

***Interpretation Act*** (Chapter 2)  
Consolidated: 16/8/2023



***Interpretation Act (Chapter 2).***

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“Papua New Guinea currency”  
“the Parliament”  
“the Parliamentary Salaries Tribunal”  
“person”  
“the Police Force”  
“officer of Papua New Guinea”  
“officer of the Public Service”  
“offshore seas”  
“the Ombudsman Commission”  
“Organic Law”  
“owner”  
“Papua New Guinea”  
“Papua New Guinea currency”  
“the Parliament”  
“the Parliamentary Salaries Tribunal”  
“person”  
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## ***Interpretation Act (Chapter 2),***

Being an Act for the interpretation of Acts and instruments made under Acts, and for related purposes.

### **PART I. - PRELIMINARY.**

#### **1. INTERPRETATION.**

(1) In this Act, unless the context indicates otherwise, or some other meaning is clearly intended -

“legislative instrument” includes -

- (a) a regulation; and
- (b) a statute made under an Act; and
- (c) rules of court; and
- (d) standing orders; and
- (e) a by-law; and
- (f) an order in council; and
- (g) a proclamation; and
- (h) an order; and
- (i) a notice; and
- (j) a determination; and
- (k) a rule;

“statutory provision” means the whole or any part of -

- (a) an Act; or
- (b) an adopted foreign law; or
- (c) an instrument (whether of a legislative nature or not) made under an Act or an adopted foreign law; or
- (d) an instrument (whether of a legislative nature or not) having effect by virtue of an instrument referred to in Paragraph (c).

(2) Unless the context indicates otherwise or some other meaning is clearly intended, a reference in this Act to a part of a statutory provision includes a reference to any portion of the provision, whether or not described in the provision as a part.

#### **2. APPLICATION.**

(1) Except where in this Act the context indicates otherwise, or some other meaning is clearly intended, this Act applies to every statutory provision (including this Act) whenever made or adopted.

(2) The rules contained in this Act apply in accordance with Subsection (1) unless the context of any particular statutory provision indicates otherwise, or some other meaning is clearly indicated by a particular statutory provision.

(3) This Act binds the State.

**PART II. - DEFINITIONS, RULES AND PRINCIPLES APPLICABLE  
TO ALL ACTS AND INSTRUMENTS.**

*Division 1A. - Application as to Boundaries, Airspace, Ships and Aircraft.*<sup>1</sup>

**2A. LAWS TO OPERATE WITHIN BOUNDARIES, AIRSPACE, SHIPS AND  
AIRCRAFT.**

- (1) Subject to Subsection (2), it shall be presumed, unless the contrary intention appears, that a provision is intended to operate -
- (a) throughout the land territory under the sovereignty of the State; and
  - (b) within the area of the waters of Papua New Guinea; and<sup>2</sup>
  - (c) throughout the superjacent airspace of the land territory and the waters of Papua New Guinea; and<sup>3</sup>
  - (d) in relation to all ships and aircraft (wherever located) which have Papua New Guinea nationality and in particular to all persons and things for the time being on board those ships and aircraft.
- (2) Subsection (1) does not apply to -
- (a) an adopted Act which embodies the terms of a pre-Independence law of the former Territory of Papua or of the former Territory of New Guinea; or
  - (b) a subordinate enactment made under an Act referred to in Paragraph (a); or
  - (c) Provincial Government laws, Local Government rules or to any other subordinate enactment made under a power which is limited to the making of statutory instruments to operate in or for the purposes of an area smaller than the country.
- (3) This section shall not be construed -
- (a) as limiting the operation which an adopted Act or subordinate enactment has apart from this section; and
  - (b) as extending any power to make subordinate enactments.

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<sup>1</sup> Division 1A added by No. 3 of 1977, s.1.

<sup>2</sup> Paragraph (b) amended by No. 52 of 2015, s.1(a).

<sup>3</sup> Paragraph (c) amended by No. 52 of 2015, s.1(b).

***Division 1.- Words and References.***

**3. INTERPRETATION OF TERMS.**

(1) In any statutory provision -<sup>4</sup>

“Act” means an Act of the Parliament;

“Act of Indemnity” means an Act made under Section 137 (*Acts of Indemnity*) of the ***Constitution***;

“Acts of the Parliament” means a law (other than a Constitutional Law) made by the Parliament;

“adopted Act” means a pre-Independence law adopted by Section Sch. 2.6 (*adoption of pre-Independence laws*) of the ***Constitution***;

“adopted foreign law” means a law of another country adopted as part of the law of the State otherwise than by virtue of Section Sch. 2.6 (*adoption of pre- Independence laws*) of the ***Constitution***;

“adopted law” means an adopted Act or an adopted subordinate enactment;

“adopted subordinate enactment” means a pre-Independence law adopted by Section Sch. 2.6 (*adoption of pre-Independence laws*) of the ***Constitution***;

“affidavit”, in the case of a person allowed by law to affirm, declare or promise instead of swearing, includes affirmation, declaration and promise;

“Affirmation of Allegiance” means the affirmation specified in Section 7 (*Oath of Allegiance*) of the ***Constitution***;

“archipelagic waters” has the meaning given to that term by the ***Maritime Zones Act 2015***;<sup>5</sup>

“alter”, in relation to a statutory provision, includes repeal (with or without re-enactment or the making of other provision), amend, modify, suspend (or remove a suspension) or add to the words or effect of the provision;

“Area Authority” means an Area Authority established under Section 120(a) of the ***Local Government Act*** (Chapter 57)<sup>6</sup>;

“the Auditor-General” means the person occupying the office established by Section 213 (*establishment of the office of Auditor-General*) of the ***Constitution***;

“Australia” means the Commonwealth of Australia but, when used in a geographical sense, does not include a Territory of Australia other than the Australian Capital Territory, the Jervis Bay Territory or the Northern Territory;

<sup>4</sup> Subsection (1) amended by No. 3 of 1977, further amended by No. 39 of 1977.

<sup>5</sup> The definition “archipelagic waters” added by No. 52 of 2015. *Semble*, this definition impliedly repealed the former definition.

<sup>6</sup> The ***Local Government Act*** (Chapter 57) was repealed by No. 33 of 1997 ***Local-level Governments Administration Act 1997***. *See*, Division X.2. saves this Authority and establishes it as a deemed Local-level Government Special Purposes Authority under Section 42 of the same Act.

- “authorised printer” means a person authorised to print or reprint the laws of the State under Section 3 of the *Printing of the Laws Act* (Chapter 333);
- “automatic citizen” means a person who is a citizen by virtue of Section 65 (*automatic citizenship on Independence Day*) or Section 66 (*citizenship by descent and marriage*) of the *Constitution*;
- “the Boundaries Commission” means the Boundaries Commission established by Section 25 (*Boundaries Commission*) of the *Organic Law on National Elections*<sup>7</sup>;
- “the Central Bank” means the Bank of Papua New Guinea established by Section 2 of the *Central Banking Act* (Chapter 138)<sup>8</sup>;
- “certified”, in relation to a law made by the Parliament, means certified under Section 110 (*certification as to making of laws*) of the *Constitution*;
- “the Chief Justice” means the person occupying the office established by Section 169 (*appointment, etc., of the Chief Justice*) of the *Constitution*;
- “the Chief Magistrate” means the person occupying the office established by Section 175 (*the Chief Magistrate*) of the *Constitution*;
- “citizen” means a person who is a citizen of Papua New Guinea by virtue of Division IV.2 (*acquisition of citizenship*) of the *Constitution*;
- “coastal waters” has the meaning given to it by the *Maritime Zones Act 2015*<sup>9</sup>;
- “commencement”, in relation to a statutory provision, means the time at which the provision comes into operation;
- “Commissioner for Declarations” means a person appointed to be a Commissioner for Declarations under Section 12 of the *Oaths, Affirmations and Statutory Declarations Act* (Chapter 317)<sup>10</sup>;
- “Commissioner General of Internal Revenue” or “Commissioner General” means the Commissioner General of Internal Revenue appointed under Section 6 of the *Income Tax Act 1959*<sup>11</sup>;

<sup>7</sup> The *Organic Law on National Elections* has been repealed by the *Organic Law on National and Local-level Government Elections*. See, Section 26 of the *Organic Law* on the establishment of the Boundaries Commission.

<sup>8</sup> The *Central Banking Act* (Chapter 138) has been repealed by the No. 1 of 2000 *Central Banking Act 2000*. See, Section 4 of the *Central Banking Act 2000* preserves and continues the Bank of Papua New Guinea established under the repealed Act.

<sup>9</sup> The definition “coastal waters” added by No. 52 of 2015, s.2(a).

<sup>10</sup> Section 12 of this Act has been repealed and replaced by No. 15 of 2000, *Oaths, Affirmations and Statutory Declarations (Amendment) Act 2000*. “Commissioner for Declarations” has been repealed and replaced with “Commissioner for Oaths”. See, definition of “Commissioner for Oaths”.

<sup>11</sup> The definition “Commissioner General of Internal Revenue” or “Commissioner General” added by No. 1 of 1993, s.3.

- “Commissioner of the Papua New Guinea Customs Service” or “Commissioner” means the Commissioner of the Papua New Guinea Customs Service appointed under Section 3 of the *Customs Act* (Chapter 101);<sup>12</sup>
- “committed for trial” means committed to a corrective institution, lock-up or other place of detention with a view of being -
- (a) tried before the National Court; or
  - (b) admitted to bail on a recognisance or other security to appear and be so tried;
- “the common law” means the principles and rules of common law and equity in England adopted by Section Sch.2.2 (*adoption of a common law*) of the *Constitution*, and includes those principles and rules as developed from time to time under Section Sch.2.3 (*development, etc., of the underlying law*) of the *Constitution*;
- “the *Constitution*” means the National *Constitution*;
- “Constitutional Law” means the *Constitution*, a law altering the *Constitution* or an *Organic Law*;
- “Constitutional Regulation” means a regulation made under Section 258 (*Constitutional Regulations*) of the *Constitution*;
- “contiguous zone” has the meaning given to that term by the *Maritime Zones Act 2015*;<sup>13</sup>
- “continental shelf” has the meaning given to that term by the *Maritime Zones Act 2015*;<sup>14</sup>
- “corrective institution” means premises declared to be a corrective institution under the *Corrective Institutions* (Chapter 63)<sup>15</sup>;
- “country”, otherwise than in relation to Papua New Guinea, includes a state, province, territory or similar division of a country;
- “the country” means the area of Papua New Guinea;
- “court of competent jurisdiction”, in relation to any matter, means a court having jurisdiction in relation to that matter;
- “court of summary jurisdiction” means a District Court, and where a Local Court<sup>16</sup> has jurisdiction in a matter, includes that Local Court in relation to that matter;

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<sup>12</sup> The definition “Commissioner of Papua New Guinea Customs Service” or “Commissioner” added by No. 18 of 2009.

<sup>13</sup> The definition “contiguous zone” added by No. 52 of 2015, s.2(a).

<sup>14</sup> Ibid.

<sup>15</sup> *Corrective Institutions Act* (Chapter 63) has been repealed by No. 6 of 1995 *Correctional Service Act 1995*. See, Section 2 and 63 of the *Correctional Service Act 1995* which establishes similar premises under the name, “correctional institutions”.

<sup>16</sup> *Local Courts Act* (Chapter 41) has been repealed by No. 11 of 2000 *Local Courts (Repeal) Act 2000*. Local Courts no longer exists in law. All proceedings commenced in the Local Court prior to the coming into operation of this Act is deemed to be transferred to the District Court.

- “the Criminal Code” means the Schedule<sup>17</sup> to the *Criminal Code Act* (Chapter 262);
- “custom” means the customs and usages of indigenous inhabitants of the country existing in relation to the matter in question at the time when, and the place in relation to which the matter arises, regardless of whether or not the custom or usage has existed from time immemorial;
- “customary land” means land that is owned or possessed by an automatic citizen or community of automatic citizens by virtue of rights of a proprietary or possessory kind that belong to that citizen or community and arise from and are regulated by custom;
- “the Declaration of Loyalty” means the declaration set out in Section 6 (*Declaration of Loyalty*) of the *Constitution*;
- “the Declaration of Office” means the declaration in the form in Schedule 3 to the *Constitution*;
- “the Defence Force” means the Papua New Guinea Defence Force established by Section 188 (*establishment of the State Services*) of the *Constitution*;
- “deliberate judgment” has the meaning given to it by Section 62 (*decisions in “deliberate judgement”*) of the *Constitution*;
- “Department” means a Department of the Public Service;
- “the Department”, in relation to any provision, matter or thing, means -
- (a) the Department designated by notice under Section 8(2) for the purposes of that provision, matter or thing; and
  - (b) in any other case, the Department the functions of which relate to the administration of that provision, matter or thing;
- “Departmental Head” means the Head of a Department;
- “the Departmental Head”, in relation to any provision, matter or thing, means the Departmental Head designated by notice under Section 8(1) for the purposes of that provision, matter or thing;
- “the Deputy Chief Justice” means the person occupying the office established by Section 170 (*appointment of other Judges*) of the *Constitution*;
- “the Deputy Leader of the Opposition” means the member of the Parliament (if any) recognised by the Parliament as being the second principal speaker on behalf of those members of the Parliament who are not generally committed to support the Government in the Parliament;
- “the Deputy Speaker” means the Deputy Speaker of the Parliament;
- “District Administrator” means a District Administrator appointed under Section 73(3) of the *Organic Law on Provincial Governments and Local-level Governments*;<sup>18</sup>

<sup>17</sup> Refers to Schedule 1 of the *Criminal Code Act* (Chapter 262).

<sup>18</sup> The definition “District Administrator” added by No. 17 of 1995, s.1.

- “District Court” means a court established under the *District Courts Act* (Chapter 40);
- “the Electoral Commission” means the Electoral Commission established by Section 4(1) (*Electoral Commission*) of the *Organic Law on National Elections*<sup>19</sup>;
- “the Electoral Commissioner” means the Electoral Commissioner appointed under Section 4(2) (*Electoral Commission*) of the *Organic Law on National Elections*<sup>20</sup>;
- “Emergency Act” means an Act of the Parliament made under Part X. (*emergency powers*) of the *Constitution*;
- “emergency law” means -
- (a) an Emergency Act; or
  - (b) an Emergency Regulation;
- “Emergency Regulation” means a law made in accordance with Section 231 (*Emergency Regulations*) of the *Constitution*;
- “estate” includes any estate or interest, charge, right, title, claim, demand, lien or encumbrance in or in respect of land, at law or in equity;
- “exclusive economic zone” has the meaning given to that term by the *Maritime Zones Act 2015*;<sup>21</sup>
- “extended continental shelf” has the meaning given to that term by the *Maritime Zones Act 2015*;<sup>22</sup>
- “fiscal year” or “financial year” means -
- (a) in relation to a fiscal or financial year prior to 1 July 1977 - the period of 12 months commencing on 1 July; or
  - (b) the period commencing on 1 July 1977 and ending on 31 December 1977; or
  - (c) in relation to a fiscal or financial year commencing on or after 1 January 1978 - the period of 12 months commencing on 1 January of any year or on any date specified under Subsection (3) in place of 1 January;
- “foreshore” means the area between the mean high water springs level of the sea and the lowest astronomical tide;<sup>23</sup>
- “former Territory” includes the former Territories of -
- (a) Papua; and
  - (b) New Guinea; and
  - (c) Papua-New Guinea; and

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<sup>19</sup> The *Organic Law on National Elections* has been repealed by the *Organic Law on National and Local-level Government Elections*. See, Section 5(1) of the *Organic Law on National and Local-level Government Elections* which continues the Electoral Commission established under the repealed Organic Law.

<sup>20</sup> See previous footnote. See, “the Electoral Commissioner” means the Electoral Commissioner appointed under Section 5(2) of the *Organic Law on National and Local-level Government Elections*

<sup>21</sup> The definition “exclusive economic zone” added by No. 52 of 2015, s.2(a).

<sup>22</sup> Ibid.

<sup>23</sup> The definition “foreshore” added by No. 52 of 2015, s.2(a).

- (d) Papua and New Guinea; and
  - (e) Papua New Guinea;
- “function” includes duty and responsibility;
- “Government Printer” includes a person printing or purporting to print for, or by the authority of, the State;
- “the Governor-General” means the Governor-General of Papua New Guinea;
- “the Head of State, acting on advice” means the Head of State, acting with, and in accordance with, the advice of the National Executive Council;
- “Imperial Act” means an Act of the Parliament of the United Kingdom;
- “Independence” means the establishment of Papua New Guinea as a sovereign independent State;
- “Independence Day” means 16 September 1975;
- “indictment” means a written charge preferred against an accused person for the purpose of bringing him to his trial before the National Court;
- “interest in land” means a proprietary right, title or estate, whether corporeal or incorporeal, and whether legal or equitable, in or in respect of land (other than customary land), and includes a right appurtenant or appendant to any such right, title or estate;
- “internal waters” has the meaning given to that term by the *Maritime Zones Act 2015*;<sup>24</sup>
- “Judge” means a Judge of the Supreme Court or of the National Court;
- “Judge of the National Court” means the Chief Justice, the Deputy Chief Justice or a Judge, and includes an acting Judge;
- “Judge of the Supreme Court” means a Judge of the National Court, other than an acting Judge;
- “the Judicial Declaration” means the declaration in the form in Schedule 4 to the *Constitution*;
- “the Judicial and Legal Services Commission” means the Commission established by Section 183 (*establishment of the Commission*) of the *Constitution*;
- “justice” means a justice of the peace appointed under any law of Papua New Guinea;
- “land” includes messuages, tenements and hereditaments, corporeal and incorporeal, of any tenure or description, whatever may be the estate or interest in them;
- “the Land Titles Commission” means the Land Titles Commission established by Section 5 of the *Land Titles Commission Act 1962*;
- “law” means a law of Papua New Guinea, and includes -
- (a) the underlying law; and
  - (b) subordinate enactments;

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<sup>24</sup> The definition “internal waters” repealed and replaced by No. 52 of 2015, s.2(b).

- “the Law Reform Commission” means the Law Reform Commission established by Section 3 of the *Law Reform Commission Act* (Chapter 18)<sup>25</sup>;
- “lawyer” means a person who has been admitted to practice as a lawyer under the *Lawyers Act* (Chapter 91)<sup>26</sup>;
- “the Leader of the Opposition” means the member of the Parliament (if any) recognised by the Parliament as being the principal speaker on behalf of those members of the Parliament who are not generally committed to support the Government in the Parliament;
- “Local Court” means a court established under the *Local Courts Act 1963* (Adopted)<sup>27</sup>;
- “Local Government Authority” means an Area Authority or Special Purposes Authority<sup>28</sup>;
- “local government body” includes a Local Government Council and a Local Government Authority;<sup>29</sup>
- “Local Government Council” means a Local Government Council established under the *Local Government Act* (Chapter 57)<sup>30</sup>;
- “the Local Government Service” means the Local Government Service established by Section 16 of the *Local Government Service Act* (Chapter 58);
- “the Local Government Service Commission” means the Local Government Service Commission established by Section 3 of the *Local Government Service Act* (Chapter 58);
- “Local-level Government” means a Local-level Government as described in Section 26(3) of, and established under or deemed by any law to have been established under, the *Organic Law on Provincial Governments and Local-level Governments*<sup>31</sup>;
- “local-level law” means a law made by a Local-level Government under the *Organic Law on Provincial Governments and Local-level Governments*<sup>32</sup>;
- “low water elevation” means a naturally formed area of land surrounded by and above water at mean low water springs but submerged at high water;<sup>33</sup>
- “the Magisterial Service” means the Magisterial Service established by Section 173 (*establishment of the Magisterial Service*) of the *Constitution*;

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<sup>25</sup> *Law Reform Commission Act* (Chapter 18) has been repealed by No. 24 of 2004, *Constitutional Law Reform Commission Act 2004*. The Commission is now referred to as Constitutional Law Reform Commission.

<sup>26</sup> This Act has been repealed by No. 66 of 1986 *Lawyers Act 1986*.

<sup>27</sup> See footnote 16.

<sup>28</sup> See footnote 6. This Authority was established under the repealed Act, *Local Government Act* (Chapter 57).

<sup>29</sup> *Note*, refer to the *Local-level Governments Administration Act 1997*.

<sup>30</sup> *Ibid. See*, Section 25 of the *Local-level Governments Administration Act 1997* gives the Local-level Government powers to establish such committees with delegated powers similar to the former Local Government Council.

<sup>31</sup> The definition “Local-level Government” added by No. 17 of 1995, s.1.

<sup>32</sup> The definition “local-level law” added by No. 17 of 1995, s.1.

<sup>33</sup> The definition “low water elevation” added by No. 52 of 2015, s.2(a).

- “medical practitioner” means a person registered, provisionally registered or temporarily registered as a medical practitioner under the ***Medical Services Act*** (Chapter 92)<sup>34</sup>;
- “Minister” means a person appointed to be a Minister under Section 144(2) (*other Ministers*) of the ***Constitution***<sup>35</sup>;
- “the Minister”, in relation to any provision, matter or thing, means the Minister who, in accordance with Section 148 (*functions, etc., of Ministers*) of the ***Constitution***, has responsibility for that provision, matter or thing<sup>36</sup>;
- “month” means a calendar month;
- “the National Capital District” means the district established by Section 4 (*National Capital District*) of the ***Constitution***, the boundaries of which are defined in the ***Organic Law on the boundaries of the National Capital District***;
- “the National Constitution” means the ***Constitution*** of the Independent State of Papua New Guinea adopted at Port Moresby on 15 August 1975, and includes that ***Constitution*** as amended and in force from time to time;
- “the National Court” means the National Court of Justice established by Section 163 (*establishment of the National Court*) of the ***Constitution***;
- “National Economic and Fiscal Commission” means the National Economic and Fiscal Commission established by Section 117 of the ***Organic Law on Provincial Governments and Local-level Governments***;<sup>37</sup>
- “the National Executive” means the National Executive provided for by Section 139 (*the National Executive*) of the ***Constitution***;
- “the National Executive Council” means the National Executive Council established by Section 149 (*the National Executive Council*) of the ***Constitution***;
- “the National Gazette” means the official journal of that name of the National Government provided for by Section 252 (*the National Gazette*) of the ***Constitution***, and includes any Special National Gazette, National Gazette Extraordinary or Supplement to the National Gazette;
- “National Investigation Committee” means the National Investigation Committee established by Section 61 of the ***Organic Law on Provincial Governments and Local-level Governments***;<sup>38</sup>

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<sup>34</sup> ***Medical Services Act*** (Chapter 92) has been repealed by ***Medical Registration Act*** (Chapter 398). See, Under Section 11(a), (b), (c), (d), (e) and (f) of the ***Medical Registration Act*** (Chapter 398), “medical practitioner” means a person registered, provisionally registered, registered as a specialist, temporarily registered and granted probationary registration or probationary provisional registration.

<sup>35</sup> Note that Section 144(2) of the ***Constitution*** (referred to in the definition “Minister”) applies to Ministers *other than* the Prime Minister, whereas Section 148 (referred to in the definition “the Minister”) applies to Ministers *including* the Prime Minister.

<sup>36</sup> Ibid.

<sup>37</sup> The definition “National Economic and Fiscal Commission” added by No. 17 of 1995, s.1.

<sup>38</sup> The definition “National Investigation Committee” added by 17 of 1995, s.1.

- “the National Public Service” means the National Public Service established by Section 188 (*establishment of the State Services*) of the **Constitution**;
- “naturalised citizen” means a person who is a citizen by virtue of Section 67 (*citizenship by naturalization*) of the **Constitution**;
- “oath”, in the case of a person allowed by law to affirm, declare or promise, instead of swearing, includes affirmation, declaration and promise;
- “the Oath of Allegiance” means the oath set out in Section 7 (*Oath of Allegiance*) of the **Constitution**;
- “offence”, in relation to a law, includes a breach or contravention of, or a failure to comply with, the law;
- “officer” means -
- (a) an officer appointed to the Public Service under Section 57 or 58 of the **Public Service Act** (Chapter 67)<sup>39</sup>; or
  - (b) a person employed to render temporary or casual assistance in the Public Service under the **Public Service Act** (Chapter 67)<sup>40</sup>; or
  - (c) a member of the Local Government Service; or
  - (d) the Commissioner or an Associate Commissioner of the Teaching Service Commission<sup>41</sup>; or
  - (e) a member of the Teaching Service; or
  - (f) a person who holds an office that -
    - (i) is constituted by or under an Act; and
    - (ii) is for the time being declared by notice under Subsection (5); or
  - (g) a person who occupies an office (not being an office to which any of the preceding paragraphs apply) for the time being declared by notice under Subsection (5);
- “officer of Papua New Guinea” has the same meaning as “officer”;
- “officer of the Public Service” has the same meaning as “officer”;
- “offshore seas” means the waters which comprise the offshore seas in accordance with Section 6 of the **National Seas Act** (Chapter 361)<sup>42</sup>;
- “the Ombudsman Commission” means the Ombudsman Commission established by Section 217 (*the Ombudsman Commission*) of the **Constitution**;
- “Organic Law” means an Organic Law made in accordance with Section 12 (*Organic Laws*) of the **Constitution**;

<sup>39</sup> The **Public Service Act** (Chapter 67) has been repealed by No. 28 of 1986 **Public Service (Management) Act 1986**. The **Public Service (Management) Act 1986** has further been repealed by No. 19 of 1995 **Public Services (Management) Act 1995**. See, Section 2 of the **Public Services (Management) Act 1995** provides for the definition of “officer”.

<sup>40</sup> Ibid. See, Section 37 of the **Public Services (Management) Act 1995**.

<sup>41</sup> This refers to Section 2 of the **Teaching Service Act** (Chapter 71) which has been repealed by No. 12 of 1988 **Teaching Service Act 1988**. See, Section 2 of the latter where the Commission consists of at least three Commissioners, one of whom shall be the Chairman.

<sup>42</sup> **National Seas Act** (Chapter 361) has been repealed by **Maritime Zones Act 2015**.

- “owner”, in relation to land the subject of a lease from the State under an Act relating to the granting of leases by the State, means the lessee under the lease;
- “Papua New Guinea” means the Independent State of Papua New Guinea;
- “Papua New Guinea”, when referring to an area means the land area of Papua New Guinea, the internal waters and territorial sea, the seabed of the territorial sea and the superjacent airspace of that land area, waters or sea;<sup>43</sup>
- “Papua New Guinea currency” means the currency provided for by Part IV. of the *Central Banking Act* (Chapter 138)<sup>44</sup>;
- “the Parliament” means the National Parliament established by Section 99 (*structure of Government*) of the *Constitution*;
- “the Parliamentary Salaries Tribunal” means the tribunal established by Section 131 (*The Parliamentary Salaries Tribunal*) of the *Constitution*<sup>45</sup>;
- “person” includes -
- (a) a corporation sole; and
  - (b) a body politic or corporate; and
  - (c) the holder (whether substantive or other) of an office in his capacity as the holder of that office;
- “the Police Force” means the Police Force established by Section 188 (*establishment of the State Services*) of the *Constitution*;
- “the Preamble” in relation to the *Constitution*, means the provisions of the *Constitution* that end immediately before the heading to Part I. of the *Constitution*;
- “pre-Independence law” has the same meaning as in Section Sch. 2.6 (*adoption of pre-Independence laws*) of the *Constitution*;
- “the pre-Independence Supreme Court” means the pre-Independence Court known as -
- (a) the Supreme Court of the Territory of Papua-New Guinea; or
  - (b) the Supreme Court of the Territory of Papua and New Guinea; or
  - (c) the Supreme Court of Papua New Guinea;
- “prescribed” means prescribed by the statutory provision in which the word occurs, and where the word occurs in an Act includes prescribed by a regulation made under that Act;
- “the Prime Minister” means the person occupying the office established by Section 142 (*the Prime Minister*) of the *Constitution*;

<sup>43</sup> The definition of Papua New Guinea added by No. 52 of 2015. *Seemle*, this definition is different from the previous definition of “Papua New Guinea” as it refers to the land area of Papua New Guinea and not its sovereignty as an Independent State.

<sup>44</sup> See Footnote 8. *See*, Part VIII of the *Central Banking Act 2000* provides for the “Papua New Guinea currency”.

<sup>45</sup> *See*, Section 131 of the *Constitution* has been repealed by *Constitutional Amendment No. 9 - Salaries and Remuneration Commission* which made provision in Section 216A for the replacement of the Parliamentary Salaries Tribunal by the Salaries and Remuneration Commission.

- “the Principal Legal Adviser” means the person who is the principal legal adviser to the National Executive in accordance with the *Principal Legal Adviser Act* (Chapter 54)<sup>46</sup>;
- “province” means a province declared under Section 5 (*provinces*) of the *Constitution*, and includes the National Capital District;
- “Provincial Administrator” means a Provincial Administrator appointed under Section 73(2) of the *Organic Law on Provincial Governments and Local-level Governments*;<sup>47</sup>
- “Provincial Auditor” means a Provincial Auditor appointed under Section 113(2) of the *Organic Law on Provincial Governments and Local-level Governments*;<sup>48</sup>
- “Provincial and District Treasury” means a Provincial and District Treasury established by Section 112 of the *Organic Law on Provincial Governments and Local-level Governments*;<sup>49</sup>
- “Provincial Government” means a Provincial Government established under Section 10 of the *Organic Law on Provincial Governments and Local-level Governments* and includes an Interim Provincial Government as provided for by that *Organic Law*;<sup>50</sup>
- “provincial government body” means a body declared to be a provincial government body under the *Provincial Government (Preparatory Arrangements) Act 1974*;
- “Provincial Governor” means a person holding office as Provincial Governor under the *Organic Law on Provincial Governments and Local-level Governments*;<sup>51</sup>
- “the Public Accounts Committee” means the committee established by Section 215 (*establishment of the Committee*) of the *Constitution*;
- “public holiday” means a day -
- (a) declared by an Act to be a public holiday; or
  - (b) proclaimed or notified under an Act as a public holiday;
- “the Public Prosecutor” means the person occupying the office established by Section 176 (*establishment of offices*) of the *Constitution*;
- “the Public Service” means the National Public Service;
- “the Public Services Commission” means the Commission established by Section 190 (*establishment of the Commission*) of the *Constitution*;
- “the Public Solicitor” means the person occupying the office established by Section 176 (*establishment of offices*) of the *Constitution*;

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<sup>46</sup> The *Principal Legal Adviser Act* (Chapter 54) was repealed by No. 17 of 1989 *Attorney-General Act 1989*. See, Section 3 of the *Attorney-General Act 1989* states that the Attorney-General is the Principal Legal Adviser.

<sup>47</sup> The definition “Provincial Administrator” added by No. 17 of 1995, s.1.

<sup>48</sup> Ibid.

<sup>49</sup> Ibid.

<sup>50</sup> Ibid.

<sup>51</sup> The definition “Provincial Governor” added by No. 17 of 1995, s.1.

“the Queen” means the Queen and Head of State of Papua New Guinea, and includes Her Majesty’s heirs and successors in the sovereignty of the United Kingdom of Great Britain and Northern Ireland;

“the Registrar of Titles” -

- (a) in relation to land in the former Territory of Papua - means the Registrar of Titles appointed under the *Real Property Act, 1913*<sup>52</sup> of that Territory (Adopted); and
- (b) in relation to land in the former Territory of New Guinea - means the Registrar of Titles appointed under the *Lands Registration Act 1924*<sup>53</sup> of the Territory (Adopted);

“regulation” means a regulation made under an Act, and includes rules and by-laws so made;

“repeal” includes supersede, expire, cancel or otherwise cease to have effect;

“the Revised Laws” means the text of the laws of Papua New Guinea prepared under the authority of the *Revision of the Laws Act 1973* (Adopted);

“rules of court”, in relation to a court, means rules made by the authority having for the time being power to make rules or orders regulating the practice and procedure of the court;

“security”, in relation to a power of investment in securities without limitation on the nature of the securities, includes stocks and shares;

“service by post” has the meaning ascribed to it by Section 5;

“sign” includes mark;

“the Speaker” means the Speaker of the National Parliament;

“Special Purposes Authority” means a Special Purposes Authority established under Section 120(b) of the *Local Government Act*<sup>54</sup>;

“the State” means the Independent State of Papua New Guinea;

“statutory declaration” means a declaration made by virtue of a law authorising a declaration to be made otherwise than in the course of a judicial proceeding;

“Statutory Instrument” means subordinate enactments that, under Section 60(2) are to be numbered as “Statutory Instruments”;

“subordinate enactment” means an instrument (whether of a legislative nature or not) made under an Act;

“subordinate legislation” has the same meaning as “subordinate enactment”;

“subordinate legislative enactment” has the same meaning as “subordinate enactment”;

“subordinate legislative instrument” means the instrument evidencing any subordinate legislation;

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<sup>52</sup> *Real Property Act, 1913* was repealed by *Land Registration Act* (Chapter 191), see Schedule 1. See, *Land Registration Act* (Chapter 191), the “Registrar of Titles” is appointed under the provisions of that Act.

<sup>53</sup> Ibid.

<sup>54</sup> See Footnote 6.

- “summary conviction” means conviction by a court of summary jurisdiction;
- “the Supreme Court” means the Supreme Court of Justice established by Section 160 (*establishment of the Supreme Court*) of the **Constitution**;
- “swear”, in the case of a person allowed by law to affirm, declare or promise instead of swearing, includes affirm, declare and promise;
- “the Teaching Service” means the Teaching Service established Subdivision III.4.B of the **Education Act** (Chapter 163);<sup>55</sup>
- “the Teaching Service Commission” means the Teaching Service Commission established by Subdivision III.4.A of the **Education Act** (Chapter 163);<sup>56</sup>
- “territorial sea” has the meaning given to that term by the **Maritime Zones Act 2015**;<sup>57</sup>
- “the Territory of New Guinea” means the pre-Independence Territory of New Guinea formerly administered successively under the **New Guinea Act 1920** of Australia, as in force from time to time, and under the **Papua and New Guinea Act 1949** of Australia, as in force from time to time, and when used in a geographical sense means the area described in accordance with Section 92 and Schedule 1;
- “the Territory of Papua” means the pre-Independence Territory of Papua formerly administered successively under the **Papua Act 1905** of Australia, as in force from time to time, and under the **Papua and New Guinea Act 1949** of Australia, as in force from time to time, and when used in a geographical sense means the area described in accordance with Section 92 and Schedule 2;
- “time of war” means a period during which a declaration under Section 227 (*declaration of war*) of the **Constitution** is in force;
- “town” means a place declared to be a town under the **Town Boundaries Act** (Chapter 8);
- “the underlying law” means the underlying law as defined in Section Sch.1.2(1) (*meaning of certain expressions*) of the **Constitution**;
- “Village Court” means a court established under Section 2 of the **Village Courts Act** (Chapter 44)<sup>58</sup>;
- “waters of Papua New Guinea” has the meaning given to that term by the **Maritime Zones Act 2015**;<sup>59</sup>
- “will” includes codicil;

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<sup>55</sup> The definition “the Teaching Service” refers to the definition in the repealed **Education Act** 1970, No. 48 of 1970. See, now current **Education Act** (Chapter 163), No. 11 of 1983. The reference in the latter refers to the repealed **Teaching Service Act** (Chapter 71), therefore, refer to the **Teaching Service Act 1988**.

<sup>56</sup> Ibid.

<sup>57</sup> The definition “territorial sea” repealed and replaced by No. 52 of 2015, s.2(c).

<sup>58</sup> The **Village Courts Act** (Chapter 44) was repealed by No. 37 of 1989 **Village Courts Act 1989**. See, Section 4 of the **Village Courts Act 1989** establishes a “Village Court”.

<sup>59</sup> The definition “waters of Papua New Guinea” added by No. 52 of 2015, s.2(a).

“writing” includes printing, painting, engraving, typewriting, lithography, photography and all other modes of representing or reproducing words in a visible form.

(2) A reference in a statutory provision to a form, by number, shall be read as a reference to a form, so numbered, in the schedule, or if there are more schedules than one in the first schedule, to the provision.

(3) Where an expression is defined for any purpose in this part, or otherwise in a statutory provision, then for that purpose all grammatical variations and cognate and related expressions are to be understood in the same sense.

(4) The Minister may, by notice in the National Gazette, specify the date on and from which the financial year shall commence for the purposes of Paragraph (c) of the definition of “fiscal year” in Subsection (1).<sup>60</sup>

(5) The Minister may, by notice in the National Gazette, declare an office to be an office for the purposes of the definition of “officer” in Subsection (1).

#### 4. REFERENCES TO OFFICES, LOCALITIES, ETC.<sup>61</sup>

A reference in any statutory provision to -

- (a) an officer, office or institution - shall be read as a reference to that officer or office in and for Papua New Guinea, or established or provided for by a Constitutional Law or an Act; and
- (b) an office or position - shall be read as a reference to the holder or occupant (whether substantive or other) for the time being of that office or position; and
- (c) a locality, jurisdiction or other matter or thing - shall be read as a reference to that locality, jurisdiction or other matter or thing, in and of Papua New Guinea; and
- (d) any place or Local Government Council<sup>62</sup> for which a name has been approved or assigned under the *Place Names Act* (Chapter 318), or a place the name of which has been altered under that Act - shall be read as a reference to that place by the name so approved, assigned or altered; and
- (e) an issue of the *Government Gazette* or the *Gazette* of any date -
  - (i) being a date not earlier than 7 November 1945 and not later than June 1949 - shall be read as a reference to an issue of the *Territory of Papua New Guinea Government Gazette* of that date; and

<sup>60</sup> Subsection (4) amended by No. 39 of 1977.

<sup>61</sup> Section 4 amended by No. 3 of 1977, s.3.

<sup>62</sup> Note, this was created under the repealed *Local Government Act* (Chapter 57).

- (ii) being a date not earlier than 1 July 1949 and not later than 25 June 1971 - shall be read as a reference to an issue of the *Territory of Papua and New Guinea Government Gazette* of that date; and
- (iii) being a date not earlier than 1 July 1971 and later than 15 September 1975 - shall be read as a reference to an issue of the *Papua New Guinea Government Gazette* of that date; and
- (f) to the land boundary with Indonesia shall be read as a reference to the boundary demarcated in accordance with Articles 1, 4 and 9 of the Agreement set out in the Schedule to the *Indonesian Border Agreement Act* (Chapter 85); and
- (g) to the area of the State includes a reference to -
  - (i) the internal waters and the territorial sea; and
  - (ii) the superjacent airspace of the internal waters, territorial sea and of the land territory under the sovereignty of the State.

**4A. REFERENCES TO SUBDISTRICTS.**

In relation to anything done or to be done on or after the commencement of this section, a reference in a statutory provision or other document to a Subdistrict shall be read as a reference to a District.

**4B. REFERENCES TO “ADMINISTRATION LAND”, ETC., IN CERTAIN DOCUMENTS.**

In any document made and not repealed before 1 September 1975, a reference to Administration land or an Administration lease shall, unless the contrary intention appears in the document, be read as a reference to Government land or a State lease, as the case may be.

**5. MEANING OF “SERVICE BY POST”, ETC.**

(1) Where a statutory provision authorises or requires a document to be served by post (whether the expression “serve” or the expression “give” or “send” or any other expression is used), then unless the contrary intention appears, the service shall be deemed to be effected by properly addressing, pre-paying (except where under a law the document may be sent by post free of charge) and posting the document as a letter.

(2) Subject to Subsections (3) and (4), where a document is served as provided for by Subsection (1), service shall, unless the contrary is proved, be deemed to have been effected at the time when the letter would be delivered in the ordinary course of post.

(3) Where the person on whom the document is to be served ordinarily collects his mail, or has his mail collected, at a post office or other place at which mail is held by or on behalf of the Department responsible for posts for collection, service in accordance with Subsection (1) shall be deemed to have been effected when the document would, in the ordinary course of events, have been collected.

(4) Where the person on whom the document is to be served has given, generally or in a particular case, a post office or other place as his postal address, service in accordance with Subsection (1) shall be deemed to have been effected when the document would, in the ordinary course of events, have been available for collection.

## **6. REFERENCES TO GENDER AND NUMBER.**

In a statutory provision -

- (a) words importing the masculine gender include females; and
- (b) words in the singular include the plural and words in the plural include the singular.

### *Division 1A. - Changes of Portfolios, Offices, etc.*

## **7. CHANGES OF PORTFOLIOS, ETC.**

(1) Where -

- (a) the Prime Minister has made or intends to make a change under Section 148 (*functions, etc., of Ministers*) of the *Constitution*; and
- (b) he believes that in view of the change, the responsibilities of one portfolio (in this subsection called “the new portfolio”) are or will be similar to the responsibilities of another portfolio (in this section called “the former portfolio”),

he may, by notice in the National Gazette -

- (c) advise of the matters referred to in Paragraphs (a) and (b); and
- (d) declare that on and from the date specified by him as the date of the change (whether that date is before or after the date of publication of the notice) the former portfolio shall, for all official purposes and for the purposes of any references to the former portfolio in any statutory provision or document, be known as the new portfolio.

(2) The Minister may, by notice in the National Gazette, advise that on and from a specified date (whether that date is before or after the date of publication of the notice) a reference to a particular officer or Department shall be read as a reference to another officer or Department.

(3) Where a notice is published under Subsection (1) or (2), a reference in any statutory provision or document to the former title shall, in relation to anything done or to be done on or after the specified date, be read as a reference to the new title.

**7A. CHANGES OF NAME OF OFFICES AND STATUTORY CORPORATIONS.<sup>63</sup>**

(1) In this section -

“office” means an office in -

- (a) the Public Service; or
- (b) an instrumentality of the Government; or
- (c) a statutory corporation;

“statutory corporation” means a corporation established by a statutory provision.

(2) Where -

- (a) a statutory provision; or
- (b) an action or series of actions,

has, or has had, the effect of changing the name of an office or statutory corporation for any purpose, and the National Executive Council is satisfied that the change of name does not affect the functions, status or identity of the office or corporation for that purpose, the Head of State, acting on advice, may, by notice in the National Gazette, so declare.

(3) A declaration under Subsection (2) is for all purposes conclusive evidence of the effect of the change of name and of the identity of the office or corporation.

(4) Where -

- (a) by or under this section or any other statutory provision, a change of name is declared not to affect the functions, status or identity of an office or statutory corporation in relation to any property; and
- (b) the property is registered in the name of the office or corporation,

the Registrar of Titles and any other person in charge of a register kept under an Act and evidencing title to the property shall change the name entered on the register to accord with the declaration.

**8. ALLOCATION OF ADMINISTRATION OF STATUTORY PROVISIONS, ETC., TO DEPARTMENTS.**

(1) The Minister may, by notice in the National Gazette, designate a Departmental Head to be the Departmental Head for the purposes of any statutory provision or other matter or thing.

(2) The Minister may, by notice in the National Gazette, designate a Department to be the Department for the purposes of any statutory provision or other matter or thing.

*[Section 9 repealed by No. 27 of 1976, s.35]*

*[Section 10 repealed by No. 27 of 1976, s.35]*

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<sup>63</sup> Section 7A transferred editorially from the *Administrative Re-organization Act 1973* (Adopted).

*Division 2. - Time and Distance.*

**11. COMPUTATION OF TIME.**

(1) In computing time for the purposes of a statutory provision, a period of time from -

- (a) a certain day; or
- (b) the happening of an event; or
- (c) the doing of an act or thing,

shall be deemed to be exclusive of the certain day or of the day on which the event happens or the act or thing is done.

(2) If the last day of a period prescribed or allowed by a statutory provision for the doing of an act falls on a Sunday or a public holiday, the act may be done on the day next following that is not a Sunday or public holiday.

(3) Where a statutory provision directs or allows an act or proceeding to be done or taken on a certain day, then if that day happens to be a Sunday or public holiday the act or proceeding shall be considered as done or taken in due time if it is done or taken on the day next following that is not a Sunday or public holiday.

(4) Where a statutory provision directs or allows an act or proceeding to be done or taken within a time not exceeding eight days, Sundays and public holidays shall not be taken into account in the computation of the time.

**12. PROVISION WHERE NO TIME PRESCRIBED.**

Where no time is prescribed or allowed within which an act is required or permitted by a statutory provision to be done, the act shall or may be done, as the case may be, with all convenient speed and as often as the occasion arises.

**13. MEASUREMENT OF DISTANCES.**

In the measurement of a distance for the purposes of a statutory provision, the distance shall be measured in a straight line on a horizontal plane.

*Division 3. - Offences and Penalties.*

**14. PENALTIES PRESCRIBED TO BE MAXIMUM PENALTIES.**

Where a statutory provision specifies a penalty for an offence against the provision, the penalty is the maximum penalty that may be imposed for that offence.

**15. PENALTIES AT FOOT OF SECTIONS, ETC.**

- (1) The penalty, pecuniary or other, set out -
- (a) at the foot of a section of a statutory provision; or
  - (b) at the foot of a subsection of a section of a statutory provision, but not at the foot of the section,

means that a contravention of the section or the subsection, as the case may be, whether by act or omission, is an offence against the provision punishable on conviction by a penalty not exceeding the penalty mentioned.

(2) Where the penalty is expressed to apply to a part only of the section or subsection, it applies to that part only.

**16. DEFAULT PENALTIES.**

(1) Where in, or at the foot of, any section or part of a section of a statutory provision the expression “Default penalty” appears, it indicates that a person who is convicted of an offence against that provision in relation to that section or part -

- (a) is guilty of a further offence against that provision if the offence continues after he is so convicted; and
- (b) is liable to an additional penalty, for each day during which the offence so continues, of not more than the amount expressed in the section or part as the amount of the default penalty.

(2) Where an offence is committed by a person by reason of his failure to comply with a section or part of a statutory provision referred to in Subsection (1) by or under which he is required or directed to do anything within a particular period, the offence shall be deemed, for the purposes of that subsection, to continue for so long as the thing required or directed to be done by him remains undone, notwithstanding that the period has elapsed.

**17. IMPRISONMENT.**

Where under a statutory provision imprisonment may be awarded for an offence, it may be awarded with or without hard labour.

**18. PAYMENT OF FINES, ETC., TO CONSOLIDATED REVENUE FUND.**

Where a statutory provision imposes or authorises the imposition of a fine, penalty or forfeiture, the provision shall be deemed to direct that the fine, penalty or forfeiture when recovered, be paid into the Consolidated Revenue Fund to defray the expenditure of the State.

**19. CORPORATIONS.**

(1) A reference in a statutory provision to an offence punishable on indictment or summary conviction shall be deemed to apply to a corporation as well as to a natural person.

(2) Where under a statutory provision a forfeiture or penalty is payable to the party aggrieved, it is payable to a corporation where the corporation is the party aggrieved.

**20. OFFENCES UNDER TWO OR MORE LAWS.<sup>64</sup>**

Where an act or omission constitutes an offence under two or more statutory provisions, or both under a statutory provision and under another law of Papua New Guinea, the offender is liable to be prosecuted and punished under either or any of those provisions, or either under that provision or under that other law, but is not liable to be punished twice for the same offence.

**21. INDICTABLE OFFENCES.<sup>65</sup>**

An offence -

- (a) declared to be treason, crime, misdemeanour or indictable offence; or
- (b) punishable by imprisonment for a term exceeding 12 months,

is an indictable offence.

**22. OFFENCES PUNISHABLE ON SUMMARY CONVICTION<sup>66</sup>.**

An offence that is not an indictable offence is punishable on summary conviction.

**23. AIDERS AND ABETTORS.<sup>67</sup>**

A person who aids, abets, counsels or procures, or by an act or omission is in any way directly or indirectly concerned in, the commission of an offence against or contravention of any law shall be deemed to have committed the offence or contravention, and is punishable accordingly.

**24. ATTEMPTS TO COMMIT OFFENCES.<sup>68</sup>**

A person who attempts to commit an offence against any law is guilty of an offence and is liable to trial and punishment as if the attempted offence had been committed.

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<sup>64</sup> See, also, *Constitution*, Section 37(8); *Criminal Code*, Section 16.

<sup>65</sup> See, also, *Criminal Code*, Section 3.

<sup>66</sup> See Footnote 62.

<sup>67</sup> See, also, *Criminal Code*, Section 7.

<sup>68</sup> See, also, *Criminal Code*, Section 4.

*Division 4. - Form of Acts, etc.*

**24A. TITLES, ENACTING WORDS, ETC.**

The short title, long title, enacting words and words of commencement of a provision are those portions of a provision illustrated in Schedule 3 and designated in that schedule or by the footnotes to that schedule.

**25. SECTIONS AND DIVISIONS OF SECTIONS.**

- (1) The primary unit of a provision is the section.
- (2) The divisions of a section are, and may be indicated, as follows:

| <i>Form.</i>                     | <i>Name.</i> | <i>Numbering.</i> |
|----------------------------------|--------------|-------------------|
| Primary division of section      | Subsection   | (1)               |
| Primary division of subsection   | Paragraph    | (a)               |
| Primary division of paragraph    | Subparagraph | (i)               |
| Primary division of subparagraph | Clause       | (A)               |
| Primary division of clause       | Subclause    | (I)               |

**26. HEADINGS, SCHEDULES, ETC.**

- (1) The headings of the Chapters, Parts, Divisions and Subdivisions into which a statutory provision is divided form part of the provision.
- (2) The schedules to a statutory provision form part of the provision.
- (3) The heading or head-notes to the various sections of a statutory provision do not form part of the provision.
- (4) Marginal notes or footnotes to a statutory provision do not form part of the provision.

**26A. DIVISION AND SUBDIVISION OF SCHEDULES.**

- (1) Where a schedule to a statutory provision comprises a scale or table, the divisions of the schedule shall be known as items.
- (2) Where a schedule to a provision is in narrative form, the divisions and subdivisions shall be known as sections.

**27. DEVIATION FROM FORMS.**

(1) Substantial compliance with a form contained in a provision is sufficient.

(2) Where a form approved under Section 75 or 88 makes provision for specifying the price to purchase a copy of an instrument, a notice published for the purposes of one of those sections substantially complies with the form notwithstanding that the notice does not specify the price.

*Division 5. - Commencement.*

**28. COMMENCEMENT BY NOTICE IN THE NATIONAL GAZETTE.**

(1) Subject to Subsection (3), where a statutory provision indicates that it is to come into operation in accordance with a notice in the National Gazette, the notice may -

(a) fix a date (including a time on a particular day); or

(b) fix the commencement by reference to the occurrence of an event (which, without limiting in any way the operation of this paragraph, includes the publication of the notice in the National Gazette),

and the provision comes into operation accordingly.

(2) Where a statutory provision indicates that it is to come into operation in accordance with a notice in the National Gazette, one or more notices in accordance with Subsection (1) may be published in the National Gazette to provide for the commencement of various parts of the provision -

(a) on the same day; or

(b) on different days; or

(c) on the occurrence of one or more events,

whether or not fixing, or referring, to the same time of the day.

(3) Subject to the statutory provision concerned, a notice referred to in Subsection (1) or (2) shall not fix a date, time or event occurring earlier than the date of publication of the National Gazette in which the notice is published.

(4) Where in relation to a statutory provision, a notice in the National Gazette fixes a particular date as the date on which that provision comes into operation but does not fix a time on that day, the provision comes into operation at the first moment of the day so fixed.

**29. COMMENCEMENT ON A SPECIFIED DAY.**

Where a statutory provision is expressed to come into operation on a particular day but does not fix a time on that day, it comes into operation at the first moment of that day.

**30. COMMENCEMENT OF WORDS OF COMMENCEMENT.**

Where a part of a statutory provision provides for the manner in which the provision is to be brought into operation, that part comes into operation -

- (a) in the case of an Act - on the date on which the Act is certified; and
- (b) in the case of an instrument made under an Act - on the date on which the instrument is made.

*Division 6. - Operation in Relation to the State.*

**31. RIGHTS OF THE STATE.**

A statutory provision does not adversely affect the rights of the State or bind the State unless -

- (a) it is expressed to do so; or
- (b) it appears by necessary implication that the State is bound by the provision.

*Division 7. - Powers and Duties.*

**32. CONTINUING EFFECT OF POWERS AND DUTIES.**

Where a statutory provision confers a power or imposes a duty, the power may be exercised, or the duty shall be performed, as the case may be, from time to time as occasion requires.

**33. POWERS AND DUTIES CONFERRED ON OFFICE-HOLDERS.**

(1) Where a statutory provision confers a power or function on the holder of an office as such, the power may be exercised, or the function shall be performed, as the case may be, by the holder (whether substantive or other) for the time being of the office.

(2) The exercise or performance of a power or function referred to in Subsection (1) does not cease to be effective by reason only of the fact that the holder of the office is later suspended from, or ceases to hold, the office.

**34. EXERCISE OF POWER IN RESPECT OF LIMITED PERIOD.**

Where a statutory provision confers power to do any act, matter or thing, the act, matter or thing may be done in relation to a limited period.

**35. IMPLIED POWER TO ALTER.**

Where a statutory provision confers a power to make an instrument or decision (other than a decision of a court), the power includes power, exercisable in the same manner and subject to the same conditions (if any) to alter the instrument or decision.

**36. IMPLIED POWER TO REMOVE OR SUSPEND.**

(1) Where a statutory provision confers a power to make an appointment, the power includes power, subject to Subsection (2), to remove or suspend a person so appointed.

(2) The power provided for by Subsection (1) is exercisable only subject to any conditions to which the exercise of the original power of appointment was subject.

**37. IMPLIED AUTHORITY TO ADMINISTER OATH.**

A court, Judge, justice, officer, commissioner, arbitrator or other person authorised by law to hear and determine or to review a matter has authority -

- (a) to receive evidence; and
- (b) to examine witnesses; and
- (c) to administer an oath to witnesses legally called.

**38. EXERCISE OF POWERS OF COMMITTEES, ETC.**

Unless the contrary intention expressly appears, where a statutory provision -

- (a) confers powers or functions on a committee, board, commission or other statutory authority; and
- (b) indicates that the powers or functions may be exercised by a quorum of less than the total number of members,

the powers or functions may be exercised in spite of any vacancy on the committee, board, commission or authority as long as -

- (c) the number of members of the committee, board, commission or authority is not less than the number fixed for the quorum; and
- (d) where the presence of a Chairman, Deputy Chairman or other specified member is necessary to constitute a valid meeting - there is such a Chairman, Deputy Chairman or other member appointed to the committee, board, commission or authority.

**39. POWERS OF MAJORITY.**

(1) Where a statutory provision requires or permits an act or thing to be done by more than two persons, a majority of them may do it.

(2) Subsection (1) extends to and includes -

- (a) any case where a power, duty or function is conferred or imposed on persons jointly or collectively; and
- (b) courts and tribunals.

*Division 8. - Delegations.*

**40. INTERPRETATION OF DIVISION 8.**

In this division, unless the context indicates otherwise, or some other meaning is clearly intended -

“delegate” includes a sub-delegate;

“delegator” includes a sub-delegator;

“delegation” means a delegation made by virtue of a power conferred by a statutory provision, and includes a sub-delegation made by virtue of such a power;

“function” means a function conferred by a statutory provision;

“power” means a power conferred by a statutory provision.

**41. EFFECT OF DELEGATIONS.**

Where under a statutory provision a power or function may be delegated -

(a) no such delegation affects the exercise or performance of the power or function by the delegator; and

(b) in the case of a power or function of more than one person, a delegation by one of them does not affect the exercise or performance of the power or function by any of them.

**42. JOINT DELEGATIONS.**

A power of delegation that is expressed to be a power to delegate to “a person” does not of itself prevent a delegation being made in favour of two or more persons jointly.

**43. SIMULTANEOUS DELEGATIONS.**

A power or function may be the subject of more than one delegation (whether or not by the same delegator) at the one time.

**44. EXERCISE OF DELEGATED POWERS AND FUNCTIONS BASED ON OPINION, ETC.**

Where -

(a) under a statutory provision the exercise of a power or function by a person is dependent on his opinion, belief or state of mind in relation to a matter; and

(b) the power or function has been delegated under that provision,

the power or function may be exercised by the delegate on his own opinion, belief or state of mind in relation to the matter.

**45. DESCRIPTION AS DELEGATE.**

No act, matter or thing done or suffered by a delegate is invalid or may be challenged or called into question by reason only of the fact that the delegate did not, in doing or suffering the act, matter or thing, describe himself as, or purport to be, a delegate.

**46. CONDITIONS AND LIMITATIONS ON DELEGATIONS.**

(1) A delegation may be made subject to conditions and limitations.

(2) Without limiting in any way the operation of Subsection (1), a delegation may be limited -

- (a) to a specified person or class of persons; or
- (b) to a matter or class of matters; or
- (c) to an area or areas.

**47. EXTRA-TERRITORIAL OPERATION OF DELEGATIONS.**

Where an instrument conferring a delegation does not specify a territorial limitation in relation to which the delegated powers and functions may be exercised or performed, they may be exercised and performed in any place (whether inside or outside the country).

**48. COMMENCEMENT OF CERTAIN DELEGATIONS.**

(1) In this section, “the intended time of commencement of the instrument” means -

- (a) in the case of an instrument that provides that it is to come into operation on a specified date - that date; and
- (b) in any other case - the apparent date of signature of the instrument.

(2) Where -

- (a) an instrument purports to delegate a power or function; and
- (b) at the intended time of commencement of the instrument the power or function is not a power or function of the person who signed the instrument (in this section called “the delegator”); and
- (c) but for the absence of the power or function at that time the instrument would have been effective to delegate the power or function; and
- (d) at a later date, the power or function becomes the power or function of the delegator,

the instrument comes into operation in accordance with its terms at the time when the power or function becomes the power or function of the delegator.

**49. CONTINUING OPERATION OF DELEGATIONS.**

Where -

- (a) a power or function conferred by a statutory provision is delegated; and
- (b) after the delegation is made the provision is amended or another provision is made in substitution for it,

the delegation is not revoked or superseded by reason only of the amendment or substitution but continues to operate as if -

- (c) in the case of an amendment of the provision - it had been expressed to be a delegation of the power or function conferred by the provision in its amended form; and

- (d) in the case of the substitution of a provision for another provision - it had been expressed to be a delegation of the power or function conferred by the substituted provision.

**50. REVOCATION.**

A delegation is revocable, in writing, at will.

**51. CONSEQUENTIAL REFERENCES.**

Where a power or function is delegated, a reference in any law to the delegator shall, in relation to the exercise or performance of the delegated power or function by the delegate, be read as including, as appropriate, a reference to the delegate.

*Division 9. - Appointments.*

**52. APPOINTMENT BY NAME OR OFFICE.**

Where under a statutory provision a person or authority is empowered to make an appointment, the appointment may be made by name or by office.

**53. ACTING APPOINTMENTS.**

- (1) In this section, "office" includes position.

(2) Where a statutory provision confers power to make an appointment to an office and in respect of that office -

- (a) there is a vacancy; or
- (b) the holder of the office is suspended; or
- (c) the holder of the office is -
  - (i) on leave of absence; or
  - (ii) absent from the country; or
  - (iii) out of speedy and effective communication; or
  - (iv) otherwise unable to perform, or not readily available to perform the duties of his office,

the power includes power, subject to Subsection (3), to appoint another person to act in the office.

(3) The power provided for by Subsection (2) is exercisable only subject to any conditions to which the exercise of the original power was or would be subject.

(4) An acting appointment may be made in anticipation of any of the circumstances specified in Subsection (2) and, unless it expires or is revoked, such an acting appointment continues to operate from time to time in accordance with its terms.

**54. EFFECT OF APPOINTMENTS BEYOND STATUTORY PERIOD.**

Where -

- (a) a statutory provision prohibits the appointment of a person for a period that extends beyond the date on which he will attain a specified age; and
- (b) a purported appointment is made for a period that extends beyond that date,

the appointment is a valid appointment in respect of the period that does not extend beyond that date.

*Division 10. - Amendments.*

**55. CONSTRUCTION OF AMENDING PROVISION.**

A statutory provision that amends another statutory provision shall, unless the contrary intention appears, be construed with and as part of the amended provision.

[Section 56 omitted editorially under the revision of this law.]<sup>69</sup>

[Section 57 omitted editorially under the revision of this law.]<sup>70</sup>

**58. FAILURE TO OMIT ALL REFERENCES.**

Where a provision (in this section called “the amending law”) purports to amend another provision by omitting words or symbols, or both (with or without the substitution of other words or symbols), that are expressed in the amending law to occur a specified number of times but that in fact occur a greater number of times, the amending law amends the provision by omitting the words or symbols the number of times specified by the amending law commencing with the appropriate word or symbol first occurring in the provision.

*[Division 11 omitted editorially under the revision of this law.]*<sup>71</sup>

[Section 59 omitted editorially under the revision of this law.]<sup>72</sup>

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<sup>69</sup> See, the Revised Edition of Laws which came into force on 1 January 1976 under Section 11 of the *Revision of Laws Act 1973*.

<sup>70</sup> Ibid.

<sup>71</sup> Ibid.

<sup>72</sup> Ibid.

***Division 12. - Number and Citation.***

**60. NUMBERING OF LAWS.**

(1) The Acts made by the Parliament in each secular year shall be numbered in regular arithmetical series, beginning with the number one, in the order in which they are certified.

(2) Subject to Subsection (3) -

(a) Constitutional Regulations and all regulations made under Acts; and

(b) all rules of court made under Section 184 (*rules of court*) of the ***Constitution***; and

(c) all rules (including rules of court) made under Acts; and

(d) all by-laws made under Acts,

in each secular year shall together be numbered in regular arithmetical series as “Statutory Instruments”, beginning with the number one, in the order, as far as practicable in which they are made.

(3) Subsection (2) does not apply to rules made under the ***Local Government Act*** (Chapter 57)<sup>73</sup> or to any other instrument or class of instrument specified by the First Legislative Counsel by notice in the National Gazette.

(4) For the purposes of Subsection (1), a law is made by the Parliament in a particular secular year if it passes its third reading in that year.

**61. CITATION OF LAWS.**

(1) An Act or Statutory Instrument may be cited -

(a) by its short title (if any); or

(b) by reference to the secular year in which it is made and its number.

(1A) A pre-Independence law may be cited in any manner in which it might have been cited immediately before Independence Day, followed by the word “(Adopted)”.

(2) An Imperial Act may be cited by its short title (if any) or by reference to the regnal year in which it was passed and its chapter.

(3) A law of another country (including an instrument made under an Imperial Act) may be cited in accordance with Subsection (1)(a) or (b), with the addition of words indicating the name of the country or jurisdiction.

(4) A law may be cited by reference to a Part, Division, Subdivision, section, subsection or other portion of the instrument that shows the text of that law.

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<sup>73</sup> The ***Local Government Act*** (Chapter 57) was repealed by No. 33 of 1997 ***Local-level Governments Administration Act 1997***. See, Section 73 of the ***Local-level Governments Administration Act 1997*** provides that such Rules made under the repealed Act shall continue in operation until they expire or repealed according to law or the expiry of one year from the date of coming into operation of this Act.

(5) A reference for the purposes of Subsection (4) shall be made according to the copy of the text printed or purporting to be printed by the Government Printer or, in the case of a law of another country, by reference to the text printed or purporting to be printed -

- (a) by the government printer or other authorised person of that country; or
- (b) by or on behalf of the government of that place; or
- (c) by authority.

**62. REFERENCES TO AMENDED OR SUBSTITUTED PROVISIONS.**

(1) In this section, “statutory provision” includes a law of any other country.

(2) Where -

- (a) a statutory provision is referred to in another statutory provision or another document; and
- (b) at any time (whether before or after the reference is made) the provision so referred to has been or is amended (whether on one or more occasions),

the reference shall be read as a reference to the provision as amended, or as last amended, as the case may be.

(3) Where -

- (a) a statutory provision is referred to in another statutory provision or another document; and
- (b) at any later time the provision so referred to is repealed and re-made (with or without modification, and whether on one or more occasions),

the reference shall be read as a reference to the re-made or last re-made provision, as the case may be, and where such a re-made provision is amended (whether on one or more occasions) the reference shall be read as a reference to the provision as amended or last amended, as the case may be.

(4) Subsections (2) and (3) apply -

- (a) in the case of a reference contained in a statutory provision, whether or not the reference is -
  - (i) made by reference to a mode of citation that includes two secular years; or
  - (ii) to the provision “as in force from time to time”, or words to a similar effect; and
- (b) in the case of a provision the citation of which has been changed by a later provision to include the words “as amended”.

(5) A reference in a provision to another provision “as amended to date” shall be read, where the provision so referred to has been amended, as a reference to it in its amended form at the time when the provision containing the reference comes into operation.

***Division 13. - Repeal and Expiration.***

**63. EFFECT OF REPEAL.**<sup>74</sup>

- (1) The repeal of a provision does not -
- (a) revive anything not in force or existing at the time at which the repeal takes effect; or
  - (b) affect the previous operation of the repealed provision, or anything duly done or suffered under the repealed provision; or
  - (c) affect any right, privilege, obligation, or liability acquired, accrued or incurred under the repealed provision; or
  - (d) affect any penalty, forfeiture, or punishment incurred in respect of an offence committed against the repealed provision; or
  - (e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment,

and any such investigation, legal proceeding, or remedy may be instituted, continued or enforced, and any such penalty, forfeiture, or punishment may be imposed, as if the repeal had not been made.

- (2) The repeal of a statutory provision that validated or continued in force any act, matter or thing does not affect the validation or continuance.

[Section 64 omitted editorially under the revision of this law.]<sup>75</sup>

**65. SUBSTITUTION.**

Where a statutory provision repeals another statutory provision and is to operate in place of the repealed provision, the repealed provision remains in force until the substituted provision comes into operation.

**66. REPEAL OF REPEALING PROVISION.**

The repeal of a statutory provision by which another statutory provision was repealed does not, without express words, have the effect of reviving the last-mentioned provision.

**67. EXPIRATION OF PROVISION.**

The expiration of a statutory provision does not affect any civil or criminal proceeding previously commenced under the provision, but every such proceeding may be continued, and everything in relation to it be done, in all respects as if the provision continued in force.

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<sup>74</sup> See, also, *Constitution*, Section 39(2), under which certain declarations as to validity operate as repeals.

<sup>75</sup> See, Footnote 69.

**PART III. - RULES AND PRINCIPLES APPLICABLE ONLY TO ACTS.**

**68. PUBLIC ACTS.**

Unless the contrary is expressly provided in the Act, each Act is a public Act.

**69. EFFECT OF SECTIONS.**

A section of an Act has effect as a substantive enactment without introductory words.

**70. GENERAL POWER TO MAKE INSTRUMENTS, ETC.**

Where an Act confers on a person or authority power to make an instrument (whether of a legislative nature or not) for a general purpose, and also for special purposes incidental to or included in those purposes, the enumeration of the special purposes shall not be deemed to derogate from the generality of the powers conferred with reference to the general purpose.

**71. EXERCISE OF POWERS, ETC., BEFORE COMMENCEMENT.**

(1) In this section, “Act” includes portion of an Act.

(2) Subject to Subsection (3), where an Act that is not to come into operation on the date of certification confers a power or function, the power or function may be exercised or performed at any time after the Act is certified.

(3) Without limiting the operation of Subsection (2), that subsection extends to the doing of any act, matter or thing (in this subsection called “the prior condition”) and to the doing of any other act, matter or thing that may only be done after completion of the prior condition.

(4) No act, matter or thing done or suffered by or under a power or function exercised or performed by virtue of Subsection (2) has any effect before the commencement of the Act unless -

- (a) the contrary intention appears in the Act; or
- (b) the act, matter or thing -
  - (i) relates to anything that may be done under Subsection (5); or
  - (ii) is necessary for bringing the Act into operation.

(5) Without limiting in any way the operation of this section, where a corporation is established by an Act that is not to come into operation on certification the corporation may, after the certification of the Act and in accordance with any requirements of the Act -

- (a) hold meetings; and
- (b) do or suffer anything related to the employment of its officers and employees (including, without limiting the operation of this paragraph, the payment to an officer or employee of the emoluments of his office or position).

**72. REFERENCES TO “THE PRINCIPAL ACT”.**

Where the long title of an Act indicates that the Act is intended -

- (a) to amend some other Act; or
- (b) to be incorporated and read with some other Act,

references throughout the first-mentioned Act to “the Principal Act” shall be read as references to the other Act.

**73. REFERENCES TO “THE REGULATIONS”, ETC.**

A reference in an Act -

- (a) to a regulation, without further identification, is a reference to a regulation made under that Act; and
- (b) to “the regulations” is a reference to any regulations made under the Act.

**PART IV. - RULES AND PRINCIPLES APPLICABLE ONLY TO  
LEGISLATIVE INSTRUMENTS.**

**74. INTERPRETATION OF PART IV.**

A reference in this part to a regulation, rule, by-law, proclamation or determination is a reference to a regulation, rule, by-law, proclamation or determination, as the case may be, made under an Act.

**75. NOTIFICATION OF CERTAIN INSTRUMENTS.**

(1) The making of a regulation, rule or by-law, and the place where copies of it can be purchased, shall be notified in the National Gazette.

(2) A notification for the purposes of Subsection (1) shall be in a form approved by the First Legislative Counsel by notice in the National Gazette.

**76. COMMENCEMENT OF CERTAIN INSTRUMENTS.**

(1) Unless the contrary intention appears in the instrument, a regulation, rule or by-law comes into operation on the date of notification under Section 75(1).

(2) A regulation, rule or by-law shall not be expressed to take effect from a date before the date of notification under Section 75(1) in a case where, if it so took effect -

- (a) the rights of a person (other than the State or an authority of the State) existing at the date of notification would be affected in a manner prejudicial to that person; or
- (b) liabilities would be imposed on a person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of notification,

and any part of any regulation, rule or by-law that is made in contravention of this section is void and of no effect.

**77. MEANING OF EXPRESSIONS IN LEGISLATIVE INSTRUMENTS.**

Expressions used in a legislative instrument made under a particular Act have, unless the contrary intention appears in the instrument, the same meanings as in the Act.

[Section 78 repealed by No. 27 of 1976, s.18.]

**79. ACTS DONE UNDER LEGISLATIVE INSTRUMENTS, ETC.**

An act shall be deemed to be done -

- (a) under an Act; or
- (b) by virtue of the powers conferred by an Act; or
- (c) in pursuance or execution of the powers of an Act; or
- (d) under the authority of an Act,

if it is done under or by virtue of, or in pursuance of, a legislative instrument made under any power contained in the Act.

**80. LEGISLATIVE INSTRUMENTS OPERATING IN PART OF THE COUNTRY ONLY.**

A power conferred by a provision to make a legislative instrument includes the power to make such an instrument operating in part of the country only.

**81. REFERENCES TO “THE ACT”.**

Where a legislative instrument indicates that it is made under a particular Act, references throughout the instrument to “the Act” shall be read as references to that Act.

**82. REFERENCES TO INSTRUMENT BEING AMENDED.**

- (1) Where the long title of a regulation indicates that the regulation is intended -

- (a) to amend some other regulation; or
- (b) to be incorporated and read with some other regulation,

references throughout the first-mentioned regulation to “the Principal Regulation” shall be read as references to the other regulation.

- (2) Where the long title of a rule indicates that the rule is intended -

- (a) to amend some other rule; or
- (b) to be incorporated and read with some other rule,

references throughout the first-mentioned rule to “the Principal Rule” shall be read as references to the other rule.

- (3) Where the long title of a by-law indicates that the by-law is intended -

- (a) to amend some other by-law; or
- (b) to be incorporated and read with some other by-law,

references throughout the first-mentioned by-law to “the Principal By-law” shall be read as references to the other by-law.

(4) Where the long title of a proclamation indicates that the proclamation is intended -

(a) to amend some other proclamation; or

(b) to be incorporated and read with some other proclamation,

references throughout the first-mentioned proclamation to “the Principal Proclamation” shall be read as references to the other proclamation.

(5) Where the long title of a determination indicates that the determination is intended -

(a) to amend some other determination; or

(b) to be incorporated and read with some other determination,

references throughout the first-mentioned determination to “the Principal Determination” shall be read as references to the other determination.

### **83. REFERENCES TO DATES.**

(1) Where a statutory provision requires that a legislative instrument specify a date for a particular purpose, the requirement is sufficiently complied with if the instrument specifies “the date of publication of this instrument in the National Gazette” (or words to a similar effect) and does not indicate a particular date.

(2) An instrument referred to in Subsection (1) may specify publication in a gazette, newspaper or journal other than the National Gazette.

### **84. REFERENCES TO PERIODS.**

Where a statutory provision requires or permits that a legislative instrument specify a period for a particular purpose, the instrument shall be deemed to have been made in accordance with the provision if the instrument fixes the period by reference to the happening of a specified event or during the continuance of a specified state of affairs.

[Section 85 omitted editorially under the revision of this law.]<sup>76</sup>

[Section 85A omitted editorially under the revision of this law.]<sup>77</sup>

[Section 86 omitted editorially under the revision of this law.]<sup>78</sup>

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<sup>76</sup> See, the Revised Edition of Laws which came into force on 1 January 1976 under Section 11 of the *Revision of Laws Act 1973*.

<sup>77</sup> Ibid.

<sup>78</sup> Ibid.

**87. NOTIFICATION INSTEAD OF FULL PUBLICATION.**

- (1) In this section, “legislative instrument” means -
- (a) a regulation, rule or by-law; or
  - (b) a determination; or
  - (c) a proclamation under the *Local Government Act* (Chapter 57)<sup>79</sup>; or
  - (d) a rule made by a Local Government Council under the *Local Government Act* (Chapter 57)<sup>80</sup>; or
  - (e) a subordinate enactment or class of subordinate enactments prescribed under Subsection (4).

(2) Where a law requires a legislative instrument to be published or notified in a gazette or other official publication of the National Government, a notice published in that gazette or other publication of the instrument having been made, and of the place where copies of it can be purchased, is sufficient compliance with that requirement.

[Subsection (3) repealed by No. 27 of 1976, s.21.]

(4) The Head of State, acting on advice, may make regulations declaring any subordinate enactments to be legislative instruments for the purposes of this section.

**88. PUBLICATION IN ABBREVIATED FORM.**

(1) Where the First Legislative Counsel thinks that notice of a legislative instrument that is required by any statutory provision to be published or notified in a gazette or other official publication of the National Government can properly and conveniently, and with due regard to the interests of the public, be given in some abbreviated form, he may authorise it to be notified in that form.

(2) A notification under Subsection (1) shall declare the place where copies of the instrument may be purchased or obtained.

(3) A notification under Subsection (1) shall be deemed to be publication or notification of the instrument.

**89. DATE OF EFFECT OF GAZETTE NOTICES.**

- (1) In this section -
- “gazette” includes any official publication of the National Government, whether or not it is described as a gazette;
  - “words” includes figures and symbols.

<sup>79</sup> This Act has been repealed. See, *Local-level Governments Administration Act 1997* which still provides for Proclamations.

<sup>80</sup> Ibid.

- (2) Subject to Subsection (3) and to Section 90(2), where -
- (a) a statutory provision -
    - (i) requires or permits a person or authority to do or suffer any act, matter or thing by instrument in a gazette; or
    - (ii) otherwise indicates that the doing or suffering of an act, matter or thing by a person or authority is dependent on publication of a notice in a gazette; and
  - (b) the person or authority signs an instrument purporting to do or suffer the act, matter or thing; and
  - (c) there later appears in the gazette a form of words that appear to reproduce the instrument,

the act, matter or thing shall be deemed to have been done or suffered on the date of publication of the gazette containing those words, in accordance with the terms of the instrument.

(3) Where the instrument indicates that it is to come into operation at some time after publication in the gazette, the act, matter or thing shall be deemed to be done at that time.

(4) The act, matter or thing is not invalid and shall not be challenged or called into question by reason only of the fact that the words published in the gazette do not correspond exactly with the words of the instrument.

**90. CORRECTION OF GAZETTE NOTICES.**

- (1) In this section -
- “gazette” includes any official publication of the National Government, whether or not it is described as a gazette;
  - “words” includes figures and symbols.

(2) Where it appears to the person or authority who signed an instrument referred to in Section 89(2)(b) that the words published in the gazette do not correspond exactly with the words of the instrument, the person or authority may direct the Government Printer -

- (a) to publish a corrigendum; or
  - (b) to republish the instrument,
- in a later issue of the same gazette.

(3) Where an instrument is republished under Subsection (2), the previous purported publication of that instrument shall be disregarded for all purposes.

**91. RE-MAKING OF DISALLOWED INSTRUMENTS.**

(1) Where a subordinate legislative enactment is disallowed under Section 116 (*disallowance of subordinate laws*) of the *Constitution*, no subordinate legislative enactment being the same in substance as the subordinate legislative enactment so disallowed shall be made within six months after the date of the disallowance, unless the decision of the Parliament to disallow is rescinded.

(2) A subordinate legislative enactment made in contravention of Subsection (1) is void and of no effect.

**PART V. - MISCELLANEOUS.****92. POSITION OF CERTAIN MERIDIANS.**

(1) In this section -

“the Boundary Agreement” means the Agreement between Australia and Indonesia concerning certain boundaries between Papua New Guinea and Indonesia signed at Jakarta on 12 February 1973, a copy of which was set out in the Schedule to the *Indonesian Border Agreement Act* (Chapter 85);

“meridian marker” means a marker established on the ground by the Australian and Indonesian Survey Authorities in the course of the survey of the border between Papua New Guinea and Indonesia carried out by those Authorities during the years 1966 and 1967.

(2) For the purposes of the description of the former Territory of Papua in Schedule 2, the meridian of longitude 141°01' 10" east shall, in accordance with Article 1(c) of the Boundary Agreement, be deemed to lie along the geodesic lines successively linking the meridian markers situated at or about the following points, namely:

- (a) the point, latitude 6°53' 27" south, longitude 141°01' 10" east; and
- (b) the point, latitude 7°49' 19" south, longitude 141°01' 10" east; and
- (c) the point, latitude 8°25' 45" south, longitude 141°01' 10" east; and
- (d) the point, latitude 9°07' 37" south, longitude 141°01' 10" east.

(3) For the purposes of the description of the former Territory of New Guinea in Schedule 1 and of the description of the former Territory of Papua in Schedule 2, the meridian of longitude 141° east shall, in accordance with Article 1(a) of the Boundary Agreement, be deemed to lie along the geodesic lines successively linking the meridian markers situated at or about the following points, namely:

- (a) the point, latitude 2°35' 39" south, longitude 141° east; and
- (b) the point, latitude 2°40' 42" south, longitude 141° east; and
- (c) the point, latitude 3°01' 27" south, longitude 141° east; and
- (d) the point, latitude 3°14' 02" south, longitude 141° east; and
- (e) the point, latitude 3°55' 22" south, longitude 141° east; and
- (f) the point, latitude 4°08' 41" south, longitude 141° east; and
- (g) the point, latitude 4°54' 54" south, longitude 141° east; and

- (h) the point, latitude 5°38' 33" south, longitude 141° east; and
- (i) the point, latitude 5°52' 39" south, longitude 141° east; and
- (j) the point, latitude 6°19' 32" south, longitude 141° east.

[Section 93 omitted editorially under the revision of this law.]<sup>81</sup>

[Section 93A omitted editorially under the revision of this law.]<sup>82</sup>

**93B. CITATION OR DESCRIPTION OF CERTAIN LAWS.**

- (1) In this section, "law" means a law that, at the time when it was made, purported to be an Ordinance.
- (2) Subject to this section, a law of a former Territory shall be cited or described as an Act.
- (3) A law of a former Territory made before 1 July 1949 shall be cited or described as an Ordinance if and only if -
  - (a) another law or portion of another law of a former Territory made before 1 July 1949 purported to repeal the law and the repealing law or portion came into operation on or before 1 July 1949; or
  - (b) the law was not otherwise continued in force under the *Papua New Guinea Act 1949* of Australia, as in force from time to time.

**93C. WRONG USE OF "ACT" OR "ORDINANCE" IN CITATION.**

The citation of an enactment or subordinate enactment in a statutory provision or document shall be and be deemed always to have been a sufficient citation notwithstanding that -

- (a) an Act is or was cited as an Ordinance; or
- (b) an Ordinance is or was cited as an Act; or
- (c) the word "Act" is or was wrongly used in part of the citation instead of the word "Ordinance"; or
- (d) the word "Ordinance" is or was wrongly used in part of the citation instead of the word "Act".

**94. EVIDENCE OF CERTAIN MATTERS.**

- (1) In this section -
  - "gazette" includes any official publication of the National Government, whether or not described as a gazette;
  - "words" includes figures and symbols.

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<sup>81</sup> See, the Revised Edition of Laws which came into force on 1 January 1976 under Section 11 of the *Revision of Laws Act 1973*. See, now Section 71(5) of this Act.

<sup>82</sup> Ibid, this is now Section 4B of this Act.

(2) Subject to Subsection (3), a form of words appearing in a gazette that appears to reproduce an instrument signed by a person or authority shall be presumed, until the contrary is shown, to correspond exactly with the words of the instrument.

(3) Where a corrigendum has been published in a gazette in relation to words appearing to reproduce an instrument, the words as corrected by the corrigendum shall be presumed, until the contrary is shown, to correspond exactly with the words of the instrument.

[Section 95 repealed by No. 27 of 1976, s.25.]

[Section 96 omitted editorially under the revision of this law.]<sup>83</sup>

**PART VI. – RULES AND PRINCIPLES APPLICABLE ONLY TO  
ADOPTED LAWS AND INSTRUMENTS.**

[Section 97 repealed by No. 27 of 1976, s.26.]

**98. “NATIVE”.**

In relation to anything done or to be done on or after Independence Day, where the expression “native” appears in an adopted law or in a document it shall be read as a reference to an automatic citizen.

[Section 99 omitted editorially under the revision of this law.]<sup>84</sup>

[Section 100 omitted editorially under the revision of this law.]<sup>85</sup>

[Section 101 repealed by No. 27 of 1976, s.30.]

[Section 102 omitted editorially under the revision of this law.]<sup>86</sup>

[Section 103 repealed by No. 27 of 1976, s.32.]

[Part VII repealed by No. 27 of 1976, s.33.]

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<sup>83</sup> See, the Revised Edition of Laws which came into force on 1 January 1976 under Section 11 of the *Revision of Laws Act 1973*.

<sup>84</sup> Ibid.

<sup>85</sup> Ibid.

<sup>86</sup> Ibid.

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**SCHEDULES**

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**SCHEDULE 1.**

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Sec. 92.

**DESCRIPTION OF THE FORMER TERRITORY OF NEW GUINEA.**

The north-eastern part of the island of New Guinea, the Bismarck Archipelago (comprising New Britain, New Ireland, New Hanover, the Admiralty Islands and outlying groups), the northern islands, Buka and Bougainville, of the Solomons Group and all other islands, contained within an area bounded by a line commencing at the intersection of the meridian 141° east longitude with the parallel 5° south latitude, thence bearing north along the said meridian 141° east longitude to its intersection with the equator, thence bearing east along the said equator to its intersection with the meridian 160° east longitude, thence bearing south along the said meridian 160° east longitude to its point of intersection with the parallel 4°50' south latitude, thence bearing west along the said parallel 4°50' south latitude to its intersection with the meridian 159° east longitude, thence bearing generally south westerly to a point which lies 6 nautical miles north 42° east true from Cape Friendship thence bearing generally southerly to a point which lies 4 nautical miles north 70°30' east true from Cape Friendship, thence bearing generally south westerly to a point which lies 3 nautical miles south true from the southern point of the Peninsula which bounds the harbour of Tonolei on the east, thence bearing generally south westerly to a point which lies 3 nautical miles south true from Moila Point (previously shown as Komalei Point on German Admiralty Chart No. 100) thence bearing generally westerly to a point which lies 8 nautical miles south 69° west true from the aforesaid Moila Point, thence south westerly to the intersection of the meridian 154° east longitude with the parallel 8° south latitude thence continuing westerly along the said parallel 8° south latitude to its intersection with the meridian 147° east longitude thence generally north westerly to the point of intersection of the meridian 144° east longitude with the parallel 6° south latitude thence north westerly to the point of commencement.

**SCHEDULE 2.**

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Sec. 92.

**DESCRIPTION OF THE FORMER TERRITORY OF PAPUA.**

1. The south-eastern part of the island of New Guinea contained within an area bounded by a line that commences at the intersection of the rhumb line that commences at a point 9°23' south latitude, 140°52' east longitude and terminates at a point 9°08' 08" south latitude, 141°01' 10" east longitude by the coastline at mean low water (or, if at any time that rhumb line is not intersected by the coastline at mean low water, by a line that commences at the intersection of the meridian 141°01' 10" east longitude by the coastline at mean low water) and runs thence eastward along the coastline at mean low water as far as East Cape, thence north-westward along the coastline at mean low water as far as the parallel 8° south latitude in the neighbourhood of Mitre Rock, thence west along that parallel to the meridian 147° east longitude, thence in a north-westerly direction to the point of intersection of the parallel 6° south latitude and of the meridian 144° east longitude, thence in a west- north-westerly direction to the point of intersection of the parallel 5° south latitude and of the meridian 141° east longitude, thence south along that meridian to the most northerly intersection of that meridian with the Fly River, thence along the waterway of the Fly River to its most southerly intersection with the meridian 141°01' 10" east longitude, thence south along that meridian to the point of commencement (or, if the point of commencement is not on that meridian, to a point 9°08' 08" south latitude, 141°01' 10" east longitude, thence south-westerly along the rhumb line previously mentioned to the point of commencement), together with the Trobriand, Woodlark, D'Entrecasteaux and Louisiade Groups of Islands and all other islands lying between the parallels 8° and 12° south latitude and between the meridian 141° and 155° east longitude and not forming part of the State of Queensland, and furthermore including all islands and reefs lying in the Gulf of Papua to the northward of the parallel 8° south latitude.

2. Pocklington Reef Islands, being all of the islands lying between the parallels 10°30' and 11° south latitude, and between the meridians 155° and 156° east longitude.

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**SCHEDULE 3.**

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Sec. 24A.

**PRO FORMA ACT.**

**INDEPENDENT STATE OF PAPUA NEW GUINEA.**

*(National Emblem)*

*Interpretation Act 1975*<sup>87</sup>,

Being an Act for the interpretation of Acts and instruments made under Acts, and for other purpose<sup>88</sup>,

MADE by the National Parliament<sup>89</sup> (*here follow the words of commencement, e.g., to come into operation in accordance with a notice in the National Gazette by the Head of State, acting with, and in accordance with, the advice of the Minister*).

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Office of the Commissioner-Revised Laws. PNG

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<sup>87</sup> Short title.

<sup>88</sup> Long title.

<sup>89</sup> Enacting words.