
BOUGAINVILLE GOVERNMENT LAND BILL 2023
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A BILL FOR AN ACT

entitled

BOUGAINVILLE GOVERNMENT LAND ACT 2023

Being an Act to provide—

- (a) for the care, control and management of land by the Bougainville Government and Bougainville governmental bodies; and
- (b) for related matters.

MADE by the House of Representatives, to come into operation as set out in Section 2.

PART 1 — PRELIMINARY**1 Short title**This Act is the *Bougainville Government Land Act 2023*.**2 Commencement**This Act comes into operation when the *Bougainville Land Registers Act 2023* comes into operation.**3 Aims of Act**

This Act aims to provide for the care, control and management of land by the Bougainville Government and Bougainville governmental bodies through—

- (a) using or retaining the land for public purposes; and
- (b) granting leases, licences and rights over the land; and
- (c) relinquishing responsibility for the land to customary landowners if the land is no longer required for those purposes.

4 Interpretation

- (1) In this Act, unless the contrary intention appears—

acquired (transitional) Government land means land in Bougainville that—

- (a) is acquired (transitional) Government land under the transitional provisions in the *Bougainville Land Registers Act 2023*; and
- (b) has not become—
 - (i) registered Government land under the *Bougainville Land Registers Act 2023*; or

- (ii) customary land through relinquishment of responsibility for the land by the Bougainville Government under this Act;

associate—two persons are to be regarded as associates if one has, or appears to have, substantial influence over the other;

Board means the Government Land Board established under Section 8;

Bougainville means the Autonomous Region of Bougainville;

Bougainville Court means the Bougainville Court established under the *Bougainville Court Act 2023*;

Bougainville Government means the Autonomous Bougainville Government;

Bougainville governmental body has the meaning assigned by the Bougainville Constitution;

Note: The term includes Departments, community governments and statutory authorities.

breach includes contravene and fail to comply;

commercial lease, see Section 24;

community government has the meaning assigned by the *Bougainville Community Government Act 2016*;

community government area has the meaning assigned by the *Bougainville Community Government Act 2016*;

community service lease, see Section 25;

Government land, see Section 5;

Government lease means a commercial lease, community service lease or historical lease, in force under this Act;

Government licence means a licence over Government land in force under this Act;

historical lease, see Section 26;

land includes—

- (a) a building or structure affixed to land; and
- (b) waters and airspace over land; and
- (c) the bed of any body of waters; and
- (d) subsoil and subterranean waters;

public purpose, see Section 20;

Public Service officer means an officer or employee of the Bougainville Public Service;

registered easement means an easement registered under the *Bougainville Land Registers Act 2023*;

registered Government land means land that is registered as Government land under the *Bougainville Land Registers Act 2023*;

registered lease means a lease registered in the Customary Land Register under the *Bougainville Land Registers Act 2023*;

registered mortgage means a mortgage registered against a registered lease or a Government lease under the *Bougainville Land Registers Act 2023*;

registered mortgagee means the mortgagee of a registered mortgage (that is, the bank or other person that lends money secured by the mortgage);

Registrar of Land has the meaning assigned by the *Bougainville Land Registers Act 2023*;

remediation notice means a remediation notice issued by the Secretary under Section 64;

Secretary means the person holding or acting in the office of Departmental Head of the Department that is, under the Minister, responsible for the administration of this Act;

transfer, in relation to a lease or mortgage, includes assign.

- (2) Notes in this Act do not form part of the Act.
- (3) An example in this Act—
 - (a) forms part of the Act; and
 - (b) is not exhaustive; and
 - (c) may extend, but does not limit, the meaning of the Act or the provision to which it relates.

PART 2 — GOVERNMENT LAND

5 Government land

Government land comprises—

- (a) that part of Bougainville that lies beyond 3 nautical miles of low water mark; and
- (b) registered Government land; and
- (c) acquired (transitional) Government land; and
- (d) customary land in Bougainville that is leased by the Bougainville Government or a Bougainville governmental body under a registered lease.

6 Dealing with Government land

- (1) Government land of a kind referred to in Section 5(1)(a), (b) or (c) cannot be transferred or made the subject of a mortgage or any form of charge.
- (2) A registered lease of customary land of which the Bougainville Government is the lessee—
 - (a) can be transferred but only to a Bougainville governmental body; and
 - (b) cannot be made the subject of a mortgage or any form of charge.
- (3) A registered lease of customary land of which a Bougainville governmental body is the lessee—
 - (a) can be transferred but only to the Bougainville Government or another Bougainville Government body; and
 - (b) cannot be made the subject of a mortgage or any form of charge.

7 How land ceases to be Government land

- (1) Land ceases to be registered Government land or acquired (transitional) Government land on registration under the *Bougainville Land Registers Act 2023* of an instrument of relinquishment.
- (2) The steps required for the Bougainville Government to relinquish responsibility for Government land are as follows:
 - (a) the Secretary must prepare an instrument of relinquishment for the area of land for registration under the *Bougainville Land Registers Act 2023*; and
 - (b) the Secretary must take reasonable steps to ascertain information about—
 - (i) the history of how the land became Government land, land of the Independent State of Papua New Guinea or land of a pre-independence administration of Papua New Guinea; and
 - (ii) the persons who could or should, on relinquishment, be identified as customary landowners of the land or various parts of the land, according to what is fair and equitable in the current circumstances; and
 - (c) the Secretary must request the Board to issue a certificate recommending registration of the instrument (in accordance with Section 62); and
 - (d) the Minister must execute the instrument of relinquishment with the consent of the Bougainville Executive Council; and
 - (e) the Secretary must apply to the Land Division of the Bougainville Court for an order identifying the persons who are to be conclusively taken on relinquishment of the land to be the customary landowners of the land; and

- (f) the Secretary must give the Bougainville Court the information ascertained under Paragraph (b) and other information reasonably required by the Court; and
- (g) as soon as practicable after the Bougainville Court makes an order, the Secretary must—
 - (i) lodge with the Registrar of Land for registration under the *Bougainville Land Registers Act 2023*—
 - (A) the executed instrument of relinquishment ; and
 - (B) the certificate of the Board recommending registration of the instrument; and
 - (C) a copy of the Bougainville Court order; and
 - (ii) publish a notice of the relinquishment in the Bougainville Gazette that includes the terms of the order.
- (3) An application may be made to the Bougainville Court, and the Bougainville Court may make an order, under this section—
 - (a) without inquiring into the validity of the acquisition or the adequacy of the compensation paid to customary landowners; and
 - (b) despite any uncertainty about the circumstances of the acquisition or purported acquisition.
- (4) In making an order on application under this section, the Bougainville Court must—
 - (a) consider the information provided to it; and
 - (b) give persons claiming an interest in being identified in the order a reasonable opportunity to make submissions to the Court; and
 - (c) make an order identifying the persons (by clan lineage or otherwise) who are to be conclusively taken on relinquishment of the land to be the customary landowners of the land according to what, in its opinion, is fair and reasonable in the current circumstances.

PART 3 — GOVERNMENT LAND BOARD

8 Government Land Board

The *Government Land Board* is established.

9 Functions

The Board has the following functions:

- (a) to perform the functions conferred on the Board by this or any other Act; and

- (b) to provide advice to the Minister or the Secretary on any matter relevant to this Act at the request of the Minister or Secretary or on its own initiative.

10 Objectives

The objectives of the Board are—

- (a) to ensure that Government land is cared for, controlled and managed for the benefit of the people of Bougainville in accordance with this Act; and
- (b) to guard against corruption and maladministration.

11 Membership

- (1) The Board is comprised of not less than 3 and not more than 5 members appointed by the Minister by notice in the Bougainville Gazette with the consent of the Bougainville Executive Council.
- (2) If there are 3 members, at least one of the members must be a woman.
- (3) If there are 4 or 5 members, at least 2 of the members must be women.
- (4) The Secretary or a person who is a Public Service officer responsible to the Secretary is not eligible to be appointed as a member of the Board.
- (5) Before a person is appointed as a member, the Secretary must cause—
 - (a) a public invitation for written applications for appointment (setting out the selection criteria) to be issued; and
 - (b) applications received within the time allowed in the invitation to be assessed on merit against the selection criteria; and
 - (c) a report of the assessment of the applications with recommendations for appointment to be prepared and provided to the Minister for submission to the Bougainville Executive Council.
- (6) When a member is appointed, the notice of appointment in the Bougainville Gazette must include the following:
 - (a) a statement of the selection criteria; and
 - (b) a summary of the basis on which the member was selected for appointment; and
 - (c) if the appointment does not accord with the recommendations in the report prepared by the Secretary, an explanation of the reasons for departure from the recommendations.

12 Terms and conditions of appointment

- (1) Subject to this Act, members of the Board are appointed on terms and conditions determined by the Bougainville Executive Council.

- (2) The term of office of a member of the Board commences when, following appointment, the member makes, before the Minister or a person nominated by the Minister, the following declaration of office:

“I [*name of member*] promise that I will well and truly serve the people of Bougainville as a member of the Government Land Board.”
- (3) A member is appointed for 3 years or such shorter term as is specified in the notice of appointment.
- (4) At the expiration of a term of appointment, a member is eligible for reappointment.
- (5) A member may resign by written notice to the Secretary.
- (6) The Bougainville Executive Council may, by notice in the Bougainville Gazette, remove a member from office—
 - (a) for breach of a condition of appointment; or
 - (b) for misconduct; or
 - (c) for failure or incapacity to carry out official duties satisfactorily.

13 Remuneration, allowances and expenses

- (1) A member is not entitled to remuneration but may be paid an allowance and reasonable expenses as determined by the Bougainville Executive Council.
- (2) A member or former member must not be paid any other amount by the Bougainville Government, including by way of *ex gratia* payment on the completion of a term of office.
- (3) Subsection (1) does not prevent a member who is a Public Service officer receiving the member's usual remuneration as a Public Service officer.

14 Procedures

Subject to this Act and any directions of the Secretary, the Board may determine its own procedures.

15 Conflict of interest

- (1) This section applies if a member of the Board—
 - (a) has a direct or indirect financial interest in a matter being considered, or about to be considered, by the Board; or

- (b) has a personal, professional, commercial or other relationship with a person and the nature of the relationship is likely to, or may reasonably be regarded as likely to, inhibit or prevent the member from exercising independent judgment about a matter being considered, or about to be considered, by the Board.
- (2) The member—
 - (a) must disclose the nature of the interest and how it relates to the matter to the other members; and
 - (b) must not take part in any deliberation or decision about the matter; and
 - (c) must be disregarded for the purpose of constituting a quorum for the deliberation or decision.
- (3) The member need not disclose an interest if—
 - (a) the interest is an interest shared in common with the public generally or a substantial section of the public; or
 - (b) the interest is of a kind exempted from the requirement for disclosure by the regulations.
- (4) The disclosure must be noted in the records of the Board meetings and decisions.
- (5) A failure by the member to disclose an interest in a matter does not, on its own, invalidate a decision of the Board about the matter.

16 Annual report

- (1) The Board must, before 30 April in each year, give a report to the Bougainville Executive Council on the performance of its functions under this Act during the preceding year ending 31 December.
- (2) The report must be tabled in the House of Representatives within 2 sitting days after it is given to the Bougainville Executive Council.
- (3) The sitting days do not need to be in the same session or term of the House of Representatives.

17 Administrative assistance

- (1) The Secretary must provide administrative assistance to the Board for the performance of its functions under this Act.
- (2) The assistance must include assistance—
 - (a) to keep accurate records of meetings and decisions of the Board; and
 - (b) to prepare the required annual report.

- (3) The Secretary must provide information to the Board as reasonably required for the performance of its functions under this Act.

PART 4 — CARE, CONTROL AND MANAGEMENT OF GOVERNMENT LAND

18 Responsibility for Government land

The Minister is responsible for the care, control and management of Government land.

19 Administration of responsibility for Government land

- (1) The Minister may, by notice in the Bougainville Gazette made with the consent of the Bougainville Executive Council and on the recommendation of the Board, do one or more of the following:
- (a) place Government land under the care, control and management of a specified Bougainville governmental body;
 - (b) specify the public purposes for which the land may be used by that body;
 - (c) reserve Government land for future use for specified public purposes.
- (2) A notice under this section may include specific conditions relating to the care, control and management of the land.
- (3) The Minister may, by subsequent notice in the Bougainville Gazette made with the approval of the Bougainville Executive Council and on the recommendation of the Board, vary or revoke a notice under Subsection (1).
- (4) The Secretary must ensure that a copy of a notice under this section is lodged with the Registrar of Land for inclusion in the Government Land Register under the *Bougainville Land Registers Act 2023*.

Note: Under Section 76, the Minister may delegate functions or powers to grant interests in, or rights over, Government land to the Bougainville governmental body with responsibility for the care, control and management of the land under this section, or to the head or specified members or officers of that body.

The Secretary will, in administering this Act, monitor the care, control and management of Government land and prepare proposals for the Minister for notices under this section and for delegations under Section 76.

20 Public purposes for which Government land can be used or reserved

- (1) Subject to the terms of a notice under Section 19, Government land can be used by the body responsible for its care, control and management or reserved for any of the following public purposes:
- (a) infrastructure operated for public or community use, including the following:
 - (i) electricity, water, drainage, sewerage and telecommunications infrastructure;
 - (ii) public access routes (including roads, tracks, bridges and pathways);
 - (iii) airports and airstrips;
 - (iv) ports, wharves, jetties, landings and moorings;
 - (v) hospitals and health centres;
 - (vi) cemeteries;
 - (vii) schools;
 - (viii) recreation areas and meeting facilities;
 - (ix) housing;
 - (b) national parks, conservation areas or other environment protection purposes;
 - (c) cultural or historic heritage protection;
 - (d) prisons or correctional facilities;
 - (e) offices and facilities for any of the following:
 - (i) the House of Representatives;
 - (ii) community governments;
 - (iii) the Bougainville Government;
 - (iv) the National Government;
 - (v) community courts;
 - (vi) Bougainville Courts (within the meaning of the Bougainville Constitution);
 - (vii) any other Bougainville governmental body or National governmental body (within the meaning of the National Constitution);
 - (f) anything declared by the regulations or another Act to be a public purpose for the purposes of this Act.
- (2) Government land cannot be used by the body responsible for its care, control and management—
- (a) for any other purpose; or

(b) for private gain.

21 Grants of interests in and rights over Government land

(1) Interests in and rights over Government land can only be granted in accordance with this section.

(2) The Minister may, subject to this Act and the *Bougainville Land Registers Act 2023*—

(a) grant an easement over registered Government land; or

(b) grant a Government lease over registered Government land; or

(c) grant a Government licence over Government land; or

For example, if Government land is used by a Bougainville governmental body to provide housing for Public Service officers, police officers or teachers, each tenancy would be managed as a Government licence to reside in the housing for a specified term and subject to specified conditions.

(d) grant consent to a person to conduct an activity on Government land (not being an activity that should, in the opinion of the Minister, require a Government lease or Government licence).

(3) However, a Government licence or consent cannot be granted over land subject to a Government lease unless—

(a) the lessee and any registered mortgagee of the lease consent to the grant; or

(b) the Minister, on the recommendation of the Secretary, makes an order dispensing with the requirement for consent on the grounds that it is being unreasonably withheld in circumstances where the lessee's or mortgagee's interests are not prejudiced by the grant of the licence or consent.

(4) A consent can only be granted on the recommendation of the Secretary.

(5) A consent granted for the conduct of an activity—

(a) is subject to such conditions as the Minister (on the recommendation of the Secretary) may specify; and

(b) may be revoked by the Minister (on the recommendation of the Secretary) at any time by subsequent written notice to the person to whom consent is granted.

(6) A Government lease creates an interest in land, but a Government licence or a consent does not.

(7) An easement over registered Government land can only be granted as set out in the *Bougainville Land Registers Act 2023*.

- (8) No stamp duty or other duty or tax is payable on a transaction effected under this section.

PART 5 — GOVERNMENT LEASES

Division 1 — Introduction

22 Government leases

- (1) A Government lease can only be granted or renewed in accordance with this Part.
- (2) A Government lease entitles the lessee, subject to this Act and for the term of the lease, to exclusive occupation and use of the land subject to the lease.
- (3) A Government lease over customary land that is leased by the Bougainville Government or a Bougainville governmental body under a registered lease must be consistent with the registered lease and is of no effect to the extent of any inconsistency.

23 Categories of Government lease

There are 3 categories of Government lease as follows:

- (a) a commercial lease;
- (b) a community service lease;
- (c) a historical lease.

24 Commercial lease

- (1) A commercial lease is a lease under which Government land is used and occupied for the purposes of a commercial enterprise.

For example:

- *an agricultural or horticultural business;*
 - *a manufacturing or other industrial business;*
 - *a tourism business;*
 - *a housing rental business.*
- (2) Rent is payable annually in advance to the Bougainville Government by the lessee of a commercial lease.
- (3) A commercial lease can only be granted following a competitive process as set out in this Part.

25 Community service lease

- (1) A community service lease is a lease under which Government land is used and occupied by an enterprise for the purposes of providing community services.

For example:

- *education;*
- *health care;*
- *community housing (at low or no rent);*
- *community recreation;*
- *religious or faith based services.*

- (2) The enterprise must be of a kind that does not return a profit, or pay a dividend, to directors, members or shareholders.
- (3) No rent is payable to the Bougainville Government by the lessee of a community service lease.

26 Historical lease

- (1) Under the transitional provisions in the *Bougainville Land Registers Act 2023* certain interests held by persons immediately before the commencement of this Act are converted into historical leases of Government land.
- (2) No further such leases may be granted.
- (3) This Act applies to historical leases subject to the transitional provisions in the *Bougainville Land Registers Act 2023*.

Division 2 — Grant or renewal of Government lease

27 Requirement for compliance with process

A Government lease cannot be granted or renewed except—

- (a) on an application for the grant or renewal of the lease; and
- (b) on the recommendation of the Board.

28 General principles

- (1) The Board cannot recommend the grant or renewal of a Government lease unless it is satisfied of the following:
- (a) the applicant for the grant or renewal genuinely wants the lease for the purposes for which it is granted or renewed (rather than, for example, to sell the lease to make a profit);
- (b) the applicant for the grant or renewal is a fit and proper person to be involved in the purposes for which the lease is granted or renewed;

- (c) the applicant for the grant or renewal has, or is willing and able to make arrangements to have, the capacity (both technical and financial) to comply with the conditions of the lease.
- (2) If the Board is satisfied on reasonable grounds that the grant or renewal of a commercial lease would unfairly advantage the applicant or the associates of the applicant in the relevant sector or substantially contribute to monopolisation of the relevant sector, the Board must not recommend the grant or renewal of the lease.
- (3) Without limiting the matters that may be considered by the Board in determining whether to recommend the grant or renewal of a Government lease, the following matters must be considered in applying the principles set out in this section:
 - (a) the number of other Government leases held by the applicant or associates of the applicant; and
 - (b) the record of the applicant and associates of the applicant in connection with other Government leases; and
 - (c) the criminal record and reputation in the community of the applicant and associates of the applicant.
- (4) The Board must not recommend the renewal of a Government lease if—
 - (a) rent is outstanding and the lessee has not entered into an appropriate arrangement for payment of the outstanding amount; or
 - (b) there has been a breach of a lease condition that has not been remedied and the lessee has not entered into an appropriate arrangement for remedy of the breach or to ensure compliance in the future.
- (5) An application for the grant or renewal of a Government lease must include information and evidence relevant to the principles set out in this section.

29 Application for grant of Government lease

- (1) The Secretary may, with the consent of the Board, issue an invitation for interested persons to apply for a commercial lease or community service lease for a specified area of Government land.
- (2) The invitation must specify the following:
 - (a) the area of Government land to be leased;
 - (b) whether the lease offered is a commercial lease or community service lease;
 - (c) the type of enterprise that may be operated on the land under the lease;

- (d) how further information about the conditions of lease (including rent in the case of a commercial lease) can be obtained;
 - (e) the essential requirements that must be met by the successful applicant;
 - (f) criteria for ranking applicants who meet the essential requirements;
 - (g) when and how to make an application for the lease.
- (3) If the land is customary land that is leased by the Bougainville Government or a Bougainville governmental body under a registered lease, the invitation must state that customary landowners of the land who meet the essential requirements for selection as the lessee will be given preference over other applicants.
- (4) The invitation may state that Bougainvilleans or citizens will be given preference over foreigners.
- (5) The invitation may be published using electronic social media, radio broadcast or other means as the Secretary sees fit.
- (6) A commercial lease cannot be granted except to an applicant who makes an application for the lease in the manner and within the period allowed in an invitation issued under this section.
- (7) If an invitation is issued for a community service lease, the lease cannot be granted except to an applicant who makes an application for the lease in the manner and within the period allowed in an invitation issued under this section.
- (8) An application for a community service lease may be accepted by the Secretary without an invitation having been issued under this section.

For example, a non-government organisation or foreign donor may apply for a community service lease with a view to using available Government land to provide health care or other services to a community.

30 Application for renewal of Government lease

- (1) There is no right of renewal of a Government lease, but, subject to the terms of the lease—
- (a) a lessee may make an application for renewal of a Government lease; and
 - (b) the lease will be renewed unless—
 - (i) the conditions of the lease have been breached; or
 - (ii) the land is required for use for a public purpose under this Act; or
 - (iii) there is some other good reason for the lease not to be renewed.
- (2) An application for renewal must be lodged with the Secretary at least 6 months before the lease is due to expire.

- (3) The Secretary may accept a late application for renewal of a Government lease if the Secretary is satisfied that there are reasonable grounds for doing so.

31 Consideration of applications for grant or renewal of Government lease by community government

- (1) If an invitation to apply for a Government lease has been issued under Section 29, the Secretary must, as soon as reasonably practicable after the closing date for applications—
- (a) provide the community government of the area in which the land is located with the following:
 - (i) a list of the applicants who meet the requirements to be a successful applicant (identifying any applicants who are customary landowners of the land);
 - (ii) a brief summary of their applications;
 - (iii) information about any other Government lease held by applicants or their associates;
 - (iv) a brief summary of the record of compliance with the conditions of any such lease; and
 - (b) invite the community government to make submissions to the Secretary on the matter within a specified period (of at least 1 month).
- (2) If an application for a community service lease is made without an invitation having been issued under Section 29 or an application for renewal of a Government lease is made, the Secretary must—
- (a) provide a copy of the application to the community government of the area in which the land is located; and
 - (b) invite the community government to make submissions to the Secretary on the matter within a specified period (of at least 1 month).

32 Consideration of proposal for grant or renewal of Government lease by Board

- (1) As soon as practicable after the closing date for submissions from the community government, the Secretary must give the Board:
- (a) if an invitation has been issued under Section 29—the following:
 - (i) the invitation;
 - (ii) each application received within the period allowed in the invitation;
 - (iii) the information provided to a community government;
 - (iv) any submissions on the matter made by the community government within the period allowed for submissions;

- (v) proposed rankings of all applicants that meet the essential requirements against the criteria specified in the invitation (or a statement that no applicant meets the essential requirements); or
- (b) if an invitation has not been issued under Section 29 or the application is for renewal of a Government lease—the following:
 - (i) any submissions on the matter made by the community government within the period allowed for submissions;
 - (ii) whether, in the opinion of the Secretary, the application should be granted and the reasons for that the opinion;
 - (iii) in the case of renewal—
 - (A) a brief report on the current state of improvements on the land, the purposes for which the land is used and the record of compliance with the conditions of the lease; and
 - (B) any recommendations of the Secretary as to the term of the renewal or the variation or revocation of the conditions of the lease;
 - (iv) information about any other Government lease held by the applicant or associates of the applicant;
 - (v) a brief summary of the record of compliance with the conditions of any such lease.
- (2) The Board must, as soon as practicable—
 - (a) consider the material provided by the Secretary; and
 - (b) if an invitation has been issued under Section 29—
 - (i) make a recommendation to the Minister as to the successful applicant and the ranking of other applicants who meet the essential requirements (or, if the Board concludes that no applicant should be granted a lease, make a recommendation to the Minister accordingly); and
 - (ii) if the Board comes to a different conclusion than that proposed by the Secretary, include with the recommendation an explanation of the reasons for that conclusion; and
 - (c) if an invitation has not been issued under Section 29 or the application is for renewal of a Government lease—
 - (i) make a recommendation to the Minister as to whether the application should be granted or refused; and
 - (ii) if the Board comes to a different conclusion than that proposed by the Secretary, include with the recommendation an explanation of the reasons for that conclusion.

- (3) The Minister may, within 14 days after receiving a recommendation from the Board, ask the Board to provide further information about its recommendation or to reconsider its recommendation on specified grounds.
- (4) The Board must respond within 14 days or such longer period as is allowed by the Minister.
- (5) If the Board recommends the grant or renewal of a Government lease—
 - (a) the Board must issue a certificate recommending registration of an instrument of lease or renewal of lease; and
 - (b) the Minister—
 - (i) must not unreasonably or capriciously refuse to grant or renew the lease; and
 - (ii) if the Minister decides not to grant or renew the lease, must give written reasons for the decision to the Board and the lessee or proposed lessee.

33 Acceptance form for grant of Government lease

- (1) The Secretary must, if a Government lease is to be offered to a prospective lessee, cause the prospective lessee to be given—
 - (a) a Government lease acceptance form; and
 - (b) a written notice setting out the following:
 - (i) the fees payable for the grant of the lease under the regulations and how those fees are to be paid;
 - (ii) how the Government lease may be accepted;
 - (iii) the period (being at least 1 month) within which the Secretary must be informed of the acceptance.
- (2) A Government lease acceptance form must specify—
 - (a) the land subject to the lease (preferably by reference to an official survey plan within the meaning of the *Bougainville Land Registers Act 2023*); and
 - (b) the lessee and the lessee's contact details; and
 - (c) the category of lease; and
 - (d) the type of enterprise that may be operated on the land under the lease; and
 - (e) the specific purposes for which the land may be used; and
 - (f) a description of any buildings, structures or fixtures on the land and their general state of repair; and

- (g) any requirements for development or improvement of the land or enterprise for those purposes (including, for example, a timetable for specified work to be undertaken for the development of the land or enterprise); and
 - (h) for a community service lease—the infrastructure or services that the lessee is required to provide; and
 - (i) the term of the lease (being a term not shorter than 3 years and not longer than 40 years); and
 - (j) any limitations on the power of the lessee to sublease the whole or a portion of the land; and
 - (k) any other limitations on exclusive occupation and use of the land (including any limitations arising to allow the exercise of customary rights); and
 - (l) for a commercial lease—the annual rent and how the rent is to be paid.
- (3) If a Government lease is not accepted in the manner required within the period allowed, the Secretary is to cause a new Government lease acceptance form to be given to the prospective lessee who is next in order in accordance with the Board's ranking of the applicants who meet the essential requirements.
- (4) The step in Subsection (3) is to be repeated until a prospective lessee accepts the Government lease in the manner required within the period allowed.
- (5) Once accepted, the government lease acceptance form constitutes the lease.

34 Acceptance form for renewal of Government lease

- (1) The Secretary must, if a Government lease is to be renewed, cause a Government lease renewal acceptance form to be given to the lessee.
- (2) A Government lease renewal acceptance form must specify—
- (a) the lease that is being renewed; and
 - (b) the term of renewal (being a term not shorter than 3 years and not longer than 40 years); and
 - (c) any fees payable for the renewal of the lease under the regulations and how those fees are to be paid; and
 - (d) how the renewal of the Government lease may be accepted; and
 - (e) the period (being at least 1 month) within which the Secretary must be informed of the acceptance.
- (3) If the renewal of a Government lease is not accepted in the manner required within the period allowed, the lease expires.

- (4) Once accepted, the Government lease is renewed for the term specified in the government lease renewal acceptance form.

35 Registration of grant or renewal of Government lease

- (1) The Secretary must, as soon as reasonably practicable after an acceptance form, fees and rent are received by the Secretary as required by the acceptance form, lodge with the Registrar of Land for registration under the *Bougainville Land Registers Act 2023*—
- (a) the instrument of lease or renewal of lease (being the lease grant or renewal acceptance form, proof of acceptance by the lessee and proof of grant or renewal by the Minister with the consent of the Bougainville Executive Council); and
 - (b) the certificate of the Board recommending registration of the instrument of lease or renewal of lease.
- (2) The Secretary must also cause a notice of the grant or renewal of the lease to be published in the Bougainville Gazette.

36 Contracts and Tenders Act does not apply

The *Autonomous Bougainville Government Contracts and Tenders Act 2014* does not apply to a process conducted under this Division.

Division 3 — Terms and conditions of Government lease

37 Purposes

- (1) It is a condition of a Government lease that the land must be used for the purposes set out in the lease.
- (2) It is a condition of a community service lease that the lessee provide the infrastructure or services as set out in the lease.
- (3) It is a condition of a Government lease that the land must not be used for any other purpose.

38 Annual lessee report

- (1) It is a condition of a Government lease that the lessee must, on or before 31 March in each year, give the Secretary a report about the operations of the lessee under the lease in the previous calendar year.
- (2) It is preferable for the report to be in writing. If it is given orally, the Secretary must cause a written summary of the report to be prepared.

- (3) The report or summary is to be lodged with the Registrar of Land for inclusion in the Government Land Register under the *Bougainville Land Registers Act 2023*.

39 Development and improvement of land

It is a condition of a Government lease that—

- (a) the lessee must maintain improvements on the land in good order and condition (subject to any express provision of the lease about demolition or replacement of improvements); and
- (b) subject to planning and building permission requirements—
- (i) the lessee must develop and improve the land as set out in the lease; and
- (ii) the lessee may develop and improve the land as appropriate for the purposes for which the land may be used under the lease.

40 Development or improvement of enterprise

It is a condition of a Government lease that the lessee must meet any requirements for the development or improvement of the enterprise operated on the land specified in the lease.

41 Subleasing

- (1) It is a condition of a Government lease that the lessee may sublease the land subject to the lease, subject to any limitations specified in the lease.
- (2) A sublease of a Government lease creates a possessory right and not an interest in land and, if the Government lease expires or is surrendered or terminated, the sublease ceases to exist.

42 Limitations

It is a condition of a Government lease that the lessee comply with—

- (a) limitations on exclusive occupation and use of the land arising from any Government licence or consent granted under this Act; and
- (b) any limitations specified in the lease (including to allow the exercise of customary rights).

43 Rent

- (1) It is a condition of a commercial lease that rent is paid annually in advance.
- (2) The annual rent is to be determined in accordance with the regulations.
- (3) The regulations may fix a scale of penalties that must be paid by lessees for late payment of rent under the lease.

- (4) The Minister may, with the consent of the Bougainville Executive Council, reduce the annual rent payable under a particular Government lease for a particular year if satisfied that—
- (a) some factor exists affecting the profitability of the lessee that has arisen since the last determination of the annual rent for the lease; or
 - (b) the lessee has carried out work on the land at the request or with the consent of the Bougainville Government for which the lessee has not been recompensed.
- (5) The regulations may fix a common date for the payment of rent under commercial leases, or commercial leases of a particular class, in each year.
- (6) Consequently, rent may be payable for a period of greater or less than 1 year and, if that is the case, the annual rent must be adjusted on a pro rata basis according to the number of months in the period.

44 Information about lessee must be kept up-to-date

It is a condition of a Government lease that the lessee must keep the Secretary informed of the following:

- (a) if the lessee is a body corporate—changes in directors of the body corporate or persons who have a controlling interest in the body corporate;
- (b) changes in the contact details of the lessee.

45 Powers of authorised officers

It is a condition of a Government lease that a lessee provide reasonable assistance to an authorised officer exercising powers under this Act in relation to the lease or the land subject to the lease.

46 Waiver of Government lease conditions

The Minister may, with the consent of the Bougainville Executive Council and on the recommendation of the Board, waive a breach of a Government lease condition unconditionally or subject to conditions.

47 Review of Government lease conditions

- (1) Government lease conditions (including rent under a commercial lease) are subject to periodic review.
- (2) The interval between reviews must not be less than 5 years.

- (3) Apart from reviewing rent under a commercial lease, the main purpose of a periodic review is to consider whether circumstances (including environmental conditions and the needs of a community) have changed in a way that warrants a change to the conditions of the lease.
- (4) Government lease conditions (other than rent under a commercial lease) may also be reviewed and varied if there is a breach of the conditions (other than non-payment of rent) and the lessee has been allowed a reasonable opportunity to make good the breach but has failed to do so.

48 Expiry of Government lease

A Government lease expires at the end of the term of the lease (if it has not been earlier surrendered or terminated) unless an application for renewal is made by the lessee and the lease is renewed.

Division 4 — Dealing with Government lease

49 Amendment of Government lease

- (1) To amend a Government lease, the Secretary must lodge the following with the Registrar of Land for registration under the *Bougainville Land Registers Act 2023*:
 - (a) an instrument of amendment of the Government lease executed by the Minister with the consent of the Bougainville Executive Council; and
 - (b) a certificate of the Board recommending registration of the instrument of amendment; and
 - (c) for each registered mortgage to which the Government lease is subject—
 - (i) an instrument of consent executed by the mortgagee; or
 - (ii) an application for the Registrar of Land to dispense with the requirement for consent under the *Bougainville Land Registers Act 2023*.
- (2) A Government lease may only be amended—
 - (a) on the grounds that the boundary of the land subject to the lease does not reflect the land actually occupied by the lessee; or
 - (b) following a review of the conditions of the lease under Section 47; or
 - (c) on application by the lessee to the Secretary; or
 - (d) in a manner agreed between the Minister (on the recommendation of the Secretary) and the lessee.
- (3) For a commercial lease, an amendment under Subsection (2)(a) may include a variation of the rent payable under the lease to take into account the increase or reduction in value of the lease that results from the alteration of the boundary.

- (4) If it is proposed to amend a Government lease, the Secretary must—
- (a) prepare an instrument of amendment of lease and any required instruments of consent; and
 - (b) give the lessee of the lease—
 - (i) the proposed instrument of amendment of lease; and
 - (ii) a notice—
 - (A) explaining the grounds for the proposal for amendment of the lease and the facts supporting the grounds; and
 - (B) inviting the lessee to accept the amendment, or to object to the amendment and to explain why, in a specified manner and within a specified period; and
 - (c) give each mortgagee of a registered mortgage of the lease—
 - (i) a copy of the proposed instrument of amendment of lease; and
 - (ii) an instrument of consent of the mortgagee to the amendment of the lease; and
 - (iii) a notice—
 - (A) explaining the grounds for the proposal and the facts supporting the grounds; and
 - (B) inviting the mortgagee to execute and return the instrument of consent, or to object to the amendment and to explain why, in a specified manner and within a specified period.

Note: Under the Bougainville Land Registers Act 2023, the mortgagee must consent to the amendment, although the requirement for consent can be dispensed with by the Registrar of Land.

- (5) The Secretary—
- (a) may, after considering any objection received within the period specified in a notice—
 - (i) give to the Board—
 - (A) a copy of each notice given under this section and any objections received within the period specified in the notice; and
 - (B) an explanation addressing the matters raised in any objection; and
 - (ii) request the Board to issue a certificate recommending registration of the instrument of amendment; and

- (b) if the Board issues the certificate, advise the Minister to seek the consent of the Bougainville Executive Council to the execution of the instrument of amendment by the Minister.
- (6) If the Board refuses to issue a certificate, the Board must give the Secretary a written explanation of the reasons for the refusal.
- (7) The Minister can only execute an instrument of amendment if the Board recommends registration of the instrument.

50 Transfer of Government lease

- (1) The interest of a lessee of a Government lease can be transferred, but only with the written consent of the Minister.

Note: Under the Bougainville Land Registers Act 2023, each mortgagee of a registered mortgage of the lease must consent to the transfer, although the requirement for consent can be dispensed with by the Registrar of Land.

- (2) Consent must not be refused or withheld unreasonably or capriciously.
- (3) A party to a proposed transfer of a Government lease may apply to the Secretary for the consent of the Minister to the transfer.
- (4) The Secretary must—
 - (a) refer an application for consent to a transfer of a Government lease to the Board, together with—
 - (i) a recommendation as to whether consent should be given or refused; and
 - (ii) an explanation of the grounds on which the recommendation is made; and
 - (b) if the Board issues a certificate recommending registration of an instrument of consent—
 - (i) prepare the instrument of consent; and
 - (ii) advise the Minister to seek the consent of the Bougainville Executive Council to the execution of the instrument of consent.
- (5) The Minister cannot execute an instrument of consent to the transfer unless the Board issues the certificate.
- (6) If the Board refuses to issue a certificate, the Board must give the Secretary a written explanation of the reasons for the refusal.
- (7) If the Minister refuses to execute an instrument of consent, the Minister must give the Board and the Secretary a written explanation of the reasons for the refusal.

- (8) If an agreement is entered into under which the parties agree to transfer a Government lease, the agreement expires 12 months after its execution unless the consent of the Minister to the transfer has been obtained.
- (9) If a Government lease is transferred with the written consent of the Minister—
- (a) accrued and accruing liabilities to the Bougainville Government under the lease pass to the transferee; and
 - (b) liabilities that had accrued under the lease before the date of the transfer may be enforced against the transferor (who will be regarded as jointly and severally liable with the transferee).
- (10) It is a condition of a Government lease that the transferee must, within 1 month after the Minister has executed the required instrument of consent, lodge with the Registrar of Land for registration under the *Bougainville Land Registers Act 2023*—
- (a) the instrument of transfer of the lease; and
 - (b) any instrument of consent of a person other than the Minister required for registration or an application to dispense with the requirement for consent.
- (11) When those instruments are lodged for registration, the Secretary must lodge with the Registrar of Land for registration under the *Bougainville Land Registers Act 2023*—
- (a) the instrument of consent executed by the Minister with the consent of the Bougainville Executive Council; and
 - (b) the certificate of the Board recommending registration of the instrument of consent.

51 Surrender of Government lease

- (1) Land leased under a Government lease can be wholly or partly surrendered, but only with the written consent of the Minister.

Note: Under the Bougainville Land Registers Act 2023, the consent of each mortgagee of a registered mortgage of the lease is also required, although the requirement for consent can be dispensed with by the Registrar of Land.

- (2) Consent must not be refused or withheld unreasonably or capriciously.
- (3) A lessee may apply to the Secretary for the consent of the Minister to the surrender of the whole or a part of the land leased under a Government lease.

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- (4) The Secretary must—
- (a) refer an application for consent to the surrender of a Government lease or a part of the land leased under a Government lease to the Board, together with—
 - (i) a recommendation as to whether consent should be given or refused; and
 - (ii) an explanation of the grounds on which the recommendation is made; and
 - (b) if the Board issues a certificate recommending registration of an instrument of consent—
 - (i) prepare the instrument of consent; and
 - (ii) advise the Minister to seek the consent of the Bougainville Executive Council to the execution of the instrument of consent.
- (5) The Minister cannot execute an instrument of consent to the surrender of the whole or a part of a Government lease unless the Board issues the certificate.
- (6) If the Board refuses to issue a certificate, the Board must give the Secretary a written explanation of the reasons for the refusal.
- (7) If the Minister refuses to execute an instrument of consent, the Minister must give the Board and the Secretary a written explanation of the reasons for the refusal.
- (8) On surrender of a Government lease, no liabilities that have accrued or accrue in connection with the lease may be enforced against the Bougainville Government or a Bougainville governmental body.
- (9) It is a condition of a Government lease that the lessee must, within 1 month after the Minister has executed the required instrument of consent, lodge with the Registrar of Land for registration under the *Bougainville Land Registers Act 2023*—
- (a) the instrument of surrender of the lease; and
 - (b) any instrument of consent of a person other than the Minister required for registration or an application to dispense with the requirement for consent.
- (10) When those instruments are lodged for registration, the Secretary must lodge with the Registrar of Land for registration under the *Bougainville Land Registers Act 2023*—
- (a) an instrument of consent of the Minister; and
 - (b) a certificate of the Board recommending registration of the instrument of consent.

Division 5 — Termination of Government lease and resumption of land**52 Termination of Government lease**

- (1) A Government lease may be terminated on the grounds that—
 - (a) a lease condition has been breached; or
 - (b) the lessee has ceased to occupy the land; or
 - (c) the lease was obtained or renewed through provision of false or misleading information (whether by reason of the inclusion or omission of a material particular).
- (2) If it is proposed to terminate a Government lease, the Secretary must make a reasonable endeavour to give written notice of the intention to terminate the lease to—
 - (a) the lessee; and
 - (b) each mortgagee of a registered mortgage of the lease.
- (3) The notice of intention to terminate must—
 - (a) specify the grounds for termination; and
 - (b) specify the facts relied on to establish the grounds; and
 - (c) invite submissions to be made within a period specified in the notice.
- (4) If the notice is given on the grounds that the lessee has ceased to occupy the land, notice need not be given to the lessee if the lessee has advised the Secretary of that fact.
- (5) The Secretary—
 - (a) may, after considering any submissions received within the period specified in the notice, request the Board to issue a certificate recommending registration of an instrument of termination; and
 - (b) if the Board issues a certificate—
 - (i) prepare a written instrument of termination for execution by the Minister; and
 - (ii) advise the Minister to seek the consent of the Bougainville Executive Council to the execution of the instrument of termination.
- (6) The Secretary must give the Board a copy of the notice and any submissions made within the period allowed in the notice.

- (7) The Board must not issue a certificate recommending registration of an instrument of termination for breach of a lease condition unless the Board is satisfied that—
 - (a) the lessee has been allowed a reasonable opportunity to make good the breach but has failed to do so; or
 - (b) the termination is necessary in order to prevent or arrest serious damage to, or deterioration of, the land.
- (8) If the Board refuses to issue a certificate, the Board must give the Secretary a written explanation of the reasons for the refusal.
- (9) If the Minister refuses to execute the instrument of termination, the Minister must give the Board and the Secretary a written explanation of the reasons for the refusal.
- (10) On termination of a Government lease, no liabilities that have accrued or accrue in connection with the lease may be enforced against the Bougainville Government or a Bougainville governmental body.
- (11) To terminate a Government lease, the Secretary must lodge with the Registrar of Land for registration under the *Bougainville Land Registers Act 2023*—
 - (a) an instrument of termination; and
 - (b) a certificate of the Board recommending registration of the instrument of termination.

53 Resumption of land

- (1) The whole or part of the land subject to a Government lease may be resumed.
- (2) To resume land subject to a Government lease, the Secretary must lodge with the Registrar of Land for registration under the *Bougainville Land Registers Act 2023*—
 - (a) an instrument of resumption executed by the Minister; and
 - (b) a certificate of the Board recommending registration of the instrument.
- (3) A resumption has the following effect:
 - (a) if the whole of the land subject to the Government lease is resumed—the Government lease is terminated;
 - (b) if part only of the land subject to the Government lease is resumed—the Government lease is taken to be amended by the excision of the land resumed.
- (4) A resumption takes effect on a date specified in the instrument of resumption.

- (5) The date must be at least 6 months after the date of execution of the instrument.
- (6) On resumption of land subject to a Government lease, no liabilities that have accrued or accrue in connection with the lease of the land may be enforced against the Bougainville Government or a Bougainville governmental body.
- (7) The lessee and the holder of a registered mortgage in the lease are entitled to compensation for a resumption.
- (8) The amount of compensation is to be determined by agreement between the Minister and the lessee or mortgagee, or in default of agreement, by the Bougainville Court.
- (9) If it is intended to resume the whole or part of the land subject to a Government lease, the Secretary must give written notice of the intention to—
 - (a) the lessee; and
 - (b) each mortgagee of a registered mortgage of the lease.
- (10) The notice of an intention to resume land must—
 - (a) specify the land to be resumed; and
 - (b) specify the reasons for the resumption; and
 - (c) specify the amount of compensation offered for the resumption; and
 - (d) invite submissions to be made within a period specified in the notice.
- (11) The Secretary must consider any submissions received within the period specified in the notice and may vary the notice.
- (12) The Secretary may—
 - (a) request the Board to issue a certificate recommending registration of an instrument of resumption; and
 - (b) if the Board issues a certificate—
 - (i) prepare a written instrument of resumption for execution by the Minister; and
 - (ii) advise the Minister to seek the consent of the Bougainville Executive Council to the execution of the instrument of resumption.
- (13) The Secretary must give the Board a copy of the notice, any submissions made within the period allowed in the notice and any variations of the notice.
- (14) If the Board refuses to issue a certificate, the Board must give the Secretary a written explanation of the reasons for the refusal.

- (15) If the Minister refuses to execute the instrument of resumption, the Minister must give the Board and the Secretary a written explanation of the reasons for the refusal.

PART 6 — GOVERNMENT LICENCES

54 Government licences

- (1) The Minister may, at the request of the Secretary, grant a Government licence to use or occupy Government land if satisfied that the grant of the licence—
- (a) would not detract from any existing purpose for which the land is used; and
 - (b) would not prevent the land from being used for a public purpose for which it is intended to be used in the future; and
 - (c) would not be improper or undesirable.
- (2) While a Government licence is in force in relation to Government land, the Bougainville Government or a Bougainville governmental body must not act in a way that will substantially detract from the licensee's occupation or use of the land.

Note: If the land is subject to a Government lease, a licence cannot be granted without the consent of the lessee and any mortgagee of a registered mortgage of the lease unless the requirement for consent is dispensed with by the Registrar of Land under the Bougainville Land Registers Act 2023.

55 Terms and conditions of Government licence

- (1) The terms and conditions of a Government licence (including once-off or periodic licence fees) are, subject to this Act, to be determined by the Minister on the recommendation of the Secretary.
- (2) A Government licence cannot be granted or renewed for a term exceeding 10 years.
- (3) The regulations may—
- (a) fix a date for the payment of licence fees under Government licences generally or under Government licences of a specified class (and that date prevails over any date fixed in the licence); or
 - (b) impose limitations on once-off or periodic licence fees.

56 Dealing with Government licence

- (1) A Government licence cannot be transferred or otherwise dealt with except with the consent of the Minister given on the recommendation of the Secretary.

- (2) If a Government licence is transferred with the consent of the Minister—
- (a) accrued and accruing liabilities to the Bougainville Government pass to the transferee; and
 - (b) liabilities that had accrued before the date of the transfer may be enforced against the transferor (who will be regarded as jointly and severally liable with the transferee).

57 Variation of Government licence

A Government licence (including periodic licence fees) can be varied by the Minister on the recommendation of the Secretary at any time by written notice to the licensee.

58 Surrender of Government licence

- (1) A licensee can surrender a Government licence by written notice to the Minister.
- (2) However, if there are outstanding licence fees or an outstanding remediation notice, the surrender is not effective unless the Minister consents to the surrender on the recommendation of the Secretary.
- (3) A licensee who surrenders a Government licence is not entitled to repayment of any licence fees.

59 Renewal of Government licence

- (1) The Minister may, on the recommendation of the Secretary, renew a Government licence in accordance with the terms and conditions of the licence.
- (2) The Minister may do so even if—
 - (a) the application for renewal is late and the licence has expired; or
 - (b) no application is made and the licence has expired but the licensee continues to exercise rights under the licence as if it were still in force.
- (3) In such a case, the renewed Government licence has effect from the end of the term for which it was previously granted or renewed.

60 Waiver of Government licence conditions

The Minister may, on the recommendation of the Secretary, if satisfied that it would be reasonable in the circumstances—

- (a) waive a breach of a Government licence condition unconditionally or subject to conditions; or
- (b) waive, reduce or remit a Government licence fee or allow a licence fee to be paid at a later date or in instalments.

61 Cancellation of Government licence

- (1) The Minister may, on the recommendation of the Secretary, cancel a Government licence—
 - (a) if a condition of the licence has been breached—by written notice to the licensee; or
 - (b) in any other case—by not less than 1 month’s written notice to the licensee.
- (2) Subject to the regulations, no compensation is payable by the Bougainville Government for cancellation of a Government licence.

PART 7 — CERTIFICATES OF GOVERNMENT LAND BOARD**62 Certificates of Board**

- (1) A request to the Board for the issue of a certificate recommending registration under the *Bougainville Land Registers Act 2023* of an instrument executed by the Bougainville Government or a Bougainville governmental body (other than an instrument relating to a Government lease) must be accompanied by—
 - (a) a copy of the proposed instrument for registration; and
 - (b) a detailed explanation of—
 - (i) the proposal; and
 - (ii) the reasons for the proposal; and
 - (iii) the steps that have been taken to ensure compliance with this Act; and
 - (c) information addressing how the Board's objectives would be met if it were to issue a certificate recommending registration of the instrument; and
 - (d) if the instrument is to be executed by a Bougainville governmental body, how it is proposed that the body execute the instrument.
- (2) If the Board recommends registration of the instrument, the Board must issue a certificate that—
 - (a) identifies the instrument for registration; and
 - (b) recommends its registration to the Registrar of Land; and
 - (c) sets out how the Bougainville Government or Bougainville governmental body is to execute the instrument.
- (3) If the Bougainville Government is to execute an instrument for registration, the certificate must require the instrument to be signed by the Minister with the consent of the Bougainville Executive Council.

- (4) If the Board refuses to issue a certificate, the Board must give the Secretary written reasons for the refusal.
- (5) The instruments required for registration under the *Bougainville Land Registers Act 2023* include the following:
 - (a) an instrument of transfer of customary land to the Bougainville Government;
 - (b) an instrument of lease of customary land to the Bougainville Government or a Bougainville governmental body;
 - (c) an instrument of surrender of such a lease;
 - (d) an instrument executed as lessee of such a lease.

PART 8 — ENFORCEMENT

Division 1 — Misuse of Government land

63 Offence—misuse of Government land

- (1) A person commits an offence if, without lawful authority or excuse, the person—
 - (a) occupies Government land for longer than any period specified in the regulations; or
 - (b) cultivates, or keeps animals on, Government land; or
 - (c) drives a motor vehicle on Government land other than on an established road or track or in circumstances specified in the regulations; or
 - (d) damages or removes fossils or cultural or historic artefacts from Government land; or
 - (e) excavates or otherwise damages or interferes with Government land, or anything on Government land; or
 - (f) cuts down, lops branches from or otherwise damages any tree or bush (whether alive or dead) on Government land; or
 - (g) erects any structure or fixture, or carries out any works, on Government land; or
 - (h) deposits litter or abandons property on Government land; or
 - (i) closes off or obstructs (whether by fences, gates or any means) a road or track on Government land.

Maximum penalty: K50,000 or 12 months' imprisonment.

- (2) A lease, licence or consent granted under this Act constitutes lawful authority for the acts to which the lease, licence or consent relates.

- (3) An easement registered under the *Bougainville Land Registers Act 2023* over Government land constitutes lawful authority for the acts to which the easement relates.

Division 2 — Remediation notice

64 Remediation of condition by holder of interest or rights

- (1) If the Secretary is satisfied that a person granted an interest in, or rights in relation to Government land has caused or contributed to a condition associated with the land that requires remediation, the Secretary may issue a notice (a **remediation notice**) to the person.

Note: This Subsection extends to a person who has the benefit of an easement over Government land registered under the Bougainville Land Registers Act 2023.

- (2) Without limiting Subsection (1), a condition associated with the land will be taken to require remediation if the condition—
- (a) is unsightly or offensive; or
 - (b) presents a risk to—
 - (i) the environment; or
 - (ii) the health or safety of any person; or
 - (iii) any property; or
 - (c) is likely to have the effect of reducing the rental value of the land.
- (3) A remediation notice cannot be issued if the condition is a reasonable consequence of the undertaking of an activity that the Bougainville Government or a Bougainville governmental body has specifically authorised or required to be undertaken on the land.
- (4) A remediation notice must—
- (a) be in writing; and
 - (b) describe the land and the condition to which the notice applies; and
 - (c) specify the action to be taken by the person to remediate the condition and the time within which such action must be taken (which must be reasonable).
- (5) A remediation notice may be varied or revoked by the Secretary by subsequent written notice.
- (6) If a person fails to comply with a remediation notice, the Secretary may cause the action required by the notice to be taken and may recover the reasonable costs of the action as a debt from the person to whom the notice is issued.

65 Offence—breach of remediation notice

A person commits an offence if the person, without reasonable excuse, breaches a remediation notice.

Maximum penalty: K20,000 or 6 months' imprisonment.

Division 3 — Removal and disposal of property and fixtures**66 Removal and disposal of property and fixtures on Government land**

- (1) If personal property is abandoned on Government land, the Secretary may cause the property to be removed and disposed of.
- (2) The Secretary may cause a building, structure or fixture erected on Government land to be removed and disposed of if—
 - (a) the building, structure or fixture was erected without lawful authority or excuse; or
 - (b) the building, structure or fixture has been abandoned when a Government lease, licence or consent has expired or been surrendered, terminated or cancelled.
- (3) If the personal property or building, structure or fixture belonged to a person who occupied the land prior to it being abandoned, the Secretary may recover the cost of removal and disposal as a debt owed by that person.

Division 4 — Authorised officers**67 Authorised officers**

- (1) The Secretary may appoint a Public Service officer to be an authorised officer.
- (2) Each authorised officer must be issued with an identity card.
- (3) The identity card must show a recent photograph of the authorised officer.
- (4) An authorised officer exercising a power under this Part must produce the officer's identity card for inspection if asked to do so by the person in relation to whom the power is being exercised.

68 Offence—failure to return identity card

A person commits an offence if—

- (a) the person ceases to be an authorised officer; and
- (b) the person does not return the person's identity card to the Secretary within 21 days after the cessation.

Maximum penalty: K2000.

69 Powers of authorised officers

- (1) An authorised officer may—
 - (a) require a person who is on Government land without lawful authority or excuse to leave the land; or
 - (b) require a person reasonably suspected of having committed an offence in relation to Government land—
 - (i) to state the person’s name and address; and
 - (ii) to produce evidence of the person’s name and address.
- (2) An authorised officer may—
 - (a) enter and inspect land subject to a Government lease at any reasonable time; and
 - (b) while there—
 - (i) enter and inspect anything in or on the land; and
 - (ii) take photographs or make audio or visual recordings; and
 - (iii) require a person to answer questions relevant to the administration of the Government lease.
- (3) An authorised officer cannot exercise powers under Subsection (2) unless reasonable notice has been given to the lessee, orally or in writing.
- (4) However, no such notice need be given in the following circumstances:
 - (a) if it is not practicable to do so; or
 - (b) if the authorised officer believes on reasonable grounds that an offence against this Act has been, is being or is about to be committed on the land, or that a breach of a condition of the Government lease has occurred, is occurring or is about to occur.
- (5) In the exercise of powers under this section, an authorised officer may be assisted by such persons as the authorised officer considers necessary in the circumstances.

70 Offence—breach of requirement by authorised officer

A person commits an offence if the person breaches a requirement of an authorised officer under Section 69.

Maximum penalty: K20,000 or 6 months’ imprisonment.

71 Offence—obstruction of authorised officer

- (1) A person commits an offence if—
- (a) the person—
 - (i) hinders or obstructs an authorised officer, or a person assisting an authorised officer; or
 - (ii) uses abusive, threatening or insulting language to an authorised officer or a person assisting an authorised officer; or
 - (iii) when required by an authorised officer under this Part to answer a question, refuses or fails to answer the question to the best of the person's knowledge, information and belief; and
 - (b) the person knows the authorised officer is exercising powers under this Act or that the person is assisting an authorised officer exercising such powers.

Maximum penalty: K10,000 or 3 months' imprisonment.

- (2) However, a person cannot be prosecuted for refusing or failing to answer a question on the grounds that to do so might tend to incriminate the person or make the person liable to a penalty.

72 Offence—pretending to be authorised officer

A person commits an offence if—

- (a) the person represents, by words or conduct, that the person or another person is an authorised officer; and
- (b) the person knows the representation is false.

Maximum penalty: K10,000 or 3 months' imprisonment.

PART 9 — REVIEW**73 Review of certain decisions**

- (1) A person has a right to apply to the Administrative Division of the Bougainville Court for review of a decision under this Act as follows:
- (a) a lessee of a Government lease or a mortgagee of a registered mortgage of a Government lease may apply for review of a decision of the Minister under this Act—
 - (i) to dispense with a requirement for consent of the lessee or mortgagee; or
 - (ii) not to grant or renew the lease despite a recommendation of the Board to do so; or
 - (iii) to amend the lease under Section 49(1)(a) or (b); or

- (iv) to refuse to amend the lease at the request of the lessee; or
 - (v) to refuse to consent to the transfer or surrender of the lease; or
 - (vi) to terminate the lease;
- (b) a person who has applied for the grant or renewal of a lease may apply for review of a decision of the Board to exclude the person on the grounds set out in Section 28;
- (c) a person (other than the Bougainville Government or a Bougainville governmental body) aggrieved by a decision of the Board to refuse to recommend registration of an instrument under the *Bougainville Land Registers Act 2023* may apply for review of the decision;
- (d) a person to whom a remediation notice is given may apply for review of the decision of the Secretary to issue the notice (including its terms).
- (2) Subject to this section, an application for review must be lodged with the Bougainville Court within 3 months after the making of the decision to which the review relates.
- (3) The Minister, Board or Secretary must, on application by a person who could apply for review of a decision, give the person a written statement of the reasons for the decision.
- (4) The time for an application for review runs from the time when the person receives the written statement of reasons if—
- (a) a written statement of the reasons for a decision is not given at the time of making the decision; and
 - (b) the person, within 3 months after the decision is made, applies to the Minister, Board or Secretary for a written statement of reasons for the decision.

PART 10 — MISCELLANEOUS

74 Forms and fees

- (1) The Secretary may specify the form required for an application under this Act.
- (2) The regulations may fix fees payable for the making of an application under this Act (including late fees).

75 Offence—false or misleading information

A person commits an offence if the person makes a statement that is false or misleading in a material particular (whether by reason of the inclusion or omission of a particular) in information provided, or records kept, under this Act.

Maximum penalty:

- (a) if the person made a statement knowing that it was false or misleading—K10,000 and 3 months' imprisonment; or
- (b) in any other case—K2000.

76 Delegation by Minister

- (1) The Minister may delegate to a Bougainville governmental body, or to the head or specified members or officers of a Bougainville governmental body, a function or power under this Act, or under the *Bougainville Land Registers Act 2023* relating to Government land, other than—
 - (a) a function or power that can only be performed or exercised with the consent of the Bougainville Executive Council; or
 - (b) a function or power excluded from delegation by the regulations.
- (2) A function or power delegated by the Minister may not be further delegated unless that is expressly allowed by the Minister.

Note: Part II Division 10 of the Interpretation Act 2005 contains provisions relevant to delegations under Bougainville law.

77 Delegation by Secretary

- (1) The Secretary may delegate to a Public Service officer a function or power under this Act (other than a function or power excluded from delegation by the regulations).
- (2) A function or power delegated by the Secretary may not be further delegated unless that is expressly allowed by the Secretary.

Note: Part II Division 10 of the Interpretation Act 2005 contains provisions relevant to delegations under Bougainville law.

78 Service of applications, notices and other documents

- (1) An application, notice or other document required or authorised to be served or given to the Secretary or the Board under this Act may be served or given—
 - (a) by leaving it at, or posting it to, the principal office of the Secretary; or

- (b) by a means (such as email) indicated by the Secretary as being an available means of service (in which case, the application, notice or other document is to be taken to be served or given when it would be received by that means in usual circumstances); or
 - (c) by leaving it with a person who has authority to accept documents on behalf of the Secretary.
- (2) An order or other document required or authorised to be served on or given to a person by or on behalf of the Secretary or Board under this Act may be served or given—
- (a) personally; or
 - (b) by leaving it with a person apparently over the age of 16 years at, or posting it to, the last residential or business address of the person known to the Secretary or Board (including, in the case of a body corporate, the registered address of the body corporate); or
 - (c) by a means (such as email) indicated by the person as being an available means of service (in which case, the order or other document is to be taken to be served or given when it would be received by that means in usual circumstances); or
 - (d) by any means provided for service of the order or document by another Bougainville law.

79 Protection from civil liability

- (1) Subject to this section, no civil liability attaches to a member of the Board for an act or omission in the exercise or purported exercise of official functions or powers.
- (2) An action that would, but for Subsection (1), lie against a person lies instead against the Bougainville Government.
- (3) This section does not prejudice rights of action of the Bougainville Government in respect of an act or omission of a person not in good faith.

80 Human rights

For Section 180(3) of the Bougainville Constitution, in the opinion of the House of Representatives—

- (a) this is a law restricting human rights in a manner that is reasonably justifiable for the purpose in a democratic society that has a proper regard for the rights and dignity of mankind; and
- (b) the human rights that are restricted are as follows:
 - (i) freedom from arbitrary search and entry;
 - (ii) the right to privacy;

- (iii) the right to freedom of information;
- (iv) protection from unjust deprivation of property; and
- (c) the restriction is necessary for the purpose of giving effect to the public interest in public safety, public order and public welfare, as referred to in Section 180(2)(o) of the Bougainville Constitution.

81 Act binds Bougainville Government

This Act binds the Bougainville Government.

82 Regulations

- (1) The Bougainville Executive Council may make such regulations as are contemplated by, or as are necessary or expedient for, this Act.
- (2) The regulations may make provisions of a saving or transitional nature consequent on the making of this Act or an Act that amends this Act.
- (3) A provision of regulations made under Subsection (2) may, if the regulations so provide, take effect from the date of certification of the Act concerned under Section 66 of the Bougainville Constitution or a later date.
- (4) To the extent that a provision takes effect under Subsection (3) from a date earlier than the date of notification of the regulations in the Bougainville Gazette under Section 68 of the *Interpretation Act 2005*, the provision does not operate to the disadvantage of a person by decreasing the person's rights or imposing liabilities on the person.

PART 11 — TRANSITIONAL PROVISIONS

83 Settler tenancies converted into Government licences

- (1) On the commencement of this Act, a settler tenancy over land that becomes Government land on the commencement of the *Bougainville Land Registers Act 2023* becomes a Government licence to occupy the land of the tenancy.
- (2) A settler tenancy is a tenancy, whether formal or informal, under which a person usually resides on land immediately before the commencement of this Act and has continuously so resided for at least the preceding 6 months.
- (3) If a settler tenancy becomes a Government licence under this section, the licence can be dealt with as if it had been granted under this Act.
- (4) A Government licence under this section expires 3 years after the date of commencement of this Act, subject to any renewal of the licence under this Act.

- (5) The right of exclusive occupation and use under a Government lease is limited by a right of tenancy under a Government licence that comes into existence under this section.