

**THE LAND TENURE ACT, NO.12 OF 1992**

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**ACT NO.12 OF 1992 (Revised)**

**I ASSENT**

**{ DR. SALMIN AMOUR }  
PRESIDENT OF ZANZIBAR AND  
CHAIRMAN OF THE REVOLUTIONARY COUNCIL**

29 January 1993

**AN ACT TO PROVIDE FOR LAND OWNERSHIP, USE AND  
RIGHTS ATTACHED TO LAND AND MATTERS  
CONNECTED OR INCIDENTAL THERETO**

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**ENACTED** by the House of Representatives of Zanzibar.

**PART I  
PRELIMINARY**

Short title and  
commencement.

1. This Act may be cited as the Land Tenure Act of 1992, and shall come into operation immediately upon being assented to by the President.

Interpretation.  
Section 3  
Act 11/2010

2. In this Act, unless the context otherwise requires:-

“abandoned lands” means land which is not in the possession by the person who has the possessory interest for a prescribed statutory period of time;

“adjudication” means the process of regularising land interest as set out under the Land Adjudication Act of 1989;

“allocation” means the process the Government uses to provide an interest in land to an individual or a group of persons;

“charge” means a mortgage or an interest in land securing payment of money or money’s worth or the fulfillment of any condition, and includes, a surcharge and the instrument creating a charge;

“charger” means the proprietor of a charge as define by the Registered Land Act;

“chargee” means the proprietor of a charged land or of a charged lease or charge as defined by the Registered Land Act;

“communal interest” means an interest in land which is held in concert by more than one unrelated person;

“consolidation” means the reallocation of land in order to conform the size of the parcels to the provisions of this Act;

“court” shall mean the Lands Tribunal unless expressly provided otherwise;

“Department” means the Department for land and registration;

“Director” means Director for Land and registration;

“Government” means the Revolutionary Government of Zanzibar;

“ownership” in relation to Land, apart from the Government which is the sole owner of all natural land, refers to an interest in development on the natural land, and anything connected therewith or incidental thereto, including a legal right of occupancy on that land.

“easement” means easement as defined in the Registered Land Act of 1989;

“economic trees” means those trees in urban areas that are not used for beautification or other ornamental purposes and have an economic value because of the fruit they bear or because of their value as timber or for preservation of environment;

“grant” means the provision of a parcel(s) of land from the Government to an individual or a group of individuals because of their eligibility to receive public land or because of land adjudication;

“holder” means the person who has the right to the interest of a right of occupancy;

“idle lands” means land that is not used in accordance with prior existing plans, in conformity with land capability analyses or in accordance with practices of good husbandry during a defined statutory period;

“improvement” means unexhausted improvement;

“instrument” shall assume the meaning ascribed to it by the Registered Land Act;

“interest” means the right of an individual or group of individuals to the right of occupancy defined parcel of land;

“interest holder” means the person or the body of persons named in the register as the rightful holder in relation to a parcel of land or a lease to a parcel of land or a person or persons named in the register in whose favor a charge was made;

“joint interest” means an interest in land that is held together with other persons under the requirements of this Act;

“land” includes land covered by water, all things growing on land, and buildings and other things permanently affixed to land, except trees when specifically classified and owned separately;

“land adjudication” means adjudication as defined above;

“Land Adjudication Act” means the Land Adjudication Act, 1989;

“lease” means a grant, with or without consideration, by the Government or interest holder of land, of the right to exclusive possession of the land in question, and includes the right so granted and the instrument granting it, but it does not include an agreement to lease the land in accordance with the definition so ascribed to lease by the Registered Land Act;

“lessee” means the holder of a lease;

“lessor” means the interest holder of the leased land, and includes, in respect of a sub-lease, the proprietor of a lease;

“Minister” means the Minister for the time being responsible for land affairs;

“natural land” means any land taken in its natural state without man made improvements;

“ornamental trees” means those trees found in the urban area that are used for beautification or otherwise enhance the appearance of their sites and the conservation of

environment;

“parcel” means an area of land separately delineated on a demarcation or Registry map and thereby given a number as specified in the Land Adjudication and Land Registration Act;

“person” includes a group of persons, a corporate body and any institution authority or commission empowered by law to hold land;

“President” means the President of Zanzibar;

“public land” means all land in Zanzibar which can be held by either the Government or private persons;

“Registered Land Act” means the Registered Land Act, 1989;

“residence” means the building in which a person resides;

“right of occupancy” means the exclusive right to the use and occupation of land in accordance with the provisions of this Act;

“rural lands” means any lands lying outside the area classified as urban land;

“trees” includes palms, bamboos, shrubs, bushes, stumps, seedlings, saplings and reshoots of all ages;

“unexhausted improvement” means anything permanently attached to the land resulting from the expenditure of capital or labour by a holder of a right of occupancy or a lessee, or any person authorized to act on their behalf which increases the productive capacity, utility or amenity of the land;

“urban lands” means all land lying within the boundaries of an area classified by law as a municipality or a town where residential, business and industrial activities take place in accordance with the provisions of the Town and Country Planning Act;

“Relevant Authority” means any authority empowered by law to approve investments in Zanzibar.

“Wakf” means any Wakf established by the Commission for the Administration Wakf and Trust Property Decree, 1980;

“Zanzibari” means:-

- (a) any person who is a citizen of Tanzania in accordance with the laws relating to citizenship and that he was born or has been residing in Zanzibar before and up to the 12<sup>th</sup> of January 1964;
- (b) any person who, as from the 26<sup>th</sup> day of April, 1964 is a citizen of Tanzania and was born in Zanzibar with both of his parents being Zanzibaris or either his father or mother being Zanzibari in accordance with the Zanzibari Act, 1985;
- (c) any person who is a citizen of Tanzania and was born or has been residing in Zanzibar before the 26th day of April, 1964; and
- (d) any person who is a citizen of Tanzania with both of his parents being Zanzibaris or either his father or mother being Zanzibari in accordance with paragraph (a), (b) or (c) above.

ZIPA Act” means the Zanzibar Investment Promotion and Protection Act, No. 11 of 2004;

ZIPA means the Zanzibar Investment Promotion Authority as established by the ZIPA Act;

Public Land.  
Act 15/2003

## **PART II**

### **PUBLIC LAND**

3.(1) All natural land within the islands of Zanzibar occupied or unoccupied is hereby declared to be public land and shall be deemed to have been so declared from a March 1964.

(2) Public land is declared to be vested in, and at the disposition of the President, to be held by him, for the use and common benefit, direct or indirect, of the people of Zanzibar.

(3) Subject to the provisions of subsection (2) and any directions of the President, public land shall be administered in accordance with this Act by the Minister, who may control and make dispositions of public land and perform all powers and duties contained in this Act on behalf of the President.



(4) The Minister may, subject to the provisions of this Act, control and distribute public land which are under the control of the Government by grants of rights of occupancy as well as terminate those rights of occupancy when appropriate as prescribed by this Act.”

Confiscated Land.  
Act 15/2003. (5) The Minister may, subject to the provisions of this Act, lease public land which is under the control of the Government.

Easements. 4. All land taken by the Government after the revolution of 1964, no matter what procedures were used, is hereby declared as confiscated land and any irregularities shall be resolved through a land adjudication procedure as set out under the Land Adjudication Act.

5.(1) Riparian occupiers along non-navigable waterways shall, except as otherwise provided by Law or Order of the President, that shall appear in the Gazette, be required to accord a right of passage over a strip ten (10) meters in width on each bank.

(2) Easements in respect of right of way, installation, support and clearance necessary for the establishment, maintenance and operation of telegraph and telephone lines, electric transmission lines and water mains, classified in the public interest may be imposed on any parcel of land and building by Order from the appropriate Minister where such action shall be necessary.

(3) Easements may also be imposed as limits to the height of buildings for obligations to clear trees, and in like manner in areas of protection of airports and military installations or for the safety of air navigation.

Boundaries of  
Public Lands. (4) As compensation for the above easements, indemnities shall be paid to the persons or communities concerned, the compensation shall be equal to the fair market value of the land and any improvements thereon.

Department may  
Require  
submission of  
Research  
Act 15/2003. 6. Cases of doubt or dispute concerning the boundaries of any public lands or the extent of the easements established under the above provisions or provisions of the Registered Land Act or any other applicable law, shall be decided by the recourse to the procedures available under the Land Adjudication Act and if the dispute is not resolved by the Land Tribunal.

6A.(1) The department may require in writing any person or body of persons engaged in research or in any activity affecting or relating to land in Zanzibar, to furnish to it such information related

to that research or activity as the department may specify.

(2) Every person or body of persons which is required to furnish information under subsection (1) of this section, shall comply with the requirement and any person or body of persons which refuses or fails to comply with that requirement shall be guilty of an offence and shall be liable on conviction to a fine not less than Fifty Thousand Shillings and not more than Five Hundred Thousand Shillings or to imprisonment for a term not less than three months and not more than six months or to both such fine and imprisonment.”

Offence  
Section 5  
Of Act 15/2003.

6B.(1) Any person who destroys or misuses land by erecting structure(s) or building(s) or dumping or digs holes in any area not allowed or gives out all or part of the grant to other persons(s) or changes land use or uses land in such manner contrary to the direction and procedures established by this Act or any other Act concerning land matters, commits an offence and shall on conviction be liable to a fine not less than Five Hundred Thousand Shillings and not more than Two Million shillings or to imprisonment for a term not more than six months or to both such fine and imprisonment.

(2) Any person found guilty of an offence under the provisions of subsection (1) of this section, shall be required to remedy any fault caused by his misused of the land.

(3) In addition to the penalty provided for under the provisions of subsection (1) and (2) of this section, the court may issue any order which it deems fit.”

Power of director  
To enter any  
Land  
Section 5 of Act  
15/2003.

6C. The Director or any officer of the department duly authorized in writing or wearing visible badge of office may, at reasonable times enter into and upon any land within Zanzibar for the purpose of exercising any power of inspection, inquiring, or execution of works which is given to the department under this Act or by any laws or regulations in force within Zanzibar.”

Failure to  
Comply with order  
Section 4  
Act no.11/2010

**6D.** Any person who for the purpose of this Act, without lawful excuse:-

- (a) fails to comply with an order made under this Act; or
- (b) furnishes any information or produces any documents which is false or misleading in material particulars; or

(c) obstructs any officer in the performance of his functions under this Act; or

(d) otherwise contravenes the provisions of this Act,

commits an offence and upon conviction shall be liable to a fine of not less than one million shillings or imprisonment for a term of five years or both such fine and imprisonment.

### **PART III RIGHT OF OCCUPANCY TO LAND**

Right of  
Occupancy.

7. The right of occupancy for a Zanzibari may arise in any of the following ways:-

- (a) a grant from the Minister;
- (b) recognition of a rightful interest following an adjudication carried out under the Land Adjudication Act and subsequent registration under the Registered Land Act;
- (c) inheritance of a lawful registered interest;
- (d) purchase of a lawful registered interest; or
- (e) gift of a registered interest from a bona fide holder of a right of occupancy.

Conditions of  
Right of  
Occupancy.

8.(1) The right of occupancy shall exist under the following circumstances:-

- (a) that the holder of the interest be a Zanzibari over the age of eighteen, unless special provisions have been made;
- (b) that the holder of a right of occupancy shall have an exclusive right to occupy and use the land which comprises his right;
- (c) that the holder of the right of occupancy shall have the right to make disposition of the land or other interests therein to any other Zanzibari;
- (d) that the interest be held in perpetuity without specific term and be inheritable under the appropriate provisions of the Zanzibar law of Succession.

(2) Provided that:-

- (a) no interest is valid until registered under the Registered Land Act;
- (b) all transactions affecting a right of occupancy shall be recorded in the land register within sixty days, from the date of such transaction;
- (c) no interest may be subdivided without the express authorization of the appropriate land administration officials;
- (d) no interest may be held by any individual which has an area of less than three fifths of a hectare provided that parcels which are less than three fifty of a hectare in area before they are granted and registered for the first time can be maintained at that size, but once the land is registered and entered on the cadastral index map no parcel may be subdivided so that the area is less than three fifths of a hectare;
- (e) the holder of the interest, or a person properly designated by him must be in possession of demarcated land as comprising the interest in question;
- (f) the holder of the interest or persons acting on his behalf use the land designated in the right of occupancy in conformity with the conditions specified in the instrument of grant or if the land be urban, and classified as residential, commercial or industrial it shall be kept in good condition and any building thereon in good repair and, in the case of agricultural land, shall be farmed in accordance with the practices and rules of good husbandry if there is no special use assigned to the land in question;
- (g) the interest shall not include the right to water, mineral or foreshore;
- (h) upon the issuance of an Order of Termination for any right of occupancy, the Registrar shall cancel the registration of the right of occupancy and the land shall be available for distribution.

(3) Where any of the above conditions are not met, the holder of the right of occupancy shall be subject to the forfeiture procedures contained in Part VII of this Act.

Execution of Right

of Occupancy.  
Section 6 of  
Act 11/2010.

9.(1) An instrument executing a right of occupancy shall be deemed to have been properly executed if signed by the Minister, and no further proof of execution is necessary for purposes of registration under the Registered Land Act or the Registration of Documents Decree.

Effect of  
Registration.

(2) The Minister may, in his discretion, authorise in writing the Director to execute certain instruments or categories of instruments on his behalf, and no further proof of execution shall be necessary.

10. (1) Upon registration of a right of occupancy under the provisions of the Registered Land Act, that interest shall receive the guarantee of the Government as to its regularity and propriety in all of its aspects.

Registration of  
Provisional Rights  
of Occupancy.  
Section 7 of Act  
15/2003.

(2) Where the right of occupancy or any subsidiary right or interest is not registered under the provisions of this Act and the Registered Land Act, registration shall take effect in accordance with the Registration of Documents Decree.

11.(1) Provisional rights of occupancy, provided for under section 33 of this Act, shall be registered as any other interest, but shall also be noted in a Special Register maintained by the Director.

(2) Upon the expiry of the fixed term stated in each provisional right of occupancy, the Director shall cancel the notation in the Special Register and record whether it has been replaced by a permanent right of occupancy or has been cancelled for failure to comply with the conditions set out as part of the right of occupancy.

Charges.

(3) Where a provisional right of occupancy is changed to a permanent one, it shall be so recorded in accordance with the provisions of this Act and the Registered Land Act.

12.(1) The lending institution specified in the Schedule appended to this Act shall have charges over land as provided for under the provisions of the Registered Land Act.

Default of a  
Charge.

(2) The Minister shall review and amend, where necessary, the Schedule setting out the lending institutions authorized to issue charges every three years.

13.(1) Any default by a charges of a charge will allow the lending institution to assume possession of the right of occupancy or other collateral used to secure a charge or a loan and utilize its productivity until the full value of the charge is repaid.

(2) Upon repayment of the value of the charge, possession to the right of occupancy or other collateral shall be redeemed to the original interest holder.

(3) Where the borrower is not willing to repossess the right of occupancy upon repayment of the loan, the sale of the right of occupancy in the open market may be permissible. Provided that under no circumstance shall the right of occupancy be passed to the lending institution.

(4) The interest holder of the right of occupancy may offer his interest for sale on the open market upon default prior to the assumption of possession by the lending institution and the amount of the loan shall then be paid forthwith in a single payment.

Charges involving Joint or Communal Interests.

14. Charges involving interest that are jointly or communally held shall be handled in the same manner as those that are individually held with the added requirements that decisions may require consent of the joint interest holders.

Size of a Right of Occupancy.

15.(1) There shall be no limit to the maximum size of a right of occupancy that is acquired through any means, other than grant, under the provisions of this Act.

(2) In conformity with section 8 (2) (d) of this Act an individual parcel of agricultural land, no matter how acquired, shall not be less than three fifths (3/5) of a hectare.

Joint Holdings of inherited land.

(3) The size of urban residential, commercial and industrial parcels shall conform to the provisions of the law and practice in force.

Effect of creation of Jointly Held Interest.

16. Any interest to a right of occupancy which is inherited shall be jointly held if following the application of the appropriate law of succession, the interest in question would be subdivided into parcel of sizes which are less than the applicable minimum as prescribed under this Act.

Sale of a Right of Occupancy.

17. Where a jointly held right of occupancy is created, the provisions of the Registered Land Act creating a statutory trust shall apply when there are ten or more joint interest holders.

18.(1) Unless otherwise provided for under this Act, there shall be no restriction on the sale of a right of occupancy.

(2) Where the right of occupancy is jointly or communally

held, the provisions of this Act or any other Act, calling for the approval of the other joint or communal holders prior to any activity regarding the interest shall be applicable.

**PART IV  
RIGHT TO OWNERSHIP OF TREES**

Ownership of  
Trees.

19.(1) Trees can be owned and held separately from a right of occupancy in land.

(2) The ownership interest in the trees shall be registered in the name of the owner of the interest and included as part of the registration of the land on which the trees are located.

(3) If a separate tree ownership interest is not registered an irrefutable presumption shall exist that the trees are included in the right of occupancy.

(4) unless otherwise specified, the trees shall be included in any lease which is contained in the register.

Inheritance of  
Trees.

20. Trees shall be inherited according to the applicable law of succession as any other piece of immovable property.

Sale of Trees.

21.(1) There shall be no restriction on the sale of trees provided that a person whose trees are located on land on which the right of occupancy is held by a third party must first offer the right to purchase the said trees to the holder of the right of occupancy.

(2) Where the right of occupancy is held jointly, the joint interest holders shall determine among themselves which, if any, shall purchase the ownership rights to the trees.

(3) Upon failure to agree as to who among the joint interest holders shall purchase the trees, the ownership interest shall become part of the joint ownership interest of all joint interest holders and the cost shall be borne by each in proportion to his interest in the right of occupancy.

(4) Where the joint interest holders, or any individual among them does not wish to purchase the ownership interest in the trees, they shall be sold on the open market.

Urban Trees.

22. Unless included as a registered right of occupancy, the right to trees in the urban areas shall belong to the Municipality in question if the trees are ornamental and to the Ministry of Agriculture, or its successor ministry, if the trees are economic.

**PART V**  
**GRANTS OF PUBLIC LANDS**

Grants of Land.

23. The Minister shall create a right of occupancy by making a grant of land under Government control to individuals or groups of individuals through:-

- (a) an instrument of grant; or
- (b) recognition of the final adjudication record, made under the Land Adjudication Act, and subsequent registration, under the Registered Land Act.

Right of a Grant of land.

24.(1) The right of occupancy shall only be granted to Zanzibaris who are above the age of eighteen.

(2) A grantee shall not be required to pay for the value of the land that is included in a grant, provided however, that, the grantee shall be responsible for any incidental costs or other fees prescribed by this Act or Regulations issued thereunder.

(3) A person shall during his lifetime be eligible to receive only one grant of agricultural land and two grants of urban land, in accordance with the provisions of this Act.

(4) Any person who has not received a grant, in accordance with the provision of subsection (3) is eligible to receive a grant of land without regard to any other urban or agricultural land that he may hold.

(5) Any person may apply for a grant, and shall so receive the grant to either urban or agricultural land, as may be available, in accordance with the discretion of the Minister.

Fees Applicable.

25. The Minister shall prescribe fees payable for the grant of a right of occupancy or for any other matters done under this Act.

Status of Grant to land.

26. Land that has been allocated through means of a grant shall have the same attributes as any land to which a right of occupancy applies once the final order of grant has been issued in accordance with Section 33 of this Act.

Inheritance or sale of granted land.

27. Land which has been granted may be inherited or sold in accordance with the applicable provisions of this and other relevant Acts which set forth the manner in which individual, joint or communally held interests in land shall be dealt with.

Effect of Adjudication on the prior holding

28. If following the determination of an adjudication, an



of an individual.

individual as determined to be in rightful possession of more than:

- (a) eight hectares of granted agricultural land, he shall receive a grant for a maximum of eight hectares and receive the entitlement to lease the balance of the lands from the Government at a fair rental value which he is determined to rightfully hold;
- (b) two parcels of urban land, he shall receive a grant for two parcels in accordance with the provisions of this Act and any additional parcels will be sold on the open market unless due to hardship or other acceptable reason the Minister, in his discretion, makes an exception.

Refusal or failure to exercise option.

29.(1) If an individual refuses or, fails to exercise the option to lease the land constituting the excess over the eight hectare grant which he has received within sixty days of receiving the notice that the option exists, the land shall revert to the Government and be available for allocation in accordance with the normal procedures.

(2) Upon failure to exercise the option for a lease, the Government shall provided compensation for any unexhausted improvements on the land.

Allocation procedure for a grant.

30. Land shall be allocated in accordance with procedures set out in the Regulations.

Retention of possession.

31. While an appeal is in progress following the refusal to issue a final order of grant possession of the land shall remain with the petitioner until the matter is finally resolved.

Reallocation.

32. All lands that are to be reallocated shall be processed in the same manner as those lands which are to receive an initial allocation.

Provisional grant of a Right of Occupancy. Section 8 of Act 15/2010

33.(1) Each grant shall be made provisionally for a two year period during which time no legal rights shall exist.

(2) Where a provisional right of occupancy is in existence, no transfer of the land shall be permitted.

(3) Final assignment of the grant shall be made through the issuance of an order of grant after the fulfillment of all covenants and conditions laid, down in the document of grant have been satisfied.

(4) The registration of the grant shall take place within three months from the date of delivery of the final document of grant, provided that, the Minister may under extenuating circumstances extend such period.

(5) Failure to fulfill the conditions of the grant during the provisional period shall lead to a withdrawal of the grant.

(6) Following an adjudication, a final order of grant shall be made, without the necessity of a provisional period, in favour of any person or group which has already been in possession of the interest in question.

Appeal from the allocation procedure.

34.(1) In any case where an applicant is refused a provisional or final grant of land which he feels he rightly should have received, an appeal shall lie with the Land Tribunal, within sixty days from the date of such decision. Judicial review by the High Court shall only be allowed in instance where an issue of law is involved.

Rights of joint holders.

35.(1) Each individual among a group of joint holders of an interest shall be eligible for a separate grant of land.

(2) Where the interest held by the joint holder has been received by grant, the subsequent receipt of a grant by any individual among a group of joint or communal holder shall not effect the status of the interest as a whole, but shall terminate that person's interest in the jointly held right of occupancy.

Sale of granted land.

(3) The interest relinquished by one of the joint holders shall vest in the remaining members of the group.

36.(1) Unless otherwise provided for under this Act or any other Act, there shall be no restriction on the ability to sell an interest in land.

(2) Where the granted land is held by less than ten joint holders and all the joint holders agree, any individual among the joint holders may sell his interest to one or more of the existing joint holders.

(3) Subject to the prior approval of the joint holders, the entire interest can be sold to one of the joint holders or to a third party.

(4) Where there are more than ten joint holders, all actions related to the interest in question shall come under the provisions of the Registered Land Act which provide for a statutory trust.

Disagreements

among joint holders.

Appeals of partition decisions.

Urban grants. Section 9 of Act 15/2010.

Inheritance of urban land.

37. All disagreements among members of a jointly held interest shall be resolved by an application of the partition provisions by the Registered Land Act.

38. All appeals from partition decisions shall be referred to the Land Tribunal, judicial review of decisions in the High Court shall be limited to issues of law.

39.(1) Each eligible Zanzibari may during his lifetime receive two grants of urban land for residential purposes, one located at the site of birth and the second located at the site of residence away from the natal locale.

(2) Any grant issued under the provisions of this Act shall be made on a provisional basis for a two year period during which the recipient shall have the obligation to meet the conditions set out in the provisional instrument of grant.

(3) Grants may be awarded in urban areas to eligible persons for small business handicrafts or industrial purposes.

(4) The urban grant shall from time to time conform to the normal sized parcel utilized for residential purposes.

(5) Urban grants made for commercial or industrial purposes may be of the size necessary to conform to the needs of the land use involved in the commercial or industrial purpose without regard to any restriction as to size.

(6) In special circumstances to be determined on a case-by-case basis, it is possible for additional grants of urban land for residential purposes to be made by the Land Allocation Committee or through recommendation to the Committee by other relevant authority.

(7) There shall be no limit to the number of urban grants a person may receive for a commercial or industrial purpose as long as the procedure utilized conforms with the law governing investments.

40.(1) The law of succession shall apply to the inheritance of urban lands provided that the land shall not be subdivided if it would not conform to the normal town planning standards.

(2) Where more than one heir exists, the urban land shall be jointly held.

Sale of granted urban land.

(3) All decisions concerning matters involving urban lands which are jointly held shall be made by all persons who have an interest.

41.(1) A grant of urban land may not be sold for two (2) years, following the expiry of the period of a provisional grant during which time the land shall be developed in accordance with the conditions contained in the order of grant.

(2) Sub-section (1) of this section shall not apply if, following adjudication, the person who is awarded the interest has already been in possession of the property and made improvements thereto.

Agricultural grants.  
Section 10 of Act 15/2003.

42.(1) Each eligible Zanzibari may receive one agricultural grant during his lifetime.

(2) The grant shall be made on a provisional basis for a two year period during which time the recipient shall have the obligation to meet the conditions set out in the provisional instrument of grant.

(3) At a time no sooner than two years from the date of the provisional grant, a final instrument of grant shall be issued to the interest holder if the conditions contained in the provisional instrument have been fulfilled to avoid withdrawal of the grant.

Grantee not to harass dwellers and cultivators  
Section 11 of Act 15/2003.

42A.(1) The grantee shall not harass, disturb or evict any person who dwells or cultivates on the allocated three acres plot and that person shall not extend his dwellings or cultivating areas without prior permission of the grantee.

(2) Where in that three acres plot there is a person who is cultivating, that person shall continue to be in that acre until the time of harvesting his crops or of expiry of the agreed period or given compensation to the crops in accordance with the agreement of official evaluation made.

(3) Where in that three acres plot there is a person who is living, that person shall continue to live in that acre but shall not be allowed to sale, lease, give or extend his dwellings or assigning any part thereof to any other person without prior permission of the grantee.”

Size of grant.

43.(1) In accordance with the provisions of section 15 (2) of this Act, the size of an agricultural grant shall conform to the provisions set out in section 8(2) (d).

Sale of granted agricultural land.

(2) Unless the land which comprises the area granted is commonly owned or part of a Wakf, the total area of land which part of a grant may not exceed eight hectares in total area irrespective of the number of parcels included in the grant, with the understanding that under no circumstances may any individual parcel be less in area than three fifths of a hectare.

44.(1) No land which comprises a granted agricultural land including the three acre, plots granted under the provisions of the Land (Distribution) Decree of 1966) shall, under any circumstances whatsoever, be sold.

Inheritance of agricultural land.

(2) No land shall be transferred through any means during the pendency of a provisional period of grant.

45.(1) The law of succession shall apply to the inheritance of agricultural lands provided that the land shall not be sub-divided if such sub-division shall lead to the creation of any parcel with a size less than the minimum prescribed under this Act.

Provided further that the land which comprises an agricultural grant including the three acre plots granted under provisions of the Land (Distribution) Decree of 1966 shall not, under any circumstance whatsoever, be subdivided.

(2) Where more than one heir is entitled to the land that cannot be sub-divided, it shall be jointly held.

(3) The decisions concerning land that is jointly held shall be made in accordance, with the provisions of this Act and the Registered Land Act.

## **PART VI LEASES**

Leases to Public Land under Government control. Section 5 of Act 11/2010.

**46.**(1) The Minister may lease any public land to any person, Zanzibari or non-Zanzibari, provided that the Minister shall not lease a public land which comprises a right of occupancy without the consent of the holder of such right of occupancy.

(2) Before the lease created the holder of the right of occupancy shall be entitled to be paid compensation based on a fair market value of the land and improvements on the land.

(3) Subject to the approval of the investment by ZIPA or other relevant authorities, the Minister may lease any land to any person, Zanzibari or non-Zanzibari intending to use that land for investment

Duration and status  
of leases of public  
land under  
Government  
control.  
Section 6 of Act  
11/2010.

purposes.

47. (1) A lease of public land executed under the provisions of this Part shall not exceed a maximum of ninety nine years, provided that, the Minister may in his discretion increase the term of leases of public land created before or after the enactment of this Act to the maximum term of ninety nine years.

(2) Without prejudice with other provisions of this Act and notwithstanding the provisions of sub section (1) of this section, lease of public land may be renewed and where there is no renewal after expiring of the term of the lease, a Zanzibari may have a perpetual right to the demised land to be held under right of occupancy but for a non Zanzibari the demised land and all improvements thereon shall be reverted to the government.”

(3) Lease of any public land after being developed in accordance with ZIPA approved investment plan may be sold, assigned, sub-leased or sub divided, inherited or mortgaged, provided that the lessee shall not make any disposition without approval by the Land Transfer Board and the Minister, and shall meet the terms and conditions set by the Minister.

(4) A fair rental value shall be included in all leases of public land taking into consideration the value of the land in the immediate area without considering the increase in value due to the addition of improvement.

(5) The Minister may, on the basis of evidence of a clear and convincing nature, grant a reduction in rent if it will serve the public interest to do so.

(6) Rent shall be reviewed for leases of a duration of more than ten years at intervals of not more than three years taking into consideration the same criteria utilized for the assignment of the original rental value as set forth in sub-section (3) of this section.

(7) Where there is an increase in rent, the lessee shall have the right to terminate the lease and be entitled to compensation for the value, as of the date of surrender, of any unexhausted improvements on the land made by him.

(8) No compensation whatsoever shall be paid to non-Zanzibari after expiring the time of the lease prescribed under subsection 2 of this section.

(9) For the purpose of this section “land” shall not include buildings and other improvements”.

Violation of the restrictions in a Lease. Section 7 of Act no.15/2010.

**48.**(1) It shall be unlawful to terminate any lease of public land except:

(a) for failure by the holder of such lease to complete development of the leased land within a period of thirty months from the date of being granted the lease; or

(b) for failure by the holder to develop the leased land in accordance with the investment plan approved by ZIPA or relevant authority which shall be submitted to the Minister at the time of applying for the lease and which shall form part and parcel of the lease; or

(c) where the holder of the lease commits a fundamental breach of the term and condition of the lease; or

(d) where termination based on national interests.

(2) Any lessee who fails to pay a land rent after it becomes payable shall, in addition of the land rent, pay an additional rent amounting to 10% of the land rent for each month he was in default.

(3) Any lessee who fails without lawful reasons to pay such a land rent and additional rent for one year from the date additional rent becomes payable, the Minister may terminate such lease.

Provided that the holder of the lease shall be given three months notice to rectify the default before termination of the lease.

Compensation for termination of lease. Section 8 of Act 11/2010.

**48A.**(1) No compensation shall be paid to lessee if the lease terminated under section 48(1) (a), (b) or (c) of this Act.

(2) Compensation may be given if termination is made under section 48(1)(d) of this Act and the compensation shall be based on unexhausted improvements on the land without considering the market value of the land in which the value shall be determined at the time of an order of termination”.

Appeal of decision for termination.

49. An appeal for the decision to terminate a lease of public land on grounds of a violation or breach of terms and conditions restricting the sale, assignment, sub-letting, sub-lease or sub-division shall be made to the Lands Tribunal.

Leases of right of occupancy. Section 8 Act

50.(1) There shall be no restriction on the lease of a right of

11/2010.

occupancy, or a part thereof, by the interest holder, provided the lease is for a maximum period of forty nine years.

(2) Where any right of occupancy is jointly or communally held, approval must be given by all joint interest holders or in the instance where there are more than ten, in accordance with the provisions relating to statutory trust as set out in the Registered Land Act.

(3) Where the joint interest holders fail to reach an agreement concerning the possibility of creating a leasehold, and if such failure shall give rise to the possibility of the commencement of an action for termination of the right of occupancy, under the provisions of this Act, the procedure leading to termination shall be postponed until a decision concerning the leasehold is made.

(4) Any failure to reach an agreement concerning the possibility of creating a leasehold interest shall be resolved by the Land Tribunal.

Duration and status  
of lease of right of  
occupancy.

51.(1) The lease of a right to occupancy shall be inheritable.

(2) There shall be no right to lease any land for purposes that will violate any zoning provision.

(3) The lease of a right of occupancy shall not be sold, assigned, or sub-divided but inheritable.

(4) There shall be no right to sub-let a right of occupancy without the prior approval of a lessor and any person or institution that holds a registered interest on the land in question, and where prior approval is given by a lessor or any interested person under no circumstances shall a sub-lease of the said right be in excess of five years.

(5) There shall be no right to add fixtures or other unexhausted improvements to the land in question without prior permission of the lessor.

(6) Rent shall be reviewed for leases of a right of occupancy of a duration of more than five years at intervals of not more than two years taking into consideration the same criteria utilized for the setting of the original rental value.

(7) Upon an increase in rent, the lessee shall have the right to terminate the lease and claim the value, at the time or surrender of possession, of any unexhausted improvements authorised under the



Violation of the restrictions in a lease of Right of occupancy.	<p>covenants of the lease.</p> <p>52.(1) Any lessee who violates terms or conditions of a lease of a right of occupancy as set forth in this Act or in the covenants of the lease shall render the lease null and void.</p> <p>(2) Any lessee who is guilty of such an offence shall pay the lessor damages of not less than one million shillings and for failure to pay such damages the lessee shall be imprisoned for a period of not less than six months.</p>
Size of Lease to agricultural right of occupancy.	<p>53.(1) Unless otherwise provided for under his Act, no lease of agricultural land held by right of occupancy shall be permitted when such land has an area less than the minimum allowed by the law.</p> <p>(2) The Minister may, with appropriate justification, specially authorize leases of agricultural land of less than three fifths of a hectare on presentation of a petition so requesting by the interest holder.</p>
Effect of lease of right of occupancy.	<p>54.(1) A lease to a right of occupancy shall be registered.</p> <p>(2) A lease of the right of occupancy shall not effect any separate interest to trees located thereon.</p> <p>(3) Other than the conditions contained fits covenants, the provisions of this Act the relevant Laws shall apply to the lease.</p>

**PART VII**  
**TERMINATION OF RIGHTS OF OCCUPANCY**

Termination of right of occupancy.	<p>55. Except as provided in the sections of this Part it shall be unlawful for a right of occupancy to be terminated.</p>
Right to terminate national interest.	<p>56. The Government may terminate any right of occupancy on grounds of national interest provided that the Government shall:</p> <ul style="list-style-type: none"> <li>(a) prove before the Lands Tribunal that clear and convincing reasons exist for the repossession of such right of occupancy; and</li> <li>(b) pay market value compensation for the land and any unexhausted improvements thereon.</li> </ul>

before an order of termination, subject to the right to appeal before a Court of competent jurisdiction, is issued.

Zanzibari  
requirement.

57. If it is determined that:

- (a) any grantee is, at any time, proved to be a non-Zanzibari;  
or
- (b) an interest holder-makes, or attempts to make, a transfer  
of his right of occupancy to a non- Zanzibari;

an order of termination shall be issued by the Minister which shall provide that the right of occupancy is terminated and the land shall be vacated forthwith.

Forfeiture.

58. Where the Minister is at any time satisfied by the evidence presented to him that the land is abandoned or being utilized not in accordance with the plans of the proper authorities a procedure shall be commenced which may lead to the issuance of an order of termination.

Abandoned land.

59.(1) The land shall be designated as abandoned if the holder of the interest or person properly designated by him is not in possession of the land described as the right of occupancy and has not been for a period of eighteen months or three growing seasons whichever is longer.

(2) The Minister shall issue a notice requiring the rightful holder or a person designated by him to prove his possession within six months from the date of such notice.

(3) Where the holder of the interest does not prove his possession or through a person designated by him within the time allotted, the Minister shall issue an order of termination and shall vest possession of the parcel in question to the proper authority for re-allocation.

Idle land.

60.(1) Where the holder or a person rightfully acting on his behalf has failed over a period of two years to use for the purpose it was allocated, maintain or keep such land or buildings in proper and productive use and repaid, the land described as part of the right of occupancy may be declared as idle.

(2) The Minister may issue a notice requiring the holder to appear in person or by his agent to give reason why the right of occupancy should not be terminated.

(3) The Minister may, in his discretion, at the completion of the hearing, provide up to eighteen months during which time the interest holder must utilize the land in the manner for which it has

been designated.

(4) At the end of the designated period the Minister shall review the findings to determine if the land has been put to appropriate use and issue an order which conforms to the findings.

(5) Where the holder fails to appear at the appointed time specified in the notice, or if the Minister is not satisfied with the reasons advanced by the holder why the right of occupancy shall not be terminated, the Minister may issue an order of termination which terminates the right of occupancy.

Termination of a jointly held right of occupancy.

61. Where the right of occupancy affected by an order of termination is jointly or communally held, provisions calling for agreement of all joint interest holders shall apply.

Challenge to an order of termination.

62.(1) The recipient of an order of termination may within forty eight hours of the receipt of the order petition to the Minister for a reconsideration which shall be made within one week of the request.

(2) The interest holder may, if not satisfied with the decision of the Minister appeal against such decision to the Land Tribunal within sixty days of the issuance of an order of termination.

(3) The Minister shall order a stay of the order, on the request of the interest holder, pending determination before the Land Tribunal.

(4) Where an issue on point of law exists, the interest holder may appeal against the decision of the Land Tribunal to the High Court.

Compensation upon termination.

63.(1) Unless specifically provided for by the Minister, no compensation for the fair market value of the land shall be payable by the Government on termination of the right of occupancy under this Part.

(2) Compensation shall be provided for unexhausted improvements on the land with the value determined at the time of the order of termination.

Relinquishment of possession.

64. Possession to the land in question shall not be relinquished until procedures set out in this section are complied with.

(a) an assessment of the value of the unexhausted improvements and, if appropriate, the land have been

carried out by the Government;

- (b) where the Government fails to carry out the assessment within six months of the date of the order of termination, the interest holder may within ninety days;
  - (i) have the assessment carried out at the Government's expense; or
  - (ii) sell the interest on the open market.
- (c) where the property is sold the interest holder must relinquish possession within thirty days of the completion of the sale;
- (d) where an assessment is carried out the Government shall pay the interest holder within sixty days and the interest holder must vacate the premises within thirty days of the receipt of the payment;
- (e) where the payment has not been made by the Government within sixty days from the date of the assessment, a public auction shall take place within thirty days from the date of the default of payment the premises shall be vacated within thirty days from the date the public auction.

Disagreement over value of property. 65. Any conflict over the determination of the assessed value of the property at the time of an order of termination shall be resolved by the Land Tribunal.

## **PART VIII MISCELLANEOUS PROVISIONS**

Effective date of grants. 66.(1) Grants shall be considered effective from the date this Act comes into force with the exception of grants made through a procedure which predates the allocation procedure which is set out in the Regulations of this Act.

(2) All such grants shall be subject to a regularization procedure to be implemented through the administration of the Land Adjudication Act of 1989 aimed at introducing such holdings into a Land Register.

(3) All land lawfully acquired after this Act comes into effect, but prior to any planned Adjudication, shall not be affected by the adjudication.

Regulations.

67.(1) The Minister may make Regulations generally to give effect to the purposes and provisions of this Act, and in particular and without prejudice to the generality of the foregoing, for prescribing the form of land transactions and the instruments to be used to complete any transaction allowed under this Act, and for prescribing anything under this Act which may be allowed.

(2) Regulations may be prepared to give effect to the purposes and procedures of this Act, in particular to specified matters including:-

- (a) principles and procedure of land consolidation;
- (b) procedure relating to land allocation;
- (c) fees payable for matters done under this Act;
- (d) forms of instruments to be used;
- (e) standards to be utilized for setting rents and assessing compensation;
- (f) procedures to be followed in revising rents and other payments;
- (g) conditions relating to the application of land capability to the right of occupancy;
- (h) procedures and effects of donations;
- (i) regulations concerning the environmental concerns of lands used for commercial and industrial purposes.

Saving the right of Government.

68. Nothing in this Act shall prejudice any interest, right, power or privilege conferred on the Government by any other law.

Repeals.

69. (1) The following written Laws and portion of Laws are hereby repealed:

- (a) Registration of Land Interests, as set out in the Registered Land Act of (Act 10. 1990) 1989, so far as it requires leases over two years to be registered;
- (b) Public Land Decree (Cap. 93);
- (c) Decree, 13/65 (Government Land Decree);
- (d) Land (Distribution) Decree, 5/66 and Amending Decrees

10/67, 10/68, 1/69 and 3/82 without prejudice to matters done under these Decrees;

- (e) Confiscation of Immovable Property Decree, 8/64 and amending Decree 16/64, 3/68 and 11/79, without prejudice to any matters done under these Decrees;
- (f) Provisions relating to leasehold terms under the Investment Act of 1986;
- (g) Provisions of the Registered Land Act concerning provisional rights to occupancy; and
- (h) The provisos of sections 8(1) and 8(2) of the Investment Act of 1986.

(2) Notwithstanding the repeal of the Laws and portion of Laws indicated in sub-section (1) of this section anything done under the provisions of the repealed Laws or portion of Laws shall be deemed to have been made under the provisions of this Act.

(3) All pending cases prior to the commencement of this Act shall be dealt with accordance with the provisions of the repealed Laws.

**PASSED** in the House of Representatives on the 15<sup>th</sup> day of September, 1992.

( KHAMIS JUMA CHANDE )  
**CLERK OF THE HOUSE OF REPRESENTATIVES**