

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 193.

Land (Underdeveloped Freeholds).

GENERAL ANNOTATION.

ADMINISTRATION.

As at 13 February 1976 (the date of gazettal of the most comprehensive allocation of responsibilities to Ministers and Departments at about the effective date), the administration of this Chapter was vested in the Minister for Natural Resources.

Accordingly, as at that date, unless some other intention is clearly indicated by note or in the text, references in or in relation to this Chapter to—

“the Minister”—should be read as references to the Minister for Natural Resources;

“the Departmental Head”—should be read as references to the Secretary for Natural Resources¹;

“the Department”—should be read as references to the Department of Natural Resources².

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¹ Previously the Director of Lands, Surveys and Mines.

² Previously the Department of Lands, Surveys and Mines.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 193.

Land (Underdeveloped Freeholds) Act.

ARRANGEMENT OF SECTIONS

1. Interpretation—
 - "approved Development Scheme"
 - "Development Notice"
 - "Development Scheme"
 - "freehold land"
 - "owner".
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5. Approval, etc., of Development Scheme.
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7. Appeal against recommendation of Land Board.
8. Registration of Development Notices and Schemes.
9. Acquisition of underdeveloped freehold land.
10. Entry and inspection.
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12. Effect of compliance with approved Development Schemes.
13. Withholding of approval to certain dealings in land.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 193.

Land (Underdeveloped Freeholds) Act.

Being an Act to encourage the better development, in the public interest, of freehold lands, to be incorporated and read as one with the *Land Act*.

1. Interpretation.

In this Act—

“approved Development Scheme” means a Development Scheme approved under Section 5 or an amended Development Scheme approved under Section 6;

“Development Notice” means a notice issued under Section 3;

“Development Scheme” means a scheme of a kind referred to in Section 3(2)(a);

“freehold land” means land, other than customary land or land reserved or deemed to be reserved from lease or further lease under this Act, held by a person for an estate greater than an estate for a term of years;

“owner” includes a person to whom land has been granted, any person to whom the land has been transferred and the executors and administrators of any such person.

2. Application.

(1) This Act does not apply to land held by the State or to land the subject of a conversion order under the *Land (Tenure Conversion) Act 1963* (Adopted) while it remains subject to a limitation on transfer or leasing under Section 26 of that Act.

(2) Where part of a parcel of freehold land is, in the opinion of the Minister, being developed in a manner and to an extent conducive to the best public interest and part is not, this Act does not apply to or in relation to the part which is being so developed.

3. Service of Development Notice.

(1) Where, in the opinion of the Minister, any freehold land to which this Act applies has not been, or is not being, developed in a manner or to an extent conducive to the best public interest, the Minister may serve a Development Notice on the owner of the land.

(2) A Development Notice shall require the owner of the land to which the Notice applies—

(a) to prepare a scheme for the development of the land within a period specified in the Notice, not being less than three months after the date of service of the Notice; and

(b) to produce evidence of his capacity, financially and otherwise, to give effect to the scheme.

4. Development Schemes.

A Development Scheme in relation to any land may include other land, whether freehold land or not, in which the owner has an interest.

5. Approval, etc., of Development Scheme.

(1) The Minister shall remit any Development Scheme and any evidence submitted in accordance with Section 3(2)(b) to the Land Board for its report and recommendations under Section 8 of the *Land Act*.

(2) The Land Board may, at any time before reporting to the Minister, adjourn its investigation of a Development Scheme remitted to it under Subsection (1) and serve on the owner of the land the subject of the Scheme a notice containing proposals for amendment of the Scheme.

(3) A notice under Subsection (2) shall require the owner of the land, within a period specified in the notice, not being less than three months after the date of the notice to—

(a) advise the Land Board that he accepts the Development Scheme as amended; or

(b) submit further amendments to the Scheme,

and in either case to submit evidence of his capacity, financially and otherwise, to give effect to the amended Scheme.

(4) After considering the report and recommendations of the Land Board, the Head of State, acting on advice, shall—

(a) approve the Development Scheme or the amended Scheme; or

(b) reject the Scheme or the amended Scheme and approve an alternative Scheme for the development of the land, on the ground set out in Subsection (5) or otherwise.

(5) The Head of State, acting on advice, may reject a Development Scheme or an amended Scheme under Subsection (4)(b) on the ground that the owner of the land is not capable, financially or otherwise, of complying with the conditions of the Scheme or the amended Scheme.

(6) When the Head of State, acting on advice, approves a Development Scheme, the Minister shall serve on the owner of the land to which the Scheme relates a copy of the approved Scheme.

6. Amendment of approved Development Scheme.

(1) The owner of land the subject of an approved Development Scheme may submit to the Minister proposals for amendment of the Scheme, together with evidence of his capacity, financially and otherwise, to give effect to the amended Scheme.

(2) The Minister shall remit any proposals and any evidence submitted under Subsection (1) to the Land Board for its report and recommendations under Section 8 of the *Land Act*.

(3) The Land Board may exercise the powers conferred by Section 5(2) and (3) in relation to any proposals remitted to it under Subsection (2).

(4) The Land Board shall deliver a report and recommendations on any proposals submitted to it under this section to the Head of State.

(5) After considering the report and recommendations of the Land Board, the Head of State, acting on advice, shall—

(a) approve the amendment of the Development Scheme according to the proposals or amended proposals; or

(b) in his discretion, reject the proposals.

7. Appeal against recommendation of Land Board.

(1) An owner of, or any person interested in, any land who is aggrieved by a report or a recommendation by the Land Board concerning a Development Scheme relating to the land may, not later than 28 days after notice is forwarded under Section 9(9) of the *Land Act*, forward notice of appeal in writing against that recommendation to the Minister.

(2) An appeal under this section shall be dealt with in accordance with Section 11 of the *Land Act*.

8. Registration of Development Notices and Schemes.

(1) Where—

(a) a Development Notice is served on the owner of any land; or

(b) a Development Scheme or an amended Development Scheme is approved under this Act,

the Minister shall cause a copy of the Notice or Scheme to be forwarded to the Registrar of Titles.

(2) The Registrar of Titles shall, in the prescribed manner, enter on the title to the land a memorial of a Development Notice or an approved Development Scheme in relation to any land.

9. Acquisition of underdeveloped freehold land.

(1) Subject to this section and to Section 11, the State may acquire freehold land to which this Act applies in accordance with Part IV. of the *Land Act*—

(a) if the owner of the land fails to comply with a Development Notice in relation to the land within the time specified in the Development Notice; or

(b) if the owner of the land fails to comply with the conditions of an approved Development Scheme in respect of the land,

and the purposes of this Act are a public purpose, within the meaning of that Act.

(2) Before acquiring any land under Subsection (1), the Minister—

(a) shall serve notice on the owner of the land calling on him to show good cause, within a period specified in the notice, why the land should not be acquired on the ground specified in the notice; and

(b) may, whether or not cause has been shown in accordance with a notice under Paragraph (a), serve on the owner of the land a notice requiring him, within a period specified in the notice, to comply with the conditions of the approved Development Scheme in respect of the land or with this Act.

(3) Where the owner of any land has failed to comply with a notice under Subsection (2)(a) or (b), the Minister may, within six months after the expiration of the period specified in the notice and after considering a report from the Land Board, exercise the powers conferred by Subsection (1).

(4) Copies of a notice under Subsection (2) shall be served on all persons who, to the knowledge of the Departmental Head, have or claim to have a right, title, estate or interest in, or to or in relation to the land, or such of them as can with reasonable diligence be ascertained and found.

(5) Sections 16 and 18 of the *Land Act* do not apply to or in relation to an acquisition of land in accordance with this section.

10. Entry and inspection.

(1) For the purposes of this Act, the Minister, the Departmental Head or a person authorized in writing by the Minister or the Departmental Head may at any time inspect any freehold land to which this Act applies in order to ascertain—

- (a) whether the land has been, or is being developed in a manner and to an extent conducive to the best public interest; or
- (b) the adequacy or otherwise of a Development Scheme submitted by the owner of the land or of any amendments submitted under Section 5 or of proposals submitted under Section 6; or
- (c) whether the owner has complied, or is complying with the conditions of an approved Development Scheme in respect of the land.

(2) Where the land or a part of the land is used for pastoral or dairying purposes, the Minister, the Departmental Head or a person authorized under Subsection (1) may, by written notice, require the owner, for the purpose of an inspection under that subsection, to muster and produce on the land, on a day and to a person specified in the notice, all stock on the land.

(3) A person who, without reasonable excuse (proof of which is on him)—

- (a) hinders or obstructs the Minister, the Departmental Head or a person authorized under Subsection (1) in the exercise of his powers or the performance of his functions under this section; or
- (b) fails to comply with the requirements of a notice under Subsection (2),

is guilty of an offence.

Penalty: A fine not exceeding K200.00.

(4) When any land other than freehold land is included in a Development Scheme submitted by the owner, or is included in the land to which an approved Development Scheme applies, this section applies in relation to it as if it were freehold land to which this Act applies.

11. Appeals.

An appeal in accordance with Section 112 of the *Land Act* may be made on any of the following matters:—

- (a) the rejection of a Development Scheme under Section 5(4)(b); and
- (b) the rejection of proposals for amendment of an approved Development Scheme under Section 6(5)(b); and
- (c) the acquisition of land in accordance with Section 9.

12. Effect of compliance with approved Development Schemes.

(1) In the case of freehold land that is subject, otherwise than under this Act, to improvement or development conditions, compliance with any approved Development Scheme applicable to the land shall be deemed to be compliance with those conditions, and the conditions of the Scheme shall be deemed to be substituted for those conditions.

(2) When an approved Development Scheme has been complied with, the land concerned shall not be again made the subject of a Development Notice.

13. Withholding of approval to certain dealings in land.

Without otherwise limiting in any way the discretion of the Minister to withhold approval, the approval of the Minister under Section 69 of the *Land Act* shall be withheld in the case of land the subject of an approved Development Scheme unless the Head of State, acting on advice, given after a report and recommendations from the Land Board, is satisfied that the conditions imposed by the Development Scheme have been or will be complied with.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 193.

Land (Underdeveloped Freeholds).

APPENDIX.

SOURCE OF THE LAND (UNDERDEVELOPED FREEHOLDS) ACT.

Part A.—Previous Legislation.

Land (Underdeveloped Freeholds) Act 1969 (No. 13 of 1970).

Part B.—Cross References.

Section, etc., in Revised Edition.	Previous Reference. ¹
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¹ Unless otherwise indicated, references are to the Act set out in Part A.

