

THE LAND TRIBUNAL ACT NO.7 OF 1994

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ACT NO.7 OF 1994

I ASSENT

**(SALMIN AMOUR)
PRESIDENT OF ZANZIBAR AND
CHAIRMAN OF THE REVOLUTIONARY COUNCIL**

24th February, 1995

**AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF LAND TRIBUNALS
TO HEAR LAND DISPUTES AND MATTERS CONNECTED
THEREWITH OR INCIDENTAL THERETO**

ENACTED by the House of Representatives of Zanzibar.

**PART I
PRELIMINARY**

Short title and
commencement.

1.(1) This Act may be cited as the Land Tribunal Act,
1994.

(2) This Act shall come into operation immediately
upon being assented to by the President.

Interpretation.

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

“Assessor” means a person with high community
status who sits as a member of a Land Tribunal
Panel;

“Chairman” means the presiding person of Land
Tribunal panel and the chief administrator of
Land Tribunal;

“Chief Justice” means the person responsible for the
administration of the court system in Zanzibar;

“Clerk” means the officer in charge of the court
records;

“Conference” means a meeting of the parties or
others involved prior to a formal trial or hearing
of the matter brought before the Tribunal;

“Counter-petition” means a claim by a respondent against a petitioner;

“default” means failure to defend against the petitioners claim by failing to answer or to appear for trial;

“hearing” means any meeting of the parties to a dispute including the trial other than a pre-trial conference;

“Judgment” means the decision of the tribunal;

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

“Land Tribunal” means the tribunal which shall be established to hear land disputes as provided for in section 12 of this Act;

“Minister” means the Minister responsible for administering the Land system in Zanzibar;

“petition” means the paper filed by the person making the claim;

“petitioner” means the part commencing the case;

“respondent” means the person defending against the accusation of wrongdoing;

“statement of defence” means the papers filed by the person(s) alleged to have committed the wrong;

“subpoena” means an order of the court requiring a witness to attend or testify at a trial;

“Summons” means the paper issued by the Clerk of the tribunal which orders the respondent to admit or deny the petitioner’s claim.

PART II
LOCATION AND STAFFING OF LAND TRIBUNALS

Location of
Tribunals.

3.(1) There shall be a Land Tribunal in Zanzibar, which shall deal with the land disputes.

(2) The Tribunal may also sit in the principal town of any District on any island, when there are disputes that involve land located in one of the outlying Districts or any other suitable place.

Appointment of
Members of
Panels.

4.(1) There shall be a Chairman of the Land Tribunal who shall be appointed by the President for the term of five years.

(2) There shall be Assessors who shall sit on the Land Tribunal and who shall be appointed by the Chief Justice for a term of five years.

(3) The Chairman and any Assessor may be dismissed by the Authority who appointed him, at any time after receiving clear evidence of any abuse of power.

Panel for Hearings.

5.(1) The panel shall consist of a Chairman and two Assessors which shall hear the dispute over which the Tribunal has jurisdiction as set out in section 13 of this Act.

(2) The Chairman shall be considered as a member of the judiciary, as an ordinary employee of the Judiciary Department and shall receive the pay and benefits equal to a Regional Court Magistrate.

(3) The Assessors shall be persons who do not necessarily have a background of legal training, but who do have the qualifications as set out in section 6(2) of this Act.

(4) The Assessors shall not be considered as members of the judiciary and they shall receive an allowance, to be determined by the Minister in the consultation with the Chief Justice for their participation on the Tribunal as Assessors.

Qualifications.

6.(1) The Chairman shall have the following qualifications:-

(a) he should be a Zanzibari;

- (b) he has a legal training;
- (c) he has knowledge of land issues;
- (d) he should have general leadership abilities; and
- (e) he should have the possession of skills necessary for the resolution of disputes.

(2) The qualifications for appointment as an Assessor shall be:-

- (a) residence in Unguja or Pemba;
- (b) a reputation and high status in one's community for fairness;
- (c) consideration as a wise and learned person in terms of culture and social practices who is looked upon for decisions;
- (d) a special knowledge in matters of land; and
- (e) an accepted sense of integrity.

Panel members.

7.(1) The Land Tribunal shall have a Chairman, who shall be the chief administrative officer and preside in all hearings and as many Assessors for each District as are necessary to deal with the disputes of that District.

(2) The Chairman of the Tribunal will sit on all as the presiding person together with two Assessors resident in the District where the dispute is being heard.

Special panel members.

8.(1) To ensure that the prescribed schedule is adhered to, special Land Tribunal Presiding officers and additional Assessors shall be appointed by the Chairman of the Land Tribunal, in consultation with the Chief Justice, to assist with hearings, if the Schedule set out in section 26 of this Act, cannot be followed.

(2) Special Presiding Officers shall receive the same allowance as an Assessor.

Clerks. 9. The Land Tribunal shall have one Chief Clerk who sits in the Tribunal's principal venues of Zanzibar Town and Deputy Clerks who sit in each District of Unguja and Pemba.

Deputy Clerk. 10.(1) The Deputy Clerk shall perform all the functions and assume all the responsibilities which the Clerk has, but these functions and responsibilities shall be carried out in the District where the Deputy Clerk is assigned.

(2) The Deputy Clerk shall co-ordinate all his activities with the Clerk in the principal office in Zanzibar.

Functions of clerk. 11. The Clerk shall have the following functions:-

- (a) to receive the petitions and counter-petitions and other documents of persons with claims which come under the jurisdiction of this Act;
- (b) to set the location and schedule for hearing disputes by the Tribunal;
- (c) to ensure that each person who should receive notice of completed or pending action of the Tribunal are so notified;
- (d) to issue all subpoenas for the discovery of evidence;
- (e) to notify persons who have been appointed special presiding officers or Assessors of their appointment and assignments;
- (f) to ensure that all persons acting as experts are aware of their role and the schedule for the appearance at the Tribunal;
- (g) to co-ordinate all activities with the Deputy Clerks who are located in the Districts to ensure that the procedures are followed; and
- (h) to perform any other functions that ensure the procedures of the tribunal operated smoothly.

Surveys and valuations.

12. There shall be one person assigned to the office of the Clerk of the Tribunal who shall be a qualified surveyor with experience in valuation who shall perform these functions for the Land Tribunal whenever they shall be necessary.

PART III JURISDICTION AND COURT PROCESS

Jurisdiction.

13. The Land Tribunal shall have primary jurisdiction over proceedings instituted where parties have conflicting claims to land, including the following issues:-

- (a) action involving claims to a right to occupancy and/or possession in respect of any land;
- (b) demarcation of Land which is connected to activities related to the subdivision of parcels and any matter for which demarcation or surveying must be carried out;
- (c) the registration of Land;
- (d) the review of any transfer or lease which has been reviewed by the Land Transfer Board;
- (e) the use, development and capacity of land;
- (f) partition of holdings in which potential multiple ownership is involved;
- (g) Land valuation and issues involving compensation for land;
- (h) removal from possession or eviction from land;
- (i) expropriation of land by the Government;
- (j) agricultural or agro-industrial contracts or lease agreements;
- (k) transfer of property in contravention of the applicable law;
- (l) exchanges, illegal subdivisions and other irregularities involving improper division or partition of land;

- (m) succession to land;
- (n) possession of both urban and agricultural land;
- (o) use and development of land for purpose of conservation, development and the use of natural resources;
- (p) actions brought by the Director of Lands in order to recover land from a person in possession of any land;
- (q) the recovery of publicly held land; and
- (r) all other matters relating to land.

Conciliation.

14. The parties shall have access to conciliation at any stage of a case and if possible they shall, in collaboration with the Chairman, shorten the trial and deliberations in order to reduce the duration of the process.

Expediting the process.

15.(1) In the course of the proceedings the Chairman may unilaterally, if it is deemed appropriate, issue an order which is designed to expedite the process.

(2) The parties may reach an agreement with the Chairman to abbreviate and concentrate deliberations with a view to reducing the duration of the process.

Hearings.

16. The hearings of the Land Tribunal shall be informal, the objects being to dispense justice promptly between the parties. However, in order to allow for the organization of the system, a structured hearing , system, with pre-trial information and conferences shall be part of the procedure.

Closed hearing.

17. With the agreement of the parties involved, the three members of the panel may decide to close the proceedings for the examination of witnesses, for the taking of statements or at any time such a course is deemed appropriate.

Representations.

18.(1) Any party may participate in the hearing in person or, if the party is a judicial person, by a duly authorized legal representative.

(2) Whether or not participating in person, any party may be advised and represented, at the party's own expense, by a legal practitioner, or where allowed by law, any other representative.

Experts.

19.(1) Where technical evidence is required, experts, deemed appropriate by the agreement of the parties to the action, may be brought to testify from Government or non-Government bodies or any other source deemed appropriate by the parties to the action and the members of the panel.

(2) Where the parties cannot agree on the appropriateness of a particular individual, and the members of the panel feel that the person in question is the most appropriate, the Chairman may call in a neutral person, acceptable to the parties, who shall have the final say whether or not the selection of the expert is appropriate.

(3) The members of the panel are not obligated to accept the statements of the experts brought to testify in any matter before the Tribunals as the testimony is merely the opinion of the experts.

PART IV PROCEDURE FOR THE TRIBUNAL

Filing a petition.

20.(1) A case shall begin by filing with the Clerk of the Lands Tribunal, in the District where the land in question is located, a short and plainly written statement showing what the petitioner claims and why he claims it.

(2) The petitioner may combine as many claims in one case as may exist against a respondent and more than one respondent may be included in the case if the petition includes reference to more than one person.

Answering the petition.

21.(1) The respondent shall file a short and plain reply showing what the respondent admits, what is denied and why it is denied.

(2) The Clerk shall cause a copy to be delivered to the petitioner.

Filing a counter petition.

22. Failure of the respondent to make a counter-petition which is based on events which give rise to the petitioner's claim will not of itself prevent the respondent from raising such a claim in another case so long as the respondent either wins his case in the Land Tribunal or prevents the judgement of the Lands Tribunal from becoming a final judgement by filing a notice for judicial as provided in section 42 of this Act.

Issuance of summons.

23.(1) Upon the filing of a petition, the Clerk shall issue summons to each respondent through personal service or through the postal system, whichever is more practicable in the situation of the case.

(2) If the summons is personally served on the respondent, the server shall locate the person to be served and shall deliver the summons and a copy of the petition and any accompanying documents to the person to be served when the summons and the petition have been personally delivered, the server shall endorse the date, place and time of delivery on a copy of the summons and return it to the Clerk who shall make note on the appropriate docket.

(3) When the server is unable to personally serve the summons and a copy of the petition within fourteen days, the server shall endorse that fact and the reason for non-delivery on the summons and return the summons and the petition to the Clerk who shall make note on the appropriate docket, and immediately notify the petitioner, in the most practicable manner, of the inability to deliver the summons and petition. The fact of notifying the petitioner shall be made on the appropriate docket.

(4) If the Clerk elects to serve the summons and the complaint by registered post with a return receipt, the server shall endorse that fact on a copy of the summons and return it to the Clerk who shall make an entry on the appropriate docket.

Time of service.

24.(1) All time periods shall be measured by starting to count on the first day after the petition was served on the respondent or on the first day after the judgement was entered or on the first day after any other events happened by which this Act starts the running of a time period.

(2) If the last day is anything other than a working day, then the last day is not considered to have arrived until the next working day has arrived.

Deadline for response.

25.(1) The respondent shall file his statement of defence, counter-petition in the office of the Clerk where the original petition was filed, within 14 days after a copy of the summons and petition have been delivered to him by an official server or a person otherwise authorized to make service.

(2) If the service has been made by registered post with a return receipt required a statement of defence or counter-petition must be filed within 14 days of the receipt of the summons and petition which shall be calculated from the time the receipt is signed.

(3) The respondent does not have to, have a copy of his statement of defence served on the petitioner unless his answer contains a counter-petition.

Time Schedule for hearing disputes.

26.(1) The Chairman, together with the Chief Clerk, will determine the schedule of disputes to be heard. The time schedule set out shall be closely followed, whenever possible.

(2) Under no conditions shall the disputes be heard more than once a month after the summons and petition are delivered to the respondent.

Pre-trial information.

27. The parties to any dispute arising under this Act are encouraged to make a voluntary exchange of information before the trial, but under no circumstances shall such an exchange be required.

Pre-trial conference.

28. The Chairman of the Tribunal shall confer the parties before any trial takes place whenever it appears that such a conference might simplify the issues or shorten the hearing or lead voluntary exchange of information which might promote a settlement of the dispute.

Conducting a pre-trial conference.

29. If the pre-trial conference is held the chairman shall:-

(a) set the time and place of the proposed conference;

- (b) give reasonable notice to all persons entitled to notice which included all persons who should be present at the conference;
- (c) include in the notice anything which the Chairman feels is desirable to assist in expending the proceedings; and
- (d) issue an order based on the result of the pre-trial conference which is aimed at either terminating the dispute prior to trial or to narrow the issues which shall be heard at the trial.

Notice of a hearing.

30.(1) The Chairman shall set the time and place the hearing and give written notice in advance to parties and persons who have petitioned to intervene in the dispute.

(2) The notice shall include a copy of any order issued by the Tribunal in the matter under consideration.

(3) The notice may also include any other matters the Chairman considers important to assist in expediting the proceedings.

Failure to attend a hearing.

31.(1) If a Party to the dispute fails to attend or participate in either a pre-trial conference, a trial hearing, or any other meeting called to discuss the matter in question, the Chairman may serve written notice on all parties of a proposed default order. This notice shall include a statement of grounds for such an order.

(2) If after fourteen (14) days no answer has been received, the Chairman shall determine within seven (7) days whether the respondent shall be given an additional seven (7) days to reply from the time the respondent receives that notice to state the reason why a response has not been made to the accusation. If no satisfactory response is received by the end of the additional seven (7) day period, the members of the panel may then issue a default judgment.

(3) Within seven (7) days after the service of a proposed default order the party against whom it has been issued may file a written notice requesting that the proposed default order be vacated and he shall state the reasons for such request.

(4) During the time within a party challenge a proposed default order, the Chairman shall adjourn the proceedings until the time for challenge has passed.

(5) The Chairman shall either issue or vacate the default order promptly after the expiration of the time within which the party may file a written notice under subsection (3).

(6) After issuing a default order the Chairman shall conduct any further proceedings necessary to complete the matter that was before the tribunal without the participation of the party who was found to be in default.

Intervention of additional parties.

32.(1) The Chairman shall grant a petition for intervention by any person in a dispute scheduled to be heard by the Tribunal if:-

- (a) the petition is submitted in writing to the Chairman, with copies distributed to all parties who are named by the Chairman as persons interested in the outcome, at least three days before the hearing is scheduled;
- (b) the petition states facts that demonstrate the petitioner's interest may be substantially affected by the proceedings or that the petitioner qualifies under a provision of law to intervene in the matter;
- (c) the Chairman determines that the interests of justice and the orderly and prompt conduct of the proceedings will not be impaired by allowing the petition.

(2) The Chairman may grant a petition for intervention at any time, upon determining that the intervention sought will serve to assist in a fair disposition of the dispute and will not impair the orderly and prompt conduct of the proceedings.

(3) If a petitioner qualified for intervention, the Chairman may impose any reasonable conditions on the intervenor's participation in the proceedings either at the time the intervention is allowed or at any subsequent time as conditions may require.

(4) The Chairman shall give notice to the petitioner and any party in interest of any decision allowing or denying intervention at least twenty four hours prior to a scheduled hearing, specifying any conditions attached to an order of intervention and briefly giving reasons for the order.

Discovery and protective order.

33. The Chairman, on his own decision or at the request of any party, may issue a subpoena for discovery, for the protection of a party, or for other purposes which will make the process go more smoothly. These orders shall be in conformity with the rules and practices utilized in civil matters in the normal courts.

Witnesses.

34. A subpoena requiring a witness to attend and to testify at a trial shall be issued by the Clerk, in the District where the petition was filed, on the request of one of the parties.

Trial.

35.(1) A trial shall be scheduled to take place, whenever possible, no more than twenty one days following the statement of defence of the respondent and in cases where a counter-petition is filed or petition for intervention is filed, whenever possible, no more than twenty-one days following the response to the counter-petition or decision whether the intervention of an additional party will be allowed.

(2) At least fourteen days before the scheduled trial date, the Clerk, in the District where the petition was filed, shall notify the parties of the time and place of the trial.

(3) At the trial, whether or not there is a lawyer who represents either party, each party shall have the right to put questions to the other party or witnesses.

(4) An opportunity shall be provided for non-parties to present oral or written statements concerning the dispute. The parties then must be given a chance to question the non-party, if it is possible.

(5) The members of the Tribunal, in their discretion, may participate freely in the examination of the parties and witnesses.

(6) The tribunal may receive properly attested written or recorded statement of witnesses or parties who are not present at the trial.

Evidence.

36.(1) There shall be no rules applicable to the hearing which limit the presentation of evidence the parties feel is relevant to the case at hand.

(2) The Chairman, may, however, limit the presentation of evidence which is deemed irrelevant, immaterial, unduly repetitious or in any other way delays the normal progress of the hearing.

(3) Any part of the evidence may be received in writing if doing so will expedite the hearing without prejudicing the interest of any party.

(4) Any documentary evidence can be presented in the form of a copy, but if any party requests, an opportunity shall be given to compare the copy with the original, if the original is available.

Judgments.

37. All decisions of the tribunal, whether the final judgment or interim matter, shall be made by majority vote of the three members of the panel, the Chairman and two Assessors.

However, the Chairman shall have a deciding vote in all questions of law.

Exparte judgment.

38.(1) When a respondent does not file a statement of defence within the required time or fails to appear when the case is set for trial, after a seven (7) day wait following the last notice issued under section 31(2), present evidence in support of his claim, if the panel find the evidence supports the petition was filed, shall enter a judgment against the respondent.

(2) If an exparte judgment has been entered the person against whom such a judgment has been entered does not have the right to petition for reconsideration of the judgment.

(3) If the respondent does not appear when judgment is found against him, he loses the right to petition to a High Court for judicial review in accordance with the provisions of section 42 of this Act.

Enforcement of judgments.

39. Enforcement of any final judgment may proceed through any means available under the law, relations or rules and deemed appropriate and in force under the laws of Zanzibar.

Instalment payment of judgment.

40.(1) The Tribunal may order that any final judgment, When the payment of money is involved, shall be paid in instalments by setting a schedule of payment over a stated period of time.

(2) The Tribunal may change the schedule of payment, if the person concerned presents before the Tribunal evidence which shows that he cannot effect payment in that particular time and the panel is satisfied that the change is necessary.

(3) Nothing in this section shall allow the period of payment by instalments be extended for more than three years.

Judicial Review.

41.(1) Judicial review may be sought after a judgment has been rendered by filing a notice for judicial review in the Office of the Clerk, in the District where the original petition was filed.

(2) Judicial review shall only be available for cases involving matter of law. The decision of the Land Tribunal shall be final for any case that does not include an issue of law.

(3) Judicial review shall not be available for disputes where the sole issue is the determination of compensation.

Records.

42.(1) The Tribunal shall maintain an official record of each proceeding that has taken place under this Act.

(2) The record shall consist of:-

- (a) all notices issued by the Chairman;
- (b) any pre-hearing order;
- (c) any request made by any of the parties;
- (d) any petitions for intervention;

- (e) any written evidence submitted or received;
- (f) any judgment issued; and
- (g) anything else that has transpired since the initial petition was filed that has any hearing on the matter that has been before the tribunal.

PART V MISCELLANEOUS

Fees. 43. There shall be fees payable to the Land Tribunal, to be periodically determined by the Minister in the Regulations to this Act, for the filing of a case and the costs which are necessary for the dissemination of any materials necessary for the clarification of the issues which are part of the dispute before the court and for the time spent.

Regulations. 44. The Minister may make Regulations in general to give effect to the purposes and provisions of this Act, and in particular without prejudice to the generality of the foregoing, for prescribing the manner in which the procedure relevant to this Tribunal shall be carried out and for prescribing anything under this Act which may be allowed.

The right of Government. 45. Nothing in this Act shall prejudice any interest, right, power or privilege conferred on the Government by any other law.

Other Laws. 46. Any matter not provided for in this Act or in this Act or in any other law in relation to the transfer or long term lease of land shall be decided in accordance with the principle of justice, equity and good conscience.

Repeals. 47.(1) All laws or portions of laws in conflict with the provisions of this Act, shall be deemed to be repealed and anything done under a repealed law shall be deemed to have been performed under the provisions of this Act.

(2) All pending cases prior to the commencement of this Act, shall be dealt with in accordance with the provisions of the repealed laws.

PASSED in the House of Representatives on the 27th day of September, 1994.

KHAMIS JUMA CHANDE
CLERK OF THE HOUSE OF REPRESENTATIVES