” includes the towns of Buna Daru Port Moresby and Samarai and such other localities as the Lieutenant-Governor shall so declare by notice to be published in the *Gazette*.

2. The Ordinances mentioned in the First Schedule to this Ordinance are repealed. Repeal.  
First Schedule.

(a) The *Land Ordinance, 1911-1919*, comprises the *Land Ordinance, 1911* (5 of 1912), as amended by the *Land Ordinance, 1912* (2 of 1913); by the *Land Ordinance, 1913* (1 of 1914); by the *Land Ordinance, 1916* (2 of 1917); by the *Land Ordinance, 1918* (8 of 1919); by the *Land Ordinance, 1919* (1 of 1920); by the *Land Ordinance, 1922* (16 of 1922); by the *Land Ordinance, 1924* (18 of 1924); by the *Land Ordinance, 1926* (10 of 1926), and by the *Land Ordinance, 1927* (10 of 1927); and as so amended may be cited as the *Land Ordinance, 1911-1927*. See Ordinance No. 10 of 1927, s. 1 (3).

(b) This is the date of assent to the *Land Ordinance, 1911*. The assent was notified in *Gazette* (No. 10) of 7th August, 1912. The *Land Ordinance, 1912*, was assented to on 19th May, 1913, and the assent notified in *Gazette* (No. 10) of 4th June, 1913. The *Land Ordinance, 1913*, was assented to on 20th January, 1914, and the assent notified in *Gazette* (No. 3) of 4th February, 1914. The *Land Ordinance, 1916*, was assented to on 21st February, 1917, and the assent notified in *Gazette* (No. 6) of 2nd May, 1917. The *Land Ordinance, 1918*, was assented to on 2nd July, 1919, and the assent notified in *Gazette* (No. 15) of 6th August, 1919. The *Land Ordinance, 1919*, was assented to on 10th February, 1920, and the assent notified in *Gazette* (No. 4) of 3rd March, 1920. The *Land Ordinance, 1922*, was assented to on 20th December, 1922, and the assent notified in *Gazette* (No. 22) of 30th December, 1922. The *Land Ordinance, 1924*, was assented to on 26th November, 1924, and the assent notified in *Gazette* (No. 15) of 24th December, 1924. The *Land Ordinance, 1926*, was assented to on 13th October, 1926, and the assent notified in *Gazette* (No. 18) of 3rd November, 1926. The *Land Ordinance, 1927*, was assented to on 19th October, 1927, and the assent notified in *Gazette* (No. 14) of 7th November, 1927.

Savings.

The repeal of the said Ordinances shall not except where it is in this Ordinance in any respect otherwise expressly provided—

- (1) affect the previous operation of any of the said Ordinances or anything duly done or contracted to be done or suffered thereunder ;
- (2) affect any right claim privilege obligation penalty or liability acquired accrued incurred or continued under any of the said Ordinances ;
- (3) affect any inquiry hearing legal proceeding or other remedy in respect of any right claim privilege obligation penalty or liability as aforesaid.

All lands which are subject to the provisions of the said Ordinances or any of them shall unless this Ordinance in any respect otherwise expressly provides continue to be subject to the provisions thereof until the same are surrendered or resumed or the existing title thereto is otherwise determined.

Any officer appointed body constituted or appointed and any office established under any of the repealed Ordinances shall continue and be deemed to have been appointed constituted or established as the case may be under this Ordinance.

Any Proclamation published or regulation made under any of the repealed Ordinances shall continue in force as if it or they had been published or made under this Ordinance.

Application for leases made on or before the first day of June One thousand nine hundred and ten may be dealt with as if the Ordinances hereby repealed but in force at the date of the said applications respectively were still in force. All subsequent applications for lease shall if granted be deemed to have been granted under this Ordinance.

I.—ACQUISITION OF LAND FROM NATIVES.

Natives have no power to deal in land. 5 of 1906, s. 3.

3. Save as hereinafter provided a native shall have no power to sell lease or otherwise deal with or dispose of any land and any contract made by him to do so shall be void.

Exception in case of land alienated from the Crown. *Ib.* s. 4.

4. A native who has acquired under a will or an intestacy land which has been alienated by the Crown shall have power to sell or otherwise to dispose of the land but no contract made by him to do so shall be valid unless approved by the Curator of Intestate Estates.

Lieutenant-Governor may purchase land from natives. *Ib.* s. 5.

5. If the native owners are willing to dispose of any land it shall be lawful for the Lieutenant-Governor to purchase or lease it upon such terms as may be agreed upon between him and the owners; but it shall not be lawful for him to purchase or lease any land until by sufficient inquiry he has become satisfied that the land is not required or likely to be required by the owners.

Authentication of Crown titles. *Ib.* s. 6.  
Second Schedule.

6. Leases and purchases of land by the Crown from natives shall be authenticated by such instruments and in such manner as may be prescribed by regulations to be made under this Ordinance. Until such regulations are made the practice prescribed by the Second Schedule to this Ordinance shall be followed.

7. (1) The Lieutenant-Governor may agree with the owners of any lands held for the time being under any grant or lease from the Crown and with all persons having any estate or interest in such lands for the absolute purchase for and on behalf of the King for such consideration as the Lieutenant-Governor shall think proper of any such lands or any part thereof and of all estates and interest in such lands of what kind soever.

Repurchase by the Crown.  
5 of 1906, s. 7.  
N.S.W. 26 of 1900, s. 44.

(2) All transfers leases or other instruments for effecting such purchase shall be taken in the name of the King.

(3) In all cases where the freehold estate of any person in land in respect of which a Crown grant has issued or a lease of or any interest in such land has been heretofore acquired by the Crown under any Ordinance for the time being in force regulating the dealing with lands in the Territory and the transfer lease or other instrument affecting such land shall have been taken in the name of some officer of the Government appointed in that behalf and shall have been recorded in the office of the Registrar of Titles in pursuance of the provisions of any such Ordinance the estate right title and interest in such land shall from the commencement of this Ordinance vest in the King in all respects as if such transfer lease or other instrument had been taken in the name of the King instead of in the name of such officer of the Government.

Vesting of title to lands already repurchased.

8. The Lieutenant-Governor may from time to time by Order in Council published in the *Gazette* declare that any land which has never been alienated by the Crown and of which there appears to be no owner will unless cause be shown to the contrary within the period specified in such Order become Crown land.

Waste or vacant land taken possession of by the Crown.  
5 of 1906, s. 8.

Every such Order in Council shall set forth the name or names (if any) by which such land is known with a description thereof made from an actual survey or a diagrammatic sketch of the same the position of the land an estimate of its area and a statement showing as far as known how long it has been unused by natives.

From and after the expiration of the time limited by such Order in Council the lands referred to therein shall be and be deemed to be vested in His Majesty for an estate in fee-simple:

Provided that the Lieutenant-Governor shall at any time before the expiration of the time so limited and may at any time thereafter take into consideration any claim to such land or any interest therein made by or on behalf of any alleged owner thereof and if he allows such claim may either by another Order in Council published in the *Gazette* declare that the Crown disclaims its title to such land in which case the land shall not then vest in His Majesty or become Crown land or if it has so vested shall be divested from His Majesty and cease to be Crown land or he may acquire the right of such owner in manner hereinbefore provided.

9. It shall be lawful for the Lieutenant-Governor by Proclamation in the *Gazette* to appoint a Board or Boards to decide all questions as to waste and vacant lands or lands alleged to be waste and vacant and all cases of disputed ownership of land in which a Papuan native is a

Boards may be appointed to decide claims to native lands.  
7 of 1908, s. 4.



claimant. The Board in giving its decision shall be guided by the principles of equity and good conscience and shall not be bound by rules of evidence or legal procedure.

An appeal shall lie from the Board to the Central Court. The practice regulating such appeals shall be as laid down in regulations to be made by the Chief Judicial Officer and published in the *Gazette*.

## II.—LEASES BY THE CROWN.

**10.** No estate in fee-simple or other estate in freehold shall be granted of any land the property of His Majesty; but leases may be granted by the Lieutenant-Governor as hereinafter provided.

Leases under this Ordinance may be for any period not exceeding ninety-nine years unless a lesser maximum period is hereinafter provided in respect of any particular classes of leases in which case they shall not exceed such lesser maximum period.

Every lease the term whereof commences after the first day of June One thousand nine hundred and ten shall except as may be expressly stated therein be deemed to contain a reservation of all mines minerals coal shale and mineral oils and of the right of access for the purpose of searching and working for them; and may also contain any condition or reservation which the Lieutenant-Governor may consider necessary in the public interest.

Except for purely temporary purposes or by virtue of some right or permission under this or some other Ordinance—

(1) no person other than a native shall occupy any land owned by natives; and

(2) no person shall occupy any land the property of His Majesty.

Any person who does so and who refuses to leave within a reasonable time after receiving written notice to quit from a resident magistrate or assistant resident magistrate may be forcibly ejected and shall be liable on summary conviction to a penalty not exceeding Forty pounds and in default of payment to imprisonment with hard labour for a period not exceeding three months.

**11.** (1) When an application for a lease made under this Ordinance or any Ordinance hereby repealed is for land which is wholly or partly unsurveyed or for which for any reason a lease from the Crown in accordance with such application cannot immediately issue the Lieutenant-Governor may nevertheless if he thinks fit grant the application.

(2) Provided that by the granting of the application the Government shall not be held to guarantee the position boundaries or area of the land described therein or the title of the Crown thereto; and the granting of the application shall be taken to be subject to survey and for such only of the land described therein as is land of the Crown.

**12.** (1) When any application for a lease under this Ordinance has been granted by the Lieutenant-Governor the interest of the applicant therein may be assigned notwithstanding that a lease from the Crown has not been issued in respect thereof.

No freehold to be granted by the Crown; leases may be for 99 years.  
Cf. 5 of 1906, s. 19.

Reservation of mines and minerals, etc.  
Ib. s. 10.  
16 of 1910, s. 10.  
Amended by 1 of 1920, s. 2.

Unauthorized occupation of native lands and Crown lands.  
5 of 1906, s. 10.

Application for lease of unsurveyed land may be granted.

Proviso.

Assignments of interest in granted application before issue of lease.



(2) An assignment under the provisions of this section shall be in one of the forms set out in the Third Schedule hereto according as the land affected by the assignment is unsurveyed or surveyed at the date of the application being made for a lease thereof. The assignment may be registered in the office of the Department of Lands at Port Moresby and shall be accompanied by a fee of Ten shillings.

Form of such assignment.

(3) The provisions and conditions of Section fifteen of this Ordinance regarding the assignment of leases shall apply and extend to assignments under this section and no such last-mentioned assignment shall be capable of registration until the provisions and conditions of that section have been complied with.

**13.** Upon registration of such an assignment as aforesaid in the Department of Lands the assignee shall thereupon succeed to all the rights (if any) of the assignor under the granted application for the lease and may in like manner and subject to the like conditions assign his interest therein and the lease may be issued to and in the name of the assignee under the last registered assignment.

Effect of assignment of interest before issue of lease.

**14.** There shall be kept in the Department of Lands at Port Moresby registers wherein shall be entered particulars of all assignments made under the provisions of the three last preceding sections and such other particulars as may be prescribed by regulations.

Register of assignments of interest before issue of lease.

Such registers shall be open for public inspection at any reasonable time during office hours on payment of a fee prescribed as aforesaid.

**14A.** Any lessee under this Ordinance or the Ordinances hereby repealed or any of them may with the consent of the Lieutenant-Governor surrender his lease at any time during the currency thereof. No surrender shall be of any force or effect until accepted in writing by the Lieutenant-Governor or by the Commissioner for Lands by his direction.

Leases may be surrendered. Cf. S.A. 722 of 1899, s. 85. Inserted by 1 of 1914, s. 2.

**15.** (1) Subject to the provisions of this section leases under this Ordinance may be assigned or otherwise dealt with provided that the rent due if any has been paid and that the improvement conditions to which they are respectively subject have been complied with; or in any case if the Lieutenant-Governor has given his assent thereto in writing.

Assignment of lease. 7 of 1910, s. 1. Amended by 1 of 1920, s. 3.

(2) No agricultural lease the application for which is granted after the first day of June One thousand nine hundred and ten may be assigned transferred or sublet without the consent of the Lieutenant-Governor being first obtained therefor to any person who either in his own name or in the name of another is already the holder of an agricultural lease or leases comprising five thousand acres of land. Such consent shall be withheld unless—

Conditions of assignment of certain agricultural leases. Cf. 16 of 1910, s. 14.

(a) the rent has been paid and all improvement conditions specified in Subsection (1) of Section thirty of this Ordinance have been performed in respect of the land sought to be assigned transferred or sublet; and

(b) special grounds of an urgent or exceptional character are shown by the respective lessees concerned in the transaction necessitating such consent to the satisfaction of the Lieutenant-Governor for granting such consent.

Amended by  
1 of 1920, s. 3 (b),  
and by 10 of 1926,  
s. 2.

(3) Agricultural leases mentioned in Subsection (2) of this section may be mortgaged with the consent of the Lieutenant-Governor to any person if the rent has been paid.

7 of 1910, s. 1.

(4) Assignments by will or by operation of law shall not be affected by this section but except as aforesaid no transfer sub-lease or mortgage or other alienation of land which has been leased under this Ordinance shall be valid.

When part of  
land in lease is  
permitted to be  
assigned  
original lease  
to be  
surrendered.  
Inserted by  
1 of 1914, s. 3.

**15A.** When any lessee under this Ordinance or under the Ordinances hereby repealed or any of them has at any time heretofore or shall at any time hereafter obtain the consent of the Lieutenant-Governor to the transfer or assignment of part only of the land comprised in his lease and shall be desirous of taking advantage thereof—

- (a) the lessee shall surrender his lease;
- (b) the Lieutenant-Governor shall grant a lease of the part of the land consent for the assignment of transfer of which has been given to the permitted assignee or transferee or if no assignee or transferee is named in such consent then to the person nominated in that behalf by the lessee so surrendering the lease and shall grant a lease to such lessee for the balance of the land comprised in the lease so surrendered;
- (c) every new lease so granted shall be for the unexpired period of the term of and for the same purposes and subject to the same terms conditions and regulations as the lease so surrendered and shall (for the purpose of identification only) refer to the registration number (if any) and date of such last-mentioned lease;
- (d) the lessee shall pay a fee of One pound for the preparation and Ten shillings for the registration of each new lease and shall furnish to the Registrar of Titles a surveyor's description and plan of the land to be included in each new lease.

If land is  
under repealed  
Ordinances it  
is to continue  
subject thereto  
Inserted by  
1 of 1914, s. 3.

**15B.** (1) If the land comprised in the lease so surrendered under the provisions of the last preceding section is subject to the provisions of the Ordinances hereby repealed or any of them the same shall subject to Subsection (2) of this section notwithstanding such surrender or anything in this Ordinance contained continue to be subject to the provisions thereof as if the new leases granted in respect thereof had been granted thereunder instead of under this Ordinance.

but becomes a  
"Crown  
Lease" under  
Section 24 of  
this Ordinance.

(2) For all the purposes of Section twenty-four of this Ordinance such new leases shall be deemed to have been granted under this Ordinance.

Constitution of  
Land Board.  
5 of 1906, s. 11.

**16.** A Board shall be appointed by the Lieutenant-Governor under the title of "The Land Board." The Board shall consist of three members one of whom shall be the officer ordinarily administering the Department of Lands and shall have a Chairman who shall be appointed by the Lieutenant-Governor. The method of dealing with vacancies on the Board whether temporary or permanent and all other matters of routine may be provided by regulation under this Ordinance.



Applications for leases and all other applications which under this Ordinance must be decided by the Lieutenant-Governor shall be considered first by the Board who shall report thereon to the Lieutenant-Governor.

Applicant may go into occupation with permission.

An applicant for a lease may while awaiting the result of his application with permission of the Land Board signified in writing under the hand of the Chairman go into occupation of the land applied for where it is the property of the Crown.

17. (1) So soon as may be after the passing of this Ordinance and thereafter when the Lieutenant-Governor thinks advisable all lands in the Territory except land in townships and land which has been alienated by the Crown shall so far as possible be classified according as in the opinion of the officer carrying out the classification they are or are not suitable for agriculture.

Classification of lands.  
5 of 1906, s. 12.

Lands classified as suitable for agriculture are hereinafter referred to as lands of "Class A"; lands classified as not suitable for agriculture are referred to as lands of "Class B."

(2) The Lieutenant-Governor may by Proclamation in the *Gazette* declare any unclassified lands of the Territory except as aforesaid to be lands of "Class B."

Until any such lands of the Territory have been otherwise classified or proclaimed under the foregoing provisions they shall be deemed to be lands of "Class A."

18. (1) So soon as may be after the passing of this Ordinance and thereafter from time to time as the Lieutenant-Governor thinks advisable an assessment shall be made of the unimproved value of such of the unassessed land of the Territory as has not been alienated by the Crown and is capable of assessment.

Unimproved value of land to be assessed.  
Cf. 5 of 1906, s. 13, and 5 of 1912, s. 18.  
Substituted by 2 of 1917, s. 2.

(2) The assessment shall be published in the *Gazette* and shall subject to the provisions of this Ordinance be the basis on which rents shall be determined.

(3) Until such assessment is made the assessment made under the provisions of Section thirteen of *The Land Ordinance of 1906* hereby repealed made on the 28th November, 1906, and published in the *Gazette* of 19th December, 1906, shall be deemed to have been made and published under the *Land Ordinance, 1911*, immediately after the commencement thereof.

(4) Land which has been or may hereafter be acquired by purchase or lease by the Lieutenant-Governor from the native owners under the provisions of Section five land which has been acquired or may hereafter be acquired as Crown land by declaration under the provisions of Section eight of this Ordinance and land which by reason of its having been alienated by the Crown has not been heretofore assessed and which may have heretofore since reverted or may hereafter revert to the Crown shall in the absence of any other assessment thereof be subject as from the date of such acquisition or reversion to the assessment existing at the time being and made or deemed to have been made under this Ordinance in respect of lands of the same class or description.



(5) The unimproved value of a piece of land shall be taken to be the sum which the land might reasonably be expected to realize if all the improvements on the land were removed and it were sold without them.

Unimproved  
value of land  
may be  
re-assessed in  
certain cases.  
Inserted by  
10 of 1926, s. 3.

**18A.** (1) The Lieutenant-Governor may if he thinks advisable so to do cause any land assessed or deemed to be assessed before or after the commencement of this section under the provisions of this Ordinance or any Ordinance hereby repealed to be re-assessed whenever the same shall not be comprised in any lease existing at the time of such re-assessment.

(2) Such re-assessment may be made from time to time.

(3) Every such re-assessment shall be published in the *Gazette* and such re-assessment (or in the case of more than one re-assessment in respect of the same land then the last re-assessment so made) shall be the basis on which rents shall be determined in respect of the land so re-assessed.

(4) Notwithstanding anything contained in this Ordinance or in any Ordinance hereby repealed all re-assessments of land made and published in the *Gazette* before the commencement of this section shall be and be deemed to be valid for all purposes.

(5) The provisions of Subsection (5) of the last preceding section shall apply to any re-assessment under the provisions of this section.

Survey fees to  
be paid upon  
application for  
over 100 acres.  
Cf. 30 of 1909,  
s. 1.

**19.** Survey fees shall be payable in respect of applications for leases of an area exceeding one hundred acres according to a scale to be from time to time fixed by the Lieutenant-Governor in Council and published in the *Gazette*.

The fees shall unless it is otherwise provided by regulation be deposited with the application and shall be returned if the application is not granted.

Also in some  
cases where 100  
acres or less  
are applied for.  
30 of 1909, s. 2,  
altered.

**20.** Survey fees shall also be payable in respect of applications for one hundred acres or any less area by or on behalf of any person who is already the holder or promisee of a freehold or leasehold except as to one town allotment under this or any other Ordinance relating to land.

The question of whether an application is made on behalf of any person other than the applicant shall be decided by the Lieutenant-Governor in Council.

Transfer of  
area of 100  
acres or less.  
*Ib.*

The Lieutenant-Governor in Council may make it a condition of giving his assent to the transfer of an area of one hundred acres or less for which application was made under this Ordinance or any Ordinance hereby repealed that the survey fees according to the scale fixed by regulation be first paid.

Nothing in this section shall apply to applications for a mission lease.

Regulations.  
*Ib.* s. 3.

**21.** The Lieutenant-Governor in Council may make regulations fixing from time to time the amount of the fees to be paid in respect of such applications and also the rate of fees to be paid to surveyors in

respect of surveys carried out by them for the Government and prescribing other matters of detail necessary for the carrying out of this Ordinance.

The regulations shall be published in the *Gazette* and shall thereupon have the force of law.

**22.** If the fees are not paid as prescribed in this Ordinance or the regulations thereunder the land applied for shall not be granted or if already granted may be forfeited by notice in the *Gazette*. Forfeiture for non-payment of fees.  
30 of 1909, s. 4.

**23.** With every application for a lease under this Ordinance (except an application for a mission lease under Section thirty-six) a deposit shall be paid according to the following scale:— Deposit payable with application for a lease.  
5 of 1909, s. 1.  
Amended by  
2 of 1917, s. 3,  
and by  
18 of 1924, s. 2.

One pound (£1) where the area applied for is one hundred acres or less;

Two pounds (£2) where the area applied for is more than a hundred but not more than five hundred acres;

Five pounds (£5) where the area applied for is more than five hundred acres but not more than a thousand acres; and

Five pounds (£5) for every additional thousand acres or portion of a thousand acres.

The deposit shall not be returned—

(a) if the lease is not executed by the applicant within six months after the publication of a notice in the *Gazette* that the lease is ready for execution by him; or

(b) if any of the improvement conditions to which the land comprised in the lease may be subject and which are thereby required to be completed within five years or any less period are not so completed.

**24.** Leases granted under this Ordinance or any Ordinance hereby repealed shall when executed be deemed to be Crown leases and shall be in the form provided by *The Real Property Ordinance of 1889*<sup>(a)</sup> or to the like effect which may be altered from time to time with the approval of the Lieutenant-Governor and shall be in duplicate and after being duly executed shall be forwarded to the Registrar of Titles who shall bind one copy in a book wherein leases under the Ordinances hereby repealed have heretofore been entered to be called the "Register of Crown Leases" and shall forward the other to the person entitled thereto. Register of Crown leases.  
Cf. 5 of 1906, s. 15.  
S.A. 380 of 1886, ss. 91 and 93.  
Amended by  
2 of 1917, s. 4,  
and by  
8 of 1919, s. 2.

The Registrar of Titles shall mark on each part of every Crown lease a copy whereof shall be bound in the Register of Crown leases the volume and folio as appearing in the Register of Crown leases; and such Crown lease shall thereupon be deemed subject to the provisions of and to be registered under such last-mentioned Ordinance and may be transferred mortgaged and dealt with for all the purposes and in like manner but subject always to the provisions of the Ordinance under which it was granted as if it had been granted by a registered proprietor of land under *The Real Property Ordinance of 1889*<sup>(a)</sup> and registered in the Register Book in the ordinary way excepting only that every transfer of a Crown lease shall be made by a separate instrument and not by

(a) See now *Real Property Ordinance, 1913-1914, infra*.

endorsement and that any entries which ordinarily would require to be made in the Register Book shall be made in the Register of Crown leases and on the folio constituted by the Crown lease.

A fee of One pound shall be paid for the preparation of a lease granted under this Ordinance and Ten shillings for the registration thereof. Such fees shall accompany the application for the lease.

Agricultural  
leases of lands  
of "Class A."  
5 of 1906, s. 16.  
Amended by  
2 of 1917, s. 5.

25. (1) Agricultural leases of lands of "Class A" may be granted by the Lieutenant-Governor.

(2) In the case of an agricultural lease for more than thirty years the rent shall be determined at five per centum per annum of the unimproved value of the land; but no rent shall be payable for the first period of ten years except in respect of leases referred to in Subsection (3) of this section. Rent shall not exceed Sixpence an acre per annum during the second period of ten years. The unimproved value of the land shall be appraised every twenty years during the currency of the lease and the rent determined accordingly; but if on any appraisal the rent is raised by more than one-third the lessee may disclaim the lease and shall thereupon be entitled to receive compensation for his improvements. The amount of compensation shall be determined in the manner to be provided by regulation.

Agricultural  
leases in  
certain cases  
to be subject to  
rent from  
commence-  
ment of lease.  
16 of 1910, ss.  
12 and 13.

(3) Rent determined as aforesaid shall be immediately payable in respect of agricultural leases granted after the first day of June One thousand nine hundred and ten for a term exceeding thirty years—

- (a) if the area granted exceeds one thousand acres; or
- (b) if the area granted together with the area of any agricultural lease for a term exceeding thirty years which is already held by the applicant or in which he has an interest (other than an interest as a shareholder in a registered company) exceeds one thousand acres.

Land which the applicant holds in the name of any other person shall be deemed to be land held by him. All the provisions of Subsection (2) of this section shall apply to agricultural leases first mentioned in this subsection except the provision that no rent shall be payable for the first period of ten years.

(3A) Rent determined as aforesaid shall be immediately payable in respect of agricultural leases granted in the circumstances set out in Section 41A of this Ordinance. All the provisions of Subsection (2) of this section shall apply to agricultural leases granted in the circumstances referred to in this subsection or any of them except the provision that no rent shall be payable for the first period of ten years.

5 of 1906, s. 16  
(1) (b).

(4) In the case of a lease for thirty years or less rent shall be paid during the whole time at the rate of five per centum per annum on the unimproved value; but the rent shall not exceed Sixpence per annum an acre during the first ten years. At the end of ten years and thereafter every ten years during the currency of the lease the unimproved value of the land shall be appraised and the rent determined accordingly.

Agricultural  
lease may be  
granted over  
"Class B"  
lands.  
New.

26. Notwithstanding that any land may have been classified proclaimed or assessed as land of "Class B" an agricultural lease may be granted thereof by the Lieutenant-Governor under the provisions and conditions of the last preceding section and thereupon the land



comprised in such lease shall be deemed to be land of "Class A" and to have been classified assessed and leased as such.

**27.** The maximum area of land which shall be included in any one agricultural lease hereafter granted in respect of any application made after the first day of June One thousand nine hundred and ten shall not exceed five thousand acres.

Maximum area  
in any  
agricultural  
lease.  
16 of 1910, s. 11.

**28.** (1) Pastoral leases of lands of "Class B" may be granted by the Lieutenant-Governor.

Pastoral leases  
of "Class B"  
lands.

(2) In the case of a lease for more than thirty years the rent shall be determined at two and a-half per centum per annum of the unimproved value of the land; but no rent shall be payable for the first period of ten years and not more than Twenty-five shillings per annum for every thousand acres during the second period of ten years. The unimproved value of the land shall be appraised every twenty years during the currency of the lease and the rent determined accordingly. If on any appraisalment the rent is raised by more than one-fourth the lessee may disclaim the lease and shall thereupon be entitled to receive compensation for his improvements. The amount of compensation shall be determined in manner to be provided by regulation.

5 of 1906, s. 16  
(2) (a).  
Amended by  
16 of 1922, s. 2.

(3) In the case of a lease for thirty years or less rent shall be paid during the whole time at the rate of two and a-half per centum per annum on the unimproved value; but the rent shall not exceed Twenty-five shillings per annum for every thousand acres during the first ten years. At the end of ten years and thereafter every ten years during the currency of the lease the unimproved value of the land shall be appraised and the rent determined accordingly.

5 of 1906, s. 16  
(2) (b).  
Amended by  
16 of 1922, s. 2.

**28A.** (1) Whenever by the Ordinances hereby repealed or any of them or by this Ordinance it is provided with reference to land comprised in any lease granted thereunder before the commencement of this section (other than leases of Town allotments) that the unimproved value of the land shall be appraised at specified periods of every twenty years or every ten years as the case may be during the currency of the lease and the rent determined accordingly it shall be a sufficient compliance with any such provision but so far only as it relates to the appraisalment to be made—

Method of  
appraisalment  
of certain land.  
Inserted by  
10 of 1927, s. 2.

- (a) at the termination of the first of the specified periods of twenty years; and
- (b) at the termination of the first and second of the specified periods of ten years

as the case may require if the appraisalment is made by an order of the Lieutenant-Governor in Council without any inspection of the land by placing each lease in one of three categories whereupon the following provisions shall apply:—

First category: If the lease is so placed in the First category the appraisalment so made of the unimproved value of the land comprised therein shall be and be deemed to have been increased to double the value upon which rent was determined for the preceding or last preceding period (or

for such part of such period as rent was payable as the case may require) and the rent shall be increased by one hundred per centum.

Second category: If the lease is so placed in the Second category the appraisement so made of the unimproved value of the land comprised therein shall be and be deemed to have been increased in the case of an agricultural lease by one-third or in the case of a pastoral lease by one-fourth of the value upon which rent was determined for the preceding or last preceding period (or for such part of such period as rent was payable as the case may require) and the rent shall be increased by one-third or one-fourth as the case may be.

Third category: If the lease is so placed in the Third category the appraisement so made of the unimproved value of the land comprised therein shall be and be deemed to be the same as that upon which the rent made payable for the whole or any part of the preceding or last preceding period was determined and the rent shall be determined accordingly.

"Class B"  
land to be  
proclaimed  
before pastoral  
lease granted.  
16 of 1910, s. 4.

**29.** No pastoral lease shall be granted except in respect of land which has been declared by Proclamation to be land of "Class B."

Improvement  
conditions  
attached to  
agricultural  
and pastoral  
leases.

Cf. 5 of 1906, s.  
17; 7 of 1908,  
s. 3.

Amended by  
2 of 1917, s. 6.

**30.** Agricultural and pastoral leases shall be subject to improvement conditions. In either of such class of leases and whether in the case of land of "Class A" or land of "Class B" improvements may at the option of the lessee be either pastoral or agricultural or partly pastoral and partly agricultural.

(1) Agricultural improvements shall be as follows:—Of the land suitable for cultivation the following proportions shall be planted with plants to be approved by regulation under this Ordinance in a good and husbandlike manner—

- (a) one-fifth in the first period of five years of the term;
- (b) two-fifths in the first period of ten years of the term;
- (c) three-fourths in the first period of twenty years of the term

and the proportions respectively to be so planted shall from the expiration of each such period be kept so planted during the remainder of the term of the lease.

(2) Pastoral improvements—

- (a) the land shall be stocked within ten years and be kept stocked for the remainder of the term. Land upon which there are twenty head of cattle or one hundred head of sheep to the square mile shall be considered stocked;
- (b) ten head of cattle or fifty head of sheep to the square mile shall be on the land within five years:

Provided always that if at any time during the first five years of a lease it appears to the Land Board that reasonable efforts are not being made to fulfil the improvement conditions they may recommend the Lieutenant-Governor to cancel the lease; and thereupon it shall be

lawful for the Lieutenant-Governor by notice in the *Gazette* to cancel the lease accordingly.

All native reserves shall be fenced by the lessee in manner to be provided by regulation.

If any damage is done to native reserves by trespass of stock before the fencing is complete the amount of compensation shall be assessed by the resident magistrate of the Division and shall be paid by the lessee into the Treasury for distribution among the natives who have suffered loss within three months. If not so paid the amount may be recovered by levy and distress in the manner provided by the Ordinances relating to proceedings before justices of the peace and the lease may be forfeited. If the fence is injured by the natives either wilfully or through carelessness it shall be the duty of the resident magistrate to see that they repair it and the lessee shall not be liable for any trespass which occurs by reason of the injury to the fence.

Notwithstanding anything contained in this Ordinance the provisions of this section shall apply as well to leases of land of "Class A" and land of "Class B" granted under *The Land Ordinance of 1906* hereby repealed as to land comprised in agricultural and pastoral leases heretofore or hereafter granted under this Ordinance.

**30A.** Notwithstanding anything contained in the last preceding section hereof the improvements to be effected in the case of agricultural leases granted after the commencement of this section shall be entirely agricultural as set out in paragraph numbered (1) of that section:

Certain agricultural leases subject to agricultural improvements.

Inserted by 18 of 1924, s. 3. Proviso.

Provided that at any time during the currency of any such lease on the written application of the lessee the Lieutenant-Governor for any reason appearing to him to be sufficient may by order direct that for the remainder of the term reserved by the lease or for any lesser period the improvements to be effected thereon may at the option of the lessee be either agricultural or pastoral as set out in paragraphs numbered (1) and (2) respectively of the last preceding section hereof or partly pastoral and partly agricultural; and the Lieutenant-Governor may by the same order direct that so far as such improvements are pastoral the number of cattle or sheep with which the land is required by the said Paragraph (2) to be stocked and kept stocked shall in the case of any such lease be increased to a number to be stated in the order. From the date of the order the improvements directed thereby to be effected shall for the period stated therein be deemed to be the improvement conditions of such lease.

**31.** The conditions specified in the last section may be relaxed or modified by the Lieutenant-Governor in any case in which it appears to him that special hardship would be caused to the lessee by insisting on them.

Improvement conditions may be relaxed. 5 of 1906, s. 18. Amended by 1 of 1914, s. 4.

(2) If in any case submitted to him for the relaxation or modification of conditions of improvement the Lieutenant-Governor shall think fit so to do he may make it a condition of his compliance that the lessee shall surrender his lease and accept a new lease for—

(a) the area actually improved; and



(b) such further area (if any) in respect of which the Lieutenant-Governor may deem the lessee to be able without hardship to comply with conditions of improvement less any area which the Lieutenant-Governor on the advice of the Commissioner for Lands deems necessary for roads of access to any land included on the surrendered lease but not to be included in the new lease.

(3) If the lessee accepts the condition so imposed he shall—

(a) surrender his lease;

(b) accept a new lease for the area mentioned in Paragraphs (a) and (b) of the foregoing subsection for the unexpired term of and for the same purposes and subject to the same terms conditions and regulations as the lease so surrendered which new lease shall (for the purposes of identification only) refer to the registration number (if any) and date of such surrendered lease;

(c) pay a fee of One pound for the preparation and Ten shillings for the registration of the new lease and the cost of survey rendered necessary for the reduction in area below that contained in the original lease and by roads of access; and

(d) if the cost of survey of the original lease was borne by the Government pay the whole or any portion thereof which the Lieutenant-Governor may require.

(4) Section 15B of this Ordinance shall apply to such new lease and the land comprised therein.

Mining on  
agricultural  
or pastoral  
leases.  
4 of 1908, s. 4.

**32.** Land comprised in agricultural leases and pastoral leases shall within the limits of a mineral field or goldfield be subject to the provisions of Part VII of *The Mining Act of 1898* (Queensland adopted)<sup>(a)</sup> and the provisions of that part which relate to searching and mining for gold and silver shall as regards such land apply also to searching and mining for other minerals; and the said Part shall be read as if the words "gold and silver" included all other minerals.

Leases of town  
allotments;  
rent.  
5 of 1906, s. 19.  
Amended by  
10 of 1927, s. 3.

**33.** Leases of town allotments may be granted by the Lieutenant-Governor. The rent shall be determined at ten per centum per annum of the unimproved value of the land but the rent shall not be less than One pound a year for a quarter of an acre allotment.

Substituted by  
10 of 1927, s. 4.

**33A.** (1) Notwithstanding anything contained in the last preceding section—

Assessment of  
rent for Town  
lots leases  
granted after  
13th Oct., 1926.

(a) rent in respect of land comprised in leases of Town allotments granted after the commencement of this section shall be determined at five per centum per annum of the unimproved value of the land but the rent shall not be less than One pound a year for a quarter acre allotment;

Periodical  
re-assessment  
of rent of all  
leases of Town  
lots during  
currency.

(b) the unimproved value of the land comprised in any lease of a Town allotment whenever granted (whether before or after the commencement of this section and whether under the

provisions of this Ordinance or of any Ordinance hereby repealed) shall be appraised every twenty years during the currency of the lease and the rent shall be determined at five per centum of the unimproved value so appraised.

- (2) This section shall be deemed to have commenced on the thirteenth day of October One thousand nine hundred and twenty-six. Commencement of section.

**33B.** Any appraisalment of the unimproved value of the land comprised in the lease of any Town allotment made in respect of the second period of twenty years of the term thereof at any time between the first day of January and the thirteenth day of June One thousand nine hundred and twenty-seven is hereby annulled and shall have no effect but an appraisalment shall be again made of the unimproved value of such land applicable to such period and rent for the whole of that period shall be determined (and shall be payable) at five per centum of the unimproved value so last appraised. Certain appraisements of land annulled and re-appraisalment, etc., provided for. Inserted by 10 of 1927, s. 4.

**34.** Leases of Town allotments shall be subject to improvement conditions as follows:— Improvements.

- (1) The improvements shall be to such amount as may upon the advice of the Land Board be from time to time prescribed by regulation under this Ordinance either generally or in the case of a particular town or locality; the improvements shall be erected on the allotment within nine months from the commencement of the lease and improvements of the same value shall be maintained thereon in good repair during the currency of the lease; Cf. 5 of 1906, s. 20; 7 of 1908, s. 5.
- (2) In addition to the improvements mentioned in Subsection (1) a Town allotment shall be fenced in such manner as may be provided by regulation.

**35.** A lease for business purposes of land not included in the area of a township may be granted by the Lieutenant-Governor for business purposes under the following conditions:— Lease for business purposes. 5 of 1906, s. 21.

- (1) The area comprised in a lease shall not exceed ten acres;
- (2) The rent shall be at the rate of not less than Ten shillings an acre but in no case shall be less than One pound in the aggregate;
- (3) The applicant shall state in his application the purposes for which he requires the lease;
- (4) Improvements of not less than Fifty pounds in value shall be erected within two years of the commencement of the lease and improvements to that value shall be maintained thereon during the currency of the lease.

**36.** A lease to be called a "mission lease" of land not included in the area of a township may be granted by the Lieutenant-Governor rent free to a corporation having for its object the establishment of Christian missions or to any person in trust for any institution or body having such objects subject to the following conditions:— Lease to missions. 7b. s. 22.

- (1) The area comprised in a lease shall not exceed five acres;

- (2) Land shall not be leased under this section except for the purpose of erecting thereon a dwelling-house for members of the mission a school a church or other building ;
- (3) The applicant shall specify the building which he intends to erect upon the land applied for ;
- (4) The building so specified shall be erected within three years of the commencement of the lease and the building or some building substituted for it and of equal value shall be kept in good repair during the currency of the lease.

Trading  
licences.  
5 of 1906, s. 22,  
as altered by 16  
of 1910, s. 8.

**37.** A resident magistrate may grant annual licences for trading purposes but the land in respect of which a licence is granted shall not exceed three acres. The fee for the granting of a licence shall be One pound. The licence shall be in force until the first day of January next after the granting thereof ; it may be renewed annually and One pound shall be payable in respect thereof each year in advance.

A licence shall be in such form as may be prescribed by the regulations and shall entitle the holder to enter upon and occupy the land in respect of which it is granted and to fence it in and to erect buildings thereon and otherwise to make use of it for the purposes of trading.

A licence shall not grant any right or privilege which may confer on the licensee exclusive rights as to anchorage or the procuring of fresh water or firewood or which may obstruct or prevent vessels traders or fishermen from obtaining shelter ashore or afloat in case of need.

A licence shall be irrevocable during the currency of the year for which it was granted except by special order of the Lieutenant-Governor.

Leases may be  
granted for  
residence  
purposes.  
16 of 1910, s. 5.

**38.** Leases of Crown lands not included in any town or township to be called "residence leases" may be granted by the Lieutenant-Governor for residence purposes under the following conditions:—

- (1) The area comprised in any lease shall not exceed five acres ;
- (2) The rent shall be at the rate of not less than Ten shillings an acre but in no case shall be less than One pound per annum in the aggregate ;
- (3) Improvements shall be effected on the leasehold of such a value within such time and of such nature as may be prescribed by regulation under this Ordinance and improvements of the same value shall be maintained thereon during the currency of the lease ;
- (4) In addition to the improvements mentioned in Subsection (3) the land comprised in the lease shall be fenced and kept fenced in such manner as may be provided by regulation.

Special leases  
to discoverers.  
*Crown Land  
Act, N.T.,  
No. 501 of 1890,  
s. 77.*  
Amended by  
8 of 1919, s. 3.

**39.** Special leases may be granted by the Lieutenant-Governor to any *bona fide* discoverer of any guano phosphates animal or vegetable or mineral manures or any substance used as a manure or as a constituent thereof or other valuable substance (not being coal shale or mineral oil or a metal or metalliferous ore) on any land vested in the Crown and



not subject to a lease under this Ordinance or any Ordinance hereby repealed of any portion of the lands on which such discovery was made not exceeding six hundred and forty acres.

Every such lease shall be granted on such terms and conditions and at such rent and royalty as the Lieutenant-Governor in Council shall think fit.

A copy of every such lease shall be laid before the Legislative Council within one month from the date thereof or if the Legislative Council be not then in session then during the next meeting thereof.

**40.** Special leases may be granted by the Lieutenant-Governor of any Government building not required for Government purposes or of any lands the property of the Crown for any term not exceeding twenty-five years from the date thereof at such rent with or without royalty and upon such terms and conditions as may be prescribed by regulation under this Ordinance or as may be otherwise directed by the Governor in Council for any of the following purposes that is to say:—

Other special leases.  
*Crown Land Act, N.T., No. 501 of 1890 s. 78, altered.*  
Amended by  
1 of 1920, s. 4.

- (1) For obtaining and removing therefrom guano phosphates animal vegetable or mineral manures or any substance used as a manure or a constituent thereof or any other valuable substance except metals metalliferous ores coal shale or mineral oils;
- (2) For obtaining and removing therefrom stone and clay or other earth;
- (3) For sites of bulk stores;
- (4) For sites of bathing-houses or bathing-places;
- (5) For sites for tanneries factories sawmills or papermills;
- (6) For sites for wharves jetties quays piers landing-places;
- (7) For the working of mineral springs;
- (8) For sites for slips for ship or boat building or repairing;
- (9) For the manufacture of salt;
- (10) For sites for smelting works or any works approved by the Lieutenant-Governor in Council;
- (11) For any purposes for which licences may be granted under this Ordinance;
- (12) For any purpose approved by the Lieutenant-Governor in Council.

The area of a special lease under this section shall be of such reasonable extent as in the opinion of the Lieutenant-Governor will enable the particular object or industry for which the lease is required to be carried on successfully.

**41.** In every special lease shall be implied a covenant on the part of the lessee that he will use the land *bona fide* for the purpose for which it shall have been demised and that he will not use it for any other purpose.

Implied covenant as to user.  
*Crown Land Act, N.T., No. 501 of 1890, s. 80.*  
Amended by  
8 of 1919, s. 4.

Leases under former Ordinances may be surrendered. Inserted by 2 of 1917, s. 7.

**41A.** Any lessee of land comprised in a lease granted under the provisions of *The Crown Land Ordinance of 1890* (No. VII of 1890) or *The Land Ordinance of 1899* (No. IV of 1899) who has performed and observed the covenants and conditions contained therein or imposed by the Ordinance under which the lease was granted may with the permission of the Lieutenant-Governor surrender his lease and obtain a new lease under the provisions of this Ordinance for the same or the like purposes as the surrendered lease and for such term inclusive of the unexpired term of the surrendered lease as the Lieutenant-Governor may in either case approve.

Licences. *Crown Land Act, N.T., No. 501 of 1890, s. 81.*

**42.** The Lieutenant-Governor or any person authorized by him in that behalf may grant licences to enter upon any land the property of the Crown to be described in such licences and to occupy the same for any of the following purposes:—

- (1) To strip dig and take away any bark gravel stone limestone salt guano manure shell seaweed sand loam clay or other earth;
- (2) For fishermen's residences and drying-grounds;
- (3) For manufactories fellmongering establishments slaughter-houses brick or lime kilns or sawmills;
- (4) For any of the purposes for which special leases may be granted under this Ordinance;
- (5) For any other purpose approved by the Lieutenant-Governor.

Conditions of licences. *Ib. s. 82.*

**43.** Every licence issued under the last preceding section shall bear the date on which it is issued and shall continue in force for a period not exceeding one year from such date and shall be subject to the payment of such fee and subject to such royalty on the material so stripped dug or taken away and subject also to such restrictions limitations and conditions as may be provided by regulation under this Ordinance.

Date from which time calculated. 7 of 1908, s. 2. Amended by 16 of 1922, s. 3.

**44.** (1) The term of a lease under this Ordinance the period (if any) during which no rent is payable and the time within which improvement conditions must be fulfilled shall be calculated from the date on which the application for the lease was granted:

Provided that in the case of a lease granted by way of renewal or in continuation of an expired lease granted under this Ordinance or under any Ordinance hereby repealed the term shall be calculated from the day following the termination of such expired lease.

Area how calculated. 16 of 1910, s. 15.

(2) The area specified in any order granting the application for a lease or if no area be specified therein the area specified in the application shall until the area is ascertained by survey be taken to be the area granted.

Certain leases may be sold by auction or by tender. *Ib. s. 7.* Amended by 1 of 1920, s. 5, and by 10 of 1926, s. 5.

**45.** If for any special reason the Lieutenant-Governor shall think fit any lease which may be granted under this Ordinance except agricultural and pastoral leases upon which there are no improvements which are the property of the Crown and mission leases may be offered and sold by auction or tender in such manner as may be prescribed by

regulation and at such upset price as may either generally or in any particular case or classes of cases be directed by the Lieutenant-Governor.

**46.** (1) Before any lease is granted under this Ordinance in respect of any land upon which there are improvements which are the property of the Crown the value of such improvements shall be assessed in such manner as the Lieutenant-Governor may direct.

Improvements the property of Government to be valued.

Amended by 2 of 1917, s. 8.

(2) The value of the improvements so ascertained shall except in such cases where the Lieutenant-Governor orders otherwise either be paid for by the lessee or the same shall be taken into consideration in computing the rent to be paid for such land in such manner in either case as may be prescribed.

Value to be paid by lessee.

**47.** Rent up to the first day of the next ensuing January shall be payable on the granting of an application for a lease and thereafter annually in advance on the first day of January in each year :

Rent when payable.  
Cf. 5 of 1906, s. 24.

Provided that in the case of agricultural leases and pastoral leases upon which no rent shall be payable under this Ordinance for the first period of ten years rent up to the first day of January next following the date of the expiration of the first period of ten years shall be payable on the date of such expiration and thereafter annually in advance on the first day of January in each year.

**47A.** (1) If the lessee under any lease granted whether before or after the commencement of this section under this Ordinance or any Ordinance hereby repealed does not on or before the thirty-first day of March in any year pay the rent which was due by him on the first day of January then preceding he shall pay the same on or before the thirtieth day of June then following together with a fine of One shilling in the pound.

Fine for late payment of rent.  
Cf. W.A. 62, Vic. No. 37, s. 136.  
Inserted by 16 of 1922, s. 4.

(2) The amount of the fine shall be paid and be recoverable in the same manner as rent under this Ordinance.

(3) A fine may be remitted by the Lieutenant-Governor upon any ground appearing to him to be fit and proper.

**48.** The Commissioner for Lands shall on the first day of January or as soon as conveniently may be thereafter in every year prepare a list of the names of all persons from whom rent is due showing the amount of rent payable by them respectively.

List of lessees and rents payable.  
Cf. 5 of 1906, s. 25.  
Substituted by 16 of 1922, s. 5.

**49.** The list shall be published in the *Gazette* and a copy of the *Gazette* containing a list purporting to be a list prepared under the last section shall be received in any Court as prima facie evidence that the rent in each case is due and unpaid and that payment thereof where necessary has been lawfully demanded.

List to be published and received in evidence.  
Ib. s. 26.

**50.** Rent in respect of leases under this Ordinance may be recovered in like manner as any other rent is recoverable and if it is levied by distress an order signed by the Lieutenant-Governor shall be sufficient warrant and authority to distrain.

How rent is recoverable.  
Ib. s. 27.

**51.** Rent and licence fees payable under this Ordinance shall be paid to the Treasurer and shall be accounted for by him in the Revenue Account of the Territory.

Rent, etc., to be paid to the Treasurer.  
7 of 1903, s. 1.



Forfeiture for non-payment of rent or failure to fulfil conditions.  
5 of 1906, s. 29.

**52.** It shall be lawful for the Lieutenant-Governor by notice in the *Gazette* to declare a lease forfeited—

- (1) if rent remains due and unpaid for a period of more than six months; or
- (2) if a lessee refuses or neglects to fulfil any of the conditions imposed by this Ordinance or the regulations made thereunder in respect of his lease.

And thereupon the lease shall be void as from the date of the *Gazette* in which the notice appears.

New.

The Registrar of Titles shall make an entry to that effect in the Register of Crown leases :

Fine may be imposed for non-fulfilment of improvement conditions.  
16 of 1910, s. 9.

Provided that whenever any lease granted under this Ordinance or any Ordinance amending the same is liable to forfeiture for any of the reasons mentioned in Subsection (2) of this section the Lieutenant-Governor if he thinks fit instead of declaring the lease forfeited may impose a fine upon the lessee and allow a further time for fulfilment of improvement conditions. The fine shall not exceed One hundred pounds and may be made payable either at once or by instalments at intervals to be prescribed by regulation.

Payment of the fine shall not relieve the lessee from obligation to fulfil the conditions of improvement but fulfilment of the conditions of improvement by the lessee shall relieve him from the payment of any instalments of the fine to become due after the date of such fulfilment.

The amount of any fine or instalment shall be recoverable in a summary way. Non-payment thereof shall render the lease liable to forfeiture.

This proviso shall not apply to agricultural or pastoral leases.

Occupation after expiration or forfeiture of lease.  
5 of 1906, s. 30.

**53.** A person who after expiration or forfeiture of a lease holds over or refuses or neglects to deliver up possession to a person authorized by the Lieutenant-Governor to take possession may be forcibly dispossessed and if necessary his servants may be forcibly ejected from the land.

When compensation will be given for improvements.  
*Ib.* s. 31.

**54.** If a lease is forfeited there shall be no compensation for improvements. If a lease expires by effluxion of time the value of the improvements shall be paid by the incoming to the outgoing tenant; and if there is no incoming tenant the Lieutenant-Governor may if he thinks fit order that a sum not exceeding the value of the improvements shall be paid to the outgoing tenant.

Compensation for improvements under this section shall be arrived at in manner to be provided by regulation.

Forfeited allotments to be sold by auction or offered by tender.  
5 of 1909, s. 2.  
Amended by 10 of 1926, s. 6.

**55.** Town allotments which have been forfeited shall before being again leased be first offered by auction or tender in such manner as may be provided by regulation and at such upset price as may either generally or in any particular case or classes of cases be directed by the Lieutenant-Governor.

**56.** Every lessee of land held under a lease which is subject to improvement conditions or the agent or manager of such lessee shall furnish to the Commissioner for Lands returns verified by declaration in relation to improvements effected on the land comprised in his lease.

Returns of improvements to be made to the Commissioner for Lands.  
16 of 1910, s. 10.

The returns shall be in such form contain such particulars and be furnished at such times as shall be prescribed by regulation.

Such regulations may provide for a penalty to be recoverable in a summary way of not exceeding Twenty pounds for the first and not exceeding One hundred pounds for the second or any subsequent breach thereof:

Provided that if any lessee shall persistently refuse or neglect to furnish such return so verified in respect of any lease such lease shall be liable to forfeiture.

**56A.** (1) The Commissioner for Lands may at any time cause an inspection to be made of the land included in any lease subject to improvement conditions in order to ascertain whether the improvement conditions in connection therewith have been or are being observed.

Inspection of improvements inserted by 2 of 1913, s. 2.

(2) In the case of a pastoral lease or of any lease the improvements whereon are or may be pastoral or partly pastoral the Commissioner for Lands may by notice in writing require the lessee for the purpose of any such inspection to muster and produce upon the land comprised in the lease on a day and to the person to be respectively named in the notice all cattle and sheep wherewith the land shall be then stocked. If any lessee fails to comply with the requirements of any such notice he shall be liable to a penalty not exceeding Fifty pounds and the lease shall be liable to forfeiture.

Pastoral lessee may be required to muster.

(3) The provisions of this section shall notwithstanding anything contained in this Ordinance apply as well to leases granted under any Ordinance repealed by this Ordinance as to leases now or hereafter to be granted under this Ordinance.

Provisions of section retrospective.

### III.—RESERVATION AND ACQUISITION OF LAND FOR PUBLIC PURPOSES.

**57.** The Lieutenant-Governor may from time to time grant in trust or by Proclamation reserve from lease either temporarily or permanently any Crown land which in his opinion is or may be required—

Reservation from lease. Cf. 5 of 1906, s. 32; 7 of 1908, s. 5.

- (1) for public defence safety or utility; or
- (2) for quays piers wharves jetties or landing-places; or
- (3) for telegraphs telephones railways roads bridges ferries canals or other works used as a means of communication or for any work required for the purpose of making use of any such work; or
- (4) for camping-places for travelling stock; or
- (5) for reservoirs aqueducts or watercourses; or
- (6) for markets abattoirs public baths or wash-houses; or

- (7) for mechanics' institutes schools of arts libraries museums or other institutions used for public non-scholastic instruction; or
- (8) for public gardens parks or experimental farms or agricultural horticultural pastoral or industrial societies or State plantations or State forests; or
- (9) for grammar schools State schools hospitals asylums infirmaries or establishments for the relief of indigent persons; or
- (10) for places for the interment of the dead; or
- (11) for the recreation convenience health amusement or enjoyment of the people; or
- (12) for otherwise facilitating the improvement or settlement of the Territory; or
- (13) for native reserves; or
- (14) for any special purpose which may be approved by resolution of the Legislative Council.

Acquisition of  
resumption of  
land.

5 of 1906, s. 33.

Amended by  
2 of 1913, s. 3.

**58.** It shall be lawful for the Lieutenant-Governor by notice in the *Gazette* to acquire or resume land for any of the following purposes:—

- (1) Public defence or safety;
- (2) Quays piers wharves jetties or landing-places;
- (3) Telegraphs telephones railways roads bridges ferries canals or other works used as a means of communication or for any work required for the purpose of making use of any such work;
- (4) Camping-places for travelling stock;
- (5) Reservoirs aqueducts or watercourses;
- (6) Hospitals;
- (7) Native reserves;
- (8) Commons;
- (9) Public utility convenience or health;
- (10) Any public purpose which the Lieutenant-Governor may deem to be necessary.

This section shall apply to any land whatsoever both land occupied by or the property of native Papuans and land which has been leased or otherwise disposed of under this or any other Ordinance but no land shall be acquired or resumed under this Ordinance which is situated within two hundred yards of any dwelling-house if attached thereto and used in connection therewith as a yard garden orchard plantation park or avenue unless the owner consents or the purpose of the acquisition or resumption cannot be otherwise secured.

Notice of  
intended  
resumption.  
5 of 1906, s. 34.

**59.** No acquisition or resumption shall be made until the expiration of three months after notice in the *Gazette* of the intention to resume; during this time any person feeling aggrieved may address to the Lieutenant-Governor any objection he may have thereto.



**60.** Full compensation shall be paid for the land acquired or resumed. Compensation shall be assessed in manner provided by regulations hereunder. Compensation. 5 of 1906, s. 35.

**61.** The Lieutenant-Governor may by a Proclamation or Proclamations and without issuing any deed of grant place any lands reserved resumed or acquired either temporarily or permanently for any purpose hereinbefore mentioned under the control of trustees and may declare the style or title of such trustees and the trusts for the carrying out of which such land is placed under their control and may empower such trustees to make by-laws for carrying out the objects of the trust and to impose penalties not exceeding in any case Five pounds for any breach thereof. Land may be placed under control of trustees. Ib. s. 36.

No such by-laws shall have effect until they have been approved by the Lieutenant-Governor and published in the *Gazette*. Upon such approval and publication they shall have the force of law.

**62.** When in any Proclamation made under the last preceding section the style or title of any trustees is declared then for the purpose of any action or proceeding in any Court it shall be sufficient to describe such trustees by such style or title without naming any of them and in any indictment or information it shall be sufficient to describe them by such style or title as owners of any property real or personal and they may by such style or title sue and be sued and shall for the purposes of any action or proceeding be deemed to be the absolute owners of the land placed under their control and no action or proceeding shall abate by reason of the death removal or retirement of any such trustee. Title of trustees. Ib. s. 37.

#### IV.—GENERAL.

**63.** A surveyor or other officer and any person acting under his orders may from time to time without making compensation enter upon the land of any person for the purpose of carrying on any survey authorized by or necessary under this or any other Ordinance and may fix and place any object post stone or boundary mark in the ground or upon any wall tree or post and may dig up the ground for any such purpose and may cut down or remove any scrub or timber which may obstruct any survey line: Provided that as little damage shall be done as possible. Surveyor may enter private lands. 5 of 1906, s. 38.

**64.** All land applied for under this Ordinance shall be measured to the cardinal points unless the measuring surveyor decides that the natural features will not permit of it. An applicant shall put in a datum post the approximate position of which shall be stated on his application from which the land shall be described to the cardinal points. Land to be measured to the cardinal points. Ib. s. 39.

**65.** Any person who wilfully obliterates removes or defaces any boundary or survey mark or any land mark or beacon made or erected by the authority of the Chief Government Surveyor or by or under the direction of any authorized Government officer is liable on summary conviction to a fine not exceeding Ten pounds or in default of payment to imprisonment for a period not exceeding three months with or without hard labour. Penalty for obliterating survey marks. Ib. s. 40.

Regulations.  
5 of 1906, s. 41.

**66.** In addition to the matters already mentioned in this Ordinance regulations may be made by the Lieutenant-Governor dealing with all matters of detail necessary to the due administration of this Ordinance. The regulations shall upon publication in the *Gazette* have the force of law.

Section 2.  
Amended by  
3 of 1914, s. 3.

FIRST SCHEDULE.

*The Land Ordinance of 1906 (No. V of 1906).*  
*The Land Ordinance of 1908 (No. VII of 1908).*  
*The Land Ordinance of 1909 (No. V of 1909).*  
*The Survey Fees Ordinance of 1909 (No. XXX of 1909).*  
*The Land Ordinance of 1909 (No. VII of 1910).*  
*The Survey Fees Ordinance of 1910 (No. XIII of 1910).*  
*The Amending Land Ordinance of 1910 (No. XVI of 1910).*

Section 6.

SECOND SCHEDULE.

AUTHENTICATION OF LEASES AND PURCHASES OF LAND BY THE CROWN FROM NATIVES.

(1) When an estate in fee-simple in land in respect of which no Crown grant has ever issued is acquired by the Crown from a native the acquisition by and transfer to the Crown of such estate shall be taken in the name of His Majesty.

(2) When a leasehold estate in such land is so acquired by the Crown or any interest in such land or the produce thereof is acquired by the Crown the acquisition of such estate or interest shall be taken in the name of His Majesty.

(3) Every transfer or other transaction relating to any such acquisition shall be authenticated by an instrument in writing under the hand of the Lieutenant-Governor or some officer of Government appointed by the Lieutenant-Governor in Council to sign the same and under the hand of the owner of such land estate or interest or some person authorized by the owner to sign the same on his behalf.

(4) Every such instrument shall set forth—

- (i) a description of the land which is the subject-matter of the transfer or other transaction giving the native name and (if any) the English name of the land its position and boundaries an estimate of its area and as accurately as may be a delineation of its shape;
- (ii) the name of the vendor lessor or other owner;
- (iii) the condition of the land as to occupation;
- (iv) the price or rent paid or to be paid and if paid the name of the person to whom and the name of the person (if any) in whose presence payment has been made;
- (v) the name of the interpreter (if any) employed in the transfer or other transactions between the parties;
- (vi) such further facts as the Lieutenant-Governor directs to be set forth therein.

(5) Every such instrument shall be sealed with the seal of the Territory.

(6) Every such instrument shall be recorded by the Registrar of Titles in a separate register in the same manner as instruments are directed to be recorded under the provisions of *The Real Property Ordinance of 1889*.

(7) Every such instrument when sealed with the seal of the Territory and duly recorded as aforesaid shall be conclusive evidence of the facts therein set forth and of the title of the Crown to the lands of the estate or interest therein referred to.

Section 12.

THIRD SCHEDULE.

(Form 1.)

PAPUA.

ASSIGNMENT OF INTEREST IN A GRANTED APPLICATION FOR A LEASE OF UNSURVEYED LANDS.

(*Land Ordinance, 1911.*)

I \_\_\_\_\_ of \_\_\_\_\_ being the applicant  
[or the registered assignee of the rights of an applicant] for a \_\_\_\_\_ of the

THIRD SCHEDULE.—*continued.*

unsurveyed land described in the Schedule hereunder written the application for which has been granted subject to a survey of the said land and for so much thereof only as is land of the Crown in consideration of the sum of \_\_\_\_\_ of \_\_\_\_\_ the receipt of this day paid to me by \_\_\_\_\_ of \_\_\_\_\_ the receipt of which sum I do hereby acknowledge assign and transfer all my right and interest in and under the said application to the said \_\_\_\_\_

*Schedule.*

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 191 \_\_\_\_\_

Signature of transferor—

Witness to signature of transferor—

Accepted as above.

Signature of transferee—

Witness to signature of transferee—

(Form 2.)

Section 12.

PAPUA.

ASSIGNMENT OF INTEREST IN A GRANTED APPLICATION FOR A LEASE OF  
SURVEYED LANDS.

(*Land Ordinance, 1911.*)

I \_\_\_\_\_ of \_\_\_\_\_ being the applicant  
[or the registered assignee of the rights of an applicant] for a \_\_\_\_\_  
of the surveyed land described in the Schedule hereunder written the application  
for which has been granted in consideration of the sum of \_\_\_\_\_  
this day paid to me by \_\_\_\_\_ of \_\_\_\_\_ the receipt of which  
sum I do hereby acknowledge hereby assign and transfer all my right and interest  
in and under the said application to the said \_\_\_\_\_

*Schedule.*

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 191 \_\_\_\_\_

Signature of assignor—

Witness to signature of assignor—

Accepted as above.

Signature of assignee—

Witness to signature of assignee—