

BOUGAINVILLE LAND REGISTERS BILL 2023**Arrangement of Clauses**

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A BILL FOR AN ACT

entitled

BOUGAINVILLE LAND REGISTERS ACT 2023

Being an Act to—

- (a) provide for a Registrar of Land, a Customary Land Register and a Government Land Register; and
- (b) provide for registration of certain interests in land and the priority of registered interests in land; and
- (c) provide for a Surveyor-General and official survey plans; and
- (d) provide that certain Acts of the National Parliament do not apply in Bougainville; and
- (e) make consequential amendments to the *Bougainville Mining Act 2015* and the *Interpretation Act 2005*; and
- (f) provide for other 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 Land Registers Act 2023*.**2 Commencement**

This Act comes into operation in accordance with a notice in the Bougainville Gazette made by the Minister with the advice of the Bougainville Executive Council.

3 Aims of Act

This Act aims to provide for—

- (a) a Registrar of Land; and
- (b) registration of the following:
 - (i) charges, easements and leases over customary land;

- (ii) Government land, easements over Government land and Government leases;
- (iii) mortgages of registered leases over customary land and Government leases;
- (iv) transactions relating to registered interests; and
- (c) the priority of registered interests; and
- (d) a Surveyor-General; and
- (e) official survey plans for the purposes of registration; and
- (f) related matters.

4 Interpretation

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

authorised surveyor means a person authorised under Section 88 to certify official survey plans or to enter land and carry out work in connection with a survey for an official survey plan;

Bougainville means the Autonomous Region of Bougainville;

Bougainville Government means the Autonomous Bougainville Government;

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

breach includes contravene and fail to comply;

Chief Secretary means the person holding or acting in the office of Chief Secretary under the *Bougainville Public Services (Management and Administration) Act 2014*;

Customary Land Board has the meaning assigned by the *Bougainville Customary Land Act 2023*;

Government land has the meaning assigned by the *Bougainville Government Land Act 2023*;

Government Land Board has the meaning assigned by the *Bougainville Government Land Act 2023*;

Government Land Minister means the Minister responsible for the administration of the *Bougainville Government Land Act 2023*;

Government lease has the meaning assigned by the *Bougainville Government Land Act 2023*;

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;

lessor of a Government lease means the Government Land Minister;

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

National law means a law made by the National Parliament and includes an Act and a subordinate legislative enactment made under a National law;

official survey plan means a plan of the boundaries of land certified by an authorised surveyor;

public right of way, see Section 15(1)(a);

public right of way on foot, see Section 15(1)(b);

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

registered means registered under this Act;

registered interest means—

(a) a registered easement; or

(b) a registered lease; or

(c) a Government lease; or

(d) a registered charge; or

(e) a registered mortgage;

registered lease means a lease registered over customary land;

Registrar of Land means a person holding or acting in the office of Registrar of Land under Section 6;

Secretary means a person holding or acting in the office of Departmental Head of a Department;

service utility easement, see Section 15(1)(e);

statutory charge means a charge on an interest in land for unpaid rates, taxes or other amounts imposed by a Bougainville law or a National law that applies in Bougainville;

support easement, see Section 15(1)(f);

survey instruction means a survey instruction issued by the Surveyor-General under Section 89;

survey mark means a mark or peg of a kind specified in survey instructions that is placed on or in land by an authorised surveyor for the purposes of defining a boundary of the land;

Surveyor-General means a Public Service officer who—

- (a) is responsible to the Secretary who is, under the Minister, responsible for the administration of this Act; and
 - (b) holds or acts in an office designated as the office of Surveyor-General;
- transfer**, in relation to a lease, mortgage or charge, includes assign;
- transmission**—
- (a) means the passing of land or an interest in land to another in a manner other than by voluntary transfer; and
 - (b) includes the following:
 - (i) transmission to a trustee when the trustees of the trust change;
 - (ii) transmission to a personal representative or beneficiary on death;
 - (iii) transmission to a receiver or liquidator under a law about insolvency, bankruptcy or liquidation;
 - (iv) transmission to a person authorised to sell an interest in land under the execution of a writ or warrant of execution following judgement by a court.
- (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.

5 Relationship with other Bougainville and National laws

This Act does not derogate from land or sea being dealt with in accordance with other Bougainville laws or National laws that apply in Bougainville, including land or sea being made subject to—

- (a) a mining tenement under laws relating to mining; or
- (b) laws relating to roads, forestry, national parks or conservation.

PART 2 — REGISTRAR OF LAND

6 Registrar of Land

- (1) The office of Registrar of Land is established as a senior office for the purposes of Section 102(3) of the Bougainville Constitution.
- (2) The Registrar of Land must be appointed by the Senior Appointments Committee in accordance with the *Bougainville Senior Appointments Act 2014*.

- (3) The procedures regarding the following are as set out in the *Bougainville Senior Appointments Act 2014*:
- (a) the taking of disciplinary action against the Registrar of Land;
 - (b) interdiction or removal from office of the Registrar of Land.

7 Office of Registrar of Land

- (1) The Secretary responsible for the Public Service must ensure that Public Service officers are assigned to assist the Registrar of Land in the performance of functions under this Act.
- (2) While a Public Service officer is assisting the Registrar of Land, lawful directions given to the officer by the Registrar of Land prevail over directions given to the officer by the Secretary to whom the Public Service officer is otherwise responsible, to the extent of any inconsistency.

8 Delegation by Registrar of Land

- (1) The Registrar of Land 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 Registrar of Land may not be further delegated unless that is expressly allowed by the Registrar of Land.

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

9 Cooperation between government agencies

The Registrar of Land may work with the Secretary or Secretaries responsible for Government land matters and customary land matters or others to ensure that the Office of the Registrar has the capacity and courage to establish and maintain processes designed to guard against fraud and corruption in relation to land matters and to protect the integrity of the registers.

PART 3 — REGISTERS

10 Registers

The Registrar of Land must keep the following registers:

- (a) Customary Land Register;
- (b) Government Land Register.

11 Customary Land Register

- (1) The Customary Land Register must include the following particulars:
 - (a) for each registered easement, registered lease or registered charge over customary land—
 - (i) a copy of the instrument comprising the interest; and
 - (ii) if the interest is amended—a copy of the instrument of amendment; and
 - (iii) if the interest is transferred or transmitted—a copy of the instrument of transfer or transmission; and
 - (iv) if the interest is surrendered, terminated, discharged or otherwise extinguished—a copy of the instrument of surrender, termination, discharge or extinguishment;
 - (b) for each registered mortgage of a registered lease over customary land—
 - (i) a copy of the instrument comprising the mortgage; and
 - (ii) if the mortgage is amended—a copy of the instrument of amendment; and
 - (iii) if the mortgage is transferred or transmitted—a copy of the instrument of transfer or transmission; and
 - (iv) if the mortgage is discharged or otherwise extinguished—a copy of the instrument of discharge or extinguishment; and
 - (c) if the Bougainville Government relinquishes responsibility for Government land under the *Bougainville Government Land Act 2023*—
 - (i) a copy of the instrument of relinquishment (in the form of the notice of relinquishment required to be published in the Bougainville Gazette); and
 - (ii) a copy of the order of the Bougainville Court conclusively determining the customary landowners of the land as at the date of the order.
- (2) An entry for a registered interest, or relinquished Government land, in the Customary Land Register must include an official survey plan of the land affected by the interest (including as amended) or relinquishment, together with a statement of the status of land boundaries under the plan.
- (3) An entry for an instrument in the Customary Land Register must include—
 - (a) a record of the date on which the instrument is lodged for registration; and
 - (b) if a certificate of the Customary Land Board or Government Land Board recommending registration of the instrument is required—a copy of the certificate; and

- (c) a copy of any instrument of consent or other evidence lodged with the Registrar of Land and relied on for registration of the instrument; and
 - (d) a copy of any certificate of the Registrar of Land under this Act dispensing with consent.
- (4) The Customary Land Register must also include—
- (a) a copy of each order of the Land Division of the Bougainville Court relating to customary land or an interest in customary land; and
 - (b) for the convenience of a person searching the orders (rather than as something that can be relied on for legal purposes)—
 - (i) a summary of each order; and
 - (ii) an index that enables the orders to be searched according to the land affected by the order.
- (5) The Principal Judge of the Bougainville Court and the Registrar of Land must arrange for—
- (a) the provision of copies of orders referred to in Subsection (4) by the Bougainville Court to the Registrar of Land; and
 - (b) the preparation of summaries of the orders.

12 Government Land Register

- (1) The Government Land Register will include entries for land taken to be registered Government land under the transitional provisions in Part 11 Division 3.
- (2) The Government Land Register must include the following:
- (a) for each area of customary land transferred from customary landowners to the Bougainville Government under the *Bougainville Customary Land Act 2023*—
 - (i) an official survey plan of the area of land, together with a statement of the status of land boundaries under the plan; and
 - (ii) a copy of the instrument of transfer; and
 - (b) for customary land of which the Bougainville Government or a Bougainville governmental body is the registered lessee—a reference to the registered lease in the Customary Land Register;
 - (c) for each registered easement over registered Government land—
 - (i) a copy of the instrument comprising the easement; and
 - (ii) if the easement is amended—a copy of the instrument of amendment; and
 - (iii) if the easement is extinguished—a copy of the instrument of extinguishment; and

- (d) for Government land that is relinquished under the *Bougainville Government Land Act 2023*—a reference to the record of relinquishment in the Customary Land Register;
- (e) for each Government lease—the following information (even if the lease has since expired or been surrendered or terminated):
 - (i) for a Government lease granted under the *Bougainville Government Land Act 2023*—
 - (A) a record of the category of the lease (that is, commercial, community service or historical); and
 - (B) the instrument of lease (being the lease grant 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
 - (C) a record of how and by whom the lease was accepted; and
 - (D) a copy of each annual report provided by the lessee, or a summary of the report prepared, under the *Bougainville Government Land Act 2023*; and
 - (E) a record of updated lessee contact details provided by the lessee under the *Bougainville Government Land Act 2023*; and
 - (ii) if the lease is amended or renewed—a copy of the instrument of amendment or renewal;
 - (iii) if the lease is transferred or transmitted—a copy of the instrument of transfer or transmission;
 - (iv) if the lease is surrendered or terminated—a copy of the instrument of surrender or termination; and
 - (v) for each registered mortgage of the lease—
 - (A) a copy of the instrument comprising the mortgage; and
 - (B) if the mortgage is amended—a copy of the instrument of amendment; or
 - (C) if the mortgage is transferred or transmitted—a copy of the instrument of transfer or transmission; and
 - (D) if the mortgage is discharged or otherwise extinguished—a copy of the instrument of discharge or extinguishment;
 - (vi) if land subject to a Government lease is resumed under the *Bougainville Government Land Act 2023*—a copy of the instrument of resumption.

- (3) An entry for a registered interest in the Government Land Register must include an official survey plan of the land affected by the interest (including as amended or partly resumed), together with a statement of the status of land boundaries under the plan.
- (4) An entry for an instrument in the Government Land Register must include—
- (a) a record of the date on which the instrument is lodged for registration; and
 - (b) if a certificate of the Customary Land Board or Government Land Board recommending registration of the instrument is required—a copy of the certificate; and
 - (c) a copy of any instrument of consent or other evidence lodged with the Registrar of Land and relied on for registration of the instrument; and
 - (d) a copy of any certificate of the Registrar of Land under this Act dispensing with consent.
- (5) The Government Land Register must also include—
- (a) a copy of each order of the Land Division of the Bougainville Court relating to Government land or an interest in Government land; and
 - (b) for the convenience of a person searching the orders (rather than as something that can be relied on for legal purposes)—
 - (i) a summary of each order; and
 - (ii) an index that enables the orders to be searched according to the land affected by the order.
- (6) The Principal Judge of the Bougainville Court and the Registrar of Land must arrange for—
- (a) the provision of copies of orders referred to in Subsection (5) by the Bougainville Court to the Registrar of Land; and
 - (b) the preparation of summaries of the orders.
- (7) The Government Land Register must also include—
- (a) a copy of each notice under Section 19 of the *Bougainville Government Land Act 2023*; and
 - (b) for the convenience of a person searching the register—an index that enables the notice to be searched according to the land affected by the notice.

13 Evidentiary effect of certified copies of entries and registered instruments

A document that appears to be a copy of an entry in a register, or a registered instrument, certified by the Registrar of Land to be a true copy, must, in the absence of proof to the contrary, be taken to be a true copy of the entry or registered instrument.

PART 4 — REGISTRATION OF GOVERNMENT LAND

14 Instrument of transfer of responsibility

- (1) Under the *Bougainville Customary Land Act 2023*, customary land may be transferred from the customary landowners to the Bougainville Government for registration as Government land.
- (2) The transfer occurs by registration of an instrument of transfer under this Act.
- (3) To be registered under this Act, the instrument of transfer must—
 - (a) be in the form approved by the Registrar of Land; and
 - (b) identify the land by means of an official survey plan (accompanied by a statement of the status of land boundaries under the plan); and
 - (c) be accompanied by—
 - (i) a certificate of the Customary Land Board recommending registration of the instrument; and
 - (ii) a certificate of the Government Land Board recommending registration of the instrument; and
 - (d) be executed—
 - (i) by the customary landowners in the manner set out in the certificate of the Customary Land Board; and
 - (ii) by the Government Land Minister; and
 - (e) be lodged with the Registrar of Land.
- (4) An instrument of transfer may be subject to the registration of—
 - (a) an easement; or
 - (b) a Government lease.
- (5) On registration of an instrument of transfer—
 - (a) the land becomes registered Government land; and
 - (b) any registered charge against the land, registered lease of the land or registered mortgage of a registered lease is discharged, extinguished or terminated.

PART 5 — REGISTERED INTERESTS

Division 1 — Registered easement

15 Types of registered easement

- (1) A registered easement may be comprised of any of the following:
- (a) a **public right of way**—a right for any member of the public to pass over a road or track identified in the easement (including with vehicles or equipment suitable for the road or track);
 - (b) a **private right of way**—a right to pass over a road or track identified in the easement (including with vehicles or equipment suitable for the road or track) granted to any of the following and their employees, agents, tenants and visitors:
 - (i) a landowner of specified land;
 - (ii) a person with a right to occupy specified land;
 - (c) a **public right of way on foot**—a right for any member of the public to pass over a pathway identified in the easement on foot;
 - (d) a **private right of way on foot**—a right to pass over a pathway identified in the easement on foot granted to any of the following and their employees, agents, tenants and visitors:
 - (i) a landowner of specified land;
 - (ii) a person with a right to occupy specified land;
 - (e) a **service utility easement**—a right for a utility provider of a service specified in the easement (being a service for water, sewerage, drainage, electricity or telecommunications) and the provider’s employees and agents at any reasonable time—
 - (i) to enter the land (including with vehicles or equipment); and
 - (ii) to do what is reasonably necessary in, on or over the area of land identified in the easement to install, inspect, alter, repair, maintain or replace infrastructure for the specified service;
 - (f) a **support easement**—a right for a person and the person’s employees and agents—
 - (i) to enter the land (including with vehicles or equipment); and
 - (ii) to do what is reasonably necessary in or on the area of land identified in the easement to construct, inspect, alter, repair, maintain or replace an embankment, wall or other structure to support specified adjoining land or a building, structure or fixture on the specified adjoining land.

- (2) Land subject to a service utility easement may be limited wholly or partly in height or depth or both.

16 Instrument of easement or amendment of easement

To be registered under this Act, an instrument of easement, or amendment of an easement, must—

- (a) be in the form approved by the Registrar of Land; and
- (b) identify the land subject to the easement by means of an official survey plan (accompanied by a statement of the status of land boundaries under the plan); and
- (c) identify the type of easement by reference to the short description of the type set out in Section 15; and
- (d) include the details required to be specified according to the type of easement under Section 15; and
- (e) if the easement is over customary land—
 - (i) be accompanied by a certificate of the Customary Land Board recommending registration of the instrument; and
 - (ii) be executed by the customary landowners in the manner set out in the certificate; and
- (f) if the easement is over registered Government land—
 - (i) be accompanied by a certificate of the Government Land Board recommending registration of the instrument; and
 - (ii) be executed by the Government Land Minister; and
- (g) except for a public right of way or public right of way on foot (as referred to in Section 15(1)(a) or 15(1)(c)), be accompanied by an instrument evidencing acceptance of the easement by or on behalf of the person or group who may exercise rights under the easement; and
- (h) be accompanied by—
 - (i) for customary land—an instrument evidencing the consent of:
 - (A) each registered chargee of a charge over the land; and
 - (B) each registered lessee of a lease over the land; and
 - (C) each registered mortgagee of a mortgage of a registered lease over the land; or
 - (ii) for Government land—an instrument evidencing the consent of:
 - (A) each registered lessee of a Government lease over the land; and

- (B) each registered mortgagee of a mortgage of a Government lease over the land; or
- (iii) in either case—a certificate of the Registrar of Land dispensing with the requirement for such consent on the grounds that—
 - (A) the person cannot be contacted despite a reasonable attempt to do so; or
 - (B) the person has not responded to the request for consent despite having had a reasonable opportunity to do so; or
 - (C) consent is being unreasonably withheld in circumstances in which the person’s interests are not prejudiced by the instrument of easement or amendment of easement; and
- (i) be lodged with the Registrar of Land.

17 Extinguishment of easement

- (1) A registered easement may be extinguished by registration of an instrument of extinguishment.
- (2) To be registered under this Act, an instrument of extinguishment must—
 - (a) be in the form approved by the Registrar of Land; and
 - (b) identify the easement to be extinguished; and
 - (c) for registered Government land or for a public right of way or public right of way on foot over customary land—be accompanied by a certificate of the Government Land Board recommending registration of the instrument of extinguishment; and
 - (d) be executed (as for the instrument of easement) as follows:
 - (i) for customary land—by the customary landowners;
 - (ii) for registered Government land—by the Government Land Minister; and
 - (e) except for a public right of way or public right of way on foot, be accompanied by—
 - (i) an instrument evidencing the consent of the persons who can currently exercise rights under the easement; or
 - (ii) a certificate of the Registrar of Land dispensing with the requirement for such consent on the grounds that—
 - (A) the person cannot be contacted despite a reasonable attempt to do so; or
 - (B) the person has not responded to the request for consent despite having had a reasonable opportunity to do so; or

- (C) consent is being unreasonably withheld in circumstances where the person's interests are not prejudiced by the instrument of extinguishment of the easement; and
- (f) be lodged with the Registrar of Land.

18 Implied registered easement for support of land and structures

- (1) All land is subject to the obligation that nothing is to be done on the land that will withdraw support from other land or from a building, structure or fixture on other land (owned or occupied separately).
- (2) The obligation under Subsection (1) may be enforced as if it were a registered support easement.

19 Exercise of rights under easement

- (1) Rights under a registered easement must be exercised—
 - (a) in a way that is reasonable and appropriate to the purpose for which the registered easement is granted; and
 - (b) in accordance with any conditions specified in the registered easement.
- (2) A person must not hinder or obstruct a person exercising rights under a registered easement.
- (3) A person must not do anything, or cause anything to be done, to land subject to an easement that would prevent, or unreasonably inhibit, rights under the easement being exercised.
- (4) The Land Division of the Bougainville Court has jurisdiction to hear and determine an action for enforcement of rights under a registered easement.

Division 2 — Lease

Sub-division 1 — Registered lease of customary land

20 Application of Sub-division

This Sub-division does not limit the terms that may be included in a registered lease of customary land but the terms of a registered lease of customary land are of no effect to the extent of any inconsistency with this Sub-division.

Note—The lessor is the customary landowner and the lessee is the tenant of the land under the lease.

21 Requirement for lease to be long term

- (1) Only a long term lease of customary land can be registered.

- (2) A long term lease is—
- (a) a lease for a term longer than 3 years; or
 - (b) a lease that is subject to a right of renewal such that the aggregate of all terms may be longer than 3 years.
- (3) A registered long term lease is of no effect to the extent that it purports to provide for a term of longer than 40 years.
- (4) The term of a lease is the period beginning when the lessee is first entitled to possession under the lease and ending when the lessee is last entitled to possession, even if the lease consists of 2 or more discontinuous periods.
- (5) This section does not apply to a historical lease that comes into existence under the transitional provisions.

Note—Rights to occupy or use land under a tenancy, licence or sublease can be for a shorter term but do not amount to an interest in land.

22 Instrument of lease

- (1) To be registered under this Act, an instrument of lease of customary land must—
- (a) be in the form approved by the Registrar of Land; and
 - (b) identify the area of land leased by means of an official survey plan (accompanied by a statement of the status of land boundaries under the plan); and
 - (c) include the name and contact details of the lessee; and
 - (d) specify to whom and how notices may be given to the lessee and the lessor; and
 - (e) include a statement of—
 - (i) the rent payable by the lessee; and
 - (ii) how and when the amount of rent can be varied; and
 - (f) specify the date of expiry of the lease; and
 - (g) include a statement of the terms implied under Section 23; and
 - (h) be accompanied by—
 - (i) a certificate of the Customary Land Board recommending registration of the instrument; and
 - (ii) if the lessee is the Bougainville Government or a Bougainville governmental body—a certificate of the Government Land Board recommending registration of the instrument; and

- (i) be executed—
 - (i) by the customary landowners in the manner set out in the certificate of the Customary Land Board; and
 - (ii) the lessee; and
 - (j) be accompanied by—
 - (i) an instrument evidencing the consent of each registered chargee of a charge that has priority over the lease; or
 - (ii) a certificate of the Registrar of Land dispensing with the requirement for such consent on the grounds that—
 - (A) the person cannot be contacted despite a reasonable attempt to do so; or
 - (B) the person has not responded to the request for consent despite having had a reasonable opportunity to do so; or
 - (C) consent is being unreasonably withheld in circumstances in which the person's interests are not prejudiced by the instrument of lease; and
 - (k) be lodged with the Registrar of Land.
- (2) If the lessee is the Bougainville Government or a Bougainville governmental body, the Government Land Minister is to execute the instrument as lessee.

23 Implied lease terms and conditions

- (1) The following terms are implied in every registered lease of customary land:
- (a) the lessee will pay rent as specified in the lease; and
 - (b) the lessee will pay all rates and taxes payable on the land (if any) during the term of the lease; and
 - (c) the lessee will keep the land, and buildings and structures on the land, in good and tenantable repair (reasonable wear and tear excepted and subject to any express terms of the lease); and
 - (d) the lessor may, including by the lessor's employees or agents, at any reasonable time and with reasonable notice to the lessee, enter the land, inspect its state of repair and carry out repairs and maintenance; and
 - (e) the lessor may give a lessee a default notice and may terminate the lease in accordance with this section.
- (2) A lessor may give a lessee of a registered lease of customary land a written default notice—
- (a) specifying grounds on which it is alleged that there has been a breach of the lease conditions (including non-payment of rent); and

- (b) specifying facts that, in the lessor’s opinion, establish the grounds; and
 - (c) requiring the lessee to take specified action to remedy or mitigate the consequences of the breach within a period specified in the notice (being at least 3 months).
- (3) If a registered lease of customary land is subject to a registered mortgage, the lessor must give the mortgagee a copy of any default notice given to the lessee.
- (4) A lessor may terminate a registered lease of customary land if—
 - (a) the lessor has given the lessee a written default notice and the action specified in the notice has not been taken in the period specified in the notice; or
 - (b) the lessee has ceased to occupy the land.
- (5) Before a registered lease of customary land is terminated, the lessor must give written notice of the intention to terminate the lease to—
 - (a) the lessee; and
 - (b) each mortgagee of a registered mortgage over the lease.
- (6) The Registrar of Land may dispense with the requirement to give notice if satisfied that reasonable steps to give the notice have been taken but without success.
- (7) The notice of intention to terminate must—
 - (a) specify the grounds for termination; and
 - (b) specify the facts that, in the lessor’s opinion, establish the grounds; and
 - (c) invite submissions to be made within a period specified in the notice.
- (8) 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 lessor of that fact.
- (9) The lessor must consider any submissions made within the period allowed in the notice.
- (10) A registered lease cannot be terminated if the action specified in a default notice is taken.

24 Standard lease terms and conditions

- (1) A person may deposit with the Registrar of Land a document (in the form approved by the Registrar of Land) containing terms and conditions for incorporation as standard terms and conditions in leases of specified customary land.

- (2) A lease may provide that standard terms and conditions, as contained in a document deposited with the Registrar of Land under Subsection (1), are—
- (a) incorporated in the lease; or
 - (b) incorporated in the lease subject to exclusions or modifications specified in the lease.
- (3) In such a case, the lease has effect as if the standard terms and conditions, subject to any exclusions or modifications specified in the lease, were contained in the lease.

25 Offence—failure to provide standard terms and conditions to lessee

- (1) A lessor of customary land commits an offence if—
- (a) the lease incorporates standard terms and conditions under Section 24; and
 - (b) the lessor does not, before execution of the lease by the lessee, provide the lessee with a copy of the standard terms and conditions.

Maximum penalty: K20,000.

- (2) Non-compliance with Subsection (1) does not affect the validity of the lease.

Sub-division 2 — Dealing with registered lease or Government lease

26 Amendment or renewal of lease

- (1) Subject to the terms of the lease and, for a Government lease, the *Bougainville Government Land Act 2023*, a registered lease or Government lease can be amended or renewed by registering an instrument of amendment or renewal of the lease.
- (2) To be registered under this Act, an instrument of amendment or renewal of a lease must—
- (a) be in the form approved by the Registrar of Land; and
 - (b) for a registered lease—be executed (as for the instrument of lease) by—
 - (i) the lessor; and
 - (ii) the lessee; and
 - (c) for a Government lease—be executed by the Government Land Minister; and
 - (d) be accompanied by the following:
 - (i) for a registered lease—

- (A) a certificate of the Customary Land Board recommending registration of the instrument of amendment or renewal; and
- (B) if the lessee is the Bougainville Government or a Bougainville governmental body—a certificate of the Government Land Board recommending registration of the instrument of amendment or renewal;
- (ii) for a Government lease—a certificate of the Government Land Board recommending registration of the instrument of amendment or renewal; and
- (e) for an instrument of amendment (but not renewal), be accompanied by—
 - (i) an instrument evidencing the consent of each registered chargee of a charge that has priority over the lease and each mortgagee of a registered mortgage of the lease; or
 - (ii) a certificate of the Registrar of Land dispensing with the requirement for such consent on the grounds that—
 - (A) the person cannot be contacted despite a reasonable attempt to do so; or
 - (B) the person has not responded to the request for consent despite having had a reasonable opportunity to do so; or
 - (C) consent is being unreasonably withheld in circumstances in which the person’s interests are not prejudiced by the instrument of amendment; and
- (f) be lodged with the Registrar of Land.

27 Transfer of lease

- (1) Subject to the terms of the lease and, for a Government lease, the *Bougainville Government Land Act 2023*, a registered lease or Government lease can be transferred by registering an instrument of transfer of the lease.
- (2) To be registered under this Act, an instrument of transfer of a lease must—
 - (a) be in the form approved by the Registrar of Land; and
 - (b) be executed by—
 - (i) the lessee (as for the instrument of lease); and
 - (ii) the transferee; and
 - (c) be accompanied by the following:
 - (i) for a registered lease—
 - (A) an instrument evidencing the consent of the customary landowners as lessors and a certificate of the Customary Land

- Board recommending registration of the instrument of consent;
and
- (B) if the lessee is the Bougainville Government or a Bougainville governmental body—a certificate of the Government Land Board recommending registration of the instrument of transfer;
- (ii) for a Government lease—
 - (A) an instrument evidencing the consent of the Government Land Minister (as lessor); and
 - (B) a certificate of the Government Land Board recommending registration of the instrument of consent; and
- (d) be accompanied by—
 - (i) an instrument evidencing the consent of any registered chargee of a charge that has priority over the lease and of any registered mortgagee of a mortgage of the lease; or
 - (ii) a certificate of the Registrar of Land dispensing with the requirement for such consent on the grounds that—
 - (A) the person cannot be contacted despite a reasonable attempt to do so; or
 - (B) the person has not responded to the request for consent despite having had a reasonable opportunity to do so; or
 - (C) consent is being unreasonably withheld in circumstances in which the person's interests are not prejudiced by the instrument; and
- (e) be lodged with the Registrar of Land.

28 Surrender of lease

- (1) Subject to the terms of the lease and, for a Government lease, the *Bougainville Government Land Act 2023*, a registered lease or Government lease may be surrendered by registering an instrument of surrender of the lease.
- (2) To be registered under this Act, an instrument of surrender of a lease must—
 - (a) be in the form approved by the Registrar of Land; and
 - (b) be executed by the lessee (as for the instrument of lease); and
 - (c) if the lessee is the Bougainville Government or a Bougainville governmental body—be accompanied by a certificate of the Government Land Board recommending registration of the instrument of surrender; and

- (d) if there is outstanding rent, be accompanied by—
 - (i) an instrument evidencing the consent of the lessor (as for the instrument of lease); and
 - (ii) for a registered lease—a certificate of the Customary Land Board recommending registration of the instrument of consent; and
 - (iii) for a Government lease—a certificate of the Government Land Board recommending registration of the instrument of consent; and
- (e) be accompanied by—
 - (i) an instrument evidencing the consent of any registered chargee of a charge that has priority over the lease and each registered mortgagee of a mortgage of the lease; or
 - (ii) a certificate of the Registrar of Land dispensing with the requirement for such consent on the grounds that—
 - (A) the person cannot be contacted despite a reasonable attempt to do so; or
 - (B) the person has not responded to the request for consent despite having had a reasonable opportunity to do so; or
 - (C) consent is being unreasonably withheld in circumstances in which the person's interests are not prejudiced by the instrument; and
- (f) be lodged with the Registrar of Land.

29 Termination of lease

- (1) An instrument of termination of a lease may be registered under this Act if—
 - (a) a registered lease is terminated under Section 23; or
 - (b) a Government lease is terminated under the *Bougainville Government Land Act 2023*.
- (2) To be registered under this Act, an instrument of termination of a lease must—
 - (a) be in the form approved by the Registrar of Land; and
 - (b) be executed by the lessor (as for the instrument of lease); and
 - (c) be accompanied by a statement of the grounds of termination; and
 - (d) be lodged with the Registrar of Land.

Division 3 — Registered mortgage of lease

30 Registered mortgage

- (1) A registered lease or Government lease can be made subject to a registered mortgage.
- (2) A registered mortgage acts as a charge on the lease in favour of the mortgagee for the debt or liability secured by the mortgage.

Note—The mortgagor is the party receiving the loan and the mortgagee is the party (the bank) offering the loan.

31 Limitations relating to mortgage

- (1) A mortgage can only be registered if the mortgage meets the requirements of the regulations.
- (2) Without limitation, the regulations may—
 - (a) limit the persons who may be mortgagees; and
 - (b) limit the amount of the debt secured by a mortgage; and
 - (c) limit the purposes for which a registered lease or Government lease may be mortgaged.

32 Instrument of mortgage

To be registered under this Act, an instrument of mortgage of a registered lease or Government lease must—

- (a) be in the form approved by the Registrar of Land; and
- (b) identify the lease subject to the mortgage, including by reference to its entry in a register and by official survey plan; and
- (c) specify—
 - (i) the debt or liability secured by the mortgage; and
 - (ii) the rate of interest; and
 - (iii) the manner in which the principal sum and interest are to be repaid; and
 - (iv) the period of default (being at least 1 month) after which a default notice may be given to the mortgagor by the mortgagee under this Act; and
 - (v) how notices can be given to the mortgagee or the mortgagor; and
 - (vi) any limitations on the amendment or transfer of the mortgage; and
- (d) be accompanied by a copy of any other document on which it relies; and

- (e) clearly explain the consequences of default in the performance of obligations under the mortgage; and
- (f) be executed by the mortgagor and the mortgagee; and
- (g) for a mortgage of a registered lease, be accompanied by—
 - (i) an instrument evidencing the consent of each registered chargee of a charge that has priority over the mortgage; or
 - (ii) a certificate of the Registrar of Land dispensing with the requirement for such consent on the grounds that—
 - (A) the person cannot be contacted despite a reasonable attempt to do so; or
 - (B) the person has not responded to the request for consent despite having had a reasonable opportunity to do so; or
 - (C) consent is being unreasonably withheld in circumstances in which the person's interests are not prejudiced by the instrument; and
- (h) be lodged with the Registrar of Land.

33 Implied terms and conditions of mortgage

- (1) A registered mortgage constitutes an agreement—
 - (a) to repay to the mortgagee the principal sum stated in the mortgage; and
 - (b) to pay to the mortgagee repayments of the principal sum and interest on the principal sum at a specified rate and in the manner provided in the mortgage; and
 - (c) if the mortgage expressly provides that specified buildings, structures or fixtures on the land must be kept in good repair, to keep those buildings, structures or fixtures in good repair; and
 - (d) if the mortgage expressly provides that action must be taken or refrained from being taken for the purposes for which the principal sum is provided, and plans, specifications or instruments governing the matter are lodged with the registered mortgage, to take or to refrain from taking that action; and
 - (e) if the mortgage expressly provides for the mortgagee to be permitted to inspect the land, to permit the reasonable exercise of that power.
- (2) A registered mortgage is subject to any limitations as to amendment or transfer imposed in the instrument of mortgage.
- (3) Any other terms included in a registered mortgage are of no effect.

34 Amendment of mortgage

- (1) Subject to the terms of the mortgage, a registered mortgage can be amended by registering an instrument of amendment of the mortgage.
- (2) An instrument of amendment cannot add or remove a party to the mortgage.
- (3) To be registered under this Act, an instrument of amendment of a mortgage must—
 - (a) be in the form approved by the Registrar of Land; and
 - (b) be executed by the mortgagee and mortgagor; and
 - (c) be accompanied by—
 - (i) an instrument evidencing the consent of each registered chargee of a charge that has priority over the mortgage; or
 - (ii) a certificate of the Registrar of Land dispensing with the requirement for such consent on the grounds that—
 - (A) the person cannot be contacted despite a reasonable attempt to do so; or
 - (B) the person has not responded to the request for consent despite having had a reasonable opportunity to do so; or
 - (C) consent is being unreasonably withheld in circumstances in which the person's interests are not prejudiced by the instrument; and
 - (d) be lodged with the Registrar of Land.

35 Transfer of mortgage

- (1) Subject to the terms of the mortgage, a registered mortgage can be transferred by registering an instrument of transfer of the mortgage.
- (2) To be registered under this Act, an instrument of transfer of a mortgage must—
 - (a) be in the form approved by the Registrar of Land; and
 - (b) be executed by the mortgagee and transferee; and
 - (c) except if the Land Division of the Bougainville Court dispenses with the requirement for consent, be accompanied by an instrument evidencing the consent of the mortgagor; and
 - (d) be accompanied by—
 - (i) an instrument evidencing the consent of each registered chargee of a charge that has priority over the mortgage; or

- (ii) a certificate of the Registrar of Land dispensing with the requirement for such consent on the grounds that—
 - (A) the person cannot be contacted despite a reasonable attempt to do so; or
 - (B) the person has not responded to the request for consent despite having had a reasonable opportunity to do so; or
 - (C) consent is being unreasonably withheld in circumstances in which the person's interests are not prejudiced by the instrument; and
- (e) be lodged with the Registrar of Land.
- (3) If there is more than 1 mortgage of a lease and a mortgagee pays to another mortgagee all money due under the other mortgage, the mortgagee is entitled to the transfer of the mortgage in respect of which the money is paid.
- (4) In such a case, the instrument of transfer need only be executed by the mortgagee who makes the payment and no consent is required.

36 Offence—failure by mortgagee to verify authority of mortgagor

- (1) A person commits an offence if—
 - (a) the person enters into a mortgage or transfer of a mortgage intending to be registered as mortgagee or enters into an amendment of a mortgage as mortgagee; and
 - (b) the person has not first verified the authority of the intended mortgagor to enter into, transfer or amend the mortgage.

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

- (2) If the Registrar of Land has issued requirements for verifying authority, a person will not be taken to have verified authority as required by Subsection (1) unless those requirements have been met.

37 Offence—failure to retain evidence of verification

A person commits an offence if the person fails, while the person remains a mortgagee, to retain a copy of a document used for the purpose of fulfilling an obligation under Section 36(1).

Maximum penalty: K10,000.

38 Discharge of mortgage

- (1) If all the money due on a registered mortgage is paid, the mortgage is taken to be discharged.

- (2) To be registered under this Act, an instrument of discharge of a mortgage must—
- (a) be in the form approved by the Registrar of Land; and
 - (b) —
 - (i) be executed by the mortgagor and mortgagee; or
 - (ii) be executed by the mortgagor and be accompanied by evidence of the payment of all money due to the mortgagee; and
 - (c) be lodged with the Registrar of Land.

39 Enforcement of mortgage—default notice

- (1) If there is a breach of the terms of a mortgage by the mortgagor and the default continues for the period specified in the mortgage (being at least 1 month), the mortgagee may give a default notice to the mortgagor.
- (2) A default notice must—
- (a) be in writing; and
 - (b) specify the default and the facts relied on to establish the default; and
 - (c) require the default to be rectified as soon as possible and, in any event, within a period (of at least 3 months) specified in the notice; and
 - (d) inform the mortgagor that sale or foreclosure of the lease may be effected if the default continues.
- (3) A default notice may be given to a mortgagor in the manner specified in the mortgage.
- (4) The mortgagee must give a copy of a default notice given under this section—
- (a) for a mortgage of a registered lease—to the customary landowners of the land subject to the registered lease; and
 - (b) for a mortgage of a Government lease—to the Secretary responsible, under a Minister, for the administration of the *Bougainville Government Land Act 2023*.

40 Enforcement of mortgage—sale by mortgagee

- (1) If a default identified in a default notice under Section 39 is not rectified within the period specified in the default, the mortgagee may lodge with the Registrar of Land a notice of intention to sell the lease (in the form approved by the Registrar of Land).
- (2) The mortgagee must also cause the notice to be published in the Bougainville Gazette.

- (3) Once the notice is registered and published in the Bougainville Gazette, the mortgagee has all the powers necessary to effect the sale (whether by public auction or private contract) including execution of the relevant instrument of transfer.
- (4) The mortgagee is not to sell the lease under this section unless—
 - (a) its sale will realise an amount equal to or more than—
 - (i) the amount of money owing to the mortgagee of the registered mortgage with the highest order of priority; and
 - (ii) the expenses of the sale; or
 - (b) the mortgagee of the registered mortgage with the highest order of priority consents to the sale.
- (5) Section 27 applies to the transfer of the registered lease to the purchaser as if the mortgagee conducting the sale were the lessee, except that consent of any chargee or mortgagee is not required. The sale is subject to the giving of consent by the lessor and the obtaining of certificates of the Customary Land Board or Government Land Board (as the case requires).
- (6) The mortgagee has a duty to take reasonable care to ensure that the sale is at market value.
- (7) Although breach of the duty is not a ground of invalidity of the sale, a person who suffers loss or damage because of the breach has a remedy in damages against the mortgagee.
- (8) The purchaser is not required to inquire into the fact of any default or default notice.
- (9) The purchase money from a sale by a mortgagee must be applied as follows:
 - (a) first—in payment of the expenses incurred in the sale;
 - (b) second—in payment of the amounts due to the mortgagee under the mortgage with the highest order of priority;
 - (c) third—in payment of any debts or liabilities secured by mortgages of a lower priority, if any, in order of priority;
 - (d) fourth—in payment of any surplus to the mortgagor.

41 Enforcement of mortgage—order for foreclosure

- (1) A mortgagee of a registered mortgage of the highest order of priority may apply to the Land Division of the Bougainville Court for an order for foreclosure if—
 - (a) the lease has been offered for sale under Section 40 for a period of at least 6 months but has not been sold; and

- (b) the amounts owing to the mortgagee remain outstanding.
- (2) Before making an order for foreclosure, the Bougainville Court must be satisfied that this Division has been complied with.
- (3) When the Bougainville Court makes an order for foreclosure, it may make such other orders as it considers just in relation to other interests in the lease and the payment of expenses incurred by the mortgagee in exercising the right of foreclosure.
- (4) If an order for foreclosure is made, the mortgagee may apply to the Registrar of Land for registration of the order as if it were an instrument of transfer to the mortgagee.

Division 4 — Registered charge over customary land

42 Registered charge

- (1) Customary land can be made subject to a registered charge.
- (2) A registered charge acts as a charge on the land in favour of the chargee for the debt or liability secured by the charge.

43 Limitations relating to charge

- (1) A charge can only be registered if the charge meets the requirements of the regulations.
- (2) Without limitation, the regulations may—
 - (a) limit the persons who may loan money secured by a charge; and
 - (b) limit the amount of the debt or liabilities that may be secured by a charge; and
 - (c) limit the purposes for which customary land may be charged; and
 - (d) limit the length of the default period that can be fixed by a charge (including by reference to the outstanding period of the loan); and
 - (e) limit the amount of the costs that can be recovered for enforcement of a charge.

44 Instrument of charge

To be registered under this Act, an instrument of charge over customary land must—

- (a) be in the form approved by the Registrar of Land; and

- (b) identify the area of land subject to the charge by means of an official survey plan (accompanied by a statement of the status of land boundaries under the plan); and
- (c) specify—
 - (i) the debt or liability secured by the charge; and
 - (ii) the rate of interest; and
 - (iii) the manner in which the principal sum and interest are to be repaid; and
 - (iv) the date on which the last payment is due under the charge; and
 - (v) the period of default (being at least 1 month) after which a default notice may be given under this Act to the customary landowners by the chargee; and
 - (vi) how the end date of the default period is to be calculated; and
 - (vii) how notices can be given to the chargee or the customary landowners; and
 - (viii) any limitations on amendment or transfer of the charge; and
- (d) clearly explain the consequences of default in the performance of obligations under the charge; and
- (e) be accompanied by a certificate of the Customary Land Board recommending registration of the instrument; and
- (f) be executed—
 - (i) by the customary landowners in the manner set out in the certificate of the Customary Land Board; and
 - (ii) by the chargee; and
- (g) be accompanied by—
 - (i) an instrument evidencing the consent of each registered lessee of a lease, and each registered mortgagee of a mortgage, that has priority over the charge; or
 - (ii) a certificate of the Registrar of Land dispensing with the requirement for such consent on the grounds that—
 - (A) the person cannot be contacted despite a reasonable attempt to do so; or
 - (B) the person has not responded to the request for consent despite having had a reasonable opportunity to do so; or

- (C) consent is being unreasonably withheld in circumstances in which the person's interests are not prejudiced by the instrument; and
- (h) be lodged with the Registrar of Land.

45 Implied terms and conditions of charge

- (1) A registered charge constitutes an agreement—
 - (a) to repay to the chargee the principal sum stated in the charge; and
 - (b) to pay to the chargee repayments of the principal sum and interest on the principal sum at a specified rate and in the manner provided in the charge; and
 - (c) if the charge expressly provides that specified buildings, structures or fixtures on the land must be kept in good repair, to keep those buildings, structures or fixtures in good repair; and
 - (d) if the charge expressly provides that action must be taken or refrained from being taken for the purposes for which the principal sum is provided, and plans, specifications or instruments governing the matter are lodged with the registered charge, to take or to refrain from taking that action; and
 - (e) if the charge expressly provides for the chargee to be permitted to inspect the land, to permit the reasonable exercise of that power.
- (2) A registered charge is subject to any limitations as to amendment or transfer imposed in the instrument of charge.
- (3) Any other terms included in a registered charge are of no effect.

46 Amendment of charge

- (1) Subject to the terms of the charge, a registered charge can be amended by registering an instrument of amendment of the charge.
- (2) An instrument of amendment cannot add or remove a party to the charge.
- (3) To be registered under this Act, an instrument of amendment of a charge must—
 - (a) be in the form approved by the Registrar of Land; and
 - (b) be accompanied by a certificate of the Customary Land Board recommending registration of the instrument; and
 - (c) be executed (as for the instrument of charge) by—
 - (i) the customary landowners; and
 - (ii) the chargee; and

- (d) be accompanied by—
 - (i) an instrument evidencing the consent of each registered lessee of a lease, and each registered mortgagee of a mortgage, that has priority over the charge; or
 - (ii) a certificate of the Registrar of Land dispensing with the requirement for such consent on the grounds that—
 - (A) the person cannot be contacted despite a reasonable attempt to do so; or
 - (B) the person has not responded to the request for consent despite having had a reasonable opportunity to do so; or
 - (C) consent is being unreasonably withheld in circumstances in which the person's interests are not prejudiced by the instrument; and
- (e) be lodged with the Registrar of Land.

47 Transfer of charge

- (1) Subject to the terms of the charge, a registered charge can be transferred by registering an instrument of transfer of the charge.
- (2) To be registered under this Act, an instrument of transfer of a charge must—
 - (a) be in the form approved by the Registrar of Land; and
 - (b) be executed by the chargee and transferee; and
 - (c) be accompanied—
 - (i) by—
 - (A) an instrument evidencing the consent of the customary landowners; and
 - (B) a certificate of the Customary Land Board recommending registration of the instrument of consent; or
 - (ii) by an order of the Land Division of the Bougainville Court dispensing with the requirement for such consent or certificate on the grounds that the consent or certificate is being unreasonably withheld in circumstances in which the interests of the customary landowners are not prejudiced by the instrument of transfer; and
 - (d) be accompanied by—
 - (i) an instrument evidencing the consent of each registered lessee of a lease, and each registered mortgagee of a mortgage, that has priority over the charge; or

- (ii) a certificate of the Registrar of Land dispensing with the requirement for such consent on the grounds that—
 - (A) the person cannot be contacted despite a reasonable attempt to do so; or
 - (B) the person has not responded to the request for consent despite having had a reasonable opportunity to do so; or
 - (C) consent is being unreasonably withheld in circumstances in which the person’s interests are not prejudiced by the instrument; and
- (e) be lodged with the Registrar of Land.
- (3) If there is more than 1 charge over customary land and a chargee pays to another chargee all money due under the other charge, the chargee is entitled to the transfer of the charge in respect of which the money is paid.
- (4) In such a case, the instrument of transfer need only be executed by the chargee who makes the payment and no consent or certificate is required.

48 Offence—failure by chargee to verify authority of customary land owners

- (1) A person commits an offence if—
 - (a) the person enters into a charge or transfer of a charge intending to be registered as chargee or enters into an amendment of a charge as chargee; and
 - (b) the person has not first verified the authority of the intended customary landowners to enter into, transfer or amend the charge.

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

- (2) If the Registrar of Land has issued requirements for verifying authority, a person will not be taken to have verified authority as required by Subsection (1) unless those requirements have been met.

49 Offence—failure to retain evidence of verification

A person commits an offence if the person fails, while the person remains a chargee, to retain a copy of a document used for the purpose of fulfilling an obligation under Section 48(1).

Maximum penalty: K10,000.

50 Enforcement of charge—default notice

- (1) If there is a breach of a registered charge and the default continues for the period specified in the charge (being at least 1 month), the chargee may give a default notice to the customary landowners.

- (2) A default notice must—
 - (a) be in writing; and
 - (b) specify the default and the facts relied on to establish the default; and
 - (c) require the default to be rectified as soon as possible and, in any event, within a period (of at least 3 months) specified in the notice; and
 - (d) explain the consequences of breach of the default notice.
- (3) A default notice may be given to customary landowners in the manner specified in the charge.

51 Enforcement of charge—registration of instrument of default

- (1) If a default identified in a default notice under Section 50 is not rectified within the period specified in the default notice, the chargee may lodge with the Registrar of Land an instrument of default for registration.
- (2) To be registered, an instrument of default must—
 - (a) be in the form approved by the Registrar of Land; and
 - (b) specify the end date of the default period; and
 - (c) be executed by the chargee; and
 - (d) be accompanied by—
 - (i) an acknowledgement of the customary landowners of the continuing default; or
 - (ii) evidence to the satisfaction of the Registrar of Land establishing the default; and
 - (e) be lodged with the Registrar of Land.
- (3) If the customary landowners satisfy the Registrar of Land that the default has been rectified before the instrument of default is lodged for registration, the instrument of default must not be registered.

52 Enforcement of charge—default period

- (1) If an instrument of default is registered, the application of this Act is modified as set out in this Division for the default period.
- (2) The default period—
 - (a) commences on registration of an instrument of default; and
 - (b) ends on the earlier of the following:
 - (i) the date calculated in accordance with the charge as the end date of the default period;

- (ii) the date when all the money due under the charge, and the costs and expenses lawfully incurred by the chargee in enforcing the charge, have been paid to or recovered by the chargee (including through the payment of rent by a registered lessee or a payment made for the granting of a registered lease during the default period).

53 Enforcement of charge—action that may be taken by chargee

- (1) For the default period—
 - (a) customary landowners must, on the written request of the chargee, give the chargee exclusive use and occupation of the land (subject to any registered lease that has priority over the charge); and
 - (b) the chargee stands in the place of the customary landowners in relation to registered interests in the land, including for the payment of rent, and the recovery of outstanding rent, under a registered lease of the land (whether or not the lease has priority over the charge); and
 - (c) the powers of the customary landowners relating to, and under, registered leases of the land are suspended; and
 - (d) instead, the chargee may exercise those powers; and
 - (e) any requirement for the Customary Land Board to recommend instruments for registration in association with a registered lease is suspended; and
 - (f) an easement over the land cannot be granted by the customary landowners except with the consent of the chargee.
- (2) At any time during the default period, the chargee may terminate a registered lease that the charge has priority over by giving 3 months written notice to the registered lessee and lodging an instrument of termination with the Registrar of Land.
- (3) A lease that is granted by a chargee during the default period must include an explanation of the effect of Section 56.

54 Enforcement of charge—records to be kept by chargee

- (1) A registered chargee must keep accurate records of payments received and costs and expenses incurred by the chargee in connection with enforcement of the charge.
- (2) A registered chargee must make the records available for inspection, free of charge and at any reasonable time, to the customary landowners and the Registrar of Land.

55 Discharge of charge

- (1) A registered charge is discharged—
 - (a) if a default notice has not been issued in relation to the charge, when all the money due on the charge is paid; and
 - (b) if a default notice has been issued in relation to the charge, when the default period ends.
- (2) To be registered under this Act, an instrument of discharge of a charge must—
 - (a) be in the form approved by the Registrar of Land; and
 - (b) —
 - (i) be executed (as for the instrument of charge) by the customary landowners and chargee; or
 - (ii) be executed (as for the instrument of charge) by the customary landowners and be accompanied by evidence of the payment of all money due to the chargee; and
 - (c) be lodged with the Registrar of Land.

56 Discharge or termination of registered lease granted during default period

If a chargee grants a registered lease during the default period, within 6 months after the registration of an instrument of discharge of the charge, the customary landowners may terminate the lease by giving 3 months written notice to the registered lessee and lodging an instrument of termination with the Registrar of Land.

PART 6 — MATTERS AFFECTING REGISTRATION OF INTERESTS**Division 1 — Trusts, powers of attorney and legal capacity****57 Registration of trust**

- (1) A person may be registered as the holder of a registered interest in the capacity of trustee if—
 - (a) an instrument of transfer identifies the transferee as a trustee; or
 - (b) the person applies to the Registrar of Land to register the person as a trustee; or
 - (c) there is a court order for the person to be registered as a trustee.
- (2) All persons registered as trustees must execute an instrument of transfer or other dealing with the interest held in trust unless a court orders otherwise.

- (3) Subsection (2) does not apply to an instrument effecting the valid removal or appointment of a trustee or the registration of the removal or appointment.

58 Registration of power of attorney

- (1) The Registrar of Land may, on application by the holder of a registered interest, register the following if the instrument appears to have been properly executed according to law:
- (a) a power of attorney; or
 - (b) an instrument of revocation of a registered power of attorney.
- (2) If an instrument of revocation is registered, the power of attorney ceases to be registered.
- (3) The Registrar of Land may register an instrument executed under a registered power of attorney without being satisfied that the power of attorney has not been revoked.

59 Person without legal capacity

- (1) A person who is responsible by law for the management and care of the interests of a person who has not attained 18 years of age or does not have legal capacity to manage the person's own affairs may act for the person under this Act as if a power of attorney had been executed.
- (2) The person with responsibility by law may be the person's guardian or the administrator of the person's estate.
- (3) The person must provide evidence to the satisfaction of the Registrar of Land of the person's entitlement to act under this section.

Division 2 — Transmission

60 Registration of transmission

- (1) The Registrar of Land may, on application, register the transmission of a registered interest.
- (2) To be registered under this Act an instrument of transmission must—
- (a) be in the form approved by the Registrar of Land; and
 - (b) identify the registered interest to which the instrument relates; and
 - (c) specify the nature of the transmission; and

- (d) be accompanied by evidence supporting the transmission, and demonstrating its validity, to the satisfaction of the Registrar of Land, including the following evidence:
- (i) for transmission to a trustee when the trustees of a trust change—a copy of the instrument removing or appointing trustees;
 - (ii) for transmission on death of the holder of a registered interest to the personal representatives of the holder or to a beneficiary of the deceased estate (including through customary law)—evidence of the holder’s death and the lawful status of the person or persons who are personal representatives of the holder or the entitlement as beneficiary;
 - (iii) for transmission to a receiver or liquidator under a law about bankruptcy, insolvency or liquidation—evidence of the lawful status of the receiver or liquidator;
 - (iv) for transmission to a person authorised to sell an interest in land under the execution of a writ or warrant of execution following judgement by a court—a copy of the writ or warrant.
- (3) The requirements of this Act for registration of an instrument of transfer (other than to a beneficiary of a deceased estate) or consent apply to an interest held by a person through registration of an instrument of transmission (including a requirement for a certificate of the Customary Land Board or Government Land Board recommending registration of an instrument of transfer or consent).

61 Rules relating to transmission

- (1) If 2 or more persons are personal representatives of a deceased person, each of them must be registered as such through an instrument of transmission and must concur in every instrument relating to the registered interest.
- (2) An instrument of transmission for transfer of a registered interest to a beneficiary of a deceased estate under customary law must be accompanied by a certificate of the Customary Land Board recommending registration of the instrument (having confirmed the application of the rules of succession under customary law).
- (3) The following rules apply to an instrument of transmission relating to a writ or warrant of execution after judgement in a court:
- (a) the instrument can only be registered if it is lodged with the Registrar of Land within the period within which it can be executed; and
 - (b) the registration ceases to be of any effect if—
 - (i) the writ or warrant expires; or
 - (ii) the writ or warrant is satisfied or discharged; and

- (c) the Registrar of Land may, on application, record that the registration has ceased to be of any effect if the applicant satisfies the Registrar of Land of that fact.

62 Additional rule for transmission or transfer to beneficiary of deceased estate

- (1) This section applies to—
 - (a) an instrument of transmission under which an interest is transmitted to a beneficiary of a deceased estate; or
 - (b) an instrument of transfer of an interest to a beneficiary of a deceased estate executed by the personal representatives of the deceased person (who hold the interest under an instrument of transmission).
- (2) The Registrar of Land must, as soon as reasonably practicable after registering an instrument of transmission or transfer to which this section applies, give written notice of the instrument to the Customary Land Board for an interest affecting customary land or to the Government Land Board for an interest affecting Government land.
- (3) The Customary Land Board or Government Land Board must, as soon as reasonably practicable—
 - (a) consider the suitability of the beneficiary to hold the interest; and
 - (b) determine whether the Board would issue a certificate recommending registration of an instrument of transfer to the beneficiary.
- (4) Before determining that it would not issue a certificate, the Customary Land Board or Government Land Board must—
 - (a) consult with the relevant Secretary; and
 - (b) give the beneficiary written notice of the proposed recommendation and the reasons for it; and
 - (c) invite the beneficiary to make submissions within a period (of at least 3 months) specified in the notice as to why the person should not be required to divest themselves of the interest as soon as reasonably practicable.
- (5) If the Customary Land Board or Government Land Board determines that it would not issue a certificate, the relevant Secretary may apply to the Land Division of the Bougainville Court for an order requiring the beneficiary to divest themselves of the interest as soon as reasonably practicable.
- (6) An application under Subsection (5) must be made within 6 months after notice is given under Subsection (2).

Division 3 — Miscellaneous

63 Power to require public notice before registration

- (1) Before registering an instrument on an application under this Part, the Registrar of Land may, by written notice, require the applicant to give public notice of the application.
- (2) The notice may specify—
 - (a) what is to be included in the public notice; and
 - (b) how many times the public notice is to be published; and
 - (c) how and when the public notice is to be published.
- (3) The person must satisfy the Registrar of Land that the public notice has been given as required.

64 No need to go behind title

A person who acquires title from a person who holds a registered interest as a trustee or as consequence of the registration of an instrument of transmission is not required to enquire into the circumstances of that title.

PART 7 — PRIORITY OF REGISTERED INTERESTS

65 Order of registration of instruments

Instruments relating to an area of land lodged for registration must be registered in the order in which they are lodged with the Registrar of Land.

66 Priority of title to registered interest

- (1) Subject to this section, a registered interest holder holds the registered interest subject only to—
 - (a) other registered interests that have priority over the registered interest of the registered interest holder; and
 - (b) outstanding statutory charges on the registered interest.
- (2) If a person has become a registered interest holder through fraud, dishonesty or error, the transaction by which the person became a registered interest holder may be declared void by the Bougainville Court and the title of the person defeated.
- (3) Subsection (1) does not apply if—
 - (a) the registered interest was acquired from the immediately preceding registered interest holder other than in good faith; or

- (b) the registered interest was acquired from a person pretending to be the immediately preceding registered interest holder and the acquisition was other than—
 - (i) in good faith; and
 - (ii) for value; and
 - (iii) without knowledge of the pretence.

(4) In this section—

registered interest holder means—

- (a) a registered chargee; or
- (b) a registered lessee of a registered lease or Government lease; or
- (c) a registered mortgagee.

67 Priority of interests—registered easements

- (1) A registered easement has priority over all other types of registered interests regardless of the order in which the easement and other interests were lodged for registration.

Note—Consent of each registered chargee, lessee and mortgagee to registration of an easement or amendment of an easement is required unless the Registrar of Land dispenses with the requirement for consent.

- (2) A registered easement survives enforcement under this Act of a registered charge or registered mortgage, regardless of the order in which the easement, charge and mortgage were lodged for registration.
- (3) If there is a conflict between easements or easements as amended, the easement for which an instrument of easement or amendment of easement was lodged for registration first in time prevails.

Note—Consequently, when an easement is proposed, consideration should be given to ensuring that other easements that are already registered are respected or amended as necessary to ensure that they can coexist.

68 Priority of interests—registered leases

- (1) There can only be one registered lease over an area of land in force at any one time.
- (2) An instrument of lease or amendment of lease that is lodged for registration later in time is invalid to the extent that it purports to be a lease of land that is already subject to a lease for which an instrument of lease or amendment of lease has already been lodged.

- (3) A registered lease that is lodged for registration before a registered charge is lodged for registration has priority over the charge unless an instrument of modification of priority has been lodged for registration that provides otherwise.
- (4) A registered lease is subject to all registered easements, whether they are registered before or after the lease.

Note—Consent of each lessee to registration of an easement or amendment of an easement is required unless the Registrar of Land dispenses with the requirement for consent.

- (5) A registered lease is subject to all registered mortgages registered against the lease.

69 Priority of interests—registered charges

- (1) Registered charges have priority in the order in which instruments of charge or amendment of charge are lodged for registration unless an instrument of modification of priority has been lodged for registration that provides otherwise.
- (2) A registered charge has priority over a registered lease or registered mortgage that is lodged for registration later in time than the charge unless an instrument of modification of priority has been lodged for registration that provides otherwise.

70 Priority of interests—registered mortgages

- (1) Registered mortgages have priority in the order in which instruments of mortgage or amendment of mortgage are lodged for registration unless an instrument of modification of priority has been lodged for registration that provides otherwise.
- (2) All registered mortgages are extinguished on sale or foreclosure by a mortgagee of any order of priority, but a sale or foreclosure may not be completed unless the mortgagee with the mortgage of the highest priority—
 - (a) receives the amount the mortgagee is owed and the costs and expenses incurred by that mortgagee relating to the sale or foreclosure; or
 - (b) consents to the extinguishment of the mortgage.
- (3) If a registered lease survives enforcement of a registered charge over the land, any registered mortgage over the lease also survives.
- (4) If a registered lease or Government lease is terminated, any registered mortgage over the lease is extinguished.
- (5) If Government land subject to a Government lease is resumed under the *Bougainville Government Land Act 2023*, any registered mortgage over the area of land resumed is extinguished.

71 Transfers and transmissions do not affect priority

A transfer or transmission of land or an interest in land (other than through sale or foreclosure on default under a mortgage) does not affect the priority of an interest in the land.

72 Instrument of modification of priority

- (1) An instrument of modification of priority for registration must—
 - (a) be in the form approved by the Registrar of Land; and
 - (b) be accompanied by an instrument evidencing consent of the holder of each registered interest affected by the modification; and
 - (c) be lodged with the Registrar of Land.
- (2) On the instrument being registered, registered interests have priority in the order specified in the instrument.
- (3) If there is a registered charge intervening between any 2 charges whose priority an instrument under this section purports to vary, the Registrar of Land must not register the instrument unless the chargee of the intervening charge has consented to the instrument.
- (4) If there is a registered mortgage intervening between any 2 mortgages whose priority an instrument under this section purports to vary, the Registrar of Land must not register the instrument unless the mortgagee of the intervening mortgage has consented to the instrument.

PART 8 — ADMINISTRATION OF REGISTERS**Division 1 — Inquiries****73 Registrar of Land may hold inquiry**

The Registrar of Land may hold an inquiry under this Division—

- (a) to decide whether a register should be corrected; or
- (b) to decide whether a person should be required to produce an instrument for the purposes of registering a dealing; or
- (c) to consider whether a person has fraudulently or wrongfully obtained or procured an instrument affecting land in a register; or
- (d) to consider whether a person has fraudulently or wrongfully procured a particular in a register or instrument affecting land; or
- (e) in other circumstances specified in the regulations.

74 Principles to be applied to inquiry

The following principles govern the conduct of an inquiry by the Registrar of Land:

- (a) the inquiry must be conducted with a minimum of formality;
- (b) the Registrar of Land is not bound by rules of evidence and may gather information as the Registrar of Land thinks fit;
- (c) the Registrar of Land may disregard a defect, error or insufficiency in an instrument under this Act if satisfied that the defect, error or insufficiency does not adversely affect the interests of any person.

75 Registrar of Land's power to suspend further registrations pending inquiry

- (1) If the Registrar of Land is satisfied, on the Registrar's own initiative or on application, that no further instruments should be registered in relation to land or a registered lease pending an inquiry, the Registrar of Land may register a caveat against the land or lease to that effect.
- (2) A copy of any registered caveat must be given to each person who has an interest in the land or lease.
- (3) The registration of the caveat must be removed as soon as the Registrar of Land is satisfied that it is no longer required.

76 Registrar of Land's powers on inquiry

- (1) In conducting an inquiry, the Registrar of Land may direct a person to do either or both of the following:
 - (a) to appear before the Registrar of Land or a nominated person at a specified time and place to provide information or evidentiary material;
 - (b) to provide evidentiary material to the Registrar of Land or to a nominated person.
- (2) The direction may be oral or written.
- (3) If a person fails to appear, the inquiry may continue in the absence of the person.
- (4) The Registrar of Land may adjourn an inquiry.
- (5) The Registrar of Land may permit or refuse to permit a person (including a legal practitioner) to represent someone at the inquiry.

77 Offence—breach of direction to appear or produce evidentiary material

- (1) A person commits an offence if the person, without reasonable excuse, refuses to appear or to provide information or evidentiary material as directed by the Registrar of Land under Section 76.

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

- (2) A person is not obliged to provide information if to do so might tend to incriminate the person or make the person liable to a penalty.

78 Referral of matter to Bougainville Court

- (1) The Registrar of Land may, at any time during an inquiry, refer to the Land Division of the Bougainville Court a question affecting registration or the order in which instruments should be taken to have been lodged for registration.
- (2) On a referral, the Bougainville Court may give the Registrar of Land such directions as it considers appropriate.
- (3) The Registrar of Land is bound by the directions of the Bougainville Court (subject to the decision of any appeal court).

79 Powers of Registrar of Land following inquiry

The Registrar of Land may at the end of an inquiry do any of the following:

- (a) correct a register;
- (b) order that an instrument be produced for registration within a specified period;
- (c) refer any findings of fraudulent or wrongful actions to the Commissioner of Police;
- (d) publish reasons for any decision made.

80 Offence—failure to produce instrument for registration

A person commits an offence if, without reasonable excuse, the person fails to produce an instrument for registration as ordered by the Registrar of Land under Section 79(b).

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

Division 2 — General matters

81 Applications to Registrar of Land

- (1) An application or notice required to be given to the Registrar of Land (including an application for registration of an instrument) must—
 - (a) comply with the requirements of the regulations; and
 - (b) be accompanied by the fee fixed by the regulations.
- (2) An applicant must provide the Registrar of Land with any additional information or evidence required by the Registrar of Land for the purposes of determining the application.

82 Form of registers

- (1) The Registrar of Land is responsible for the form in which a register is kept.
- (2) A register may be kept in an electronic form.
- (3) A register may contain additional information as the Registrar of Land considers appropriate.

83 Correction of registers

- (1) The Registrar of Land may correct an error in a register or in an instrument lodged for registration without notice to any person if satisfied the correction will not prejudice the rights of any person.
- (2) An error includes an error by omission.
- (3) The correction may be by way of addition, omission or substitution.
- (4) The correction must be undertaken in a manner that ensures that—
 - (a) the fact that there has been a correction is obvious; and
 - (b) the following can be determined:
 - (i) the content before the correction;
 - (ii) the reason for the correction;
 - (iii) the nature of the correction;
 - (iv) the date of the correction;
 - (v) the name and office of the person who personally authorised the correction.

84 Search of registers

- (1) A register must be kept in a manner that can be easily searched to find out all current or historical information in the registers relating to a specified area of land.
- (2) The Registrar of Land must ensure that there is a system in place for providing—
 - (a) reasonable access to the information in the registers and to electronic or other copies of the registered instruments; and
 - (b) a copy of the results of a search of the registers; and
 - (c) a copy of an entry in a register or registered instrument certified by the Registrar of Land to be a true copy of the entry or instrument.
- (3) Access may be provided by any means that the Registrar of Land considers appropriate, taking into account the need to protect the integrity of the registers.
- (4) A fee fixed by the regulations may be charged for—
 - (a) providing a person access to the registers; or
 - (b) a copy of search results; or
 - (c) a certified copy of an entry in a register or a registered instrument.

85 Offence—interfere with register

A person commits an offence if the person intentionally destroys, defaces or otherwise improperly interferes with a register.

Maximum penalty: K100,000 or 2 years' imprisonment.

PART 9 — SURVEYS**86 Surveyor-General**

- (1) There is to be a Surveyor-General.
- (2) The Surveyor-General is a Public Service officer responsible to the Secretary who is, under the Minister, responsible for the administration of this Act.

87 Delegation by Surveyor-General

- (1) The Surveyor-General 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 Surveyor-General may not be further delegated unless that is expressly allowed by the Surveyor-General.

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

88 Authorised surveyors

- (1) The Surveyor-General may authorise the following to certify official survey plans:
- (a) a Public Service officer who has satisfactorily completed relevant training;
 - (b) a person registered as a surveyor under the *Survey Act* 1969 of the National Parliament;
 - (c) a person of a class specified in the regulations.
- (2) A person authorised under Subsection (1) to certify official survey plans may authorise a person to enter land and carry out work in connection with a survey for an official survey plan.
- (3) An authorisation under this section must be in writing and should include a recent photograph of the authorised person.
- (4) An authorised person must produce the written authorisation if asked to do so when entering land or carrying out work in connection with a survey for an official survey plan.

89 Survey instructions

- (1) The Surveyor-General may issue survey instructions that must be complied with in carrying out surveys for official survey plans, keeping records of such surveys and certifying official survey plans.
- (2) Without limitation, survey instructions may—
- (a) regulate the manner in which surveys for official survey plans are carried out; and
 - (b) regulate the standards required to be applied and provide for tolerances in relation to the accuracy of surveys for official survey plans; and
 - (c) regulate the standard of equipment to be used in surveys for official survey plans; and
 - (d) regulate the form, establishment, custody, maintenance, removal or reinstatement of survey marks used in surveys for official survey plans; and
 - (e) regulate the records that must be kept of surveys for official survey plans; and
 - (f) regulate the form or certification of official survey plans; and

- (g) regulate the form of the statement about the status of land boundaries in an official survey plan according to the standards required to be applied in the survey.
- (3) Survey instructions may—
 - (a) vary in their operation according to time, place or circumstance; and
 - (b) confer discretionary powers on the Surveyor-General.

90 Status of land boundaries

- (1) An official survey plan must, for each boundary of land, state whether the boundary has been surveyed to a standard that is approximate or a standard that is accurate.
- (2) If the boundaries of the land are surveyed using GPS plot points or some other method less than a cadastral survey of recognised greater accuracy, the status of the boundaries is approximate.
- (3) The registered holder of a registered interest may apply to the Surveyor-General for any boundary of the land subject to the interest with a status of approximate to be resurveyed so that it has a status of accurate.
- (4) If the Surveyor-General is satisfied that a land boundary subject to an application under Subsection (3) is subject to a dispute, the Surveyor-General should endeavour to prioritise the application as resources allow.
- (5) If there is no such dispute, the Surveyor-General may refuse the application on the grounds that there are insufficient resources for the boundary to be resurveyed.
- (6) The Registrar of Land must, on application by the registered holder of a registered interest accompanied by an official survey plan prepared under this section, register the official survey plan against the interest.

91 Right to enter

An authorised surveyor may—

- (a) at any reasonable time, enter land for the purposes of carrying out work in connection with a survey for an official survey plan; and
- (b) take such action as is necessary to enable the survey to be carried out effectively (including excavating or breaking the surface of land to the extent necessary to uncover or place a survey mark).

92 Offence—obstruction of authorised surveyor

A person commits an offence if the person, without reasonable excuse, hinders or obstructs an authorised surveyor carrying out a survey for an official survey plan.

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

93 Offence—interference with survey marks

- (1) A person commits an offence if the person, without the approval of the Surveyor-General or other reasonable excuse, interferes with a survey mark.

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

- (2) If a person has breached Subsection (1) and the survey mark has been reinstated by an authorised surveyor, the cost of that reinstatement may be recovered as a debt by the person who caused the survey mark to be reinstated from the person who breached Subsection (1).

94 Offence—certifying plan when not authorised or survey instructions breached

A person commits an offence if—

- (a) the person certifies an official survey plan; and
- (b) the person—
 - (i) is not an authorised surveyor; or
 - (ii) did not carry out or supervise the carrying out of the survey for the plan; or
 - (iii) knows that the survey instructions have not been complied with in relation to the survey for the plan, the survey records or the plan.

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

95 Offences—holding out as authorised surveyor

- (1) A person commits an offence if—

- (a) the person—
 - (i) holds himself or herself out as being authorised to certify an official survey plan; or
 - (ii) permits another to hold him or her out as being authorised to certify an official survey plan; and
- (b) the person is not an authorised surveyor.

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

- (2) A person commits an offence if—
- (a) the person holds out another as being an authorised surveyor or authorised to certify an official survey plan; and
 - (b) the person knows, or ought reasonably to know, that the other is not an authorised surveyor.

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

96 Investigation relating to official survey plan

- (1) The Surveyor-General may, on the Surveyor-General's own initiative or on receipt of a complaint, authorise a suitable person to conduct an investigation in order to determine whether—
- (a) there is a defect in a survey carried out for an official survey plan, the records of such a survey or an official survey plan; or
 - (b) there has been a breach of the survey instructions.
- (2) The Surveyor-General or a person authorised to conduct an investigation may do one or more of the following:
- (a) direct a person who is in a position to do so to—
 - (i) provide the name and address of any person involved in carrying out a survey for or certifying an official survey plan; or
 - (ii) provide other information relevant to the investigation;
 - (b) direct a person who has possession of records or equipment relevant to the investigation to produce the records or equipment for inspection (including for records kept by an electronic process, to produce the records in a readily understandable written form);
 - (c) inspect the records or equipment, make copies of the records or their contents or test the equipment and, if reasonable necessary, for those purposes, seize and retain the records or equipment.

97 Offence—breach of direction

A person commits an offence if, without reasonable excuse, the person breaches a direction given to the person under Section 96.

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

98 Order for rectification of official survey plan

- (1) This section applies if, after an investigation has been conducted under Section 96, the Surveyor-General is satisfied that there is a defect in a survey carried out for an official survey plan, in the records kept of the survey or in the form or certification of an official survey plan.

- (2) If this section applies, the Surveyor-General may order the authorised surveyor responsible for the defect to do any one or more of the following:
 - (a) to carry out additional work in connection with the survey within a specified period;
 - (b) to amend a record or plan prepared in connection with the survey within a specified period;
 - (c) to prepare a further record or plan in connection with the survey within a specified period;
 - (d) to submit a certified official survey plan following rectification of the defect within a specified period.
- (3) Before imposing a requirement under Subsection (2), the Surveyor-General must allow the authorised surveyor a reasonable opportunity to make representations orally or in writing.
- (4) If an authorised surveyor refuses or fails to comply with a requirement under Subsection (2), the Surveyor-General may cause work to be carried out as necessary to rectify the defect and may recover the costs of that work as a debt owed by the authorised surveyor.

99 Offence—breach of order for rectification

An authorised surveyor commits an offence if, without reasonable excuse, the authorised surveyor breaches an order made by the Surveyor-General under Section 98.

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

PART 10 — MISCELLANEOUS

100 Review of decision of Registrar relating to consent

- (1) If the Registrar of Land dispenses with a requirement for consent of a person, the person may apply to the Administrative Division of the Bougainville Court for a review of the Registrar's decision.
- (2) If the Registrar of Land refuses on application to dispense with a requirement for consent of a person, the applicant may apply to the Administrative Division of the Bougainville Court for a review of the Registrar's decision.
- (3) An application for review under this section must be commenced within 3 months after the person or applicant is given notice of the decision.

101 Other charges or mortgages prohibited

There is no form of interest other than a statutory charge, registered charge or registered mortgage under which land or an interest in land can be charged with, or made security for, a debt or liability.

102 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 the statement knowing that it was false or misleading—K10,000 and 12 months' imprisonment; or
- (b) in any other case—K2000.

103 Service of applications, notices and other documents

- (1) An application, notice or other document required or authorised to be served or given to the Registrar of Land under this Act or another Bougainville law may be served or given—
 - (a) by leaving it at, or posting it to, the principal office of the Registrar of Land; or
 - (b) by a means (such as email) indicated by the Registrar of Land 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 Registrar of Land.
- (2) An order or other document required or authorised to be served on or given to a person by or on behalf of the Registrar of Land under this Act or another Bougainville law 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, Registrar of Land (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.

104 Protection from civil liability

- (1) Subject to this section, no civil liability attaches to the Registrar of Land or the Surveyor-General 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.

105 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.

106 Act binds Bougainville Government

This Act binds the Bougainville Government.

107 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 — REPEAL, AMENDMENTS AND TRANSITIONAL PROVISIONS

Division 1 — Repeal in Bougainville of certain National laws

108 Repeal in Bougainville of certain National laws

- (1) This section has effect in accordance with Section 296(1) of the National Constitution.
- (2) The following Acts of the National Parliament do not apply in Bougainville:
- (a) *Land Act 1996*;
 - (b) *Land Commission Act 2022*;
 - (c) *Land Disputes Settlement Act 1975*;
 - (d) *Land Groups Incorporation Act 1974*;
 - (e) *Land (Ownership of Freeholds) Act 1976*;
 - (f) *Land Registration Act 1981*;
 - (g) *Land (Tenure Conversion) Act 1963*;
 - (h) if not already repealed by the *Land Commission Act 2022*:
 - (i) *Land Titles Commission Act 1962*;
 - (ii) *National Land Registration Act 1977*;
 - (i) *Strata Titles Act 2022*;
 - (j) *Strata Titles (Management) Act 2022*.
- (3) Despite Subsection (2)(d), the *Land Groups Incorporation Act 1974* of the National Parliament continues to apply in relation to an incorporated land group for customary landowners of land in Bougainville in existence immediately before the commencement of this Act subject to the following modifications:
- (a) a reference to a Village Court is to be read as a reference to a community court within the meaning of the *Bougainville Community Courts Act 2023*;
 - (b) a reference to a Village Magistrate is to be read as a reference to a community court magistrate;
 - (c) a reference to a District Court is to be read as a reference to the Bougainville Court;

- (d) a reference to the National Gazette is to be read as a reference to the Bougainville Gazette.

Note—Subsection (3) enables an existing incorporated land group to vary its constitution, to be wound up or to be held to account as provided for in the National law.

Division 2 — Consequential amendments of other Acts

109 Consequential amendments of other Acts

The Acts specified in the table below are amended in the manner indicated.

<i>Provision amended</i>	<i>How amended</i>
<i>Bougainville Mining Act 2015</i>	
Section 5(6)	Delete “for the purposes of the Land Act”
Section 6(2)(a)(i)	Delete Subparagraph (i) and insert: (i) is Government land;
Heading to Section 9	Delete the heading and insert: Property in minerals—Government land
Section 9(1)	Delete “land in Bougainville that is not customary land” and insert “Government land”
Section 9(2)	Delete Subsection (2)
Section 13(2)	Delete Subsection (2) and insert: (2) A dispute referred to in Subsection (1) must be determined under Bougainville law. <i>Note: Land disputes are within the jurisdiction of the Bougainville Court under the Bougainville Court Act 2023.</i>
Section 32(1)(b)	Delete “land other than customary land” and insert “Government land that is subject to a Government lease or licence under the <i>Bougainville Government Land Act 2023</i> ”
Part 7 Division 5 heading	Delete the heading and insert: Division 5—Government land

<i>Provision amended</i>	<i>How amended</i>
Section 69(1)	Delete Subsection (1) and insert: (1) An application for the grant of a tenement or community mining licence over Government land must not be granted without the consent of the Minister responsible for the administration of the <i>Bougainville Government Land Act 2023</i> acting on the recommendation of the Government Land Board under that Act.
Section 69(2)	Delete Subsection (2)
Section 105(2)(b)(iii)	Delete “land other than customary land” and insert “Government land that is subject to a Government lease or licence under the <i>Bougainville Government Land Act 2023</i> ”
Section 140(5)(c)(ii)	Delete “land other than customary land” and insert “Government land that is subject to a Government lease or licence under the <i>Bougainville Government Land Act 2023</i> ”
Section 140(7)(l)	Delete “non-customary land referred to in Subsection (5)(c)(iii)” and insert “Government land referred to in Subsection (5)(c)(ii)”
Section 140(7)(m)	Delete “non-customary land” and insert “Government land that is subject to a Government lease or licence under the <i>Bougainville Government Land Act 2023</i> ”
Section 140(8)	Delete “Subsection 5(c)(ii)” and insert “Subsection 5(c)(i)”
Section 262(3)	Delete “freehold or”
Section 306(2)(d)	Delete “that is not customary land” and insert “that is subject to a Government lease or licence under the <i>Bougainville Government Land Act 2023</i> ”
Section 311(1)	Delete “, as defined in the <i>Land Disputes Settlement Act</i> (Chapter 45) of the National Parliament,”

<i>Provision amended</i>	<i>How amended</i>
Section 323(8)(a)(i)	Delete “that is not customary land” and insert “that is subject to a Government lease or licence under the <i>Bougainville Government Land Act 2023</i> ”
Section 323(8)(b)(i)	Delete “not customary land” and insert “that is subject to a Government lease or licence under the <i>Bougainville Government Land Act 2023</i> ”
Schedule 1	
definition of Government land	Delete the definition
definition of land (f)	Delete Paragraph (f)
definition of Land Act	Delete the definition
definition of landowner	Delete Paragraphs (c) and (d) and insert: (c) in lawful occupancy of Government land under a Government lease or licence under the <i>Bougainville Government Land Act 2023</i> .
definition of reserved land	Delete the definition
<i>Interpretation Act 2005</i>	
Section 4(1)	Delete the definition of customary land and insert: customary land has the meaning assigned by the <i>Bougainville Customary Land Act 2023</i> ; After the definition of function insert: Government land has the meaning assigned by the <i>Bougainville Government Land Act 2023</i> ; Delete the definition of interest in land Delete the definition of land

Division 3 — Transitional provisions

110 Interpretation and application of Division

- (1) In this Division—
- Land Commission** has the meaning assigned by the *Land Commission Act 2022* of the National Parliament;
- Land Titles Commission** has the meaning assigned by the *Land Titles Commission Act 1962*.
- (2) In this Division, a reference to an interest registered under the *Land Registration Act 1981* of the National Parliament immediately before the commencement of this Act includes a reference to an interest—
- (a) for which an instrument has been lodged for registration, or directions have been given by the Land Commission or Land Titles Commission for registration, under that Act before the introduction of the Bill for this Act to the House of Representatives; and
- (b) which would have been registered under that Act but for this Act.
- (3) Despite Section 108, proceedings commenced before the Land Titles Commission or Land Commission but not completed immediately before the commencement of this Act may continue (as if this Act had not been enacted) but only insofar as they could result in a determination of—
- (a) whether land in Bougainville is National land; or
- (b) the customary landowners of land in Bougainville.
- (4) This Division applies to any such determination as if it had been made before the commencement of this Act and the land had been registered accordingly under the *Land Registration Act 1981*.
- (5) For Subsection (4), references in this Division to something that takes effect on commencement of this Act will be taken to be references to the thing taking effect on the date of the determination.

111 Customary land—ownership

- (1) This section applies to land in Bougainville registered under the *Land Registration Act 1981* of the National Parliament immediately before the commencement of this Act being:
- (a) land in which there is a fee simple interest registered on application under Section 7 of the *Land (Tenure Conversion) Act 1963* of the National Parliament; or
- (b) land registered as clan land in accordance with a Final Registration Plan under the *Land Registration Act 1981* of the National Parliament; or

- (c) land registered as being owned under custom in accordance with the directions of the Land Titles Commission under the *Land Titles Commission Act 1962* of the National Parliament or the Land Commission under the *Land Commission Act 2022* of the National Parliament, whether in accordance with an adjudication record and demarcation plan or otherwise.
- (2) Land to which this section applies has, on and after the commencement of this Act, the status of customary land.
- (3) Registration under a National law of land to which this section applies ceases to be of any effect on commencement of this Act.
- (4) This Act and the *Bougainville Customary Land Act 2023* apply to land to which this section applies.
- (5) The customary landowners of land to which this section applies, as at the date of registration of the land under the *Land Registration Act 1981*, will be conclusively taken to be the customary group identified as landowners in the process that resulted in registration of the land.

112 Customary land—registered easements, leases and mortgages of leases

- (1) This section applies to the following:
 - (a) an easement or lease of land in Bougainville registered under the *Land Registration Act 1981* of the National Parliament and in force immediately before the commencement of this Act, being an easement or lease registered—
 - (i) on application under Section 7 of the *Land (Tenure Conversion) Act 1963* of the National Parliament; or
 - (ii) in accordance with a Final Registration Plan under the *Land Registration Act 1981*; or
 - (iii) in accordance with the directions of the Land Titles Commission under the *Land Titles Commission Act 1962* of the National Parliament or the Land Commission under the *Land Commission Act 2022* of the National Parliament;
 - (b) a mortgage of a lease to which Paragraph (a) applies registered under the *Land Registration Act 1981* of the National Parliament and in force immediately before the commencement of this Act.
- (2) On the commencement of this Act—
 - (a) an easement to which this section applies becomes a registered easement to be entered in the Customary Land Register; and

- (b) a lease to which this section applies becomes a registered lease to be entered in the Customary Land Register; and
- (c) a mortgage to which this section applies becomes a registered mortgage of the registered lease to be entered in the Customary Land Register.

113 Customary land—conversion of registered mortgage or charge

- (1) This section applies to a mortgage or charge registered against customary land under the *Land Registration Act 1981* of the National Parliament immediately before the commencement of this Act (rather than against a lease of the land).
- (2) A mortgagee or chargee of a mortgage or charge to which this section applies may apply to the Registrar of Land for conversion of the interest into a registered charge against the land.
- (3) The application must—
 - (a) be made within 3 months after the date of commencement of this Act; and
 - (b) include a proposal for conversion of the terms of the mortgage or charge so as to meet the requirements of this Act for registration of a charge; and
 - (c) be accompanied by an instrument of charge in the form proposed to be registered.
- (4) Until the time for making an application has expired and, if an application is made for conversion into a registered charge against customary land, until the application is finally determined, amounts owing under the interest may be recovered as a debt (but rights of sale or foreclosure cannot be exercised).
- (5) The Registrar of Land must refer an application under this section to the Customary Land Board.
- (6) After giving the customary landowners a reasonable opportunity to make submissions on the proposed instrument, the Customary Land Board must advise the Registrar of Land whether it recommends registration of the instrument or objects to registration of the instrument.
- (7) If the Customary Land Board objects to registration of the instrument, the applicant may apply to the Land Division of the Bougainville Court for an order settling the terms of the interest that is to be registered against the land.
- (8) The Registrar of Land must register an instrument in the Customary Land Register according to the recommendation of the Customary Land Board or order of the Bougainville Court.

114 Government land—previously registered or declared

On the commencement of this Act, the following becomes registered Government land:

- (a) land in Bougainville that is, immediately before the commencement of this Act, registered under the *Land Registration Act 1981* of the National Parliament in the name of any of the following:
 - (i) the Bougainville Government;
 - (ii) a Bougainville governmental body;
 - (iii) the National Government;
 - (iv) a National governmental body;
- (b) land in Bougainville that is, immediately before the commencement of this Act, subject to a State lease registered under the *Land Registration Act 1981* of the National Parliament;
- (c) land in Bougainville that is, immediately before the commencement of this Act, registered as National Land under Part IV of the *National Land Registration Act 1977* of the National Parliament;
- (d) land in Bougainville that is, immediately before the commencement of this Act, State land because it has been deemed to be State land under Section 5 of the *Land Act 1996* of the National Parliament and has not since been divested;
- (e) land in Bougainville that has been declared to be an aerodrome under Section 54 of the *Land Act 1996* of the National Parliament;
- (f) land in Bougainville that has been declared under Section 38 or Section 43 of the *Land Commission Act 2022* of the National Parliament to be national land.

115 Government land—acquired (transitional) Government land

- (1) On the commencement of this Act, land in Bougainville becomes **acquired (transitional) Government land** if—
 - (a) it was acquired, whether by agreement or by compulsory process—
 - (i) before PNG Independence Day by a pre-Independence Administration in Papua New Guinea; or
 - (ii) on or after PNG Independence Day by the National Government or a National governmental body under the *Land Act 1996* of the National Parliament or an earlier enactment; or
 - (iii) by the Bougainville Government or a Bougainville governmental body; and

- (b) it was, immediately before commencement of this Act, being used for a public purpose; and
 - (c) it does not become registered Government land under Section 114.
- (2) The Minister responsible for the administration of the *Bougainville Government Land Act 2023* may, on the recommendation of the Government Land Board, apply to the Land Division of the Bougainville Court for an order requiring registration of a specified area of land as Government land on the grounds that it is acquired (transitional) Government land.
- (3) The Bougainville Court must, if it is satisfied on an application under Subsection (2) that the specified area of land is acquired (transitional) Government land, make an order requiring registration of the land as Government land under this Act.
- (4) In making an order under Subsection (3), the boundaries of the land may be clarified or adjusted.
- (5) Before making an order under Subsection (3), the Bougainville Court must give the Customary Land Board and any other interested person a reasonable opportunity to make submissions on the question of whether the land is acquired (transitional) Government land.

116 Government land—conversion of certain registered interests into historical leases

- (1) On the commencement of this Act, land in Bougainville becomes registered Government land if—
 - (a) the title to the land is, immediately before the commencement of this Act, registered under the *Land Registration Act 1981* of the National Parliament; but
 - (b) the land does not have the status of customary land under Section 111 or registered Government land under Section 114.
- (2) If a person is, immediately before the commencement of this Act, the registered proprietor under the *Land Registration Act 1981* of the National Parliament of an estate in fee simple or an estate in remainder in land that becomes registered Government land under Subsection (1)—
 - (a) the estate ceases to exist; and
 - (b) the person is taken to be the lessee of a Government lease of the land.
- (3) A Government lease that comes into existence under Subsection (2)—
 - (a) is to be known as a *historical lease*; and

- (b) if the lessee is a citizen or citizen corporation—
 - (i) is a perpetual lease (that is, an ongoing lease); and
 - (ii) there is no limit on the purposes for which the land may be used; and
 - (iii) there are no other limits on exclusive use and occupation of the land by the person; and
 - (iv) no rent is payable for the lease; and
 - (c) in any other case—
 - (i) the term of the lease is 30 years after the date of commencement of this Act; and
 - (ii) the lease is subject to conditions determined by the Minister on the recommendation of the Government Land Board and notified in writing to the lessee (at any time during the term of the lease).
- (4) In this section—
- citizen corporation*** means—
- (a) a land group registered under the *Land Groups Incorporation Act 1974* of the National Parliament; or
 - (b) a business group registered under the *Business Groups Incorporation Act 1974* of the National Parliament; or
 - (c) an incorporated trust or body formed by the customary landowners of land.

117 Government leases—conversion of State leases

- (1) On the commencement of this Act, a State lease over land in Bougainville becomes a Government lease if—
 - (a) the lease is registered in the Register of State leases under the *Land Registration Act 1981* of the National Parliament and in force immediately before that commencement; or
 - (b) the lease has been lodged for registration in the Register of State leases under the *Land Registration Act 1981* of the National Parliament before that commencement and would have been registered and come into force on registration but for this Division.
- (2) A reference in a lease that becomes a Government lease under this section to the following is to be read as a reference to the Bougainville Government:
 - (a) the Autonomous Bougainville Government or the Independent State of Papua New Guinea or a pre-independence administration;
 - (b) an authority established under the Constitution, or written law, of Bougainville or the Independent State of Papua New Guinea;

- (c) a Minister or other representative of the Bougainville Government or the Independent State of Papua New Guinea;
 - (d) any other Bougainville governmental body or National governmental body (by whatever title).
- (3) Subject to Subsection (2), the terms and conditions of a lease that becomes a Government lease under this section remain in force until expiry of the lease, even if they are inconsistent with the *Bougainville Government Land Act 2023*.
- (4) A lease that becomes a Government lease under this section can be dealt with as if it had been granted under the *Bougainville Government Land Act 2023*.

118 Registered Government land—subject to certain interests

Land that becomes registered Government land under this Division is subject to—

- (a) any easements registered against the land under the *Land Registration Act 1981* of the National Parliament immediately before the commencement of this Act; and
- (b) any State leases registered against the land in the Register of State leases under the *Land Registration Act 1981* of the National Parliament immediately before the commencement of this Act; and
- (c) any mortgages registered against such a State lease under the *Land Registration Act 1981* of the National Parliament immediately before the commencement of this Act.

119 Historical leases—subject to certain interests

- (1) An interest that becomes a historical lease under Section 116 is subject to any registered interests in the land to which the estate in fee simple or in remainder was subject immediately before the commencement of this Act.
- (2) If the interest is subject to a registered mortgage, the registered mortgage will be taken to be a registered mortgage of the historical lease, rather than of the estate in fee simple or in remainder.
- (3) If the interest is subject to a registered lease, the registered lease will be taken to be a sublease of the historical lease and not an interest in land.

120 Registered customary and other rights

An interest in land that comes into existence under this Division is subject to—

- (a) any rights registered in the name of the Custodian under Section 98 of the *Land Registration Act 1981* of the National Parliament against the interest immediately before the commencement of this Act; and

- (b) any other rights and interests of a kind not dealt with in this Division that are registered under the *Land Registration Act 1981* of the National Parliament against the interest immediately before the commencement of this Act.

121 Priority of interests

If any question arises as to the priority between interests in existence before the commencement of this Act, it must be determined according to the rules that applied to the interest under the *Land Registration Act 1981* of the National Parliament immediately before the commencement of this Act.

122 No stamp or other duty or tax

No stamp duty or other duty or tax is payable on a transaction effected under this Division.

123 Entries in registers to give effect to Division

- (1) The Registrar of Land must, as soon as reasonably practicable, identify land affected by this Division.
- (2) The Registrar of Land must not make any entry in a register under this Act in relation to land affected by this Division until entries have been made in the register under this section and the time for appealing against the entry has expired or any such appeal finally determined.
- (3) Any instruments lodged for registration against land affected by this Division before an entry is made for the land in a register will be taken to have been lodged immediately after the entry is made in the order in which they were lodged for registration.
- (4) Until relevant entries have been made in the relevant register under this section for an area of land affected by this Division, the Registrar of Land must endeavour to ensure that persons searching the registers in relation to that area of land are aware of the effect of Subsection (2).
- (5) The Registrar of Land must, as soon as reasonably practicable, make the following entries in the registers:
 - (a) in the Customary Land Register, an entry for each interest that becomes, under Section 112 or 113, a registered easement, registered charge, registered lease, or registered mortgage of a registered lease, over customary land that includes the following:
 - (i) a record of the grounds on which the interest is registered;

- (ii) a reference to the relevant entry in the register under the *Land Registration Act 1981* of the National Parliament immediately before the commencement of this Act;
 - (iii) a record or plan of the area of land as so registered;
- (b) in the Government Land Register—
- (i) an entry for each area of land that becomes registered Government land under Section 114 that includes the following:
 - (A) a record or plan of the area of land;
 - (B) a record of the grounds on which the land is registered as Government land;
 - (C) a copy of any documents evidencing those grounds;
 - (ii) an entry for each area of acquired (transitional) Government land that becomes registered Government land under Section 115 that includes the following:
 - (A) an official survey plan of the area of land, together with a statement of the status of land boundaries under the plan;
 - (B) a copy of the order of the Bougainville Court for registration of the land; and
 - (iii) an entry for each area of land that becomes registered Government land under Section 116 that includes the following:
 - (A) a record of the grounds on which the land is registered;
 - (B) a reference to the relevant entry in the register under the *Land Registration Act 1981* of the National Parliament immediately before the commencement of this Act;
 - (C) a record or plan of the area of land as so registered;
 - (D) a reference to the historical lease into which the interest is converted;
 - (iv) an entry for each interest in land that becomes a Government lease under Section 117, 118 or 117 including—
 - (A) a record or plan of the area of land leased; and
 - (B) a record of the grounds on which the lease is a Government lease; and
 - (C) a record of the category of the lease (that is, commercial, community service or historical as is required or as is determined to be most appropriate in the opinion of the Registrar of Land); and
 - (D) a copy of the lease;

- (v) an entry for each interest that becomes a registered easement over Government land or a registered mortgage of a Government lease, under Section 117 or 118 that includes the following:
 - (A) a record of the grounds on which the interest is registered.
 - (B) for an easement—a record of the category of the easement under this Act (as is determined to be most appropriate in the opinion of the Registrar of Land);
 - (C) a reference to any relevant entry in the register under the *Land Registration Act 1981* of the National Parliament immediately before the commencement of this Act;
 - (D) a record or plan of the area of land (as so registered if relevant).
- (6) For the purposes of making entries under Subsection (4), the Registrar of Land—
 - (a) must take reasonable steps to ascertain necessary information; and
 - (b) may specify any matters that are, in the opinion of the Registrar of Land, necessary for registration under this Act; and
 - (c) may invite interested persons to apply to the Registrar of Land to make an entry in the Customary Land Register or Government Land Register under this Division for a particular interest that the applicant believes on reasonable grounds may have been overlooked by the Registrar of Land.
- (7) The Registrar of Land should take reasonable steps to inform the following persons of the details of an entry in a register under this Division:
 - (a) the lessee of each Government lease entered in the register and the mortgagee of each mortgage registered against a Government lease entered in the register;
 - (b) the lessee of each registered lease entered in the register, mortgagee of each mortgage registered against a registered lease entered in the register and the chargee of each charge registered against customary land ;
 - (c) persons who have the benefit of a registered easement entered in the register other than a public right of way or a public right of way on foot.
- (8) The Registrar of Land may make other entries in the registers to record the effect of this Division.
- (9) The Registrar of Land must undertake work under this section as quickly as resources allow, giving priority to land and interests affected by proposed dealings.

124 Review of Registrar’s decision under this Division

- (1) A person may apply to the Administrative Division of the Bougainville Court for review of a decision of the Registrar under this Division as follows:
 - (a) a person aggrieved by a decision of the Registrar of Land as to an entry in the Customary Land Register or Government Land Register under this Division may apply for review of the decision to make the entry, including its terms;
 - (b) a person who has applied to the Registrar of Land to make an entry in the Customary Land Register or Government Land Register under this Division may apply for review of a decision of the Registrar to refuse the application.
- (2) An application for review under Subsection (1) must be commenced within 3 months after the making of the entry in the register or of being notified of the decision on the application.
- (3) On a review under Subsection (2), the Bougainville Court may give such directions to the Registrar of Land as the Court considers appropriate.
- (4) The Registrar of Land is bound by any such directions.