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CHAPTER 271

CUSTOMARY LAND TRIBUNAL

Act 7 of 2001

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CUSTOMARY LAND TRIBUNAL

An Act about customary land disputes, and for related purposes.

PART 1 – PRELIMINARY

1. Object

The object of this Act is to provide for a system based on custom to resolve disputes about customary land.

2. Overview

- (1) For the purposes of this Act, each island is divided into custom areas. Larger islands are divided into many custom areas. By way of contrast, very small islands may consist of only one custom area. Custom areas are subdivided into custom sub-areas. The procedure for resolving disputes about customary land varies depending on whether the land is situated wholly or partly within a custom area or a custom sub-area.
- (2) This Act covers the following main topics:
 - (a) the establishment of land tribunals to resolve disputes about customary land;
 - (b) the procedures to be followed by those land tribunals in resolving such disputes;
 - (c) the appeal process for parties who are dissatisfied with decisions of land tribunals.
- (3) Part 2 sets out how a village land tribunal is to resolve a customary land dispute. A village land tribunal can be a single or joint village land tribunal depending on whether the land in dispute is situated in one or more than one village. If all the parties accept the decision, the dispute is resolved. If not, there is provision for appeals to custom sub-area land tribunals (see Part 3), custom area land tribunals (see Part 4) and island land tribunals (see Part 5).
- (4) Part 6 sets out the procedures to be followed by land tribunals. The procedures are substantially the same for each kind of land tribunal.
- (5) Part 7 deals with qualifications for members and secretaries of land tribunals and Part 8 deals with miscellaneous matters.
- (6) The flowchart in Schedule 1 broadly summarises the procedures for resolving disputes about customary land under this Act.

3. Interpretation

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

“chairperson” means the chairperson of a land tribunal.

“custom area” means an island or part of an island having a substantial identity of custom, and under the customary regulation of a custom area council of chiefs.

“custom area land tribunal” means a single or joint custom area land tribunal.

“custom sub-area” means a subdivision of a custom area that is under the customary regulation of a council of chiefs separate from the custom area council of chiefs, and includes such a subdivision known on some islands as a ward or district.

“custom sub-area land tribunal” means a single or joint custom sub-area land tribunal.

“customary land” means land owned or occupied, or an interest in land held, by one or more persons in accordance with the rules of custom.

“Director” means the Director of the Department responsible for lands.

“elder” means any person with important communal responsibilities within a village, regardless of his or her age.

“Island Court” means a court established under the Island Courts Act [Cap. 167].

“land tribunal” means:

- (a) a single or joint village land tribunal; or
- (b) a single or joint custom sub-area land tribunal; or
- (c) a single or joint custom area land tribunal; or
- (d) an island land tribunal.

“member” means the chairperson or any other member of a land tribunal, but does not include the secretary of a land tribunal.

“Minister” means the Minister responsible for lands.

“village land tribunal” means a single or joint village land tribunal.

- (2) In this Act, references to the payment of sitting allowances, costs, compensation and fines include payments by money, and payments by customary items of exchange, such as pigs, kava, mats, yams and taro if they are acceptable to the recipient.

4. Application to sea

This Act extends to the waters within the outer edge of any reef adjacent to customary land.

5. Pending court proceedings

(1) If:

- (a) a person is a party to a proceeding before the Supreme Court or an Island Court relating to a dispute about customary land; and
- (b) the person applies to that Court to have the proceeding withdrawn and the dispute dealt with under this Act; and
- (c) the other party or parties to the proceeding consent to the withdrawal and to the dispute being dealt with under this Act; and
- (d) that Court consents to the withdrawal and to the dispute being dealt with under this Act;

the dispute must be dealt with under this Act and one of the parties must give notice under section 7.

(2) The Supreme Court or an Island Court may:

- (a) order that any fees paid to that Court in respect of such proceedings be refunded in full or in part to the applicant or any of the other parties; and
- (b) make such other orders as it thinks necessary.

(3) To avoid doubt, if proceedings before the Supreme Court or an Island Court relating to a dispute about customary land are pending, the dispute cannot be dealt with under this Act.

6. Arrangements outside this Act

(1) Nothing in this Act prevents a person or persons resolving a dispute about customary land in accordance with the rules of custom or in any other lawful way.

- (2) Subsection (1) applies even if the way in which the dispute is resolved is inconsistent with the procedures under this Act for resolving disputes.

PART 2 – VILLAGE LAND TRIBUNALS

7. Notice of disputes

- (1) If a person or a group of persons:
- (a) is a party to a dispute about the ownership or boundaries of customary land; and
 - (b) wants to have the dispute dealt with under this Act;
- the person or group must give notice of the dispute in accordance with subsections (2) and (3).
- (2) The notice must be given
- (a) if the land is situated wholly within the boundaries of a village – to the principal chief of that village; or
 - (b) if the land is situated within the boundaries of more than one village – to the principal chief of each of those villages.
- (3) The notice must:
- (a) be given orally or in writing in Bislama, French, English or another language of the person or group giving the notice; and
 - (b) specify clearly the land which is in dispute; and
 - (c) contain the names of the parties to the dispute.

8. Single village land tribunals

- (1) If the principal chief of a village receives a notice of a dispute about customary land under section 7(2)(a), the principal chief must, within 21 days after receiving the notice, establish a single village land tribunal to determine the dispute.
- (2) The single village land tribunal consists of:
- (a) subject to subsection (3), a chairperson who is to be the principal chief of the village if he or she is qualified under this Act to adjudicate the dispute and is willing to do so; and
 - (b) two other chiefs or elders of the village appointed by the principal chief; and
 - (c) a secretary appointed by:
 - (i) the principal chief; or
 - (ii) the principal chief in consultation with other chiefs or elders of the village where applicable.
- (3) If the principal chief of the village is not qualified under this Act to adjudicate the dispute or is not willing to do so, the principal chief must appoint another chief or elder of the village as the chairperson.
- (4) The principal chief must not appoint:
- (a) a person under subsection (2)(b) or (3) unless the person is qualified under this Act to adjudicate the dispute and is willing to do so; or
 - (b) a person as the secretary under subsection (2)(c) unless the person is qualified under this Act to be a secretary and is willing to do so.

9. Joint village land tribunals

- (1) The principal chief of each village who receives a notice of a dispute under section 7(2)(b) must, within 21 days after the last day on which a principal chief receives the notice, together establish a joint village land tribunal to determine the dispute.
- (2) The joint village land tribunal consists of:
 - (a) subject to subsection (3), the principal chief of each village if qualified under this Act to adjudicate the dispute and willing to do so; and
 - (b) 2 other chiefs or elders of each village appointed by the principal chief of that village; and
 - (c) a secretary appointed by the principal chief of each village acting together.
- (3) If the principal chief of a village is not qualified under this Act to adjudicate the dispute or is not willing to do so, the principal chief must appoint another chief or elder of that village as a member.
- (4) A person must not be appointed:
 - (a) under subsection (2)(b) or (3) unless the person is qualified to adjudicate the dispute under this Act and is willing to do so; or
 - (b) as the secretary under subsection (2)(c) unless the person is qualified under this Act to be a secretary and is willing to do so.
- (5) The principal chiefs of each village who are members of the village land tribunal and the members appointed under subsection (3) (if any) must elect one of their number to be the chairperson of the joint village land tribunal.

10. Resolution of disputes

- (1) If all the parties to a dispute accept the decision of a village land tribunal (see Part 6 for procedure for resolving disputes), the dispute is resolved and no further action needs to be taken under this Act by any of the parties.
- (2) If any of the parties to a dispute do not accept the decision of a village land tribunal, that party may appeal under Part 3 or Part 4 (whichever applies) against the decision.

PART 3 – CUSTOM SUB-AREA LAND TRIBUNALS

11. Application of Part

This Part applies only to decisions of a village land tribunal under Part 2 about customary land that is situated in whole or in part in a custom sub-area.

12. Appeal notice

- (1) If a person or group of persons:
 - (a) is a party to a decision of a single or joint village land tribunal; and
 - (b) wants to appeal against the decision;the person or group must give a notice of appeal in accordance with subsections (2) and (3) within 21 days after the announcement of the decision.
- (2) The notice must be given to:
 - (a) if the land is situated wholly within one custom sub-area – to the chairperson of the council of chiefs of that custom sub-area; or
 - (b) if the land is situated wholly within more than one custom sub-area – to the chairperson of the council of chiefs of each custom sub-area; or

- (c) if the land is situated partly within one or more custom sub-areas and partly within one or more custom areas that are not divided into custom sub-areas – to the chairperson of the council of chiefs of each custom sub-area and to the chairperson of the council of chiefs of each custom area.

(3) The notice must:

- (a) be in writing in Bislama, French, English or another language of the person or group giving the notice; and
- (b) specify the grounds of the appeal; and
- (c) contain a description, and specify the location, of the land; and
- (d) contain the names of the parties to the dispute.

13. Single custom sub-area land tribunal

(1) If the chairperson of the council of chiefs of a custom sub-area receives a notice of appeal under section 12(2)(a), the chairperson must convene a meeting of the council within 21 days after receiving the notice.

(2) The custom sub-area council of chiefs must establish a custom sub-area land tribunal to determine the appeal.

(3) The custom sub-area land tribunal consists of:

- (a) subject to subsection (4), a chairperson who is to be the chairperson of the council of chiefs of the custom sub-area if he or she is qualified under this Act to adjudicate the dispute and is willing to do so; and
- (b) 2 other chiefs or elders from the custom sub-area appointed by the council of chiefs of the custom sub-area; and
- (c) a secretary appointed by the council of chiefs of the custom sub-area.

(4) If the chairperson of the council of chiefs of the custom sub-area is not qualified under this Act to adjudicate the dispute or is not willing to do so, he or she must appoint another chief or elder from within the custom sub-area as the chairperson.

(5) A person must not be appointed:

- (a) under subsection (3)(b) or (4) unless the person is qualified under this Act to adjudicate the dispute and is willing to do so; or
- (b) as the secretary under subsection (3)(c) unless the person is qualified under this Act to be a secretary and is willing to do so.

14. Joint custom sub-area land tribunal

(1) Each chairperson of a custom sub-area or custom area council of chiefs who receives a notice of appeal under section 12(2)(b) or (c) must, within 21 days after the last day on which a chairperson receives the notice, together establish a joint custom sub-area land tribunal to determine the appeal.

(2) The custom sub-area land tribunal consists of:

- (a) subject to subsection (3), the chairperson of the council of chiefs of each sub-area or custom area if qualified under this Act to adjudicate the dispute and willing to do so; and
- (b) 2 other chiefs or elders from each sub-area or custom area appointed by that sub-area or custom area council of chiefs; and
- (c) a secretary appointed by the chairpersons of the sub-area and custom area councils of chiefs acting together.

- (3) If the chairperson of a council of chiefs of a custom sub-area or a custom area is not qualified under this Act to adjudicate the dispute or is not willing to do so, that chairperson must appoint another chief or elder from that custom sub-area or custom area as a member.
- (4) A person must not to be appointed:
 - (a) under subsection (2)(b) or (3) unless the person is qualified to adjudicate the dispute under this Act and is willing to do so; or
 - (b) as the secretary under subsection (2)(c) unless the person is qualified under this Act to be a secretary and is willing to do so.
- (5) The chairpersons of each custom sub-area or custom area council of chiefs who is a member of the custom sub-area land tribunal and any members appointed under subsection (3) must elect one of their number to be the chairperson of the joint custom sub-area land tribunal.

15. Resolution of disputes

- (1) If all the parties to a dispute accept the decision of a custom sub-area land tribunal (see Part 6 for procedure for resolving disputes), the dispute is resolved and no further action needs to be taken under this Act by any of the parties.
- (2) If any of the parties to a dispute do not accept the decision of a custom sub-area land tribunal, that party may appeal under Part 4 or Part 5 (whichever applies) against the decision.

PART 4 – CUSTOM AREA LAND TRIBUNALS

16. Application of Part

This Part applies to the following decisions:

- (a) decisions of a custom sub-area land tribunal under Part 3 about land situated on an island that is divided into more than one custom area;
- (b) decisions of a village land tribunal under Part 2 about land that is situated on an island that is divided into more than one custom area, being land that is not within a custom sub-area.

17. Appeal notice

- (1) If a person or group of persons:
 - (a) is a party to a decision referred to in section 16(a) or (b); and
 - (b) wants to appeal against that decision;the person or group must give a notice of appeal in accordance with subsections (2) and (3) within 21 days after the announcement of that decision.
- (2) The notice must be given:
 - (a) if the land is situated wholly within one custom area – to the chairperson of the council of chiefs of that custom area; or
 - (b) if the land is situated within more than one custom area – to the chairperson of the council of chiefs of each custom area.
- (3) The notice must:
 - (a) be in writing in Bislama, French, English or another language of the person or group giving the notice; and
 - (b) specify the grounds of the appeal; and

- (c) contain a description, and specify the location, of the land; and
- (d) specify the names of the parties in dispute.

18. Single custom area land tribunal

- (1) If the chairperson of a council of chiefs of a custom area receives a notice of appeal under section 17(2)(a), the chairperson must convene a meeting of the council within 21 days after receiving the notice.
- (2) The custom area council of chiefs must establish a single custom area land tribunal to determine the appeal.
- (3) The single custom area land tribunal consists of:
 - (a) subject to subsection (4), a chairperson who is to be the chairperson of the custom area council of chiefs if he or she is qualified under this Act to adjudicate the dispute and is willing to do so; and
 - (b) 2 other chiefs or elders from the custom area appointed by the custom area council of chiefs; and
 - (c) a secretary appointed by the custom area council of chiefs.
- (4) If the chairperson of a council of chiefs of the custom area is not qualified under this Act to adjudicate the dispute or is not willing to do so, the chairperson must appoint another chief or elder from that custom area as the chairperson.
- (5) A person must not be appointed:
 - (a) under subsection (3)(b) or (4) unless the person is qualified to adjudicate the dispute and is willing to do so; or
 - (b) as the secretary under subsection (3)(c) unless the person is qualified under this Act to be a secretary and is willing to do so.

19. Joint custom area land tribunal

- (1) Each chairperson of the council of chiefs of a custom area who receives a notice of appeal under section 17(2)(b) must, within 21 days of the last day on which a chairperson receives the notice, together establish a joint custom area land tribunal to determine the dispute.
- (2) The custom area land tribunal consists of:
 - (a) subject to subsection (3), the chairperson of the council of chiefs of each custom area if qualified under this Act to adjudicate the dispute and willing to do so; and
 - (b) 2 other chiefs or elders from each custom area appointed by that custom area council of chiefs; and
 - (c) a secretary appointed by the chairpersons of the custom area council of chiefs acting together.
- (3) If the chairperson of the council of chiefs of a custom area is not qualified under this Act to adjudicate the dispute or is not willing to do so, that chairperson must appoint another chief or elder from that custom area as a member.
- (4) A person must not be appointed:
 - (a) under subsection (2)(b) or (3) unless the person is qualified to adjudicate the dispute and is willing to do so; or
 - (b) as the secretary under subsection (2)(c) unless the person is qualified under this Act to be a secretary.

- (5) The chairpersons of each custom area council of chiefs who are members of the custom area land tribunal and any members appointed under subsection (3) must elect one of their number to be the chairperson of the custom area land tribunal.

20. Resolution of disputes

- (1) If all the parties to a dispute accept the decision of a custom area land tribunal (see Part 6 for procedure for resolving disputes), the dispute is resolved and no further action needs to be taken under this Act by any of the parties.
- (2) If any of the parties to a dispute do not accept the decision of a custom area land tribunal, that party may appeal under Part 5 against the decision.

PART 5 – ISLAND LAND TRIBUNALS

21. Application of Part

This Part applies in relation to the following decisions:

- (a) decisions of a custom area land tribunal under Part 4;
- (b) decisions of a village land tribunal under Part 2 about land situated on an island where there is only one custom area, being a custom area that is not subdivided into custom sub-areas;
- (c) decisions of a custom sub-area land tribunal under Part 3 about land situated on an island where there is only one custom area.

22. Appeal notice

(1) If a person or group of persons:

- (a) is a party to a decision referred to in section 21(a), (b) or (c); and
- (b) wants to appeal against that decision;

the person or group must give a notice of appeal in accordance with subsection (2) within 21 days after the announcement of that decision.

(2) The notice must:

- (a) be in writing in Bislama, French, English or another language of the person or group giving the notice; and
- (b) be given to the chairperson of the council of chiefs for that island; and
- (c) specify the decision being appealed against; and
- (d) specify the grounds of the appeal; and
- (e) contain a description, and specify the location, of the land; and
- (f) specify the names of the parties to the dispute.

23. Island land tribunals

- (1) The chairperson of the island council of chiefs must convene a meeting of the council within 21 days after receiving a notice of appeal under section 22.
- (2) The island council of chiefs must establish an island land tribunal to determine the appeal.
- (3) If the land the subject of the decision being appealed against is situated wholly within one custom area, the island land tribunal consists of:

- (a) subject to subsection (4), a chairperson who is to be the chairperson of the custom area council of chiefs if he or she is qualified under this Act to adjudicate the dispute and is willing to do so; and
 - (b) 4 other chiefs or elders from the custom area appointed by the island council of chiefs; and
 - (c) a secretary appointed by the island council of chiefs.
- (4) If the chairperson of the custom area council of chiefs is not qualified under this Act to adjudicate the dispute or is not willing to do so, he or she must appoint another chief or elder from the custom area as the chairperson.
- (5) If the land the subject of the decision being appealed against is situated within more than one custom area, the island land tribunal consists of:
- (a) subject to subsection (6), the chairpersons of the council of chiefs of each custom area if qualified under this Act to adjudicate the dispute and willing to do so; and
 - (b) 4 other chiefs or elders from each custom area appointed by the island council of chiefs; and
 - (c) a secretary appointed by the island council of chiefs.
- (6) If the chairperson of the council of chiefs of a custom area is not qualified under this Act to adjudicate the dispute or is not willing to do so, he or she must appoint another chief or elder from that custom area as a member.
- (7) A person must not be appointed:
- (a) under subsection (3)(b), (4), (5)(b) or (6), unless the person is qualified to adjudicate the dispute and is willing to do so; or
 - (a) as the secretary under subsection (3)(c) or (5)(c) unless the person is qualified under this Act to be a secretary and is willing to do so.
- (8) The chairperson of each custom area council of chiefs who are members of the island land tribunal and any members of the island land tribunal appointed under subsection (6) must elect one of their number to be the chairperson of the island land tribunal referred to in subsection (5).

24. Rehearing

- (1) If:
- (a) an island land tribunal determined an appeal against a decision mentioned in section 21(b) ("the original decision"); and
 - (b) a person or group of persons was a party to the appeal decision of the island land tribunal and is not satisfied with it; and
 - (c) the person or group wants a rehearing of the original decision;
- the person or group must give a notice of a rehearing under subsection (2).
- (2) The notice must:
- (a) be in writing in Bislama, French, English or another language of the person or group giving the notice; and
 - (b) be given to the chairperson of the island council of chiefs within 21 days after the island land tribunal announced its decision; and
 - (c) specify the grounds of the appeal; and
 - (d) contain a description, and specify the location, of the land; and

- (e) contain the names of the parties to the dispute.
- (3) The chairperson of the island council of chiefs must convene a meeting of the council within 21 days after receiving the rehearing notice.
- (3) The island council of chiefs must establish another island land tribunal to rehear the dispute. The island land tribunal is to conduct the rehearing as if it was hearing and determining the dispute for the first time.
- (5) The island land tribunal mentioned in subsection (4) consists of:
 - (a) a chairperson who is to be a chief or elder within the custom area appointed by the island council of chiefs; and
 - (b) 4 other chiefs or elders living within the custom area appointed by the island council of chiefs; and
 - (c) a secretary appointed by the island council of chiefs.
- (6) A person who was a member or the secretary of the island land tribunal that has already determined the appeal cannot be appointed under subsection (5).
- (7) A person cannot be appointed:
 - (a) under subsection (5)(a) or (5)(b) unless the person is qualified to adjudicate the dispute under this Act and is willing to do so; or
 - (b) as the secretary under subsection (5)(c) unless the person is qualified under this Act to be a secretary and is willing to do so.

PART 6 – PROCEDURE OF LAND TRIBUNALS

25. Notice of hearing

- (1) Within 21 days after the establishment of a land tribunal, the secretary of the land tribunal must give notice under subsection (2) to the parties to the dispute.
- (2) The notice must:
 - (a) be in writing in Bislama, French, English or another language of one or more of the parties to the dispute; and
 - (b) specify the date and time of the meeting of the land tribunal to hear the dispute; and
 - (c) specify the place of meeting of the land tribunal, being a place which is convenient having regard to the location of the land, the residences of the tribunal's members, the residences of the parties and the availability and security of meeting places; and
 - (d) specify the name and address of the secretary of the land tribunal; and
 - (e) if applicable – specify the grounds of the appeal.

26. Start of hearing and objections

- (1) The land tribunal must, so far as practicable, meet to hear a dispute at the time and on the date and at the place specified in the notice given under section 25.
- (2) Whenever a land tribunal first meets to hear a dispute, the chairperson must:
 - (a) open the meeting with a prayer; and
 - (b) introduce himself or herself, the other members and the secretary of the land tribunal; and

- (c) ask if there are any objections to the qualification of the chairperson, any of the other members or the secretary.
- (3) Subject to subsection (4), the chairperson must consider any objection, and if he or she considers that the objection is justified, he or she must disqualify the person concerned and adjourn the meeting to enable another person to be appointed.
- (4) If the objection is to the chairperson of the land tribunal, the other members of the tribunal must consider the objection, and if they consider that the objection is justified, they must disqualify the chairperson and adjourn the meeting to enable another chairperson to be appointed.
- (5) If a party to a dispute fails to follow any of the procedures under this Act, another party to the dispute may apply to the land tribunal for an order directing the party to comply with the procedure.

27. Hearing of dispute

- (1) The chairperson of a land tribunal must:
 - (a) invite the party who instituted the hearing to present their case; and
 - (b) on completion of that party presenting his or her case – invite the other party or parties to present their cases and specify the order in which parties are to do so if there is more than one.
- (2) In presenting his or her case, each party must be allowed an adequate opportunity to present arguments, produce evidence and call witnesses.
- (3) Each party and his or her witnesses may be questioned:
 - (a) by each member; and
 - (b) by any other party, subject to the consent of the chairperson of the tribunal.
- (4) A person with legal qualifications, experience or training is not permitted to represent any party or witness before a tribunal, but may appear as a party or as a witness.
- (5) A land tribunal must inspect the land in relation to which there is a dispute and, if possible, must walk around the boundaries of the land.
- (6) Without limiting this section, a land tribunal hearing and determining a dispute for the first time or on appeal must do so in such a way that is fair and reasonable in all the circumstances to the parties.

28. Disputes to be resolved in accordance with custom

- (1) A land tribunal must determine the rights of the parties to the dispute according to custom.
- (2) The parties may at any time try to reach an amicable settlement of the land dispute, and the tribunal must encourage and facilitate any such attempts.
- (3) The chairperson may adjourn the hearing of a land tribunal for a period not exceeding 10 days to enable an amicable settlement to be reached.
- (4) However, if there is no amicable settlement within that time, the chairperson must recommence the hearing.

29. Decisions of land tribunals

- (1) After the hearing of a land tribunal is completed, the chairperson must adjourn the meeting of the land tribunal to enable the members to make their decision. The decision must be made within 21 days after the completion of the hearing.
- (2) Decisions of a land tribunal are to be made by consensus. However, if this is not possible each member of a land tribunal has a single vote and the tribunal is to make

its decision by a majority vote of its members. If the votes are tied, the chairperson of the land tribunal has a casting vote.

- (3) The chairperson of a land tribunal must announce the decision in public and, if possible, in the presence of the parties.

30. Orders

A land tribunal may as part of its decision make one or more of the following orders:

- (a) an order declaring the rights of the parties;
- (b) an order that a person move out of occupation of the land on a permanent basis or for a specified period;
- (c) an order that a person pay compensation for the use of land, or damage done to land, crops, plants, or animals, or injury caused to a person;
- (d) an order that a person pay a fine as punishment for misconduct on the land;
- (e) an order that a person pay a fine as punishment for misconduct at the tribunal hearing;
- (f) such other orders as it considers necessary.

31. Customary reconciliation ceremony

The parties may enter into a customary reconciliation ceremony after a land tribunal announces its decision.

32. Allowances and costs

- (1) Before a land tribunal sits on any day ("the sitting day") to hear a dispute, the secretary of the land tribunal must work out:
- (a) the sitting allowances to which the chairperson, each other member and the secretary is entitled to for the sitting day in accordance with Schedule 2; and
 - (b) the reasonable transportation and communication costs of the chairperson, each other member and the secretary for the sitting day.
- (2) Each party to the dispute must pay to the secretary an equal share of the total of the amounts worked out under subsections (1)(a) and (1)(b) before the land tribunal meets on the sitting day. For example, if the total amount is VT 9,000 and there are 2 parties, each party must pay VT 4,500.
- (3) If any of the parties do not pay the amounts required under subsection (2), the land tribunal must not meet on the sitting day.
- (4) If the land tribunal meets on the sitting day, the secretary must, at the end of that day, pay to:
- (a) the chairperson; and
 - (b) each other member; and
 - (c) himself or herself;
- the sitting allowances, and transportation and communication costs, to which he or she is entitled.

33. Decisions are final

Subject to:

- (a) the Constitution; and
- (b) the rights of appeal to, and rehearing by, other land tribunals provided for under this Act; and

(c) the rights of supervision by the Supreme Court under section 39;

a decision of a land tribunal is final and binding on the parties and those claiming through them, and the decision is not to be challenged, appealed against, reviewed, quashed, set aside or called in question in any court on any ground.

34. Records of decisions

- (1) The secretary of a land tribunal must record the tribunal's decision in the form set out in Schedule 3, and on it being signed by the chairperson and secretary it constitutes an accurate record of the decision for all purposes.
- (2) If the decision of a land tribunal is not appealed against or there is no rehearing, the secretary of the tribunal must as soon as possible send the record of the decision to the Director.
- (3) If the decision is appealed against or there is a rehearing, the secretary of the tribunal must as soon as possible send the record of the decision to the secretary of the land tribunal hearing the appeal or undertaking the rehearing.

PART 7 – QUALIFICATIONS OF MEMBERS AND SECRETARIES OF LAND TRIBUNALS

35. Determination of boundaries and lists for islands with more than one custom area

- (1) This section applies to an island that is divided into more than one custom area, being custom areas that may or may not be divided into custom sub-areas.
- (2) As soon as possible after this Act commences:
 - (a) the council of chiefs of each custom area on the island must:
 - (i) determine the boundaries of the custom area; and
 - (ii) approve a list of chiefs and elders who have sufficient knowledge of the custom of the custom area to adjudicate disputes relating to the boundaries or ownership of customary land in the custom area; and
 - (iii) send a copy of the list to the secretary of the island council of chiefs; and
 - (b) the council of chiefs of each custom sub-area must:
 - (i) determine the boundaries of the custom sub-area; and
 - (ii) approve a list of chiefs and elders who have sufficient knowledge of the custom of the custom sub-area to adjudicate disputes relating to the boundaries or ownership of customary land in the custom sub-area; and
 - (iii) send a copy of the list to the secretary of the council of chiefs of the custom area in which the sub-area is situated and to the secretary of the island council of chiefs.
- (3) The council of chiefs of each custom area and each custom sub-area must:
 - (a) as soon as possible after the end of each year, revise the relevant approved list of chiefs and elders, making such additions, deletions and amendments as it considers necessary to keep the list up to date and accurate; and
 - (b) as soon as possible after revising the list, send a copy of:
 - (i) each revised list to the secretary of the island council of chiefs; and

- (ii) each revised list for a custom sub-area to the secretary of the council of chiefs of the custom area in which the sub-area is situated.

36. Determination of boundaries and lists for islands with one custom area

- (1) This section applies to an island if there is only one custom area on the island.
- (2) As soon as possible after this Act commences, the island council of chiefs must:
 - (a) determine the boundaries of each custom sub-area on the island; and
 - (b) approve a list of chiefs and elders who have sufficient knowledge of the custom of the island and each custom sub-area to adjudicate disputes relating to the boundaries or ownership of customary land on the island and in each custom sub-area.
- (3) The island council of chiefs must, as soon as possible after the end of each year, revise the approved lists of chiefs and elders, making such additions, deletions and amendments as it considers necessary to keep the list up to date and accurate.

37. Qualifications of members of land tribunals

- (1) A chief or elder is not qualified to be a member of a land tribunal unless he or she is included in a list approved under section 35 or 36.
- (2) A chief or elder must not be appointed or continue as a member of a land tribunal if he or she:
 - (a) is incapable by reason of physical or mental disability from adjudicating the dispute before the tribunal; or
 - (b) is holding any elected office in a national Parliament, local government council or municipal council; or
 - (c) is holding any office in a political party; or
 - (d) has such business or financial interests, or social, religious, political or other beliefs or associations that will prevent him or her from applying custom honestly and adjudicating impartially; or
 - (e) has been found by a land tribunal:
 - (i) to have influenced or attempted to influence the decision of a land tribunal; or
 - (ii) to have adjudicated in a dispute before a land tribunal when disqualified from doing so; or
 - (iii) to have appointed, or attempted to appoint, a person whom he or she knew, or ought reasonably to have known, was not qualified to be appointed as a member; or
 - (f) has been convicted of an offence against section 42.
- (3) A person must take the following oath before he or she becomes a member of a land tribunal:

"I swear by Almighty God that I am qualified to act as a member of a land tribunal and I know no reason why I should not adjudicate this dispute, and I promise that I will adjudicate this dispute honestly and impartially, and strictly in accordance with custom. So help me God."

38. Functions and qualifications of secretaries of land tribunals

- (1) A secretary of a land tribunal has the following functions:

- (a) to record accurately the particulars of the decision of the tribunal in the form set out in Schedule 3;
 - (b) if the decision is appealed against or there is a rehearing of it, to forward the record of that to the secretary of the land tribunal determining the appeal or conducting the rehearing;
 - (c) if the decision is not appealed against or there is no rehearing of it, to send the record of the decision to the Director;
 - (d) to receive from the parties the fees set out in Schedule 1 and to pay out of those fees in accordance with the requirements of this Act;
 - (e) to do whatever is reasonably necessary to assist and facilitate an orderly, fair and expeditious hearing of a dispute;
 - (f) such other functions as are conferred on a secretary under this Act.
- (2) A secretary must not take any part in the adjudication of the dispute, and must at all times behave in such a way as to give no appearance of participating in any way in the adjudication.
- (3) A person must not be appointed as secretary of a land tribunal unless he or she is physically and mentally competent to perform the functions of a secretary.
- (4) A person must not be appointed or continue as a secretary of a land tribunal if he or she:
- (a) is holding any elected office in any national Parliament; local government council or municipal council; or
 - (b) is holding any office in any political party; or
 - (c) has such business or financial interests, or social, religious, political or other beliefs or associations that will prevent him or her from performing properly the functions of the secretary of the land tribunal; or
 - (d) has been found by a land tribunal to have taken part, or attempted to take part, in the adjudication of a dispute before a land tribunal; or
 - (e) has been convicted on an offence against section 42.

PART 8 – MISCELLANEOUS

39. Supervision of land tribunals by Supreme Court

- (1) If a person who is not qualified to be a member or a secretary of a land tribunal participates in the proceedings of the tribunal, a party to the dispute may apply to the Supreme Court for an order:
- (a) to discontinue the proceedings before the tribunal or to cancel its decision; and
 - (b) to have the dispute determined or re-determined by a differently constituted land tribunal.
- (2) If a land tribunal fails to follow any of the procedures under this Act, a party to the dispute may apply to the Supreme Court for an order:
- (a) to discontinue the proceedings before the tribunal or to cancel its decision; and
 - (b) to have the dispute determined or re-determined by a differently constituted land tribunal.

- (3) The Supreme Court in determining an application may make such other orders as it considers necessary.
- (4) Subject to the Constitution, the decision of the Supreme Court on any application:
 - (a) is final and conclusive; and
 - (b) is not to be challenged, appealed against, reviewed, quashed, set aside or called in question in any court on any ground.

40. Responsibilities of Director

- (1) The Director must:
 - (a) arrange for the form in Schedule 3 to be translated into Bislama and such other languages as the Director thinks is reasonably necessary, and for copies to be distributed to the principal chief of each village and to the chairperson and secretary of the council of chiefs of each island, custom area and custom sub-area; and
 - (b) arrange for any guidelines issued under section 43 to be translated into Bislama and such other languages as the Director thinks is reasonably necessary, and for copies to be distributed to the principal chief of each village and to the chairperson and secretary of the council of chiefs of each island, custom area and custom sub-area; and
 - (c) arrange, where necessary, appropriate training programs for principal chiefs of villages and the chairperson and secretary of the council of chiefs of each island, custom area and custom sub-area; and
 - (d) preserve in an orderly and secure fashion the records of the decision of the land tribunals forwarded to the Director; and
 - (e) compile for each island a register of the decisions of land tribunals on that island and keep the register up to date.
- (2) The Director must review the operation of the land tribunals on a regular basis and take such steps as he or she considers reasonably necessary to facilitate and assist their effective operation.
- (3) The Director must compile such statistics as he or she considers reasonably necessary about the operation of the land tribunals, and publish them in the Ministry's annual report.

41. Responsibilities of local government and municipal councils

- (1) Each local government council and municipal council must encourage and assist chiefs to identify the boundaries of custom areas and custom sub-areas.
- (2) The powers under this Act of the councils of chiefs of custom sub-areas, custom areas and islands are not in any way limited by their involvement in any units of a local government council or municipal council (for example wards, districts or local government council areas).

42. Offences

A person is guilty of an offence punishable on conviction by imprisonment not exceeding 5 years or a fine of not more than VT 500,000, or both, if the person:

- (a) influences, or attempts to influence, the decision of a land tribunal; or
- (b) presents any argument or gives any evidence to a land tribunal which he or she knows is false; or
- (c) acts as a member of a land tribunal and the person knows, or ought reasonably to know, that he or she is not qualified to do so; or

- (d) appoints another person as a member of a land tribunal and he or she knows, or ought reasonably to know, that the other person is not qualified to be appointed as a member; or
- (e) fails to comply with an order of a land tribunal; or
- (f) disrupts or attempt to disrupt the proceedings of a land tribunal; or
- (g) causes or threatens violence to any person in the precincts of a land tribunal.

43. Guidelines

The Minister may, after consultation with the National Council of Chiefs, issue written guidelines for the purposes of this Act. Such guidelines are advisory and are not mandatory.

44. Regulations

The Minister may make regulations not inconsistent with this Act:

- (a) for or with respect to any matter that by this Act is required or permitted to be prescribed; or
- (b) that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

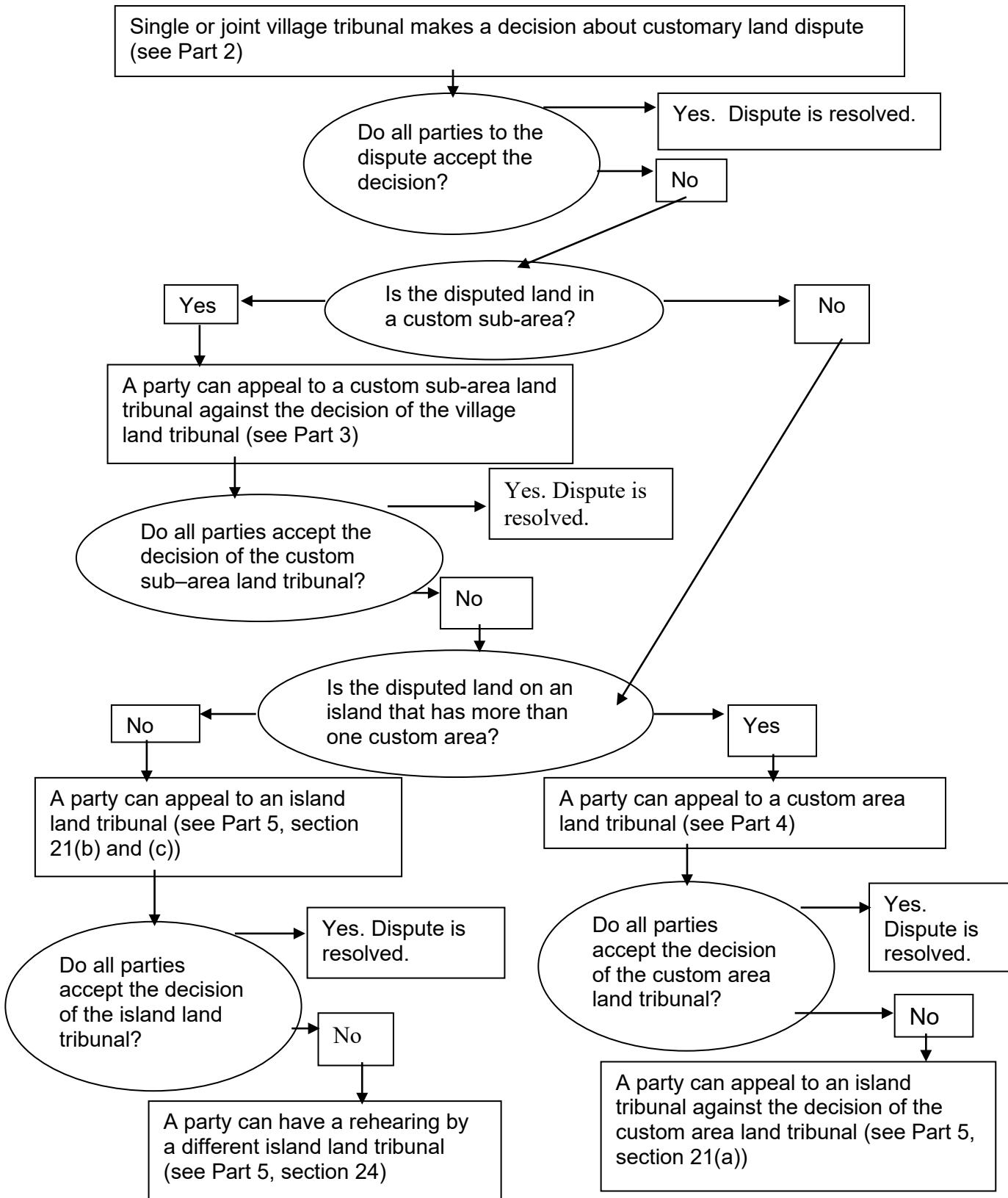
45. Amendment of schedules

The Minister may by order amend Schedules 2 and 3.

SCHEDULE 1

(Section 2)

Customary land dispute process



SCHEDULE 2

(Section 32)

Land Tribunals Allowances Table		
Item	Tribunals	Sitting allowances per person per day
1	Single Village Land Tribunal	Chairperson VT 2000 Member VT 1500 Secretary VT 1500
2	Joint Village Land Tribunal	Chairperson VT 2000 Member VT 1500 Secretary VT 1500
3	Single Custom Area or Custom Sub-Area Land Tribunal	Chairperson VT 3000 Member VT 2000 Secretary VT 2000
4	Joint Custom Area or Custom Sub-Area Land Tribunal	Chairperson VT 3000 Member VT 2000 Secretary VT 2000
5	Island Land Tribunal	Chairperson VT 4000 Members VT 3000 Secretary VT 3500

SCHEDULE 3

(Section 34)

**Land Tribunal
Record of Decision Form**

1. Name of Land Tribunal
2. Names of Members
3. Name of Secretary
4. Place of meeting
5. Date of meeting
6. Date of Decision
7. Description of land in dispute
8. Sketch plan of land
9. Identifying customary land marks such as roads, rivers, lakes, coastline, trees, rocks
10. Terms of Decision

Certified to be a true and accurate record of the decision of the Land Tribunal.

Chairperson: _____

Date: _____

Secretary: _____

Date: _____