

# LANDS (KILA KILA AERODROME) ACQUISITION ORDINANCE, 1939.<sup>(1)</sup>

No. 19 of 1939.

## An Ordinance for Vesting Certain Native-owned Lands in His Majesty.

**W**HEREAS certain native-owned lands described in the Schedules to this Ordinance are required immediately for purposes of or connected with the Kila Kila Aerodrome:<sup>(2)</sup> Be it ordained by the Legislative Council for the Territory of Papua, in pursuance of the powers conferred by the *Papua Act*, 1905-1934, as follows:—

1. This Ordinance may be cited as the *Lands (Kila Kila Aerodrome) Acquisition Ordinance*, 1939.<sup>(1)</sup>

2. The Lieutenant-Governor<sup>(3)</sup> may by notice<sup>(4)</sup> in the *Gazette* declare that the lands described in the Schedules to this Ordinance are vested in His Majesty and upon publication of such notice in the *Gazette* the lands so described shall become vested in His Majesty for an estate of fee-simple freed and discharged from all trusts and encumbrances whatsoever.

3. The Government of the Territory of Papua shall pay compensation for the land vested in His Majesty pursuant to this Ordinance and the amount of such compensation and the persons entitled shall be determined as nearly as possible in the manner prescribed in respect of land compulsorily acquired under the *Lands Acquisition Ordinance*, 1914, notwithstanding anything to the contrary in such Ordinance.<sup>(5)</sup>

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

Date of reservation by Lieut.-Gov.	Date on which assent of Gov.-Gen. in Council published in Papua Govt. Gaz.	Date on which came into operation.
15.11.1939	22.12.1939	22.12.1939 (Papua Govt. Gaz. of 22.12.1939)

(2) This statement brings the acquisition of land pursuant to this Ordinance within Section 29(b) of the *Lands Acquisition Ordinance*, 1914: Per Williams J. in *Geita Sebea v. The Territory of Papua* (1941) 67 C.L.R. 544 at 558.

(3) See Section 19(2) of the *Ordinance Interpretation Ordinance*, 1911-1940.

(4) By notice dated 25.1.1940 and published in Papua Govt. Gaz. of 7.2.1940, the Lieutenant-Governor notified and declared that "the lands described in the Schedules" to the *Lands (Kila Kila Aerodrome) Acquisition Ordinance*, 1939, "are vested in His Majesty."

(5) *Held*, by the High Court, that for the purpose of assessing the compensation payable under this section the land which was at the time of its compulsory acquisition leased to the Crown by the native owners should be valued as on 1.1.1939, together with such improvements on it as formed part of the land and such structures and buildings upon it as were permanently attached or affixed to it (such fixtures having become the property of the native owners of the land), on the footing that an estate in fee simple freed and discharged from all trusts and encumbrances whatsoever was acquired by the Crown, that the provisions of Section 3 of the *Land Ordinance*, 1911-1935, did not affect the value of the land, that a deduction should be made in respect of the leasehold interest of the Crown, and that no percentage increase should be made for compulsory acquisition: *Geita Sebea v. The Territory of Papua* (1941) 67 C.L.R. 544; 15 A.L.J. 357.

LAND—

Warrant to  
enforce  
possession.

4. If any person in possession of any land acquired under this Ordinance refuses to give up possession of the land or hinders any person authorized by the Lieutenant-Governor<sup>(3)</sup> from taking or remaining in possession of the land a Judge of the Central Court<sup>(3)</sup> may on application of the Treasurer grant a warrant authorizing the Sheriff or a Bailiff of the Central Court<sup>(3)</sup> to deliver the possession of the land or to enforce the entry on the land.

SCHEDULE 1.

DIRECTION-FINDING STATION.

DESCRIPTION.

Portion 83, District 8, Central Division. Area 18a, 2r, 15p.

Commencing at a point bearing  $28^{\circ} 52' 50''$  and distant 4,706.5 links from the North corner of Portion 52, District 8, Central Division; thence by lines bearing  $360^{\circ} 00'$  for a distance of 1,363.6 links bearing  $90^{\circ} 00'$  for a distance of 1,363.6 links bearing  $180^{\circ} 00'$  for a distance of 1,363.6 links and bearing  $270^{\circ} 00'$  for a distance of 1,363.6 links to the point of commencement. All bearings true and containing an area of 18a, 2r, 15p, be it a little more or less.

SCHEDULE 2.

AERODROME.

DESCRIPTION.

Portion 52, District 8, Central Division. Area 71a, 0r., 27p.

Commencing at a point bearing  $140^{\circ} 58' 20''$  and distant 5,966.6 links from the South-Eastern corner of Portion 359, District 8; thence by lines bearing  $31^{\circ} 19'$  for a distance of 742.2 links bearing  $128^{\circ} 50'$  for a distance of 323 links bearing  $121^{\circ} 19'$  for a distance of 1,867.4 links bearing  $31^{\circ} 19'$  for a distance of 500 links bearing  $121^{\circ} 19'$  for a distance of 4,649.3 links bearing  $211^{\circ} 19'$  for a distance of 1,201 links and bearing  $301^{\circ} 19'$  for a distance of 6,836.5 links to the point of commencement. All bearings true and containing an area of 71a, 0r, 27p, be it a little more or less.

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(3) See Section 19(2) of the *Ordinance Interpretation Ordinance*, 1911-1940.