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# Kiribati Consolidated Legislation

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## Native Lands Ordinance

### LAWS OF THE GILBERT ISLANDS REVISED EDITION 1977

#### CHAPTER 61

#### NATIVE LANDS

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### **An ordinance relating to native land and registration of title thereto**

5 of 1956  
2 of 1959  
4 of 1967  
8 of 1968  
6 of 1969  
8 of 1971  
9 of 1971  
11 of 1971  
15 of 1972  
3 of 1973  
(Cap. 22 of 1973)  
7 of 1976  
19 of 1977

## **PART I PRELIMINARY**

### **Short title**

- 1. This Ordinance may be cited as the [Native Lands Ordinance](#).

### **Interpretation**

2. In this Ordinance unless the context otherwise requires-

“boundary mark” means and includes any survey stone, iron pipe or spike, wooden peg or post, concrete post or pillar or other survey mark and trees planted and marks made on trees or other fixtures to denote a boundary;

“Chief Lands Officer” means the Chief Lands Officer of the Gilbert Islands;

“Code” or “Lands Code” means the Gilbert and Phoenix Islands Lands Code;  
(*L.N. 8/63*)

“Commission” means the Native Lands Commission which was constituted under the terms of the Native Lands Commission Ordinance;  
(*Cap. 20 of 1952*)

“council” means a local government council;

“court” means a magistrates’ court established by the [Magistrates’ Courts Ordinance](#) and composed or deemed to be composed under the provisions of section 7(4) of that Ordinance;  
(*Cap. 52*)

“court register” means one of the registers of a magistrates’ court;

“lease” does not include a sub-lease;

“Leases Register” means the book kept for the purpose of registering leases under section 10(5);

“lessee” means the registered lease-holder;

“native” notwithstanding the provisions of section 2 of the Native Status Ordinance means any aboriginal inhabitant of the Islands and a descendant of any aboriginal inhabitant, whether wholly or partly of aboriginal descent, who has not acquired non-native status under the Native Status Ordinance;  
(*Cap20 of 1973*)

“native adoption” means the adoption of one native by another in accordance with native customary law;

“native land” means land owned by a native or natives;

“native lease” means a lease of native land to a native where the term of the lease does not exceed 21 years and where the land the subject of the lease does not exceed 5 acres, and includes a sub-lease;

“native will” means any will, codicil or other testamentary instrument made by a native and duly

attested in accordance with customary law;

“non-native” means any person other than a native;

“presiding magistrate” means the presiding magistrate of a magistrates’ court composed in pursuance of the provisions of section 7 (4) of the [Magistrates’ Courts Ordinance](#) and, save in sections 18 and 20, any member of the court for the time being presiding;  
(Cap. 52)

“register of native lands” means a register of native lands established in any island under the provisions of the Native Lands Commission Ordinance and maintained by the court under the provisions of this Ordinance and means also a register compiled under the Land Registration (Tarawa and Tabiteuea) Ordinance 1969 and the replacement Register of Native Lands deposited as provided by section 6 of the Land Registration (North Tabiteuea) (Validation) Ordinance 1976

(a) See note at end of Subsidiary Legislation

(Cap 20 of 1952)

(7 of 1969)

(5 of 1976)

“Sub-leases Register” means the book kept for the purpose of registering sub-leases under section 10(5);

“survey mark” means and includes any boundary mark or other mark and any beacon established and fixed by survey;

“title” means right, title and interest.

### **Delegation of powers and duties by Chief Lands Officer**

3. The Chief Lands Officer may delegate the exercise of any power or the performance of any duty conferred or imposed upon him by this Ordinance to any administrative officer.

## **PART II TITLES TO NATIVE LAND**

### **Indefeasibility of title**

4. (1) Subject to the provisions of this section, titles to native lands –

(a) registered by the Commission as evidenced by a register of native lands, and

(b) registered by the court in pursuance of sections 59 and 64(1)(b) of the [Magistrates’ Courts Ordinance](#) as evidenced by a register of native lands shall, subject to section 8(2) of the Land Registration (Tarawa and Tabiteuea) Ordinance 1969 (which provides for the correction of

omissions and errors found in the registers prepared under the Ordinance), be indefeasible.  
(Cap. 52)  
(7 of 1969)

(2) When the court has, under the powers conferred upon it by section 64(1)(a) of the [Magistrates' Courts Ordinance](#), approved the transfer of any native land as a result of causes arising subsequent to the proceedings of the Commission on the island concerned and such transfer has not been varied on appeal, the title thus obtained as evidenced by the necessary rectification of the court register recording the new title to the land, in the register of native lands shall, subject to section 8(2) of the Land Registration (Tarawa and Tabiteuea) Ordinance 1969 be indefeasible.  
(Cap 52)  
(7 of 1969)

### **PART III ALIENATION**

#### **Restriction of alienation of native lands**

**5.** (1) Subject to the provisions of this Ordinance native land shall not be alienated, whether by sale, gift, lease or otherwise, to a person who is not a native.

(2) This section shall in no way prohibit or restrict the alienation of native land to the Crown, a council, the Housing Corporation, a society registered under the [Co-operative Societies Ordinance](#) or the National Loans Board.  
(2 of 1979, s 2)

(Cap. 14)

- (3) (a) Title to land acquired by the National Loans Board as security for moneys lent for the development of that land shall not be or become absolute until the transferor or assignor of that land shall have forfeited or lost the equity of redemption of his title to that land reserved to him at the time of acquisition by the National Loans Board whose title shall also be voidable if an equity of redemption, howsoever described, is not reserved at the time of acquisition.
- (b) Nothing contained in this Ordinance shall derogate from the application of the Lands Code to the transactions contemplated in this subsection.

(4) Native land acquired under this Ordinance shall not cease to be native land for the purpose of this Ordinance by virtue of that acquisition or of its subsequent alienation notwithstanding the definition of native land.

### **PART IV NATIVE LANDS REGISTRARS**

## **Native Lands Registrars**

6. (1) The Chief Lands Officer shall appoint a native lands Registrar for every register of native lands.

(2) Only the Chief Lands Officer and the native lands registrar be entitled to make entries in a register of native lands.

(3) A native lands registrar shall make an appropriate entry in the register of native lands whenever he shall be notified pursuant to section 64 of the [Magistrates' Courts Ordinance](#) of an entry in the court registers.

## **PART V** **LANDS CODE**

### **Mining Licences and Ordinances not to be affected by Lands Code**

7. (1) Nothing in the Lands Code shall affect in any way the validity of any licence now or hereafter granted by the Crown conferring upon any person or persons the right to carry out mining operations within the Gilbert Islands.

(2) Nothing in any Lands Code shall in any way invalidate, amend, or repeal any of the provisions of this Ordinance or any other law of the Islands.

### **Amendment of Lands Code**

8. (1) The Minister at the request of a council within whose area of authority an island wholly or partly lies may by order amend the Lands Code in respect of its application to that island.

(2) The Minister shall cause a copy of every order made under this section to be laid before the House of Assembly at its sitting next following the date on which the order comes into operation.

## **PART VI** **LEASES**

### **Leases and sub-leases invalid until approved and registered**

9. No lease or sub-lease of any native land shall be valid until it has been approved and registered according with the provisions hereinafter contained.

### **Approval and registration of certain leases and sub-leases**

10. (1) A lease or sub-lease of native land, other than a native lease, shall require the approval of

the Minister.

(2) Any native or non-native who desires to obtain a lease of native land, other than a native lease, shall submit such lease for the inspection of the court of the district or island in which the land the subject of the lease is situate.

(3) A lease of native land shall not be approved by the Minister unless the court of the district or island in which the land is situate has confirmed:

(a) that the land is the property of the lessor;

(b) that the lessor is not prohibited under the Lands Code from alienating the land for the term proposed; and

(c) that the lessor will be left with sufficient land to support himself and his dependants:

Provided that paragraph (c) shall not apply to any island or place designated by notice by the Minister under this subsection.

(4) The Minister shall also satisfy himself:

(a) that the terms of the lease or sub-lease are not manifestly to the disadvantage of either party;

(b) that the agreement conforms with the requirement of regulations made under section 40; and

(c) that the fees prescribed have been paid.

(5) Upon these conditions being fulfilled the Minister shall cause a copy of such lease or sub-lease to be registered in a book to be kept for that purpose and known as the Leases Register or Sub-Leases Register as the case may be and shall cause an endorsement to be made on the lease or sub-lease recording the approval, the registered number and date of registration.

(a) The powers and duties of the Minister under this section are delegated to the Chief Lands Officer: L.N. 20/72

### **Approval of native leases**

**11.** (1) Any native desiring to obtain a native lease shall submit the proposed lease to the court of the district or island in which the land the subject of the native lease is situate.

(2) On being satisfied that the land to be leased is the property of the lessor and that the terms and conditions of the lease are fair both to the lessor and the lessee and that if the lease takes effect there will be sufficient land left to the lessor to support himself and his family, the court shall approve the lease and thereupon the presiding judge shall cause the clerk to enter a copy of the lease in the court register of native leases and to make an endorsement upon the lease to the effect that it has been approved and registered.

### **Term and extent of lease and sub-lease**

**12.** No lease or sub-lease shall be granted for a longer period than 99 years or of any parcel of land of greater extent than 10 acres without the approval of the Minister.

### **Transfer of lease and sub-lease**

**13.** No lease or sub-lease granted under the provisions of this Ordinance, other than a native lease, shall be assigned or transferred without the approval of the Minister in the case of leases or sub-leases granted under section 12; and any such assignment or transfer approved as aforesaid shall be registered in the Leases Register or Sub-Leases Register as the case may be.

(a) The powers of the Minister under this section are delegated to the Chief Lands Officer in respect of parcels of land not exceeding 10 acres: L.N. 20/72.

### **Transfer of native leases**

**14.** No native lease shall be assigned or transferred without the approval of the court of the district or island in which the land the subject of the lease is situate.

### **Implied covenants by lessee**

**15.** In any lease or sub-lease there shall be implied unless expressly stated to the contrary the following covenants by the lessee, that is to say:

(a) that he will pay the rent thereby agreed at the times therein mentioned and all rates and taxes which may be payable in respect of the property during the continuance of the lease or sub-lease;

(b) that he will at all times during the continuance of the lease or sub-lease keep and at the termination thereof yield up the lease property in good repair, accidents and damage from fire, storm and tempest and reasonable wear and tear excepted.

### **Powers implied in lessor**

**16.** In any lease or sub-lease there shall also be implied unless expressly stated to the contrary the following powers in the lessor, that is to say –

(a) that he may by himself or his agents at all reasonable times during the term upon giving the lessee 2 days' previous notice enter upon the leased property and view the state of maintenance thereof, and may serve upon the lessee or leave at his last or usual place of abode or upon the property a notice in writing of any defect requiring him within a reasonable time to be therein mentioned to repair the same;

(b) that in case the rent or any part thereof shall be in arrear for the space of 3 months, it shall be

lawful for such lessor to enter upon and take possession of such property;

(c) in the case of default being made in the fulfilment of any covenant whether expressed or implied in such lease or sub-lease on the part of the lessee and being continued for the space of 6 months, or in case the repairs required by the notice in writing specified in paragraph (a) not having been completed within the time therein specified it shall be lawful for such lessor by order of the court to enter upon and take possession of such property.

### **Sub-letting**

**17.** There shall also be implied in any lease or sub-lease, unless specifically stated to the contrary, that the lessee will not sub-let the land comprised in the lease or sub-lease without the consent of the lessor.

### **Giving up possession of leased land**

**18.** Where a lessee shall have delivered to the lessor his copy, if any, of the lease or sub-lease accompanied by a notice in writing stating that upon a given date he will give up possession of the land comprised in such lease or sub-lease the Minister, or in the case of a native lease the presiding magistrate, may, upon application to him by the lessor and production of such evidence as he may require that the lessee has abandoned the occupation of the land contained in the said lease or sub-lease make upon the lease or sub-lease a memorial of the surrender of such lease or sub-lease.

(a) The powers of the Minister under this section are delegated to the Chief Lands Officer: L. N. 20/72

### **Passing of interest of lessee**

**19.** Whenever any memorial shall have been made upon a lease or sub-lease in pursuance of the last preceding section the interest of the lessee in such land shall revert in the lessor, and production of such lease or sub-lease bearing such memorial shall be sufficient evidence that such lease or sub-lease has been so surrendered.

### **Entry in register of determination of lease by lessor**

**20.** The Minister, or in the case of a native lease the presiding magistrate, upon presentation of proof to his satisfaction of lawful re-entry and recovery of possession by a lessor shall make or cause an entry to be made in the Leases Register, Sub-Leases Register or Court Register as the case may be and the lease or sub-lease shall thereupon determine but without releasing the lessee from his liability in respect of the breach of any agreements in such lease or sub-lease expressed or implied and the proper registering authority shall cancel such lease or sub-lease if delivered up to him for that purpose.

(a) The Minister's duty under this section has been delegated to the Chief Lands Officer in respect of leases of native land.

## **PART VII SURVEY**

### **Interpretation of this Part**

**21.** In this Part “surveyor” means a Government surveyor or any person authorised in writing by the Chief Lands Officer to exercise the powers conferred on surveyors by this Part.

### **General powers of surveyors**

**22.** (1) A surveyor may at all reasonable times enter and remain upon any land he is required by or under any Ordinance, by any court or by the Chief Lands Officer to survey or mark out and upon any neighbouring land.

(2) A surveyor may establish in or upon any land referred to in subsection (1) survey marks in such manner and number as he may think fit and may dig up any ground for that purpose and may cut down and remove any trees, crops or other growth and remove or alter any fence or the property which may obstruct any survey or boundary line.

(3) In exercise of the powers conferred by subsection (2) as little damage as possible shall be done.

### **Clearance of boundary and other lines**

**23.** (1) A surveyor may give a written direction to any person requiring him to clear any boundary or other line reasonably required for the purpose of marking out or conducting a survey of land in which that person has an interest.

(2) Any person who wilfully and without reasonable excuse, the proof whereof shall lie on him, fails to comply with a requirement imposed under this section shall be liable to a fine of \$10 and to imprisonment for 1 month.

(3) Any court before whom a person is convicted of an offence under this section may order the convicted person, in addition to any penalty which may be imposed, to pay to the Chief Lands Officer a sum equivalent to the expenditure incurred or likely to be incurred from public funds in clearing the boundary or other line in question.

### **Compensation for damage**

**24.** (1) Whenever it appears that any trees, crops or other growth or any fence or other property will require to be removed, damaged or destroyed in exercise of a power conferred by section 22 or in compliance with a requirement imposed under section 23 a surveyor shall first assess the amount of compensation to be paid therefore and shall give to the owner thereof notice in writing of that amount.

(2) Any person dissatisfied with the amount of compensation assessed under subsection (1) may appeal against the assessment to the Chief Lands Officer if within 3 weeks of receiving a notice referred to in that subsection notice in such form as may be prescribed has been given to the Chief Lands Officer.

(3) The Chief Lands Officer shall either dismiss the appeal affirming the amount assessed under subsection (1) or allow it in which case he shall determine the amount of compensation to be paid:

Provided that where an appellant so requests in the notice of appeal the Chief Lands Officer shall refer the determination of the appeal in accordance with this subsection to any person whom he may wish with the approval of the appellant designate.

(4) The determination of an appeal under this section either by the Chief Lands Officer or by the person designated under subsection (3) shall be final.

(5) The Chief Lands Officer may in any case extend the time within which notice of appeal under this section is required to be given.

(6) No power conferred by section 22 shall be exercised and no requirement imposed under section 23 shall be complied with in the circumstances described in subsection (1) unless an assessment of the amount of compensation has first been made under that subsection.

### **Direction requiring attendance**

**25.** (1) A surveyor may give to any person whom he reasonably believes may be of assistance a written direction requiring that person to attend at a time and place to be specified in the direction.

(2) A surveyor may further require any person who has attended in compliance with a requirement under subsection (1) to give him such information and other assistance as the surveyor may reasonably require for the purpose of ascertaining the boundaries, marking out or conducting a survey of any land.

(3) Any person who wilfully and without reasonable excuse, the proof whereof shall lie on him, fails to comply with a requirement imposed under this section shall be liable to a fine of \$10 and to imprisonment for 1 month.

(4) The Chief Lands Officer may authorise the payment out of public moneys to any person complying with a requirement under this section of such compensation as may be described for any loss or inconvenience thereby occasioned:

Provided that where no compensation has been described for the purposes of this section such compensation shall be paid as the Chief Lands Officer deems in all the circumstances to be just and reasonable.

### **Payment for boundary marks**

**26.** Where boundary marks or other survey marks are established by a surveyor on land at the request of any person the cost of so establishing those marks shall be recoverable by the Chief Lands Officer from that person in any court.

### **Replacement of survey marks**

**27. (1)** The Chief Lands Officer may cause any survey mark established on land by a surveyor, whether under this Ordinance or otherwise, which is found to have been removed, damaged or destroyed to be replaced, re-established or restored and may in any court recover from the person responsible for that removal, damage or destruction the cost of so doing including the cost of any survey thereby occasioned.

**(2)** Without prejudice to subsection (1), the cost referred to may in the case of the replacement, re-establishment or restoration of a survey mark established at the request of any person be recovered by the Chief Lands Officer from that person in any court.

### **Penalty for damaging survey mark**

**28. (1)** Any person who wilfully and without the written consent to the Chief Lands Officer or a surveyor removes, damages, destroys, defaces, obliterates or in any way whatsoever interferes with any survey mark established by a surveyor, whether under this Ordinance or otherwise, shall be liable to a fine of \$100 and to imprisonment for 6 months.

**(2)** Any court before whom a person is convicted of an offence under this section may order the convicted person, in addition to any penalty which may be imposed, to pay to the Chief Lands Officer a sum equivalent to the expenditure incurred or likely to be incurred from public funds in replacing, re-establishing or restoring the survey mark in question including the cost of any survey thereby occasioned.

### **Removal of survey marks**

**29. (1)** Any person who wishes to have any survey mark removed or altered in any way, whether temporarily or permanently, may apply in writing to the Chief Lands Officer setting forth the grounds of the application.

**(2)** Where in consequence of an application under subsection (1) the Chief Lands Officer causes a survey mark to be removed or altered he may in any court recover from the person who made the application the cost of so doing and the cost of replacing, re-establishing or restoring the mark where the application was for its temporary removal or alteration including the cost of any survey thereby occasioned.

## **PART VIII PENALTIES**

## **Offences**

**30.** Any person who—

- (a)* wilfully makes any false statement or declaration in any dealing in land; or
- (b)* suppresses or conceals or aids and abets in the suppressing or concealing from the proper registering authority any material document, fact or matter; or
- (c)* wilfully makes any false declaration required under the provisions or made in pursuance of this Ordinance; or
- (d)* in the course of his examination before the court wilfully gives false evidence; or
- (e)* in the course of his examination before the court wilfully refuses to give evidence; or
- (f)* fraudulently procures any document of title or any instrument affecting title, or the making of any alteration thereto or erasure therefrom,

shall be liable to a fine of \$200 and to imprisonment for 1 year.

### **Penalty for failure to comply with court's order**

**31.** Any person who wilfully and without reasonable excuse, the proof whereof shall lie on him, fails to comply with any judgment, decision or order or direction of a court, a magistrate's court, the High Court or a magistrate exercising jurisdiction under this Ordinance shall be liable to a fine of \$200 and to imprisonment for 1 year.

### **Penalty for fraudulent alteration, etc.**

**32.** Whosoever shall fraudulently alter, add to, erase, deface or destroy or permit to be altered, added to, erased, defaced or destroyed any register or any entry therein or any registered instrument shall be liable to a fine of \$200 and to imprisonment for 1 year.

### **Penalty for wilfully destroying, etc.**

**33.** Whosoever shall wilfully destroy, injure, mutilate, deface or lose any such register or registered instrument shall wilfully allow any such register or registered instrument to be destroyed, injured, mutilated, defaced or lost whilst in his custody or keeping shall be liable to a fine of \$200 and to imprisonment for 1 year.

### **Meaning of register in sections 32 and 33**

**34.** In sections 32 and 33 any reference to a register means any register of native lands, court

register, Leases Register or Sub-Leases Register.

### **Unlawful occupation**

**35.** (1) Complaints concerning unlawful occupation on native land may be lodged with the clerk of the court who shall issue a summons for the appearance before him of the party or parties so informed against and of any other persons or persons whom it may be necessary or proper to examine as a witness or witnesses on the hearing of such information; and the court shall in the presence of the parties proceed to hear and determine such information and being satisfied of the truth thereof shall issue a warrant addressed to any police officer requiring him forthwith to dispossess and remove from such land any person in unlawful occupation of such land and the officer to whom such warrant is addressed forthwith carry the same into execution.

(2) The court may order such person to pay to the proprietor compensation for the period of the unlawful occupation and to pay to the Government any costs incurred in dispossession and removal.

(3) Any person who occupies land without a claim of right made in good faith shall be liable to a fine of \$50.

### **Removal or interference with boundary mark**

**36.** No boundary mark shall be defaced, obliterated, moved, injured or otherwise impaired, destroyed or rendered useless except by a person duly authorised thereto by a court and any person acting in contravention of this section shall be liable to a fine of \$50 and to imprisonment for 6 months.

### **Disturbance of court**

**37.** Any person who within or close to the building where the court is sitting or in the presence or hearing of the presiding magistrate or the magistrates of the court when engaged in determination of boundaries wilfully misbehaves in a violent, threatening or disrespectful manner to the disturbance of the court or to the intimidation of suitors or others resorting thereto, or wilfully insults any member or officer of the court shall be liable to a fine of \$50 and to imprisonment for 6 months.

### **Failure to answer summons**

**38.** Any person summoned by the court who fails to appear at the time and date specified in the summons without good cause shall be liable to a fine of \$10.

### **Proceedings where to be instituted**

**39.** Proceedings for any offence created under this Part or Part VII shall be taken before a magistrates' court however composed.

## **PART IX GENERAL**

### **Regulations and fees**

**40.** The Minister may make regulations to give effect to the provisions of this Ordinance, and in particular, but without prejudice to the generality of the power hereinbefore given, may prescribe:

- (a) the manner in which lease shall be prepared, including the quality, size and condition of paper and quality and colour of ink to be used;
- (b) the fees payable for the examination and approval of leases and for matters related thereto;
- (c) the fees payable for the registration of leases and for matters related thereto.

### **Regulation governing practice under section 24**

**41.** Without prejudice to section 40 the Chief Lands Officer may, with the approval of the Chief Justice, make regulations prescribing the form of notice under section 24 (2).

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## **SUBSIDIARY LEGISLATION**

### **Lands Code referred to in section 2**

Gilbert and Phoenix Islands Lands Code.....L.N.8/63

5 of 1956

Under the provisions of section 28 of the Native Lands Ordinance 1956 the following Code was declared to be the Code of Laws governing native land rights from 1 March 1963 in each of the following islands—

MAKIN  
BUTARITARI  
MARAKEI  
ABAING  
TARAWA  
MAIANA  
ABEMAMA  
ARANUKA

KURIA  
NONOUTI  
TABITEUEA  
ONOTOA  
NIKUNAU  
BERU  
TAMANA  
ARORAE  
ARONA  
NIKUMARORO

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## **GILBERT AND PHOENIX ISLANDS LANDS CODE**

### **Application**

In this Code if there is no name of an island next to a section then it means that the section applies to all islands or most of them and the general section and the name of the island is then shown next to the relevant section.

### **Interpretation**

In this Code “court” has the same meaning as in the Ordinance.

## **THE CODE**

### **Authority of an owner over his property**

1. (i) An owner controls the use of his property except that if it is proved to the satisfaction of the court that an owner is preventing his issue from obtaining a livelihood from his land, the court may order that some of his property be set aside for the maintenance of his issue. The court may also direct that the owner shall not make use of such property himself. The ownership of property set aside in this way is not transferred.
- (ii) (a) An absentee owner is free to leave his property to be cared for as he wishes.  
(b) If an absentee landowner has not appointed a caretaker to look after his property then the court may choose a caretaker to take charge of his property for him.  
(c) If an owner wishes to appoint someone to look after his property it will only be allowed by the court if the property is to be properly cleaned and maintained by the caretaker.

### **Neglect**

2. If any next-of-kin of an owner deliberately neglect that owner (and not on account of his own

sickness, or because the owner refuses his help, or for any other reason) the owner may direct that that next-of-kin is to receive no share of his property; provided that during the owner's lifetime the neglectful next-of-kin has been successfully prosecuted for his neglect.

### **Nikunau Arorae**

On these 2 islands the above section is not applicable and the following takes its place –

A parent may distribute his property to his issue however he wishes but each of them must receive sufficient for his livelihood. A child may not be disinherited. It is immaterial if he is neglectful or not or if he marries without his parent's consent. An heir of an owner who is not the issue of that owner may be disinherited if he is deliberately neglectful.

### **Gifts**

3. (i) If the next-of-kin of an owner are over 18 years of age, and a majority of them permit him to dispose of his property in any manner he wishes, then the court may permit such a distribution.
  - (ii) The distribution of the whole of an estate of an owner to someone other his next-of-kin, will only be allowed-
    - (a) if the next-of-kin have deliberately neglected an owner (and not because the owner has refused their help or for any other reason); or
    - (b) if a majority of the next-of-kin agree.

### **Nikunua, Arorae**

Section 3 (ii) (a) above will not be applicable if the owner has children.

(iii) An owner has complete authority over the disposal of any land he has received as a reward for his work, or which he has bought, or which he has received in exchange for a canoe or anything else or which he has received as an unreturnable gift land. He may dispose of them just as he wishes but if he dies issueless and he has no brothers and sisters and is intestate then the lands will be distributed to his paternal next-of-kin.

(iv) If an owner has received a gift which must revert to the donor's family if he, the recipient or his issue dies issueless then he may not give away such property.

### **Distribution of an estate and gifts *inter vivos***

4. (i) An owner's order disposing of his property during his lifetime may be allowed by the court if it complies with this Lands Code. The owner's order will only be altered or overruled-
  - (a) if any of his issue or next-of-kin who are not guilty of neglect would thereby be left in hardship, but if they have been guilty of neglect then the order will not be stopped because of any resulting hardship (See Section 2); or

(b) if the shares of his next-of-kin are thereby grossly unfair.

(ii) The court shall first enquire into the opinion of the other children or next-of-kin of the-owner before approving such a distribution or gift.

(iii) A parent may not take back a dowry granted to a daughter on her marriage unless it is proved that the daughter has been guilty of neglect or if insufficient land remains for the support of children born to the parent, subsequently to the gift.

### **A gift for nursing**

5. (i) A gift for nursing may only be given by a will which has been confirmed by the court or if it is satisfied that the deceased made no will because he was prevented from so doing, or he was incapable of making one.

(ii) If the members of the owner's family refuse to nurse him then a stranger may be rewarded for nursing him. An owner may not choose a nurse from outside his family unless he has successfully prosecuted them in the court.

(iii) A gift for nursing shall not exceed one land and one pit if the donor's family nurse him, but if a stranger nurses him, or only one of his family, and the others refuse to do so, then the gift may be increased.

(iv) A gift for nursing shall not be allowed when the donor is in a hospital which has full facilities.

(v) A man may also give his wife one land or one pit, or one land and one pit, and a woman may do so to her husband as a gift for nursing if they are not nursed by their children if they have any or by their next-of-kin if they have no issue.

### **Tabiteuea**

Section 5(v) above is applicable but all the property of the owner may be given to the spouse if the family's neglect is proved.

### **Makin, Butaritari, Kuria**

A man may give his wife one land or one pit, or one land and one pit, and a woman may do so to her husband as a gift for nursing.

(vi) Gifts for nursing are given away and do not return to the donor's family if the recipient is issueless.

### **Tarawa**

Gifts for nursing will revert to the donor's family if the recipient dies issueless. But if the recipient has children the donor loses his reversionary right and it is immaterial if his issue are later issueless.

### **A gift for kindness**

6. (i) An owner is free to give a gift for kindness and it is immaterial if he is neglected or not and the gift may be approved by the court. If there is no neglect, then the gift will not be approved if it is large and it will result in his next-of-kin being left in hardship.

### **Nikunau**

This is called a gift of "Bora".

- (ii) Gifts for kindness are given away and do not return to the donor's family if the recipient is issueless.

### **Marakei, Abaiang, Aranuka, Abemama, Kuria, Onotoa, Tamana,**

- (ii) Gifts for kindness are given away and do not return to the donor's family if the recipient is issueless.

Gifts for kindness will revert to the donor's family if the recipient dies issueless. But if the recipient has children the donor loses his reversionary right and it is immaterial if his issue are later issueless.

Gifts for kindness will revert to the donor's family if the recipient or his issue are issueless; then the property will revert undivided to one of the donor's family or to that number of them which equals the number of properties to revert and the court will decide this by considering the livelihood of the various members of the donor's family.

### **Adoption as a grandchild**

- 7 (i) A gift to an adopted grandchild may only be given if the adoptive grandparent has registered the adoption before the court. An adoption as a grandchild shall only be allowed by the court if it is satisfied that the adoptive grandparent's real issue or his family if he is issueless will not thereby be left in hardship, but if his real issue or his family if he is issueless are guilty of neglect then the court may approve the adoption and it is immaterial if there are not enough lands left for his real issue or his family. Such an adoption may be annulled by the court if it is proved that the adopted grandchild is not dutiful. The adopted grandchild does not forfeit his inheritance from his real father and mother.
- (ii) If such an adoption is not annulled before the death of the adoptive grandparent and the adopted grandchild has not yet received a gift of adoption and is not left one by will then he may claim in the court for the award of such a gift. The court shall carefully consider the adoptive

grandchild's claim and if it is satisfied that it is right and it considers that it was the intention of the adoptive grandparent to make a gift of adoption to his grandchild, then the court may approve the award of such a gift.

(iii) A gift for an adoption as a grandchild may not exceed one land, one pit, one fishpond and five niba (planting holes for one babai plant).

#### **Makin, Butaritari, Marakei, Abaiang, Tarawa, Aranuka, Arorae, Nikumaroro, Orona**

(iv) Gifts for an adoption as a grandchild will revert to the donor's family if the recipient dies issueless. But if the recipient has children the donor loses his reversionary right and it is immaterial if his issue are later issueless.

#### **Maiana, Abemama, Kuria, Nonouti, Onotoa, Tamana**

Gifts for an adoption as a grandchild will revert to the donor's family if the recipient or his issue are issueless; the property will revert undivided to one of the donor's family or to that number of them which equals the number of properties to revert and the court will decide this by considering the livelihood of the various members of the donor's family.

#### **Tabiteuea, Beru, Nikunau**

If the recipient of a gift for an adoption as a grandchild dies issueless, the gift will not revert but will be inherited by his family.

#### **Mutual inter-family adoption of grandchildren**

8. When 2 owners have agreed to adopt as grandchildren each other's real grandchildren but only one of the 2 makes a gift to his adopted grandchild, then the adoptive grandparent who made a gift to his adopted grandchild but whose real grandchild has not received a corresponding gift of adoption from his adoptive grandparent may if he wishes recall his gift even though he is not neglected by his adopted grandchild.

#### **Adoption as son or daughter**

9. (i) A gift to an adopted grandchild may only be given if the adoptive parent has registered the adoption before the court. An adoption as a child shall only be allowed by the court if it is satisfied that the adoptive parent's real issue or his family if he is issueless will not thereby be left in hardship, but if his real issue or his family if he is issueless are guilty of neglect then the court may approve the adoption and it is immaterial if there, are not enough lands left for his real issue or his family. Such an adoption may be annulled by the court if it is proved that the adopted grandchild is not dutiful.

(ii) An adopted child will receive his inheritance from his real father and mother in the same way as his brothers and sisters.

(iii) An adopted child will inherit from his adoptive parent just as though he were a real child of that person. At the time that the adoption is registered before the court it must be decided if the adopted child is to receive from the adoptive parents' father's and mother's family lands or only from the adoptive parents' father's lands or only from his mother's lands.

**Makin, Butaritari, Marakei, Abaiang, Tarawa, Aranuka, Arorae, Nikumaroro, Orona**

(iv) Gifts to an adopted child will revert to the donor's family if the recipient dies issueless. But if the recipient has children the donor loses his reversionary right and it is immaterial if his issue are later issueless.

**Maiana, Abemama, Kuria, Nonouti, Onotoa, Tamana.**

Gifts to an adopted child will revert to the donor's family if the recipient or his issue are issueless. The property will revert undivided to one of the donor's family or to that number of them which equals the number of properties to revert and the court will decide this by considering the livelihood of the various members of the donor's family.

**Tabiteuea, Beru, Nikunau**

If the recipient of a gift to an adopted child dies issueless the gift will not revert but will be inherited by his family.

**Distribution of an estate decided by will**

10. (i) An owner's will disposing of his property may be allowed by the court if it is in accordance with this Lands Code.

(ii) If any owner wishes to direct the distribution of his estate after his death then he should make a will. This may be written on any kind of paper but it is better if he will use the will forms kept by the clerk of the court. When he has written the terms of his will then he must sign it in the presence of 2 witnesses who must also sign it. The will must be witnessed by 2 persons who are not members of the testator's family and who are not beneficiaries under the will.

A new will may be substituted or a new condition may be written changing the terms of the first will but such new wills or terms must both also be signed and witnessed. A written will, correctly witnessed, may not be changed by a verbal one - it is immaterial if the verbal bequest is witnessed or not. If an owner has made no written will then a properly witnessed verbal bequest may be considered by the court.

## **Abemama**

(iii) Notwithstanding what is written in the sections above and below, at Abemama an owner who has no issue is free to give away or sell half his estate from his father's family and half from his mother's family and it is immaterial whether he is neglected or not.

### **Distribution of an estate where there is no will**

11. The estate of an intestate owner or of an owner whose will has been stopped will only be settled when his next-of-kin, or their representatives are present. If the next-of-kin can agree upon a distribution then this may be approved by the court. If no agreement can be reached then the estate will be divided as shown below.

#### **Shares of children when property owner more than one spouse.**

**Marakei, Tarawa, Maiama, Kuria, Aranuka, Abemama, Nonouti, Tabiteuea, Onotoa.**

- (i) (a) If an owner has more than one spouse then the eldest son of the first spouse will be the administrator or if there is no son by the first spouse but only daughters then the eldest daughter will be the administrator. A female administrator may if she wishes allow a son by a subsequent spouse to be the administrator. The issue of the first spouse will receive the best land and thereafter the estate will be shared equally between the spouses. However if some of the children of the owner will suffer hardship by such a distribution then the court may distribute the lands amongst the children irrespective of which spouse they are from.

#### **Makin, Butaritari, Abaiang, Nikunua, Arorae, Tamana, Orona.**

(b) If an owner has several spouses then the estate will be distributed amongst the children irrespective of which spouse they are from.

#### **Beru, Nikumaroro**

(c) If an owner has several spouses the eldest son of the owner will receive the best land and it is immaterial whether he is by the first spouse, the second spouse, the third spouse or any other spouse, and thereafter the estate will be shared equally between the spouses.

### **Relatives shares of children of an owner**

(ii) In the distribution of an estate between the sons and daughters of an owner the shares of the eldest son shall exceed that of his brothers, and the share of sons shall exceed the shares of daughters. If there are no sons then the share of the eldest daughter will exceed that of her sisters.

#### **Makin, Butaritari, Tamana, Arorae**

All children of an owner will receive equal shares.

Sons will receive more than daughters but the first born will receive no extra.

### **Distribution of fishponds and fishtraps.**

(iii) A daughter will receive fishponds or fishtraps if there are no sons of the owner, or if the parent or her brother so decide. If there are many fishponds and fishtraps, and the parent has made no will concerning them, the court may direct that a daughter will receive a share. A daughter will receive a share of fishponds or fishtraps from this provision only if the sons have received their shares.

### **Makin, Butaritari, Nikunau, Tamana, Arorae**

Sons and daughters will share fishponds and fishtraps equally.

### **Distribution of joint estate of owner and wife**

(iv) A father and a mother may jointly distribute their estate and a child may not claim against such a distribution just because he has received a share from his father only and not from his mother, or perhaps from his mother only and not from his father. If the child has received a fair share from the joint estate the distribution may be approved by the court.

### **Distribution of issueless owner**

- (v) (a) If an issueless owner is intestate or his will does not conform with this Lands Code, the distribution of the estate will be made by the court in such a manner that the lands will not be fragmented or subdivided and if there are insufficient lands for distribution to all his next-of-kin, then only those whose shares are small from previous distributions will receive shares. Men and women will share equally in the distribution of an issueless estate.

### **Marakei**

Women will not receive shares in the distribution of an issueless estate.

(b) The near family or next-of-kin of an owner are firstly his real brothers and sisters if any, and secondly if he has no full brothers and sisters then his half brothers and sisters who are his next-of-kin for, the properties of their common parent. If there are no other issue of his father or mother then the property he has received from his father will be inherited by the brothers and sisters of his father or their issue and the property received from his mother will be inherited by the brothers and sisters of his mother or their issue.

(c) An owner has complete authority over the disposal of any lands he has received as a reward for his work, or which he has bought, or which he has in exchange for a canoe or anything else or

which he has received as an unreturnable gift land. He may dispose of them just as he wishes but if he dies issueless and he has no brothers and sisters and is intestate then the lands will be distributed to his paternal next-of-kin.

### **Distribution of estate of an issueless bastard.**

(vi) If a bastard dies issueless then his estate will be divided in the same way as any other issueless estate.

### **Subdivision of lands**

(vii) The court should, if possible, refuse to cut up a land plot when distributing an estate - so that each land plot in a distribution will not be cut into several pieces and then shared out to all the next-of-kin, but land plots will be undivided so that one next-of-kin will be given one or more whole plots and the lands will be distributed according to their size: in this way a next-of-kin receives small lands will receive a larger number.

### **Distribution of property of absentee owner**

12. If an owner is absent from his island for 15 years the court should enquire the intention of owner or his issue to return. If the court is satisfied that neither the owner nor his issue will return then the estate may, be distributed to his next-of-kin who live on the island as though the owner had died issueless or decided by the court.

### **Exchange of properties**

13. Landowners may exchange their lands but they must do so in the court. The court will stop an exchange only if there is a great difference in value in the properties to be exchanged. It is immaterial if the properties are both on one land or if one is on a different island. Exchanges of pits and fishponds may be made similarly. The line of inheritance of a land received in an exchange will be that of the land which has been given away.

### **Sale of property**

14. An owner may sell a land, a pit or a fishpond if his next-of-kin agree and the court, having considered the matter, approve. Before reaching its decision the court should first consider if the lands remaining to the owner after the sale are sufficient for him and his children.

### **Kuria, Aranuka, Abemama**

An owner is free to sell one land and one third of the remainder of his lands received from his father's family and a similar proportion of those lands received his mother's family. The landowner's next-of-kin retain their rights of inheritance on their remaining lands from their

families. This proportion may be exceeded only if half of the next-of-kin of the relevant side of the family agree.

### **Improvements**

15. (i) Before making a fishtrap, a seawall, a pond, a pit or niba upon anyone else's land, the person wishing to make the improvement must come before the court only if the owner of the land upon which it is to be made refuses to give permission, or if the value of an existing improvement will be reduced thereby.
- (ii) When permission has been obtained to make an improvement, then it must be made and when it is complete it will be inspected by members of the court and the person who made it must again come before the court so that it can be registered in the register of native lands under his name.

### **Natural accretions**

16. (i) If a land accretes naturally towards the sea from an owner's land then the accretion belongs to the landowner upon whose land it accretes; if it accretes upon a seawall then the accretion belongs to the owner of the wall: and if it accretes from a land and from a seawall then the accretion is shared between them.
- (ii) Any accretion which does not adjoin an existing land shall belong to the Government and the court may give it to any indigent person. If the person awarded the land plants it properly then he will be confirmed in ownership but if he neglects the land the court may take it from him and give to another person.

### **Onotoa**

Only applicable in the village of Tabuarorae, west of the passage. If land accretes from a plot of land then it will belong to the owner of that plot but if it extends further outside the limits of that land's boundaries then the extension will belong to an adjoining landowner opposite whose land the accretion extends. If however the land accretes from a seawall then the provision in Section 16(i) above applies.

### **Arorae**

The ownership of accretion at the northern or southern ends of the island will be decided by the court which must decide to whom the land should belong from amongst the population of the nearest village.

### **House plots**

17. (i) A householder is free to remain in occupancy of his house site provided that he will do one of the things shown below. The landowner may not refuse to allow this and he may only claim to evict the householder from house site if the householder refuses to do the things prescribed. The landowners and the householders should signify their mutual agreement before the court. If they have not made any such agreement then the court shall decide on what should be done. The court may also decide the amount of rent or the price of the land or the amount of anything that should be exchanged with the house site in the event of there being no agreement.

(ii) *Things that may be done-*

(a) The householder may lease a house site from the landowner and in so doing will pay rent for such land monthly or yearly.

(b) The householder may allow the use of his land, pit or pond by the land-owner who agrees to him living on his site by way of an exchange for the mutual use of their property during the time the householder uses the landowner's site.

(c) The householder may agree to a permanent exchange whereby he receives a house site, the latter to be regarded as his own property in exchange for one of his lands, pits or ponds.

(d) The householder may buy a house site from the landowner.

### **Makin**

Householders are also responsible for paying tax on their house sites. This, however, does not mean that landowners or others are free from their liability under Makin Section 3.

### **Makin, Butaritari. A gift from a true parent to the adoptive parent of his child.**

1. With the approval of the court one land and one pit may be given by the adopted child or his family to the adoptive parent. A land given as a gift in this way will not revert to the donor unless the court decides that it should because the adopter has acted in such a manner as to make desirable the reversion of the gift land.

### **A gift by a man to his wife during marriage.**

2. With the approval of the court a man, during marriage, may give his wife one land and one pit and these will not revert to the donor.

### **A gift by a woman to her husband during marriage.**

3. As in paragraph 2 above but a gift from the wife to her husband. With the approval of the court a woman, during marriage, may give her husband one land and one pit and these will not revert to the donor.

### **Butaritari: Communally owned land.**

As from the month of October in the year 1956 there will be no more communally owned land, the custom regarding the use of land per week or per month or per year no longer holds. From this date a person will not be permitted to have a land registered in his name together with another landowner. A person may get his share only by transfer of the land from a registered land-owner. The lands 578-1 Aubangkai and 678-3(a) Barakinikuria will remain owned land communally owned by, the descendants of Nei Katiria and lands 578-2 Aubangkai and 678-3(c) Barakinikuria by the descendants of N. Kakiaki and lands 610-2 Biti by the descendants of N. Taebontetoa.

### **Marakei**

1. (i) When a pond already owned and registered in 1923 becomes dry, the bed will remain the property of the pond-owner.  
(ii) When ownership of a pond has been obtained after the year 1923 and the pond becomes dry the bed will revert to the landowners.
2. When a person who has dug a pit on the land of another person becomes issueless the pit will revert to the landowner.

### **Abaiang, Nikunau**

A land may be given by the parents of a child to a wet-nurse as a gift for wet-nursing and the members of the family may not object to such a gift being given.

### **A gift for wet-nursing a child**

A land may be given to a wet-nurse as a gift for wet-nursing a child will revert to the donor if the donee dies issueless. But if the donee dies and has children the donor will lose ownership of the land even if the children of the donee dies issueless.

### **Tabiteuea: Boundaries of fishponds**

The boundaries between lands and fishponds surrounded by barren land will be fixed at a point 3 fathoms from the high water mark of the pond. If barren land extends less than 3 fathoms from the pond the boundary, shall placed at the point where the barren land ends and fertile land begins.

### **Tabiteuea, Onotoa, Nikunau: Newly dug pits and ponds**

If a pit or pond is dug by a married couple on the land of the man or of the man's family and the couple are issueless or are divorced without any children the pond or pit will pass to the man or his family. The same will apply in the case of the woman's land or the land of her family. If a pit or pond is dug by a married couple on the land of a person other than a member of their families

and the couple are issueless or divorced without any children the property will be shared between the man and the woman, or their families if they are dead.

### **Makin: Distribution amongst groups of owners**

1. Lands, other than the High Chief's quarter which has already been designated as a sufficient share for him, which are in group ownership will be divided equally as between the members of the high chiefly family, the "toka" (petty chiefs) and the workers whose names are recorded in the register of native lands.

From such time the rights and customs pertaining to such lands are abolished.

### **Multiple ownership of lands**

2. (i) Where there are joint owners of lands the owners will use and work these lands year about provided where hardship is endorsed by the court the period may be reduced to month about or week about. As regards the use of land and the time at which such work shall start the effective date shall be the 1st January every year. A group of owners under one family head shall all use the land during their appropriate year. The same applies to any lesser period on the land.
- (ii) When the land is being used year about, they are free to take nuts from the coconut trees until the 31st of August each year. If any person is found climbing a tree after the approved time he will forfeit his right of using the land during such time as has been decided by the court. But those whose term is shorter will not be allowed to pick nuts off the tress.
- (iii) If a court finds that a land user has failed to carry out his work within the time specified for performing his share of planting, cutting, and cleaning the bush, or he does not do what he is required to do during his time on the land, the court may make an order terminating his time on the land until such time as the court observes that he has done his appropriate share of the work which he is required to do on the land.
- Forfeiture of his time on the land by a person not performing his proper share of the work does not absolve the person concerned from his responsibilities or liabilities on the land: he shall still do his share of the work or provide his share of the tax if any.
- (iv) The court shall arbitrate between landowners who fail to come to an agreement.

### **Landowners tax**

3. The users of the land in each year are responsible for payment of the tax on the land and their agreement as to their proportions shall be made before and confirmed by the court. But it is the proper responsibility of the person in whose name the land is registered to ensure that the name of the person responsible for paying the tax is recorded by the council each year. If the name of the person responsible for payment of tax is not recorded or if there is a mistake in connection therewith, the responsibility for the payment of the tax and other matters related thereto rests

with the person whose name is registered in the register. The name of the head of the family alone will be recorded in the land tax register and it is his duty to ensure that payment is made by his relatives using the land or the person whose name is registered in the book. Any person failing to pay his share of tax on the land used by him will forego his "term" on the land for such time as the court may decide.

### **Division**

4. Now that the numbers and sizes of lands have been determined it is the responsibility of the family to decide on the allocation of their own individual plots. Divisions will be approved and supervised by the court.

### **Designation under the proviso to section 10(3)**

Banaba is designated an island to which section 10(3)(c) shall not apply.  
*L.N. 8/73*

### **Regulations under section 40**

## **NATIVE LANDS LEASES REGULATIONS**

### **Citation and Application**

1. These Regulations may be cited as the Native Lands Leases Regulations and shall apply to all leases and sub-leases of native land requiring the approval of the Minister under section 10:

Provided that these Regulations shall not apply to any lease of land situate in Banaba to which the British Phosphate Commissioners are a party.

### **Form of lease**

2. (1) Every lease shall be prepared in triplicate in the form set out in Schedule 1:

Provided that any of the standard conditions in the form may be amended, deleted or added to by agreement between the parties to the lease.

(2) Forms in the form set out in Schedule 1 shall be provided without charge by the Chief Lands Officer.

### **Form of sub-lease**

3. Every sub-lease shall be prepared in duplicate in such form as the Chief Lands Officer may require.

### **Plan**

4. A plan of the land to be leased in such form and showing such particulars as the Chief Lands Officer may require shall be attached to each copy, of the lease or sub-lease.

#### **Manner of execution of leases and sub-leases**

5. (1) Every copy of a lease or a sub-lease shall be signed and amendments initialled by all the parties thereto.

(2) Where land is held by joint owners the signature of one joint owner shall be binding on all joint owners and the payment of rent to and acceptance by one of the joint owners shall be sufficient discharge for the lessee.

(3) Where a party to a lease or sub-lease is a body corporate the signatures of two of its trustees or principal officers shall be sufficient to bind the body corporate.

(4) Where a party to a lease or sub-lease acts through a person holding a power of attorney the Chief Lands Officer shall certify an accurate copy thereof be a true copy and shall annex it to the copy, of the lease or sub-lease to be retained in the appropriate register.

#### **Language of leases and sub-leases**

6. (1) The copy of every lease or sub-lease retained in the leases register or sub-leases register shall be in English and the other copies shall be in English or the vernacular.

(2) In the event of any discrepancy between the copies of a lease or sub-lease the copy retained in the appropriate register shall prevail.

#### **Procedure for leases**

7. Where as regards a proposed lease a lands court, has confirmed all the it is required to confirm by section 10 (3) the registrar shall forthwith transmit all the copies of the proposed lease to the Minister for his consideration.

#### **Procedure for sub-leases**

8. After signature by the parties all the copies of a proposed sub-lease shall be transmitted to the Minister for his consideration.

#### **Fees**

9. The fees payable in respect of the matters specified in Schedule 2 shall be Fees therein prescribed.

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## SCHEDULE 1

*(Regulation 2 (1))*

THE GILBERT ISLANDS

LEASE AGREEMENT

### **(Regulation 2(1) of the Native Lands Leases Regulations)**

Name of Landowner ("lessor"): .....

Postal address: .....

Name of Tenant ("lessee"): .....

Postal address: .....

Name and no. of land, village and Island. ("the demised land").....

Approx. area: .....

Agreed rent: .....

(\$ per acre/hectare).....

Terms of lease .....years from.....19.....

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### CONDITIONS OF LEASE

1. This Lease is subject to Part VI of the Native Lands Ordinance (Cap 61)

**\* Delete whichever is not applicable and insert date 5 years after date of first payment of rent.**

2. The lessee agrees to pay to the lessor the rent reserved in advance/arrear\* on the .....day of .....of every year the first of such payments to be made on the .....day of .....

3. The lessor and lessee agree that on the day of and at intervals of 5 years thereafter the rent shall be reviewed by agreement and in the absence of agreement that they shall refer the matter to the magistrates' court exercising jurisdiction under section 58 of the [Magistrates' Courts Ordinance](#) (Cap 52) for arbitration and shall accept the Panel's determination.

**\*Delete if not applicable**

\*4. During the term of the lease the lessee shall be entitled to the exclusive use of all land, trees, plants and fixtures and shall pay all rates and taxes which may be payable in respect of the demised land.

**\* Delete if not applicable**

\*4. The lessee shall during the term of the lease subject as hereinafter provided be entitled to the exclusive use of the demised land. During the term of the lease the lessor shall retain the usufruct of the trees and plants on the demised land and shall pay all rates and taxes which may be payable in respect of the demised land. The lessee shall permit the lessor or his agent at all reasonable times to enter upon the demised land to cultivate and harvest the trees and plants. In the event of the lessee requiring the removal of any trees or plants he shall pay compensation therefor.

5. The lessee shall not sub-let the demised land or any part thereof without the written consent of the lessor which consent shall not be unreasonable withheld.

6. If the rent hereby reserved or any part thereof shall be unpaid for 3 months after having become payable (whether formally demanded or not) the lessor may at any time thereafter re-enter and take possession of the demised land or any part thereof in the name of the whole.

7. The words “lessor” and “lessee” shall include their successors in title.

**DESCRIPTION OF THE DEMISED LAND**

As indicated on the annexed plan.

**SCHEDULE OF TREES. PLANTS AND OTHER FIXTURES**

Compensation amounting to \$.....has been paid to the lessor on P.V No .....dated the.....day of .....in respect of the following –

Further compensation –

IN WITNESS the parties hereto agree to the terms and conditions of this lease as herein set out.

This.....day of.....

.....

**Lessor Witness**

.....

**Lessee Witness**

By Court Case No.....of the Lands of.....

It is confirmed that-

- (a) the land to be demised is the property of the lessor;
- (b) the lessor is not prohibited under the Lands Code from alienating the land for the term proposed; and
- (c) the lessor will be left with sufficient land to support and his dependants.\*

\*Delete if the land is wholly within an island or place to which paragraph (c) does not apply.

Date:.....

*Presiding Magistrate*

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I am satisfied that –

- (a) the terms of this lease are not manifestly to the disadvantage of either party;
- (b) that the agreement confirms with the requirement of all regulations made under section 40 of the Native Lands Ordinance;
- (c) that all the fees prescribed by such regulations amounting to \$.....have been paid on RR No .....  
dated .....

I approve the lease.

Date: .....

*Minister*

Registered No .....

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## SCHEDULE 2 (Regulation 9)

		\$	C
a	For surveying land, preparing a plan and proving 3 or 2 copies thereof for a lease or sub-lease-for each boundary mark established	2	00
b	For preparation of lease – per set of 3 copies	1	00
c	For preparation of sub-leases- per set of 2 copies	1	00
d	For submission of proposed lease to the lands court under section 10(2)	0	75
e	For registration under section 10(5) or 13	1	00

f	Making a memorial of surrender upon a lease or sub-lease under section 18	1	00
g	Making an entry in Leases Register or Sub-Leases Register under section 20	1	00
h	For searching Leases Register or Sub-Leases Register	0	50
1	For preparation of a copy of a document registered under section 10(5) or 13- per page	0	50

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