

ZANZIBAR LAND LAWS

COMPILED BY;

COMMISSION FOR LANDS

P. O. BOX 811

FORODHANI

ZANZIBAR

NOVEMBER 2017

ZANZIBAR LAND LAWS

ACTIVE LAWS & REGULATIONS

INCLUSIVE: LIST OF AMENDED, REPEALED & RELATED LAND LAWS

PREPARED BY;

COMMISSION FOR LANDS
P. O. BOX 811
ZANZIBAR

NOVEMBER 2017

Disclaimer

Whilst much effort has been made to provide totally accurate principal and amended provisions of active Land Laws and Land Regulations, no responsibility is taken for inaccuracies and omissions contained herein.

Any difficulty should be referred to primary copies of the legislation.

*Commission for Lands,
November 2017.*

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LIST OF ACRONYMS AND ABBREVIATIONS

<i>c</i>	Chapter
Cap.	Chapter
L.N.	Legal Notice
R.E.	Revised Edition
S.	Section

LIST OF ACTIVE LAND LAWS

1. Valuers Registration Act 5/2015
2. Commission for Lands Act 6/2015
3. Land Transfer Act 8/1994 (R.E. 2015)
4. Land Tribunal Act 7/1994 (R.E. 2015)
5. Land Tenure Act 12/1992 (R.E. 2015)
6. Registered Land Act 10/1990
7. Land Survey Act 9/1990
8. Land Adjudication Act 8/1990
9. Town and Country Planning Decree 85/1955
10. Acquisition of Land (Assessment of Compensation) 96/1949
11. Land Acquisition Decree 95/1909

LIST OF ACTIVE LAND REGULATIONS

S/N	TITLE	MADE UNDER
1.	Kanuni za Malipo ya Ufunguaji Madai katika Mahkama ya Ardhi LN 80/2016	Land Tribunal Act No.1994
2.	Land Registration Fees LN 159/2015	Registered Land Act No.10 of 1990
3.	Land Transfer (Amendment) LN 88/2015	Land Transfer Act No.8/1994
4.	Development Control LN 38/2015	Town and Country Planning Decree Cap.85 of 1955
5.	Land Transfer LN 70/2011	Land Transfer Act No.8/1994
6.	Land Rent (Amendment) LN 27/2009	Land Tenure Act No.12 of 1992
7.	Land Surveys LN 60/2007	Surveyor's Act No.9/1990
8.	Land Surveyor's Board LN 58/2007	Surveyor's Act No.9/1990
9.	Land Rent LN 50/2007	Land Tenure Act No.12 of 1992
10.	Control Land Uses for Investment LN 87/2006	Land Tenure Act No.12 of 1992
11.	Kanuni za Udhibiti wa Matumizi ya Ardhi kwa Wawekezaji LN 48/2006	Land Tenure Act No. 12 of 1992
12.	Rules of Land Tribunal LN 24/2006	Land Tribunal Act 1994

LIST OF AMENDED LAND LAWS

LAW	TYPE	UNDER
Land Transfer 8/1994; s.3	Amendment	Commission for Lands 6/2015; s.28
Land Transfer 8/1994; ss.2, 5, 11, 12, 16	Amendment	Land Transfer (Amendment) 10/2007; ss.3, 4, 7, 8, 10
Land Transfer 8/1994; ss.9, 10(a), 13(2)	Replacement	Land Transfer (Amendment) 10/2007; ss.5, 6, 9
Land Transfer 8/1994; s.17	Repeal	Land Transfer (Amendment) 10/2007; s.11
Land Tribunal 7/1994; ss.2-3, ss.5-6, ss.10, 11, 13-16, 18-20, 22, 24-26, 28-33, 35-38, 42	Amendment	Land Tribunal (Amendment) 1/2008; ss.3-2, ss.6-7, ss.10-17, ss.20-33, s.36
Land Tribunal 7/1994; ss.4, 7, 9, 21, 38, 41	Replacement	Land Tribunal (Amendment) 1/2008; ss.5, 8-9, 19, 34-35
Land Tribunal 7/1994; s.13	Amendment	Government Proceedings 3/2010, s.23(2)
Land Tenure 12/1992; ss.2, 3, 4, 9, 11, 33, 39, 42, 48, 56	Amendment	Land Tenure (Amendment), 15/2003; ss.2, 3, 4, 6-10, 12-13
Land Tenure 12/1992; ss.6A, 6B, 6C, 42A	Insertion	Land Tenure (Amendment) 15/2003; ss.5, 11
Land Tenure 12/1992; ss.2, 6, 46, 47, 48, 50	Amendment	Land Tenure (Amendment) 11/2010; ss.3-7, 9
Land Tenure 12/1992; s.48A	Insertion	Land Tenure (Amendment) 11/2010, s.8
Land Tenure 12/1992; ss.2, 8, 46, 56	Amendment	Amendment of Various Land Laws 12/2013; ss.3-6

LIST OF REPEALED LAND LAWS

LAW	REPEALED UNDER	TYPE	DETAILS
Land Survey Decree 100/1911	Land Survey Act 9/1990, s.28	Whole	
Land Alienation 94/1939	Registered Act 10/1990, s.167.2.b	Whole	
Registered Land Act 10/1990	Land Tenure Act 12/1992, s.69.1.a	Portion	Registration of leases over two years
Public Land 93//1921	Land Tenure Act 12/1992, s.69.1.b	Whole	
Government Land Decree 13/65	Land Tenure Act 12/1992, s.69.1.c	Whole	
Land Distribution Decree 5/1966 and its amendments: 10/67, 10/68, 1/69, 3/82	Land Tenure Act 12/1992, s.69.1.d	Whole	
Confiscation of Immovable Property Decree 8/64 and its amendments: 16/64, 3/68, 11/79	Land Tenure Act 12/1992, s.69.1.e	Whole	
Investment Act 2/1986	Land Tenure Act 12/1992, s.69.1.f	Portion	Provisions relating to leasehold terms
Registered Land Act 10/1990	Land Tenure Act 12/1992, s.69.1.g	Portion	Provisions relating to registration of provisional right of occupancy
Investment Act 2/1986	Land Tenure Act 12/1992, s.69.1.h	Portion	Proviso of sections 8.1 and 8.2
Investment Act 2/1986	Zanzibar Investment Promotion and Protection Act 11/2004 s.39.1.a	Whole	
Commission for Land and Environment 6/1989,	Land Tenure (Amendment) 15/2003 s.14(1)	Whole	

LIST OF RELATED LAND LAWS

1. Oil and Gas (Upstream) Act 6/2016
2. Zanzibar Environmental Management Act 3/2015
3. Government Proceedings Act 3/2010
4. Condominium Act 10/2010
5. Property Tax Act 14/2008
6. Wakf and Trust Commission Act 2/2007
7. Zanzibar Electricity Corporation Act 3/2006
8. Water Act 4/2006
9. Zanzibar Investment Promotion and Protection Act 11/2004
10. Rent Restriction Decree 98/1953
11. Document Registration Decree 99/1919
12. Land (Perpetual Succession) Decree 101/1926
13. Transfer of Property Decree 150/1917

**VALUERS' REGISTRATION
ACT 5/2015**



**AN ACT TO MAKE PROVISIONS FOR THE REGISTRATION
AND REGULATION OF VALUERS
ACT, NO. 5 OF 2015**

ARRANGEMENT OF SECTIONS

SECTIONS

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2. Interpretation.

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4. Composition of the Board.
5. Functions of the Board.
6. Idemnity of members.
7. Remuneration.
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20. Proof of documents.
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22. Restoration of name in the Register.



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SCHEDULE



ACT, NO. 5 OF 2015

I ASSENT

A handwritten signature in black ink, appearing to read 'Ali Shein'.

(DR. ALI MOHAMED SHEIN)
PRESIDENT OF ZANZIBAR
AND
THE CHAIRMAN OF THE REVOLUTIONARY COUNCIL

18th June, 2015

**AN ACT TO MAKE PROVISIONS FOR THE REGISTRATION AND
REGULATION OF VALUERS AND FOR OTHER
MATTERS RELATED THEREWITH**

ENACTED by the House of Representatives of Zanzibar

**PART I
PRELIMINARY PROVISIONS**

Short title and
Commencement.

1. This Act may be cited as The Valuers Registration Act, 2015 and shall come into operation on such date as the Minister may by notice publish in the Official Government Gazette.

Interpretation.

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

"Board" means a Board established under section 3 of this Act;

"Chief Valuer" means a valuer appointed under section 25 of this Act;

"Land" means the meaning prescribed by the Land Tenure Act,

"Legal Officer" as prescribed by the Attorney General's Chambers (Discharge of Duties) Act;



"Minister" means a Minister responsible for land affairs;

"President" means the President of Zanzibar and the Chairman of the Revolutionary Council;

"Person" means a natural person or body of persons whether corporate or incorporated;

"Register" means a register under the supervision of the Board as established under section 15 of this Act;

"Registered Valuer" means a person professing to practice valuation as provided under Section 23 of this Act;

"Registrar" means the Registrar appointed in accordance with the section 13 of this Act;

"Valuation Firms" means a corporate or incorporate body deals with valuation works.

"Valuation license" means license to practice valuation issued by the Board;

"A Zanzibari" means a person prescribed under the Zanzibari Act.

PART II BOARD OF VALUERS

Establishment of
the Board.

3. There is hereby established a Board to be known as "the Board of Valuers", which shall be a:

- (a) Government agency with perpetual succession and a common seal; and
- (b) capable of acquiring, holding and dispose of movable and immovable property;

Composition of
the Board.

4.-(1) The Board shall be administered by the Chairperson appointed by the President who shall have the following qualifications:-

- (a) be a Zanzibari;
- (b) hold at least first degree or equivalent qualification in valuation or related field from recognised institutions; and



- (c) has experience in the field of valuation for not less than five years.

(2) The Board shall consist of the following members:

- (a) two members from the public sector dealing with valuation works appointed by the Minister;
- (b) two registered valuers at least one should be a woman from the private sector appointed by the Minister after consultation with private sectors;
- (c) the Chief Valuer ex-official member;
- (d) the Commissioner of Zanzibar Revenue Board (ZRB); and
- (e) the State Attorney from Attorney General's Chambers.

(3) A member appointed under section 4(2) (a) and (b) of this Act, shall have experience in the field of valuation

(4) The Board shall appoint a Vice - Chairperson among its members.

(5) The Registrar of the Board shall be the Secretary of the Board and shall not be a member of the Board.

(6) The Secretary shall not be a member of the Board.

Functions of the Board.

5. The Board shall have the following functions:

- (a) to approve or reject applications for registration of valuers as provided under this Act;
- (b) to hold or cause to be held examinations of qualified persons for registration under this Act;
- (c) to approve, suspend or cancel application for valuation license;
- (d) to prescribe from time to time fees payable after the approval of the Minister under this Act;
- (e) to determine and regulate the professional conduct and ethics of valuation;



- (f) to approve and enforce standards and guidelines of valuation professional;
- (g) to promote training, research and other services that are related to the functions of the valuers;
- (h) to take disciplinary measures against licensed valuers in accordance with the provisions of this Act;
- (i) to hear and determine any dispute related with valuation; and
- (j) Any other function as prescribed by this Act or its Regulations.

Indemnity of members.

6. A member of the Board shall not be personally liable for any act or default done or omitted to be done in good faith in the course of carrying out the responsibilities and functions of, or exercising the powers conferred upon the Board.

Remuneration.

7. The members and Secretary of the Board shall be paid such allowances and other payment as proposed by the Board from time to time and approved by the Minister in consultation with the Public Service Commission.

Meetings of the Board.

8.-(1) The Board shall hold ordinary meeting once in every three months.

(2) The Chairperson shall call an extra ordinary meeting of the Board on the request of three members of the Board and such request shall be in writing with the reasons therefor.

(3) The Board may invite any person to participate on its meeting but such person shall have no right to vote in any deliberation of the Board.

Quorum.

9.-(1) The quorum of the meeting shall be more than half of the members of the Board.

(2) All acts, matters and things authorized to be done by the Board shall be decided by the resolution at the ordinary or extra ordinary meeting of the Board at which a quorum is present.

(3) A decision of the majority of members present and voting at a meeting of the Board shall be deemed to be a decision of the Board.

(4) Each member of the Board shall have one vote, and in the event of an equality of votes, the person presiding shall have a second or casting vote in addition to his deliberative vote.



Tenure of the Board.

10.-(1) The Chairperson shall hold his office for the duration of four years and may be reappointed for a second term.

(2) A member of the Board appointed under section 4(2) (a) and (b) of this Act, shall hold his office for the duration of three years and may be reappointed for a second term.

Cessation from the Board.

11. A person shall cease to be member of the Board if that person:

- (a) misses three consecutive meeting without notice;
- (b) has behaved in a manner that has brought ridicule or disrepute to the Board;
- (c) resigns;
- (d) is of unsound mind; or
- (e) has died.

(2) A new member who appointed shall hold office for the remainder of the term for which his predecessor was appointed.

Common Seal of the Board.

12.-(1) The Board may determine a kind of instruments to be affixed by its common seal as prescribed in the regulations.

(2) Subject to subsection (1) of this section, the instrument shall be indorsed by the Chairperson or the Vice-Chairperson or any member of the Board in the absence of Chairperson or Vice-chairperson.

PART III THE REGISTRAR AND REGISTRATION

Registrar of the Board.

13. The Minister shall appoint a Legal Officer from public service to be a Registrar of the Board.

Functions of the Registrar.

14. The Registrar shall have the following functions:

- (a) to arrange and keep minutes of the Board;
- (b) to keep and maintain the register under the directives of the Board;



- (c) to issue valuation license after approval of the Board; and
- (d) to perform other functions as may be from time to time specified by the Board.

Register of
valuers.

15.-(1) There shall be a Register of Valuers which shall be in three Parts;

- (a) Part I shall contain particulars of Registered Valuers
- (b) Part II shall contain particulars of Temporary Registered Valuers;
- (c) Part III shall contain particulars of Valuation Firms;

(2) The register shall include:

- (i) full name of valuer or name of the Valuation firm;
- (ii) registration number;
- (iii) date of entry in the register;
- (iv) address;
- (v) identification details;
- (vi) qualifications;
- (vii) category of registration;
- (viii) duration of registration;
- (ix) such other particulars as the Board may from time to time direct.

(3) Subject to subsection (1) (c) of this Section, the Register shall contain further particulars of all directors, shareholders or partners as prescribed in the Regulations of this Act.

Amendment of
register.

16.-(1) Amendment or alteration shall not be made in the Register without decision of the Board.



(2) The Board shall make an entry in the Register in the event of amendment or alteration.

Valuation License. 17.-(1) Where the name of a person has been entered in the Register, the Registrar shall issue a license in the prescribed form provided that the license shall remain the property of the Board.

(2) A license shall be valid and remain in force for one year, but renewable on the payment of the prescribed fee.

(3) In event of the license being lost or destroyed and the loss or destruction being proved to the satisfaction of the Board, the Registrar shall issue a duplicate of the license to the registered valuer or valuation firm on payment of the prescribed fee.

Publication of Register. 18. The Board shall cause to be published in the Official Gazette, as soon as may be practicable after entry in the register particulars as prescribed under section 15 of this Act.

Searches of the Register. 19. A person, on application in the prescribed form and on paying the prescribed fee, may require an official search in respect of any registered valuer or firm, and the Registrar shall issue a certificate of official search setting forth particulars of all subsisting entries in the Register.

Proof of documents. 20.-(1) In any legal proceeding a document purporting to be a certified copy of, or an extract from the Register or from any document kept or published by the Board, shall be admissible as evidence of the contents of the Register or of the document.

(2) The Board shall not be compelled in any legal proceeding to which it is not a party:

- (a) to produce the register or any document if its contents can be proved under subsection (1) of this section; or
- (b) to appear as witness to prove an entry in the register or the matters recorded in the register or any document, unless the court for special cause so orders.

Cancellation of Valuation license 21.-(1) The Board may cancel valuation license at any time after being satisfied that:

- (a) a registered valuer has died;
- (b) requested his license to be cancelled;



- (c) by reason of any false or misleading information;
- (d) for professional misconduct;
- (e) been declared bankrupt or insolvent; or
- (f) failed to renew the valuation license for three years continuously.

(2) The Board shall, after cancellation direct the Registrar to remove the name of registered valuer or valuation firm from the Register.

(3) The Registrar shall notify a person whose name has been removed from the register.

(4) The Registrar shall cause to be published in the Gazette, as soon as practicable, the name, address and qualifications of a person whose name has been removed from the Register under this section.

Restoration of
name in the
Register.

22.-(1) Where the name of the registered valuer or valuation firm has been removed from the Register, the valuer or firm may request for the name to be reinstated in the Register by applying to the Board for reconsideration.

(2) The Board shall reinstate the name in the Register after being satisfied that the reason which causes the name to be removed from the Register has ceased.

Conditions and
qualifications for
registration.

23.-(1) A person shall be entitled, on making an application to the Board in the prescribed form and on the payment of the prescribed fee, to be registered Valuer under this Act, if that person:

- (a) holds at least first degree or its equivalent in valuation or related field from a recognized institution;
- (b) has experience in the field of valuation for a period of not less than one year under supervision of the Registered Valuer;
- (c) has passed a professional examination conducted by the Board or other similar institution recognized by the Board; and
- (d) has made a declaration in the form and manner prescribed in the Schedule.

(2) In case of valuation firms, one of the office holder has fulfilled conditions and qualifications as mentioned in the subsection (1) of this section.



(3) The Board may approve any such application subject to such conditions or restrictions as it may deem fit to impose.

(4) Where a person has fulfilled the requirements of subsection (1) and (2) shall be registered as Registered Valuer.

Temporary
Registered
Valuer.

24. Where a person satisfies the Board that:

- (a) the person is not ordinarily resident in Zanzibar or in case of firm it has been established outside of Zanzibar;
- (b) the person has been registered and qualify to undertake valuation business in the country of his residence; and
- (c) the person intends to be present in Zanzibar and engage in practice as a valuer for the specific work for which he has been engaged,

the Board may direct that the person to be registered as temporary registered valuer for a period not exceeding one year or for the period of the duration of the specific work which he has been engaged to do.

PART IV CHIEF VALUER

Appointment of
Chief Valuer.

25. There shall be a Chief Valuer appointed by the President and who shall be a Chief Executive Officer of the Board.

Qualification of
Chief Valuer.

26. The Chief Valuer shall have the following qualifications:

- (a) be a Zanzibari;
- (b) hold at least first degree or equivalent qualification in valuation or related field from recognised institutions; and
- (c) have experience in the field of valuation for not less than five years.

Function of the
Chief Valuer.

27. The Chief Valuer shall have the following functions:

- (a) to approve and endorse all Valuation Reports;
- (b) to prepare quarterly report on valuation activities in Zanzibar and present it to the Minister;



- (c) to prepare and submit the valuation standards, specifications and procedures to the Board;
- (d) to advise the Government on valuation activities;
- (e) to advise the Government on valuation rate in purchase and dispose of its property; and
- (f) to prepare and maintain a data base on property transaction or related data.

Submission of relevant information.

28. The Chief Valuer may require any person to submit any relevant information or document necessary for the carrying out of his functions under this Act on a prescribed form.

Delegation of Functions.

29. The Chief Valuer, in writing may delegate a specific function to any government valuer subordinate to him.

Government Valuers.

30.-(1) There shall be Government valuers working in the public sectors in the Ministries, Departments, Government Institutions and Public corporations in Zanzibar.

(2) The Government valuers shall hold at least first degree or equivalent qualification in valuation or related field from recognised institutions.

(3) The Government valuers shall practice valuation under directives and supervision of the Chief Valuer.

PART V FINANCIAL PROVISIONS

Funds of the Board.

31. The funds of the Board shall consist of:

- (a) subvention from the Government;
- (b) all such sums of money, fees, charges, grants, donations, loans and other lawful payments to the Board.

Accounts and Audits.

32.-(1) The Board shall cause to be made and kept the proper and complete books of accounts reflecting all incomes and expenses of the Board.

(2) The Board shall prepare each financial year statement of account which include:



- (a) Financial statement and statement of income and expenses; and
- (b) Such other information in respect of financial affairs of the Board.

(3) Within three months of closing of every financial year the accounts including the financial statement of the Board in respect of the financial year shall be submitted to the Controller and Auditor General or any Auditor recognized and approved by the Controller and Auditor General for auditing.

Budget. 33. The Board shall prepare and submit to the Minister its budget for approval not less than three months before the end of each financial year.

Annual Report. 34. The Board shall prepare or cause to be prepared and submit to the Minister within three months after the close of each financial year an annual report which shall provide detailed information regarding the exercise of the functions and powers of the Board during the year which it relates and shall include:

- (a) a copy of audited accounts of the Board together with the Auditors report and accounts;
- (b) an annual performance report of the Board;
- (c) a performance report of the Minister's directives to the Board during the year; and
- (d) any other relevant information.

PART VI MISCELLANEOUS

Effect of registration. 35. Every person whose name has been entered in the Register shall, so long as his name remains in the Register, be entitled to adopt and use the title "Registered Valuer".

Unregistered persons not to practice as valuer. 36.-(1) An individual shall not carry on business as a practicing valuer unless he is a registered valuer.

(2) A firm shall not carry on business of valuation unless one of the office holder is a Registered Valuer.

(3) A firm which is established out of Zanzibar can only conduct valuation business by collaboration with a valuer who is Registered by the Board.



fine of not less than five Hundred Thousand Tanzania Shillings or imprisonment for a term of not exceeding three months or both.

Appeal.

41. A person aggrieved by a decision of the Board:-

- (a) refusing to register his name;
- (b) removing his name from the register;
- (c) suspending his registration under this Act; or
- (d) refusing to restore his name on the register,

may, within twenty-eight days of receiving the written decision of the Board, appeal to the Regional Magistrate Court against the decision of the Board.

Saving.

42. Nothing in this Act shall prejudice any interest, right, power or privilege in relation to valuation practiced before the commencement of this Act.

Transitional
period.

43. All valuers or valuation firms that have been practicing valuation works in Zanzibar before the commencement of this Act shall be registered upon submission of application and approval on sample of their works to the Board.



SCHEDULE

THE REVOLUTIONARY GOVERNMENT OF ZANZIBAR

THE VALUERS REGISTRATION ACT

[Under Section 23 (1) (d)]

Mr./Mrs./Miss..... of is hereby registered as a Valuer in accordance with the provision of section 23 of the Valuers Registration Act, 2015.

Given at Zanzibar this day of 20.....

.....
**CHAIRMAN
 VALUER'S BOARD**

PASSED in the House of Representatives in the date of March, 2015.


**YAHYA KHAMIS HAMAD
 CLERK OF THE HOUSE OF REPRESENTATIVES
 ZANZIBAR**

**COMMISSION FOR LANDS
ACT 6/2015**



**AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF THE COMMISSION FOR LANDS
ACT. NO. 6 OF 2015**

ARRANGEMENT OF SECTIONS

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29. Savings



ACT NO. 6 OF 2015

I ASSENT

{DR ALI MOHAMED SHEIN}
PRESIDENT OF ZANZIBAR
AND
THE CHAIRMAN OF THE REVOLUTION COUNCIL

18th June2015

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF THE
COMMISSION FOR LANDS AND MATTERS CONNECTED THEREWITH
AND INCIDENTAL THERETO

ENACTED by the House of Representatives of Zanzibar

PART I
PRELIMINARY

Short title and commencement. 1. This Act may be cited as the Commission for Lands Act, 2015 and shall come into operation on such date as the Minister may by notice publish in the Official Gazette.

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

"Board" means the Board of the Commission for Lands established under section 7 of this Act;

"Commission" means the Commission for land as established under section 3 of this Act;

"Executive Secretary" means the Executive Secretary of the Commission appointed under section 13 of this Act;

"Government" means the Revolutionary Government of Zanzibar;

"Land" means the meaning prescribed under Land Tenure Act;



"Minister" means the Minister responsible for Lands affairs;

"President" means the President of Zanzibar and Chairman of the Revolutionary Council;

PART II THE COMMISSION FOR LANDS

Establishment of
the Commission
for Lands.

3.-(1) There is hereby established Government Agency to be known as the Commission for Lands.

(2) The Commission shall have common seal and be capable of holding, purchasing or acquiring any movable or immovable property for the purpose of carrying out the functions of the Commission.

(3) For the performance of its functions, the Commission may enter into a contract or any other transaction.

Functions of the
Commission.

4.-(1) The Commission is the Principal Advisory and Executive Organ of the Government on all matters related to land administration and management.

(2) The Commission shall have the following functions:

- (a) to recommend and advice implementation of land policy;
- (b) to advise the government on a comprehensive program for the land registration in Zanzibar;
- (c) to monitor the registration of all rights and interests in land;
- (d) to regulate national land use planning throughout the country;
- (e) to specify standards and norms for lands administration;
- (f) to recommend measures to ensure that Government policies including those for the land development take adequate accounts of their effects on land;
- (g) to develop and maintain an effective land information management system;
- (h) to regulate all surveys and mapping of Zanzibar;
- (i) to coordinate activities of all institutions concerned with lands and serve as a channel of communication between these institutions and the Government;
- (j) to undertake and promote general educational programs in land use and land administration for the purpose of creating public awareness and the role of the public in land protection and development;



- (k) to review existing land laws and where appropriate propose amendments;
- (l) to establish and maintain liaison with other national and international institutions dealing with land matters;
- (m) to establish mechanism for monitoring all activities related to land administration and management;
- (n) to advice and manage spatial development;
- (o) to conduct research on matters related to land;
- (p) to exercise such functions and powers as provided for under the Land Tenure Act as amended by this Act; and
- (q) to do all such acts and functions incidental to its proper performance and any directives of the Minister on matters relating to land management and administration.

Powers of the Commission.

5. The Commission shall have the following powers:-

- (a) to collect fees and levies from different transactions;
- (b) in consultation with the Minister, to conduct, coordinate and regulate any matter in accordance with the provisions of this Act; and
- (c) to issue rules, guidelines, directives and request a person to appear before the Commission.

**PART III:
ADMINISTRATION OF THE COMMISSION**

Structure of the Commission.

6.-(1) The structure of the Commission shall be established in accordance with the provisions of the Public Service Act.

(2) Without prejudice subsection(1) of this section the Commission shall have the following Departments :

- (a) Department of Lands;
- (b) Department of Surveys and Mapping;
- (c) Department of Urban and Rural Planning; and
- (d) The Office of Registrar of Land.

(3) The President may establish any other Department as he deems fit.



Board of the
Commission.

7.-(1) There is hereby established a Board of the Commission which shall be the executive and supervisory organ of the Commission.

(2) For the purpose of this Act the members of the Board shall be called the Commissioners.

Staff of
Commission.

8. The Commission may appoint staff according to Public Service Act, such number of staff and experts to serve as officers of the Commission as it may consider appropriate or necessary for the performance of the functions of the Commission.

Composition of
the Board.

9.-(1) The Board shall consist of:

- (a) Chairperson who shall be appointed by the President
- (b) Principal Secretary of the Ministry of Lands;
- (c) Principal Secretary responsible for Regional Authorities;
- (d) Deputy Attorney General;
- (e) Other three members appointed by the Minister; and
- (f) The Executive Secretary of the Commission who shall be the Secretary of the Board.

(2) Where the Minister appoints such members shall have to consider the following qualifications:

- (a) Zanzibari; and
- (b) knowledge and experience of at least seven years in the field of land, investment, environment, administration, economic or law.

(3) The Chairperson shall have the following qualifications:-

- (a) be a Zanzibari;
- (b) holds at least first degree or its equivalent from a recognized institution;
- (c) has knowledge and experience of at least seven years in the field of land, investment, environment, administration, economic or law experience and knowledge of land matters of at least seven years.



Tenure of the Board.

10.-(1) The Chairperson shall be appointed for the duration of three years and may be reappointed for a second term.

(2) The members appointed by the Minister shall be for the duration of three years and may be reappointed for a second term.

Functions of the Board.

11.-(1) The Board shall be an overall in-charge for the administration and execution of the functions of the Commission.

(2) Without prejudice to the general function, the Board shall in particular, have the following functions:

- (a) to guide the Commission on matters relating to land management and administration;
- (b) to approve work plans, recruitment, procurement, acquisition and disposal of the property;
- (c) to appoint head of sections or unit subject to the provisions of Public Service Act;
- (d) to monitor and evaluate performance of the Commission;
- (e) to approve budget of the Commission including source of funds and expenditure;
- (f) to take effective steps to establish and maintain land administration system;
- (g) to act in accordance with all such directives of a general nature as the Minister may in writing give to the Board; and
- (h) to do all such acts as may appear to it to be necessary for the efficient and effective discharge of its function;

Powers of the Board.

12. The Board shall have the following powers:

- (a) to submit any application with recommendations relating to land allocation, lease or termination of any rights in land to the Minister for approval.
- (b) to establish committees to perform specific functions under the directives of the Board; and



- (c) to demand information concerning lands to any person, institution or organization.

Appointment and
qualification of
Executive
Secretary.

13.-(1) There shall be an Executive Secretary of the Commission who shall be appointed by the President.

(2) A person shall qualify to be appointed as Executive Secretary if:

- (a) is a Zanzibari;
- (b) holds at least first degree or its equivalent from a recognized institution;
- (c) is a senior public officer with knowledge and experience in matters relating to land administration, land survey, physical planning, land economics, public administration or land laws.

(3) The Executive Secretary of the Commission shall be the Chief Executive Officer and shall, subject to the provisions of this Act and general directives which may be given by the Minister, be responsible for day to day administration of the Commission.

Secretariat.

14. There shall be Secretariat working under the directives of the Executive Secretary, appointed by the Board from among the senior staffs of the Commission.

Meetings of the
Board.

15.-(1) The Board shall meet at least once in every three months.

(2) The Chairperson may call a special meeting of the Board at any time when receives a request for advice from the Commission or receives request from at least half of the members in writing to convene a meeting on a specified land issue.

(3) The Board may appoint one of its members to be Vice- Chairperson.

(4) The Chairperson shall preside over every meeting of the Board and in his absence the Vice-Chairperson shall preside the Meeting.

(5) In absence of both the Chairperson and Vice Chairperson from any meeting the members present shall elect one amongst them to be a temporary Chairperson of the meeting.

(6) An ordinary meeting of the Board shall be convened by the Chairperson;

(7) The notice of the meeting shall specify the place, date, time of the meeting and sent to each member at his usual place of business or residence not less than seven days before the date of such meeting.



(8) One half of the members shall constitute a quorum for any meeting of the Board.

(9) to invite a person who is not a member of the Board if necessary for the purpose of facilitating the Board in carrying out its functions.

Agenda of the meetings.

16.-(1) The Board adopts its agenda based on requests from the Commission for advice on specific lands issues and or upon its own recommendations of items to be considered.

(2) Information submitted to members in subsection (1) of this section shall be treated with high confidentiality.

Seal of the Board.

17. The seal of the Board shall be authenticated by the signature of the Chairperson, the Secretary or such other officers of the Board as the Board may appoint on that behalf.

Records of proceedings of the Board.

18. The Board shall record and keep minutes of all business conducted or transacted in its meeting that shall be read and confirmed by Board at the next meeting of the Board and signed by the Secretary and the Chairperson of the meeting.

Report of the Board.

19. The Board shall within three months after the end of each financial year, make a report to the Minister on the conduct of the Board business during that financial year.

Allowance of the Members of the Board.

20. The members of the Board shall be paid from the budget of the Commission such allowances and other remunerations as the Minister may, in consultation with the Minister responsible for finance determine.

Procedure of the Board.

21. Subject to the provisions herein referred to in this Act, the Board shall have power to regulate its own procedures.

PART V FINANCIAL PROVISIONS

Funds of the Commission.

22.-(1) There shall be separate vote in which all moneys of the Commission as approved by the House of Representatives shall be kept.

(2) The Commission may, in the discharge of its functions and in accordance with the terms and conditions upon which its funds may have been obtained or derived charge to the fund all remuneration, allowance, salaries, working expenses and all other charges properly arising, including any necessary capital expenditure.

(3) The funds and sources of the Commission shall consist of:



- (a) Subvention from the Government;
- (b) fees, rent for land lease and levies collected by the Commission;
- (c) all the payments to the Commission in respect of any matter incidental to its functions; and
- (d) any grants, donations, loans, or other lawful contributions made to the Commission.

Budget.

23.-(1) The Executive Secretary of the Commission shall within three months before the end of each financial year prepare and submit to the Minister, budget of income and expenditure of the Commission for the next financial year.

(2) The Commission shall submit to the Board the annual budget for information and endorsement.

(3) The Board after endorsement shall submit the annual budget to the Minister for approval.

Accounts and Audit.

24.-(1) The Commission shall keep books of accounts and maintain proper records of its operations and of all properties administered or controlled by the Commission.

(2) The Controller and Auditor General or any auditor recognized and approved by Controller and Auditor General for Auditing may as frequently as he sees fit and shall, at least once in every year, audit the accounts of the Commission.

Annual Report.

25.-(1) The Executive Secretary shall within three months after the end of each financial year, submit an annual report to the Minister on the conduct of the tasks of the Commission during that financial year.

(2) The report shall include the followings:

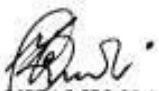
- (a) Annual financial statement of the Commission;
- (b) Achievements of the Commission;
- (c) Information regarding process of land registration;
- (d) Challenges or impediments encountered;
- (e) Any other information that the Commission may consider necessary.



PART VI: MISCELLANEOUS

- | | |
|---------------------------------|--|
| Offence and Penalties. | 26. A person or body corporate knowingly and without reasonable excuse hinders or obstructs the Commission or its authorized officer in carrying out any of its functions under this Act, shall be guilty of an offence and on conviction be liable to a fine not exceeding one million Tanzania Shillings or to imprisonment for a term not exceeding six months or both. |
| Regulations. | 27. The Minister may make regulations for the better carrying out of the provisions of this Act. |
| Amendment of Land Transfer Act. | 28. Section 3 of Land Transfer Act, 1994 is hereby amended as follows by adding subsection (1) immediately after Section 3 by inserting a new subsection (2) which read as follows 'Subject to the provision of subsection (1) the Land Transfer Act, the Board shall submit to the Commission for Land all instruments of land or lease transfer approved by the Board'. |
| Savings. | 29. Nothing in this Act shall prejudice any interest, right, power or privilege before the commencement of this Act. |

PASSED by the House of Representative on 12th March, 2015


YAHYA KHAMIS HAMAD
CLERK HOUSE OF REPRESENTATIVES
ZANZIBAR

**LAND TRANSFER
ACT 8/1994 (R.E. 2015)**

8 OF 1994

THE LAND TRANSFER ACT

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Transfer of Land

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4. Approval of a transaction by the Board.
5. Referral process for transfers and leases.
6. Application for transfer or lease.
7. Reason for withholding consent for transfer.
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PART III

Land Transfer Board

9. Composition of the Board.
10. Term of membership.
11. Meetings of the Board.
12. Quorum.
13. Dismissal from Board.
14. Duration for which approval remains valid.

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Offences and Appeals

15. Violating of provisions of transfer restriction process.
16. Offences.
17. Repealed.

PART V

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18. Regulations.
19. The right of Government.
20. Other laws.
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8 OF 1994

I ASSENT

{SALMIN AMOUR}

PRESIDENT OF ZANZIBAR

AND

CHAIRMAN OF THE REVOLUTIONARY COUNCIL

[1st March, 1995]

AN ACT to provide for the Regulation of the Permanent Transfer of Land and the leasing of land.

[No. 10 of 2007.]

ENACTED by the House of Representatives of Zanzibar.

PART I

Preliminary Provisions

1. This Act may be cited as the Land Transfer Act of 1994, and shall come into operation immediately upon being assented to by the President.

Short title
and com-
mence-
ment

2. In this Act, unless the context otherwise requires—

Interpre-
tation

“**application**” means the process of requesting permission to transfer or lease of land for more than three years;

“**Board**” means the Land Transfer Board established under this Act;

“**Court**” means the Land Tribunal and the regular courts unless provided otherwise;

“**Department**” means Department for Lands and Registration;

[No. 10 of 2007, s. 3.]

“**Director**” means Director for Lands and Registration;

[No. 10 of 2007, s. 3.]

“**Head of Department**” means Head of Department of Lands and Registration, Pemba;

[No. 10 of 2007, s. 3.]

“**Instrument**” means a grant or other transfer of Public Land, a document or plan relating to transfer, charging or otherwise dealing with or affecting land, or evidencing title to it, and includes—

- (i) a grant of probate or administration or other trust instrument; and
- (ii) an Act;

[No. 10 of 2007, s. 3.]

[8 OF 1994]

The Land Transfer Act

“**Land**” includes land by itself, 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 Tribunal**” means the Land Tribunal which shall hear land disputes;

“**lease**” means a long term transfer of the interest in land for three years or more including any possible period of renewal, but limited to not more than fifteen years as set out in section 50 of the Land Tenure Act of 1992, with the transferor holding the residual interest;

“**Minister**” means the Minister responsible for lands in Zanzibar;

“**President**” means the President of Zanzibar and Chairman of the Revolutionary Council.

“**Transfer**” includes a conveyance, grant and assignment;

[No. 10 of 2007, s. 3.]

“**Transferee**” includes a grantee, assignee and personal representatives;

[No. 10 of 2007, s. 3.]

“**Transferor**” includes a grantor, assignor and their legal representatives.

[No. 10 of 2007, s. 3.]

PART II

Transfer of Land

Transfer of
land

3. No permanent transfer of land or long term lease shall take place until the transaction is reviewed and approved by the Land Transfer Board set up under the provisions of this Act.

[No. 10 of 2007, s. 28]

(2) Subject to the provision of sub-section (1) of this Act, the Board shall submit to Commission for Land all instruments of Land or Lease transfer approved by the Board.

[No. 10 of 2007, s. 28]

(3) Subject to the provision of subsection (1) of this Act, the Board shall submit to the Commission for Land all instruments of land or lease transfer approved by the Board

[No. 6 of 2015, s. 28]

Approval
of a trans-
action by
the Board

4. No permanent transfer of land, with special emphasis on the former three acre plots, leases or agreements for a lease which exceed three years made by an instrument executed after the date on which this Act comes into force shall have any effect unless consent is given to that transaction by the Land Transfer Board established for the area in which the land is situated and the approval for the transfer of the land in question is endorsed on the instrument which creates the transaction in question or the endorsement is on the appropriate form requesting approval for the transaction in question.

Referral
process for
transfers
and leases

5.—(1) Each potential transferor of land or a lessor of land for three years or more shall present an application for permission to transfer or lease which shall include the name of the respective transferee and other specified information to the District Commissioner in the District where the land to be transferred or leased is located together with the recommendations from the Shehia Council concerned.

(2) The District Commissioner shall forward the application to the Director, Commission of Lands and Environment in Unguja and the Deputy Director, Department of Lands and Registration in Pemba after being discussed and recommended by that

District Government.

[No. 10 of 2007, s. 4 (i),(ii)]

(3) The Director and Head of Department shall submit the applications for the transfer or lease of land to the Board for consideration.

[No. 10 of 2007, s. 4 (iii).]

6. The application for transfer or long term lease shall provide the following information—

Applica-
tion for
transfer or
lease

- (a) name of transferor/lessor;
- (b) name of transferee/lessee;
- (c) identification numbers of transferor and transferee and/or lessor and lessee;
- (d) location of the land, including the unique parcel reference number;
- (e) reason for selling or leasing the land in question;
- (f) terms and conditions if the transfer is a lease;
- (g) nationality of the transferee or lessee;
- (h) consideration agreed upon for the transfer or lease of the land in question;
- (i) date of birth of transferor and transferee and/or lessor and lessee;
- (j) any other information considered relevant.

7. In the case where a person attempts to permanently transfer of land, with special emphasis on, but not limited to, the former three-acre plots, the Board may withhold its consent on any of the following grounds—

Reason for
withhold-
ing consent
for transfer

- (a) where the Board is of the opinion that the proposed transaction would result in depriving the transferor of sufficient resources for the permanent support of himself and his dependants during his lifetime and of his heirs after his death;
- (b) where the Board is of the opinion that the proposed transaction would be contrary to the best interests of the transferor;
- (c) where the Board has reason to believe that the transaction is to take effect as a charge or mortgage;
- (d) where the Board has reason to believe that the potential transferee intends to improperly change the use of the land;
- (e) where the Board is of the opinion that the transaction will result in land being acquired by persons who have been defined as inappropriate; or
- (f) where the Board is of the opinion that the transfer would give rise to a transaction that does not conform to the requirements of land registration; or
- (g) where the Board is of the opinion that the transaction would contravene the broad policies of this Act, the Land Tenure Act of 1992 or any other relevant Act.

8. In the case a person attempts to lease land for three years or more the Board may withhold its consent on any of the following grounds—

Resources
for with-
holding
consent for
lease

- (a) where the Board is of the opinion that the proposed transaction would result in depriving the lessor of sufficient resources for the permanent support of himself and his dependants during the period of lease; or

[8 OF 1994]

The Land Transfer Act

- (b) where the Board is of the opinion that the proposed transaction would be contrary to the best interests of the lessor; or
- (c) where the Board is of the opinion that the proposed lessee intends to improperly change the use of the land; or
- (d) where the Board is of the opinion that the transaction would contravene the broad policies of this Act, the Land Tenure Act of 1992 or any other relevant Act.

PART III

Land Transfer Board

Composition of the Board 9.—(1) There shall be a Land Transfer Board in Zanzibar which shall consist of the following members—

- (a) Chairperson who shall be appointed by the President;
- (b) Director who shall be a Secretary to the Board;
- (c) Head of Departments;
- (d) Two other members who shall be appointed by the Minister.

[No. 10 of 2007, s. 5.]

(2) *(Repealed by Act No. 10 of 2007, s. 5 (ii)).*(3) *(Repealed by Act No. 10 of 2007, s. 5 (ii)).*

Term of membership

10. Members of the Land Transfer Board shall serve as follows—

- (a) the Director and Head of Department shall serve on the Board for as long as they hold their respective offices;

[No. 10 of 2007, s. 6 (i).]

- (b) the Chairman and two members appointed by the Minister shall serve for a term of three years.

[No. 10 of 2007, s. 6 (ii).]

Meetings of the Board

11.—(1) The Board shall meet at least once in every month to consider and review the applications for transfers or leases of land that have been submitted for consideration or not completed since the prior meeting.

(2) The Board shall complete the review process of any transaction which has been properly submitted in a form which allows a decision to be made not later than three months after the application for consideration of the transfer or lease.

(3) Failure of the Board to make a decision concerning the appropriateness of the transaction in question in forty five days from the time the application has been received by the Board, shall mean that the application shall be passed for decision to the Land Tribunal where a final decision shall be made.

(4) There may be an appeal from any decision of the Land Tribunal on the application for transfer of land.

[No. 10 of 2007, s. 7.]

Quorum

12. Half of the members of the Board at shall constitute a quorum.

[No. 10 of 2007, s. 8.]

Dismissal from Board

13.—(1) If any member of the Board misses three consecutive working sessions without adequate excuse, that person shall be dismissed from the Board by the Minister, and another person shall be appointed prior to the next regularly scheduled meeting.

(2) In the case of Director or the Head of Department being dismissed from his Board responsibility, the next senior officer to that Department shall be a replacement member to the Board.

[No. 10 of 2007, s. 9.]

14. No consent for a transfer or lease given by the Board under the provisions of this Act shall be valid if the instrument providing for such a transfer is not executed within six months from the date of the approval of the transfer or lease.

Duration
for which
approval
remains
valid

PART IV

Offences and Appeals

15. The registration of any instrument or other document which contravenes these provisions relating to the permanent transfer of land or lease shall be void until the proper review process is completed.

Violating
of provi-
sions of
transfer
restriction
process

16. The following shall be considered offences under these provisions—

Offences

(a) if, in an application to the Board, any person makes a statement which is, to his knowledge, false or in any way misleading, he shall be guilty of an offence and shall be liable to a fine of not less than one million shillings or imprisonment for a term of not more than six months or to both such fine and imprisonment;

(b) any person who either executes, or causes to be executed, or gives valuable consideration to any person to include them to execute a document which provides for the permanent transfer or lease of any land covered by these provisions shall be guilty of an offence and shall be liable to a fine of not less than one million shillings or imprisonment for a term of not more than six months or to both such fine and imprisonment unless the Board has approved the transfer or lease in question prior to the execution or other punishable activity relating to the land in question;

[No. 10 of 2007, s. 10 (i), (ii).]

(c) any person who prepares or assists in the preparation of any document which purports to transfer any land that is covered by these provisions has the duty to determine if approval for the transfer has been given by the Board and acts before or without this approval be guilty of an offence and shall be liable to a fine of not less than one million shillings or imprisonment for a term of not more than six months or both such fine and imprisonment;

[No. 10 of 2007, s. 10 (i).]

(d) any Board member who receives any improper remuneration, in any form, which is provided in order to facilitate a decision involving the permanent transfer or lease of land, or acts considered inappropriate in any way, shall be guilty of an offence and shall be liable to a fine of not less than one hundred and fifty thousand shillings and shall be dismissed by the Minister from further participation in Board deliberations.

17. (Repealed by Act No. 10 of 2007, s. 11.)

Repealed

[8 OF 1994]

The Land Transfer Act

PART V

Miscellaneous Provisions

Regulations

18. The Minister may make Regulations in general to give effect to the purposes and provisions of this Act including the variation of fines under section 16 of this Act, and in particular without prejudice to the generality of the foregoing, for prescribing the manner in which the transfers of land and the instruments to be used to complete any transactions considered under this Act and for prescribing anything under this Act which may be allowed.

The right of Government

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

Other laws

20. Any matter not provided for 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

21.—(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 28th day of September, 1994.

{KHAMIS JUMA CHANDE}

CLERK OF THE HOUSE OF REPRESENTATIVES

**LAND TRIBUNAL
ACT 7/1994 (R.E. 2015)**

7 OF 1994

THE LAND TRIBUNAL ACT

ARRANGEMENT OF SECTIONS

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6. Qualifications.
7. Panel members.
8. Special panel members.
9. Chief Clerks.
10. Deputy Clerk.
11. Functions of Clerk.
12. Surveys and valuations.

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17. Closed hearing.
18. Representations.
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The Land Tribunal Act

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- 37. Judgments.
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PART V

Miscellaneous Provisions

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-

7 OF 1994

I ASSENT

{SALMIN AMOUR}

PRESIDENT OF ZANZIBAR

AND

CHAIRMAN OF THE REVOLUTIONARY COUNCIL

[1st March, 1995]

AN ACT to provide for the establishment of Land Tribunals to hear land disputes and matters connected therewith or incidental thereto.

[No. 1 of 2008, No. 3 of 2010, s. 23 (2).]

ENACTED by the House of Representatives of Zanzibar.

PART I

Preliminary Provisions

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

Short title
and com-
mencement

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

2. In this Act, unless the context otherwise requires—

Interpreta-
tion

“**applicant**” means a person who has submitted an application to the Land Tribunal;

[No. 1 of 2008, s. 3 (ii).]

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

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

“**Chief Clerk**” means the officer in charge of the tribunal responsible to keep records of the tribunal;

[No. 1 of 2008, s. 3 (ii).]

“**Chief Justice**” means the Chief Justice of the High Court of Zanzibar;

[No. 1 of 2008, s. 3 (i).]

“**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;

“**Decree holder**” means any person in whose favour a decree of the tribunal has been passed or an order of the tribunal capable of execution has been made;

[No. 1 of 2008, s. 3 (ii).]

“default” means failure to defend against the petitioner’s 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;

“High Court” means the High Court of Zanzibar;
[No. 1 of 2008, s. 3 (ii).]

“Judgment” means the decision of the tribunal;

“Judgment debtor” means any person against whom a decree has been passed or an order capable of execution has been made;
[No. 1 of 2008, s. 3 (ii).]

“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 Land Tribunal established under section 3 of the Principal Act to hear land disputes;
[No. 1 of 2008, s. 3 (i).]

“Magistrate” means a person who holds a post of Regional Magistrate and shall include Magistrate of the Land Tribunal;
[No. 1 of 2008, s. 3 (ii).]

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

“Panel of the Land Tribunal” means a panel of the Land Tribunal presided over by Chairman or Deputy Chairman or Magistrate sitting with two Assessors;
[No. 1 of 2008, s. 3 (ii).]

“Petition” means the application filed by the person making a claim;
[No. 1 of 2008, s. 3 (ii).]

“Petitioner” means a person who filed a petition;
[No. 1 of 2008, s. 3 (ii).]

“Reply” means the papers filed by the respondent replying to the petition;
[No. 1 of 2008, s. 3 (ii).]

“Respondent” means the person who replies to the petition or other proceedings;
[No. 1 of 2008, s. 3 (ii).]

“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;

“Surveyor” means an impartial person experienced and certified by the Direc-

tor responsible for land matters to be a surveyor;
[No. 1 of 2008, s. 3 (ii).]

“**valuer**” means an impartial person experienced and certified by the Director responsible for land matters to be a valuer;
[No. 1 of 2008, s. 3 (ii).]

“**Zanzibari**” means as defined under section 3(1) of the Zanzibari Act, No. 5 of 1985.

[No. 1 of 2008, s. 3 (ii).]

PART II

Location and Staffing of Land Tribunals

3.—(1) There shall be Land Tribunals in Zanzibar, which shall deal with the land disputes. Location of Tribunals

[No. 1 of 2008, s. 4 (i).]

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

[No. 1 of 2008, s. 4 (ii).]

4.—(1) There shall be a Chairman of the Land Tribunal who shall be appointed by the President after consultation with the Chief Justice, and who shall serve for three years and may be reappointed for another term of three years. Appointment of Chairman, Deputy Chairman, Magistrates and Assessors

(2) There shall be two Deputy Chairmen of the Land Tribunal one for Unguja and another for Pemba, appointed by the Judicial Service Commission.

(3) There shall be Magistrates of the Land Tribunals for Unguja and Pemba who shall be appointed by the Judicial Service Commission.

(4) There shall be Assessors who shall sit on the Land Tribunal and who shall be appointed by the Chief Justice in consultation with the Chairman of the Land Tribunals.

(5) The Chairman of the Land Tribunal shall be the Chief Administrative Officer of the Land Tribunal.

(6) The Chairman or Deputy Chairman or Magistrate or Assessor may be dismissed from service by the Authority appointing him at any time after receiving a clear evidence of any abuse of powers and before dismissal, shall be given a chance to raise his defense.

[No. 1 of 2008, s. 5 (ii).]

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

[No. 1 of 2008, s. 6 (i).]

(2) The Chairman or Deputy Chairman or Magistrate 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.

[No. 1 of 2008, s. 6 (ii).]

(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.

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(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 consultation with the Chief Justice for their participation on the Tribunal as Assessors.

Qualifica-
tions

6.—(1) A person shall be qualified to be appointed as Chairman or Deputy Chairman if he has the following qualifications:—

[No. 1 of 2008, s. 7 (i).]

- (a) he should be a Zanzibari;
- (b) holds a Degree in Law and has an experience of not less than three years of service;

[No. 1 of 2008, s. 7 (ii).]

- (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) a Zanzibari residing at an area where the land dispute arose;
- (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.

[No. 1 of 2008, s. 8.]

Panel
members

7.—(1) Chairman, Deputy Chairman or Magistrate of the Land Tribunal shall sit in all panels as the presiding person together with two Assessors resident in the region 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 allowances as an Assessor.

Chief
Clerk

9.—(1) There shall be a Chief Clerk and Deputy Chief Clerks of the Land Tribunal who shall be appointed by the Chairman in consultation with the Chief Justice.

[No. 1 of 2008, s. 9.]

(2) The Chief Clerk or Deputy Chief Clerks shall have the following qualifications—

[No. 1 of 2008, s. 9 (ii).]

- (a) he should be a Zanzibari;
- (b) he holds at least a Diploma in Law;
- (c) has experience of at least two years.

(3) The Chief Clerk shall work in the Tribunal's Principal venue of Zanzibar Town and Deputy Chief Clerks shall sit in each Region of Unguja and Pemba.

[No. 1 of 2008, s. 9.]

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 Region where the Deputy Clerk is assigned.

[No. 1 of 2008, s. 10.]

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

11. The Clerk shall have the following functions—

Functions
of Clerk

- (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 Region to ensure that the procedures are followed; and
- (h) to perform any other functions that ensure the procedures of the Tribunals are operated smoothly.

[No. 1 of 2008, s. 11 (i).]

[No. 1 of 2008, s. 11 (ii).]

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.

Surveys
and valua-
tions

PART III

Jurisdiction and Court Process

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

Jurisdic-
tion

- (a) action involving claims of a right of 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) *(Deleted by Act No. 1 of 2008, s. 12 (ii).)*;
- (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;

[No. 1 of 2008, s. 12 (iii).]

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- (g) land valuation and issues involving compensation for land;
- (h) *(Deleted by Act No. 1 of 2008, s. 12 (ii).)*
- (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) *(Deleted by Act No. 1 of 2008, s. 12 (ii).)*
- (n) possession of both urban and agricultural land;
- (o) use and development of land for purposes 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) *(Deleted by Act No. 1 of 2008, s. 12 (ii).)*

Provided that, where a proceedings is to be instituted by or against the Government, the competent court to try such a suit shall be the High Court or Regional Magistrate's Court.

[No. 3 of 2010, s. 12 (2).]

Reconciliation

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

[No. 1 of 2008, s. 13.]

Expediting the process

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

[No. 1 of 2008, s. 14.]

(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 but in accordance with the rules of the Civil Procedure Decree, 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.

[No. 1 of 2008, s. 15.]

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. On the day fixed for the respondent to appear and answer, the parties shall be in attendance at the Tribunal in person or by their respective advocates.

[No. 1 of 2008, s. 16.]

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 or Deputy Chairman or Magistrate 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.

[No. 1 of 2008, s. 17.]

(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

20.—(1) The petition shall be filed at the office of the Clerk of the Land Tribunal in the Region where the land in question is located, a petition must show what the petitioner claims and show the reasons of such claims. Filing a petition

[No. 1 of 2008, s. 18.]

(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.

21.—(1) The respondent shall file his reply showing what he admits or denies and show the reasons of such denial. Answering the petition

[No. 1 of 2008, s. 19.]

(2) The Clerk shall cause a copy of petition and reply to be delivered to the petitioner and respondent.

[No. 1 of 2008, s. 19.]

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 of appeal as provided in section 41 of this Act. Filing a counter petition

[No. 1 of 2008, s. 20.]

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. Issuance of summons

(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

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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 of the time of service is not a working day then the time shall be extended to the next following working day.

[No. 1 of 2008, s. 21.]

Dead-
line for
response

25.—(1) The respondent shall file his reply, 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.

[No. 1 of 2008, s. 22.]

(2) If the service has been made by registered post with a return receipt required, a reply 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.

[No. 1 of 2008, s. 22.]

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

[No. 1 of 2008, s. 22.]

Time
Schedule
for hearing
disputes

26.—(1) The Chairman or Deputy Chairman or Magistrate 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.

[No. 1 of 2008, s. 23.]

(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
informa-
tion

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 or Deputy Chairman or Magistrate 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.

[No. 1 of 2008, s. 24.]

Conduct-
ing a
pre-trial
conference

29. If the pre-trial conference is held the Chairman or Deputy Chairman or Magistrate shall—

[No. 1 of 2008, s. 25 (i), (ii).]

- (a) set the time and place of the proposed conference;
- (b) give reasonable notice to all persons entitled to notice which includes all persons who should be present at the conference;
- (c) include in the notice anything which the Chairman or Deputy Chairman or Magistrate feels is desirable to assist in expediting the proceedings; and

[No. 1 of 2008, s. 25 (iii).]

- (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.

30.—(1) The Chairman or Deputy Chairman or Magistrate 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. Notice of a hearing

[No. 1 of 2008, s. 26.]

(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 or Deputy Chairman or Magistrate considers important to assist in expediting the proceedings.

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 or Deputy Chairman or Magistrate may serve written notice on all parties of a proposed default order. This notice shall include a statement of grounds for such an order. Failure to attend a hearing

[No. 1 of 2008, s. 27 (i).]

(2) If after fourteen (14) days no answer has been received, the Chairman or Deputy Chairman or Magistrate 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.

[No. 1 of 2008, s. 27 (ii).]

(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 which the a party challenges a proposed default order, the Chairman or Deputy Chairman or Magistrate shall adjourn the proceedings until the time for challenge has passed.

[No. 1 of 2008, s. 27 (iii).]

(5) The Chairman or Deputy Chairman or Magistrate 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) of this section.

[No. 1 of 2008, s. 27 (iii).]

(6) After issuing a default order the Chairman or Deputy Chairman or Magistrate 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.

[No. 1 of 2008, s. 27 (iii).]

32.—(1) The Chairman shall grant a petition for intervention by any person in a dispute scheduled to be heard by the Tribunal if— Intervention of additional parties

- (a) the petition is submitted in writing to the Chairman, or Deputy Chairman or Magistrate with copies distributed to all parties who are named by the Chairman or Deputy Chairman or Magistrate as persons interested in the outcome, at least three days before the hearing is scheduled;

[No. 1 of 2008, s. 28 (i).]

- (b) the petition states facts that demonstrate the petitioner's interest may be

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substantially affected by the proceedings or that the petitioner qualifies under a provision of law to intervene in the matter;

- (c) the Chairman or Deputy Chairman or Magistrate determines that the interests of justice and the orderly and prompt conduct of the proceedings will not be impaired by allowing the petition.

[No. 1 of 2008, s. 28 (i).]

(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 or Deputy Chairman or Magistrate 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.

[No. 1 of 2008, s. 28 (ii).]

(4) The Chairman or Deputy Chairman or Magistrate 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.

[No. 1 of 2008, s. 28 (ii).]

Discovery
and protec-
tive order

33. The Chairman or Deputy Chairman or Magistrate 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.

[No. 1 of 2008, s. 29 (i).]

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.

[No. 1 of 2008, s. 30.]

(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) Evidence shall be submitted before the Land Tribunal in accordance with the provisions under the Evidence Decree, Cap. 5.

[No. 1 of 2008, s. 31 (i).]

(2) The Chairman or Deputy Chairman or Magistrate 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.

[No. 1 of 2008, s. 31 (ii).]

(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.

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 or Deputy Chairman or Magistrate and two Assessors. Judgments

[No. 1 of 2008, s. 32.]

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

[No. 1 of 2008, s. 32.]

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 finds the evidence supports the petition was filed, shall enter a judgment against the respondent. Ex parte judgment

(2) If an *ex parte* judgment has been entered the respondent shall within seven (7) days apply to the Chairman or Deputy Chairman or Magistrate to hear the petition *inter partes* and shall state the reasons for such application.

[No. 1 of 2008, s. 33.]

(3) During the time where the respondent is applying for the petition to be heard *inter partes*, the Chairman or Deputy Chairman or Magistrate shall adjourn the proceedings until the application has been heard and determined.

[No. 1 of 2008, s. 33.]

39. (1) Enforcement and execution of any judgment or decree shall proceed in accordance with the provisions available under the rules of the Civil Procedure Decree. Enforcement and execution of judgment or decree

[No. 1 of 2008, s. 34.]

(2) A decree holder may, as soon as practicable after the pronouncement of a judgment or decree, apply before the Tribunal for the execution of a decree, such application shall be made as provided for under the rules of the Civil Procedure Decree.

[No. 1 of 2008, s. 34.]

(3) Where after the expiration of 14 days there is no application for stay of execution from the judgment debtor, the Chairman or Deputy Chairman or Magistrate, shall make execution order as prayed for by the decree holder.

[No. 1 of 2008, s. 34.]

(4) Where there is an application for stay of execution from the judgment debtor, the Chairman or Deputy Chairman or Magistrate shall require all parties to appear before the Tribunal for hearing and determination of the application for stay of execution.

[No. 1 of 2008, s. 34.]

(5) The Chairman or Deputy Chairman or Magistrate shall, after hearing both parties, proceed to make an order for stay of execution, except that no order for stay of execution shall be made unless—

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- (a) it is established to the satisfaction of the Chairman or Deputy Chairman or Magistrate that substantial and irreparable loss will result if the order is not made; or
- (b) security has been given by the judgment debtor to the performance of such decree.

[No. 1 of 2008, s. 34.]

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.

Appeal **41.**—(1) Any party who is aggrieved by the decision of the Land Tribunal shall have the right to appeal to the High Court and such appeal shall be heard by a judge of the High Court.

[No. 1 of 2008, s. 35.]

(2) Judicial review shall only be available for cases involving matters 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 or Deputy Chairman or Magistrate;

[No. 1 of 2008, s. 36.]

- (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 Provisions

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.

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

The right
of Govern-
ment

46. Any matter not provided for 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.

Other laws

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.

Repeals

(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.

{KHAMISA JUMA CHANDE}

CLERK OF THE HOUSE OF REPRESENTATIVES

**LAND TENURE
ACT 12/1992 (R.E. 2015)**

12 OF 1992

THE LAND TENURE ACT

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-

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I ASSENT

{SALMIN AMOUR}

PRESIDENT OF ZANZIBAR

AND

CHAIRMAN OF THE REVOLUTIONARY COUNCIL

[29th January 1993]

AN ACT to provide for land ownership, use and rights attached to land and matters connected or incidental thereto.

[No. 15 of 2003, No. 11 of 2010, No. 10 of 2013, No. 12 of 2013.]

ENACTED by the House of Representatives of Zanzibar.

PART I

Preliminary Provisions

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.

Short title
and com-
mence-
ment

2..—In this Act, unless the context otherwise requires—

Interpre-
tation

“**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 fulfilment of any condition, and includes, a surcharge and the instrument creating a charge;

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

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

“**Commission**” (*Deleted by Act No. 15 of 2003, s. 2 (i).*)

“**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;

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"Department" means the Department for Land and Registration;

"Director" means Director for Land and Registration;

"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;

"Government" means the Revolutionary Government of Zanzibar;
[No. 15 of 2003, s. 2.]

"Government Institution" means Ministry, Ministerial Department and Agency, Government Cooperation, Government Authority, Commission and Government Boards;

[No. 12 of 2013 s. 3]

"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 land" 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 of 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 favour 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;

"Ownership" in relation to land, apart from the Government which is 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;

[No. 15 of 2003, s. 2 (ii).]

"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 and Chairman of the Revolutionary Council;

"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;

"Relevant Authority" means any authority empowered by law to approve investments in Zanzibar;

[No. 11 of 2010, s. 3.]

"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;

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

"Zanzibari" means—

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- (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 12th of January 1964;
- (b) any person who, as from the 26th 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;

[No. 11 of 2010, s. 3.]

“ZIPA” means the Zanzibar Investment Promotion Authority as established by the ZIPA Act.

[No. 11 of 2010, s. 3.]

PART II

*Public Land*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 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.

[No. 15 of 2003, s. 3.]

(4) The Minister may, subject to the provisions of this Act, control and distribute public lands 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.

[No. 15 of 2003, s. 3.]

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

Confiscat-
ed Land

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

[No. 15 of 2003, s. 4.]

Easements

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) metres 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.

(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.

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.

Boundaries
of Public
Lands

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.

Furnishing
with in-
formation
relating to
research.

(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 of not less than fifty thousand shillings and not more than five hundred thousand shillings or to imprisonment for a term of not less than three months and not more than six months or to both such fine and imprisonment.

[No. 15 of 2003, s. 5.]

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 a 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 of not less than five hundred thousand shillings and not more than two million shillings or to imprisonment for a term of not more than six months or to both such fine and imprisonment.

Destroy or
misuse of
land.

(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 misuse of the land.

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

[No. 15 of 2003, s. 5.]

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.

Powers to
enter into
land.

[No. 15 of 2003, s. 5.]

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

Failure to
comply
with order

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- (b) furnishes any information or produces any document 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 to both such fine and imprisonment.

[No. 11 of 2010, s. 4.]

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 the interest be a Government Institution;
[No. 12 of 2013 s. 4]
- (c) that the holder of a right of occupancy shall have an exclusive right to occupy and use the land which comprises his right;
[Act No. 12 of 2013 s. 4]
- (d) 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;
[No. 12 of 2013 s. 4]
- (e) that the interest be held in perpetuity without specific term and be inheritable under the appropriate provisions of the Zanzibar law of Succession.
[No. 12 of 2013 s. 4]

(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 fifths 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.

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.

Execution
of Right of
Occupancy

(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.

[No. 15 of 2003, s. 6.]

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.

Effect of
Registration

(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.

Registration
of
provisional
rights of
occupancy

(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.

[No. 15 of 2003, s. 7.]

(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.

Charges

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

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- Default of a charge 13.—(1) Any default by a chargee 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 ($\frac{3}{5}$) of a hectare.
- (3) The size of urban residential, commercial and industrial parcels shall conform to the provisions of the law and practice in force.
- Joint holdings of inherited land 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.
- Effect of creation of jointly held interest 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.
- Sale of a right of occupancy 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.

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

(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.

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. Urban trees

PART V

Grants of Public Lands

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— Grants of Land

- (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.

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

(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 provisions of subsection (3) of this section 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.

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

26. Land that has been allocated through means of a grant shall have the same

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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
Adjudica-
tion on the
prior hold-
ing of an
individual

28.—If following the determination of an adjudication, an 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 provide 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 posses-
sion

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.

Realloca-
tion

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 oc-
cupancy

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

[No. 15 of 2003, s. 8.]

(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 fulfilment 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 fulfil 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. 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.

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

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

(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. Sale of granted 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.

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. Disagreements among joint holders

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. Appeals of partition decisions

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. Urban grants

(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.

[No. 15 of 2003, s. 9.]

(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

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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.

Inheritance
of urban
land

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.

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

Sale of
granted
urban land

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

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.

[No. 15 of 2003, s. 10.]

(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.

[No. 15 of 2003, s. 10.]

Prohibition
to harass,
disturb or
eviction the
person

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 sell, lease, give or extend his dwellings or assigning any part thereof to any other person without prior permission of the grantee.

[No. 15 of 2003, s. 11.]

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).

(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.

Sale of
granted
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:

Inheritance
of agricul-
tural land

Provided further that the land which comprises an agricultural grant including the three-acre plots granted under the 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

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.

Lease of
public land

[No. 11 of 2010 s. 5]

(2) A person who was a Zanzibari has the right to get lease under special terms that will be set out in the regulations to be made under this Act.

[No. 12 of 2013 s.5]

(3) Before the lease is 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.

[Act No. 11 of 2010 s. 5]

(4) 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 purposes.

[No. 11 of 2010 s. 5]

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.

Duration
and status
of leases of
public land
under Gov-
ernment
control

[No. 11 of 2010 s. 6]

(2) Without prejudice to the other provisions of this Act and notwithstanding the provisions of subsection (1) of this section, lease of public land may be renewed and where there is no renewal after expiry 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.

[No. 11 of 2010, s. 6 (i).]

(3) Lease of any public land after being developed in accordance with ZIPA approved investment plan may be sold, assigned, sub-leased or subdivided, 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

[12 OF 1992]

The Land Tenure Act

set by the Minister.

[No. 11 of 2010, s. 6 (ii).]

(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, after consultation in writing with the Minister responsible for Finance 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.

[No 10 of 2013, s. 32]

(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 a non-Zanzibari after expiry of the time of the lease prescribed under subsection 2 of this section.

[No. 11 of 2010, s. 6 (iii).]

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

[No. 11 of 2010, s. 6 (iii).]

Violation
of restric-
tion in a
lease

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 terms and conditions 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.

[No. 15 of 2003 s. 12, No. 11 of 2010, s. 7.]

Compensa-
tion for
termination
of Lease

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

[No. 11 of 2010, s. 8.]

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 Land Tribunal.

Appeal of
decision
for termi-
nation

50.—(1) There shall be no restriction on the lease of a right of occupancy, or a part thereof, by the interest holder, provided the lease is for a maximum period of forty nine years.

Leases of
right of oc-
cupancy

[No. 11 of 2010, s. 9.]

(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.

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.

Duration
and status
of lease of
right of oc-
cupancy

(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 of surrender of possession, of any unexhausted improvements authorised under the covenants of the lease.

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The Land Tenure Act

Violation of the restrictions in a lease of right of occupancy 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.

(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.

Size of Lease to agricultural right of occupancy 53.—(1) Unless otherwise provided for under this 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.

(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.

Effect of lease of right of occupancy 54.—(1) A lease to a right of occupancy shall be registered.

(2) A lease of the right of occupancy shall not effect any separate interest to trees located thereon.

(3) Other than the conditions contained in its covenants, the provisions of this Act and the relevant Acts shall apply to the lease.

PART VII

Termination of Rights of Occupancy

Termination of right of occupancy 55. Except as provided in the sections of this Part, it shall be unlawful for a right of occupancy to be terminated.

Right to terminate national interest 56. The Minister may terminate any right of occupancy on grounds of national interest provided that the Minister shall—

[No. 15 of 2003, s. 13.]

- (a) prove before the Land Tribunal that clear and convincing reasons exist for the repossession of such right of occupancy; and
- (b) for a grant from the Minister, to grant another right of occupancy to any allocated land and to pay compensation for any unexhausted improvements thereon;

[No. 12 of 2013, s. 6.]

- (c) to pay compensation for the land and for any unexhausted improvements thereon as per market value or;

[No. 12 of 2013 s. 6]

- (d) for the other rights of occupancy, to pay compensation as per market value based on the valuation of land and for any unexhausted improvements thereon.

[No. 12 of 2013 s. 6]

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.

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. Forfeiture

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. Abandoned land

(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.

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 repair, the land described as part of the right of occupancy may be declared as idle. Idle land

(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.

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. Termination of a jointly held right of occupancy

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. Challenge to an order of termination

(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.

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The Land Tenure Act

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 has 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 and the premises shall be vacated within thirty days from the date of 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 regularisation 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 procedures 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.

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

Saving the
right of
Govern-
ment
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 of 1965 (Government Land Decree);
- (d) Land (Distribution) Decree, 5 of 1966 and Amending Decrees 10 of 1967, 10 of 1968, 1 of 1969 and 3 of 1982 without prejudice to matters done under these Decrees;
- (e) Confiscation of Immovable Property Decree, 8 of 1964 and amending Decrees 16 of 1964, 3 of 1968 and 11 of 1979, without prejudice to any matters done under these Decrees;
- (f) Provisions relating to lease hold terms under the investment Act of 1986.
- (g) Provisions of the Registered Land Act concerning provisional rights to occupancy; and
- (h) The Provisos of section 8(1) and 8(2) of the investment Act of 1986.

(2) Notwithstanding the repeal of the Laws and portion of Laws indicated in subsection (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 in accordance with the provisions of the repealed Laws.

69A. (1) The Commission for Land and Environment Act No. 6 of 1989 is hereby repealed.

Repeal of
Act No. 6
of 1989

(2) Notwithstanding the repeal under subsection (1) of this section, anything done under the said Act which is in force shall be deemed to have been made under the provision of this Act.

[No. 15 of 2003 s. 14]

PASSED in the House of Representatives on the 15th day of September, 1992.

{KHAMIS JUMA CHANDE}

CLERK OF THE HOUSE OF REPRESENTATIVES

REGISTERED LAND ACT 10/1990

**THE REGISTERED LAND
ACT NO.10 OF 1990**

ARRANGEMENT OF SECTIONS

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ACT NO.10 OF 1990

I ASSENT

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

1st August, 1991

**AN ACT TO PROVIDE FOR THE REGISTRATION OF
LAND AND INTEREST THEREIN, FOR THE REGULATION
OF DEALINGS IN LAND SO REGISTERED, AND FOR
MATTERS CONNECTED THEREWITH**

ENACTED by the House of Representatives of Zanzibar

**PART I
PRELIMINARY**

Short title. 1. This Act may be cited as the Registered Land Act 1989 and shall come into operation immediately upon being assented by the President.

Interpretation. 2. In this Act, except where the context otherwise requires -

"adjudication officer" "adjudication record" and "adjudication section" have the meaning assigned to those words by the Land Adjudication Act;

"application book" means the application book kept under section 6 (d) ;

"certificate of lease" means a certificate of lease issued under section 32;

"charge" means an interest in land securing payment of money or money's worth of the

fulfillment of any condition and includes a subcharge and the instrument creating a charge;

"chargee" means the proprietor of a charge;

"charger" means the proprietor of a charged land or of a charged lease or charge;

"the court" save as otherwise expressly provided, means the High Court of Zanzibar;

"dealing" includes disposition and transmission;

"disposition" means any act by a proprietor whereby his rights in or over his land, lease or charge are affected, but does not include an agreement to transfer, lease or charge;

"easement" means a right attached to a parcel of land which allows the proprietor of the parcel either to use the land of another in a particular manner or to restrict its use to a particular extent, but does not include a profit;

"file" means place in the file, kept under section 6(c), which relates to the parcel or lease of land affected;

"guardian" means any person responsible, whether under customary law or otherwise, for protecting the interest of any person who is under a disability, whether by reason of age, unsoundness of mind or any other cause;

"instrument" includes any deed, judgment, decree, order or other document requiring or capable of registration under this Act;

"land" includes land covered with water, all things growing on land, and buildings and other things permanently affixed to land;

"Land certificate" means a land certificate issue to a proprietor of land under section 32;

"land register" means the land register compiled and maintained under the provisions of Division 2 of Part II of this Act;

"lease" means a grant, with or without consideration, by the proprietor of land of the right to exclusive possession of his land, and includes the right so granted and the instrument granting it, and also includes a sublease by the proprietor of a lease, but does not include an agreement to lease;

"lessee" means the holder of a lease;

"lessor" means the proprietor of leased land, and includes, in respect of a sublease, the proprietor of a lease;

"Minister" means the Minister for the time being responsible for legal affairs;

"parcel" means an area of land separately delineated on the Registry Map and given a number;

"personal representative" means the executor of the will or the administrator of the estate of a deceased person;

"President" means the President of Zanzibar and Chairman of the Revolutionary Council;

"profit" means a right to go on the land of another and take particular substance from that land, whether the soil or products of the soil;

"proprietor" means –

(a) in relation to land or lease, the person or body of persons named in the register as the proprietor thereof, and

(b) in relation to a charge of land or of a lease, the person or body of persons named in the register of the land or lease in whose favour the charge is made;

"Register" means a separate register of the land

Register kept in respect of a parcel for public or private land or of a registered lease;

"to register" means to make an entry, note or record in a register under the provisions of this Act, and the words "registered", "unregistered" and "registration" bear a corresponding meaning;

"Registrar" means the Registrar of land appointed in accordance with the provisions of section 7 and includes the Deputy Registrar so appointed and any Assistant Registrar so appointed to the extent that he has been authorized to exercise or perform any of the powers or duties conferred by this Act upon the Registrar;

"registration district" means a land registration district constituted under section 5;

"registration section" means a division of a registration district made in accordance with section 17;

"Registry Map" means the map or series of maps compiled in accordance with the provisions of section 17;

"transfer" means the passing of land, a lease or a charge by act of the parties and not by operation of law, and includes the instrument by which such passing is effected but does not include an agreement to transfer;

"transmission" means the passing of land, a lease or a charge from one person to another by operation of law or death or insolvency or otherwise howsoever, and includes compulsory acquisition or revocation of grants under any written law;

"trustee" includes personal representative and statutory trustee;

"valuable consideration" includes marriage, but does not include a nominal consideration;

"Wakf and Trust commission" means the Wakf and Trust Commission established by the Commission for the Administration of Wakf and Trust Property Decree, 1980.

Application. 3. This Act shall apply to any area constituted as a registration district under section 5.

Reconciliation with other laws. 4. Except where otherwise provided in the Act, no law, regulation, practice or procedure relating to land shall apply to land registered under this Act so far as it is inconsistent with this Act,

Provided that, except where a contrary intention appears, nothing contained in this Act shall be construed as permitting any dealing which is forbidden by the express provisions of any other written law or as overriding any provision of any other written law requiring the consent or approval of any authority to any dealing,

PART II ORGANIZATION AND ADMINISTRATION

Division 1 - Land Registries and officers.

Registration districts. 5. For the purpose of this Act, the Minister may by order constitute an area or areas of land as land registration district or land registration districts and may at any time vary the limits of any such district or districts.

Land registries. 6. There shall be maintained in each registration district a land registry, in which shall be kept:

- (a) a register, to be known as the Land Register, in accordance with Division 2 of this Part;
- (b) a map, to be known as the Registry Map, in accordance with Division 3 of this Part;
- (c) parcel files containing the instruments which support subsisting entries in the Land Register and any filed plans and documents;
- (d) a book, to be known as the application book, in which shall be kept a record of all applications

numbered consecutively in the order in which they are received at the registry;

- (e) an index in alphabetical order of the names of proprietors of land, lease and charges showing the number of the parcels in which they are interested;
- (f) a record to be known as the mutation record, in accordance with the provisions of section 19;
- (g) a register and file of powers of attorney.

Appointment of officers.

7.(1) The President shall appoint a qualified person to be the registrar of land who shall be responsible for administering the land registry or land registries in accordance with the provisions of this Act.

(2) The Minister may appoint a Deputy Registrar of land and as many Assistant Registrars of Land as may be necessary for carrying out the provisions of this Act.

(3) The Registrar may in writing authorize the Deputy Registrar or any Assistant Registrar to exercise or to perform all or any of the powers or duties conferred on the Registrar by this Act or by any regulations made thereunder, and may at any time revoke or vary any such authorization.

Provided that no such authorization shall be deemed to divest the Registrar of any of his powers or duties, and he may, if he thinks fit, exercise all his powers or duties notwithstanding any such authorization.

Provided further that in the absence for whatsoever reason of the Registrar, the Deputy Registrar may exercise any of the powers vested in the Registrar by this Act.

General powers of Registrar.

8. The Registrar may exercise the following power in addition to any other powers conferred on him by this Act, that is to say –

- (a) he may require any person to produce any instrument, certificate or other document or plan relating to the land, lease or charge in question and the person shall produce the same;
- (b) he may summon any person to appear and give

any information or explanation respecting land, a lease or charge, or any instrument, certificate or other document or plan relating to the land, lease or charge in question, and such person shall appear and give such information or explanation;

(c) he may refuse to proceed with any registration if any instrument, certificate, or other document, plan, information or explanation required to be produced or given is withheld, or any act required to be performed under this Act is not performed;

(d) he may administer oaths or take a declaration in lieu thereof, and may require that any proceedings, information or explanation shall be verified on oath or by statutory declaration;

(e) he may order that the costs, charges and expenses incurred by him or by any person in connection with any investigation or hearing held by him or on his orders shall be borne and paid by such persons and in such proportions as he, the Registrar, thinks fit.

Indemnity of officer.

9. The Registrar shall not, nor shall any other officer of the land registry, be liable to any action or proceedings for or in respect of any act or matter done or omitted to be done in good faith in the exercise of the powers and duties under this Act, or any regulations made thereunder.

Seal of registry.

10. Each registry shall have a seal, and every instrument purporting to bear the imprint of such seal shall be received in evidence and, unless the contrary is shown, shall be deemed without further proof to be issued by or under the direction to the Registrar.

Division 2

The Land Register

The Land Register.

11.(1) The Land Register shall comprise a register in respect to every parcel in each registration section and a register in respect of each lease required by this Act to be registered.

(2) Each register shall show whether the land is public land or private land, and shall be divided into three sections as follows –

- A. the property section, containing a brief description of the land or lease, together with particulars of its appurtenances and reference to the Registry Map and filed plan, if any:
- B. the proprietorship section, containing particulars of the proprietor of the land or lease, and any inhibition, caution or restriction affecting his right of disposition;
- C. the encumbrances section containing particulars of every encumbrance and every right adversely affecting the land or lease.

(3) No entry shall be required in the proprietorship section of a register relating to land which is public land.

Compilation of
the Land
Register.

12.(1) Whenever an adjudication record in respect of any adjudication section is certified as final under section 25 of Land Adjudication Act, the Adjudication Officer shall forthwith deliver such record and the demarcation map to the Registrar.

(2) The Registrar shall forthwith prepare a register for every parcel of public and private and contained in the adjudication record and shown on the demarcation map, and shall register –

- (a) any person recorded as the occupant of a parcel in such record as the proprietor of that parcel to any restriction contained in such record affecting his power of dealing with the land;
- (b) particulars of any lease, charge or other encumbrance affecting the parcel and the names of the persons recorded in such record as entitled to the benefit thereof.

First
registration.

13. The date of first registration under this Act shall be the date on which the adjudication record in respect of land in

any adjudication section is certified as final under section 25 of the Land Adjudication Act.

Manner of registration.

14.(1) The First registration of any parcel shall be effected by preparation of a register in accordance with the provision of subsection (2) of section 12 of this Act and the signing by the Registrar of the particulars of proprietorship, restrictions, on power of dealing and encumbrances, if any, appearing thereon.

(2) Every subsequent registration shall be effected by an entry in the register in such form as the Registrar may from time to time direct, and by the cancellation of the entry, if any, which it replaces.

Cancellation of obsolete entries.

15. The Registrar may cancel any entry in a register which he is satisfied has ceased to exist.

New editions of registers.

16. The registrar may at any time open a new edition of a registershowing only subsisting entries and omitting therefrom all entries which have ceased to have effect.

Division 3 Maps, Parcels and Boundaries

Registry Map.

17.(1) The Registry Map shall be compiled from the demarcation maps under the Land Adjudication Act and shall be divided into registration sections which, so far as is possible, shall have the same boundaries and names as the adjudication sections, the registration sections, where the adjudication sections are so divided, shall be divided into blocks, which shall be given the same letters or number or combination of letters and numbers as are given on the demarcation maps.

(2) The parcels in each registration section or block shall be numbered consecutively following the numbering in the adjudication proceedings, and the name of the registration section and the letters or numbers of the registration block, if any, and the number of the parcel shall together , be a sufficient reference to any parcel.

(3) The Registrar may from time to time cause registration sections or blocks to be combined or divided, or cause their boundaries to be varied.

(4) A plan may be filed in respect of a particular parcel

to augment the information available from the Registry Map, and the filing of such plan shall be noted in the register.

Correction of
Registry Map
and new
editions.

18.(1) The Registrar may cause to be made a survey of land for any purpose connected with this Act and, after informing every person affected thereby, may cause the Registry Map to be corrected as a result of such survey.

(2) The Registrar may at any time direct the preparation of a new edition of the Registry Map or any part thereof, and there may be omitted therefrom any matter which the Registrar considers obsolete.

Mutation.

19.(1) On the application of a proprietor of land, and subject to the agreement of all persons affected thereby, the Registrar may order the alteration of the Registry Map, but no such alteration shall be effected except on the instructions of the Registrar in writing in the prescribed form, to be known as a mutation form and the mutation form shall be filed and recorded in the mutation record.

(2) Whenever the boundary of a parcel is altered on the Registry Map, the parcel number shall be cancelled and the parcel shall be given a new number.

Boundaries.

20.(1) Except where, under section 21 of this Act, it is noted in the register that the boundaries of a parcel have been fixed, the Registry Map and any filed plan shall be deemed to indicate the approximate boundaries, and the approximate situation only of the parcel.

(2) Where any uncertainty or dispute arises as to the position of any boundary, the Registrar, on the application of any interest party shall, on such evidence as the Registrar considers relevant, determine and indicate the position of the uncertain or disputed boundary.

(3) Where the Registrar exercises the power conferred by subsection (2) of this section, he shall make a note to that effect on the Registry Map and in the register and shall file such plan or description as may be necessary to record his decision.

(4) No Court shall entertain any action or other proceedings relating to a dispute as to boundaries of registered land unless the boundaries have first been determined by the Registrar as provided in this section.

(5) Except where it is noted in the register that the boundaries of a parcel have been fixed under section 21 of this Act, the Court or the Registrar may, in any proceedings concerning the parcel, receive such evidence as to its boundaries and situation as it or he thinks fit.

Fixed
Boundaries.

21.(1) Where any interested person makes application to the Registrar to indicate on a filed plan, or otherwise to define in the Register, the precise position of the boundaries of a parcel or any part thereof, the Registrar shall give notice to the proprietors and any person having interest in the Land adjoining the boundaries in question of the intention to ascertain and fix the boundaries.

(2) The Registrar shall, after giving all persons appearing by the register to be affected an opportunity of being heard, cause to be defined by survey the precise position of the boundaries in question, file a plan containing necessary particulars and make a note in the register that the boundaries have been fixed, and thereupon the plan shall be deemed to define accurately the boundaries of the parcel.

Maintenance of
boundary
features.

22.(1) Every proprietor of land shall maintain in good order any fences, hedges, stone pillars, wall or other marks which demarcate his boundaries.

(2) The Registrar may in writing order the demarcation of any boundary in such manner as he may direct and any person who fails to comply with such an order shall be guilty of an offence.

(3) The Registrar may in writing order which of adjoining proprietors shall be responsible for the care and maintenance of any feature demarcating a common boundary and any proprietor so ordered to be responsible who allows the boundary feature to fall into disrepair or to be destroyed or removed shall be guilty of an offence.

Interference
with boundary
features.

23.(1) Any person who willfully defaces, removes or otherwise impairs any boundary, feature or any part of it unless authorized to do by the Registrar, shall be guilty of an offence.

(2) Any person convicted of such an offence, whether or not any penalty therefore, is imposed upon him, shall be liable to pay the cost of restoring the boundary feature and such cost shall be recoverable as a civil debt by any person responsible under section 22 of this Act for maintenance of the feature.

Combinations
and
subdivisions.

24.(1) Where contiguous parcels are held by the same proprietor and are subject in all respects to the same right and obligations, the Registrar, on application by the proprietor, may combine those parcels by closing the registers relating to them and opening a new register or registers in respect of the parcel or parcels resulting from the combination.

(2) Upon the application of the proprietor of a parcel for the division of his parcel into two or more parcels, the Registrar shall effect the division by closing the register relating to the parcel and opening new registers in respect of the new parcels resulting from the division, and recording in the new registers all subsisting entries appearing in the closed register.

Provided that –

- (i) nothing shall be done under this section which would be inconsistent with this Act or any other written law; and
- (ii) no parcel which is subject to a lease shall be subdivided so as to subdivide the land comprised in such lease.

Reparcellation.

25.(1) The Registrar may, on the application of the proprietors of contiguous parcels who are desirous of changing the layout of their parcels, and with the consent in writing of all other persons in whose names any right or interest in such parcel is registered and of any cautioner, cancel the registers relating to such parcels and prepare new registers in accordance with revised layout.

Provided that, where in the opinion of the Registrar a proposed reparcellation involves substantial changes which should be effected by transfers without invoking this section, he may in his discretion refuse to accept such reparcellation.

(2) Upon any such reparcellation, the persons named

in the revised layout shall, notwithstanding section 38 of this Act, be registered as the proprietors of the parcels.

Foreshore.

Cap. 105

26. Land adjacent to the sea which is alternately left dry and covered with water by the ordinary ebb and flow of the tides shall be deemed to be public land and shall not be included in any parcel.

PART III EFFECT OF REGISTRATION

Interest
conferred by
registration.

27. Subject to the provisions of this Act –

- (a) the registration of a person as the proprietor of land shall vest in that person an exclusive right of occupancy of that land, together with all rights and privileges belonging thereto, but subject to the conditions thereof, conferred or imposed by the provisions of the Public Land Decree;
- (b) the registration of a person as the proprietor of a lease shall vest in that person the leasehold interest described in the lease, together with all implied and expressed rights and privileges belonging thereto, and subject to all implied and expressed agreements, liabilities and incidents of the lease.

Rights of
proprietor.

28. The rights of a proprietor, whether acquired on first registration or subsequently for valuable consideration or by order of a court, shall be rights not liable to be defeated except as provided in this Act, and shall be held by the proprietor, together with all privileges belonging thereto, free from all other interests and claims whatsoever, but subject –

- (a) to the leases, charges and other encumbrances and to the conditions and restrictions, if any shown in the register; and
- (b) unless the contrary is expressed in the register, to such liabilities, rights and interests as affect the same and are declared by section 30 of this Act,

not to require noting on the register.

Provided that nothing in this section shall be taken to relieve a proprietor from any duty or obligation to which he is subject as a trustee.

Voluntary
transfer.

29. Every proprietor who has acquired land, a lease or a charge by transfer without valuable consideration shall hold it subject to any unregistered rights or interest to which the transferor holds it, and subject also to the provisions of any law relating to bankruptcy and to the winding-up provisions of any law relating to companies, but save as aforesaid such transfer shall in all respects have the same effect as a transfer for valuable consideration.

Overriding
interests.

30. Unless the contrary is expressed in the register, all registered land shall be subject to the following overriding interest as may from the time being subsist and affect the same without their being noted on the register –

- (a) rights of way, rights of water and profits subsisting at the time of first registration under this Act;
- (b) natural rights of light, air, water and support;
- (c) rights of compulsory acquisition, resumption, entry, search and user conferred by any other law;
- (d) lease or agreements for lease for a term not exceeding two years, periodic tenancies and indeterminate tenancies within the meaning of section 46 of this Act;
- (e) charges for unpaid taxes, rates or other moneys which, without reference to registration under this Act, are expressly declared by any law to be a charge on land;
- (f) rights acquired or in process of being acquired by virtue of any law relating to limitations of action by prescription;
- (g) the rights of a person in actual occupation of land or in receipt of rents or profits therefrom save where enquiry is made of such person and the rights are not disclosed;
- (h) electric supply lines, telephone and telegraph lines

or poles, pipelines, aqueducts, canals and dams erected, constructed or laid by virtue of any power conferred by any law.

Entries to constitute actual notice.

31. Every proprietor acquiring any land, lease or charge shall be deemed to have notice of every entry in the register relating to the land, lease or charge.

PART IV CERTIFICATES AND SEARCHES

Land certificate and certificates of lease.

32.(1) The Registrar shall, if requested by any proprietor of land or a lease where no land certificate or certificates of lease has been issued, issue to him a land certificate or certificate of lease, as the case may be, in the prescribed form showing all subsisting entries in the register affecting that land or lease.

Provided that –

- (i) only on such certificate shall be issued in respect of each parcel or lease;
- (ii) no certificate of lease shall be issued unless the lease is for a certain period exceeding two years.

(2) A land certificate or certificate of lease shall be only prima facie evidence of the matters shown therein, and the land or lease shall be subject to all entries in the register whether they are shown on the certificate or not.

(3) Where there is more than one proprietor, the proprietors shall agree among themselves as to who shall receive the certificate, and failing agreement the certificate shall be filed in the registry.

(4) The date of issue of land certificate or of a lease shall be noted in the register.

Production of certificates.

33.(1) If a land certificate or certificate of lease has been issued, then, unless it is filed in the registry or the Registrar dispenses with its production, it shall be produced on the registration of any dealing with land or lease to which it

relates, and, if the certificate shows all subsisting entries in the register, a note of such registration shall be made on the certificate.

(2) If the disposition is a transfer, the certificate if produced shall be destroyed, and in such case a new certificate may be issued to the new proprietor.

(3) If the disposition is a charge, the certificate, if produced shall be filed in the registry.

Disposition of
leases and
charges.

34. On the registration of any disposition of a lease or charge the duplicate and triplicate of the lease or charge shall, unless the Registrar is satisfied that they cannot be produced, be produced to the Registrar, who shall note particulars of the disposition of the filed lease or charge and on the duplicate and triplicate thereof.

Lost or
destroyed
certificates.

35.(1) If a land certificate or certificate of lease is lost or destroyed, the proprietor may apply to the Registrar for the issue of a new certificate, and shall produce evidence to satisfy the Registrar of the loss or destruction of the previous certificate.

(2) The Registrar may require a statutory declaration that the certificate has been lost or destroyed.

(3) The Registrar, if satisfied with the evidence as to the loss or destruction of the certificate, and after the publication of such notice as he thinks fit, may issue a new certificate.

(4) When a lost certificate is found, it shall be delivered to the Register for cancellation.

Searches and
copies.

36.(1) Any person, on application in the prescribed form and on paying the prescribed fee, may inspect during official hours of business any register and any sheet of the Registry Map or any filed instrument or plan.

(2) Any person, on application in the prescribed form and on paying the prescribed fee, shall be entitled to a certified copy of any register or part of the Registry Map or any filed instrument or plan.

(3) Any person, on application in the prescribed form and on paying the prescribed fee, may require an official

search in respect of any parcel, and the Registrar shall issue a certificate of official search setting forth particulars of all subsisting entries in the register of that parcel.

Evidence.

37.(1) A certified copy of the register or part of the Registry Map or any filed instrument, or plan shall be admissible in evidence in all actions and matters and between all persons and parties to the same extent as the original, and a signature on any such certified copy purporting to be the signature of the Registrar shall be presumed to be the signature of the Registrar until the contrary is proved.

(2) No legal practitioner, trustee, personal representatives or other person in a fiduciary position shall be held liable in respect of any loss occasioned by the inaccuracy of any such certified copy as is referred to in subsection (1) of this section.

(3) No process for compelling the production of a register of the Registry Map or of any filed instrument or plan shall be issued from any court except with leave of that court, which leave shall not be granted if a certified copy or extract will suffice, and any such process, if issued, shall bear thereon a statement that is issued by leave of the court.

PART V DISPOSITION

Division 1 -General

Subsequent dealings.

38.(1) No land, lease or charge registered under the Act shall be capable of being disposed of except in accordance with this Act, and every disposal of such land, lease or charge otherwise than in accordance with this Act shall be incapable of creating, extinguishing, transferring, varying or affecting any right or interest in the land, lease or charge.

(2) Nothing in this section shall be construed as preventing any unregistered instrument from operating as a contract.

Protection of persons dealing in registered land.

39.(1) No person dealing or proposing to deal for valuable consideration with a proprietor shall be required –

(a) to enquire or research the circumstances in or the

consideration for which such proprietor or any previous proprietor was registered; or

(b) to search any register kept under the Registration of Documents Decree.

(2) Where the proprietor of land, a lease or a charge is a trustee, he shall, in dealing therewith be deemed to be the proprietor thereof, and no disposition of such trustee to a bona fide purchaser for valuable consideration shall be defeasible by reason of the fact that such disposition amounted to a breach of trust.

Fees for
delayed
registration.

40.(1) An instrument shall be presented for registration within three months from the date of execution thereof.

(2) Where an instrument is presented for registration later than three months from the date of execution, an additional fee equal to the registration fee shall be payable for every period of three months or part thereof which has elapsed since the expiry of three months from the date of the instrument.

Provided that in no such case shall the sum of the additional fee exceed five times the original registration fee.

Power to
compel
registration.

41.(1) If the Registrar is satisfied that any person, through his willful default, has failed to register any instrument which is registerable under the Act, he may by notice in writing order such person to present such instrument for registration and thereupon the registration fee and any additional fee payable under section 40 of this Act shall become due and shall be payable whether the instrument is produced or not.

(2) Any person who fail to comply with an order of the Registrar under subsection (1) of this section within one month of the service of the notice shall be guilty of an offence.

Priority of
registered
interests.

42.(1) Interests appearing in the register shall have priority according to the order in which the instruments which led their registration were presented to the registry, irrespective of the date of the instruments and notwithstanding that the actual entry in the register may be delayed.

Provided that where an instrument is prepared in the registry it shall be deemed to have been presented on the date on which application for its preparation was made to the Registrar.

(2) Instruments sent by post or under cover and received during the hours of business shall be deemed to be presented simultaneously immediately before the closing of the office on that day, and instruments so sent but received between the time of closing and next opening of the office of business shall be deemed to be presented simultaneously immediately after such opening.

(3) Where more than one instrument or application is presented on the same day, or on different days but at so short an interval from each other that in the opinion of the Registrar there is doubt about their order or priority, the Registrar may refuse registration until he has heard and determined the rights of the parties interested thereunder.

Stay of
registration.

43.(1) Where any person proposing to deal with registered land has, with the consent in writing of the proprietor, applied for an official search and has stated in his application the particulars of the proposed dealing, the registration of any instrument affecting the land to be comprised in or affected by the proposed dealing shall be stayed for a period thereinafter referred to as the suspension period of fourteen days from the time at which application for the official search was made, and a note shall be made in the register accordingly.

(2) If within the suspension period a properly executed instrument affecting the proposed dealing is presented for registration, such instrument shall have priority over any other instrument which may be presented during the suspension period, and shall be registered notwithstanding any caution or other entry for which application for registration may have been made during the suspension period.

(3) Subject to subsection (2) of this section, any instrument or document for which application for registration is made during the suspension period, other than that affecting the proposed dealing, shall be dealt with in the

same manner, shall have the same priority and shall be as effectual as if no stay of registration had been obtained.

Merger of registered interests.

44. Where upon the registration of dealing, the interests of –

- (a) lessor and lessee; or
- (b) charger and chargee, or
- (c) the proprietor of a parcel which is burdened with an easement, profit or restrictive agreement and the proprietor of a parcel which benefits therefrom, vest in the same proprietor, such interests shall not merge unless a surrender or discharge is registered or the parcels are combined or there is a declaration of merger, which may be contained in the instrument evidencing the dealing.

Division 2

Leases

Leases.

45. Subject to the provision of this Act and any other law, the proprietor of land may lease the land or part of it to any person for a definite term or for the life of the lessor or of the lessee or for a period which though indefinite may be determined by the lessor or the lessee, and subject to such conditions as he thinks fit.

Provided that, if only part of the land is leased, the lease shall be accompanied by a plan or other description which the Registrar, in his absolute discretion, deems adequate to identify the part leased.

Periodic tenancy.

46.(1) Subject to any law governing agricultural tenancies –

- (a) where in any lease the term is not specified and no provision is made for the giving of notice to terminate the tenancy, the lease shall be deemed to have created a periodic tenancy.
- (b) where a proprietor of land permits the exclusive occupation of the land or any part thereof by any other person at a rent but without any

agreement in writing, that occupation shall be deemed to constitute a periodic tenancy.

- (c) the period of a periodic tenancy created by this section shall be the period by reference to which the rent is payable, and the tenancy may be terminated by either party giving to the other notice, the length of which shall, subject to any other law, be not less than the period of the tenancy and shall expire on one of the days on which the rent is payable.

(2) No periodic tenancy of any kind shall be capable of registration.

Registration
of lease.

47. A lease for a specified period exceeding two years, or for the life of the lessor or of the lessee, or a lease which contains an option whereby the lessee may require the lessor to grant him a further term which, together with the original term, exceeds two years, shall be in the prescribed form and shall be completed by –

- (a) opening a register in respect of the lease in the name of the lessee; and
- (b) filing the lease; and
- (c) noting the lease in the encumbrances section of the register of the lessor's land or lease.

Lessor's
consent to
dealing with
lease.

48. Upon the registration of a lease containing an agreement, expressed or implied, by the lessee that he will not transfer, sub-let, charge or part with possession of the land leased or any part thereof without the written consent of the lessor, the agreement shall be noted in the register of the lease and no dealing with the lease shall be registered until the written consent of the lessor, verified in accordance with section 113 of this Act, has been produced to the Registrar.

Lease of
charged land.

49. Where any land is subject to a charge, no lease of such land shall be registered without the previous consent in writing of the proprietor of the charge, verified in accordance with section 113 of this Act, unless the charge expressly dispenses with the necessity for such consent.

- Computation of lease. 50.(1) Where a lease is expressed as commencing on a particular day, that day is excluded in computing the period.
- (2) Where no day of commencement is named, the lease shall be deemed to commence on the day it is executed.
- (3) Where the period is a year or a number of years, in the absence of an express agreement to the contrary, the lease shall last during the whole anniversary of the day on which such period commences.
- Future leases. 51.(1) A lease may be made for a period to commence on a future date, not being later than twenty-one years from the date on which the lease is executed, but shall be of no effect unless it is registered.
- (2) An instrument purporting to create a lease to commence on a date more than twenty-one years after the date of the instrument, or to take effect on the fulfillment of any condition, is void.
- Holding over. 52.(1) Where a person, having lawfully entered into occupation of any land as a lessee, continues to occupy that land with the consent of the lessor after the termination of the lease, he shall, subject to the provisions of any law governing agricultural tenancies and in the absence of any evidence to the contrary, be deemed to be a tenant holding the land on a periodic tenancy on the same conditions as those of the lease so far as these conditions are appropriate to a periodic tenancy.
- (2) For the purposes of this section, the acceptance of rent in respect of any period after the termination of the lease shall, if the former tenant is still in occupation and subject to any agreement to the contrary, be taken as evidence of consent to the continued occupation of the land.
- Agreements implied in leases on the part of lessor. 53.(1) Save as otherwise expressly provided in the lease, the lessor shall be implied in every lease to have agreed –
- (a) that, so long as the lessee pays the rent and observes and performs the agreement and conditions expressed or implied in the lease and on his part to be observed and performed, the

lessee shall and may peaceably and quietly possess and enjoy the leased land during the period of the lease without any interruption from or by the lessor or any person rightfully claiming through him;

- (b) not to use or permit to be used any adjoining land of which he is the proprietor or lessee in any way which would render the leased land unfit or materially less fit for the purpose for which it is leased;
- (c) where part only of a building is leased, to keep the roof, main walls and main drains, and the common passages and the common installation of the lease;
- (d) where any dwelling-house, flat or room is leased furnished, that such house, flat or room is fit for habitation at the commencement of the lease;
- (e) that if at any time the leased premises are damaged or destroyed by fire, hurricane, civil commotion or any other accident not attributable to the negligence of the lessee or his servants so as to render the leased premises wholly or partially unfit for occupation, the rent or a just proportion thereof shall be suspended and cease to be payable until such premises have been rendered fit for occupation.

Provided that, if the leased premises have not been so rendered fit within six months of their damage or destruction, the lessee may, on giving one month's written notice, terminate the lease.

Agreements
implied in
leases on the
part of lessee.

54. Save as otherwise expressly provided in the lease, the lessee shall be implied in every lease to have agreed -

- (a) to pay the rent reserved in the lease at the times and in the manner therein specified;
- (b) to pay all rates, taxes and other outgoings which are at any time payable in respect of the leased premises during the continuance of the lease unless the same are payable exclusively by the

lessor by virtue of any other law;

- (c) except where part only of a building is leased, or where a dwelling-house is leased furnished, to keep all building comprised in the lease and all boundary marks in repair;
- (d) where part only of a building is leased, or where a dwelling house is leased furnished, to keep the leased premises except the roof and main walls and main drains and the common passages and common installations, in repair;
- (e) to permit the lessor or his agent with or without workmen or others at all convenient times and after reasonable notice to enter on the leased premises and examine the condition thereof;
- (f) in the case of agricultural land, to farm the same in accordance with the practice and any rules of good husbandry, and to yield up the land at the end of the term in good condition.
- (g) to repair any defect or breach of agreement for which the lessee is responsible and of which notice has been given by the lessor to the lessee, within such reasonable period as may be specified in the notice; and
- (h) not to transfer, charge, sublease or otherwise part with the possession of the leased premises or any part thereof without written consent from the lessor but such consent shall not be unreasonably withheld.

Meaning of in repair.

55. Where an agreement is contained or implied in any lease to keep a building or a particular part thereof "in repair", it shall, in the absence of an express provision to the contrary, mean in such state or repair as that in which a prudent owner might reasonably be expected to keep his property, due allowance being made for the age, character and locality of the building at the commencement of the lease.

Provided that there shall not be read into such an agreement and undertaking to put any building into a better

state of repair than that in which it was at the commencement of the lease.

Lessor's right of forfeiture.

56.(1) Subject to the provisions of section 59 of this Act and to any provision to the contrary in the lease, the lessor shall have the right to forfeit the lease if the lessee –

- (a) commits any breach of or omits to perform, any agreement or condition on his part expressed or implied in the lease; *or*
- (b) is adjudicated a bankrupt; or
- (c) being a company, goes into liquidation.

(2) The right of forfeiture may be –

- (a) exercised, where neither the lease nor any person claiming through or under him is in occupation of the leased land, by entering thereon and remaining in possession thereof; *or*
- (b) enforced by action in the Court.

(3) The right of forfeiture shall be taken to have been waived if –

- (a) the lessor accepts rent which has become due since the breach of the agreement or condition which entitled the lessor to forfeit the lease or has by any other positive act shown an intention to treat the lease as subsisting and;
- (b) the lessor is, or should by reasonable diligence have become aware of the commission of the breach.

Provided that the acceptance of rent after the lessor has commenced an action in the Court under subsection (2) of this section shall not operate as a waiver.

Effect of forfeiture on subleases.

57. The forfeiture of a lease terminates every sublease and every other interest in the register relating to that lease, but –

- (a) where the forfeiture is set aside by a Court on the grounds that it was procured by the lessor in fraud of the sub-lessee; or

- (b) where a court grants relief against the forfeiture under section 59 of this Act, every such sublease and other interest shall be deemed not to have terminated.

Notice before forfeiture.

58. Notwithstanding anything to the contrary contained in the lease, no lessor shall be entitled to exercise the right of forfeiture for the breach of any agreement or condition in the lease, whether expressed or implied, until the lessor has served on the lessee a notice –

- (a) specifying the particular breach complained of, and
- (b) if the breach is capable of remedy, requiring the lessee to remedy the breach within such reasonable period as is specified in the notice; and
- (c) in any case other than nonpayment of rent, requiring the lessee to make compensation in money for the breach, and the lessee has failed to remedy the breach within a reasonable time thereafter, if it is capable of remedy, and to make reasonable compensation in money.

Relief against forfeiture.

59.(1) A lessee upon whom a notice has been served under section 58 of this Act, or against whom the lessor is proceeding by action or re-entry to enforce his right of forfeiture, may apply to the Court for relief, and the Court may grant or refuse relief, as it thinks fit, and, if it grants relief, may grant it on such terms as it thinks fit.

Provided that nothing in this subsection shall apply in the case of a forfeiture arising from a breach to which the sub-lessee is a party, or from the breach of an expressed agreement or condition against subleasing, parting with the possession of or disposing of the property.

(2) This section shall have effect notwithstanding any stipulation or agreement to the contrary and whether the lease is registered or not.

Variation and extension of leases.

60. Subject to the provisions of section 58 of this Act, the agreements and conditions expressed or implied in any registered lease may be varied, negated or added to and

the period of any registered lease may from time to time be extended by an instrument executed by the lessor and lessee and registered before the expiration of the then current term of the lease.

Substitution
of leases.

61. Where upon presentation of a lease for registration the Registrar is satisfied that , the lessee is the person registered as the proprietor of a prior lease in respect of the same land, he shall cancel the registration of the prior lease and register the new lease subject to the encumbrances registered against the prior lease.

Subleases.

62.(1) Subject to any provision in his lease affecting his right to do so, the proprietor of a registered lease may, by instrument in the prescribed form, sublease for any period of his lease.

(2) Save as otherwise provided in this Act, the provisions of this Act affecting leases, lessors and lessees shall apply to subleases, sublessors and sublessees, with such adaptations as are necessary.

(3) If a lease is terminated by operation of law or by surrender under any law relating to bankruptcy or liquidation proceeding, such termination shall terminate the sublease.

(4) In addition to the agreements specified in this Act to be implied in lease, there shall be implied in every sublease under this Act an agreement by the sublessor that he will, during the continuance of the sublease, pay the rent reserved by the lease under which the sublessor holds, and observes and performs the agreements and conditions thereof.

(5) Where a sub-lessee has paid to the sublessor's lessor the rent or any part of the rent payable by the sublessor under the lease under which the sublessor holds, the sublessee shall be entitled to set off any sum so paid against the rent payable by him to the sublessor in respect of the sublease.

Surrender
of lease.

63.(1) Where the lessor and the lessee agree that a registered lease shall be surrendered, it shall be surrendered in the following manner –

(a) either an instrument shall be prepared in the prescribed form, or the word "surrendered" shall

be inscribed on the lease or on the duplicate or triplicate thereof;

- (b) the instrument or inscription shall then be executed by the lessor and lessee;
- (c) the Registrar shall then cancel the registration of the lease; and
- (d) the instrument or inscribed lease shall be filed, and thereupon, or upon such earlier date as is expressed in the instrument or inscription, the interest of the lessee shall cease.

(2) No lease which is subject to a charge or a sublease shall be surrendered without the consent in writing of the proprietor of the charge or sublease.

Termination
of leases.

64.(1) Where –

- (a) the period of the lease has expired; or
- (b) the event upon which a lease is expressed to terminate has happened; or
- (c) the lessor has lawfully re-entered and recovered possession of the leased land; or
- (d) a notice duly given to terminate the lease has expired and the lessor has recovered possession of the leased land, the lease and every other interest appearing on the register relating to the lease shall thereupon terminate, and the lessor may apply in writing to the Registrar to cancel its registration.

(2) An application under this section shall be supported by such evidence of the matter giving rise to the termination and the recovery of possession by the lessor as the Registrar may require, and the Registrar on being satisfied on the matters set forth in the application shall cancel the registration of the lease.

Division 3 - charges

Form and effect
of charges.

65.(1) A proprietor may, by instrument in the prescribed form, charge his land, lease or charge to secure payment of

an existing or a future or contingent debt or other money or money's worth or the fulfillment of a condition, and the instrument shall contain a special acknowledgement that the charger understands the effect of section 73 of this Act, and the acknowledgement shall be signed by the charger or, where the charger is a corporation, by one of the persons attesting the affixation of the common seal.

Provided that the Minister may prescribe the persons, authorities or institutions in favour of which any land, lease or charge may be charged, and until the Minister so prescribes, no charge of any land, lease or charge shall be registered otherwise than in favour of a housing, agricultural or other bank established and operating in Zanzibar.

(2) A date for the repayment of the money secured by the charge may be specified in the instrument or charge and where no such date is specified or repayment is not demanded by the charges on the date specified the money shall be deemed to be repayable three months after the service of a demand in writing by the charges.

(3) The charge shall be completed by the registration as an encumbrance and registration of the person in whose favour it is created as its proprietor and by filing the instrument and the charge.

(4) A charge shall not operate as a transfer but shall have effect as a security only.

(5) There shall be included in an instrument of charge securing fulfillment of a condition or the payment of an annuity or other periodical payment not of the nature of interest on a capital sum such provisions as the parties think fit for disposing, subject to the provisions of section 77 of this Act, of money which may arise on exercise by the chargee of his power of sale either by setting aside the proceeds of sale or part thereof on investment to make future periodical payments, or by payment to the chargee of such proceeds or part thereof, to the extent of the estimated capital value of the chargee's interest, or otherwise.

Second or subsequent charges.

66. A proprietor whose land or lease is subject to a charge may create a second or subsequent charge in the same manner as the first charge and the same provisions shall apply thereto, but any sale under the power expressed or implied in any such charge shall be expressed to be

subject to all prior charges unless all those charges have been discharged.

Presumption
that money
paid is interest.

67. If any question arises whether any payment made by the charger is in respect of principal or interest, such payment shall be presumed to be in respect of interest to the extent of all interest which is due and payable at the date of payment.

Agreements
implied in
charges.

68. There shall be implied in every charge, unless the contrary is expressed therein, agreements by the charger with the chargee binding the charger: -

- (a) to pay the principal money on the day therein appointed and, so long as the principal sum or any part thereof remains unpaid, to pay interest thereon at the rate and on the days and in the manner therein specified;
- (b) to pay all rates, taxes and other outgoings which are at any time payable in respect of the charged property;
- (c) to repair and keep in repair all buildings or other improvements upon the charged land and to permit the chargee or his agent, at all reasonable notice to the charger, to enter the land and examine the condition of such buildings or improvements;
- (d) to insure and keep insured all buildings upon the charged land against loss or damage by fire in the joint names of the charger and chargee with insurers approved by the chargee to the full value thereof;
- (e) in the case of charge of agricultural land, to farm the land in accordance with the rules of good husbandry;
- (f) in the case of a charge of land or of a lease, not to lease the charged land or part thereof, or sublease the whole or part of the land comprised in the charged lease for any period longer than one year without the previous consent in writing of the chargee, but such

consent shall not be unreasonably withheld;

- (g) not to transfer the land, lease or charge or any part thereof without the previous consent in writing of the chargee, but such consent shall not be unreasonably withheld;
- (h) in the case of a charge of a lease, during the continuance of the charge to pay the rent reserved by the lease and observe and perform the agreements and conditions thereof, and keep the chargee indemnified against all proceedings, expenses and claims on account of non-observance of the said agreements and conditions, and, if the lessee has an enforceable right to renew the lease, to renew it;
- (i) where the charge is a second or subsequent charge, to pay the interest from time to time accruing due on each prior charge when it becomes due, and at the proper time to repay the principal money due, on each prior charge; and
- (j) that where the charger fails to comply with any of the agreements implied by paragraph (b), (c), (d), (e), (h) and (i) of this section, the chargee may spend such money as is necessary to remedy the breach, and may add the amount so spent to the principal money, and that thereupon the amount shall be deemed for all purposes to be part of the principal money secured by the charge.

Chargee's
consent to
transfer.

69. Where a charge contains an agreement, expressed or implied, by the charger with the chargee that he will not transfer the land, lease or charge or any part thereof without the consent in writing of the chargee, the agreement shall be noted in the register, and no transfer by the charger shall be registered until the written consent of the chargee, verified in accordance with section 113 of this Act, has been produced to the Registrar.

Variation
of charges.

70. The amount secured, the method or repayment the rate of interest or the term of the charge may be varied by the presentation and registration of an instrument of variation executed by the charger and chargee, but no such variation shall affect the rights of the proprietor of a second

or subsequent charge unless he has consented to the variation in writing on the instrument of variation.

Charger's right of redemption.

71.(1) Subject to the provisions of this section a charger, on payment of all money due and owing under the charge at the time of payment or on fulfillment of any condition secured thereby and on payment of any costs or expenses properly incurred by the chargee in exercising any power conferred on him by section 73 of this Act, may redeem the charged land, lease or charge at any time before it has been sold under section 76 of this Act, and any agreement or provision which purports to deprive the charger of this right of redemption shall be void, and, for the purpose of this subsection land, a lease or a charge shall be deemed to have been sold when a bid has been accepted at the auction sale.

(2) Where the charger wishes to redeem the charged land or lease or charge before the date for repayment specified in the charge, he shall be entitled to do so on payment to the redemption.

(3) Where no date for redemption is specified in the charge or where the charger, seeks to redeem the charged land or release of charge after the date specified in the charge, he shall give the chargee three months' notice of his intention to redeem the charged land or lease or charge or shall pay him three months' interest in lieu thereof.

(4) If at any time the charger is entitled and desires to repay the money secured by the charge and the chargee is not in Zanzibar or cannot be found or the Registrar is satisfied that the charge cannot be discharged otherwise, the charger may deposit the amount due with the Registrar in trust for the person entitled thereto, and thereupon the obligations of the charger under the charge shall cease, and the Registrar shall cancel the registration of the charge, and shall pay the amount deposited to the chargee if the chargee applies for it within six years from the date of deposit, and if the amount is not so claimed and paid it shall be appropriated to the general revenue of the Government of Zanzibar.

Provided that, prior to the cancellation of the registration, the Registrar may require that the charger shall publish in a newspaper approved by the Registrar, a notice of his intention to redeem the charged land or lease or charge.

Right of
third party
to transfer
of charge.

72. On his tendering to the chargee such sum as would have been payable to the chargee if the charger had sought to redeem the charge under section 71 of this Act, any of the following persons, that is to say –

- (a) any person (other than the chargee) who has an interest in the charged land, lease or charge; or
- (b) any surety for the payment of the amount secured by the charge; or
- (c) any creditor of the charger who has obtained an order of Court for sale of the charged land, lease or charge, may require the chargee to transfer the charge to him.

Chargee's
remedies.

73.(1) If default is made in payment of the principal sum or of any interest or other periodical payment or part thereof, or in the observance or performance of any agreement expressed or implied in any charge, and such default continues for one month, the chargee may serve on the charger a notice in writing to pay the money due or to observe and perform the agreement, as the case may be.

(2) If the charger does not, within three months from the date of service of a notice served on him under subsection (1), comply with that notice, the chargee may –

- (a) appoint a receiver of the income of the charged property; or
- (b) sell the charged property,

Provided that a chargee who has appointed a receiver may not exercise the power of sale unless the charger fails to comply within three months from the date of service, with a further notice served on him under subsection (1).

(3) The chargee shall be entitled to sue for the money secured by the charge in the following cases only –

- (a) where the charge is bound to an agreement expressed or implied, to repay the same; or
- (b) where by any cause other than the wrongful act or charge of the chargee, the charged property is wholly or partially destroyed or the security is

rendered insufficient and the chargee has given the charger a reasonable opportunity of providing further security which will render the whole security sufficient, and the charger has failed to provide such security; or

- (c) where the chargee is deprived of the whole or part of his security by, on in consequence of, the wrongful act or default of the charger;

Provided that –

- (i) in the case specified in paragraph (a) of this subsection –

(a) a transferee from the charger shall not be liable to be sued for the money unless he has agreed with the chargee to pay the same; and

(b) no action shall be commenced until a notice served in accordance with subsection (1) of this section has expired;

- (ii) the Court may, at its discretion, stay a suit brought under paragraph (a) or paragraph (b) of this subsection notwithstanding any agreement to the contrary, until the chargee has exhausted all his other remedies against the charged property, unless the chargee agrees to discharge the charge.

Appointment,
powers,
remuneration
and duties of
receiver.

74.(1) The appointment of a receiver under the powers conferred by section 73 of this Act, shall be in writing signed by the chargee and a copy shall be filed in the registry.

(2) A receiver may be removed at any time and a new receiver appointed in writing signed by the chargee and a copy of such new appointment shall be filed in the registry.

(3) A receiver appointed under this section shall be deemed to be the agent of the charger for the purposes for which he is appointed, and the charger shall be solely responsible for the receiver's act and defaults unless the chargee otherwise provided.

(4) The receiver shall have power to demand and recover all the income of which he is appointed receiver, by action or otherwise, in the name of the charger, and to give effectual receipts accordingly for the same.

(5) A person paying money to the receiver shall not enquire into the validity of the receiver's appointment.

(6) Subject to the provision of subsection (8) of this section the receiver shall be entitled to retain out of any money received by him all costs, charges and expenses incurred by him as receiver, and, for his remuneration, a commission at such rate, not exceeding five percent of the gross amount of all moneys received, as is specified in his appointment, or if no rate is specified at the rate of five percent of that gross amount or such other rate as the charger and the chargee and any other chargees, if any, agree or the Court thinks fit to allow on application by the receiver for that purpose.

(7) The receiver shall apply insurance money in making good the loss or damage in respect of which the money is received.

(8) Subject to the provisions of subsection (7) of this section, the receiver shall apply all money received by him in the following order of priority –

- (a) in discharge of all rents, rates, taxes and outgoings whatever affecting the charged property; and
- (b) in keeping down all annual sums or other payments and the interest on all principal sums, having priority to the charge in right whereof he is receiver; and
- (c) in payment of his commission, costs, charges, and expenses and of the premiums of fire or other insurance policies, if any, properly payable under the charge or under this Act, and the cost executing necessary repairs directed in writing by the chargee; and
- (d) in or towards the discharge of the money secured by the charge, if so directed in writing by the charges, and shall pay the residue, if any, of the money received by him to the person who, but

for the appointment of the receiver, would have been entitled to receive the income of which he is appointed receiver, or who is otherwise entitled to the charged property.

Chargee's powers of leasing.

75.(1) The proprietor of a charge of land or a lease who has appointed a receiver under the powers conferred on him by section 73 of this Act shall, in the absence of any expressed provision to the contrary contained in the charge, have power subject to the provisions of this Act and of any other law –

- (a) to grant leases in respect of the charged land or the land comprised in the charged lease or any parts thereof; and
- (b) to accept a surrender of any lease so granted and of any lease created by the charger and may, for such purposes, execute in the place of the charger any instrument required to effect such lease or surrender.

(2) Every lease granted by a chargee shall –

- (a) be made to take effect in possession not later than twelve months after its date;
- (b) reserve the best rent that can reasonably be obtained, but without a fine or premium being obtained;
- (c) be for a term not exceeding twenty- one years; and
- (d) contain a declaration by the chargee that he has appointed a receiver and the date of such appointment.

Chargee's power of sale.

76.(1) A chargee exercising his power of sale until act in good faith and have regard to the interests of the charger, and may sell or concur with any person in selling the charged land, lease or charge, or any part thereof, together or in lots, by public auction for a sum payable in one amount or by installments, subject to such reserve price and conditions of sale as the chargee thinks fit, with power to buy in at the auction.

(2) Where the charger is in possession of the charged

land or the land comprised in the charged lease, the charges shall become entitled to recover possession of the land upon a bid being accepted at the auction sale.

(3) A transfer by a chargee in exercise of his power of sale shall be made in the prescribed form, and the Registrar may accept it as sufficient evidence that the power has been duly exercised, and any person suffering damage by an irregular exercise of the power shall have his remedy in damages only against the person exercising the power.

(4) Upon registration of such transfer, the interest of the charger as described therein shall pass to and vest in the transferee freed and discharged from all liability on account of the charge or on account of any other encumbrance to which the charge has priority (other than a lease, easement, profit or restrictive agreement subsisting at the time the charge was effected or to which the charge has consented in writing).

(5) A chargee, in exercising his power of sale, shall have the same powers and rights in regard to easements, profits and restrictive agreements as are conferred upon a proprietor by section 93, 94 and 95 of this Act.

Application of
purchase
money.

77. The purchase money received by the chargee who has exercised his power of sale, after discharge of any prior encumbrances to which the sale is not made subject or after payment into Court of a sum sufficient to meet any such prior encumbrance, shall be applied –

(a) first, in payment of all costs and expenses properly incurred and incidental to the sale or any attempted sale;

(b) secondly, in accordance with any expressed provision in the charge (as required by section 65(5) of this Act) for disposing of such money and, in the absence of any such expressed provision, in discharge of the money due to the charge at the date of the sale; and

(c) thirdly, in payment of any subsequent charges in the order of their priority,

and the residue of the money so received shall be paid to the person who immediately before the sale was entitled to

redeem the charged land, lease or charge.

Variation of powers.

78. The provisions of section 71(2) and (3), 73, 74, 75 and 76 of this Act may in their application to a charge be carried or added to in the charge –

Provided that any such variation or addition shall not be acted upon unless the Court, having regard to the proceedings and conduct of the parties and to the circumstances of the case, so orders.

No right of entry into possession or of foreclosure.

79. For the avoidance of doubt, it is hereby declared that the chargee shall not be entitled to foreclose, or to enter into possession of the land or the land comprised in a charged lease or to receive the rents or profits thereof by reason only that default has been made in the payment of the principal sum or of any interest or other periodical payment, or of any part thereof, or in the performance or observance of any agreement expressed or implied in the charge.

Discharge of charge.

80.(1) A discharge whether on the whole or of part of a charge shall be made by instrument in the prescribed form or, in the case of a discharge of the whole, by inscribing the word "Discharged" on the charge or the duplicate or triplicate thereof, and the instrument or inscription shall be executed by the chargee.

(2) A discharge shall be completed by cancellation in the register of the charge, or part thereof as the case may require, and by filing the instrument of discharge of the inscribed charge.

Satisfaction of charges.

81. Upon proof to the satisfaction of the Registrar –

(a) that all money due under a charge has been paid to the charges or by his direction; or

(b) that the event or circumstance has occurred upon which, in accordance with the provisions of any charge, the money thereby secured ceases to be payable and that no money is owing under the charge, the Registrar shall order the charge to be cancelled in the register, and thereupon the land, lease or charge shall cease to be subject to the charge.

Taking and further advances.

82.(1) Provision may be made in the charge for a chargee to make further advances or give credit to the charger on a current account, but, unless that provision is noted in the register, further advances shall not rank in priority to any subsequent charge except with the consent in writing of the proprietor of the subsequent charge.

(2) Except as provided in this section, there is no right to tack.

Consolidation of charges.

83. A chargee has no right to consolidate his charge with any other charge unless the right is expressly reserved in the charges or in one of them and 18 noted the register against all the charges so consolidated.

Division 4

Transfer

Transfer.

84.(1) A proprietor may transfer his land, lease or charge to any person, with or without consideration, by an instrument in the prescribed form.

(2) The transfer shall be completed by cancellation of the registration of the transferor and by Registration of the transferee as the proprietor of the land, lease or charge, and filing the instrument.

(3) The transferee of a charge may require the charger to execute the transfer for the purpose of acknowledging the amount due under the charge at the date of execution of the transfer.

Consolidation transfers not registerable.

85. A transfer to take effect on the happening of any event or on the fulfillment of any condition or at any future time shall not be capable of registration.

Conditions repugnant to interests transferred.

86.(1) Any condition or limitation purporting to restrain absolutely a transferee or any person claiming under him from disposing of the interest transferred shall be void.

(2) Any condition or limitation made in relation to a transfer which purports to terminate the interest of the transferee on the happening of any future event or on the failure of any future event shall be void.

(3) Except as provided in Division 5 of this Part, no transfer of a land shall contain a direction that the land shall be used or enjoyed by the transferee in a particular manner.

(4) This section shall not apply to Wakf properties.

Transfer of
part.

87. No part of the land comprised in a register shall be transferred unless the proprietor has first subdivided the land and new registers have been opened in respect of each subdivision.

Transfer of
leases.

88. On the transfer of a lease, unless the contrary is expressed in the transfer, there shall be implied;

(a) a warranty on the part of the transferor that the rent, agreements and conditions on the part of the lessee to be paid, performed and observed up to the date specified in the transfer or, if no such date is specified, the date of the transfer; and

(b) an agreement on the part of the transferee to pay the said rent as from the day following the date specified in the transfer or the date of the transfer, as the case may be, and to perform and observe the said agreements and conditions.

Effect of
transfer on
agreements in
leases.

89. A transferee from a lessor or from a lessee shall have all the rights, and be subject to all the liabilities, of the lessor or lessee, as the case may be expressed or implied in the lease or arising or which have arisen thereunder, and the transferor shall cease to be under any obligation or to have any rights in respect of the lease;

Provided that nothing in this section shall affect rights or liabilities of the lessor or lessee as the case may be, in respect of a breach of any of the agreements expressed or implied in the lease which occurred before the transfer.

Transfer
subject to
charges and
interest.

90. In every transfer of land or a lease subject to a charge, there shall be implied an agreement by the transferee with the transferor to pay the interest secured by the charge at the rate and at the times and in the manner specified in the charge and to keep the transferor indemnified against the principal sum secured by the charge

and from and against all liability in respect of any of the agreements on the part of the transferee therein expressly contained or implied.

Transfer
subject to
lease.

91. A transfer of land which is subject to a lease shall be valid without the lessee acknowledging the transferee as lessor, but nothing in this section –

- (a) shall affect the validity of any payment of rent made by the lessee to the transferor; or
- (b) shall render the lessee liable, on account of his failure to pay the rent to the transferee, for any breach of agreement to pay rent, before notice of the transfer is given to the lessee by the transferee.

Transfer of
unregistered
lease.

92. The transfer of a lease of registered land which lease does not require registration and is not registered, shall not itself require registration.

Division - 5

Easements, Profits and Restrictive Agreement

Easements.

93.(1) The proprietor of land or of lease may, by instrument in the prescribed form, grant an easement over his land or the land comprised in his lease, to the proprietor or lessee of other land for the benefit of that other land.

(2) Any proprietor transferring or leasing land or a lease may, in the transfer or lease, grant an easement for the benefit of the land transferred or leased over land retained by him, or reserve an easement for the benefit of land retained by him over the land transferred or leased.

(3) The instrument creating the easement shall specify clearly –

- (a) the nature of the easement, the period for which it is granted and any conditions limitations or restrictions intended to affect its enjoyment; and
- (b) the land burdened by the easement and, if required by the Registrar, the particular part

thereof; and

- (c) the land which enjoys the benefit of the easement, and shall, if required by the Registrar, include a plan sufficient in the Registrar's estimation to define the easement.

(4) The grant or reservation of the easement shall be completed by its registration as an encumbrance in the register of the land or lease burdened and in the property section of the land which benefits, and by filing the instrument.

(5) An easement granted by the proprietor of a lease shall be capable of subsisting only during the subsistence of the lease.

Profits.

94.(1) The proprietor of land or of a lease may, by instrument in the prescribed form, grant a profit.

(2) The instrument shall specify clearly –

- (a) the nature of the profit and the period for which it is to be enjoyed; and
- (b) whether it is to be enjoyed in gross or as appurtenant to other land or a lease; and
- (c) whether it is to be enjoyed by the grantee exclusively or in common with the grantor.

(3) The grant of a profit shall be completed -

- (a) by its registration as an encumbrance in the register of the land or lease it affects; and
- (b) where it is appurtenant to other land or a lease, by its registration in the property section of the register of the land or lease to which it is appurtenant; and
- (c) by filing the instrument.

(4) A profit which is not appurtenant to land may be dealt with as though it were land and may be transferred or otherwise disposed of accordingly.

(5) A profit granted by the proprietor of a lease shall be capable of subsisting only during the subsistence of the lease.

Restrictive agreements.

95.(1) Where an instrument, other than a lease or charge, contains an agreement (hereinafter referred to as a restrictive agreement) by one proprietor restricting the building on or user or other enjoyment of his land for the benefit of the proprietor of other land, and is presented to the Registrar, the Registrar shall note the restrictive agreement in the encumbrances section of the register of the land or lease burdened by the restrictive agreement, either by entering particulars of the agreement or by referring to the instrument containing the agreement, and shall file the instrument.

(2) Unless it is noted in the register, a restrictive agreement is not binding on the proprietor of the land or lease burdened by it for on any person acquiring the land or lease.

(3) The note of a restrictive agreement in the register does not give the restrictive agreement any greater force or validity than it would have had if it had not been registerable under this Act and had been noted.

(4) In so far as the restrictive agreement is capable of taking effect, the proprietors and their respective successors in title shall be entitled to the benefit and shall be subject to the burden of it respectively, unless the instrument otherwise provides.

Release and extinguishment of easement, profits and restrictive agreements.

96.(1) Upon presentation of a duly executed release in the prescribed form the registration of the easement, profit or restrictive agreement shall be cancelled, and the easement, profit or restrictive agreement shall thereupon be extinguished.

(2) Upon the application of any person affected thereby, the Registrar may cancel the registration of the easement, profit or restrictive agreement upon proof to his satisfaction that –

(a) the period of time for which it was intended to subsist has expired; or

(b) the event upon which it was intended to terminate has occurred; or

(c) it has been abandoned.

Discharge and modification of easement, profits and restrictive agreement by Court order.

97. Upon the application of any person interested in land affected by an easement, profit or restrictive agreement, the Court shall have power by order to extinguish wholly, partially, or to modify any such easement, profit or restrictive agreement, with or without payment by the applicant of compensation to any person suffering loss in consequence of the order, or being satisfied –

(a) that, by reason of changes in the character of the property or the neighbourhood or other circumstances of the case which the Court deems material, the easement, profit or restrictive agreement ought to be held to be obsolete; or

(b) that the continued existence of the easement, profit or restrictive agreement impedes the reasonable user of the land for public or private purpose without securing practical benefits to other persons or, as the case may be, will unless modified so impede such user; or

(c) that the proposed discharge or modification will not injure the person entitled to the benefit of the easement, profit or restrictive agreement.

Natural rights.

98. Nothing in this Act shall be construed as derogating from natural rights to water, light, air, support or access to a public road appertaining to any land, nor from such ancillary rights as are necessary for effective enjoyment of an easement.

Licences.

99.(1) Without prejudice to section 132(1) of this Act, a licence is not capable of registration.

(2) A licence relating to the use or enjoyment of land is ineffective against a bona fide purchaser for valuable consideration unless the licensee has protected his interest by lodging a caution under the said section.

Division 6

Co-proprietorship and Partition

- | | |
|--|--|
| co-proprietorship. | <p>100.(1) An instrument made in favour of two or more persons and the registration giving effect to it, shall show:-</p> <ul style="list-style-type: none"> (a) whether such persons are joint proprietors or proprietors in common; and (b) where they are proprietors in common, the share of each proprietor. |
| Characteristics of joint proprietorship. | <p>101.(1) Where two or more persons are joint proprietors of any land, lease or charge, no such proprietor shall be entitled to any separate share in the land, lease or charge, and consequently:-</p> <ul style="list-style-type: none"> (a) dispositions may be made only by all the joint proprietors; and (b) on the death of a joint proprietor, his interest shall vest in the surviving proprietor or proprietors jointly. <p>(2) For the avoidance of doubt, it is hereby declared that:-</p> <ul style="list-style-type: none"> (a) the sole proprietor of any land, lease or charge may transfer the same to himself and to another person jointly; and (b) a joint proprietor of any land, lease or charge may transfer his interest therein to all the other joint proprietors. <p>(3) Joint proprietors, not being trustees, may execute an instrument in the prescribed form signifying that they agree to sever the joint proprietorship, and the severance shall be completed by registration of the joint proprietors as proprietors in common with equal shares, and by filing the instrument.</p> |
| Characteristics of proprietorship in common. | <p>102.(1) Where two or more persons are proprietors in common of any land, lease or charge, each such proprietor shall be entitled to a separate undivided share in the whole and on his death his share shall be administered as part of</p> |

his estate.

(2) No proprietor in common shall deal with his undivided share in favour of any person other than another proprietor in common of the same land except with the consent in writing of the remaining proprietor or proprietors of such land, but such consent shall not be unreasonably withheld.

Statutory trusts.

103. When :-

- (a) on first registration under this Act more than ten persons have been registered as proprietors in common of any land; or
- (b) the registration of a dealing results in more than ten persons being registered as proprietors in common of any land, such land shall be held under a statutory trust, and the Registrar shall enter a restriction in the register of such land prohibiting any dealing in the land and in any undivided share thereof until statutory trustees of such land shall have been appointed.

Appointment of statutory trustees.

104.(1) Upon entering a restriction under section 103 of this Act, the Registrar shall by notice require the proprietors in common named in the register to appoint not less than two and not more than four persons to be the statutory trustees of the land and for this purpose the Registrar may:-

- (a) summon all the said proprietors in common to appear before him at such place and such time as he may direct, to appoint such statutory trustees in his presence; all proprietors in common present shall be entitled to vote for the selection of persons to be appointed as statutory trustees, and the Registrar shall prepare and sign a record the statutory trustees so appointed; or
- (b) accept a statement in writing, signed by more than half the number of proprietors in common named on the register and verified in accordance with section 113 of this Act, of the persons, being not less than two or more than four in number, appointed to be the statutory trustees of the land.

(2) If, after the expiry of reasonable time from the date of the notice issued under subsection (1) of this section, the proprietors in common named on register have failed to appoint statutory trustees, the Registrar may, and is so requested by any proprietor in common shall, by order appoint not less than two and not more than four persons to be the statutory trustees of the land.

Registration of statutory trustees.

105. Upon the appointment of statutory trustees under section 104 of this Act, the Registrar shall:-

- (a) cancel the names of all proprietors in common shown on the register; and
- (b) register in the proprietorship section of the register only the names of the persons appointed as statutory trustees, and add after their names the words "as statutory trustees", and

(c) file:-

- (i) the record of the appointment of statutory trustees in the presence of the Registrar in accordance with paragraph (a) of section 104 (1) of this Act; or
- (ii) the statement of appointment of statutory trustees accepted by the Registrar in accordance with paragraph (b) of section 104 (1) of this Act; or
- (iii) the order of the Registrar appointing statutory trustees in accordance with section 104 (2) of this Act; and
- (d) compile and file a list of all occupants in common of the land and share of each; and
- (e) remove the restriction imposed under section 103 of this Act.

Effect of registration of statutory trustees.

106.(1) The registered statutory trustees of land shall have and may exercise the sole and exclusive right, subject to any entry in the register, to deal in the land, and an occupant in common of the land shall be entitled only to a share, corresponding to his undivided share, of the net proceeds of

sale of the whole, and to any rents or profits until sale of the whole, but shall not be entitled to deal with his undivided share under this Act.

(2) Nothing in this Act shall relieve any registered statutory trustee from any duty, customary or otherwise, to consult the occupants in common of the land or lease, and any registered statutory trustee shall be bound to exercise the powers vested in him by this Act on behalf, on such occupants in common and for their collective benefit.

(3) Any failure by a registered statutory trustee to comply with any such duty or obligation shall in no way concern or affect any person dealing with him in good faith for valuable consideration nor shall any such failure create any right to indemnity under this Act.

Removal and
replacement of
statutory
trustees.

107.(1) The Registrar shall:-

- (a) on proof to the satisfaction of the Registrar that a registered statutory trustee has died; or
- (b) on being informed in writing by a registered statutory trustee that he no longer wishes to act as a statutory trustee; or
- (c) on being informed in writing by any occupant in common of the land or lease, and on proof to the satisfaction of the Registrar, that a registered statutory trustee is unable to act as a statutory trustee by reason of age, physical disability, unsoundness of mind, absence from Zanzibar or imprisonment, cancel the registration of the name of such registered statutory trustee on the register.

(2) On application to the Court by any occupant in common of the land or lease that a registered statutory trustee should be removed for a breach of trust or for any other reason, the Court may order that the name of the registered statutory trustee shall be struck off the register, and upon receiving a certified copy of such order the Registrar shall cancel the name of such registered statutory trustee on the register accordingly.

(3) The occupants in common of the land or lease may,

and if the registrar by notice so requires shall, from time appoint one or more persons to be added to the statutory trustees in accordance with the provisions of section 104 (1) of this Act, or if they fail to do so, the Registrar shall appoint such additional statutory trustees in accordance with section 104 (2) of this Act;

Provided that, the total number of statutory trustees appointed and registered shall at no time exceed four.

(4) So long as two or more statutory trustees remain on the register they shall have all the powers of statutory trustees under this Act.

(5) If less than two statutory trustees remain on the register, the Registrar shall enter a restriction in the register prohibiting any dealing in the land or lease and in any undivided share thereof until two or more statutory trustees shall have been appointed under this Act.

partition of land
held in
common.

108.(1) An application for partition of land held in common may be made to the Registrar by the statutory trustees or, in respect of land for which no statutory trustees have been appointed under the provisions of this Act, by one or more of the proprietors in common.

(2) Subject to the provisions of this Act and of any other law by which minimum area or frontages are prescribed or the consent of any authority is required, the Registrar shall effect the partition in accordance with any agreement of the statutory trustees or of the proprietors in common, as the case may be or, in the absence of agreement, in such manner as the Registrar may order.

(3) Partition shall be completed by closing the register of the parcel partitioned and opening new registers in respect of the new parcels created by the partition, and filing the agreement or order, and the instrument.

Where
Registrar may
order sale.

109. Where for any reason the land sought to be partitioned is incapable of partition or the partition would adversely affect the proper use of the land, and demand is made by the statutory trustees or by one or more of the proprietors in common, as the case may be that the land or

any share or shares in land be sold, the Registrar shall, in default of any agreement between the occupants in common, value the land and the shares of the occupants in common and order the sale of the land or the separation and sale of such shares by public auction or make such other order for the disposal of the application as he thinks fit.

Procedure
where share is
small.

110.(1) Where the land sought to be partitioned is capable of partition generally, but the resultant share of any particular occupant in common or proprietor in common, as the case may be, would be less in area than any minimum prescribed by law, the Registrar shall add such share to the share of any other occupant or proprietor in common, or shall distribute such share to two or more other occupants or proprietors in common, as in default of agreement, he thinks fit.

(2) Where the Registrar proceeds in accordance with subsection (1) of this section, he shall assess the value of the share added or distributed and shall order that there be paid to the occupant or proprietor of the share by each occupant or proprietor who has received an addition to his share the value of such addition.

PART VI INSTRUMENT AND AGENTS

Division 1

Instrument

Form of
instruments.

111.(1) Every disposition of land, a lease or a charge shall be effected by an instrument in the prescribed form or in such other form as the Registrar may in any particular case approve, and every person shall use a printed form issued by the Registrar unless the Registrar otherwise permits.

(2) Leases and charges shall be presented for registration in triplicate.

(3) Instruments shall contain a true statement of the amount or value of the purchase price or loan or other consideration, if any, and an acknowledgement of the receipt of the consideration.

Execution of
instruments.

112.(1) Every instrument evidencing a disposition shall be executed by all person shown by the register to be proprietors of the interest effected and by all other parties to the instrument:

Provided that the Registrar may dispense with execution by any particular party (other than a donee under a disposition by way of gift) where he considers that such execution is unnecessary.

(2) Subject to section 125 (2) of this Act, an instrument shall be deemed to have been executed only:-

(a) by a natural person, if signed by him;

(b) by a corporation:-

(i) if sealed with the common seal of the corporation affixed thereto in the presence of and attested by its clerk, secretary or other permanent officer and by a member of the board of directors, council or other governing body of the corporation; or

(ii) in the case of a corporation not required by law to have a common seal, if signed by such persons as are authorized in that behalf by any law or by the statute charter of the corporation or, in the absence of any expressed provisions, by the person duly appointed in writing for that purpose by the corporation, evidence of which appointment has been produced to the satisfaction of the Registrar.

Identity of the
executor of
instrument.

113.(1) Subject to the provision of subsection (3) of this section, a person who desires to execute an instrument or document shall appear before the Registrar or such public officer or other person as is prescribed and, unless he is known to the Registrar or such public officer or other person shall be accompanied by a credible witness for the purpose of establishing his identity.

(2) The Registrar or public officer or other person shall satisfy himself as to the identity of the person appearing before him and shall ascertain whether he freely and

voluntarily executed the instrument or document and shall complete a certificate to that effect.

(3) An instrument which is required to be executed by or on behalf of the Government shall be deemed to be executed when it has been signed by the Minister for the time being responsible for land affairs.

(4) The Registrar may dispense with verification under this section:-

(a) if he considers that, it cannot be obtained or can be obtained only with difficulty and he is otherwise satisfied that the document has been properly executed; or

(b) in cases in which to his knowledge the document has been properly executed, and shall record on the document his reasons for dispensing with the appearance of the parties.

(5) No instrument executed out of Zanzibar shall be registered unless it has endorsed thereon or attached thereto a certificate in the prescribed form completed:-

(a) if the instrument was executed in the commonwealth, by a judge, magistrate, justice of the peace, notary public or commissioner for oaths;

(b) if the instrument was executed in a foreign country other than a commonwealth country by a Tanzanian or British consular official or pro-consul or other person or class of persons prescribed.

Stamp Duty.

114. No instrument required by law to be stamped shall be accepted for registration unless it is duly stamped.

Disposal of instruments.

115.(1) Subject to subsection (2) of this section and to section 117 (2) of this Act, all instruments accepted by the Registrar shall be retained in the registry for as long as they support a current entry in the register and for six years thereafter.

(2) When a lease or charge is registered, particulars of

registration shall be noted on the duplicate and triplicate thereof, and the duplicate and triplicate shall be returned to the person who presented them.

(3) Six years or more after an entry in the register has been superseded or has ceased to have effect, the Registrar may destroy any instrument which supported that entry.

Minors.

116.(1) For the avoidance of doubt, it is hereby declared that the name of a person under the age of eighteen years may be entered in the register either on first registration or as a transferee or on transmission.

(2) Nothing in this section enables any such person to deal with land or any interest in land by virtue of such registration, and, where to his knowledge a minor is registered, the Registrar shall enter a restriction accordingly.

(3) A minor or any person representing a minor who applies to register any disposition of land or any interest in land shall state in such application particulars of the age and date of birth of the said minor:

Provided that where a disposition by a minor whose minority has not been disclosed to the Registrar has been registered, such disposition may not be set aside only on the grounds of minority.

Division 2 Agents

Agents.

117.(1) Except as provided in subsection (3) of this section, no instrument executed by any person as agent for any other person shall be accepted by the Registrar unless the person executing it was authorised in that behalf by a power of attorney executed and verified in accordance with section 112 and 113 of this Act.

(2) The original of such power of attorney or, with the consent of the Registrar, a copy thereof certified by the Registrar shall be filed in the file of powers of attorney kept under section 6(f) of this Act.

(3) Where any person who, if not under a disability, might have made any application, done any act or been a party to a proceeding under this Act or any regulations made thereunder is a minor, a person of unsound mind or a person under any other disability, the guardian of such person, or if there is no such guardian, the person appointed

under any law to represent that person, may make any application, do any act and be a party to any proceedings on behalf of the person, and shall generally represent that person for the purposes of this Act.

(4) Before accepting any document executed by a guardian or a person so appointed to represent a person under a disability, the Registrar shall satisfy himself that, the person claiming to be the guardian is entitled to execute the document or require the production of the appointment of the person so appointed, and shall file a note of the explanation which satisfied him or a copy of the appointment, as the casemay be.

Gift to person
under a
disability.

118. A person under a disability who has been registered as proprietor of land, a lease or charge acquired by him by way of gift may, within six months after he ceases to be under a disability, repudiate the gift if he has not already disposed of the subject matter thereof, but no such repudiation shall be effective until:-

(a) he has transferred the land, lease or charge to the donor who shall be bound to accept it; and

(b) the transfer has been registered.

Powers of
attorney.

119.(1) Upon the application of the donor or the donee of a power of attorney which contains any power to dispose of any interest in land, such power of attorney shall be entered in the register of powers of attorney and the original, or with the consent of the Registrar a copy thereof certified by the Registrar, shall be filed in the file of powers of attorney kept under section 6(f) of this Act.

(2) Every such power of attorney shall be in the prescribed form or such other form as the Registrar may in any particular case approve, and shall be executed in accordance with sections 112 and 113 of this Act.

(3) The grantor of a power of attorney filed in accordance with subsection (1) of this section may, at any time give notice to the Registrar in the prescribed form that the power has been revoked, and thereupon the revocation shall be entered in the register of powers of attorney and noted upon the power, and the notice shall be filed in the file of powers of attorney.

(4) Any interested person may give notice in writing to

the Registrar that a power of attorney which has been registered under subsection (1) of this section, has been revoked by death bankruptcy or disability of the grantor or the death or disability of the donee, accompanied by such evidence as the Registrar requires, and thereupon the revocation shall be entered in the register of powers of attorney and noted on the power, and the notice shall be filed in the file of powers of attorney.

(5) Subsections (3) and (4) of this section do not apply to a power of attorney given for valuable consideration during any time which it is by virtue of the terms thereof, irrevocable.

(6) If owing to the length of time since the execution of a power of attorney or for any other reason the Registrar considers it desirable, he may require evidence that the power has not been revoked, and may refuse to register any disposition by the donee of the power of attorney until satisfactory evidence is produced.

Effect of
registered
power of
attorney.

120.(1) A power of attorney which has been registered under section 119 of this Act and of which no notice of revocation has been registered under that section, shall be deemed to be subsisting as regards any person acquiring any interest in land affected by the exercise of the power, for valuable consideration and without notice of revocation and in good faith, or any person deriving title under such person.

(2) Any person making any payment or doing any act in good faith in pursuance of a power of attorney registered under section 119 of this Act shall not be liable in respect of the payment or act by reason only that before the payment or act the donor of the power had died or become subject to a disability or become bankrupt, or had revoked the power, if the fact of death, disability, bankruptcy or revocation was not at the time of the payment or act known to the person making or doing the payment or act.

PART VII

TRANSMISSION AND TRUST

Transmission
on death of
joint proprietor.

121. If one of two or more joint proprietors of any land lease or charge dies the Registrar, on proof to his satisfaction of the death, shall cancel the name of the

deceased in the register.

Transmission
on death of
sole proprietor
or proprietor in
common.

122. If a sole proprietor, or a proprietor in common of land in respect of which statutory trustees have been appointed, dies, his personal representative on application to the Registrar in the prescribed form and on production to him of the grant, shall be entitled to be registered by transmission as proprietor in the place of the deceased with the addition of the words "as executor of the will of deceased" or "as administrator of the estate of deceased", as the case may be.

(2) Upon production of the grant, the Registrar may without requiring the personal representative to be registered, register by transmission:-

- (a) any transfer by the personal representative; or
- (b) any surrender of a lease or discharge of a charge by the personal representative.

(3) In this section "grant" means the grant of probate of the will or letters of administration of the estate of the deceased proprietor.

(4) Nothing in this section shall be construed as affecting the right of a personal representative of a deceased occupant in common of land in respect of which statutory trustees have been appointed to transmit the rights in the undivided share to the heir or heirs of the deceased occupant, but such transmission shall not entitle any such heir to deal with an undivided share under this Act and shall not be registerable.

(5) On being informed in writing by the personal representative of the death of an occupant in common of land and on production of the grant, the Registrar shall cancel the name of the deceased occupant in common in the list filed in accordance with section 105(d) of this Act and enter the name or names of the new occupant or occupants and the share or each.

Transmission
on death.

123.(1) Subject to any restriction on his power of disposing of the land, lease or charge contained in his appointment, the personal representative, or person beneficially entitled on the death of the deceased proprietor, as the case may be, shall hold the land, lease or charge subject to any liability, rights or interest which are unregistered but are

nevertheless enforceable, and subject to which the deceased proprietor held the same, but for purpose of any dealing he shall be deemed to have been registered as proprietor thereof with all the rights conferred by this Act on a proprietor who has acquired land, or lease or a charge for valuable consideration.

(2) The registration of any person as aforesaid shall relate back to and take effect from the date of the death of the deceased proprietor.

Transmission
on bankruptcy.

124.(1) A trustee in bankruptcy shall, upon production to the Register of a certified copy of the order of court adjudging a proprietor bankrupt, or directing that the estate of a deceased proprietor shall be administered according to the law of bankruptcy, be registered as proprietor of any land, lease or charge of which the bankrupt or the deceased proprietor is proprietor, in his place and a copy of the order shall be filed.

(2) A trustee in bankruptcy shall be described in the register as "trustee of the property of a bankrupt".

(3) The trustee in bankruptcy shall hold any land, lease or charge of which he is registered as proprietor subject to any restriction contained in any law relating to bankruptcy or in any order of court and subject to any liabilities, rights or interest which are unregistered but are nevertheless enforceable and subject to which the bankrupt or the deceased proprietor held the same, but for the purpose of any dealing with such land, lease or charge the trustee in bankruptcy shall have all rights and be subject to all the limitations conferred or imposed by this Act or any other law on a proprietor who has acquired land, a lease or a charge for valuable consideration.

Liquidation.

125.(1) Where a company, which is a registered proprietor of any land, lease or charge is being wound up, the liquidator shall produce to the Registrar any resolution or order appointing him liquidator, and the Registrar shall enter the appointment in respect of any land, lease or charge of which the company is registered as proprietor, and shall file a copy of the resolution or order.

(2) An instrument executed by or on behalf of a company in liquidation presented for registration after the appointment of the liquidator under subsection (1) of this

section, shall be sealed with the common seal of the company and attested by the liquidator or, in the case of a company not required by law to have a common seal, shall be signed by the liquidator whose signature shall be verified in accordance with section 113 of this Act.

Transmission of compulsory acquisition or order of court.

126. Where the Government or any person has become entitled to any land, lease or charge under any law or by virtue of any order or certificate of sale made or issued under any law, the Registrar shall, on the application of any interested person register the land as public land or register the person entitled as proprietor of the land, as the case may be.

Trusts.

127.(1) A person acquiring land or a lease or a charge on a fiduciary capacity may be described by that capacity in the instrument and, if so described, shall be registered with the additional words "as trustee" but the Registrar shall not enter particulars of trust in the register.

(2) An instrument which declares or is deemed to declare any trust, or a certified copy thereof, may be deposited in the registry for safe custody, but such instrument shall not form part of the register or be deemed to be registered.

(3) Where the proprietor of land, a lease or a charge is a trustee he shall hold the same subject to any unregistered liabilities, rights or interest to which it is subject by virtue of the instrument creating the trust, but for the purpose of any registered dealings he shall be deemed to be the proprietor thereof, and no person dealing in good faith for valuable consideration shall be deemed to have notice of the trust, nor shall any breach of trust create any right to indemnity under this Act.

Survivor of trustees.

128. Whenever two or more proprietors are registered jointly as trustees, and the survivor of such trustees would not be entitled to exercise alone the powers which are vested in them, the Registrar shall enter a restriction in the register to that effect.

PART VIII

RESTRAINTS ON DISPOSITION

Division 1 - Inhibitions

Power of Court to inhibit registered dealings. 129.(1) The Court may make an order (hereinafter referred to as an inhibition) inhibiting for a particular time, or until the occurrence of a particular event, or generally until further order, the registration of any dealing with any land, lease or charge.

(2) A copy of the inhibition under the seal of the Court, which particulars of the land, lease or charge affected thereby, shall be sent to the Registrar, who shall register it in the appropriate register, and no inhibition shall bind or affect the land, lease or charge until it has been registered.

Effect of inhibition. 130. An instrument which is inconsistent with a registered inhibition shall, for so long as the inhibition remains registered, not be registered.

Cancellation on inhibitions. 131. The registration of inhibitions shall be cancelled in the following cases –

- (a) on the expiration of the time limited by the inhibition; or
- (b) on proof to the satisfaction of the Registrar of the occurrence of the event specified in the inhibition; or
- (c) on the land, lease or charge being sold by a chargee, unless such sale in itself is inhibited; or
- (d) by order of the Court.

Lodging of cautions. 132.(1) Any person who –

- (a) claims any unregistrable interest whatsoever in land or a lease or a charge; or
- (b) is entitled to a licence; or
- (c) has presented a bankruptcy petition against the

proprietor of any registered land, lease or charge; or

- (d) being a Bank, has advanced money on a current account to the proprietor of any land, lease or charge, may lodge a caution with the Registrar forbidding the registration of dispositions of the land, lease or charge concerned and the making of entries affecting the same.

(2) A caution may either -

- (a) forbid the registration of dispositions and the making of entries altogether; or
- (b) forbid the registration of dispositions and the making of entries to the extent therein expressed.

(3) A caution shall be in the prescribed form and shall state the interest claimed by the cautioner, and the Registrar may require the cautioner to support it by a statutory declaration.

(4) The Registrar may refuse to register a caution which he considers unnecessary or the purpose of which he considers can be effected by the registration of an instrument under this Act.

(5) Subject to the provisions of this section, a caution shall be registered in the appropriate register.

Division 2

Cautions

Notice and effect of cautions.

133.(1) The Registrar shall give notice in writing of a caution to the proprietor whose land, lease or charge is affected by it.

(2) So long as a caution remains registered no disposition which is inconsistent with it shall be registered except with the consent of the cautioner or by order of the Court.

Withdrawal
removal of
cautions.

134.(1) A caution may be withdrawn by the cautioner or removed by order of the Court or, subject to the provisions of subsection (2) of this section, by order of the Registrar.

(2)(a) The Registrar may, on the application of any person interested, serve notice on the cautioner warning him that his caution will be removed at the expiration of the time stated in the notice.

(b) If at the expiration of the time stated the cautioner has not objected, the Registrar may remove the caution.

(c) If the cautioner objects to the removal of the caution, he shall notify the Registrar in writing of his objection within the time specified in the notice, and the Registrar, after giving the parties an opportunity of being heard, shall make such order as he thinks fit, and may in the order make provision for the payment of costs.

(3) On registration of a transfer by a chargee in exercise of his powers of sale under section 76 of this Act, the Registrar shall remove any caution which purports to prohibit any dealing by the charger and which was registered after the charge by virtue of which the transfer has been effected.

(4) On the withdrawal or removal of a caution, its registration shall be cancelled, but any liability of the cautioner previously incurred under section 136 of this Act shall not be affected by the cancellation.

Second caution
in respect of
same matter.

135. The Registrar may refuse to accept a further caution by the same person or by anyone on his behalf in relation to the same matter as a previously registered caution.

Wrongful
cautions.

136. Any person who lodges or maintains a caution wrongfully and without reasonable cause shall be liable, in an action for damages at the suit of any person who has thereby sustained damage, to pay compensation to such person.

Division 3 Restrictions

Restrictions. 137.(1) For the prevention of fraud or improper dealing or for any other sufficient cause, the Registrar may, either with or without the application of any person interested in the land, lease or charge, after directing such enquiries to be made and, notices to be served and hearing such persons as he thinks fit, make an order (hereinafter referred to as a restriction) prohibiting or restricting dealings with any particular, land, lease or charge.

(2) A restriction may be expressed to endure -

(a) for a particular period; or

(b) until the occurrence of a particular event; or

(c) until the making of a further order,

and may prohibit or restrict all dealings or only such dealings as do not comply with specified conditions and the restriction shall be registered in the appropriate register.

(3) The Registrar shall order a restriction to be entered in any case where it appears to him that the power of the proprietor to deal with the land, lease or charge is restricted.

Notice and effect of restriction. 138.(1) Upon the entry of a restriction in the register the Registrar shall give notice thereof in writing to the proprietor affected thereby.

(2) So long as any restriction remains registered, no instrument which is inconsistent with it shall be registered except by order of the Registrar or of the Court.

Removal and variation of restrictions. 139.(1) The Registrar may at any time, upon application by any person interested or of his own motion, and after giving the parties affected thereby an opportunity of being heard, order the removal or variation of a restriction.

(2) Upon the application of a proprietor affected by a restriction, and upon notice thereof to the Registrar the Court may order a restriction to be removed or varied or make such other order as it thinks fit, and may make an order as to costs.

PART IX

DESCRIPTION

Acquisition of right of occupancy by prescription.	140.(1) The right of occupancy of land may be acquired by open, peaceful and uninterrupted occupation for a period of twelve years and without the permission of any person lawfully entitled to such right of occupancy.
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Provided that no person shall so acquire the right of occupancy of land which is registered as public land or of land which is foreshore.

(2) Any person who claims to have acquired a right of occupancy of land by virtue of the provisions of subsection (1) of this section may apply to the Registrar to be registered as the proprietor thereof.

Principles of occupancy.	141.(1) Where it is shown that a person has, been in occupation of land, or in receipt of rents or profits thereof, at a certain date and is still in occupation or receipt thereof, it shall be presumed that he has, from that date, been in uninterrupted occupation of the land until the contrary be shown.
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(2) Occupation of land or receipt of rents or profits thereof by any person through whom a claimant derives his occupation of the land shall be deemed to be or have been the occupation receipt of rents or profits of the claimant.

(3) Where from the relationship of the parties or from other special cause it appears that the person in occupation of the land was in occupation on behalf of another, his occupation shall be deemed to be the occupation of that other.

(4) If a person, whose occupation of land is subject to conditions imposed by or on behalf of the proprietor of the land, continues in such occupation after the expiry of the term during which such conditions subsist, without fulfillment or compliance with them by such person and without any exercise by the proprietor of his right to the land, such subsequent occupation shall be deemed to be peaceful, open and uninterrupted occupation within the meaning of section 140 of this Act.

(5) For the purposes of subsection (4) of this section a

periodic tenancy shall be deemed to have terminated at the expiration of the period in accordance with section 46 (1) (c) of this Act:

Provided that where any rent has subsequently been paid in respect of the tenancy it shall be deemed to have terminated at the expiration of the period for which the rent has been paid.

(6) Occupation shall be interrupted –

(a) by occupation by a person claiming the land in opposition to the person in occupation; or

(b) by the institution of legal proceedings by the proprietor of the land to assert his right thereto; or

(c) by any acknowledgement made by the person in occupation of the land to any person claiming to be the proprietor thereof that such claim is admitted.

(7) No person in occupation of land in a fiduciary capacity on behalf of another may acquire by prescription a right of occupancy of land as against such other.

Procedure of application.

142.(1) On application by any person for registration as proprietor under section 140 of this Act the application shall be advertised by the Registrar at the expense of the applicant in such manner as the Registrar may direct.

(2) The Registrar shall give notice of any such application to the proprietor of the land affected and to any other persons who may, in his opinion, be affected thereby.

(3) After the month have elapsed from the date of giving notice under subsection (2) of this section the Registrar, on being satisfied that the applicant has acquired a right of occupancy of the land claimed, may allow the application and register him as proprietor of the land' claimed subject to any interests on the register which have not been extinguished by his occupation of the land.

Cap. 12 –
Acquisition of
easements and
profits.

143.(1) Subject to the provisions of the Limitation Decree, easements and profits may be acquired by open, peaceable, and uninterrupted enjoyment thereof for a period of twelve years:

Provided that this section shall not apply to any easement or profit affecting registered public land or to land which is foreshore or to any public right of way.

(2) Where any person claims to have acquired an easement or profit by virtue of the provisions of subsection (1) of this section, he may apply to the Registrar for registration thereof and the Registrar, on being satisfied as to the claim and subject to such notices, advertisements and conditions as the Registrar may direct, shall register the easement or profit as an encumbrance in the register of the land affected and, in the case of an easement or a profit which is appurtenant to land, in the property section of the register which benefits.

RECTIFICATION AND INDEMNITY

Rectification
by Registrar.

144.(1) The Registrar may rectify the register or any instrument presented for: registration in the following cases:-

- (a) in formal matter and in the case of errors or omissions not materially affecting the interest of any proprietor;
- (b) person has acquired an interest in land by prescription under Part IX of this Act;
- (c) in any case at any time with the consent of all persons interested;
- (d) where, upon resurvey, a dimension or area shown in the Registry Map in any register is found to be incorrect, but in such case the Registrar shall first give notice to all persons appearing by the register to be interested or affected of his intention to rectify.

(2) Upon proof of the change of name or address of any proprietor the Registrar shall on the written application of the proprietor, make an entry in the register to record the change.

Rectification
by the Court.

145.(1) Subject to subsection (2) of this section the Court may order rectification of the register by directing that any registration be cancelled or amended where it is satisfied that any registration (including a first registration) has been

obtained, made or omitted by fraud or mistake.

(2) The Register shall not be rectified so as to affect the title of a proprietor who is in occupation and acquired the land, lease or charge for valuable consideration, unless such proprietor had knowledge of the fraud, mistake or omission in consequence of which the rectification is sought, or caused such fraud, mistake or omission or substantially contributed to it by his act, negligence or default.

Right to indemnity.

146.(1) Subject to the provisions of this Act and of any law relating to limitation of actions, any person suffering damage by reason of –

- (a) any rectification of the register under this Act; or
- (b) any mistake or omission in the register which cannot be rectified under this Act, other than a mistake or omission in a first registration; or
- (c) any error in a copy of or extract from the register or in a copy of or extract from any document or plan certified under this Act, shall be entitled to be indemnified by the Minister out of the public fund of the Government of Zanzibar.

(2) No indemnity shall be payable under this Act to any person who has himself caused or substantially contributed to the damage by his fraud or negligence, or who derives his title (otherwise than under a registered disposition made bona fide for valuable consideration) from a person who so caused or substantially contributed to the damage.

Amount of indemnity.

147. Where an indemnity is awarded in respect of the loss of any interest in land, it shall not exceed –

- (a) where the register is not rectified, the value of the interest at the time when the mistake or omission which caused the loss was made; or
- (b) where the register is rectified, the value of the interest immediately before the time of rectification.

Procedure for claiming indemnity.

148. The Registrar may, on the application of any interested party, determine whether a right of indemnity has arisen under this Part and, if so, award indemnity, and may

thereto award any costs and expenses properly incurred in relation to the matter.

Recovery of indemnity paid. 149. Where any moneys are paid by way of indemnity under this Part, the Minister is entitled to recover by suit or otherwise amount so paid from any person who has caused or substantially contributed to the damage by his fraud or negligence and to enforce any expressed or implied agreement or other right which the person who is indemnified would have been entitled to enforce in relation to the matter in respect of which the indemnity has been paid.

Errors in survey. 150.(1) As between the Government and a proprietor, no indemnity shall arise and no suit shall be maintained on account of any surplus or deficiency in the area or measurement of any land disclosed by a survey showing an area measurement differing from the area or measurement disclosed on any subsequent surveyor from the area or measurement shown on the Registry Map or in a register.

(2) As between a proprietor and any person from or through whom he acquired the land, no claim to indemnity shall be maintainable on account of any surplus or deficiency in the area or measurement above or below that shown in any other surveyor above or below the area or measurement shown on the Registry Map or in a register, after a period of six months from the date of registration of the instrument under which the proprietor acquired the land.

PART XI

APPEALS FROM DECISIONS OF THE REGISTRAR

Registrar may state case. 151. Wherever any question arises with regard to the exercise of any power or the performance of any duty conferred or imposed on him by this Act, the Registrar may state a case for the opinion of the Court, and thereupon the Court shall give its opinion thereon, which shall be binding on the Registrar.

Appeals. 152.(1) The Minister or any person aggrieved by a decision, order, determination or award of the Registrar determination or award, may give notice to the Registrar in the prescribed form of his intention to appeal to the Court against the decision, direction, order, determination or award.

(2) On receipt of a notice of appeal, the Registrar shall

prepare and send to the Court and to the appellant, and to any other person appearing to him from the register to be affected by the appeal, a brief statement of the question in issue.

(3) On the hearing of the appeal the appellant and the Registrar and any other person who, in the opinion of the Court is affected by the appeal, may, subject to any rules of court, appear and be heard in person or by advocate.

(4) The Court may make such order on the appeal, as the circumstances may require, and every such order shall be given effect by the Registrar.

(5) The costs of the appeal shall be in the discretion of the Court.

Effect of appeal on disposition.

153.(1) An appeal to the Court shall not affect a disposition for valuable consideration made in good faith and registered before presentation to the Registrar of the appeal under section 152(1) of this Act.

(2) A note that an appeal is pending shall be, made in the register affected by the appeal and any disposition shall be subject to such notice.

Appeal rules.

154. The Chief Justice may make rules of Court for regulating applications and appeals to the Court under this Act and for the fees to be paid in respect thereof.

PART XII

MISCELLANEOUS

Addresses.

155. Any person who under this Act submits a caution or any instrument for registration, or is the proprietor of any land, lease or, charge, shall furnish to the Registrar in writing a postal address in Zanzibar for service, and shall notify him in writing of any change of address.

Service of notices.

156. A notice under this Act, shall be deemed to have been served on or given to any person -

- (a) if served on him personally; or
- (b) if sent by registered post to him at this last known address in Zanzibar or elsewhere; or
- (c) if served on an attorney holding a power of attorney whereunder such an attorney is authorised to accept such service; or
- (d) if service cannot be effected in one of the above mentioned ways, by displaying the notice in a prominent place on the land.

Meaning of
"opportunity
of being
heard".

157.(1) Where by this Act a thing is to be or may be done after giving a person an opportunity of being heard, that person shall be deemed to have been given such an opportunity –

- (a) if he attends before the Registrar personally or by agent, and is given such an opportunity;
- (b) if he intimates, personally or by agent, that he does not wish to be heard; or
- (c) if he has been served with a notice in writing specifying the thing to be done and appointing a day and time not less than thirty days after service of the notice at which he will, if he attends before the Registrar be heard.

(2) Where a person or his agent attends before the Registrar concerning a matter on which he is entitled to be heard, or fails to attend pursuant to such a notice as aforesaid, the Registrar, if he thinks fit, may adjourn the hearing from time to time, and, notwithstanding failure to attend, may if he thinks fit, hear such person at any time.

(3) Where by this Act all persons interested are to be given an opportunity of being heard, it shall be sufficient if all persons who, according to any subsisting entry in the register, appear to be interested are given such opportunity.

Offences.

158.(1) Any person who -

- (a) fraudulently issues or makes, or fraudulently procures the issue of or making of any certificate or other document, or any registration, or any erasure or alteration in any

certificate, other document or register; or

(b) fraudulently removes from a registry any register of filed instrument; or

(c) causes any defacement, obliteration, mutilation or unauthorised entry to be made in any register of filed instrument, shall be guilty of an offence and liable to a fine not exceeding forty thousand shillings or to imprisonment for a term not exceeding three years, or to both such fine and imprisonment.

(2) Any person who –

(a) knowingly misleads or deceives any person authorized by or under this Act to require information in respect of any land or interest in land;

(b) willfully defaces, removes, injures or otherwise impairs any boundary feature, unless authorized to do so by the Registrar, shall be guilty of an offence and liable to a fine of four thousand shillings or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.

(3) Any person who –

(a) after delivery to him of a summons to attend before the Registrar or to produce any document, neglects or refuses without reasonable cause to attend in accordance with the summons or to produce any document which he is required by the summons to produce, or to answer upon oath or otherwise any question lawfully put to him by the Registrar; or

(b) allows a boundary feature for which he is responsible by virtue of an order made under section 22(3) of this Act, to fall into disrepair or be removed or destroyed; or

(c) when ordered by the Registrar under section 22(2) of this Act to demarcate a boundary, fails to

comply with such order, shall be guilty of an offence and liable to a fine not exceeding two thousand shillings or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

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| Fees. | 159. There shall be payable in respect of land certificates, certificates of lease, it searches, survey plans and other matters connected with registration, such fees as shall from time to time be prescribed and the Registrar shall refuse registration until the fees are paid. |
| Recovery of unpaid expenses. | 160. Any expenses incurred by the Registrar or on his behalf shall constitute a civil debt recoverable summarily by the Registrar in the appropriate court. |
| Enforcement of Registrar's orders for payment. | 161. Any sum of money ordered by the Registrar to be paid in the exercise of any power conferred on him by this Act shall be deemed to be a decree of the High Court and shall be enforceable as such. |
| Suits to be tried by High Court. | 162. Notwithstanding the provisions of the Magistrates' Courts Act, civil suits and proceedings relating to proprietorship of land or a lease or a charge registered under this Act, or to any interest in any such land, lease or charge, being an interest which is registered or registerable under this Act, or being an overriding interest which is expressed by section 30 of this Act not to require registration, shall be tried by the High Court, or, where the value of the subject matter in dispute does not exceed forty thousand shillings, by the High Court or a subordinate Court presided over by a Resident Magistrate, as the High Court shall direct. |
| Regulations. | 163. The Minister may make regulations generally to give effect to the purposes and procedures of this Act, and in particular and without prejudice to the generality of the foregoing, for prescribing the form of the registers and instruments to be used and the fees of the registers and instruments to be used and the fees payable for anything to be done under this Act, and for prescribing anything under this Act may be prescribed. |

Savings of
rights of
Government.

164. Nothing in this Act shall prejudice any of the interest, rights, powers and privileges conferred on the Government by any other law.

Act to bind
Government.

165. Subject to the provisions of section 164, this Act shall bind the Government.

Other law.

166. Any matter not provided for in this Act or in any other law in relation to land, leases or charges and interest therein registered under this Act shall be decided in accordance with the principles of justice, equity and good conscience.

Cessation of
application of
certain laws.

167.(1) Without prejudice to anything done thereunder, the following laws shall, upon first registration of any land under this Act, cease to apply to such land -

(a) Transfer of Property Decree, in so far as it concerns immovable property;

(b) Registration of Documents Decree.

(2) The following Decrees are hereby repealed:-

(a) Arab and African Guardianship;

(b) Land Alienation.

PASSED by the House of Representatives of Zanzibar on the 20th day of December, 1989.

KHAMIS JUMA CHANDE
CLERK OF THE HOUSE OF REPRESENTATIVES

LAND SURVEY ACT 9/1990

THE LAND SURVEY ACT NO.9 OF 1990

ARRANGEMENT OF SECTIONS

SECTION

PART I PRELIMINARY

1. Short title.
2. Interpretation.
3. Appointment of Director, his powers and functions.

PART II THE LAND SURVEYOR'S BOARD

4. Establishment and composition of the Board.
5. Functions of the Board.
6. Procedure for the grant of licence to practise land surveying.
7. Grant of licence.
8. Register.
9. Breach of professional ethics.
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13. Surveyor to abide with the law.
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19. Delegation of powers by the Director.
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FIRST SCHEDULE

The land Surveyor's Licence.

Summons to appear before the Board.

ACT NO.9 OF 1990

I ASSENT

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

1st August 1991

**AN ACT TO MAKE PROVISIONS FOR THE LICENSING AND
PROFESSIONAL CONDUCT OF LAND SURVEYORS, FOR
REGULATING AND THE MAKING OF LANDSURVEYS, AND
FOR MATTERS CONNECTED THEREWITH
AND INCIDENTAL THERETO**

ENACTED by the House of Representatives of Zanzibar.

**PART I
PRELIMINARY**

Short title. 1. This Act may be cited as the Land Survey Act, 1989 and shall come into operation immediately upon being assented by the President.

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

“assistant” means a person, not being a surveyor, who is engaged on survey work directly under the control of a surveyor;

“Board” means the Land Surveyor's Board established pursuant to the provisions of section 4;

“cadastral survey” means any survey the purpose of which is to obtain information for recording the position of the boundaries of lands in separate ownership, or intended to be the subject of any disposition or partition, or re-establishing such boundaries on the ground or setting out new

boundaries on the ground;

"Director" means the Director of Surveys appointed under section 3(1);

"Licensed Surveyor" means a land surveyor duly licensed as such under the provisions of this Act;

"Minister" means the Minister responsible for survey matters;

"old law" means the Land Survey Decree, Cap. 100 of the Laws of Zanzibar;

"owner" in relation to any land, means any person receiving or entitled to receive rents or profits from any tenant or occupier thereof whether on his own account or as an agent or trustee for any person or who would receive the same if the land were let;

"plan" includes map, plot, diagram, aerial photograph or satellite image approved by the Director for survey purposes;

"prescribed" means prescribed by Regulations made under this Act;

"President" means the President of Zanzibar and Chairman of Revolutionary Council;

"public survey" means any survey made for the purpose of defining the boundaries of any land which is owned by the Government of Zanzibar or any public authority, or in which the Government or any public authority possesses or dispossesses of any interest or any survey which forms part of a survey of Zanzibar or any part thereof;

"Regulations" means Regulations made under section 25;

"section" means a section of this Act;

"survey" means a survey defining the boundaries of any land in Zanzibar;

"Survey Department" means the department in Zanzibar exercising functions relating to survey matters;

"Surveyor" means the licensed land surveyor or an officer of the Survey Department authorised by the Director to carry out surveys.

Appointment of Director, his powers and functions.

3.(1) There shall be a Director of Land Surveys appointed by the President.

(2) The Director shall subject to the provisions of this Act:-

- (a) direct and control all public surveys;
- (b) supervise and control all other surveys;
- (c) examine all general and particular plans of surveys and approve such plans if satisfied that such surveys have been carried out and the plans have been prepared in accordance with the Regulations;
- (d) take charge of and preserve all survey-records;
- (e) subject to the provisions of this Act cancel or correct any survey plan or diagram found to be incorrect, outdated or inadequate;
- (f) prepare, certify and issue at the request of any person upon payment of the prescribed fees, copies of diagrams and documents filed within his department which are available to the public.

(3) The Director shall be a sole authority for the preparation and publication of the official maps of Zanzibar, and no other person shall, without licence in writing from the Director make use of any material which has been prepared or published in official maps in the preparation or publication of any other map.

PART II

THE LAND SURVEYOR'S BOARD

Establishment
and composition
of the Board.

4.(1) There is hereby established a Board, to be known as the Land Surveyor's Board consisting of the Director, who shall be the Chairman of the Board, and not less than four and not more than seven members appointed by the Minister and not less than three of whom shall, if practicable be surveyors licensed to practise in Zanzibar. The quorum for any meeting of the Board shall be not less than half the number of members.

(2) A member of the Board shall be appointed by the Minister for a term of three years, which is renewable and such member may at any time resign by giving notice in writing to the Minister.

(3) The Minister may, at his discretion, revoke the appointment of any person appointed by him to be a member of the Board.

(4) Notice of appointment and revocation of appointment of a member of the Board shall be published in the Gazette.

(5) The Minister shall appoint as Secretary of the Board a lawyer with an experience of more than three years. The Secretary shall not be a member of the Board.

(6) The Board shall appoint examiners and other officers who are not board members as may be necessary for carrying out the duties of the Board, and all such persons shall hold office during the pleasure of the Board.

Functions of the
Board.

5. The Board shall be the sole competent authority:-

- (a) to grant to persons duly qualified therefor in accordance with the provisions of this Act licences to practise land surveying in Zanzibar;
- (b) to provide for examination to be taken by applicants for such licences;
- (c) to keep a register of all licensed surveyors in accordance with section 8;
- (d) to take disciplinary measures against licensed surveyors in accordance with the provisions of this Act;

- (e) to hear and determine any dispute between a licensed surveyor and his client;
- (f) to perform such other functions as are prescribed by this Act or any Regulations made thereunder.

Procedure for the grant of licence to practise land surveying.

6. The Board shall not grant licence to practise land surveying to any person unless such person has passed such examination as the Board may from time to time prescribe, or who has been granted exemption therefrom.

Grant of licence.

7.(1) The grant of a licence shall be in the form prescribed in the First Schedule of this Act and notice thereof shall be published in the Gazette.

(2) There shall be payable in respect of the grant of a licence to a surveyor such fee as may be prescribed.

Register.

8. The Board shall cause a register to be kept which shall contain the names, addresses and qualifications of all persons to whom licences have been granted, the date upon which each such licence was granted and any other particulars as may be prescribed.

Breach of professional ethics.

9.(1) Where after due enquiry by the Board, a licensed surveyor has been found guilty of professional misconduct, or having been convicted of a criminal offence, is found by the Board to be unfit to practise, the Board may:-

- (a) revoke the licence granted to such licensed surveyors; or
- (b) suspend the licence for a period not exceeding three years; or
- (c) impose a fine not less than five thousand shillings and not exceeding fifty thousand shillings; or
- (d) reprimand such licensed surveyor.

(2) Upon any inquiry held by the Board under subsection (1) of this section the person whose conduct is being inquired into shall be afforded an opportunity of being heard, either in person or by an advocate.

(3) For the purpose of proceedings at any inquiry held by the Board, the Board may administer oaths and affirmations and may, subject to the provisions of any Regulations made under this Act, enforce the attendance of persons as witnesses and the production of books and documents.

(4) Any person who, having been summoned by the Board in the form prescribed in the Second Schedule to attend before it fails so to attend, or fails to produce any books or documents which he is required to produce shall be guilty of an offence against this Act.

Appeal.

10. Any person aggrieved by a decision of the Board under section 9, or under subsection (4) of section 23, may within one month following the date of the decision, appeal to the High Court against the decision and, on any such appeal the High Court may give such directions in the matter as it thinks proper, including directions as to costs of the appeal, and no appeal shall lie from an order of the High Court under this section.

Power of the Board to restore licence.

11. Where an order has been made for the revocation of the licence, granted to any person or for suspension of such a licence, the Board may either of its own motion or on the application of the person concerned, and in either case after holding such inquiry as the Board deems fit, grant a new licence and cause the name of the person to be restored to the register.

Notice to be published.

12. Notice of the grant, revocation or suspension of any licence or the termination of the suspension thereof, under this part shall be by publication in the Gazette.

PART III THE CONDUCT OF THE SURVEYORS

Surveyor to abide with the law.

13.(1) Every surveyor shall carry out every survey undertaken by him in such a manner as will ensure that the survey accords in all respects with the provisions of this Act and any Regulations made thereunder; and shall be responsible to ensure that every survey carried out by him or under his supervision is correct and complete:

Provided that the Director may, at his discretion in the case of a particular survey, by notice to the surveyor in writing, direct that the standards of accuracy, prescribed by such Regulations may be relaxed in such a manner, and to such extent and subject to conditions as he may

specify in the notice.

(2) Neither the Government nor any public officer shall be liable for any defective survey, or any work appertaining thereto, performed by a licensed surveyor notwithstanding that any plan relating to such survey has been authenticated in accordance with the requirement and provisions of this Act.

Power to survey.

14.(1) No person, other than a surveyor, shall survey any holding or land for the purpose of preparing any plan which is to be attached to, or referred to in any document or instrument purporting to confer, declare, transfer, limit extinguish or otherwise deal with or affect any right, title or interest, whether vested or contingent to, in or over any holding or land, being a document or instrument which is required to be registered, or is ineffectual until registered, under any law for the time being in force relating to the registration of transactions in or of title to land.

(2) For the purpose of any public survey the Director or any surveyor authorised by him may enter upon land with such assistants as may be reasonably required, and may affix or set up or place thereon or therein trigonometrical stations, monuments, survey beacons, marks or poles and do all things necessary for such surveys.

(3) The Director or any surveyor authorised by him shall, when practicable, give reasonable notice to the owner or occupier of the land of his intention to enter thereon. Where the owner or occupier cannot be found, notice may be placed on a conspicuous place on the land.

Compensation.

15. Compensation shall be payable out of the public revenues to the owner of any crops or trees cut or damaged in the exercise of any power conferred by section 14, and if any question shall arise as to the amount of compensation to be paid, or the right of a claimant to recover compensation, such question shall, in absence of agreement between the Director and all persons concerned, be finally determined by a Magistrate on application made to him by the Director or any person authorised by him in that behalf, or by any person claiming to be entitled to compensation under the provisions of this section:

Provided that save at the discretion of the Director no such application shall be granted if it is by a person

claiming to be entitled to compensation and is made more than thirty days after the date on which the crop or trees in respect of which the claim is brought were cut or damaged.

Power to enter.

16.(1) After giving notice as required by section 14 (3) any surveyor may, for the purpose of surveying any land for which he is employed to survey, enter on and pass over any land whether private or public, causing as little inconvenience to the owner or occupier of such land as is necessary in the execution of his duties.

(2) Compensation shall be payable for any damage done to any land by reason of the exercise of the powers contained in subsection (1) of this section.

(3) Where a surveyor is a Government employee, compensation shall be assessed in accordance with the provisions of section 15.

(4) Where the surveyor is not a Government employee, any compensation payable shall be subject to agreement between the surveyor and the aggrieved party or parties:

Provided that where such agreement is not possible, the Director shall act as an arbitrator; and in case of disagreement between the Director and any party or parties concerned, compensation shall be determined by a magistrate as set out in section 15.

(5) No compensation shall be paid out of Government revenue for damage to land done by a private surveyor.

PART IV THE PRESERVATION OF SURVEY MARKS

Offences.

17.(1) Any unauthorised person who wilfully obliterates, removes or damages any trigonometrical station, monument, survey beacon, mark or pole, or any boundary mark affixed, set up or place for the purpose of conducting any public or other survey under this Act, shall be guilty of an offence and in addition to any other punishment imposed on summary conviction, may be ordered to pay the cost of repairing or replacing the thing obliterated, removed or damaged and of carrying out any survey rendered necessary by the act for which he is convicted.

(2) Any person who wilfully obstructs, hinders, resists or

threatens any surveyor in the execution of his duty in or about the conduct of any public survey or other survey under this law, or any workman or other person acting in aid of any such surveyors, shall be guilty of an offence.

Recovery of sum as civil debt. 18. Any sum due under the provisions of this Act may be sued for and recovered by the Director or any person authorised by him, by action in any court of competent jurisdiction.

PART V GENERAL

Delegation of powers by the Director. 19.(1) The Director may delegate any of his functions under this Act to any officer in the Survey Department, by name or office.

(2) Any such delegation shall be revocable at will, and no delegation shall prevent the exercise by the Director of any function so delegated.

Submission of plans to the Director. 20.(1) Every surveyor who executes any survey in accordance with the provisions of this Act and of the Regulations made thereunder, shall send to the Director all plans, field notes and computations relating thereto, and all such plans field notes and computations shall be deposited in the Survey Department and shall become the property of the Government.

(2) No plan deposited in the Survey Department in accordance with subsection (1) of this section shall be altered or amended in any way without the permission of the Director.

Powers of the Director. 21.(1) The Director may at any time undertake such field and office checks on the survey work of a licensed surveyor as he thinks fit.

(2) The Director may, by notice in writing, instruct any licensed surveyor to correct at his own expense, within a time specified in such notice any error made by him in a survey represented by a plan submitted for authentication.

(3) In the event of such licensed surveyor refusing or neglecting within the time specified to correct such error it shall be lawful for the Director to undertake such correction and to recover the whole cost of such correction from the licensed surveyor concerned.

(4) If such licensed surveyor refuses or neglects to pay the cost of the correction referred to in subsection (3) of this section within fourteen days of the same having been demanded of him, the Director may report the facts to the Board for disciplinary action and after due inquiry, the Board may order such licensed surveyor to pay the cost of correction to the Director and if such licensed surveyor refuses or neglects to comply with such an order within one month after the date of the order, the Board may, subject to the provisions of section 18 of this Act suspend the licence of the licensed surveyor until the cost of the correction has been paid, or for a period not exceeding three years, whichever it deems fit.

Authentication
by the Director.

22.(1) No land shall be deemed to have been surveyed or resurveyed until the plan thereof has been authenticated by the signature of the Director.

(2) Every plan authenticated by the Director under subsection (1) shall in any court of law or in any proceeding of a legal or quasi-legal nature be conclusive evidence of the survey information contained therein unless and until such plan is cancelled by the director by virtue of section 23.

(3) Every plan purporting to bear the signature of the Director for the purposes of subsection (1) of this section shall be deemed to be properly authenticated unless and until the contrary is proved.

Inaccurate plans.

23.(1) Where, in the case of a document or instrument to which the authenticated plan is attached, or in which reference to such a plan is made:-

(a) the plan is found to be inaccurate by reason of any error or omission in the surveys; or

(b) the plan does not conform with the terms and conditions subject to which permission to subdivide the land to which the plan relates had been given, the Director may cancel the authentication of such plan and may recall any copies which may have been issued, and in every such case the provision of section 21 shall apply.

(2) The Director shall forthwith upon the cancellation of the authentication of any plan, notify in writing:-

(a) the owner of the land to which such plan relates;

(b) the surveyor by whom the survey was executed;
and

(c) such office where the title documents are
registered.

Permission for
aerial
photography.

24.(1) Any person who wishes to carry out aerial
photography of Zanzibar for use in mapping or similar
purpose shall, before carrying out the same, obtain
permission for such photography from the Minister.

(2) Any person who has carried out such aerial
photography shall, if the Director so requires in writing:-

(a) produce to the Director for his inspection all the
photography thereby produced or such of them
as the director may specify; and

(b) supply to the Director, at the Director's cost such
copies and diagrams as the Director may require
of such photographs:

Provided that the supply of photographs to the Director
under this section shall not in any way affect the copyright
therein of the person supplying them or other owner of
such copyright.

Regulations.

25. The Minister may make Regulations:-

(a) prescribing the manner in which surveys are to be
made, the records to be kept by the licensed
surveyors and the manner of keeping the same;

(b) prescribing the manner in which survey marks
shall be construed;

(c) with regard to plans of surveys and their
preparation and the manner to be shown
thereon;

(d) with regard to the publication, issue of services
and forms of the notices to be published, issued
or served under this Act or Regulations made
thereunder;

(e) prescribing the return to be made by licensed
surveyors to the Director;

- (f) requiring surveyors to report to the Director matters connected with surveys on which they are engaged, or with previous surveys ascertained by them in the course of their work;
- (g) for securing the maintenance of survey marks in their correct position and the preparation of the same;
- (h) providing for the checking of surveys alleged to be erroneous and, for the payment of the expenses for such checking;
- (i) providing for the checking of the tapes and instruments used by surveyors;
- (j) providing for and regulating the inspection and the taking of copies of plans of surveys in any office of the Survey Department;
- (k) prescribing any fees which may be charged under this Act;
- (l) prescribing the syllabus of any examination for the purpose of section 6;
- (m) prescribing any other matter which this Act requires or authorises to be prescribed by him; and
- (n) generally for giving effect to the purposes of this Act so far as the Director and the Minister are the appropriate authorities therefor.

Penalty.

26. Any person who contravenes or fails to comply with any provision of this Act or any regulations made thereunder shall be guilty of an offence and unless otherwise provided shall, on conviction be liable to a fine of less than five thousand but not exceeding twenty thousand shillings or imprisonment for a term not exceeding six months or to both such fine and imprisonment.

Joint responsibility.

27. Where there exists a relationship of master and servant, principal and agent or corporation and officer of that corporation, every such person concerned in that behalf shall be jointly and severally responsible for

compliance with the provisions of this Act.

Repeal and
savings.

28. Without prejudice to any rights and liabilities existing or capable of arising thereunder, the Land Survey Decree, Chapter 100 of the Laws of Zanzibar is hereby repealed.

**FIRST SCHEDULE
ZANZIBAR GOVERNMENT**

**THE LAND SURVEYOR'S LICENCE
(UNDER SECTION 2)**

Mr./Mrs./Miss. of
..... is hereby registered as a Land
Surveyor in accordance with the provisions of section 7 of
the Land Surveyor's Act, 1989.

Given at Zanzibar this day of..... 19.....

.....
**CHAIRMAN
LAND SURVEYOR'S BOARD**

SECOND SCHEDULE
ZANZIBAR GOVERNMENT

THE LAND SURVEYOR'S ACT, 1989

**SUMMONS TO APPEAR BEFORE THE BOARD
(UNDER SECTION 9(4))**

To

WHEREAS
of..... has instituted a suit against you, you are hereby summoned to appear before this Board in person, or by an advocate duly instructed, and able to answer all material questions relating to the suit, or who shall be accompanied by some person able to answer all such questions, as the day of19..... ato'clock in the noon, to answer the claim; should you appear and dispute the claims the Board will proceed to give directions for the disposal of the suit but in default of your appearance on the day aforementioned, the suit will be heard and determined in your absence.

GIVEN under my hand and the Seal of the Board, this day of 19.....

.....
CHAIRMAN
LAND SURVEYOR'S BOARD

PASSED in the House of Representatives on the 19th day of December, 1989.

KHAMIS JUMA CHANDE
CLERK OF THE HOUSE OF REPRESENTATIVES OF
ZANZIBAR

ADJUDICATION ACT 8/1990

THE LAND ADJUDICATION ACT, NO.8 OF 1990

ARRANGEMENT OF SECTIONS

SECTIONS**TITLE****PART I
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2. Interpretation.
3. Application.

**PART II
OFFICERS AND COMMITTEES**

4. Appointment and general powers of officers.
5. Appointment and functions of adjudication committees.

**PART III
CLAIMS AND DEMARCATION**

6. Adjudication sections.
7. Notice by adjudication officer.
8. Claims in respect of wakf trust land.
9. Staying of land suits.
10. Claims and attendance.

11. Safeguarding of rights of absent persons and minors.
12. Notice of demarcation.
13. Duties of the Demarcation Officer.
14. Special powers of the Demarcation Officer.
15. Duties of the Survey Officer.
16. Duties of the Recording Officer.
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PART IV
PRINCIPLES OF ADJUDICATION AND PREPARATION
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18. Principles of adjudication.
19. Rules to be followed in adjudication.
20. Adjudication record.
21. Notice of completion of the adjudication record.

PART V
OBJECTION AND FINALITY

22. Objections to the adjudication record.
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PART VI
APPEAL

26. Appeals.

**PART VII
MISCELLANEOUS**

- 27. Offences.
- 28. Indemnity of officers.
- 29. Regulations.

THE LAND ADJUDICATION ACT, NO.8 OF 1990

I ASSENT

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

1st August, 1991

**AN ACT TO PROVIDE FOR THE ADJUDICATION AND
FIRST REGISTRATION OF RIGHTS AND INTEREST IN
LAND, AND FOR MATTERS CONNECTED THEREWITH
AND INCIDENTAL THERETO**

ENACTED by the House of Representatives of Zanzibar.

**PART I
PRELIMINARY AND APPLICATION**

Short title. 1. This Act may be cited as the Land Adjudication Act 1989 and shall come into operation immediately upon being assented by the President.

Interpretation. 2. In this Act except where the context otherwise requires:-

“adjudication area” means an area to which this Act has been applied under section 3;

“adjudication committee” means an adjudication committee appointed under section 5 in respect of an adjudication section;

“adjudication officer” means an adjudication officer appointed under section 4;

“adjudication record” means the adjudication record prepared in accordance with the provisions of section 20 in respect of an adjudication section;

“adjudication section” means an adjudication section declared under section 6;

“charge” bears the meaning ascribed to that word by the Registered Land Act;

"Court" save as otherwise expressly provided means the High Court of Zanzibar;

"demarcation map" means a demarcation index map prepared under section 15 in respect of an adjudication section;

"demarcation officer" means a demarcation officer appointed under section 4;

"easement" bears the meaning ascribed to that word by the Registered Land Act;

"guardian" means any person responsible (whether under customary law or otherwise) for protecting the interests of any person who is under a disability, whether by reason of age, unsoundness of mind or any other cause;

"land" includes land covered with water, all that is growing on land, building and other things permanently affixed to land, and an undivided share in land;

"lease" bears the meaning ascribed to that word by the Registered Land Act;

"Minister" means the Minister for the time being responsible for land affairs;

"occupation of land" includes the receipt of rents or profits from the land;

"parcel" means an area of land separately delineated on the demarcation map and thereon given a number;

"person" includes any corporate body, registered company registered association or society, and any association or community recognised by the adjudication officer or the Court as a unit for the purpose of holding land;

"President" means the President of Zanzibar and Chairman of the Revolutionary Council;

"profit" bears the meaning ascribed to that word by the Registered Land Act;

"recording officer" means a recording officer appointed under section 4;

"registered" bears the meaning ascribed to that word by the Registered Land Act;

"Registrar of Documents" means the Registrar of Documents appointed under the Registration of Documents Decree;

"survey officer" means a survey officer appointed under section 4;

"Wakf and Trust Commission" means the Wakf and Trust Commission established by the Commission for the Administration of Wakf and Trust Property Decree, 1980.

Application.

3.(1) Whenever it appears expedient to the Minister that adjudication and first registration of rights and interest in land in any area should be effected, the Minister may by order published in the Gazette declare that this Act shall apply to that area and thereupon that area shall become an adjudication area.

(2) Any order made under subsection (1) of this section shall define the situation and limits of the adjudication area to which it relates either by means of a plan or by a description, or by both, and the Minister may at any time by order published in the Gazette vary the limits of the adjudication area.

PART II OFFICERS AND COMMITTEES

Appointment and general powers of officers.

4.(1) Whenever an order made under section 3 is published, the Minister shall appoint a named person or the holder of a named office as adjudication officers for the adjudication area to perform the duties and exercise the power imposed and conferred upon the adjudication officer by this Act.

(2) The adjudication officer may appoint such demarcation officer, recording officers and survey officers as may be necessary for performing the duties and exercising the powers imposed and conferred upon them by this Act.

(3) The Adjudication officer shall, subject to the direction of the Minister, be in charge of the adjudication under this Act of rights and interest in land in the adjudication area for which he is appointed and may issue such general or special direction as he thinks necessary to the other officer appointed under subsection (2) for such area, and may himself perform and exercise all or any of the duties given under this Act to demarcation officer and recording officers.

(4) The adjudication officer shall be competent to administer oaths and take affidavits in any enquiry made by him and to issue summons, notices or orders requiring the attendance of such persons or the production of such documents as he may consider necessary for carrying out the adjudication.

(5) A demarcation officer or survey officer may at any reasonable time enter upon any land within the adjudication area for the purpose of demarcation or surveying any parcel therein and may summon any person who can give information regarding the boundaries of any such parcel to point out the boundaries.

Appointment and functions of adjudication committees.

5.(1) For any adjudication section declared under section 6 the adjudication officer, after consultation with the Area Commissioner within whose area the adjudication section is situated, may appoint not less than six persons resident in the adjudication section to form an adjudication committee.

(2) The committee appointed for an adjudication section shall:-

- (a) advise the adjudication officer or any officer subordinate to him upon any question of recognized customary law as to which he has sought its guidance;
- (b) safeguard the interests of absent persons and persons under disability;
- (c) bring to the attention of officer engaged in the adjudication any interest in respect of which for any reason no claim has been made;
- (d) assist generally in the adjudication process.

PART III

CLAIMS AND DEMARCATION

Adjudication sections.

6. The adjudication officer shall divide each adjudication area into two or more adjudication sections or declare the whole area to be a single adjudication, section, and shall give each section a distinctive name.

Notice by adjudication officer.

7.(1) The adjudication officer shall prepare a separate notice in respect of each adjudication section, and in such notice shall:-

- (a) specify the situation and limits of the adjudication section;
- (b) declare that all interests in land in such section will be ascertained and recorded in accordance with the provisions of this Act;
- (c) require any person who claims any interest in land within the adjudication section to make a claim thereto either in person or by agent within the period, to the person, at the place and in the manner specified in the notice;
- (d) require any person who claims to occupy land within the adjudication section to mark or indicate the boundaries of the land in such manner and before such date as shall be required by the demarcation officer.

(2) The adjudication officer shall as soon as possible after preparing a notice under subsection (1):-

- (a) cause such notice to be published at such administrative and other offices as he thinks fit;
- (b) cause the substance of such notice to be made known throughout the adjudication section and elsewhere in such manner as he considers to be most effective for the purpose of bringing it to the attention of all persons affected thereby.

Claims in respect of wakf trust land.

8. Claims to interest in any Wakf and trust land administered by the Wakf and Trust Commission shall be presented to the adjudication officer by the Executive Secretary duly authorised on that behalf by the Commission.

Staying of land suits.

9.(1) Except with the consent in writing of the adjudication officer, no action concerning land or an interest in land in any adjudication section in respect of which a notice has been published under section 7 shall be begun until proceedings under this Act with regard to such land or interest have been completed.

(2) Where at the time of publication of a notice under section 7 an action concerning land or an interest in land in the adjudication section referred to in such notice is pending or in progress, such action shall, where practicable, be determined before the adjudication under this Act of the land or interest therein is commenced:

Provided that it shall be lawful for the adjudication officer at any stage of such section to order that it shall be stayed and it shall be stayed accordingly.

Claims and attendance.

10.(1) Every person claiming an interest in land within an adjudication section shall make his claim in the manner and within the period fixed by the relevant notice under section 7.

(2) Every person whose presence is required by the adjudication officer, demarcation officer, or recording officer, as the case may be, shall attend in person or by agent at the time and place specified if any such person fails so to attend, the demarcation, recording or other proceedings may continue in his absence.

Safeguarding of rights of absent persons and minors.

11.(1) If the adjudication officer, demarcation officer or recording officer is satisfied that any person who has not made a claim has a claim to any interest in land within the adjudication section the adjudication officer, demarcation officer or recording officer may, but shall not be bound to, proceed as if a claim had been made, and may call upon the Registrar of Documents to supply him with a certified copy of any document relevant thereto and registered under the Registration of Documents Decree.

(2) If the adjudication officer, demarcation officer, or recording officer is satisfied that a claim might be established by a minor and no person has been appointed to represent the, minor, he shall proceed as if a claim by, or on behalf of, such minor had been made.

Notice of demarcation.

12.(1) Not less than seven clear days before the demarcation of land in an adjudication section is begun,

the demarcation officer shall give notice of such demarcation and of the time and place at which it will begin, in such manner as the adjudication officer shall deem most likely to bring the notice of demarcation to the attention of the persons likely to be affected thereby.

(2) Such notice shall require every person who claims to occupy land to indicate the boundaries of the land affected by his claim in the manner specified in the notice.

Duties of the
Demarcation
Officer.

13. Subject to any general or particular directions issued by the adjudication officer, the demarcation officer shall within, each adjudication section:-

- (a) ensure that the boundaries of each parcel of land which is the subject of a claim are indicated or demarcated in accordance with the requirements of the notice given under section 12;
- (b) indicate or cause to be indicated the boundaries of:-
 - (i) any public road, public rights of way and other public land;
 - (ii) any unclaimed land.

Special powers
of the
Demarcation
Officer.

14.(1) The demarcation officer may:-

- (a) divide the adjudication section into blocks which shall be given distinctive numbers or letters or combinations of numbers and letters;
- (b) adjust the boundaries of any land in the adjudication section or reallocate the same to ensure the more beneficial occupation thereof or to effect a more suitable subdivision thereof;
- (c) make any reservations he considers necessary for the purpose of defining existing roads and paths or for the better drainage of any land; make a declaration of such existing rights of way over any land in the adjudication section and may direct the manner in which such rights of way are to be exercised and in such cases he shall direct that such rights of way be recorded in the adjudication record in respect of the dominant land and the servient land;

- (d) demarcate a right of way necessary to give access to a public road in favour of any parcel completely surrounded by other parcels;
- (e) award such compensation as may to him appear just to any person who has suffered loss of land as a result of any adjustment of boundaries or the partition or reallocation of any land or the declaration of any rights of way and may make an order directing by whom such compensation shall be paid;

Provided that no compensation shall be awarded against the Government:

Provided also that any award may be the subject of an objection under section 22.

- (g) determine the proportion in which the expenses of any partition shall be borne by the persons interested therein and make an order accordingly.

(2) Any order for the payment of compensation or expenses made against an occupier of land shall create a debt to be charged on such land which shall have priority over all other debts whatever except debt due to the Government.

Duties of the Survey Officer.

15. Subject to any general or particular directions issues by the adjudication officer, the duties of the survey officer shall be:-

- (a) to carry out such survey work as may be required in the execution of the adjudication process; and
- (b) to prepare or cause to be prepared a demarcation index map of the adjudication section on which shall be shown every separate parcel of land identified by a distinguishing number, except that rivers and public roads shall not be required to be identified by a number:

Provided that the foreshore as defined in the Foreshore Decree, shall not be included in any parcel.

Duties of the
Recording
Officer.

16. The recording officer shall consider all claims to any interest in land and after such investigation as he considers necessary shall prepare in accordance with the provisions of section 20 an adjudication record in respect of every parcel of land shown in the demarcation map.

Disputes.

17. (1) If in any case:-

- (a) there is a dispute as to any boundary whether indicated to the demarcation officer or demarcated or readjusted by him, which the demarcation officer is unable to resolve; or
- (b) there are two or more claimants to any interest in land and the recording officer is unable to effect agreement between them the demarcation officer or the recording officer, as the case may be, shall refer the matter to the adjudication officer.

(2) The adjudication officer shall adjudicate upon and determine any dispute referred to him under subsection (1), having due regard to any law which may be applicable, and shall make and sign a record of the proceedings.

(3) In hearing a dispute the adjudication officer shall follow the procedure in section 23.

PART IV PRINCIPLES OF ADJUDICATION AND PREPARATION OF ADJUDICATION RECORD

Principles of
adjudication.

18. (1) In preparing an adjudication record:-

(a) if the recording officer is satisfied that a person:-

- (i) is in occupation of the land and provides documentary evidence consisting of a grant, conveyance, assignment or mortgage which is more than twelve year old; or
- (ii) is in occupation of the land and is a beneficiary of a disposition of land lawfully made under Presidential Decree No.5 of 1966 or 1 of 1969, whether or not an

instrument of grant or a certificate of title is produced; or

(iii) is in occupation of the land and has been in peaceful, opened and uninterrupted occupation thereof, whether under recognized customary law or otherwise, for a period of more than twelve years, the recording officer shall record such person as the occupation of the land;

(b) if the recording officer is satisfied that any land is wakf or trust land administered by the Wakf and Trust Commission under the provisions of Revolutionary Council Decree 5 of 1980, he shall record the Commission as occupation of the land;

(c) if the recording officer is satisfied that any land referred to in an adjudication record is subject to any right which would be registerable as a lease, charge, easement, profit or restrictive agreement under the Registered Land Act, he shall record such particulars as shall enable the right and the name of the person entitled to the benefit thereof to be registered under the said Act;

(d) if the recording officer is satisfied that any land is entirely free from any private rights or that the rights existing in it would be insufficient to entitle a person to be registered under the Registered Land Act as the occupant of the land, he shall record such land as public land.

(2) In performing his duties under this section the recording officer shall observe the rule contained in section 19.

Rules to be followed in adjudication.

19.(1) All unoccupied land shall be deemed to be public land until the contrary be proved.

(2) The exercise by any person of any rights of occupation in over one or more parcels of land shall not betaken as a presumption in his favour of any rights of occupation in or over any greater extent of land than that in or over which such rights are exercised.

(3) Occupation or receipt of rents or profits by any person through whom a claimant derives his occupancy shall be deemed to be the occupation or receipt of rent or profits

of the claimant.

(4) Where from the relationship of the parties or from other cause it appears that the person in occupation of land is or was in occupation on behalf of another, his occupancy shall be deemed to be or to have been the occupancy of that other.

(5) Where two or more persons have rights in any land which will entitle them to be registered as occupants in common under the Registered Land Act, the recording officer shall record such persons as occupants in common and the share of each.

Adjudication
record.

20.(1) The adjudication record shall consist of a form in receipt of each parcel of land, which form shall show:-

- (a) the number and approximate area of the parcel as shown on the demarcation map;
- (b) either the name and description of the person entitled to be registered as the occupant of the parcel with particulars of the manner in which he became the occupant of it and of any restriction affecting his power of dealing with it, or the fact that the parcel is public land;
- (c) such particulars of any right registerable under the Registered Land Act as shall enable it to be registered as a lease, charge, easement, profit or restrictive agreement, as the case may be, affecting the parcel together with the name and description of the person entitled to the benefit thereof and particulars of any restriction affecting his power of dealing with it;
- (d) if any person shown in the adjudication record is under a disability, whether by reason of age, unsoundness of mind or otherwise, the name of his guardian;
- (e) a list of the documents, if any, produced to the recording officer and retained by him;
- (f) the date on which the form is completed.

(2) When completed the form shall be signed by the recording officer and, in the case of land occupied by a private person, shall where possible include an acknowledgement signed by the occupant or his agent,

and by any person recorded under the provisions of subsection (1) (c) as having an interest in the land, that such occupant and every such person accepts the record.

Notice of completion of the adjudication record.

21. When the adjudication record in respect of any adjudication section has been completed, the adjudication officer shall sign and date a certificate to that effect and shall forthwith give notice of the completion thereof and of the place at which the same can be inspected together with the demarcation map.

PART V OBJECTION AND FINALITY

Objections to the adjudication record.

22. Any person, including the Minister, named in or claiming an interest in any land referred to in any adjudication record or demarcation map who considers such record or map to be inaccurate or incomplete in any respect may within ninety days from the date upon which the notice of completion of the adjudication record is published, inform the adjudication officer stating the grounds of his objection.

(2) The adjudication officer, after giving reasonable notice to all persons affected by the objections, shall hear and determine the matter in such manner as he thinks fit.

Procedure in hearing objections.

23.(1) In hearing an objection the adjudication officer shall, so far as may be practicable, follow the procedure directed to be observed in the hearing of civil suits save that in his absolute direction he may admit evidence which would not be admissible in a court of law, and may use evidence adduced in any other claim or contained in any official record and may call evidence of his own motion.

(2) A record of all proceedings on an objection shall be made or caused to be made by the adjudication officer.

Corrections of adjudication record.

24.(1) Any correction in the adjudication record required by a decision of the adjudication officer given under section 22 shall be made by the recording officer, any alteration in the demarcation map required by such decision shall be made by the survey officer.

(2) At any time before the adjudication record becomes final the recording officer may:-

(a) correct any error or omission not materially

affecting the interest of any person; and

- (b) with the consent of every person whose interest is affected, make the adjudication record any alteration which in his opinion is necessary.

Finality of
adjudication
record.

25. After the expiry of ninety days from the date of the publication of the notice of completion of the adjudication record under section 21, or on determination of all objections in accordance with section 22, whichever shall be the later, the adjudication record shall become final and the adjudication officer shall sign a certificate to that effect and shall forthwith deliver the adjudication record and the relevant demarcation map to the Registrar, together with all documents received and retained by him in the process of adjudication.

PART VI APPEAL

Appeals.

26.(1) Any person, including the Minister, who is aggrieved by an act or decision of the adjudication officer may within thirty days from the date of the certificate of finality made under section 25, or within such extended time as the Court in the interest of justice may allow, appeal to the Court in prescribed form.

(2) Any person, including the Minister appealing under subsection (1), shall give notice to the Registrar of his intention to appeal and the Registrar shall enter a restriction under section 137 of the Registered Land Act in any register affected by the appeal.

(3) On any such appeal the Court may, make such order or substitute for the decision of the adjudication officer such decision as it may consider just and may order rectification of the register, and the decision of the Court shall be final and conclusive and shall not be questioned in any proceedings whatsoever.

(4) A decision of the Court on an appeal under subsection (1) shall be in writing and copies of it shall be furnished by the Court to the Registrar, to the appellant and to all other parties to the appeal and, by the Registrar, to all other parties who, in his opinion may be affected by the appeal.

**PART VII
MISCELLANEOUS**

Offences.

27. Any person who:-

- (a) after the delivery of a summons issued under the provisions of this Act, wilfully neglects or refuses to attend in pursuance of such summons, or to produce any document which he is required to produce;
- (b) wilfully neglects or refuses to answer upon oath or otherwise any question which may lawfully be put to him under this Act by any officer;
- (c) without reasonable cause wilfully neglects or refuses to indicate his land or to assist in the demarcation of his land when required under this Act to do so by demarcation officer;

shall be guilty of an offence and shall be liable to a fine not exceeding two thousand shillings or to imprisonment for a term not exceeding six months, or to both such fine and imprisonment.

Indemnity of officers.

28. No officer shall be liable to any act or proceedings for or in respect of any act or matter in good faith done or omitted to be done in exercise or supposed exercise of the powers conferred by this Act.

Regulations.

29. The Minister may make regulations for better carrying out the provisions of this Act.

PASSED in the House of Representatives on the 19th of December, 1989.

**KHAMIS JUMA CHANDE
CLERK OF THE HOUSE OF REPRESENTATIVES
OF ZANZIBAR**

**TOWN AND COUNTRY PLANNING
DECREE 85/1955**

CAP. 85.

THE LAWS OF ZANZIBAR

CHAPTER 85

TOWN AND COUNTRY PLANNING

(PRINCIPAL LEGISLATION)

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CHAPTER 85

TOWN AND COUNTRY PLANNING

24 of 1955. A Decree to make provision for the orderly and progressive development of land in urban and rural areas; for the grant of permission to develop such land and for other powers of control over its use; for conferring powers to expropriate and to acquire such land for development and other purposes; and for matters connected therewith and incidental thereto

[26TH NOVEMBER, 1955.]

PART I

PRELIMINARY

Short title. 1. This Decree may be cited as the Town and Country Planning Decree.

Interpretation. 2. In this Decree, unless the context otherwise requires—
 “building” includes any structure or erection and any part of a building as so defined but does not include plant or machinery comprised in a building;

“development” means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land, or the deposit of waste materials on land, or the sub-division of any land:

Provided that the following operations or uses of land shall not be deemed to involve development:—

- (a) the carrying out of works for the maintenance, improvement or other alteration of any building, being works which affect only the interior of the building, or which do not affect the external appearance of the building;
- (b) the use of any building or other land within the curtilage of a dwelling-house for any purpose incidental to the enjoyment of the dwelling-house as such;
- (c) the use of any land for the purposes of agriculture or arboriculture, and the use for any of these purposes of any building occupied together with land so used;

“erection” in relation to buildings includes extension, alteration and re-erection;

“functions” includes powers and duties;

“land” means any corporeal hereditament, including a building as defined by this section, and in relation to the acquisition of land under this Decree, includes any interest or right in or over land;

Cap. 87. “local authority” means the Zanzibar Township Council or any local council established under the Local Government Decree;

“planning area” means an area declared as such under section 3;

“planning authority” means a body of persons appointed as such under section 3;

“planning scheme” has the meaning assigned to it by section 4 and includes a scheme prepared and submitted under subsection (3) of that section.

PART II

PLANNING SCHEMES

3. The British Resident may by order published in the *Gazette* declare any area within the Protectorate to be a planning area and may by such order or by any subsequent order published in the *Gazette* appoint an authority (hereinafter called a “planning authority”) to prepare, on behalf of the Government, a planning scheme relating to the planning area for which it is appointed.

Declaration of planning areas and appointment of planning authorities.

4.—(1) As soon as may be after the date of publication of an order appointing a planning authority under section 3, the planning authority named therein shall carry out a survey of the planning area for which it has been appointed and shall prepare, and shall, not later than two years after that date or within such extended period as the British Resident may in any particular case allow, submit to the British Resident a scheme (hereinafter called a “planning scheme”) indicating the manner in which the planning authority proposes that the land in the area should be used (whether by the carrying out of development or otherwise) and the stages by which any development shall be carried out.

Surveys of planning areas and preparation, contents and submission of planning schemes.

(2) Every planning scheme shall include such maps and descriptive matter as may be necessary to illustrate the proposals aforesaid with such degree of particularity as may be appropriate to different parts of the area and any such scheme may in particular make provision for all or any of the matters set out in the First Schedule:

First Schedule.

Provided that no such scheme shall make provision for the demolition of a place appropriated to public religious worship or prohibit the rebuilding of any such place or make provision for the alteration of the boundaries of any appointed cemetery.

(3) At any time before a planning scheme with respect to the whole of the area of a planning authority has been approved under this section, that planning authority may, with the consent of the British Resident, and shall, if so required by directions of the British Resident, prepare and submit to him a planning scheme relating to any part of the area, and the foregoing provisions of this section shall apply in relation to any such scheme as they apply in relation to a scheme relating to the whole of the area.

Publication
of planning
schemes.

5.—(1) At the time when a planning scheme is submitted to the British Resident under section 4, copies thereof together with the maps included therein shall be deposited and be open to inspection in the office of the planning authority which prepared it or in such other place in the area to which the scheme relates as the British Resident may direct.

(2) Notice of the submission of the scheme and of such deposit shall be published in the *Gazette* and posted in the office of the District Commissioner of the district in which the area to which the scheme relates is situate and at every office of an administrative or municipal officer in the said area.

Objections
to planning
schemes.

6.—(1) Any person interested as owner or otherwise in land, buildings or other property affected by any planning scheme deposited in accordance with the provisions of section 5 may lodge objection thereto at the office of the planning authority which prepared the scheme or, if the scheme was deposited at some other place, then at such place in such form and within such period as may be prescribed.

(2) Every objection shall be considered by the British Resident and an answer thereto intimating its rejection or any modification made in the scheme in consequence of the objection shall be notified to the person by whom the objection was made.

Putting
planning
schemes into
force and
notification.

7.—(1) After a period of not less than two months from the date of the publication of the notice of deposit of any planning scheme given in accordance with the provisions of section 5, the British Resident may direct that the scheme shall be put into force from such date and with or without such modification as he may authorise in his absolute discretion.

(2) Where the British Resident directs that a planning scheme shall be put into force, notification of such direction shall be published in the *Gazette* and notice thereof shall be posted in the office of the District Commissioner of the district in which the area to which the scheme relates is situate and at every office of an administrative or municipal officer in the said area. Copies of the scheme as approved by the British Resident shall be deposited and be open to inspection in the office of the planning authority which prepared it or in such other place in the area to which the scheme relates as the British Resident may direct.

(3) If any person aggrieved by a planning scheme put into force under this section desires to question the validity thereof or of any provision contained therein on the ground that it is not within the powers of this Decree or on the ground that any requirement of this Decree has not been complied with in relation to the approval or making of the scheme, he may, within six weeks from the date on which the

notification required by subsection (2) is published in the *Gazette*, make an application to the High Court, and on any such application the Court—

- (a) may by *interim* order suspend the operation of the scheme, or any provision contained therein, either generally or in so far as it affects any property of the applicant, until the final determination of the proceedings; and
- (b) if satisfied that the scheme, or any provision contained therein, is not within the powers of this Decree or that the interests of the applicant have been substantially prejudiced by a failure to comply with any such requirement as aforesaid, may quash the scheme, or any provision contained therein, either generally or in so far as it affects any property of the applicant.

(4) Subject to the provisions of subsection (3), a planning scheme shall not, either before or after it has been put into force, be questioned in any legal proceedings whatsoever, and shall become operative from the date authorised by the British Resident.

8.—(1) Any planning authority may at any time, and shall if so required by the British Resident, submit to the British Resident proposals for such alterations or additions to the planning scheme relating to the planning area for which it has been appointed or any part thereof as appear to it to be expedient, or as may be required by those directions, as the case may be.

Amendment,
suspension
or annulment
of planning
schemes.

(2) The foregoing provisions of this Part shall, so far as applicable, apply to the submission, publication and putting into force of and objections to proposals for alterations and additions under this section as they apply to the submission, publication and putting into force of and objections to planning schemes under those provisions.

(3) The British Resident may at any time suspend or annul any planning scheme and thereupon notification of such suspension or annulment, as the case may be, shall be published in the *Gazette* and notice thereof shall be posted in the office of the District Commissioner of the district in which the area to which the scheme relates is situate and at every office of an administrative or mudirial officer in the said area.

9.—(1) Where a planning authority fails to submit a planning scheme in accordance with the provisions of section 4 or proposals for alterations or additions to a planning scheme in accordance with the provisions of section 8 or where the British Resident is satisfied that a planning authority is not taking the steps necessary to enable it to comply with the said provisions, the British Resident may by order published in the *Gazette* revoke the appointment of such authority and thereupon the functions of such authority under this Decree shall no longer be performed by such authority and may by such order or by any subsequent order so published appoint another planning authority to submit such

Default of
planning
authority,
etc.

a scheme to him for approval or, as the case may be, to submit to him proposals for alterations or additions to the scheme, and to carry out any survey of the land which appears to him to be expedient for the purpose, and may approve any scheme so submitted either without modification or subject to such modifications as he considers expedient, or, as the case may be, may amend the plan to such extent as he considers expedient having regard to the proposals so submitted and to any other material considerations.

(2) The foregoing provisions of this Part shall, so far as applicable, apply to the submission, amendment, publication and putting into force of and objections to planning schemes under this section as they apply to the submission, amendment, publication and putting into force of and objections to planning schemes under those provisions.

(3) Any expenses incurred by the planning authority appointed under subsection (1) in the making or amendment of the scheme shall be paid in the first instance out of the general revenue, but so much of those expenses as may be certified by the British Resident to have been incurred in the performance of functions of the defaulting authority shall on demand be repaid by that authority to the Government and be paid into the general revenue.

Planning authorities to consult local authorities in certain cases.

10. A planning authority, not being itself a local authority, shall, before preparing a planning scheme relating to any land comprised in the area of a local authority or making proposals for alterations or additions to any such scheme, consult with the local authority and shall, before submitting such scheme or proposals to the British Resident, give to the local authority an opportunity to make representations with respect thereto and consider any representations so made.

Supplementary provisions as to planning schemes.

11. The British Resident may give directions to any planning authority or to planning authorities generally—

- (a) formulating the procedure for the carrying out of its or their functions under the foregoing provisions of this Part; and
- (b) requiring it or them to furnish to him such information as he may require for the purpose of the exercise of any of his functions under those provisions.

PART III

CONTROL OF DEVELOPMENT

Obligation to obtain permission for development.

12. From the date of the publication in the *Gazette* of an order under section 3 declaring an area to be a planning area permission from the planning authority appointed for such area shall be required under this Part in respect of any development of land before it is carried out within such area:

Provided that the British Resident may, in any particular case or generally, issue directions excluding certain forms of development from the necessity for permission.

13.—(1) Subject to the provisions of this section, where application is made to a planning authority for permission to carry out development of land within the area for which that authority has been appointed, that authority may grant permission either unconditionally or subject to such conditions as it thinks fit, or may refuse permission; and in dealing with any such application the planning authority shall have regard to the provisions of the planning scheme relating to the area, so far as material thereto, and to any other material considerations.

Application for and grant of permission to carry out development.

(2) An application for permission to carry out development of land shall be deemed to be refused if permission has not been granted within two months from the date when the application was received by the planning authority unless by agreement in writing between the authority and the applicant the period of two months is extended.

(3) Without prejudice to the generality of subsection (1), there may be imposed, on the grant of permission thereunder to develop land, conditions requiring the removal of any building or works authorised by the permission, or the discontinuance of any use of land so authorised, at the expiration of a specified period, and the carrying out of any works required for the reinstatement of land at the expiration of that period.

(4) Subject to the provisions of subsection (2), the British Resident may issue directions regulating the manner in which applications for permission to carry out development of land are to be made and dealt with by planning authorities and may authorise any planning authority to delegate the exercise of all or any of the powers vested in it by this section to any person and, upon such authorisation, such planning authority may delegate the exercise of such powers to such person.

(5) Notwithstanding anything heretofore in this section contained, permission granted by a planning authority to carry out development of land which development includes the erection or structural alteration of any building shall be of no effect unless such other permission as may be required by the provisions of any other Decree regulating the erection or structural alteration of buildings is also granted.

(6) Permission granted by a planning authority to carry out development of land shall be of no effect unless such development has been commenced within twelve months, and completed within two years or such longer period as the planning authority may, having regard to the nature of the development, decide, from the date on which such permission was granted.

(7) References in this section to a planning authority shall be deemed to include a person to whom a planning authority has delegated its powers.

14.—(1) The British Resident may give directions to any planning authority, or to planning authorities generally, requiring that any application for permission to carry out development of land, or all such applications of any class specified in the directions, shall be referred to

References to British Resident of development applications.

him instead of being dealt with by the planning authority or by planning authorities generally, as the case may be, and any such application shall be so referred accordingly.

(2) Any planning authority may, where it appears desirable so to do, refer any application for permission to carry out development of land which has been made to it to the British Resident for his decision.

(3) Where an application for permission to carry out development of land is referred to the British Resident under this section, the provisions of subsections (1) and (2) of section 13 shall apply, subject to any necessary modifications, in relation to the determination of the application by the British Resident as they apply to the determination of such application by a planning authority:

Provided that before determining any such application the British Resident shall, if either the applicant or the planning authority so desire, afford to each of them an opportunity of appearing before and being heard by a person appointed by the British Resident for the purpose.

(4) The decision of the British Resident on any application referred to him under this section shall be final.

Appeals with
reference to
development
applications.

15.—(1) An applicant for permission to carry out development of land who is aggrieved by the decision of a planning authority may, within twenty-eight days from the receipt by him of a notification of the decision, appeal to the British Resident whose decision shall be final.

(2) An applicant for permission to carry out development of and whose application is deemed to have been refused under the provisions of subsection (2) of section 13 and who is aggrieved thereby may at any time (until the receipt by him of a notification of the decision of the planning authority when the provisions of subsection (1) of this section shall apply) appeal to the British Resident whose decision shall be final.

(3) Reference in this section to a planning authority shall be deemed to include a person to whom a planning authority has delegated its powers.

Revocation
and modifi-
cation of
permission to
carry out
development.

16.—(1) Subject to the provisions of this section, if it appears to a planning authority that it is expedient, having regard to the planning scheme relating to the area for which it has been appointed and to any other material considerations, that any permission to carry out development of land should be revoked or modified, it may by order revoke or modify the permission to such extent as appears to be expedient:

Provided that no such order shall take effect unless it is confirmed by the British Resident, and the British Resident may confirm any order submitted to him for the purpose either without modification or subject to such modifications as he considers expedient.

(2) Where a planning authority submits an order to the British Resident for his confirmation under this section, the planning authority shall serve notice on the owner and on the occupier of the land affected and on any other person who in its opinion will be affected by the order; and if within such period as may be prescribed in the notice (not being less than twenty-eight days from the service thereof) any person on whom the notice is served so requires, the British Resident shall, before confirming the order, afford to him, and to the planning authority, an opportunity of appearing before and being heard by a person appointed by the British Resident for the purpose.

17.—(1) Where permission to carry out development of land is revoked or modified by an order made under section 16, then if, on a claim made to the planning authority within the time prescribed by the notice, it is shown that any person interested in the land has incurred expenditure in carrying out work which is rendered abortive by the revocation or modification, or has otherwise sustained loss or damage which is directly attributable to the revocation or modification, that person shall be entitled to obtain compensation in respect of that expenditure, loss or damage.

Compensation for abortive expenditure, etc., on revocation, etc., of permission to carry out development.

(2) If any question arises as to whether any such person has sustained loss or damage within the meaning of this section it shall, unless the parties agree to some other method of determination when such determination shall be final, be determined by a Judge of the High Court whose decision shall be final.

(3) Where any such person has sustained loss or damage within the meaning of this section the authority and the person entitled thereto may, by agreement in writing, agree the amount of the compensation to be paid; and any such agreement shall be final and binding on the parties thereto. In default of such agreement as aforesaid as to the amount of the compensation to be paid, the amount of compensation to be paid shall be determined by a Judge of the High Court whose decision shall be final.

18.—(1) A planning authority may, with the approval of the British Resident, enter into an agreement with any person interested in land situate in the area for which that authority has been appointed for the purpose of restricting or regulating the development or use of the land, either permanently or during such period as may be provided in the agreement, and any such agreement may contain such incidental and consequential provisions (including provisions of a financial character) as appear to the planning authority to be necessary or expedient for the purposes of the agreement.

Agreements regulating development or use of land.

(2) An agreement made under this section with any person interested in land may be enforced by the planning authority against persons deriving title under that person in respect of that land as if the planning authority were possessed of adjacent land and as if the agreement had been expressed to be made for the benefit of such land.

(3) Nothing in this section or in any agreement made thereunder shall be construed as restricting the exercise, in relation to land which is the subject of any such agreement, of any powers exercisable by the British Resident or any planning authority under this Decree so long as those powers are exercised in accordance with the provisions of a planning scheme or in accordance with any directions which may have been given by the British Resident under section 19, or as requiring the exercise of any such powers otherwise than as aforesaid.

Temporary provisions pending putting into force of planning schemes.

19. Where, under the foregoing provisions of this Part, a planning authority is required to have regard to the provisions of the planning scheme relating to the area for which it has been appointed in relation to the exercise of any of its functions, then, in relation to the exercise of those functions during any period before the scheme has been put into force, the authority shall have regard to any directions which may be given by the British Resident as to the provisions to be included in the scheme, and subject to any such directions shall have regard to the provisions which in its opinion will be required to be so included for securing the proper planning of the area.

PART IV

ADDITIONAL POWERS OF CONTROL

Preservation of trees and woodlands.

20.—(1) If it appears to a planning authority that it is expedient in the interests of amenity to make provision for the preservation of trees or woodlands in the area for which it has been appointed, it may for that purpose make an order (in this Decree referred to as a "tree preservation order") which shall be published in the *Gazette* with respect to such trees, groups of trees or woodlands as may be specified in the order; and, in particular, provision may be made by any such order for—

- (a) prohibiting (subject to any exemptions for which provision may be made by the order) the cutting down, topping, lopping or wilful destruction of trees except with the consent of the planning authority and for enabling the authority to give its consent subject to conditions;
- (b) securing the replanting, in such manner as may be prescribed by or under the order, of any part of a woodland area which is felled in the course of forestry operations by or under the order;
- (c) applying, in relation to any consent under the order, and to applications therefor, any of the provisions of Part III relating to permission to carry out development of land, and to applications for such permission, subject to such adaptations and modifications as may be specified in the order;
- (d) the payment by the planning authority, subject to such exceptions and conditions as may be specified in the order, of compensation in respect of damage or expenditure caused or incurred in consequence of the refusal of any consent required under the order, or of the grant of any such consent subject to conditions.

(2) A tree preservation order shall not be made in relation to a land which has been declared a forest reserve under the provisions of the Forest Reserves Decree.

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(3) Objections to a tree preservation order may be made within a period of one month from the date of the publication of the order and if any objection is made the provisions of section 6 shall, so far as applicable, apply thereto.

(4) A tree preservation order shall not take effect until it is confirmed by the British Resident who shall not confirm any such order until after the said period of one month but may thereafter confirm any such order either without modification or subject to such modifications as he considers expedient. Notice of confirmation of an order shall be published in the *Gazette*.

(5) Without prejudice to any other exemption for which provision may be made by a tree preservation order, no such order shall apply to the cutting down, topping or lopping of trees which are dying or dead or have become dangerous or the cutting down, topping or lopping of any trees so far as may be necessary for the prevention or abatement of a nuisance or of the spread of a disease.

(6) If any person contravenes any of the provisions of a tree preservation order he shall be guilty of an offence and shall be liable to a fine not exceeding two hundred and fifty shillings; and if in the case of a continuing offence the contravention is continued after conviction he shall be guilty of a further offence and liable to an additional fine not exceeding forty shillings for every day on which the contravention is so continued.

21.—(1) If it appears to a planning authority that it is expedient to make provision for the preservation of any building of special architectural or historic interest in the area for which the authority has been appointed, it may for that purpose make an order (in this Decree referred to as a "building preservation order") which shall be published in the *Gazette* restricting the demolition, alteration or extension of the building.

Preservation of buildings of special architectural or historic interest.

(2) Provision may be made by a building preservation order for—

- (a) requiring the consent of the planning authority to be obtained for the execution of works of any description specified in the order, and for applying, in relation to such consent, and to applications therefor, any of the provisions of Part III relating to permission to carry out development of land, and to applications for such permission, subject to such adaptations and modifications as may be specified in the order;
- (b) the payment by the planning authority, subject to such exceptions and conditions as may be specified in the order, of compensation in respect of damage or expenditure caused or incurred in consequence of the refusal of any consent required under the order, or the grant of any such consent subject to conditions.

(3) Objections to a building preservation order may be made within a period of one month from the date of the publication of the order and if any objection is made the provisions of section 6 shall, so far as applicable, apply thereto.

(4) A building preservation order shall not take effect until it is confirmed by the British Resident who shall not confirm any such order until after the said period of one month but may thereafter confirm any such order either without modification or subject to such modifications as he considers expedient. Notice of confirmation of an order shall be published in the *Gazette*:

Provided that no such order shall be made by a planning authority or confirmed by the British Resident, unless the authority and the British Resident are satisfied that the execution of the works specified in the orders would seriously affect the character of the building.

(5) Nothing in this section or in any order made thereunder shall render unlawful the execution of any works which are urgently necessary in the interests of safety or health or for the preservation of the building or of neighbouring property, so long as notice in writing of the proposed execution of the works is given as soon as may be after the necessity for the works arises to the authority by whom the order was made.

Cap. 102. (6) The provisions of this section shall be in addition to and not in derogation of the provisions of the Ancient Monuments Preservation Decree.

Control of
advertisements.

22.—(1) Subject to the provisions of this section, provision may be made by Regulations under this Decree for prohibiting, restricting or regulating the display of advertisements so far as appears to the British Resident to be expedient in the interests of amenity or public safety and, without prejudice to the generality of the foregoing, such Regulations may provide—

- (a) for regulating the dimensions, appearance and position of advertisements which may be displayed and the manner in which they are to be fixed to land;
- (b) for requiring the consent of a planning authority to be obtained for the display of advertisements or of advertisements of any class specified in the Regulations;
- (c) for applying, in relation to any such consent, and to applications therefor, any of the provisions of Part III relating to permission to carry out development of land, and to applications for such permission, subject to such adaptations and modifications as may be specified in the Regulations;
- (d) for enabling a planning authority to require the removal of any advertisement which is being displayed in contravention of the Regulations, or the discontinuance of the use for the display of advertisements of any site which is being used for that purpose in contravention of the Regulations.

(2) Without prejudice to the generality of the powers conferred by paragraph (c) of subsection (1), Regulations made for the purpose of this section may provide that any appeal from the decision of a planning authority on an application for its consent under the Regulations shall lie to an independent tribunal constituted in accordance with the Regulations and not to the British Resident.

(3) Subject as hereinafter provided, Regulations made for the purposes of this section may be made so as to apply to advertisements which are being displayed on the date on which the Regulations come into force or to the use for the display of advertisements of any site which was being used for that purpose on that date:

Provided that any such Regulations shall provide for exempting therefrom—

- (a) the continued display of any such advertisement as aforesaid; and
- (b) the continued use for the display of advertisements of any such site as aforesaid,

during such period as may be prescribed in that behalf by the Regulations, and different periods may be so prescribed for the purposes of different provisions of the Regulations.

(4) If any person displays an advertisement in contravention of the provisions of any Regulations made for the purposes of this section, he shall be guilty of an offence and shall be liable to a fine of such amount as may be prescribed by the Regulations.

(5) For the purposes of subsection (4) and without prejudice to the generality thereof, a person shall be deemed to display an advertisement if—

- (a) the advertisement is displayed on land of which he is the owner or occupier; or
- (b) the advertisement gives publicity to his goods, trade, business or other interests:

Provided that a person shall not be guilty of an offence under the said subsection by reason only that an advertisement is displayed on land of which he is the owner or occupier, or that his goods, trade, business or other interests are given publicity by the advertisement, if he proves that it was displayed without his knowledge or consent.

23.—(1) From the date of the publication in the *Gazette* of an order under section 3 declaring an area to be a planning area, no person shall lay-out or construct or close or attempt to lay-out or construct or close any road or street without the consent of the planning authority which has been appointed for that area. Control of roads, etc.

(2) The provisions of Part III relating to permission to carry out development of land, and to applications for such permission, shall, subject to such adaptations and modifications as may be necessary, apply to the grant of consent and application therefor under this section.

(3) If any person contravenes the provisions of subsection (1) he shall be guilty of an offence and shall be liable to a fine not exceeding one thousand shillings; and the planning authority shall be entitled to sue for and recover the amount of the cost of any works necessary for the reinstatement of the land to its former condition as if such amount were a civil debt and a certificate signed by the British Resident shall be conclusive proof of such amount.

PART V

SUPPLEMENTAL

Parcellation. 24.—(1) Where a planning scheme has been put into force under section 7, the planning authority appointed for the planning area to which the scheme relates may, with the approval of the British Resident, carry out a parcellation of the whole or any part of the area by adjusting the boundaries, extent, shape and position of any land in the area or any part thereof in the manner following:—

- (a) the total area of roads, streets and other ways, open spaces, parks and pleasure and recreation grounds, designed for public use provided for in the planning scheme shall be computed;
- (b) the total area of plots or holdings of land which has been designated in the planning scheme as included in the area referred to in paragraph (a) shall be computed;
- (c) the area referred to in paragraph (a) shall, when the parcellation has been approved by the British Resident, become and thenceforth be the property of the Government free from all charges, liens or any other claim whatsoever whether by way of compensation or otherwise:

Provided that any building being wholly or partly within such area shall be acquired by the planning authority in accordance with the provisions of this Decree;

- (d) the area remaining after deduction of the area referred to in paragraph (a) from the area referred to in paragraph (b) shall be divided by the planning authority into as many plots or holdings as existed before the parcellation;
- (e) the area of every plot or holding as reconstituted under paragraph (d) shall, so far as possible, bear to the area of the original plot or holding the same ratio as the area remaining after the deduction of the area referred to in paragraph (a) from the area referred to in paragraph (b) bears to the said area referred to in paragraph (b);
- (f) the owner of every plot and the holder of every holding shall receive a new plot or holding so far as possible on the same site as that on which his original plot or holding was situate;
- (g) unless the value of each reconstituted plot or holding is equal to the value of the original plot or holding, the owner or holder thereof, as the case may be, and, if the plot or holding is subject

- to a mortgage, the mortgagee may claim and shall be paid by the planning authority compensation equal to the difference or, where the plot or holding is subject to a mortgage, a proportionate part of the difference in such values;
- (h) if the value of any reconstituted plot or holding is greater than the value of the original plot or holding, the owner or holder thereof, as the case may be, may be required to pay to the planning authority an amount equal to the difference of such values and the planning authority may sue for and recover such amount as if it were a civil debt and a certificate signed by the British Resident shall be conclusive proof of the amount of such difference;
 - (i) every reconstituted plot or holding shall have a frontage on a road of access and, notwithstanding the provisions of paragraph (e), the planning authority, in considering the value of a plot or holding, may take into consideration the value given to a reconstituted plot or holding by reason of its position in relation to the other plots or holding in the area.
- (2) When a parcellation has been approved by the British Resident—
- (a) each reconstituted plot or holding shall vest in the owner or holder of the original plot or holding and the title of such owner or holder to the original plot or holding shall thereupon be deemed to be his title to the reconstituted plot or holding;
 - (b) where the original plot or holding is at the time of the parcellation subject to a mortgage, the reconstituted plot or holding shall become subject to such mortgage and any land which is at the said time subject to such mortgage but is not part of any reconstituted plot or holding which becomes subject to a mortgage by virtue of the provisions of this paragraph shall be deemed to be released and discharged from such mortgage;
 - (c) the planning authority shall arrange for the survey free of charge of the boundaries of each reconstituted plot or holding and for the issue free of charge to the owner or holder of each such plot or holding of an appropriate document in evidence of his title thereto.
- (3) The Land Officer is hereby authorised to issue under his hand free of charge documents of title to plots or holdings reconstituted under this section and every such document of title shall, until the contrary is proved, be deemed to be a valid and effective document of title.
- (4) Every document issued under the provisions of subsection (3) shall be exempt from duty under the Stamp Duty Decree and the Registrar of Documents is hereby authorised to register every such document free of charge. Cap. 144.
- (5) Any compensation payable under the provisions of paragraph (g) of subsection (1) shall be payable in accordance with the provisions of this Decree.

(6) Where a planning authority intends to carry out parcellation of any area under this section, the relevant part of the planning area shall be demarcated on a copy of the planning scheme deposited in the office of such planning authority or, if the scheme was deposited in some other place, then such place and notice thereof shall be posted in the office of the District Commissioner of the district in which the planning area to which the scheme relates is situate and at every office of an administrative or municipal officer in such planning area.

(7) The British Resident shall not give his approval to any parcellation under this section until after the expiration of two months from the date upon which all the provisions of subsection (6) have been complied with.

Expropriation of land for roads, etc.

25. Notwithstanding anything in this or in any other Decree contained, where a planning scheme has been put into force under section 7, the planning authority appointed for the planning area to which the scheme relates may, with the approval of the British Resident, expropriate without compensation any land in the area which is required for the purpose of constructing, diverting or widening any road, street or other way or any park or pleasure or recreation ground designed for public use provided for in the planning scheme:

Provided that—

- (i) not more than one-fifth part of the area of any one plot or holding of any one owner or holder, as the case may be, is so expropriated;
- (ii) the British Resident may, if he is satisfied that hardship would in any particular case be caused if no compensation were paid, direct that compensation, of such amount as he in his absolute discretion thinks fit, be paid by the planning authority to the owner or holder, as the case may be;
- (iii) any building being wholly or partly on the land so expropriated shall be acquired by the planning authority under the provisions of this Decree.

Power to acquire land by agreement or compulsorily.

26.—(1) Without prejudice to the provisions of sections 24 and 25 or either of them, where a planning scheme has been put into force under section 7, the planning authority appointed for the planning area to which the scheme relates may, with the approval of the British Resident, purchase any land in the area by agreement with the owner thereof or may compulsorily acquire any such land in accordance with the provisions of this section.

Cap. 95.

(2) Subject to the provisions of subsection (3), the provisions of the Land Acquisition Decree relating to land to be acquired for a public purpose shall apply to compulsory acquisition of land under this section.

(3) Notwithstanding anything contained in the Land Acquisition Decree, the British Resident may delay the issue under section 7 thereof of the order for acquisition in respect of the whole or any part of the land to be compulsorily acquired under this section for such period as he thinks fit.

(4) Where a building used as a dwelling-house is acquired under this section and under the provisions of the planning scheme it is intended to demolish it, the building shall not be demolished nor shall the occupants thereof nor the movable property therein of the occupants be removed therefrom until suitable alternative accommodation is made available to the occupants.

27.—(1) Land which has been expropriated or acquired (whether by agreement or compulsorily) for the purposes of a planning scheme shall be dealt with in accordance with the provisions of such scheme: Utilisation of land expropriated or acquired.

Provided that any land so expropriated or acquired may, subject to the provisions of subsection (2), with the approval of the British Resident, be sold, leased, exchanged or otherwise disposed of by the planning authority.

(2) Where a planning authority proposes to sell land expropriated or acquired for the purposes of a planning scheme, the planning authority shall first offer to sell the land to the person from whom it was expropriated or acquired, or the heirs of such person, at a price not greater than the amount paid by the authority when the land was expropriated or acquired together with any additional amount representing the increased value thereof as a result of the scheme. The authority and such person may, by agreement in writing, agree the amount of the price to be paid; and any such agreement shall be final and binding on the parties thereto. In default of such agreement as aforesaid as to the price to be paid, the amount of the price shall be determined by a Judge of the High Court whose decision shall be final.

(3) An offer to sell land under subsection (2) shall remain open for a period of six months from the date when it is made.

28.—(1) Where a building line is demarcated on a planning scheme in respect of any existing street or road or any proposed street or road, no building other than a boundary wall or fence or a temporary structure erected in connection with building operations shall be erected or set up nearer to the street or road than such building line. Building lines.

(2) A planning authority may, as to a building in the planning area for which it has been appointed, by notice in writing to the owner of any such building which is erected or set up in contravention of the provisions of this section, require the owner of the building, within a time specified in the notice and not being less than two months after the date thereof, to remove the building or re-erect it in such a manner that it shall no longer be nearer to the street or road than such building line.

(3) If any person fails to comply with a notice lawfully requiring him to remove or re-erect a building as provided in subsection (2) he shall be guilty of an offence and shall be liable to a fine not exceeding one thousand shillings; and the planning authority may remove any such

building and shall be entitled to sue for and recover the amount of the cost of such removal as if such amount were a civil debt and a certificate signed by the British Resident shall be conclusive proof of such amount.

Compensation,
etc.

29.—(1) Subject to the provisions of this section, any person whose land is injuriously affected by a planning scheme or anything done thereunder by virtue of the provisions of this Decree shall, if he makes a claim thereto within three months of the date upon which the planning scheme relating to the planning area in which such land is situate has been put into force under section 7 or within one month of the date upon which the thing is done, whichever is the later, be entitled to compensation in respect thereof.

Second
Schedule.

(2) Land shall not be deemed to be injuriously affected by a planning scheme or anything done thereunder by reason of the inclusion of the provisions set out in the Second Schedule:

Provided that if the British Resident, having regard to the nature and situation thereof, considers that the land is so injuriously affected and that compensation should be paid in respect thereof, he may so direct; and thereupon the provisions of this section shall apply accordingly.

(3) A person shall not be entitled to compensation under this section on account of the erection or alteration of any building or works on land so affected nor on account of any contract made or other thing first done with respect to such land or any building or works thereon if the erection or alteration of such building or works were commenced or continued or the contract made or thing first done after publication of an order under section 3 declaring the area in which such land is situate to be a planning area.

(4) Where land is increased in value by a planning scheme or anything done thereunder by virtue of the provisions of this Decree, the owner of such land shall pay to the planning authority appointed for the planning area in which such land is situate the amount of the increase in the value of the land and the planning authority may sue for and recover such amount as if it were a civil debt.

(5) If any question arises whether any land is injuriously affected or increased in value within the meaning of this section it shall, unless the parties agree to some other method of determination when such determination shall be final, be determined by a Judge of the High Court whose decision shall be final.

(6) Where land is injuriously affected within the meaning of this section, the authority and the person entitled thereto may, by agreement in writing, agree the amount of the compensation to be paid; and any such agreement shall be final and binding on the parties thereto. In default of such agreement as aforesaid as to the amount of the compensation to be paid, the amount of compensation to be paid shall be determined by a Judge of the High Court whose decision shall be final.

(7) Where land is increased in value within the meaning of this section, the authority and the owner of the land may, by agreement in writing, agree the amount of such increase in the value thereof to be paid by the owner; and any such agreement shall be final and binding on the parties thereto. In default of such agreement as aforesaid as to the amount to be paid, the amount of the increase in the value shall be determined by a Judge of the High Court whose decision shall be final.

(8) Where land is alleged to be injuriously affected by a planning scheme or anything done thereunder, no compensation shall be payable under this Decree if and so far as compensation is payable therefor under the provisions of any other Decree.

(9) The provisions of this section shall not apply to compensation payable under sections 20 and 21.

30.—(1) Where a planning scheme has been put into force under section 7, the planning authority appointed for the planning area to which the scheme relates may, subject to the provisions of this Decree and, in particular, to the provisions of subsection (4) of section 26, with the approval of the British Resident—

Enforcement
of planning
schemes, etc.

- (a) remove, demolish or alter any building or other works in the planning area if the scheme requires such removal, demolition or alteration, as the case may be, or if the building or works has or have been erected or set up in contravention of the provisions of this Decree or the scheme and may remove therefrom any person or thing therein;
- (b) execute any work which it is the duty of any person to execute under the provisions of the scheme if such person fails to execute it and it appears that delay in its execution would prejudice the scheme.

(2) A planning authority shall be entitled to recover the amount of any expenses incurred by it under this section as if such amount were a civil debt and a certificate signed by the British Resident shall be conclusive proof of such amount.

(3) If any question arises whether the removal, demolition or alteration of any building or other works is required under the scheme or whether it or they has or have been erected or set up in contravention of the provisions of this Decree or the scheme or whether it is the duty of a person to execute any work under the provisions of the scheme, it shall, unless the parties agree to some other method of determination when such determination shall be final, be determined by a Judge of the High Court whose decision shall be final.

(4) Where under the provisions of this Decree other than those contained in Part IV, any use of land is required to be discontinued or any conditions are required to be complied with in respect of any use of land or in respect of the carrying out of any operations thereon, if any person without the grant of permission in that behalf uses the land

or causes or permits the land to be used or carries out or causes or permits to be carried out those operations, then, subject to the provisions of subsection (5), he shall be guilty of an offence and liable to a fine not exceeding one thousand shillings; and, if the use is continued after conviction, he shall be guilty of a further offence and liable to a fine not exceeding four hundred shillings for every day on which the use is continued.

(5) A person shall not be convicted of an offence under subsection (4) unless it is proved that he had been served with a notice requiring him to discontinue so using the land or to comply with such conditions and that he has not complied with the terms of such notice.

PART VI

GENERAL PROVISIONS

Power of
entry.

31.—(1) Any person duly authorised in writing by the British Resident or by a planning authority in relation to land in the area for which it has been appointed may, at any reasonable time enter upon land for the purposes of inspection, measurement or survey or the doing of any act or thing authorised by or under this Decree.

(2) A person authorised under this section to enter upon land shall, if so required, produce evidence of his authority before so entering, and shall not demand admission as of right to any land or building which is occupied unless twenty-four hours' notice of the intended entry has been given to the occupier.

(3) Any person who wilfully obstructs a person acting in the exercise of his functions under this section shall be guilty of an offence and liable to a fine not exceeding four hundred shillings.

Service of
notices.

32.—(1) Subject to the provisions of this section any notice or other document required or authorised to be served or given under this Decree may be served or given either—

- (a) by delivering it to the person on whom it is to be served or to whom it is to be given; or
- (b) by leaving it at the usual or last known place of abode of that person or, in a case in which an address for service has been furnished by that person, at that address; or
- (c) by sending it in a prepaid registered letter addressed to that person at his usual or last known place of abode or, in a case in which an address for service has been furnished by that person, at that address; or
- (d) in the case of an incorporated company or body, by delivering it to the secretary or clerk of the company or body at their registered or principal office or sending it in a prepaid registered letter addressed to the secretary or clerk of the company or body at that office.

(2) Where the notice or document is required or authorised to be served on any person as having an interest in premises, and the name of that person cannot be ascertained after reasonable inquiry, or where the notice or document is required or authorised to be served on any person as an occupier of premises, the notice shall be deemed to be duly served if—

- (a) being addressed to him either by name or by the description of “the owner” or “the occupier”, as the case may be, of the premises (describing them) it is delivered or sent in the manner prescribed by paragraph (a), (b) or (c) of subsection (1); or
- (b) being addressed as aforesaid and marked in such manner as may be prescribed by regulations under this Decree for securing that it shall be plainly identifiable as a communication of importance, it is sent in a prepaid registered letter to the premises and is not returned to the authority sending it or is delivered to some person on those premises or is affixed conspicuously to some object on those premises.

(3) Where the notice or other document is required to be served on or given to all persons having interests in, or being occupiers of, premises comprised in any land and it appears to the authority required or authorised to serve or give the notice or other documents that any part of that land is unoccupied, the notice shall be deemed to be duly served on all persons having interests in, and on any occupiers of, premises comprised in that part of the land (other than a person who has furnished that authority with an address for the service of the notice on him) if it is addressed to “the owners and any occupiers” of that part of the land (describing it), and is affixed conspicuously to some object on the land.

33. The British Resident or a planning authority in relation to land in the area for which it has been appointed may, for the purposes of this Decree, require the occupier of any premises and any person who, either directly or indirectly, receives rent in respect of any premises, to state in writing the nature of his interest therein and the name and address of any other person known to him as having an interest therein, whether as freeholder, lessee, mortgagee or otherwise; and any person who, having been required in pursuance of this section to give information, fails to give that information or knowingly makes any mis-statement in respect thereof shall be guilty of an offence and liable to a fine not exceeding one hundred shillings.

Power to
require
information
as to owner-
ship of land.

34. A planning authority may accept any money or property or assistance for the furtherance of any objects of this Decree or the planning scheme relating to the area for which the authority has been appointed.

Power of
planning
authorities
to accept
property,
etc.

Power of
planning
authorities
to appoint
officers, etc.

35. A planning authority may, with the approval of the British Resident, and if the British Resident so directs shall, engage or employ, with proper remuneration, officers and servants for the performance of functions under this Decree.

Default
powers of
British
Resident.

36. If it appears to the British Resident that it is expedient that a planning authority should issue any notice or make or serve any order provided for in this Decree he may direct such authority accordingly or may himself issue any such notice or make or serve any such order.

Power to
make
Regulations.
G.N.
74 of 1956.

37. The Resident in Council may make Regulations prescribing anything which is to be, or may be, prescribed under the provisions of this Decree and generally for the better carrying into effect of the purposes and provisions of this Decree.

Power of
High Court
to make
Rules of
Court.

38. The High Court may make Rules of Court providing for the manner in which any applications or references to the Court of questions or matters to be determined by it shall be made and the procedure which shall be followed on the hearing thereof and for the fees and costs payable in respect thereof.

This Decree
to prevail.
Cap. 134.

39. Where there is any conflict or inconsistency between the provisions of this Decree and the Roads Decree, the provisions of this Decree shall prevail.

FIRST SCHEDULE

(Section 4(2))

MATTERS TO BE PROVIDED FOR IN PLANNING SCHEMES

Part I

1. Providing for the reservation of land for streets or roads, the construction of new streets or roads, the improvement of existing streets or roads, and the establishment of public rights of way.

2. Providing for the closing or diversion of existing streets, or roads and public and private rights of way and the elimination of through traffic on specified streets or roads.

3. Restricting and controlling the construction of new streets or roads and the alteration of existing streets or roads.

4. Regulating the alignment, width, level construction and general dimensions and character of streets or roads whether new or existing.

5. Enabling the planning authority to require an owner of land as a condition of his developing such land in any manner—

- (a) to reserve land for such streets or roads as the planning authority may think necessary;
- (b) to contribute to the cost of the construction of new streets or roads or the improvement of existing streets or roads;
- (c) to make provision of accommodation for parking, loading, unloading or fuelling vehicles;
- (d) to surrender a portion of land for streets or roads to provide sufficient space for traffic likely to arise from the use to which land is put or the increased floor space to be provided.

6. Providing for and generally regulating the construction or execution of works incidental to the making or improvement of any street or road including the erection of shelters, the provision of seats, and the planting or protection of grass, trees and shrubs on or adjoining such streets or roads.

Part II

1. Regulating and controlling, either generally or in particular areas all or any of the following matters:—

- (a) building lines and set-backs;
- (b) size, density, site coverage, height, spacing, design and external appearance including the colour and materials used in the construction of buildings;
- (c) the location of buildings, the extent of the yards, gardens and curtilage of buildings;
- (d) the number of buildings or the number of buildings of a specified class which may be constructed, erected or made in any designated area;
- (e) the minimum outlay in the cost of erection of buildings or stages of building within designated areas;
- (f) the objects which may be affixed to buildings;
- (g) the purpose for and the manner in which buildings may be used or occupied including, in the case of dwelling-houses, the letting thereof in separate tenements;
- (h) the nature and position of the means of access to any land or buildings;
- (i) the stages at which development is to be carried out.

2. Reserving or allocating any particular land or all land in any particular area for building of a specified class or classes or prohibiting or restricting, either permanently or temporarily, the making of any

buildings or any particular class or classes of buildings on any specified land, including the determination of the situation of buildings designed for specific use and the demarcation of areas subject to other restrictive conditions.

3. Reserving and allocating any particular land or all land in a designated area for the purpose of any industrial or trade purpose or for any specified undertaking including the mining of minerals or mineral oil.

4. Providing for the removal, demolition or alteration of buildings or works which are inconsistent with or obstruct the operation of a planning scheme, including the abolition and reconstruction of overcrowded and congested areas and providing for sanitary conditions generally.

5. Providing for the reservation of sites for housing schemes, including the plotting-out of land as building areas and sites.

6. Providing for the reconstruction of plots by the alteration of their boundaries or by combining, with the consent of the owners, two or more plots held in separate ownership or in common.

7. The allocation of plots to any owner dispossessed of land in furtherance of the scheme.

8. Providing for the subdivision of land.

9. Controlling the use of land generally.

Part III

1. Providing for the reservation of lands as open spaces, whether public or private, and for nature reserves and burial grounds.

2. Providing for the preservation of views and prospects and of the amenities of places and features of natural beauty or interest.

3. Providing for the preservation of buildings and objects of artistic, architectural, archaeological or historical interest.

4. Providing for the preservation or protection of forests, woods, trees, shrubs, plants and flowers.

5. Prohibiting, restricting or controlling, either generally or in particular places, the exhibition, whether on the ground, on any building, or any temporary erection, or on any vehicle, boat, aircraft or other movable object, whether on land or in or on water or in the air, of all or any particular forms of advertisement or other public notices.

6. Prevention, remedying or removing injury to amenities arising from the ruinous or neglected condition of any building or fence, or from the objectionable or neglected condition of any land attached to a building or fence or of any land abutting on a street or road.

7. The prohibition, regulation and control of the deposit or disposal of waste or scrap materials and refuse, disused vehicles, furniture and other articles.

Part IV

Facilitating the construction of works in relation to lighting, water supply, sewerage, drainage, sewage disposal and refuse disposal or other public utility services.

Part V

1. Facilitating the establishment, extension or improvement of systems of transport whether by land, water or air.
2. Allocating sites for use in relation to transport and providing for the reservation of land for that purpose.
3. Providing for the establishment, extension and improvement of postal, telegraphic, telephonic and wireless communication, allocating sites for the same in relation to such communication and providing for the reservation of land for that purpose.

Part VI

1. Declaring the persons by whom, and the manner in which, the cost of the execution of works (whether of construction, demolition, removal or alteration) in pursuance of a planning scheme is to be borne.
 2. Providing for and regulating the construction, siting and alignment, alteration, removal and use of railways, pipe-lines, telegraph and telephone lines, electric current transmission lines, drainage or irrigation channels, aerial cable ways and their ancillary structures.
 3. Preventing the pollution of streams, watercourses, rivers, wells, boreholes, lagoons, lakes and harbours.
 4. Providing works ancillary to or consequent on a town-planning scheme.
 5. Providing for the dedication of roads or open spaces to the public.
 6. Vesting special powers to be vested in the planning authority for the purpose of carrying out the general objects of a planning scheme, including any special conditions for the exercise of such powers as regards notice or otherwise.
 7. Declaring the cost of a planning scheme and any provision with regard to the recovery of the amount due to the planning authority on any property of which the value will be increased by the execution of the scheme.
 8. Providing for any other matter, not hereinbefore mentioned, necessary or incidental to a planning scheme or its administration.
- The mention of particular matters in this Schedule shall not be held to prejudice or affect the generality of any other matter.

SECOND SCHEDULE

(Section 29 (2))

PROVISIONS EXCLUDED FROM COMPENSATION

Any provision which—

- (a) prescribes the location of buildings and the extent of the yards gardens or curtilages of buildings;
- (b) imposes any sanitary conditions in connection with buildings including the demolition of buildings which by reason of their condition are injurious to health;
- (c) limits the number of buildings or the number of buildings of a specified class which may be constructed, erected or made on any designated area;
- (d) prohibits or regulates the subdivision of any land;
- (e) regulates, or empowers the planning authority to regulate, the size, density, site coverage, height, spacing, design, colour and materials of buildings;
- (f) controls, restricts or prohibits the objects which may be affixed to buildings;
- (g) permanently prohibits or restricts building operations on the ground that by reason of the situation or nature of the land the erection of buildings thereon would be likely to involve danger or injury to health or excessive expenditure of public money in the provision of roads, sewers, water supply or other public services;
- (h) prohibits (otherwise than by way of prohibition of building operations) the use of land for a purpose likely to involve danger or injury to health or detriment to the neighbourhood, or restricts (otherwise than by way of restriction of building operations) the use of land so far as may be necessary for preventing such danger, injury or detriment;
- (i) restricts the purposes for and the manner in which land or buildings may be used or occupied, or reserves or allocates any particular land or all land in any particular area for specified classes of buildings or uses; including the winning of minerals or mineral oil;
- (j) in the interests of safety, regulates or empowers the planning authority to regulate the height and position of proposed walls, fences or hedges near the corners or bends of streets or roads;
- (k) limits the number, or prescribes the sites, of new streets or roads entering a street or road or the site of a proposed street or road;
- (l) fixes in relation to any street or road or intended street or road a line beyond which no new building in that street or road or intended street or road shall project;

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- (m) in the case of the use of land or the erection of any building, requires the provision of accommodation for parking, loading, unloading or fuelling of vehicles or requires a portion of land to be surrendered for streets or roads to provide sufficient space for traffic likely to arise from the use to which that land is to be put or the increased floor space to be provided;
 - (n) prohibits, restricts or controls, either generally or in particular places, the exhibition, whether on the ground, on any building or any temporary erection, or on any vehicle, boat, aircraft or other movable object, whether on land or in or on water or in the air, of all or any particular forms of advertisements or other public notices; or
 - (o) prevents, remedies or removes injury to amenities arising from the ruinous or neglected condition of any building or fence or from the objectionable or neglected condition of any land attached to a building or fence or on any land abutting on a street or road.
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CAP. 85.

THE LAWS OF ZANZIBAR

CHAPTER 85

TOWN AND COUNTRY PLANNING

(SUBSIDIARY LEGISLATION)

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CHAPTER 85**TOWN AND COUNTRY PLANNING****REGULATIONS***Under sections 22 and 37*

G.N. 14 of 1957.	The Town and Country Planning (Control of Advertisements) Regulations
Title and application.	<p>1. These Regulations may be cited as the Town and Country Planning (Control of Advertisements) Regulations and shall apply to the whole of the Protectorate except planning areas declared by order under section 3 of the Decree.</p>
Interpreta- tion.	<p>2. In these Regulations—</p> <p>“advertisement” means any word, letter, model, sign, placard, board, notice, device or representation, whether illuminated or not, in the nature of advertisement, announcement, or direction (excluding any such thing employed wholly as a memorial or authorised traffic signal) and without prejudice to the foregoing provision includes any hoarding or similar structure used or adapted for use for the display of advertisements, and reference to the display of advertisements shall be construed accordingly.</p>
Permitted advertisements.	<p>3. The following advertisements may be erected without the approval of the Senior Commissioner:—</p> <ul style="list-style-type: none"> (a) professional and business name plates and signs giving traders’ names erected on premises belonging to or occupied by the person to whose profession, business or trade publicity is given by the advertisement and indicating merely the name of the person and the type of profession, business or trade carried on; (b) notices published by Government, or by order of the court; (c) advertisements carried on a vehicle; (d) advertisements relating to any event or other matter of a temporary nature in connection with an activity promoted for non-commercial purposes by or on behalf of any organisation of a religious, educational, cultural, social or recreational character; (e) any advertisement relating specifically to a pending election of a member or members to a council established by law.
Restriction on posting of advertise- ments.	<p>4. No person shall erect any advertisement other than those specified in regulation 3 without the prior approval of the Senior Commissioner or of such officer or local council as he may appoint, who may grant such approval for a definite or indefinite period and subject to such conditions as he considers necessary.</p>

5. There shall be implied in any approval granted under regulation 4 a condition that the advertisement in respect of which the approval is granted shall at all times be maintained in a sightly, safe and proper condition. Implied conditions and indemnity by licensees.

6. No advertisement other than an advertisement mentioned in paragraph (a) of regulation 3 shall be painted directly on the walls of a building. Painting of advertisements on walls, etc., prohibited.

7. The Senior Commissioner may require the removal of any advertisement which is being displayed in contravention of these Regulations. Removal of unauthorised advertisements.

8. If any person contravenes these Regulations he shall be guilty of an offence and liable to a fine of twenty shillings and five shillings a day for each day that the offence continues. Penalty for offences.

ORDERS

Under section 3

The Planning Area (Zanzibar) Establishment Order

G.N.
79 of 1956.

1. This Order may be cited as the Planning Area (Zanzibar) Establishment Order.

2. A planning area is hereby established in respect of the area described and set forth in the Schedule.

SCHEDULE

All that area in the vicinity of Zanzibar Township in the island of Zanzibar bounded as follows:—

Starting from the control tower of the Kisauni Airport building and proceeding in a straight line in a north easterly direction to boundary mark T.P.B. B situated at the track junction in Tomondo village; thence in a straight line in a northerly direction to boundary mark T.P.B. C situated on the Zanzibar-Chwaka road; thence in a straight line in a northerly direction to boundary mark T.P.B. D situated in the Mbuzini area; thence due west to a point 200 yards to the seaward side of the high water mark on the coast; thence in a general southerly direction parallel to and 200 yards to the seaward of the high water mark to a point due west of the control tower of the Kisauni Airport building; thence due east to the control tower of the Kisauni Airport building. The area thus demarcated is delineated on and more particularly described by plan No. 3002 and thereon edged in blue.

A copy of the said plan can be seen at the offices of the Land Surveyor, Zanzibar, the District Commissioner of the Urban of Zanzibar, and the Town Planning Officer, Zanzibar, during office hours.

[Subsidiary]

G.N.
80 of 1956.**The Planning Area (Wete) Establishment Order**

1. This Order may be cited as the Planning Area (Wete) Establishment Order.
2. A planning area is hereby established in respect of the area described and set forth in the Schedule.

SCHEDULE

All that area in the vicinity of Wete Town in the District of Pemba bounded as follows:—

Starting from the mouth of the Minyenyezi river and proceeding in an easterly direction along the river to boundary mark T.P.B. 1 on the Wete-Bondeni road; thence continuing in an easterly direction along the river to boundary mark T.P.B. 2 situated on the Wete-Konde road; thence in a general south easterly direction along the river bed running to the north of Chasasa to boundary mark T.P.B. 3 at Weni bridge on the Wete-Chake Chake road; thence in a southerly direction to boundary mark T.P.B. 4 on the coast; thence following the coast to the north of the Minyenyezi river. The area thus demarcated is delineated on and more particularly described by Plan No. 2990 and thereon edged green.

A copy of the said plan can be seen at the office of the District Commissioner, Pemba, during office hours.

G.N.
81 of 1956.**The Planning Area (Chake Chake) Establishment Order**

1. This Order may be cited as the Planning Area (Chake Chake) Establishment Order.
2. A planning area is hereby established in respect of the area described and set forth in the Schedule.

SCHEDULE

All that area in the vicinity of Chake Chake Town in the District of Pemba bounded as follows:—

Starting from the boundary mark T.P.B. 1 situated on the main Chake Chake-Wete road approximately 1,500 yards from the junction of this road with the aerodrome road on the Wete side of the junction and proceeding due east to a point two hundred yards from the road; thence in a general south easterly direction parallel to the main road to the aerodrome to a point due north of boundary mark T.P.B. 2 situated on the road to the aerodrome some 1,500 yards from its junction with the main Wete-Chake Chake road; thence due south to boundary mark T.P.B. 2; thence in a general southerly direction along the bottom of the valley skirting Chanjani to boundary

mark T.P.B. 3 situated on the main Chake Chake-Mkoani road approximately 1,100 yards from the Mwanamashungi bridge; thence in a direction slightly north of west and in a straight line to boundary mark T.P.B. 4 situated on the coast to the south of Boma and Kopole; thence following the coast in a general northerly direction to boundary mark T.P.B. 5 situated on the old Wesha-Chake Chake road bridge; thence in a general easterly direction following the valley skirting Mchangani through Pagali and Uwani to boundary mark T.P.B. 1. The area thus demarcated is delineated on and more particularly described by plan No. 2994 and thereon edged in yellow.

A copy of the said plan can be seen at the office of the District Commissioner, Pemba and in the office of the District Officer, Chake Chake during office hours.

The Planning Area (Mkoani) Establishment Order

G.N.
82 of 1956.

1. This Order may be cited as the Planning Area (Mkoani) Establishment Order.

2. A planning area is hereby established in respect of the area described and set forth in the Schedule.

SCHEDULE

All that area in the vicinity of Mkoani Town in the District of Pemba bounded as follows:—

Starting from the boundary mark T.P.B. 1, situated near the first milestone from Mkoani on the Mkoani-Chake Chake road and proceeding in a general south westerly direction along the river bed south of Uweleni to boundary mark T.P.B. 2 situated on the sea shore at the mouth of the river; thence in a general westerly and northerly direction following the sea shore to boundary mark T.P.B. 3 situated at the junction of the river to the west of Jondeni and the sea; thence in an easterly direction along the river bed Msije to boundary mark T.P.B. 4 situated on the Mkoani-Makumbeni road; thence in a general easterly and southerly direction along the river bed skirting Jondeni and Tongoni to the starting point boundary mark T.P.B. 1 on the Mkoani-Chake Chake road. The area thus demarcated is delineated on and more particularly described by plan No. 2995 and thereon edged in yellow.

A copy of the said plan can be seen at the office of the District Commissioner, Pemba and at the office of the District Officer, Mkoani during office hours.

**LAND ACQUISITION
DECREE 95/1909**

THE LAWS OF ZANZIBAR

CHAPTER 95

LAND ACQUISITION

(PRINCIPAL LEGISLATION)

CHAPTER 95

LAND ACQUISITION

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CHAPTER 95

LAND ACQUISITION

1 of 1909. **A Decree to make provision for the Compulsory Acquisition of Land for**
 Cap. 105, **certain purposes**
 1934.
 2 of 1948.

[12TH JANUARY, 1909.]

Short title.	1. This Decree may be cited as the Land Acquisition Decree.
Division into Parts.	2. This Decree is divided into the following Parts—
	Part I Interpretation sect. 3
	Part II Acquisition sect. 4
	Part III Assessment of Compensation and Appeal to the High Court sect. 18
	Part IV Apportionment of Compensation sect. 21
	Part V Payment sect. 23
	Part VI Temporary Occupation of Land sect. 27
	Part VII Acquisition of Land for Companies sect. 30
	Part VIII Miscellaneous sect. 35

PART I

INTERPRETATION

Interpretation.	3. In this Decree, unless there is something repugnant in the subject or context—
	“company” includes any person, partnership or association, whether incorporated or not;
2 of 1948, s.3.	“the Compensation Board” means a Compensation Board appointed under the provisions of the Acquisition of Land (Assessment of Compensation) Decree;
Cap. 96.	“the court” means His Highness the Sultan’s Court for Zanzibar;
	“District Commissioner” includes an Acting District Commissioner and any person specially appointed by the British Resident to perform the duties of a District Commissioner under this Decree;
	“land” includes benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth;
	“person interested” includes all persons claiming an interest in compensation to be made on account of the acquisition of land under this Decree; and a person shall be deemed to be interested in land if he is interested in an easement affecting the land.

PART II

ACQUISITION

Preliminary investigation

4. Whenever it appears to the British Resident that land in any locality is likely to be needed for any public purpose, a notification to that effect shall be published in the *Gazette*, and the District Commissioner shall cause public notice of the substance of such notification to be given at convenient places in the said locality.

Public notice and notice in *Gazette* of land likely to be acquired.

5.—(1) After publication of the notice referred to in section 4 it shall be lawful for any officer, either generally or specially authorised by the British Resident, and for his servants and workmen—

Entry for purpose of survey, marking boundaries, etc.

- (a) to enter upon and survey and take levels of any land in such locality;
- (b) to dig or bore into the subsoil;
- (c) to do all other acts necessary to ascertain whether the land is adapted for such purpose;
- (d) to set out the boundaries of the land proposed to be taken, and the intended line of the work (if any) proposed to be made thereon;
- (e) to mark such levels, boundaries, and line, by placing marks and cutting trenches; and
- (f) where otherwise the survey cannot be completed, and the levels taken and the boundaries and line marked, to cut down and clear away any part of any standing crop, fence, or jungle:

Provided that no person shall enter into any building or upon any inclosed court or garden attached to a dwelling-house (unless with the consent of the occupier thereof) without previously giving such occupier at least seven days' notice in writing of his intention to do so.

(2) The officer so authorised shall, at the time of such entry, pay or tender payment for all necessary damage to be done as aforesaid, and, in case of dispute as to the sufficiency of the amount so paid or tendered, he shall at once refer the dispute to the decision of the District Commissioner, and such decision shall be final.

Entry, payment for damage done.

Declaration of intended acquisition

6.—(1) Whenever it appears to the British Resident that any particular land is needed for a public purpose, or for a company, a notification shall be published in the *Gazette*:

Notice in *Gazette* of land to be acquired for company.

Provided that no such notification shall be made, unless the compensation to be awarded for such property is to be paid by a company, or wholly or partly out of the revenues of the Government.

(2) The notification shall state the district in which the land is situate, the purpose for which it is needed, its approximate area, and, where a plan shall have been made of the land, the place where such plan may be inspected.

(3) The said notification shall be conclusive evidence that the land is needed for a public purpose, or for a company, as the case may be; and after making such declaration the Government may acquire the land in manner hereinafter appearing.

Order for
acquisition.

7. Whenever any land shall have been so declared to be needed for a public purpose, or for a company, the British Resident shall direct the District Commissioner to take order for acquisition of the land.

Marking out.

8. The District Commissioner shall thereupon cause the land (unless it has been already marked out under section 5) to be marked out. He shall also cause it to be measured and (if no plan has been made thereof) a plan to be made of the same.

Notice of
intention to
take posses-
sion.

9.—(1) The District Commissioner shall then cause public notice to be given at convenient places on or near the land to be taken, stating the intention of the Government to take possession of the land, and that claims to compensation for all interests in such land may be made to him.

(2) Such notice shall state the particulars of the land so needed, and shall require all persons interested in the land to appear personally or by agent before the District Commissioner at a time and place therein mentioned (such time not being earlier than fifteen days after the date of publication of the notice), and to state the nature of their respective interests in the land, and the amount and particulars of their claims to compensation for such interests, and their objections, if any, to the measurements made under section 8. The District Commissioner may, in any case, require such statement to be made in writing, and signed by the party or his agent.

(3) The District Commissioner shall also serve notice to the same effect on the occupier, if any, of such land, and on all such persons known or believed to be interested therein, or to be entitled to act for persons so interested, as reside or have agents authorised to receive service on their behalf, within the district in which the land is situate.

(4) In case any person so interested resides elsewhere, and has no such agent, the notice shall be sent to him by post in a registered letter addressed to him at his last known residence, address, or place of business.

Power to
require
statements as
to persons
interested.

10.—(1) The District Commissioner may also require any such person to make or deliver to him, at a time and place mentioned (such time not being earlier than fifteen days after the date of the requisition), a statement containing, so far as may be practicable, the name of every

other person possessing any interest in the land or any part thereof as co-proprietor, sub-proprietor, mortgagee, tenant, or otherwise, and of the nature of such interest, and of the rents and profits, if any, received or receivable on account thereof for three years next preceding the date of the statement.

(2) Every person who refuses to make or deliver a statement under this section or section 9 shall be guilty of an offence and shall be liable on conviction therefor to a fine not exceeding seven hundred and fifty shillings or to imprisonment for a term not exceeding one month, or to both.

Inquiry into measurements and claims, and award by the District Commissioner

11.—(1) On the day so fixed, or on any other day to which the inquiry has been adjourned, the District Commissioner shall proceed to inquire into the objections, if any, which any person interested has stated pursuant to a notice given under section 9 to the measurements made under section 8 and into the respective interests of the persons claiming compensation and shall make an award under his hand of—

*Inquiry and award.
2 of 1948,
s.4.*

- (a) the situation and extent of the land, with particulars of any trees, buildings or standing crops thereon;
- (b) the names of the persons known or believed to be interested in the land, of whom, or of whose claims, he has information, whether or not they have respectively appeared before him, and the nature of their respective interests in the land;
- (c) the amount awarded for damages and paid or tendered under sections 5 and 17, or either of them; and
- (d) the amount and particulars of any claims received by him from any persons claiming to be interested in the land.

(2) To the said award shall be attached a schedule giving particulars of the notices served upon, and of the statements in writing made or delivered, by the parties interested respectively.

12.—(1) Such award shall be filed in the District Commissioner's office and shall, except as hereinafter provided, be final and conclusive evidence, as between the District Commissioner and the persons interested, whether they have respectively appeared before the District Commissioner or not, of the true area and value of the land.

*Award to be filed.
2 of 1948,
s.5.*

(2) The District Commissioner shall give immediate notice of his award to such of the persons interested as are not present personally or by their representatives when the award is made.

13. The District Commissioner may, for any cause he thinks fit, from time to time adjourn the inquiry to a day to be fixed by him.

Adjournment.

Summoning
witnesses.

14. For the purpose of inquiries under this Decree the District Commissioner shall have power to summon and enforce the attendance of witnesses, including the parties interested or any of them, and to compel the production of documents.

District
Commissioner to
forward copy
of award to
Compensation
Board.
2 of 1948,
s.6.

15. As soon as conveniently may be after making his award, the District Commissioner shall forward a copy thereof to the Compensation Board.

Taking possession

Possession by
Government.

16. When the District Commissioner has made an award under section 11, he may take possession of the land, which shall thereupon vest absolutely in the Government, free from all encumbrances.

Cases of
urgency.

17.—(1) In cases of urgency, whenever the British Resident so directs, the District Commissioner, though no such award has been made, may, on the expiration of fifteen days from the publication of the notice mentioned in subsection (1) of section 9, take possession of any waste or arable land needed for public purposes, or for a company. Such land shall thereupon vest absolutely in the Government, free from all encumbrances.

Cap. 96.

(2) In every such case the District Commissioner shall, at the time of taking possession, offer to the persons interested compensation for the standing crops and trees (if any) on such land and for any other damage sustained by them, caused by such sudden dispossession, and not excepted by any of the provisions of the Acquisition of Land (Assessment of Compensation) Decree.

(3) In case such offer is not accepted, the value of such crops and trees and the amount of such other damage shall be allowed for in awarding compensation for the land under the provisions contained in Part III.

PART III

ASSESSMENT OF COMPENSATION AND APPEAL TO THE HIGH COURT

Assessment
of compensa-
tion by
Compensation
Board.
2 of 1948,
s.8.

18. Subject to the other provisions of this Decree, any question of compensation in respect of land compulsorily acquired under this Decree shall be referred to and determined by the Compensation Board in accordance with the provisions of the Acquisition of Land (Assessment of Compensation) Decree.

Notification
of decision of
the Board to
the District
Commissioner.
2 of 1948,
s.9.

19.—(1) As soon as conveniently may be after the decision of the Compensation Board has been pronounced, such Board shall send a certified copy of such decision to the District Commissioner.

(2) On receiving such copy, the District Commissioner shall take such steps as are prescribed in Part V.

20. An appeal shall lie from a decision of the Compensation Board to the High Court in the cases and in the manner provided by the Acquisition of Land (Assessment of Compensation) Decree.

Appeal to High Court.
2 of 1948,
s.10.

PART IV

APPORTIONMENT OF COMPENSATION

21. Where there are several persons interested, if such persons agree in the apportionment of the compensation, the particulars of such apportionment shall be specified in the decision of the Compensation Board, and as between such persons such decision shall be conclusive evidence of the correctness of the apportionment.

Apportionment of compensation.
2 of 1948,
s.12.

22. When the amount of compensation has been settled by the Compensation Board, if any dispute arises as to the apportionment of the same or any part thereof, or as to the persons to whom the same or any part thereof is payable, the Compensation Board may refer such dispute to the decision of the High Court.

Apportionment by court.
2 of 1948,
s.13.

PART V

PAYMENT

23.—(1) On receipt of the notification of the decision of the Compensation Board, the District Commissioner shall tender payment of the compensation awarded by such Board to the persons interested and entitled thereto according to such decision, and shall pay it to them unless prevented by some one or more of the contingencies mentioned in subsection (2).

Payment of compensation.
2 of 1948,
s.14.

(2) If within six weeks after the decision of the Compensation Board he shall receive a notification from the Attorney-General of his intention to appeal on behalf of the Government against such decision, or if the persons interested shall not consent to receive the compensation awarded by such Board, or if there be no person competent to alienate the land, or if there be any dispute as to the title to receive the compensation or as to the apportionment of it, the District Commissioner shall deposit the amount of the compensation in court:

Provided that any person admitted to be interested may receive such payment under protest as to the sufficiency of the amount:

Provided also that nothing herein contained shall affect the liability of any person who may receive the whole or any part of any compensation awarded under this Decree to pay the same to the person lawfully entitled thereto:

Provided also that the District Commissioner may, with the consent in writing of the Attorney-General, pay to the persons interested and entitled thereto compensation according to the decision of the Compensation Board notwithstanding that a period of six weeks shall not have elapsed since such decision.

(3) Notwithstanding anything in this section the District Commissioner may, with the sanction of the British Resident, instead of paying the money compensation in respect of any land, make any arrangement with a person having a limited interest in such land, either by the grant of other lands in exchange, the remission of land revenue on other lands held under the same title, or in such other way as may be equitable having regard to the interest of the parties concerned.

(4) Nothing in subsection (3) shall be construed to interfere with or limit the power of the District Commissioner to enter into any arrangement with any person interested in the land and competent to contract in respect thereof.

Money
deposited in
court.

24.—(1) If any money shall be deposited in court under subsection (2) of section 23, and it appears that the land in respect whereof the same was awarded belonged to any person who had no power to alienate the same, the court shall—

- (a) order the money to be invested in the purchase of other lands to be held under the like title and conditions of ownership as the land in respect of which such money shall have been deposited was held; or
- (b) if such purchase cannot be effected forthwith, then in such approved securities as the court shall think fit;

and shall direct the payment of the interest or other proceeds arising from such investment to the person or persons who would for the time being have been entitled to the possession of the said land, and such moneys shall remain so deposited and invested until the same be applied—

- (i) in the purchase of such other lands as aforesaid; or
- (ii) in payment to any person or persons becoming absolutely entitled thereto.

(2) In all cases of moneys deposited to which this section applies the court shall order the costs of the following matters, including therein all reasonable charges and expenses incident thereto, to be paid by the District Commissioner, namely—

- (a) the costs of such investments as aforesaid;
- (b) the costs of the orders for the payment of the interest or other proceeds of the securities upon which such moneys are for the time being invested, and for the payment out of court of the principal of such moneys, and of all proceedings relating thereto, except such as may be occasioned by litigation between adverse claimants.

Investment
in other
cases.

25. When any money has been deposited in court under this Decree for any cause other than that mentioned in section 24, the court may, on the application of any party interested or claiming an interest in such money, order the same to be invested in such approved securities

as it may think proper, and may direct the interest or other proceeds of any such investment to be accumulated and paid in such manner as it may consider will give the parties interested therein the same benefit therefrom as they might have had from the land in respect whereof such money shall have been deposited, or as near thereto as may be.

26. When the amount of such compensation is not paid or deposited on or before taking possession of the land, the District Commissioner shall pay the amount awarded with interest thereon at the rate of nine *per centum per annum* from the time of so taking possession until it shall have been so paid or deposited. Interest.

PART VI

TEMPORARY OCCUPATION OF LAND

27.—(1) Subject to the provisions of Part VII, whenever it appears to the British Resident that the temporary occupation and use of any was te or arable land are needed for any public purpose or for a company, he may direct the District Commissioner to procure the occupation and use of the same for such term as he shall think fit, not exceeding three years from the commencement of such occupation. Temporary occupation of land.

(2) The District Commissioner shall thereupon give notice in writing to the person interested in such land of the purpose for which the same is needed, and shall, for the occupation and use thereof for such term as aforesaid, and for the materials, if any, to be taken therefrom, pay to them such compensation, either in a gross sum of money or by monthly or periodical payments, as shall be agreed upon in writing between him and such person respectively.

(3) In case the District Commissioner and the persons interested differ as to the sufficiency of the compensation or apportionment thereof, the District Commissioner shall refer such difference to the decision of the court.

28.—(1) On payment of such compensation, or on executing such agreement, or on making a reference under section 27, the District Commissioner may enter upon and take possession of the land, and use or permit the use thereof in accordance with the terms of the said notice. Taking possession.

(2) On the expiration of the term the District Commissioner shall make or tender to the persons interested compensation for the damage, if any, done to the land and not provided for by the agreement, and shall restore the land to the persons interested therein:

Provided that, if the land has become permanently unfit to be used for the purpose for which it was used immediately before the commencement of such term, and if the persons interested shall so require, the Government shall proceed under this Decree to acquire the land as if it was needed permanently for a public purpose or for a company.

Reference to court. 29. In case the District Commissioner and persons interested differ as to the condition of the land at the expiration of the term, or as to any matter connected with the said agreement, the District Commissioner shall refer such difference to the court.

PART VII

ACQUISITION OF LAND FOR COMPANIES

Officer of a company to exercise powers under section 5. 30.—(1) Subject to such Rules as may be from time to time prescribed in this behalf, the British Resident may authorise any officer of any company desiring to acquire land for its purposes to exercise the powers conferred by section 5.

(2) In every such case section 4 shall be construed as if for the words “for any public purpose” the words “for the purposes of a company” were substituted; and section 5 shall be construed as if after the words “any officer” the words “of the company” were inserted.

Consent of British Resident. 2 of 1948, s.15. 31. The provisions of sections 6 to 29 (both inclusive) shall not be put into force to acquire land for any company unless with the previous consent of the British Resident, nor unless the company shall have executed the agreement hereinafter mentioned.

Conditions. 32.—(1) Such consent shall not be given unless the British Resident be satisfied, by an inquiry held as hereinafter provided—
 (a) that such acquisition is needed for the construction of some work, and
 (b) that such work is likely to prove useful to the public.
 (2) Such inquiry shall be held by such officer and at such time and place as the British Resident shall appoint.
 (3) Such officer may summon and enforce the attendance of witnesses and compel the production of documents.

Report. 33. Such officer shall report to the British Resident the result of the inquiry, and, if the British Resident is satisfied that the proposed acquisition is needed for the construction of a work, and that such work is likely to prove useful to the public he shall, subject to such Rules as he may from time to time prescribe in this behalf, require the company to enter into an agreement with him, providing to his satisfaction for the following matters—

- (a) the payment to the Government of the cost of the acquisition;
- (b) the transfer, on such payment, of the land to the company;
- (c) the terms on which the land shall be held by the company;
- (d) the time within which, and the conditions on which the work shall be executed and maintained; and
- (e) the terms on which the public shall be entitled to use the work.

34. Every such agreement shall, as soon as may be after its execution, be published in the *Gazette*, and shall thereupon (so far as regards the terms on which the public shall be entitled to use the work) have the same effect as if it had formed part of this Decree. Publication.

PART VIII

MISCELLANEOUS

35.—(1) Service of any notice under this Decree shall be made by delivering or tendering a copy thereof signed, in the case of a notice under section 4, by the officer therein mentioned, and, in the case of any other notice, by or by order of the District Commissioner or the court. Service of notices.

(2) Whenever it may be practicable, the service of the notice shall be made on the person therein named.

(3) When such person cannot be found, the service may be made on any adult male member of his family residing with him; and if no such adult male member can be found, the notice may be served by fixing the copy on the outer door of the house in which the person therein named ordinarily dwells or carries on business, or by fixing a copy thereof in some conspicuous place in the office of the officer aforesaid or of the District Commissioner or in the court-house, and also in some conspicuous part of the land to be acquired:

Provided that, if the District Commissioner or court shall so direct, a notice may be sent by post, in a registered letter addressed to the person named therein at his last known residence, address, or place of business, and service of it may be proved by the production of the addressee's receipt.

36. Whoever wilfully obstructs any person in doing any of the acts authorised by section 5 or section 8, or wilfully fills up, destroys, damages, or displaces any trench or mark made under section 5, shall, on conviction therefor, be liable to imprisonment for a term not exceeding one month, or to a fine not exceeding seventy five shillings, or to both. Obstructing lawful authority.

37.—(1) Except in the case provided for in section 28, the British Resident shall be at liberty to withdraw from the acquisition of any land of which possession has not been taken. Withdrawal from acquisition.

(2) Whenever the British Resident withdraws from any such acquisition, the owner shall be entitled to compensation due for any damage suffered by him in consequence of the notice or any proceedings thereunder, together with all costs reasonably incurred by him in the prosecution of proceedings under this Decree or the Acquisition of Land (Assessment of Compensation) Decree relating to the said land. 2 of 1948, s.16.
Cap 96.

(3) The provisions of Part III shall apply, so far as may be, to the determination of the compensation payable under this section.

2 of 1948,
s.16. (4) The provisions of Part V shall apply to all moneys payable to an owner of land under this section.

Acquisition
of part of a
property.

38.—(1) The provisions of this Decree shall not be put in force for the purpose of acquiring a part only of any house, manufactory, or other building, if the owner desires that the whole of such house, manufactory, or building shall be so acquired:

Provided that the owner may, at any time before the District Commissioner has made his award under section 11, by notice in writing, withdraw or modify his expressed desire that the whole of such house, manufactory, or building shall be so acquired:

Provided also that, if any question shall arise as to whether any land proposed to be taken under this Decree does or does not form part of a house, manufactory, or building within the meaning of this section, the District Commissioner shall refer the determination of such question to the court, and shall not take possession of such land until after the question has been determined.

(2) In deciding on such a reference the court shall have regard to the question whether the land proposed to be taken is reasonably required for the full and unimpaired use of the house, manufactory, or building.

2 of 1948,
s.17.

(3) If under any law for the time being in force any person interested shall claim compensation for damage on account of the severing of the land to be acquired from his other land, and the British Resident is of opinion that such claim is unreasonable or excessive, he may, at any time before the Compensation Board has given a decision in regard to such compensation, order the acquisition of the whole of the land of which the first land sought to be acquired forms part.

(4) In the case provided for in subsection (3), no fresh declaration or other proceedings under sections 6 to 10 (both inclusive) shall be necessary; but the District Commissioner shall without delay furnish a copy of the order of the British Resident to the person interested and to the Compensation Board, and the District Commissioner shall thereafter proceed to make his award under section 11.

Charges of
acquisition
by company
paid by
themselves.

39.—(1) Where the provisions of this Decree are put in force for the purpose of acquiring land at the cost of any company, the charges of and incidental to such acquisition shall be defrayed by the company.

2 of 1948,
s.18.

(2) In any proceeding held before a District Commissioner or court in such cases, the company concerned may appear and adduce evidence for the purpose of determining the amount of compensation.

No duty
payable.

40. No award or agreement made under this Decree shall be chargeable with any duty, and no person claiming under any such award or agreement shall be liable to any fee for a copy of the same.

Month's
notice of
intended
proceedings.

41.--- No suit or other proceeding shall be commenced or prosecuted against any person for anything done in pursuance of this Decree, without giving to such person a month's previous notice in writing of the intended proceeding and of the cause thereof, nor after tender of sufficient awards.

Limitation of
suits of
compensation.
Cap. 12.

42.---(1) Subject to the provisions contained in section 4 to 25 (both inclusive) of the Limitation Decree, every suit instituted against the Government for compensation for land acquired for public purpose shall be instituted within one year after the date of determining the amount of such compensation, or, when such acquisition is not completed, within one year after the date of refusal to complete.

(2) Every suit instituted after the period prescribed thereof in subsection (1) shall be dismissed although limitation has not been set up as a defence.

(3) For the purposes of this section, a suit is instituted when the plaint is presented to the proper officer:

Provided that in the case of a poor person, the suit shall be deemed to have been instituted when his application to sue as a poor person has been made.

**ACQUISITION OF LAND
(ASSESSMENT OF
COMPENSATION) DECREE 96/1909**

THE LAWS OF ZANZIBAR

CHAPTER 96

ACQUISITION OF LAND (ASSESSMENT OF COMPENSATION)

(PRINCIPAL LEGISLATION)

2 **CAP. 96.] *Acquisition of Land (Assessment of Compensation)***

CHAPTER 96

ACQUISITION OF LAND (ASSESSMENT OF COMPENSATION)

ARRANGEMENT OF SECTIONS

1. Short title.
2. Definitions.
3. Establishment of Compensation Boards.
4. The Board to assess compensation in respect of land compulsorily acquired.
5. Rules for the assessment of compensation.
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7. Proceedings of Board to be public.
8. Power of Board to regulate proceedings.
9. Rule as to evidence before the Board.
10. Power of Board to summon and examine witnesses.
11. Expert witnesses.
12. Statement of special case for opinion of High Court.
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CHAPTER 96

ACQUISITION OF LAND (ASSESSMENT OF COMPENSATION)

A Decree to amend the law as to the assessment of compensation in respect of land acquired compulsorily for public purposes and the proceedings thereon

1 of 1948.
5 of 1956.

[1ST APRIL, 1949.]

1. This Decree may be cited as the Acquisition of Land (Assessment of Compensation) Decree. Short title.
2. In this Decree, unless the context otherwise requires— Definitions.
 - "company" includes any person, partnership or association, whether incorporated or not;
 - "District Commissioner" includes any person specially appointed by the British Resident to perform the duties of a District Commissioner for the purposes of the Land Acquisition Decree; Cap. 95.
 - "land" includes benefits to arise out of land, and things attached to the earth, or permanently fastened to anything attached to the earth;
 - "person interested" includes any person claiming an interest in compensation to be made on account of the compulsory acquisition of land under the provisions of any Decree (other than the Town and Country Planning Decree) and a person shall be deemed to be interested in land if he is interested in an easement affecting the land. 5 of 1956.
s.2.
Cap. 85.
- 3.—(1) For the purposes of this Decree there shall be established one or more Compensation Boards (hereinafter referred to as "the Board") which shall discharge the duties assigned under this Decree to the Board in such areas as the British Resident may, by notice in the *Gazette*, direct. Establishment of Compensation Boards.
 - (2) The Board shall consist of such members as the British Resident may, by notice in the *Gazette*, from time to time appoint.
 - (3) The Chairman of the Board shall be selected by the British Resident from amongst the members so appointed.
 - (4) The British Resident may appoint a Secretary to attend the proceedings of the Board and to perform such duties connected with such proceedings as the Chairman of the Board shall from time to time direct. Such Secretary shall be appointed from among the members of the Board or not as the British Resident thinks fit, and if he is not so appointed, he shall take no part in the deliberations of the members of the Board.
 - (5) The Chairman and two other members shall form a quorum at any proceedings of the Board.

4 **CAP. 96.] Acquisition of Land (Assessment of Compensation)**

The Board to assess compensation in respect of land compulsorily acquired. 5 of 1956, s.3.

4. Subject to the other provisions of this Decree, where by or under any Decree (other than the Town and Country Planning Decree) land is authorised to be acquired compulsorily for public purposes or for a company by the Government, or by any Government Department, or by a local or public authority, every question of compensation with respect to any such land shall be referred to and determined by the Board.

Rules for the assessment of compensation. First Schedule.

5. In assessing compensation under this Decree, the Board shall act in accordance with the rules set out in the First Schedule.

Power of Board to enter and inspect land.

6. The Board or its authorised representative shall have power to enter and inspect any land for the purposes of determining the amount of compensation to be awarded in respect of such land.

Proceedings of Board to be public.

7.—(1) Proceedings under this Decree shall be before the Board sitting in public:

Provided that the Board shall have the same powers as any court in regard to the exclusion or expulsion of any person and the maintenance of order.

(2) Nothing in this section contained shall empower the Board to punish or send for trial any person for an act which would amount to a contempt of court if done in the presence of a court.

Power of Board to regulate proceedings.

8. Subject only to the provisions of this Decree and of any rules made thereunder, the Board may from time to time make such rules as it thinks fit for its guidance, and for the conduct and management of proceedings before it, and the dates, hours and places for its sittings.

Rule as to evidence before the Board.

9. In the determination of any matter the Board may take into consideration any evidence which it considers relevant to the subject of the inquiry before it, notwithstanding that such evidence would not be admissible under the law relating to evidence.

Power of Board to summon and examine witnesses.

10.—(1) The Board shall have all the powers of a court in respect to the summoning of witnesses to give evidence or to produce any book, paper, document or other thing, and in respect to the examination on oath of any person summoned or otherwise appearing before the Board to give evidence.

Second Schedule.

(2) Any summons issued as aforesaid shall be in the form prescribed in the Second Schedule, or in such other form as the High Court may from time to time prescribe, and shall be signed by the Chairman or one of the members of the Board acting on his behalf, and any person duly summoned in manner aforesaid shall be legally bound to speak the truth to the best of his knowledge and belief.

(3) No omission to take any oath, and no irregularity whatever in the form in which any such oath is administered, shall invalidate any proceeding or render inadmissible any evidence whatever in, or in respect of, which such omission or irregularity took place, or shall affect the obligation of a witness to state the truth.

(4) In this section "oath" includes and applies to the affirmation or declaration of any person by law empowered to make an affirmation or declaration in lieu of an oath.

11. In any proceedings before the Board, not more than one expert witness on either side shall be heard, unless the Board otherwise directs: Expert witnesses.

Provided that where the claim includes a claim for compensation in respect of minerals, or disturbance of business, as well as in respect of land, the Board may allow one additional expert witness on either side on the value of the minerals or on the damage suffered by reason of the disturbance, as the case may be.

12.—(1) The Board may, and shall, if the High Court so directs, state at any stage of the proceedings, in the form of a special case for the opinion of the High Court, any question of law or of usage having the force of law arising in the course of the proceedings, and may state its decision as to the whole or part thereof in the form of a special case for the opinion of the High Court. Statement of special case for opinion of High Court.

(2) The High Court, with the approval of the British Resident, may make rules prescribing the practice and procedure to be followed with respect to the statement of a special case under this section:

Provided that, until varied or revoked by any such rules, the rules set forth in the Third Schedule shall be in force with respect to such practice and procedure. Third Schedule.

13. All matters considered by the Board shall, in the event of a difference of opinion, be decided by the votes of the majority of members present at the proceedings and, in the event of an equality of votes, the Chairman shall have a casting vote. Division of opinion amongst members of Board.

14.—(1) Where there are several persons interested and such persons agree in the apportionment of the compensation, the Board shall in its decision specify the particulars of such apportionment and, as between such persons, the decision of the Board shall be conclusive evidence of the correctness of such apportionment. Apportionment of compensation.

(2) If any dispute arises as to the apportionment of the amount of compensation to be awarded or any part thereof, or as to the persons to whom the same or any part thereof is payable, and the Board entertains any reasonable doubt regarding such matter in dispute, the Board may, in the manner provided by section 12, state such matter in the form of a special case for the opinion of the High Court.

6 **CAP. 96.] Acquisition of Land (Assessment of Compensation)**

Delivery and
contents of
decision of
Board.

Cap. 95.

15.—(1) The decision of the Board shall be in writing and shall state—

- (a) the situation and extent of the land, with particulars of any trees, buildings, or standing crops thereon;
- (b) the amount awarded for damages and paid or tendered under sections 5 and 17 of the Land Acquisition Decree and the amount of compensation awarded by the Board;
- (c) the apportionment of the said compensation amongst all the persons known or believed to be interested in the land, of whom, or of whose claims, the Board has information, whether or not they have respectively appeared before the Board;
- (d) the grounds upon which the amount of compensation has been determined by the Board.

(2) When the Board is not unanimous in its decision the majority of the members shall sign the decision as their decision and the dissenting minority shall sign as dissenting and may, if they so desire, record their reasons either individually or as a minority.

(3) The decision of the majority of the members of the Board shall be delivered in public, either immediately after the termination of the proceedings or on some future day, of which due notice shall be given to such persons interested as have appeared at the proceedings or to their advocates.

(4) The opinions, if recorded, of the minority of the members of the Board shall not be read out unless at the request of a party interested.

(5) A certified copy of the decision of the majority of the members of the Board shall be sent as soon as conveniently may be to the District Commissioner.

Appeals
from deci-
sions of the
Board.

Cap. 95.

16.—(1) Subject to the provisions hereinafter contained, any person aggrieved by a decision of the Board may appeal to the High Court: Provided that—

- (a) no person who has received the amount of compensation awarded by the Board otherwise than under protest shall be entitled to appeal under this section;
- (b) no company shall be entitled to appeal under this section in respect of any decision of the Board as to the compensation to be paid by such company in respect of land acquired under the provisions of Part VII of the Land Acquisition Decree.

(2) For the purposes of this section, the expression “any person aggrieved” includes the Attorney-General acting on behalf of the Government.

Time in
which an
appeal
must be
preferred.

17. Every appeal to the High Court under this Decree shall be made within six weeks from the date of the delivery of the decision which is the subject of the appeal.

18. An appeal to the High Court may be preferred by way of objection to—

Grounds on which an appeal may be preferred.

- (a) the measurement of the land;
- (b) the amount of compensation awarded;
- (c) the persons to whom such compensation is payable; or
- (d) the apportionment of the compensation amongst the persons interested.

19. When the grounds of an appeal include an objection to the amount of compensation awarded, the High Court shall, in assessing such compensation, act in accordance with the Rules set out in the First Schedule.

Assessment of compensation by High Court.

20.—(1) Subject to the other provisions of this Decree, the High Court may make such order as it thinks proper including any directions as to the costs of the appeal.

Power of High Court on appeal.

(2) Any such order of the High Court shall be final.

21. Appeals under this Decree may be heard at the discretion of the Chief Justice by one or two judges:

Number of judges on appeal.

Provided that—

- (a) where an appeal has been commenced before one judge, the Chief Justice may, at any time, before judgment is delivered, direct that the appeal be heard by two judges (if available), and
- (b) if on the hearing of the appeal the High Court is equally divided, the appeal shall be dismissed.

22. The High Court may, in any case in which it appears to be expedient, call in the aid of one or more assessors especially qualified and may hear such case wholly or partially with the assistance of such assessor or assessors.

Power to call assessors for hearing of appeals.

23. No decision of the Board shall be reversed or substantially varied on appeal on account of any error, defect, or irregularity in any proceedings before the Board, not affecting the merits of the case or the jurisdiction of the Board.

Omissions and errors in proceedings before the Board.

24. The High Court, with the approval of the British Resident, may make Rules prescribing the method of giving evidence at the hearing of appeals under this Decree, the practice and procedure to be followed with respect to such appeals and the manner of notifying the Board of an appeal:

Practice and procedure relating to appeals.

Provided that, until varied or revoked by any such rules, the rules set forth in the Fourth Schedule shall be in force with respect to such appeals.

Fourth Schedule.

8 **CAP. 96.] Acquisition of Land (Assessment of Compensation)**

Provisions
as to
criminal
proceedings.
Cap. 13.

25.—(1) Every member of the Board and the Secretary thereof shall be deemed to be a person employed in the public service, and any proceedings under this Decree shall be deemed to be a judicial proceeding, within the meaning of the Penal Decree.

(2) No criminal proceedings against any member of the Board or the Secretary for anything done or omitted to be done in his capacity as such member or Secretary, as the case may be, shall be instituted except by the direction of the Attorney-General, and no other sanction than such direction shall be required.

Exemption
of members
of Board
from suits.

26. No member of the Board nor any person acting under the authority of any such member as such shall be liable to any action, suit or proceeding for any matter or thing done *bona fide* under this Decree.

Power of
Attorney-
General to
delegate
authority.

27.—(1) The Attorney-General, by writing under his hand, may appoint for the purposes of any case any advocate of the High Court or any person employed in the public service to exercise all or any of the powers or to perform all or any of the duties which he is empowered or required to exercise or perform under this Decree or any rule made thereunder.

(2) Every advocate or other person so appointed shall be under the express direction of the Attorney-General.

Effect of
this Decree
on the Land
Acquisition
Decree.
Cap. 95.
5 of 1956,
s.4.

28. The provisions of the Land Acquisition Decree or any order made thereunder by which the acquisition of land is authorised shall, in relation to the matters dealt with in this Decree, have effect subject to this Decree and, so far as inconsistent with this Decree, those provisions shall cease to have or shall not have effect:

Provided that nothing in this Decree relating to the rules for assessing compensation shall affect—

- (a) the assessment of any compensation payable for any damage done by any officer authorised by the British Resident and entering upon any land for any of the purposes mentioned in section 5 of the Land Acquisition Decree;
- (b) any question as to the sufficiency of any compensation or apportionment thereof in respect of waste or arable land temporarily occupied under Part VI of the Land Acquisition Decree;
- (c) any dispute as to the condition of any such land at the expiration of such period of temporary occupation or as to any matter connected with any agreement for temporary occupation of such land.

Savings.
Cap. 85.
5 of 1956,
s.5.

29.—(1) Nothing in this Decree shall affect any question relating to compensation payable under the Town and Country Planning Decree.

(2) Nothing in this Decree shall affect the power of the District Commissioner, with the approval of the British Resident, to purchase any land required for public purposes by agreement or the power of

the District Commissioner, with the sanction of the British Resident, to enter into any arrangement for the acquisition of such land by the grant of other lands in exchange or in such other way as may be authorised by any law for the time being in force.

(3) Nothing in this Decree shall affect the power of a company to acquire land by agreement with the persons interested.

(4) Nothing in this Decree shall affect the power of a District Commissioner under section 17 of the Land Acquisition Decree to offer compensation to any person interested in respect of land of which possession is taken in a case of urgency: Cap. 95.

Provided that, in case any such offer is not accepted, such compensation shall be assessed under the provisions of this Decree.

FIRST SCHEDULE

(Section 5)

RULES FOR THE ASSESSMENT OF COMPENSATION IN RESPECT OF LAND COMPULSORILY ACQUIRED

- | | |
|---|----------------------|
| 1. These Rules are divided into the following parts:— | Division into parts. |
| Part I—Interpretation Rule 2 | |
| Part II—Compensation for land compulsorily acquired Rules 3 to 6 | 5 of 1956, s.6. |
| Part III—Compensation on withdrawal from acquisition of land Rules 7 to 9 | |

PART I

INTERPRETATION

- 2.—(1) In these Rules, unless the context otherwise requires— Definitions.
- “compulsorily acquired” means compulsorily acquired under the provisions of the Land Acquisition Decree; 5 of 1956, s.6. Cap. 95.
- “notification of intended acquisition” means a notification issued under section 6 of the Land Acquisition Decree. Cap. 95.

(2) Except as otherwise provided by these Rules or where the context otherwise requires, words and expressions in these Rules shall have the meanings respectively assigned to them by the Decree.

PART II

COMPENSATION FOR LAND COMPULSORILY ACQUIRED

3. Except as otherwise provided by section 28 of the Decree, the Rules in this Part shall apply to the assessment of compensation in respect of any land compulsorily acquired for any public purpose or for a company. Application of Part II. 5 of 1956, s.6.

10 CAP. 96.] *Acquisition of Land (Assessment of Compensation)*

Matters
for con-
sideration
of Board.
5 of 1956,
s.6.

4.—(1) In determining the amount of compensation to be awarded for land compulsorily acquired for any public purposes or for a company, the Board shall take into consideration—

- (a) the market value of the land at the date of the publication of the notification of intended acquisition;
- (b) the damage sustained by the person interested by reason of the taking of any standing crops or trees which may be on the land at the time of the taking possession thereof;
- (c) subject to the provisions of paragraph (3), any damage sustained by the person interested, at the time of the taking possession of the land, by reason of severing such land from his other land;
- (d) any damage sustained by the person interested at the time of the taking possession of the land, by reason of the acquisition injuriously affecting his other property, movable or immovable, in any other manner, or his earnings;
- (e) if, in consequence of the acquisition of the land, the person interested is compelled to change his residence or place of business, the reasonable expenses incidental to such change; and
- (f) any damage *bona fide* resulting from diminution of the profits of the land between the time of the publication of the notification of intended acquisition and the time of the taking possession of the land.

(2) In addition to the market value of the land as provided for in sub-paragraph (a) of paragraph (1), the Board shall in every case award a sum of fifteen *per centum* on such market value, in consideration of the compulsory nature of the acquisition.

Cap. 95.

(3) Nothing contained in this rule shall be deemed to affect the power of the British Resident under subsection (3) of section 38 of the Land Acquisition Decree to order the acquisition of the whole of any land in respect any part of which a claim to compensation has been made under sub-paragraph (c) of paragraph (1).

Matters
which the
Board shall
not take into
considera-
tion.

5. The Board shall not take into consideration—

- (a) the degree of urgency which has led to the acquisition;
- (b) any disinclination of the person interested to part with the land acquired;
- (c) any damage sustained by him which, if caused by a private person, would not render such person liable to a suit;
- (d) any damage which is likely to be caused to the land acquired after the date of the publication of notification of intended acquisition by or in consequence of the use to which it will be put;
- (e) any increase to the value of the land acquired likely to accrue from the use to which it will be put when acquired;

- (f) any increase to the value of the other land of the person interested likely to accrue from the use to which the land acquired will be put; or
- (g) any outlay or improvements on, or disposal of, the land acquired, commenced, made, or effected without the sanction of the District Commissioner after the date of the publication of the notification of intended acquisition.

6. When any waste or arable land compulsorily acquired is taken possession of by the District Commissioner under section 17 of the Land Acquisition Decree in a case of urgency, the Board may, in the absence of any agreement between the District Commissioner and the person interested, award compensation for the standing crops and trees (if any) on such land and for any other damage sustained by the person interested and caused by such sudden dispossession:

Compensation for sudden dispossession in a case of urgency. Cap. 95.

Provided that nothing in this rule shall be deemed to authorise the Board to take into consideration any of the matters referred to in rule 5.

PART III

COMPENSATION ON WITHDRAWAL FROM ACQUISITION

7. When in exercise of his powers under section 37 of the Land Acquisition Decree the British Resident withdraws from the acquisition of any land, the owner of such land shall be entitled to all costs reasonably incurred by him in the prosecution of any proceedings under the Decree, or the Land Acquisition Decree and also to compensation for any damage suffered by him in consequence of the notice of intended acquisition or of any proceedings thereunder.

Withdrawal from acquisition. Cap. 95.

8. Compensation payable under this Part shall be assessed in accordance with the Rules, so far as they may be applicable, laid down in Part II.

How compensation to be payable. 5 of 1956, s.6.

9.—(1) For the purposes of ascertaining the costs to which the owner of any land is entitled under this Part the Board may direct that the same be taxed by a Registrar or District Registrar of the High Court. Such Registrar or District Registrar shall certify such taxation to the Board and the Board may direct that the sum so certified shall be paid to the owner of such land.

Costs, how to be assessed.

(2) The provisions of the Advocates' Remuneration and Taxation of Costs Rules shall apply to any taxation of costs under this Part in the same manner as they apply to the taxation of costs of a successful defendant as between party and party in a civil proceedings:

Cap. 28, p. 13.

Provided that nothing herein contained shall be deemed to empower the Board to direct the payment of any costs upon the "Higher Scale" referred to in rule 13 of the said Rules.

(3) Notwithstanding anything hereinbefore contained, the Board may direct the payment of a lump sum in lieu of taxed costs.

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SECOND SCHEDULE

(Section 10 (2))

FORM OF WITNESS SUMMONS

To.....

You are hereby summoned to appear before the Compensation Board at..... on the..... day of....., 19....., at..... o'clock in the..... noon and to give evidence respecting the amount of compensation to be awarded in respect of the compulsory acquisition of certain property situated at..... (if the person summoned is to produce any document or other thing, add) and you are hereby required to bring with you (here specify the document or things required).

Dated this..... day of....., 19.....

(Signed)
Member of Compensation Board

THIRD SCHEDULE

(Section 12 (2))

RULES RELATING TO STATEMENT OF SPECIAL CASES BY THE BOARD TO THE HIGH COURT

Reference of question to High Court.

1. Where during the course of any proceedings before the Board any question of law, or usage having the force of law, arises on which the Board entertains reasonable doubt, the Board may, either of its own motion or on the application of any of the parties, and shall, if the High Court so directs, draw up a statement of the facts of the case and the point on which doubt is entertained, and refer such statement for the decision of the High Court.

Board may make decision contingent upon decision of High Court.

2. Subject to any directions of the High Court, the Board may either stay the proceedings or proceed in the case notwithstanding such reference, and may make a decision contingent upon the decision of the High Court on the point referred, but no decision of the Board shall be carried into effect in any case in which such reference is made until the receipt of a copy of the judgment of the High Court upon the reference.

Judgment of High Court to be transmitted, and case disposed of accordingly.

3. The High Court, after hearing the parties if they appear and desire to be heard, shall decide the point so referred, and shall transmit a copy of its judgment, under the signature of the Registrar, to the Board, and such Board shall, on the receipt thereof, proceed to dispose of the case in conformity with the decision of the High Court.

4. The costs (if any) consequent on a reference for the decision of the High Court shall be costs in the proceedings. Costs of reference to High Court.

5. Where a case is referred to the High Court under rule 1, the High Court may return the case for amendment and may alter, cancel or set aside any decision of the Board in the case out of which the reference arose, and make such order as it thinks fit. Power to alter, etc., decision of Board making reference.

6.—(1) Where at any stage in the proceedings before it the Board has doubts whether any question in such proceedings is cognisable by such Board, it may submit the record to the High Court with a statement of its reason for the doubt as to its jurisdiction in respect of such question. Power to refer to High Court. question as to jurisdiction.

(2) On receiving the record and statement, the High Court may order the Board either to proceed to determine such question or to refer the parties to such court as the High Court may in its order declare to be competent to take cognisance of the question.

FOURTH SCHEDULE

(Section 24)

RULES RELATING TO THE PRACTICE AND PROCEDURE IN APPEALS TO THE HIGH COURT

1.—(1) Any person (other than an appellant) who is likely to be affected by any objection taken on an appeal shall be deemed to be a respondent for the purposes of such appeal. "Respondent" defined.

(2) When an objection is taken on appeal by any person interested to the area of the land or to the amount of compensation awarded by the Board, the Attorney-General shall be deemed to be a respondent for the purposes of such appeal.

2. Every appeal to the High Court under the Decree shall be made in the form of a petition in writing presented by the appellant or his advocate, and every such petition shall (unless the High Court otherwise directs) be accompanied by a copy of the decision appealed against. Petition of appeal.

3. When the appellant is represented by an advocate the appeal shall contain particulars of the matters of law or of fact in regard to which the Board is alleged to have erred. Contents of petition.

4. The appellant shall not, except by leave of the court, urge or be heard in support of any ground of objection not set forth in the petition of appeal, but the High Court, in deciding the appeal, shall not be confined to the grounds of objection set forth in the petition of appeal or taken by leave of the court under this rule: Grounds which may be taken in appeal.

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Provided that the court shall not rest its decision on any other ground unless the party who may be affected thereby has had a sufficient opportunity of contesting the case on that ground.

One of several persons interested may obtain reversal of whole decision where it proceeds on ground common to all.

5. Where the decision of the Board proceeds on any ground common to more than one of several persons interested, any one of such persons may appeal from the decision of the Board, and thereupon the High Court may reverse or vary such decision in favour of all such persons interested.

Court may require appellant to furnish security for costs.

6. The High Court may in its discretion, either before the respondent is called upon to appear and answer or afterwards on the application of the respondent, demand from the appellant security for the costs of the appeal:

Where appellant resides out of Zanzibar.

Provided that the court shall demand such security in all cases in which the appellant is residing out of Zanzibar, and is not possessed of any sufficient immovable property within Zanzibar other than the property (if any) to which the appeal relates.

Power to dismiss appeal without sending notice to Board.

7.—(1) The High Court after sending for the record if it thinks fit so to do, and after fixing a day for hearing the appellant or his advocate and hearing him accordingly if he appears on that day, may dismiss the appeal without sending notice to the Board and without serving notice on the respondent or his advocate.

(2) If on the day fixed or any other day to which the hearing may be adjourned the appellant does not appear when the appeal is called on for hearing, the court may make an order that the appeal be dismissed.

(3) The dismissal of an appeal under this rule shall be notified to the Board.

Day of hearing appeal.

8.—(1) Unless the High Court dismisses the appeal under rule 7, it shall fix a day for hearing the appeal.

(2) Such day shall be fixed with reference to the current business of the court, the place of residence of the respondent, and the time necessary for the service of the notice of appeal, so as to allow the respondent sufficient time to appear and answer the appeal on such day.

High Court to give notice to Board.

9.—(1) Where the appeal is not dismissed under rule 7, the High Court shall send notice of the appeal to the Board.

Transmission of papers to High Court.

(2) On receiving such notice, the Board shall send with all practicable despatch all material papers in the proceedings, or such papers as may be specially called for by the High Court.

Copies of exhibits in custody of Board.	(3) Either party may apply in writing to the Board specifying any of the papers in the custody of the Board of which he requires copies to be made: and copies of such papers shall be made at the expense of, and given to, the applicant.
Service of notice of day for hearing appeal.	10. Notice of the day fixed under rule 9 shall be served on the respondent or on his advocate in the High Court in the manner provided for the service on a defendant of a summons to appear and answer a claim in a civil suit; and all the provisions applicable to such summons and to the proceedings with reference to service thereof shall apply to the service of a notice under this rule.
Contents of notice.	11. The notice to the respondent shall declare that, if he does not appear in the High Court on the day so fixed, the appeal will be heard <i>ex parte</i> .
Right to begin.	12.—(1) On the day fixed, or on any other day to which the hearing may be adjourned, the appellant shall be heard in support of the appeal. (2) The court shall then, if it does not dismiss the appeal at once, hear the respondent against the appeal, and in such case the appellant shall be entitled to reply.
Dismissal of appeal for appellant's default.	13.—(1) Where on the day fixed, or on any other day to which the hearing may be adjourned, the appellant does not appear when the appeal is called on for hearing, the court may make an order that the appeal be dismissed.
Hearing appeal <i>ex parte</i> .	(2) Where the appellant appears and the respondent does not appear, the appeal shall be heard <i>ex parte</i> .
Dismissal of appeal where notice not served in consequence of appellant's failure to deposit costs.	14. Where on the day fixed, or on any other day to which the hearing may be adjourned, it is found that the notice to the respondent has not been served in consequence of the failure of the appellant to deposit, within the period fixed, the sum required to defray the cost of serving the notice, the court may make an order that the appeal be dismissed: Provided that no such order shall be made although the notice has not been served upon the respondent, if on any such day the respondent appears when the appeal is called on for hearing.
Re-admission of appeal dismissed for default.	15. Where an appeal is dismissed under paragraph (2) of rule 7, or rule 13 or rule 14, the appellant may apply to the High Court for the re-admission of the appeal; and, where it is proved that he was prevented by any sufficient cause from appearing when the appeal was called on for hearing or from depositing the sum so required, the court shall re-admit the appeal on such terms as to costs or otherwise as it thinks fit.
Power to adjourn hearing and direct person appearing interested to be made respondent.	16. Where it appears to the court at the hearing that any person who was a party to the proceedings before the Board, but who has not been made a party to the appeal, is interested in the result of the appeal, the court may adjourn the hearing to a future day to be fixed by the court and direct that such person be made a respondent.

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Re-hearing on application of respondent against whom *ex parte* judgment made.

17. Where an appeal is heard *ex parte* and judgment is pronounced against the respondent, he may apply to the High Court to re-hear the appeal; and if he satisfies the court that the notice was not duly served or that he was prevented by sufficient cause from appearing when the appeal was called on for hearing, the court shall re-hear the appeal on such terms as to costs or otherwise as it thinks fit to impose upon him.

Upon hearing respondent may object as if he had preferred separate appeal.

18.—(1) Though he may not have appealed from any part of the decision of the Board, any respondent may not only support such decision on any of the grounds decided against him by the Board, but may also take a cross-objection to such decision which he could have taken by way of appeal.

(2) Unless the High Court otherwise directs, such cross-objection shall be in the form of a petition, and the provisions of rules 2 and 3, so far as they relate to the form and contents of the petition of appeal, shall apply thereto.

(3) Such cross-objection shall be filed within seven days from the date of service on him or his advocate of the day fixed for the hearing of the appeal, or within such further time as the High Court may see fit to allow.

(4) Unless the respondent files with the objection a written acknowledgment from the party who may be affected by such objection or his advocate of having received a copy thereof, the High Court shall cause a copy to be served, as soon as may be after the filing of the objection, on such party or his advocate at the expense of the respondent.

(5) Where, in any case in which any respondent has under this rule filed a memorandum of objection, the original appeal is withdrawn or is dismissed for default, the objection so filed may nevertheless be heard and determined after such notice to the other parties as the court thinks fit.

(6) The provisions relating to appeals by poor persons in civil suits shall, so far as they can be made applicable, apply to an objection under this rule.

Where evidence on record sufficient, High Court may determine case finally.

19. Where the evidence upon the record is sufficient to enable the High Court to pronounce judgment, the High Court may finally determine the case, notwithstanding that the decision of the Board has proceeded wholly upon some ground other than that on which the High Court proceeds.

Production of additional evidence in High Court.

20.—(1) The parties to an appeal shall not be entitled to produce additional evidence, whether oral or documentary, in the High Court; but if—

(a) the Board has refused to admit evidence which ought to have been admitted; or

(b) the High Court requires any document to be produced or any witness to be examined to enable it to pronounce judgment, or for any other substantial cause,

the High Court may allow such evidence or document to be produced, or witness to be examined.

(2) Wherever additional evidence is allowed to be produced by the High Court, the court shall record the reason for its admission.

21. Wherever additional evidence is allowed to be produced, the High Court may either take such evidence, or direct the Board, or a subordinate court, to take such evidence and to send it when taken to the High Court.

Mode of taking additional evidence.

22. Where additional evidence is directed or allowed to be taken the High Court shall specify the points to which the evidence is to be confined, and record in its proceedings the points so specified.

Points to be defined and recorded.

23. The High Court, after hearing the parties or their advocates and referring to any part of the proceedings, whether on appeal or in the proceedings before the Board, to which reference may be considered necessary, shall pronounce judgment in open court, either at once or on some future day of which notice shall be given to the parties or their advocates.

Judgment when and where pronounced.

24. The judgment may be for confirming, varying or reversing the decision of the Board, or, if the parties to the appeal agree as to the form which the decree in appeal shall take, or as to the order to be made in appeal, the High Court may pass a decree or make an order accordingly.

What judgment may direct.

25.—(1) When an appellant has refused to make a claim to compensation or has omitted, without sufficient reason (to be allowed by the court) to make such claim, the amount awarded by the court shall in no case exceed the amount awarded by the Board.

Limitation on amount of compensation to be awarded by High Court.

(2) When the applicant has omitted for a sufficient reason (to be allowed by the court) to make such claim, the amount awarded to him by the court may exceed the amount awarded by the Board.

26. Every judgment of the High Court shall be in writing, and shall specify the amount awarded under rule 4 in the First Schedule and also the amounts respectively awarded under each of the other rules in the said Schedule, together with the grounds of awarding each of the said amounts.

Contents of judgment. 5 of 1956, s.7.

27.—(1) Every such judgment shall state the amount of costs allowed by the High Court and by what persons and what proportions they are to be paid.

Costs.

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(2) Such costs shall be in the discretion of the High Court, and such court shall have full power to determine by whom and out of what property and to what extent such costs are to be paid, and to give all necessary directions for the purposes aforesaid.

(3) When the decision of the Board is not upheld, the costs shall usually follow the event, unless the High Court shall be of the opinion that the claim of the successful party was so extravagant or that he was so negligent in putting his case before the Board that some deduction from his costs should be made, or that he should pay a part of the costs of the unsuccessful party.

(4) When for any of the above mentioned reasons or for any other reason the High Court gives directions that the costs shall not follow the event, the High Court shall state such reasons in writing.

Interest.

28. If the sum which, in the opinion of the High Court, the Board ought to have awarded as compensation is in excess of the sum which such Board did award as compensation, the High Court may give interest on such excess at the rate of nine *per centum per annum* from the date on which the District Commissioner took possession of the land to the date of payment of such excess into court.

Power of
High Court.
on appeal.

29. The High Court shall have power to pass or make such decree or order as the case may require, and this power may be exercised by the court notwithstanding that the appeal is as to part only of the decision of the Board and may be exercised in favour of all or any of the respondents or parties, although such respondents or parties may not have filed any appeal or objection.

Dissenting
judgment to
be recorded.

30. Where the appeal is heard by two judges and is dismissed in consequence of the court being equally divided in opinion, it shall be competent to the judge who is of the opinion that the appeal should be allowed to record the reasons for his opinions.

Date and
contents
of decree.

31.—(1) The decree of the High Court shall bear date the day on which the judgment was pronounced.

(2) The decree shall contain the number of the appeal, the names and descriptions of the appellant and respondent, and a clear specification of the adjudication made.

(3) The decree shall also state the amount of costs incurred in the appeal, and by whom, or out of what property, and in what proportions such costs and the costs in the suit are to be paid.

(4) The decree shall be signed and dated by the judge or judges who passed it:

Judge
dissenting
from judg-
ment need
not sign
decree.

Provided that where there are two judges and there is a difference of opinion among them, it shall not be necessary for the judge dissenting from the judgment of the court to sign the decree.

32. Certified copies of the judgment and decree in appeal shall be furnished to the parties on application to the High Court and at their expense.

Copies of judgment and decree to be furnished to parties.

33.—(1) A copy of the judgment and of the decree, certified by the High Court or such officer as it appoints in this behalf, shall be sent to the Board and shall be filed with the original in the case.

Certified copy of decree to be sent to Board and District Commissioner.

(2) A copy of the judgment and of the decree, certified in the like manner, shall also be sent to the District Commissioner, who shall thereupon make such orders and take such steps as are conformable to the judgment and decree so certified.

34. The provisions of Order XLVIII of the Civil Procedure Rules (which deal with applications by poor persons in respect of appeals) shall apply to appeals under the Decree in the same manner as they apply to appeals under the Civil Procedure Decree.

Pauper appeals.

Cap. 8.

35. Service of any notice under these Rules may be effected in the manner prescribed for the service of a summons in a civil suit:

Provided that, if the High Court so directs, such notice may be sent by post in a registered packet addressed to the person named therein at his last known residence, address or place of business, and in such case the production of the addressee's receipt, or of the official *avis de reception*, or any official indorsement on the packet may be accepted as evidence of service of such notice.

CAP. 96.

THE LAWS OF ZANZIBAR

CHAPTER 96

ACQUISITION OF LAND (ASSESSMENT OF COMPENSATION)

(SUBSIDIARY LEGISLATION)

22 CAP. 96.] *Acquisition of Land (Assessment of Compensation)*

[Subsidiary]

CHAPTER 96

ACQUISITION OF LAND (ASSESSMENT OF COMPENSATION)

RULES OF COURT

Under Article 40 of the Zanzibar Order in Council, -1924 and section 24 of the Courts Decree, Cap 3

G.N.
221 of 1931.
125 of 1939

The Prescribed Fees (Acquisition of Land Appeals) Rules

Title.

1. These Rules may be cited as the Prescribed Fees (Acquisition of Land Appeals) Rules.

Fees
leviable

2. The fees specified in the Schedule shall be leviable in the High Court in respect of the several matters and proceedings mentioned therein.

SCHEDULE

1. Upon an appeal under the Decree—

An ad valorem fee of 3 per centum upon the difference between the amount of the award and the amount claimed with a minimum fee of Shs. 15.

2. On the issue of every witness summons, notice (not particularly charged) in addition to the appropriate service fee Sh. 1 00

3. For service of every summons hearing notice or other document on a party witness or other person—

(a) within the township of the court of issue .. Shs. 2 00

(b) without the township of the court of issue .. Shs. 4 00

Provided that an additional fee of Shs. 2/- per service within the township of the court of issue, or Shs. 4/- per service without the township of the court of issue (as the case may be) shall be made at the request of a party within four days of the date on which such process is returnable.

4. Drawing, signing and sealing decree or order Shs. 5 00

**KANUNI ZA MALIPO YA
UFUNGUAJI MADAI KATIKA
MAHAKAMA YA ARDHI
LN 80/2016**

TANGAZO NAM. 80 LA 2016**SHERIA YA MAHAKAMA YA ARDHI
NAM. 7 YA MWAKA 1994****-----
KANUNI ZA MALIPO YA UFUNGUAJI MADAI
KATIKA MAHAKAMA YA ARDHI
[Chini ya Kifungu cha 43]
-----**

KWA UWEZO niliopewa chini ya kifungu cha 43 cha Sheria ya Mahakama ya Ardhi Nam. 7 ya mwaka 1994, MIMI SALAMA ABOUD TALIB, Waziri wa Ardhi, Maji, Nishati na Mazingira, Zanzibar natunga Kanuni zifuatazo:

Jina fupi na
kuanza
kutumika.

1. Kanuni hizi zitajulikana kama Kanuni za Malipo ya Ufunguaji Madai, Mahakama ya Ardhi, za 2016 na zitaanza kutumika mara baada ya kutiwa saini na Waziri.

Tafsiri

2. Katika Kanuni hizi isipokuwa kama maelezo yatahitaji vyenginevyo:

“Waziri” maana yake ni Waziri anayehusika na usimamizi wa Ardhi, Zanzibar.

“Mahakama ya Ardhi” maana yake ni Mahakama iliyoanzishwa chini ya kifungu Nambari 3 cha Sheria ya Mahakama ya Ardhi, Sheria Nambari 7 ya mwaka 1994.

Malipo

3.-(1) Kutakuwa na malipo ya ufunguaji wa madai, uwasilishaji wa hati mbali mbali na gharama nyenginezo katika Mahakama ya Ardhi.

(2) Viwango vya malipo vitakuwa kama inavyoelezwa katika Jadweli.

JADWELI YA MALIPO

Nam.	Aina ya Madai/Hati	Kiwango cha Malipo (TZS)
1.	Shamba	40,000/=
2.	Eka na masalia ya eka	30,000/=
3.	Kiwanja na msingi wa nyumba	30,000/=
4.	Nyumba na Boma	40,000/=
5.	Uchochoro wa Njia	20,000/=
6.	Kikataa	20,000/=

Nam.	Aina ya Madai/Hati	Kiwango cha Malipo (TZS)
7.	Ombi la Faragha	2,000/=
8.	Hati ya Kiapo	1,000/=
9.	Majibu ya Madai	1,000/=
10.	Majibu ya Kiapo	1,000/=
11.	Marekebisho ya Hati ya Madai	1,000/=
12.	Uwekaji katika Jalada	1,000/=
13.	Usambazaji Nyaraka	2,000/=
14.	Kielelezo	1,000/=
15.	Wito wa Mashahidi	1,000/=
16.	Fomu ya maombi ya utekelezaji wa hukumu	3,000/=
17.	Dikirii na Amri ya Mahakama	3,500/=
18.	Ombi la kupitia jalada	2,000/=
19.	Mwenendo wa Madai (ukurusa wa mwanzo)	3,000/=
20.	Mwenendo wa Madai (Kila kurusa)	300/=
21.	Utekelezaji wa Ukamataji	3,000/=
22.	Hati ya kutekeleza Amri ya Mahakama	1,000/=

Imetiwa saini leo tarehe25..... mwezi waJUNI,..
.....2016

[Salama Aboud Talib]
WAZIRI WA ARDHI, MAJI, NISHATI NA MAZINGIRA, ZANZIBAR

**LIST OF THE FEES FOR THE
REGISTRATION OF THE LAND
LN 58/2007**

LEGAL NOTICE NO. 159 OF 2015**THE REGISTERED LAND ACT NO. 10 OF 1990****LIST OF THE FEES FOR REGISTRATION OF THE LAND****[Made Under Section 163]**

IN EXERCISE of the powers conferred upon me under section 163 of the Registered Land Act, No. 10 of 1990, **I, RAMADHAN ABDALLA SHAABAN**, Minister of Lands, Housing, Water and Energy, do hereby prepare the following list of the fees for registration of the land as indicated in the schedule below, with the effect from 1st September, 2014.

SCHEDULE

S/NO	SUBJECT MATTER	FEE
1.	Registration Fee	200,000/=
2.	Registration Certificate	200,000/=
3.	Application for registration of the right of occupancy	50,000/=
4.	Application for search	30,000/=
5.	Application for a certified copy	30,000/=
6.	Application for a change of a name	60,000/=
7.	Filing of Power of Attorney	60,000/=
8.	Registration of a caution	50,000/=
9.	Registration of lease	50% of monthly rent
10.	Registration of a mortgage	200,000/=
11.	Revocation of a Power of Attorney	20,000/=
12.	Registration of Termination of expiry of a lease	30,000/=
13.	Transfer	50,000/=
14.	Withdrawal of a caution	10,000/=
15.	Request of removal of a caution	20,000/=
16.	Registration Card	20,000/=

SIGNED on this.....1st.....day of.....September.....2015

(SGD)

.....
RAMADHAN ABDALLA SHAABAN
MINISTER OF LANDS, HOUSING, WATER AND ENERGY
ZANZIBAR.

**REGULATIONS TO AMEND
THE LAND TRANSFER
REGULATIONS OF 2011 LN 88/2015**

LEGAL NOTICE NO.88 OF 2015**THE LAND TRANSFER ACT, NO.8 OF 1994**

**REGULATIONS TO AMEND THE LAND TRANSFER
REGULATIONS OF 2011
(Made under section 18)**

ARRANGEMENT OF REGULATIONS**Regulations****Title**

**PART I
PRELIMINARY PROVISIONS**

1. Short title and Commencement
2. Construction

**PART II
AMENDMENT**

3. Amendment of Regulation 2
4. Addition of new Regulations 15A
5. Amendment of Regulation 16
6. Amendment of Regulation 17
7. Addition of new Regulations 18A and 18B
8. Amendment of the Schedule 1

THE LAND TRANSFER ACT, NO.8 OF 1994

REGULATIONS TO AMEND THE LAND TRANSFER
REGULATIONS OF 2011
(Made under section 18)

IN EXERCISE of the power conferred upon me under section 18 of the Land Transfer ACT, No.8 of 1994, **I, RAMADHAN ABDULLA SHAABAN**, Minister for Land, Housing, Water and Energy, do hereby amend the Regulation as follows:

PART I
PRELIMINARY PROVISIONS

- | | |
|------------------------------|---|
| Short title and Commencement | 1. These Regulations may be cited as the Land Transfer (amendment) Regulations of 2015 and shall come into operation immediately after being signed by the Minister and published in the official Gazette. |
| Construction | 2. These Regulations shall be read as one with The Land Transfer Regulations of 2011 herein referred to as the “Principal Regulation” |

PART II
AMENDMENT

- | | |
|---------------------------------|---|
| Amendment of Regulation 2 | <p>3. Regulation 2 of the Principal Regulation is amended by adding new word “Gift” in interpretation:</p> <p>“Gift” means a voluntary transfer of land to applicant’s mother, father, child, husband, sister or brother without valuable consideration for the purpose of the Act.</p> |
| Addition of new Regulations 15A | <p>4. Principal Regulation is amended by adding New Regulation 15A immediately after Regulation 15 as follows:</p> |
| Records of land transfer | <p>15A-(1) There shall be the register for the land transfer in which the transfer made shall be kept on records.</p> <p>(2) A person who wants to make search under sub-regulation (1) of this regulation shall apply to the Board with payment of the prescribed amount as shall be determined by the Board from time to time.</p> |
| Amendment of Regulation 16. | <p>5. Regulation 16 f the Principal Regulations is amended by inserting a new sub-regulation (5) immediately after sub-regulation (4):</p> <p>“(5) The Board shall have power to review its decision”.</p> |

Amendment of
Regulation 17

6. Regulation 17 of the Principal Regulations is amended as follows:

- a) Paragraphs (b) and (d) in sub-regulation (1) of Regulation 17 of the Principal Regulation are amended by deleting the charged thereof and substituting them for new charges as follows:

17.(1):

(b) charges for farm plot shall be one percent (1%)

(d) charges for gift shall be zero point five percent (0.5%)

- b) Paragraphs (c) in sub-regulation (1) of the Regulation 17 of the Principal Regulation is repealed and replaced it by the following:

Addition of new
Regulation 18A
and 18B

17.(1):

(c) charges for investment area, business or by non-Zanzibar shall be three percent (3%)

7. Principal Regulations is amended by adding New Regulation 18A and 18B immediately after Regulation 18 as follows:

Power of the Board

18A-(1) The Board may cancel any application if the applicant failed to comply with transfer requirement after three months of approval.

(2) The Board shall, before cancellation, issue twenty one days notice to the applicant.

(3) In case an application is cancelled under sub-regulation (1) of this Regulation the respective applicant shall pay fine for the amount of twenty five percent of the transfer fees.

Reasons to terminate the
certificate of land transfer.

18B. The Board may terminate the certificate for the following grounds:

- (a) if the certificate was obtained by fraud, misleading facts, or statement either deliberate or negligent submission.
- (b) if other proper Authority terminate right of that land, or
- (c) if transfer contravenes with the policies of the Country

Amendment of
the Schedule 1.

8. The certificate under Schedule 1 is amended by:

(a) adding the space for registration number at the face of the certificate.

(b) putting important information describing the property transferred at the back of the certificate including the following:

(i) Type of the transferred property:
.....

(ii) Location of the transferred property:

Street..... Shehia.....

District..... Region.....

(iii) Boundaries of the transferred property:

North.....

South.....

East.....

West.....

(iv) Conditions for the transfer if any:

.....

.....

.....

.....

SIGNED on this day of 2015

RAMADHAN ABDULLA SHAABAN
MINISTER FOR LANDS, HOUSING, WATER AND ENERGY
ZANZIBAR

**DEVELOPMENT CONTROL
REGULATIONS LN 38/2015**

THE TOWN AND COUNTRY PLANNING DECREE, CAP. 85 OF 1955

DEVELOPMENT CONTROL REGULATIONS, 2015

ARRANGEMENT OF REGULATIONS

REGULATIONS

TITLE

**PART ONE
PRELIMINARY PROVISIONS**

1. Short title and commencement
2. Application
3. Compliance with these regulations
4. Interpretations

**PART TWO
ESTABLISHMENT, COMPOSITION, POWERS, FUNCTIONS AND
PROCEDURES OF THE CONTROL UNIT**

5. Establishment of the Control Unit
6. Composition of the Control Unit
7. Powers of the Control Unit
8. Functions of the Control Unit
9. Requirements for development
10. Meetings
11. Quorum
12. Co-opt

**PART THREE
TECHNICAL COMMITTEES**

13. Establishment of the Committees
14. Functions of the Committees
15. Meeting of the Committees
16. Quorum and Voting

**PART FOUR
FINANCIAL PROVISIONS**

17. Funds of the Control Unit
18. Distribution and use of the Funds
19. Financial Report
20. Account and Audit

PART FIVE
MISCELLANEOUS PROVISIONS

- 21. Saving
- 22. Repeal

SCHEDULES

LEGAL NOTICE NO. 38 OF 2015**THE TOWN AND COUNTRY PLANNING DECREE, CAP. 85 OF 1955****DEVELOPMENT CONTROL REGULATIONS, 2015**

[Made under section 12 and 37]

IN EXERCISE of the powers conferred upon me under section 12 and 37 of the Town and Country Planning Decree, Cap.85 of `955, I,
RAMADHAN ABDALLA SHAABAN, Minister for Lands, Housing, Water and Energy, do hereby make the Development Control Regulations of 2015.

PART ONE
PRELIMINARY PROVISIONS

Short title and
Commencement

1. These Regulations may be cited as the Development Control Regulations of 2015, and shall come into operation after being signed by the Minister and published in the Official Gazette.

Application

2. (1) These Regulations shall apply to all Planning Areas and at any site in Zanzibar.

(2) These Regulations shall be read together with the Town and Country Planning Decree, Cap. 85 of 1955 and its regulations, and any other Principal or Subsidiary Legislation related with Urban and Rural Planning in Zanzibar.

Compliance with
these Regulations

3. A person who develop, alters, remove or demolishes a building, part of building, an architectural or streetscape features, or occupies any open space, or alters the use of a building or open space in any Planning Areas, or any Site shall comply with the requirements of these Regulations.

Interpretations

In these Regulations, unless the context requires otherwise:

“Applicant” means a person who applies for a building permit;

“Planning Authority” means Planning Authorities appointed under section of Decree;

“Committee” means Technical Committees established under regulation 13 of these regulations;

“Control Unit” means development Control Unit established under regulation 5 of these regulations;

“Decree” means the Town and Country Planning Decree, Cap.85 of 1955;

“Heritage area” means any area which is protect for Conservation, or environmental purpose;

“Permit” means permit or license issued under these regulations;

“Planning schemes” means local plan or planning guidance proposed to guide development in an area;

“Minister” means the Minister for the time being responsible for the matters related to the Lands and Spatial Planning;

“Site” means any construction or developed area which exceeds more than 10 msq.

PART TWO

ESTABLISHMENT, COMPOSITION, POWERS, FUNCTIONS AND PROCEDURES OF THE CONTROL UNIT

Establishment of
Control Unit

4. It is hereby established Development Control Unit hereafter referred as “Control Unit”, in respect the area described in all Planned Areas declared in Zanzibar.

Composition of
Control Unit

5. (1) The Control Unit shall consist of the following members for Unguja:

- (a) Director responsible for Urban and Rural planning who shall be a chairperson;
- (b) Director responsible for Zanzibar Municipal Council who shall be a Secretary;
- (c) Secretary of the Western District Council who shall be a Deputy Secretary;
- (d) Director General of Stone Town Conservation and Development Authority;
- (e) District Commissioner of the West District;
- (f) Director of Environment;
- (g) Chief Executive Officer of Zanzibar Chamber of Commerce, Agriculture and Industries;
- (h) Chairman of Architects, Engineers and Quantity Surveyors

Registration Board.

(2) The Control Unit shall consist of the following members for Pemba:

- (a) Head of Department of Urban and Rural Planning, who shall be a Chairperson;
- (b) Secretary of Chake-Chake Town Council, who shall be a Secretary;
- (c) Secretary Chake-Chake District Council;
- (d) Head of Department of Surveys and Mapping;
- (e) Head of Department of Land Registration;
- (f) District Water Officer, Chake-Chake;
- (g) Public, Heal Officer, Town Council;
- (h) Environment Engineer;
- (i) Resident Engineer Department of Construction;
- (j) Roads Engineer, Ministry of Infrastructure and Transport;

(3) All members mentioned under sub regulation (2) (h) – (j) shall be recommended by the Department Responsible.

(4) The members shall elect the Vice Chairperson among themselves.

(5) There shall be a Secretary of the Control Unit under the supervision of the Secretary composed of an accountant, clerk, cashier, legal officer, and any other related person as determined by the Secretary and approved by the Authority.

Power of the
Control Uni

6. In discharging of its functions the Control Unit shall have the following powers:

- i. to call upon the applicants for any clarification relating to the planning development, construction, management and conservation;
- ii. to visit a site in which an application is concerned;
- iii. to enter into the concerned site and building for inspection;

- iv. to cancel, suspend or terminate the development and building permit;
- v. to remove or demolish any part or whole of erection or building which does not comply with the development requirements or with the terms and condition of the building permit;
- vi. to examine all matters related to new development, land use and use of open spaces inside the planning area, specifically in the area of World Heritage Site;
- vii. to supervise all matters concerning the construction, and spatial development.

Function of the
Control Unit

7. The Control Unit shall perform the following functions:-

- (a) to enforce the implementation of Land Use Plan, and Local Planning Schemes or any approved Planning Guidance issued by the Department of Urban and Rural Planning or any Planning Authority;
- (b) to manage development in all Planned Areas, in any Site or Heritage Areas in Zanzibar;
- (c) to issue building and construction permit;
- (d) to issue completion permit before the start of any uses;
- (e) to make and organize a follow up on different steps of building and construction after the Control Unit granting a permit to the applicant;
- (f) to ensure that all building standards, guidelines and construction procedures are followed accordingly as required by the laws or these regulations;
- (g) to ensure that open spaces and public ways are developed as specified by local Planning Schemes or Planning Guidance issued by the Departments of Urban and Rural Planning or any Planning Authority;
- (h) to advice the institutions relating to Lands, Municipality, Local Councils, Conservation and Heritage Management on issues related to land use, planning, management and development of the planned areas or unplanned area or both;

- (i) to take action by itself or through related institutions for those who fail to comply with the building procedures;
- (j) to advice concern institutions on matters related to protection, conservation and management of protection, conservation and managements of heritage site of outstanding value in any planning areas or sites and facilitate development of social, economic and cultural activities within the area;
- (k) to facilitate protection, conservation and managements of historical, heritage and cultural sites, and
- (l) to facilitate all endeavours to make Zanzibar Town a hub of cultural development and an important centre for cultural manifestation in East Africa; and
- (m) to any other related function which the Control Unit deemed necessary.

Requirement for
Development

8. An application for permission to carry out development of land shall be deemed to be refused if the application shall not be accompanied by such plans and requirements indicated in First Schedule and Second Schedule of these Regulations.

Meetings

9. (1) The Chairperson shall preside at all meetings of the Control Unit and in the absence of the Chairperson, the Vice Chairperson, shall preside the meeting.

(2) Where both Chairperson and Vice Chairperson are absent at a meeting, the members may elect one among the members to preside on the meeting.

(3) The Control Unit shall meet at least once in every month.

Quorum

10. (1) A half of the members of the Control Unit shall constitute a quorum.

(2) A member of the Control Unit shall have one vote and in the event of an equality of vote or conflict opinion, the Chairperson of the meeting shall have the second or casting vote in addition to his deliberate vote.

Co-opt

11. The Control Unit may co-opt any person in case of necessity, to participate on its meeting but such person shall have no right to vote in any deliberation of the Control Unit.

PART THREE TECHNICAL COMMITTEES

Establishment of
Committees

12. (1) For the purpose of facilitating its functions, Control Unit shall establish two Technical Committees as follows:

- (a) Building Permit and Control Technical Committee.
- (b) Development, Control Technical Committee.

(2) Each Technical Committee may have seven (7) members who shall be recommended by the Control Unit and approved by Minister.

(3) Subject to sub regulation (1) of this regulation:-

- (a) The Director of Municipal Council shall be a Chairperson of the Building permit and Control Technical Committee.
- (b) The Chairperson of Architects, Engineers and Quantity Surveyors Registration Board, shall be a Chairperson of the Development, Control Technical Committee.

Function of the
Committee

13. Each Technical Committee shall have the following functions:

- (a) The Building Permit and Control Technical Committee shall have the following functions:
 - i. to organize meeting and prepare reports of the Control Unit;
 - ii. to coordinate the whole process of granting building permit and authorization and present the applications to the Control Unit for a final decision and approval;
 - iii. to collect all revenues from fees and charges paid for the building permit and any other charges;
 - iv. to ensure that all standards, guidelines and regulations related to land use, planning, construction and conservation are observed;
 - v. to organize monitoring mechanism; and
 - vi. to do any other matter related to development, are followed accordingly.

(b) The development, Control Technical Committee shall have the following functions:

- i. to ensure that development activities in all planned areas and sites comply with land use plan and local planning schemes;
- ii. to organize monitoring mechanism; and
- iii. to take legal action to anyone who negligently or wilfully fails to meet the requirements of the guidelines and procedures of land use plan and local planning schemes.

Meetings of the Committees

14. (1) The Committees shall meet at least twice in every month and may meet any time when there is an issue which needs the consideration of the Committee.

(2) All meetings of the Committee shall be convened and presided by the Chairperson of the Committee in case of his absence, the meeting shall be presided by a Vice Chairperson.

(3) The Chairperson of the Committees shall be responsible of collecting all report of its Committee to be submitted to the Secretary of the Control Unit.

Quorum and Voting

15. (1) A half of the members of the Committees shall constitute quorum of a meeting.

(2) All acts, matters and things authorized to be done by the Committee shall be decided by resolution of the members present.

(3) A decision of a member of the Committee present at meeting shall be deemed to be a decision of the Committee.

(4) A member of the Committee shall have one vote and in the event of the equality of votes, the Chairperson of the meeting shall have second or casting vote.

PART FOUR FINANCIAL PROVISIONS

Fund of the
Authority

16. (1) The funds and resource of the Control Unit shall consist of:-

- (a) subsidies from the government;
- (b) fees and charges;
- (c) such sums as the Control Unit may receive by way of grant from any person;
- (d) such sums as may in manner become payable to or vested in a Control Unit either under the provisions of the Decree, or these Regulations or any other law, or incidental to carry out its functions.

(2) The Control Unit shall use its funds and revenue on discharging of its functions as prescribed under this Regulations and in accordance with the terms and conditions upon which its funds and revenue may have obtained or derived;

(3) The Control Unit shall make its own special budget in order to contribute its funds in such sums as the Authority may determine.

Distribution and use
of funds.

17. For the purpose of carrying out the Functions of Control Unit, each Committee shall be entitled to obtain funds from the income decided by the Authority.

Financial Report

18. There shall be preparing of financial report the Control Unit's Accountant stating the expenditures and revenues which shall be presented to the Authority for approval quarterly in a year as prescribed by the Financial Act, No. 9 of 2005.

Accounts and Audit

19. (1) The Authority shall order the Accountant of the Control Unit open and keep separate Bank account and proper books of accounts and shall as soon practicable after the end of financial year cause the accounts relating to the financial year together with financial statement.

(2) Copies of the financial statement and auditor's report shall be forwarded to the Minister for the Information.

PART FIVE
MISCELLANEOUS PROVISIONS

Saving

20. All matters made under the Urban and Development Control Authorities shall be deemed to be made under these Regulations and shall continue to be of full force and effect with the area to which they apply until revoked by rules and orders made under these Regulations.

Repeal

21. The Urban and Development Control Authority established under the appointment of the members in the Legal Notice No. 12 of 1998 is hereby repealed.

FIRST SCHEDULE
APPLICATION FOR THE DEVELOPMENT PERMIT
FOR THE AREA ABOVE 50m²
[Made under regulation 9]

1. An application for development permit for an area above 50 m² or any building with more than stories shall be made in a form provided by the Development Control Unit.

2. The application shall be accompanied by such plans and requirements as are necessary to indicate the purposes of the development and include:-

- (a) proof of proprietorship of the land in concern;
- (b) a site plan prepared under the Land Survey Act and approved by the Director of Surveys;
- (c) a precise local plan to the scale of 1:2500;
- (d) context plan of the scale 1:2500 showing all uses with a radius of 500m;
- (e) a plan and drawings of the intended development to the scale of 1:1000 showing full development of plot or land parcel and the proposed development if it is a partial development and all connections specifically including road access, preparations for sewage connection and interim solutions, electricity connections, waste disposal;
- (f) plan and arrangements for public safety and impact minimization during construction fencing, sheeting, notices, or any other related things;
- (g) contract with registered engineer for design of structures and for supervising and inspection of all structural elements as required in the planning policy guidelines or development plans;
- (h) contract with registered or approved laboratory to test structural elements as required in planning policy guidelines or development plans when such test is required;
- (i) written consent of all adjacent proprietors or a written statement by Sheha indicating such consent, or objections;
- (j) applicant's signed statement to use the land only for the purpose specified in the application;
- (k) an environmental impact assessment certificate when environmental impact assessment is required;

- (l) a traffic impact assessment certificate when traffic impact assessment is required;
- (m) a heritage impact assessment certificate when heritage impact assessment is required;
- (n) fire services approval certificate when required;
- (o) an investment plan approved by Zanzibar Investment Promotion Authority (ZIPA) when required;
- (p) written approval of the relevant authority to change the use of land when required;
- (q) all other approvals and authorization of authorities when required;
- (r) a proof of payment of land/application fees and taxes; and
- (s) other particulars specifically required by the Development Control Unit or specified in the planning policy guidelines.

3. If the application is incomplete, the Development Control Unit shall request the applicant to complete the application.

SECOND SCHEDULE
APPLICATION FOR THE DEVELOPMENT PERMIT
FOR THE AREA BELOW 50m²
[Made under regulation 9]

1. An application for development permit for an area below 50 m² shall be made in a form provided by the Development Control Unit.
2. The application shall be accompanied by such plans and requirements as are necessary to indicate the purpose of the development and include:-
 - (a) proof of proprietorship of the land in concern
 - (b) a site plan prepared under the Land Survey Act and approved by the Director of Surveys when it's required;
 - (c) a Planning Guidance (PG) prepared by the Department of Urban and Rural Planning when it's required;
 - (d) a layout plan of the proposed development construction including access and sewage solution signed by the proprietor;
 - (e) a statement of the proprietors of adjoining parcels;
 - (f) applicant's signed statement to use the land only for the purpose specified in the application;
 - (g) a recent photographic documentation with full cover of the parcel showing all current development and land use and adjoining parcels;
and
 - (h) proof of payment of taxes and fees.

SIGNED on this 16th day of February, 2015

(SGD)

.....
RAMADHAN ABDALLA SHAABAN
MINISTER OF LANDS, HOUSING, WATER AND ENERGY
ZANZIBAR.

**LAND TRANSFER
REGULATIONS LN 70/2011**

THE LAND TRANSFER ACT NO. 8 OF 1994

REGULATIONS [Made under section 18]

IN EXERCISE of the powers conferred upon me under section 18 of the Land Transfer Act No. 8 of 1994, I, **ALI JUMA SHAMUHUNA**, Minister of Lands, Housing, Water and Energy; do hereby make the following Regulations:

PART ONE

PRELIMINARY PROVISIONS

*Short title and
commencement.*

1. These Regulations may be cited as the Land Transfer Regulations of 2011, and shall come into operation after being signed by the Minister and published in the Official Gazette.

Interpretation.

2. In these Regulations unless the context requires otherwise:

“Act” means the Land Transfer Act No. 8 of 1994;

“Board” means the Land Transfer Board as established under section 9 of the Principal Act;

“Chairperson” means the Chairperson of the Board;

“Vice-Chairperson” means the Vice-Chairperson of the Board;

“Member” means the member of the Board;

“Secretary” means the Secretary of the Board;

“Land” means and 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;

“Minister” means the Minister responsible for Lands;

“Transfer” means the passing of land, a lease or charge by act of the parties and includes the instrument by which such passing is affected.

PART TWO

PROVISIONS OF THE BOARD

***Meeting of
the Board.***

3. (1) Subject to the provisions of the Act, the meeting of the Board shall be called by an order of the Chairperson after consultation with the Secretary.

(2) Subject to sub regulation (1) of this regulation, once the Secretary receives an order of the Chairperson, shall issue a notice to all members by at least five (5) days before the day in which the meeting will be held, with the exception of an extra ordinary meeting where a notice of at least one day may be given.

(3) A notice to call a meeting shall state the proposed agenda of the meeting, time and place in which the meeting shall be held.

***Change of
agenda.***

4. (1) After opening the meeting, the Chairperson may invite and allow the members to change, amend or propose new agenda for the meeting.

(2) Once the agenda has been changed or amended, the Chairperson shall announce to adopt the agendas and proceed with the meeting accordingly.

(3) Before proceeding commences, the Chairperson may set a time for each agenda to be discussed in a meeting and unless the Chairperson decides otherwise, that time set shall not be ignored by members in discussing such agenda.

***Attendance
in a meeting.***

5.(1) Every member shall be bound to attend the meetings of the Board and in the event of being unable to attend, shall

inform the Chairperson or the Secretary in writing stating reasons why s/he will not be able to attend.

(2) When a member becomes absent for three consecutive meetings of the Board without giving reasons to the Chairperson or Secretary, the Chairperson shall report such matter to the Minister.

(3) Subject to the provisions of section 13 of the Act, the Minister may, after receiving a report from the Chairperson under sub regulation (2) of this regulation, revoke the appointment of a member who fails to attend three consecutive meetings of the Board and instead shall appoint another person to be a member of the Board.

Adoption of agenda.

6.(1) Once the agenda of the meeting is adopted, the Chairperson shall open the flow so that the members may give their opinion on each respective agenda of the meeting.

(2) All members shall be free to give opinion or argument on the agenda in motion, and every member shall respect the opinion of other members provided s/he is argued in respective agenda at motion.

(3) When it appears that, the agenda should be decided in a meeting, the Chairperson may decide the manner in which the decision should be made either by way of secret or open hand vote.

Vice Chairperson.

7. The Board shall elect one of its members to be a Vice-Chairperson.

Chairperson to preside meeting.

8.(1) The Chairperson shall preside at all meeting of the Board and in the absence of the Chairperson, the Vice Chairperson shall preside the meeting.

(2) When both Chairperson and Vice-Chairperson are absent at a meeting, the members in attendance may elect one amongst their member to preside the meeting.

(3) The Chairperson or Vice-Chairperson or a member elected to preside a meeting in the absence of the Chairperson

and Vice-Chairperson, shall have a casting vote in addition to a deliberate vote.

(4) Without prejudice to the provisions of sub regulation (1) of this regulation; the Chairperson, Vice-Chairperson or a member elected to preside the meeting in the absence of Chairperson and Vice-Chairperson shall have power to administer reasonable disciplinary action during the meeting and any member who fails to comply with such order may be ordered to step out of the meeting.

(5) Any member ordered to step out of the meeting under the provisions of sub regulation (4) of this regulation may be paid a half sitting allowance.

Extra Ordinary Meeting.

9. The Chairperson in consultation with the Secretary may call an extra ordinary meeting at any time if in his/her opinion, there is an urgent matter that needs to be discussed and decided by the Board.

Quorum.

10.(1) Majority of the members of the Board shall constitute a quorum.

(2) Any act or decision of the Board shall not be invalidated by reason of time or a defect in the appointment of any member.

Invitation.

11. The Board may invite any person to participate on its meeting but such person shall have no right to vote in any deliberation of the Board.

Powers of the Board.

12. In discharge of its functions, the Board shall have the following powers:

- (a) to call upon the transferor or transferee for any clarification relating to the transfer;
- (b) to visit the area of the transferred interest in land;
- (c) to issue certificate in transferred land as to signify the approval of the transfer; and
- (d) to conduct or cause to be conducted valuation of the

land to be transferred.

***Decision of
the Board.***

13. Subject to the provisions relating to a casting vote, all questions at the meeting of the Board shall be determined by the majority of the votes of the members present, and if any member refuses or fails to vote on any question, he shall be deemed to have cast a negative vote.

***Decision by
Circulation of
papers.***

14.(1) Notwithstanding the provisions of these Regulations, decisions may be made by the Board without a meeting by circulation of the relevant papers among the members and the expression of the view of majority thereof in writing.

(2) Any member of the Board may be entitled to require that any decision made under sub regulation (1) of this regulation be deferred and the subject matter be considered at a meeting.

***Records of the
Proceedings of
the Board.***

15.(1) The Secretary shall take and keep records all minutes of the meeting of the Board.

(2) The Board shall supervise and develop proper arrangement of Board's minutes in soft and hard copies.

(3) The minutes of the meeting of the Board shall be signed by the Chairperson and Secretary in the next meeting after being approved by the members.

(4) The minute after being signed, shall be evidence of such proceedings and until the contrary is proved, the meeting to which the minutes related shall be deemed to have been duly convened and all proceedings thereto have been duly transacted.

PART THREE

EXECUTION OF TRANSFER

***Application for
transfer of lands.***

16. (1) Any person who intends to transfer a parcel of land shall be required to fill an application form which will be available at the Board's offices.

(2) The application form shall be issued to the applicant

after payment of appropriate fees has been done as determined by the Board from time to time.

(3) The applicant shall be required to pass the application form to the Office of Shehia in which the land in issue is situated in order for Sheha to fill and put his remarks in appropriate space provided in the form and the applicant shall pay not more than twenty thousand Tanzanian shillings for each transaction.

(4) For the purpose of observation, the applicant shall submit the application form to the District Commissioner's office and the applicant shall pay not more than thirty thousand Tanzanian shillings for the transaction.

Charges as to percentage.

17. (1) The approved land transfer shall be charged according to market value of the property as follows:

- (a) charges for a non-investment of a house/land shall be two percent (2%);
- (b) charges for farms and plots shall be zero point five percent (0.5%);
- (c) charges for investment area or business shall be three percent (3%); and
- (d) charges for gift shall be zero point one percent (0.1%).

(2) Any payment made under this regulation shall be evidenced by its receipt number and then affixed in the application form.

Approval of transfer.

18. (1) The Applicant after filling the application form, immediately shall return it to the Board for consideration.

(2) When the Board certified with the requirements set, shall approve the transfer of the land issue with a certificate to the successful applicant(s) in the form prescribed in the schedule to these Regulations.

(3) When the Board becomes dissatisfied with the application, shall reject the transfer and notify in writing the applicant, stating reasons for rejection and where appropriate, the Board shall issue directives to the applicant.

(4) When the applicant becomes dissatisfied with the decision and instructions issued by the Board, may appeal to the Court.

PART FOUR

MISCELLANEOUS PROVISIONS

***Disclosure
of Interest.***

19.(1) Every member of the Board shall, prior to the commencement of the proceeding of the Board, disclose interest s/he has or is vested in him/her in connection with any matter which is before the Board in that particular meeting that may or is likely influence his/her opinion on such matter.

(2) For the purpose of this section interest or vested interest shall include personal or family interest in land or close related relative or associate but shall not be interpreted to include public or government interest in land or indirect benefit accrued in any land related in transfer.

Confidentiality.

20.(1) All proceedings of the Board shall be treated as confidential and no member or invited person to whom such matter has come to his/her knowledge shall use or disclose such information except in the furtherance of the purpose of the Board.

***Remuneration
of Members
of the Board.***

21. All Members of the Board shall be paid such allowances and other payment as proposed by the Board from time to time and approved by the Minister.

SCHEDULE 1: LAND TRANSFER CERTIFICATE

No.

THE REVOLUTIONARY GOVERNMENT OF ZANZIBAR

ZANZIBAR LAND TRANSFER BOARD

Certificate Of Land Transfer By

The Zanzibar Land Transfer Board Has Approved

The Land Transfer Application No.

From

To

For The Land Situated At -

On This Date Of,

Signed by:

.....
SECRETARY

.....
CHAIRMAN

SIGNED on this 20th day of June, 2011.

(ALI JUMA SHAMUHUNA)
MINISTER OF LANDS, HOUSING, WATER AND ENERGY.

20th June, 2011;
ZANZIBAR.

**LAND RENT (AMENDMENT)
REGULATIONS LN 27/2009**

LEGAL NOTICE NO.27 OF 2009**THE LAND TENURE ACT, NO.12 OF 1992**

THE LAND RENT (AMENDMENT) REGULATIONS
[Made under section 67(2)(c)]

IN EXERCISE of the power conferred upon me under section 67(2)(c) of the Land Tenure ACT, No.12 of 1992, **I, MANSOOR YUSSUF HIMID**, Minister of Water, Construction, Energy and Lands, do hereby make the following Regulations.

- | | |
|-------------------------------|--|
| Short title and Commencement | 1. These Regulations shall be cited as the Land Rent (Amendment) Regulations of 2009, and shall come into operation after being signed by the Minister. |
| Construction | 2. These Regulations shall be read together with the Land Rent Regulations of 2007 hereinafter referred to as the Principal Regulations. |
| Addition of regulation 10. | 3. The Principal Regulation is hereby amended by adding new regulation 10 immediately after regulation 9 as follows: |
| Tax Administration Procedures | 10. Except otherwise provided for in these Regulations, the provisions of Part IX of the Value Added Tax Act, No. 4 of 1998, relating to Tax Administration Procedure and the provisions of Zanzibar Tax Appeal Act, No. 1 of 2006 relating to Tax Appeals shall apply mutatis mutandis to these Regulations. |

SIGNED on this 16th day of March, 2009.

(MANSOOR YUSSUF HIMD)
MINISTER OF WATER, CONSTRUCTION, ENERGY AND LANDS

...March,
2009;

**LAND SURVEY
REGULATIONS LN 60/2007**

LEGAL NOTICE NO. 60 OF 2007**LAND SURVEYS ACT, NO. 9 OF 1990**

LAND SURVEY REGULATIONS

ARRANGEMENT OF SECTION**SECTION****TITLE****PART I
PRELIMINARY PROVISIONS**

1. Short title and Commencement.
2. Application.
3. Interpretation.

**PART II
AUTHORIZATION**

4. Authorisation for Surveys.
5. Evidence of Authorisation.

**PART III
GENERAL**

6. Measurements.
7. Co-ordinater and Projections.
8. Measuring Instruments.
9. Assistants Surveyor.
10. Survey Marks and Beacons.

**PART IV
EXECUTION OF THE SURVEYS**

11. Instructions and Guidelines.
12. Field Notes.
13. Content of the Field Notes.

**PART V
DOCUMENTATION AND APPROVAL**

14. Presentation of Surveys.
15. Approval of the Surveys.
16. Submission of the results.
17. Penalty.
18. Appeals.

PART VI

PLOTTING AND DRAWING

- 19. Survey plan.

**PART IX
MISCELLANEOUS**

- 20. Fees.
- 21. Access to Maps and Plans.
- 22. Form of licence.

LAND SURVEYS ACT, NO. 9 OF 1990

LAND SURVEY REGULATIONS (Made Under S. 25)

Short title and
Commencement.

1. These Regulations may be cited as the Land Survey Regulations, 2007 and shall come into force after being signed by the Minister and published in the Official Gazette.

Application.

2.(1) These Regulations shall apply to all surveys carried out in Zanzibar in accordance with the provisions of an Act including surveys related to:

- (a) The Systematic Adjudication under the Land Adjudication Act, NO.8 of 1990;
- (b) The First Registration under the Registered Land Act, No. 10 of 1990;
- (c) The Land Allocation under the Land Tenure Act, No. 12 of 1992;
- (d) The Subsequent Registration under the Registered Land Act, of 1990; and
- (e) Land Use Planning.

(2) These Regulations shall not restrict the powers of the Director to specify methods of particular surveys under section 13 of an Act.

Interpretation.

3. In these Regulations, unless the context requires otherwise:

"Act" means the Land Survey Act NO. 9 of 1990;

"Adjudication area" means an area as defined in the Adjudication Act, NO. 8 of 1990;

"Assistant surveyor" means a person not being a surveyor, who is engaged on survey work directly under the control of a surveyor;

"Board" means the Land Surveys Board as established under section 4 of the Act;

"Chairman" means the Chairman of the Board who shall be the Director of Survey appointed under

section 3(1) of the Act;

"Director" means the Director responsible for surveys appointed under section 3(1) of the Act;

"GPS" means the Global Position System;

"Minister" means the Minister responsible for land matters;

"Secretary" means the Secretary of the Board, as appointed in accordance with section 4(5) of the Act;

"Surveyor" means the licensed land surveyor or an officer of the Survey Department authorised by the Director to carry out surveys;

"WGS84" means the World Geodetic System of 1984.

PART II AUTHORIZATION

Authorisation
for Surveys.

4.(1) All cadastral and public surveys outside the adjudication areas shall require a letter of authorisation and the application shall be submitted to the Director.

(2) An application is not required in surveys that are submitted to the Director by the Land Registrar or the Director of Land and Registration according to the relevant legislation.

Evidence of
Authorisation.

5. All licensed Surveyors and Government Surveyors shall present relevant and material evidence to the land holder to prove his authority to conduct surveys and enter to the land.

Measurements
.

6.(1) All linear measurements shall be in metres and decimals of metre.

(2) All angular measurements shall be in degrees, minutes and seconds of arc or in grades, centigrade and mill grades.

(3) Where it is necessary to convert for any purpose from feet to metres the following relationship shall be used:

1 metre = 3.28084558 feet

1 foot = 0.30479947 metres.

Co-ordinator
and
Projections.

7.(1) The spheroid to be used as the figure of the earth is Clarke (1880) having the following elements:

Semi-diameter major = 6378295.279m

Ellipticity = $1/293.465$.

(2) Rectangular co-ordinates used for triangulation work and for all surveys connected thereto shall be derived from Universal Transverse Mercator Projection.

(3) Standard traverses in townships and local systems of rectangular co-ordinates generally shall be computed on the plane and free from spheroidal complications.

(4) Wherever possible the datum for every survey shall be the national triangulation and only in special cases, the Director may give written approval for isolated surveys to be carried out, and such approval shall also be obtained before a magnetic bearing is adopted.

(5) When isolated survey of an Estate is approved, a base line, consisting of two double - beacons shall be measured in both directions.

Measuring
Instruments.

8.(1) Every licensed Surveyor and one Surveyor in each Government Survey Office shall be responsible for maintaining measuring equipments.

(2) The Director may require any licensed Surveyor or the Government Survey Office to submit any measuring instrument for inspection or verification.

(3) To calibrate Electronic Distance Metre (EDM) the Government survey office shall make base lines on Unguja and Pemba available.

Assistants
Surveyor.

9.(1) Any Assistant Surveyor shall not make any measurements in connection with surveys unless he is authorised by the Director.

(2) Every surveyor shall be responsible for all work performed by his assistant.

(3) Every authorised assistant shall clearly indicate which field notes and computations have been made by him, the notes shall be signed by him and countersigned by the licensed Surveyor by whom he is employed.

(4) All work performed by an authorised assistant shall

be carried out under the personal direction of Surveyor.

(5) If the Director discovers that an authorised assistant has performed any work which has not been supervised and checked by a Surveyor, any written authorisation relating to the authorised assistant may be revoked.

Survey Marks and Beacons.

10.(1) Every trigonometrically station, traverse point, benchmark and boundary points shall be survey marks constructed according to the technical instruction prescribed in part III.

(2) Every trigonometric station, traverse point and benchmark should always be referred to nearby permanent features like trees, houses, road junctions, telegraph and electricity poles, etc., and station descriptions prepared.

(3) All trigonometric stations, traverse points and benchmarks shall be marked by double beacons with witness marks.

(4) If a surveyor is required to re-establish a missing survey mark, he shall after re-establishing the same, submit fully detailed field notes and computation relating thereto accompanied by a written report to the Director.

PART IV EXECUTION OF THE SURVEYS

Instructions and Guidelines.

11.(1) The execution of survey works shall be prescribed in details in the Technical Instructions and Guidelines.

(2) There shall be the following Technical Instructions:

Technical Instructions for CONTROL NETWORK;

Technical Instructions for CADASTRAL SURVEYS.

(3) There shall be the following Guidelines:

(a) Guidelines for TOPOGRAPHICAL SURVEYS;

(b) Guidelines for ENGINEERING SURVEYS;

(c) Guidelines for HYDROGRAPHIC SURVEYS;

(d) Guidelines for PLOTTING AND DRAWING OF PLANS; and

(e) Guidelines for AERIAL PHOTOGRAPHY.

(4) The Technical Instructions and guidelines shall be prepared by the Department of Survey and Urban Planning and approved by the Director.

Field Notes.

12.(1) Field notes shall be made during all surveys by using standard forms or automatic recording instruments as is prescribed in the Technical Instructions, and may be kept on loose leaves and should conform as nearly as possible to the prescribed forms.

(2) All original field notes shall be submitted to the Director as part of the Survey Record.

(3) All entries in the field notes shall be clearly indexed and cross referenced to the computation and all entries in the field notes which are not made in the field shall be clearly indicated.

Content of the Field Notes.

13.(1) The Surveyor shall enter in the field notes in each sheet the observers' name, booker, instrument, the date, time, weather conditions, degree of visibility and any other factor affecting the reliability of observations.

(2) All field notes and observations shall have a cover page stating the number of the survey, location of the survey, the surveyor's name and name of his team members and any other information that the Director may require and the pages of field notes shall be numbered.

(3) Explanatory notes and computations shall be made in the field when unorthodox methods of survey are used and the diagrams to illustrate and amplify the notes shall be made if necessary.

PART V DOCUMENTATION AND APPROVAL

Presentation of Surveys.

14.(1) Completed surveys shall be presented in a survey file containing a survey report, plans and all data of surveys as is prescribed in the Technical Instructions.

(2) The survey report shall clearly indicate how the work was performed, sources of data and information used, names of the persons to whom notices were served, the persons who attended the survey, any unusual conditions, occurrences or circumstances, the grounds of any objections to the survey and the decision taken and the final results achieved.

(3) The Surveyor shall sign the plans and the survey report the plan shall contain a declaration that the survey has been carried out in accordance with regulations.

(4) Survey file and its contents shall be prepared in accordance with the specimens shown in the appropriate schedules of the standard forms and Technical Instructions.

Approval of the
Surveys.

15.(1) All cadastral and public surveys shall be presented to the Director for approval - Every surveyor shall be personally responsible for the accuracy, fidelity, and completeness of every survey presented by him for the approval of the Director.

(2) If the survey file or part of it has not been prepared in accordance with these Regulations, specimens and the Technical Instructions, the Director may return the file or parts of it to the Surveyor for necessary correction.

(3) The Director may refuse to approve:

- (a) any survey if he finds that it was made with defective equipments;
- (b) any plan which in his opinion has been drawn untidily or has been submitted to him in a dilapidated or damaged condition; and
- (c) any survey containing more errors of measurement than are permissible according to the Technical Instructions.

Submission of
the results.

16.(1) If the surveys are related to the land registration under the Registered Land Act, the Director shall submit the results of surveys to the Land Registrar and the Director of Land and Registration to be registered in the Land Register.

(2) If the surveys are related to the land allocation under the Land Tenure Act, the Director shall submit the results of surveys to the Director of Land and Registration for further preparation of the allocation.

Penalty.

17.(1) Any person who is required to make an application for authorisation to the Director subject to the provision of rule 4 of these Regulations, and fail to comply with, shall be guilty of an offence.

Provided that, for the first offence the Board shall warn

the offender and issue a notice of three months to rectify the wrong.

(2) After a period of three months failure to comply with sub rule (1) of this rule, shall be guilty of an offence and unless otherwise provided shall, on conviction be liable to a fine as provided for under section 26 of an Act.

(3) On default of paying a fine as prescribed under sub rule (2) of this rule, the Board shall have the power to cancel the license of executing surveys in Zanzibar.

(4) Any person or Institution who wilfully falsifies any survey work for the purpose to mislead or to gain profit shall be committed an offence and unless otherwise provided shall, on conviction be liable to a fine as provide for under section 26 of an Act.

Appeals.

18.(1) Any person who is not satisfied with the decision of the Director or Board may appeal to the Minister.

(2) The provision of sub rule (1) shall not apply if the Director has received incomplete results of surveys according to rule 15 of these Regulations.

PART VI PLOTING AND DRAWING

Survey plan.

19.(1) Survey works shall be plotted on survey plans by rectangular coordinates and the scale and content shall be specified in the Guidelines.

(2) The survey plan shall be plotted on a stable material using good quality ink.

(3) The symbols used by the Department of Survey and Urban Planning shall be used in the survey plan.

(4) If appropriate, the survey plan shall show adjacent survey works.

PART IX MISCELLANEOUS

Fees.

20.(1) The Survey charges (fees) shall be prepared by the Board of Control of Land Surveyors and approved by the Minister.

(2) At least fifty percent of the estimated Survey charges shall be paid in advance.

Access to Maps

and Plans.

21.(1) Any person shall have access to published maps and plans in the possession of the Director, and the Director may refuse access as he may deem necessary in the public interest.

(2) Any person who has an official interest of any survey has the right to get copies of after paying the necessary fee under permission of the Director.

Form of licence.

22. The form of a licence shall be as prescribed under the First Schedule of an Act.

SIGNED on this 7th day of July, 2007.

(Sgd)
(MANSOOR YUSSUF HI MID)
MINISTER OF WATER, CONSTRUCTION,
ENERGY AND LAND

**LAND SURVEYOR'S BOARD
REGULATIONS LN 50/2007**

LEGAL NOTICE NO 58 OF 2007

THE LAND SURVEY ACT, NO. 9 OF 1990.

THE LAND SURVEYORS BOARD REGULATIONS (Made under section 25)

PART

I

PRELIMINARY PROVISSIONS

Short Title and
commencement.

1. These Regulations may be cited as the Land Surveyors Board Regulations, 2007 and shall come into operation after being signed by the Minister and published in the Official Gazette.

Interpretation.

2. In these Regulations, unless the context requires otherwise:

“Act” means the Land Survey Act, No.9 of 1990;

“Director” means the Director responsible for surveys appointed under section 3 (1) of the Act;

“Board” means the Land Surveyors Board established under section 4 of the Act;

“Secretary” means the Secretary of the Board appointed by the Minister under section 4(5) of the Act;

“Chairman” means the Chairman of the Board who is the Director of Survey appointed under section 3(1) of the Act.

“Member” means a member of the Board appointed by the Minister under section 4(2) of the Act;

PART II

MEETING OF THE BOARD

Meeting of
the Board.

3.(1) The Chairman shall convene a meeting by notice indicating the place, date and time of the meeting and sent to every member at least seven days before the meeting.

(2) The Secretary shall keep minutes of every meeting of the Board.

(3) All meetings of the Board shall be presided by the Chairman, if he is absent the members present shall elect one among them to preside that meeting.

(4) All decision of the Board shall be determined by a vote of not less than half of the members present in that meeting, provided that in case of an equal votes, the Chairman or in the absence the elected member presiding the meeting shall have the casting vote.

The Register
of Surveyors.

4. The Register of Surveyors as prescribed in section 8 of the Act, shall be kept by the Secretary of the Board, which shall contain the following information in relation to each licensed Surveyor:

(a) the name and permanent address of the Surveyor;

(b) a short statement of all professional examinations passed, together with relevant certificates of examinations, diplomas, degrees, licenses or titles; and

(c) the date of passing the examinations or exemption from the examinations of the Board;

(2) The record of any offence against the Act, committed by the Surveyor or any conduct of the Surveyor leading the Board to exercise powers under section 9 of the Act, and of the date of any relevant notification in the Gazette shall also be included in the Register.

PART III APPLICATION AND ADMISSION FOR SURVEY.

Application
to practice
survey.

5.(1) Any registered Surveyor who wishes to conduct a survey in Zanzibar shall apply in writing, for a licence to practice survey in Zanzibar, to the Secretary of the Board.

(2) All applications made under sub rule (1), shall contains the following documents:

(a) the original or certified copies of:

(i) applicant's licence or equivalent authority to practice surveying in the United Republic of Tanzania or elsewhere,

(ii) relevant certificates, diplomas or degrees;

(b) documents which show or certify that the applicant as the requisite experience in practising surveying or any other certificate of competency.

(c) documents regarding the applicant's career as a land Surveyor and the types of work he has undertaken, the dates and his employment record.

(3) Every application shall be accompanied by a tender of the prescribed fee, which shall be refunded if the application is rejected.

(4) Every applicant who has passed or being exempted from the examinations of the Board shall, on payment of the prescribed licence fee, be entitled to a licence, unless it is provided by the Act or Regulations.

(5) A licence shall not be issued to a person guilty of an act that would have entitled the Board to exercise powers under section 9 of the Act if the applicant had been a licensed Surveyor.

PART IV EXAMINATIONS AND RESULTS.

Application
for admission
to examination
and exemption.

6.(1) Every application for admission to examination shall be made in writing to the Secretary and shall be accompanied by documentary proof that the candidate is eligible under the Act admission to examination.

(2) Every application for exemption in examination shall be made in writing to the Secretary and shall state the grounds upon which the application is made.

(3) Every application for examination or exemption in examination shall be accompanied by tender of prescribed fee.

Place and date
of Examination.

7.(1) Examinations for licences shall be held at such places and such a dates as shall be notified by the Secretary in the Gazette.

(2) Examinations will be divided in two parts, Part 1 and Part 2 and shall be in the English language.

Appointment
of Examiners.

8.(1) The Board shall appoint not less than two Examiners to conduct the examination on behalf of the Board.

(2) The Examiners shall report in writing to the Board, giving full particulars of the marks given to each candidate in each subject and such report shall be signed by every Examiner.

“Part I” of
Examinations.

9. The following subjects shall form Part 1 of the Examination:

- (a) Survey instruments, including the principles of construction, use and adjustment of basic survey equipments;
- (b) Principles and procedures of surveying and mapping, including:
 - (i) Triangulation, trilateration and other control surveys.
 - (ii) Traverse surveys;
 - (iii) Topographical and tacheometric surveys;
 - (iv) Determination of heights;
 - (v) Setting out surveys;
 - (vi) Computation of areas and volumes;
 - (vii) Cadastral surveys;
 - (viii) Photogrammetric surveys
 - (ix) Adjustement of surveys.
- (c) Plan drawing and map projection;
- (d) Astronomy and geodesy, including satellite geodesy;

(e) Knowledge of the following Land Acts and regulations in so far as they relate to survey:

- (i) the Land Survey Act;
- (ii) the Registered Land Act;
- (iii) the Land Adjudication Act;
- (iv) the Land Tenure Act;
- (v) the Town and Country Planning Decree;
- (vi) the Land Survey Regulations, and any Act or Regulations replacing the foregoing;
- (vii) any other related Act.

Examination
marks.

10. Marks in Part 1 of the examination shall be allotted as follows:

- (a) Survey Instruments 50 marks;
- (b) Principles and procedures of Surveying and Mapping
.....200 marks;
- (c) Plan Drawing and Map Projection 50 marks;
- (d) Astronomy and Geodesy100 marks;
- (e) Land Acts and Regulation 100 marks;
- Total..... 500 marks.

Percentage
of marks for a
pass in "Part I".

11. The candidate shall not be deemed to have passed "Part I" of the examination unless he has obtained at least sixty percent (60%) of the total marks and shall obtain fifty percent (50%) or above in each subject.

Re-examination.

12. Any candidate who fails to obtain the required marks in any one of the subjects may be allowed, upon repayment of the prescribed fee, to be re-examined in such subject only, provided he has obtained sixty percent (60%) of the total marks for the whole examination, in such circumstance, the candidate will be required to obtain not less than sixty percent (60%) in the subject in which he is re-examined.

Conditions
on eligible
for "Part II".

13. Only candidates who have passed "Part 1" of the examination shall be eligible for admission to "Part II" of the examination.

"Part II" of the
Examination.

14.(1) "Part II" of the examination shall consist of the following trial surveys:-

- (a) survey of a property which may involve the use of triangulation or traverse surveys, re-establishment of

missing beacons, survey of an irregular boundary, some astronomical observations or GPS surveys.

(b) survey of township area containing buildings.

(2) The original field notes, computations and plans of such surveys shall be submitted to the examiners.

Percentage
of marks for a
pass in "Part II".

15. A candidate shall not be deemed to have passed "Part II" of the examination unless he has obtained sixty percent (60%) or above the total marks obtained in each of the two tests set out in rule 15(1) (a) and (b) in these Regulations.

Invigilators
of Examination.

16.(1) The Board shall appoint one or more invigilators to be in attendance in "Part 1" of the examination.

(2) The Examiners in "Part II" of the examination shall submit for the approval of the Board, particulars of all proposed trial surveys before the examination.

SIGNED on this 7th day of September, 2007.

(Sgd)
(MANSOOR YUSSUF HIMID)
MINISTER OF WATER, CONSTRUCTION,
ENERGY AND LANDS.

LAND RENT REGULATIONS
LN 50/2007

LEGAL NOTICE NO. 50 OF 2007**THE LAND TENURE ACT, NO. 12 OF 1992**

THE LAND RENT REGULATIONS
[Made Under Section 67(2)©]

Short title and Commencement.	1. These Regulations may be cited as the Land Rent Regulations, 2007 and shall come into operation after being signed by the Minister and published in the Official Gazette.
Interpretation.	<p>2. In these Regulations, unless the context otherwise requires:-</p> <p>“Act” means the Land Tenure Act, No. 12 of 1992;</p> <p>“Director” means the Director of Lands and Registration;</p> <p>“Lessee” means the holder of a lease of public land or lease of a right of occupancy;</p> <p>“lessor” means the interest holder of the leased land, and includes, in respect of sub lease, the proprietor of a lease;</p> <p>“Land Rent” means a rental value payable by the lessee for a lease of public land or right of occupancy;</p> <p>“Lease Agreement” means an agreement entered between the lessee and the lessor for a lease of a public land or right of occupancy.</p>
Application.	3. These Regulations shall extend to and be binding upon the heirs, assigns, successors, executor and administrators of the parties of a lease.
Impositions Land Rent.	4. Subject to the provisions of the Act and these Regulations, there shall be included in every lease of public land and lease of a right of occupancy a rental provisions which shall provide for a rental value payable by the lessee of a public land or right of occupancy.
Time of payment.	5. Subject to the provisions of the Act and these Regulations, the payment of land rent shall be made In

such term and condition as provided in the Lease Agreement entered between the Lessee and the Lessor.

Payment.

6. The land rent shall be paid to the Director of Lands and Registration or any other person appointed by the Minister.

Rental
Adjustment.

7. The rental provisions shall be subject to review and adjustment by the Minister:-

- (a) In case of a leases of public land which are granted for a term of more than ten years, at not more than three year interval in accordance with the provisions of the Act;
- (b) In case of a leases of right of occupancy which are granted for a term of more than five years, at not more than two year interval in accordance with the provisions of the Act.

Offences.

8. Any lessee who fails to pay land rent when it becomes payable shall in addition of the land rent, pay an additional land rent amounting to ten per centum (10%) of the land rent for each month of his default.

Right
repossession.

9. Any lessee who fails without lawful reason to pay such a land rent and additional rent for one year from the date that additional rent becomes payable, the Minister shall have the right of entry and repossession of the demised land.

SIGNED ON this 30th day of June, 2007.

(Sgd)
(MANSOOR YUSSUF HIMID)
MINISTER OF WATER, CONSTRUCTION,
ENERGY AND LAND,
ZANZIBAR

LEGAL NOTICE NO. 50 OF 2007**THE LAND TENURE ACT, NO. 12 OF 1992**

**THE LAND RENT REGULATIONS
[Made Under Section 67(2)(c)]**

ARRANGEMENT OF SECTIONS**SECTION****TITLE**

1. Short title and Commencement.
2. Interpretation.
3. Application.
4. Impositions Land Rent.
5. Time of payment.
6. Payment.
7. Rental Adjustment.
8. Offences.
9. Right repossession.

**REGULATIONS TO CONTROL
LAND USES FOR INVESTMENT
LN 87 OF 2006**

LEGAL NOTICE NO. 87 OF 2006**THE LAND TENURE ACT NO. 12 OF 1992**

REGULATIONS TO CONTROL LAND USES FOR INVESTMENT, 2006
{Made under section 67(2) (i)}

PART ONE
PRELIMINARY

- | | |
|------------------------------|--|
| Short Title and commencement | 1. These Regulations shall be cited as the Regulations to control land uses for Investment, 2006 and shall come into operation after being signed by the Minister and published in the Official Gazette. |
| Interpretation | <p>2. In these Regulation , unless the context requires otherwise:-</p> <p>“Land” means and includes the Land by itself , 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;</p> <p>“Agricultural land” means the estates used for agriculture that persons may invest;</p> <p>“Department” means, the Department of Lands and Registration under the Ministry of Water, Construction, Energy and Lands;</p> <p>“Industry” means any building which is used for manufacturing of goods.</p> <p>“Plant” means a special system of waste water treatment which conforms with the International standards</p> |

“Owner” means the land owner and includes any person or group of persons or institution that claim a legal ownership of the land or its agent or any person who pays rent or any person authorized to pay rent or revenue on behalf of the land owner;

“ Head of Department” means the Head of Department of Lands and Registration – Pemba;

“Refuse” means any thing left or disposed by a person that was in his possession or control;

“Liquid waste” means all refuse that is flowing from the drainage;

“Solid waste” means the refuse, or waste produced in the commercial areas, houses, industries, offices and it includes the collection of refuse disposed in secrecy;

“ Incinerator” means a device used for burning refuse that conforms with the acceptable international standards

“ Minister” means the Minister responsible for land matters in Zanzibar;

“Director” means the Director of Lands and Registration and includes Deputy Director or Officer appointed to exercise functions of the Director;

“Proper uses” means the sustainable uses of land at appropriate standard of conservation of lands economically for social interest and for the purpose of protection and conservation of environment;

“Tribunal” means the Land Tribunal established under the Land Tribunal Act No. 7 of 1994;

“Improper uses” means and includes land uses contrary to the conditions prescribed in the Land Tenure Act NO 12 Of 1992, its regulations and land lease agreements or right of occupancy or to convert the land from its natural condition to another condition

“Contaminated water” means the water from daily human activities includes domestic uses, laundry, water used in hotels or agricultural areas or industries.

PART TWO

CONTROLLING OF THE LAND FROM IMPROPER USES

Supervise and control

3. The Department of Lands and Registration shall have the duty and responsibility to supervise and control the proper uses of land which is granted and provided under the Land Tenure Act No. 12 of 1992.

Power to enter and inspect

4.(1) The Director, Head of Department or any other Officer authorized by the Director shall have the right to enter, to visit or inspect any place of the Hotel, Industry or Farm for the purpose of inspecting the improvements and proper uses of the land;

(2) The owner of the land where the inspection is conducted under subsection (1) of this section, shall give cooperation together with information which are required by the inspector during the time of inspection in the area of the hotel , industry or farm;

(3) The owner of the Hotel , Industry or Farm who has given a false information to the inspector shall commit an offence under these Regulations;

(4) The Officer who made an inspection of the land under subsection (I) of this section shall submit a written report to the Director who then shall present the report to the Minister.

Minister's decision on inspection

5.(1) The Minister after receiving the report which is produced under section 4 (4.) may:-

- (a) give instructions to resolve the problem reported if any;
- (b) give instructions to sue the (owner) of that land;
- (c) give other instructions as he thinks fit and which does not contravene these Regulations or any other laws;

(2) A person who is not satisfied with the decision given by the Minister under subsection (1) of this section may file a complaint before the Land Tribunal.

Duties of
owner of Hotel,
Industry or
Farm.

6. Every owner of a Hotel, Industry or farm shall have the duty to ensure that the uses made thereon do not affect the land of a particular area.

Application of
land for
investment

7. Any person who applies a land for investment shall state in his application the manner of using and preserving such land.

Land for
Hotel use

8. (1) Any person who applies a land for construction of hotel, shall attach information and statistics in the application for environmental conservation, that shows methods and procedures to conserve land in order to avoid destruction or misuse of the land.

(2) Any person who has been granted a land for the purpose of constructing a hotel shall, after constructing such hotel install a water treatment plant and an incinerator for refuse of the hotel or any other refuse.

Hotel
Construction.

9. A person shall not be allowed to construct a hotel within 30 meters from the boundaries of a site to a high water mark to the beach and 10 meters to the coral areas.

Preservation
of trees in the
Hotel area.

10.(1) Any person who has been granted a land for hotel construction, shall have the duty and responsibility to preserve trees within the hotel and beach surrounded area.

(2) Provided that, all big trees in such area should remain unless the tree is weak or the license of cutting that tree is issued from the authorized institution.

Land for
Agriculture.

11.(1) Any person who applies a land for construction of hotel , shall attach information and statistics in the application for environmental conservation, that shows methods and procedures to conserve land in order to avoid destruction or misuse of land.

(2) Without prejudice to the conditions of subsection (1) of this section, any person granted a land for agriculture, before using pesticides chemicals, nutrients, shall submit to the Director, information regarding methods pertaining to the proper use of the pesticides, chemicals and nutrients in respect to the protection and sustainable use of land.

(3) The owner of a land shall have the duty to ensure the correct use and suitable pesticides chemicals and nutrients for land use.

Land for
Industries

12.(1) Any person who applies a land for industrial construction, shall attach information and statistics in the application for environmental conservation, that shows methods and procedures to conserve land in order to avoid destruction or misuse of land

(2) Any person who has been granted a land for industrial construction, shall have the duty to ensure that, raw materials and tools used do not cause land degradation;

(3) The owner of industry shall install an incinerator for waste product from industry or any other refuse;

(4) The owner of food manufacturing industry shall install water treatment plant for preservation of land from liquid wastes.

(5) A person shall not be granted a land for industrial construction without disclosing the methods and techniques of treating, storing, and knowledge of using chemicals.

Responsibilities
of existing
owners

13.(1) Any person who owns a hotel , industry of farm before these Regulations and has not installed a water treatment plant or an incinerator, shall install such water treatment plant and an incinerator within twenty four months (24) after these Regulations published in the official Gazette.

(2) Provided that, the owner shall be given a notice to install Water Treatment Plant or Incinerator or both.

PART THREE OFFENCES AND PENALTIES

Offence of
failing to install
an Incinerator ,
Water Treatment
Plant

14.(1) The owner of a hotel or industry who is required to install an Incinerator or water treatment plant subject to the provisions of these Regulations, and neglects to do so, shall be guilty of an offence and shall be liable to a fine of Two Millions Shillings (2,000,000/=), and upon default of payment of the fine, shall be imprisoned for a period of six months and shall be given a period of three months to install an incinerator or water treatment plant.

(2) If the owner of a hotel or industry failed to install an incinerator or water treatment plant after three months as prescribed under

subsection (1) of this section, shall be liable to a fine of Three Millions Shillings (3,000,000/=) each month for a period of six months.

(3) And after six months, if he fails to install an Incinerator or water treatment plant as prescribed under subsection (1) of this section, shall be liable on conviction to a fine of Five Million Shillings (5,000,000/=) and imprisonment for a period of not less than six months.

Offence of failing to install an Incinerator or Water Treatment Plant for existing investor.

15.(1) The owner of a Hotel before the commencement of these Regulations, who is required to implement the conditions specified under section 14 of these Regulations and upon the failure to do so, shall be guilty of an offence and shall be liable to a fine of Three Million Shillings (3,000,000/=) and upon default of payment of the fine shall be imprisoned for a period of not less than six months and shall be required to install water treatment plant within three months

(2) And after a period of three months on failure to install an incinerator or water Treatment Plant, shall be liable to a fine not less than Five Million Shillings (5,000,000/=) or imprisonment for a period of six months and be instructed to install an Incinerator and or water treatment plant as required by these Regulations.

Offence of failing to install Water Treatment Plant

16.(1) The owner of a hotel or industries who fails to follow conditions imposed of installing Water Treatment Plant according to these Regulations shall be guilty of an offence and on conviction shall be liable to a fine not exceeding Two Millions Shillings (2,000,000/=) and upon default of payment of fine shall be liable for imprisonment for a term not less than six months and shall be required to install water treatment plant within three months.

(2) And after the period of three months if the owner fails to install as prescribed under subsection(I) of this section shall be fined not less than Five Million Shillings (5,000,000/=) or imprisonment for a term of six months.

Offence of Cheating

17. The owner who make a false information according to these Regulations, shall be guilty of an offence and on conviction shall be liable to a fine not less than Five Million Shillings (5,000,000/=) and shall correct the information and shall follow the other provisions of the law.

Offence of haphazard disposing refuses

18.(1) It shall be an offence for the investor to disposal refuse in a manner contrary to the provisions of these Regulations in his, or another persons area or any other un authorized area and upon conviction shall be liable to a fine not less than three million shillings (3000,000/-).

(2) If such offence continues and upon conviction shall be liable to a fine of not less than Four Million Shillings (4,000,000/=) or imprisonment for a term of six months.

PART FOUR MISCELLENIOUS

Powers of the
Minister

19. The Minister may -

(1) cancel or suspend any application of land lease if the applicant fails to follow the conditions of land conservation as prescribed under these Regulations;

(2) Terminate the Land Lease Agreement or Right of Occupancy if;

- (a) the owner has failed to comply with provisions of these Regulations in relation to application for the land lease;
- (b) the owner given time for installation of water treatment plant, incinerators or any building for conservation of land and fails to do so after an expiry of a given time.
- (c) the owner uses the land contrary to the social and government interest, investment regulations and conditions or business license is revoked.

(3) Without prejudice to the provisions of subsection (1) of this section, the Minister shall give written notice to the land owner to comply with the land conditions as prescribed by the law before termination or cancellation of the Land Lease Agreement;

(4) If the Minister decide to cancel the land lease Agreement, shall immediately issue a notice to the owner of the land. This order shall come into effect after fourteen (14) days from the date of the notice if there is no appeal against the order.

Appeal

20. If the owner of a land is not satisfied with the order issued by the Minister under section 19 of these Regulations, may appeal to the Land Tribunal within thirty days (30).

Amendment

21. The Minister may amend these Regulations from time to time as he thinks fit by publishing in the Official Gazette.

Alteration of
degree of
penalties

22. The Minister may from time to time alter the degrees of penalty according to the particular time or order an offender to restore to pristine condition any abuse, degradation or contamination of land above and

underground or beach surrounded area at the offender's costs.

SIGNED this 4th day of July 2006.

(SGD)

{ MANSOOR YUSSUF HIMID }

**MINISTER OF WATER, CONSTRUCTION, ENERGY AND LAND
ZANZIBAR**

**KANUNI ZA UDHIBITI WA
MATUMIZI YA ARDHI KWA
UWEKEZAJI LN 48/2006**

TANGAZO NAM. 48 YA 2006**SHERIA YA UMILIKI WA ARDHI NAM.12 YA 1992****KANUNI ZA UDHIBITI WA MATUMIZI YA ARDHI
KWA UWEKEZAJI, 2006****KIFUNGU****YALIYOMO****SEHEMU YA KWANZA
UTANGULIZI**

1. Jina na kuanza kutumika,
2. Ufafanuzi.

**SEHEMU YA PILI
UDHIBITI WA ARDHI DHIDI YA MATUMIZI MABAYA**

3. Usimamizi na udhibiti.
4. Uwezo wa kuingia na kukagua.
5. Uamuzi wa Waziri kuhusiana na ukaguzi.
6. Wajibu wa mmiliki wa Hoteli, Kiwanda au Shamba.
7. Ombi la ardhi kwa uwekezaji.
8. Ardhi kwa ajili ya Hoteli.
9. Ujenzi wa Hoteli.
10. Uhifadhi wa miti ndani ya eneo la Hoteli.
11. Ardhi kwa ajili ya kilimo.
12. Ardhi kwa ajili ya Viwanda.
13. Wajibu kwa wamiliki wa zamani.

**SEHEMU YA TATU
MAKOSA NA ADHABU**

14. Kosa la kutojenga tanuri.
15. Kosa la kutojenga tanuri au mtu kwa mmiliki wa zamani.
16. Kosa la kutojenga mtambo wa kurekebisha machafu.
17. Kosa la kudanganya.
18. Kosa la kutupa taka ovyo.

**SEHEMU YA NNE
MENGINEYO**

19. Uwezo wa Waziri.
20. Rufaa.
21. Kubadilisha Kanuni.
22. Kubadilisha kiwango cha adhabu.

SHERIA YA UMILIKI WA ARDHI NAM.12 YA 1992

**KANUNI ZA UDHIBITI WA MATUMIZI YA ARDHI KWA
UWEKEZAJI, 2006
{Imefanywa chini ya kifungu cha 67 (2) (i)}**

**SEHEMU YA
KWANZA
UTANGULIZI**

Jina na
kuanza
kutumika,

1. Kanuni hizi zitajulikana kuwa ni Kanuni za Udhibiti wa Matumizi ya Ardhi kwa Uwekezaji 2006, na zitaanza kutumika baada ya kutiwa saini na Mh. Waziri na kutangazwa katika Gazeti Rasmi.

Ufafanuzi.

2. Katika Kanuni hizi, isipokuwa kama itaelezwa vyenginevyo:-.

"Ardhi" inajumuisha ardhi yenyewe, ardhi iliyofunikwa na maji, vitu vyote vinavyoota kwenye ardhi na majengo na vitu vyengine vya kudumu katika ardhi;

"Ardhi ya kilimo" maana yake ni mashamba ambayo yanatumika kwa kilimo na ambayo watu huwekeza;

"Idara" maana yake ni Idara ya Ardhi na Usajili iliyo chini ya Wizara ya Maji, Ujenzi, Nishati na Ardhi;

"Kiwanda" maana yake ni jengo lolote ambalo linatumika kwa shughuli za uzalishaji bidhaa;

"Mtambo" maana yake ni mfumo maalum wa kusafishia maji machafu ambao umethibitishwa na kukubalika kwa viwango na ubora wake Kimataifa;

"Mmiliki" maana yake ni mmiliki wa ardhi na inajumuisha mtu yeyote au kundi la watu au taasisi ambayo inadai umiliki wa ardhi kisheria au wakala wake au mtu yeyote anaelipa kodi au mtu yeyote aliyeidhinishwa kulipa kodi au mapato kwa niaba ya mmiliki wa ardhi;

"Mkuu wa Idara" maana yake ni Mkuu wa Idara ya Ardhi na Usajili-Pemba;

"Taka" maana yake ni kitu chochote kilichoachwa au kutupwa na mtu ambacho kilikua katika mamlaka udhibiti wake;

"Taka maji" maana yake ni taka zote zinazotiririka kutoka kwenye mtaro;

"Taka ngumu" maana yake ni taka au uchafu unaozalishwa katika sehemu za biashara, majumbani, viwandani, maofisini na inajumuisha mrundikano wa taka zilizotupwa siri;

"Tanuri" maana yake ni mtambo unaotumika kwa kuehomea takataka zinazotokana na kazi mbalimbali zinazofanywa katika eneo husika ambao umethibitishwa na kukubalika kwa viwango na ubora wake kimataifa;

"Waziri" maana yake ni Waziri anayehusika na mambo ya Ardhi hapa Zanzibar;

"Mkurugenzi" maana yake ni Mkurugenzi wa Ardhi na Usajili na inajumuisha Msaidizi Mkurugenzi au Afisa aliyeteuliwa kufanya kazi za Mkurugenzi;

"Matumizi bora" maana yake ni matumizi endelevu ya ardhi katika kiwango muhimu eha utunzaji wa ardhi kwa uehumi na kwa manufaa ya jamii na kwa madhumuni ya kulinda na kuhifadhi mazingira;

"Mahkama" maana yake ni Mahkama ya Ardhi iliyoanzishwa chini ya Sheria No.7 ya mwaka 1994;

"Matumizi mabaya" inajumuisha matumizi ya ardhi yanayokiuka masharti yaliyomo kwenye Sheria ya Ardhi Nam. 12 ya 1992, Kanuni zake na Mkataba wa ukodishwaji ardhi au Haki ya Matumizi ya Ardhi au kuibadilisha ardhi kutoka hali yake ya asili na kuifanya kuwa katika hali nyengine;

"Maji machafu" maana yake ni maji yanayotokana na shughuli za kawaida za binadamu kwa matumizi ya nyumbani, maji ya kufulia, maji kwenye shughuli za viwanda, mahotelini au sehemu za kilimo.

SEHEMU YA PILI

UDHIBITI WA ARDHI DHIDI YA MATUMIZI MABAYA

Usimamizi
na udhibiti.

3. Idara ya Ardhi na Usajili itakuwa na jukumu la kusimamia na kudhibiti matumizi bora ya ardhi ambayo imetolewa na kugawiwa chini ya Sheria ya Ardhi Nam. 12 ya mwaka 1992.

Uwezo wa
kuingia na
kukagua.

4.(1) Mkurugenzi, Mkuu wa Idara au Afisa mwingine aliyeidhinishwa na Mkurugenzi atakuwa na haki ya kuingia, kutembelea na kukagua eneo lolote la Hoteli, Kiwanda au Shamba kwa lengo la kukagua uendelezaji na matumizi bora ya ardhi.

(2) Mmiliki wa ardhi ambayo ukaguzi unafanyika chini ya kijifungu cha (1) cha kifungu hiki, atatakiwa kutoa ushirikiano ikiwa ni pamoja na maelezo yatakayohitajika na mkaguzi wakati wa ukaguzi wa eneo la Hoteli, Kiwanda au Shamba.

(3) Mmiliki wa eneo la Hoteli, Kiwanda au Shamba, ambaye ametoa maelezo ya uongo kwa mkaguzi, atakua amefanya kosa chini ya Kanuni hizi.

(4) Afisa aliyefanya ukaguzi wa ardhi chini ya kijifungu cha (1) cha kifungu hiki, atapeleka taarifa ya maandishi kwa Mkurugenzi ambae naye ataiwasilisha kwa Waziri.

Uamuzi wa
Waziri
kuhusiana
na ukaguzi.

5.(1) Waziri baada ya kupokea taarifa iliyotolewa chini ya kifungu cha 5(2) anaweza:

- (a) kutoa maelezo ya kuondoshwa kwa tatizo lililoripotiwa kama lipo;
- (b) kutoa maelezo ya kushitakiwa kwa muhusika (mmiliki) wa ardhi hiyo; au

- (c) kutoa maelezo mengine yeyote kwa kadri atakavyoona inafaa, na ambayo haitakwenda kinyume na kanuni hizi au Sheria nyengine.

(2) Mtu atakayekuwa hakuridhika na uamuzi wa Waziri alioufanya ehini ya kijifungu eha (1) eha kifungu hiki, anaweza kupeleka lalamiko lake mbele ya Mahkama ya Ardhi.

Wajibu wa mmiliki wa Hoteli, Kiwanda au Shamba.

6. Kila mmiliki wa Hoteli, Kiwanda au Shamba atakuwa na wajibu wa kuhakikisha kuwa anafanya matumizi ambayo hayatoathiri ardhi ya eneo husika.

Ombi la ardhi kwa uwekezaji.

7. Mtu yeyote atakayeomba ardhi kwa ajili ya uwekezaji, lazima aeleze kwenye ombi lake namna atakavyotumia na kuhifadhi ardhi hiyo.

Ardhi kwa ajili ya Hoteli.

8.(1) Mtu yeyote atakayeomba kupatiwa ardhi kwa ajili ya kujenga Hoteli atalazimika katika maombi yake kuambatanisha hati ya takwimu ya kuhifadhi mazingira itakayoonesha namna atakavyohifadhi ardhi na namna ya kuepuka uharibifu au matumizi mabaya ya ardhi.

(2) Mtu yeyote atakayepewa ardhi kwa ajili ya kujenga Hoteli atalazimika, baada ya kujenga Hoteli, kujenga tanuri la kuchomea taka zinazotokana na shughuli za hoteli, au taka nyengine zozote.

Ujenzi wa Hoteli.

9. Mtu yeyote hataruhusiwa kujenga hoteli kwenye eneo la mita thalathini (30) kutoka mpaka wa kiwanja hadi ufukweni, kwa maeneo ya mehanga na mita kumi (10) kwa maeneo yenye majabali.

Uhifadhi wa miti ndani ya eneo la Hoteli.

10.(1) Mtu yeyote aliyepewa ardhi kwa ajili ya kujenga Hoteli atakuwa na wajibu wa kuhifadhi miti katika eneo la kati ya hoteli na ufukwe.

(2) Ikizingatiwa kwamba, miti mikubwa iliyomo kwenye eneo hilo itabaki kama ilivyo, isipokuwa pale ambapo mti utakua mbovu au kibali eha kukata mti huo kimetolewa kutoka taasisi inayohusika na uhifadhi wa miti.

Ardhi kwa ajili ya kilimo.

11.(1) Mtu yeyote atakayeomba kupatiwa ardhi kwa ajili ya shughuli za kilimo, atalazimika katika maombi yake kuambatanisha Hati ya takwimu ya kuhifadhi mazingira, itakayoonesha namna atakavyotumia na kuhifadhi ardhi hiyo.

(2) Bila ya kuathiri masharti yay.ijifungu cha (1) cha kifungu hiki, mtu aliyepewa ardhi kwa ajili ya kilimo, wakati atakapohitaji kutumia madawa, kemikali na virutubisho, atalazimika kuwasilisha kwa Mkurugenzi hati zote zinazoonesha namna atakavyotumia kemikali au madawa ya kuulia wadudu na namna ya kutumia virutubisho kwa kuzingatia matumizi bora ya ardhi.

(3) Jukumu la kuhakikisha ubora wa kemikali au madawa kwa matumizi ya ardhi, litakuwa kwa mtumiaji.

Ardhi kwa ajili
ya Viwanda.

12.(1) Mtu yeyote atakayeomba kupatiwa ardhi kwa ajili ya ujenzi wa kiwanda, atalazimika katika maombi yake kuambatanisha Hati ya takwimu ya uhifadhi wa mazingira itakayoonesha namna atakavyohifadhi ardhi na aina ya biashara atakayoifanya ambayo haitopelekea uharibifu wa ardhi hiyo.

(2) Mtu atakayepewa ardhi kwa ajili ya kujenga Kiwanda atakuwa na wajibu wa kuhakikisha kwamba, malighafi na vifaa atakavyovitumia hazitapelekea kuathirika kwa ardhi hiyo.

(3) Mmiliki wa kiwanda atakuwa na wajibu wa kujenga tanuri la kuchomea taka zinazotokana na uzalishaji wa kiwanda hicho, au taka nyengine zozote.

(4) Mmiliki wa kiwanda cha kutengeneza vyakula, atalazimika kuweka mtambo wa kusafisha maji machafu, ili kuhifadhi ardhi hiyo kutokana na athari ya maji hayo.

(5) Mtu yeyote hatopewa ardhi kwa ajili ya kujenga kiwanda bila ya kuonesha namna atakavyosafisha kemikali atakazozitumia, kuzitunza na ujuzi wa kuzitumia.

Wajibu
kwa wamiliki
wa zamani.

13.(1) Mtu yeyote anayemiliki Hoteli au kiwanda, kabla yakutungwa kwa Kanuni hizi, na ambaye hajaweka mtambo wa kusafisha maji machafu, au tanuri, atalazimika kuweka mtambo au tanuri hila ndani ya kipindi kisichozidi miezi ishirini na nne (24) baada ya kuanza kutumika kwa Kanuni hizi,

(2) Ikizingatiwa kwamba, mmiliki atapewa taarifa itakayomtaka kuweka mtambo wa maji machafu au tanuri au vyote kwa pamoja.

SEHEMU YA TATU MAKOSA NA ADHABU

Kosa la
kutojenga
tanuri.

14.(1) Mmiliki yeyote wa hoteli au kiwanda ambaye ametakiwa kujenga tanuri kwa mujibu wa Kanuni hizi, na akawa hakufanya hivyo, atakuwa ametenda kosa na atatozwa faini ya Shilingi Milioni mbili (2,000,000/=), na akishindwa kulipa faini, atapewa adhabu ya kifungo cha miezi sita na atapewa muda wa miezi mitatu kufanya matengenezo hayo.

(2) Na endapo baada ya miezi mitatu akashindwa kujenga tanuri kama alivyo amriwa chini ya kijifungu cha (1) cha kifungu hiki, atatozwa faini isiyopungua Shilingi Milioni tatu (3,000,000/=) kwa kila mwezi kwa muda wa miezi sita;

(3) Na baada ya miezi sita, akashindwa kutengeneza tanuri kama, ilivyoelezwa kwenye kijifungu cha (1) cha kifungu hiki, atatozwa faini ya Shilingi Milioni Tano (5,000,000/=) na kifungo kisichopungua miezi sita.

Kosa la
kutojenga
tanuri au
mtu kwa
mmiliki
zamani.

15.(1) Mmiliki yeyote wa hoteli kabla ya Kanuni hizi kuanza kutumika, ambae ametakiwa kufuata masharti ya kifungu cha 14 cha Kanuni hizi, na akawa hakutekeleza masharti hayo, atakuwa ametenda kosa na atatozwa faini ya Shilingi Milioni Tatu (3,000,000/=), na akishindwa kulipa faini, atapewa adhabu ya kifungo kisichopungua miezi sita, na atapewa muda wa miezi mitatu kufanya matengenezo hayo.

(2) Na baada ya kipindi cha miezi mitatu akashindwa kufanya matengenezo hayo, atatozwa faini isiyopungua Shilingi Milioni Tano (5,000,000/=) au kifungo cha miezi sita na atatakiwa kuweka tanuri na au mtambo wa kusafisha maji kama alivyotakiwa kufanya kwa mujibu wa Kanuni hizi.

Kosa la
kutojenga
mtambo wa
kurekebisha
machafu.

16.(1) Mmiliki yeyote wa hoteli au kiwanda ambae hakufuata masharti yaliyowekwa ya kujenga mtambo wa kusafisha maji machafu kwa mujibu wa Kanuni hizi, atakuwa ametenda kosa na ikithibitika atatozwa faini isiyopungua Shilingi Milioni Mbili (2,000,000/=), na akishindwa kulipa faini atapewa adhabu ya kifungo kisichopungua miezi sita, na atawajibika kufanya matengenezo hayo ndani ya kipindi cha miezi mitatu.

(2) Na endapo baada ya miezi mitatu, akashindwa kufanya matengenezo kama ilivyoelezwa chini ya kijifungu cha (1) cha kifungu hiki, atatozwa faini isiyopungua Shilingi Milioni Tano (5,000,000/=) au kifungo cha miezi sita.

Kosa la kudanganya.

17. Mmiliki yeyote ambaye atatoa maelezo ya uongo yaliyohitajika kutolewa kwa mujibu wa Kanuni hizi, atakuwa ametenda kosa na ikithibitika atatozwa faini isiyopungua Shilingi Milioni Tano (5,000,000/=) na atatakiwa kurekebisha maelezo hayo na kufuata maelekezo ya sheria.

Kosa la kutupa taka ovyo.

18.(1) Itakua ni kosa kwa mwekezaji kuchukua na kutupa taka ovyo katika eneo lake, eneo la mtu mwingine au mahala popote pasipoidhinishwa kutupwa taka hizo, na ikithibitika atatozwa faini isiyopungua Shilingi Milioni Tatu (3,000,000/=).

(2) Endapo kosa hilo likiendelea na ikithibitika atatozwa faini isiyopungua Shilingi Milioni Nne (4,000,000/=) au kifungo cha miezi sita.

SEHEMU YA NNE MENGINEYO

Uwezo wa Waziri.

19. Waziri anaweza:-

(1) kufllta au kusimamisha ombi lolote la ukodishwaji ardhi ikiwa muombaji ameshindwa kutimiza masharti ya uhifadhi waardhi kama yalivyotajwa kwenye Kanuni hizi.

(2) kufuta mkataba wa ukodishwaji ardhi au umiliki wa ardhi husika ikiwa :-

- (a) mmiliki yeyote ameshindwa kutekeleza masharti yaliyowekwa ndani ya Kanuni hizi kuhusiana na ombi la ukodishwaji ardhi.
- (b) mmiliki yoyote aliyepewa muda wa kujenga tanuri, mtambo wa kusafishia maji machafu au jengo lolote la kuhifadhi ardhi na akashindwa kufanya hivyo baada ya kumalizika muda aliopewa.
- (c) mmiliki ataitumia ardhi kwa namna ambayo ni kinyume na faida ya jamii na Serikali, masharti ya uwekezaji au kufutiwa leseni yake ya biashara.

(3) Bila ya kuathiri masharti ya kijifungu cha (1) cha kifungu hiki, Waziri kabla ya kusimamisha au kufuta mkataba wa kumiliki ardhi, atatoa taarifa ya maandishi kwa mmiliki ardhi kutekeleza masharti ya ardhi kama yalivyoielezwa na sheria.

(4) .Endapo Waziri ameamua kufuta mkataba wa ukodishwaji ardhi atatoa taarifa ya maandishi kwa mmiliki ardhi haraka iwezekanavyo. Amri hii itanza kutumika ndani ya siku kumi na nne (14) kutoka siku iliyotolewa amri hiyo iwapo hakuna rufaa ya malalamiko kuhusiana na amri hiyo.

Rufaa

20. Mmiliki yeyote wa ardhi ambae hakuridhika na uamuzi wa Waziri alioufanya chini ya kifungu cha 20, anaweza kukata rufaa ndani ya siku thelathini (30), kwa Mahkama ya Ardhi.

Kubadilisha Kanuni

21. Waziri anaweza wakati wowote kubadilisha Kanuni hizi pale atakapoona inafaa kwa kutangaza katika Gazeti Rasmi.

Kubadilisha Kiwango cha adhabu

22. Waziri anaweza kwa wakati tofauti kubadilisha viwango vya adhabu kulingana na muda uliopo, au kumtaka mchafuzi kurekebisha uchafuzi wa ardhi kwa gharama zake mwenyewe katika sehemu za juu ya ardhi, chini ya ardhi au sehemu za fukwe.

Imetiwa Saini Leo, tarehe 4 Mwezi wa Julai, 2006.

(SGD)

.....

{ MH. MANSOOR YUSSUF HIMID }

WAZIRI WA MAJI, UJENZI, NISHATI NA ARDHI ZANZIBAR

**RULES OF LAND TRIBUNAL
(PRESCRIBED FEES) LN 24/2006**

LEGAL NOTICE NO.24 OF 2006**THE LAND TRIBUNAL ACT, 1994****THE RULES OF LAND TRIBUNAL (PRESCRIBED FEES)****(Made Under Section 43)****Short title and commencement.**

1. The rules may be cited as the Land Tribunal (Prescribed Fees) Rules, 2006 and shall come into operation after being published in the official gazette.

F e e s.

2. The fees specified in the schedule hereto shall hence for the leviable in the Land Tribunal of Zanzibar in respect of the several matters and proceedings mentioned therein.

**SCHEDULE
SUMMONS FEES**

	Shs.	Cts.
1. Where the value of the subject matter		
(a) Does not exceed shs.20, 000/=	500	00
(b) Exceeding Shs 20,000/= But does not exceed Shs 100,000/=	5 per cent On 1000 or part thereof.	
(c) Exceeding Shs. 100,000/= but does not exceed 1,000,000/=	3 percent on each 1000 or part thereof	
(d) Exceeds shs. 1,000,000/= but does not exceed Shs. 5,000,000/=	5 percent on each Shs. 1000 or part thereof	
(e) Exceeds Shs. 5,000,000 but not exceed 10,000,000/=	75,000.00	
(f) Exceeds Shs. 10,000,000/= but does not exceed Shs. 20,000,000/=	80,000.00	

(g) Exceeds Shs. 20,000,000/=..... 85,000.00

No additional fees shall be charged in respect of any interest which may accrue due to after institution of the suit.

2. For taking particulars of complaints, application for summons or any other necessary document 1,000.00
3. In any suit where it is not possible to estimate the subject matter at a monetary value 2,500.00
4. On originating summons..... A fee of 50,000/= per each, question contained in the summons
5. In suit for arrears of rent by landlord against a tenant where an order of possession of land is prayed 2,000.00
6. In similar suit, where no rent is claimed but only order for possession of land..... 2,000.00
7. Upon filing an award under the Civil Procedure Decree Cap. 8 Schedule II..... 3,000.00
8. On the issue of every witness summons or notice 1,000.00

SERVICE FEES

9. For service of summons, answer motion paper, notice Warrant decree order or other documents on a party witness Assessor or other person.
 - (a) Within the towns of the Court of issue 500.00
 - (b) Outside the township will depend upon the fares set by the government and be deposited to be given to process server.

APPLICATION AND FILING

- | | |
|--|-----------|
| 10. On application for every interlocutory injunction, mandamus, certiorari injunction and other writs | 50,000.00 |
| 11. On every application or motion to include order made thereon..... | 3,000.00 |

Provided that no fee shall be payable in respect on an application by a decree – holder for the payment out of monies paid into court by a judgement debtor in satisfaction of a decree, or realised under execution proceedings.

Provided that no fee shall be payable in respect of an application for the return of an exhibit.

- | | |
|---|----------|
| 12. On every application or motion accompanied by consent to include filing and order made thereon..... | 3,000.00 |
| 13. On filing an exhibit, document, book, other instruments or article (except bonds and recognisances) | 1,000.00 |

NOTE: No fee is chargeable upon letters addressed to the court or an officer of the court.

- | | |
|--|----------|
| 14. For taking filing security when ordered in any proceedings | 5,000.00 |
|--|----------|

SPECIAL CASE

- | | |
|--|-----------|
| 15. On submission of special case to include hearing | 10,000.00 |
|--|-----------|

DECREE OR ORDER

- | | |
|---|----------|
| 16. For drawing and engrossing decree or order | |
| a) Where the amount of the decree or order is below 10,000/=..... | 1,000.00 |

- | | |
|--|-----------|
| b) Where the amount of the decree or order is above 10,000/= but does not exceeding Shs.100,000/=..... | 5,000.00 |
| c) Where the amount of the decree or order is above 100,000/= but does not exceed Shs 500,000/=..... | 7,500.00 |
| d) Where the amount of the decree or order is above 500,000/= but not exceeds Shs 1,000,000/= | 10,000.00 |
| e) Where the amount of decree or order exceeds 1,000,000/= | 15,000.00 |
| f) Where the decree or order is not capable of being calculated in money value..... | 20,000.00 |
17. On perusal application and sealing any decree or order drawn by a party to the suit or his advocate or agent.
- | | |
|--|-----------|
| a) Is below 50,000/= | 1,000.00 |
| b) Exceeds Shs. 50,000/= but does not exceed Shs.100,000/=..... | 1,500.00 |
| c) Exceeds Shs. 100,000 but does not exceed Shs. 500,000/= | 2,000.00 |
| d) Exceeds Shs. 500,000/= but does not exceed Shs. 1,000,000/= | 5,000.00 |
| e) Exceeds 1,000,000/= but does not exceed Shs. 10,000,000/= | 10,000.00 |
| f) Exceeds Shs. 10,000,000/= | 15,000.00 |
18. a) On issue and execution of arrest (a part from travelling, food and other costs)
- | | |
|--|----------|
| b) Upon every warrant of committal | 6,000.00 |
| | 5,000.00 |
19. Service fee for posting of warrant upon each property attached, it depends upon the expenses of that service.

EXECUTION AGAINST PROPERTY

20. On every application for execution against property to include order,	
a) On issue and execution of warrant	3,000.00
	3,000.00
b) Upon every warrant of arrest	1,000.00
21. a) For any sum below 20,000/=	
	2,000.00
b) For any sum above 20,000/= but not exceeding 100,000	3,000.00
c) For any sum above 100,000 but not exceeding 500,000/=	4,000.00
d) For any sum above 500,000 but not exceeding 1,000,000/=	
e) For any sum exceeding 1,000,000/= but not exceeding Shs. 5,000,000/=	5,000.00
f) For any sum exceeding 5,000,000/= but does not exceed Shs. 10,000,000/=	7,500.00
g) Exceeds Shs. 10,000,000/=	10,000.00

BROKERS FEES ON ATTACHMENT OF MOVABLE PROPERTY

22. When warrant is executed by Broker under instruction of The Land Tribunal the following fees shall be payable:	
i. When the amount certified by the warrant to be due is tendered to the Broker.	
a) Does not exceed Shs. 1,000,000/=	1.5%
b) Exceeds Shs. 1,000,000/=	1%
c) Exceeds Shs. 10,000,000/=.....	0.5%

**BROKERS FEES ON SALE OF MOVABLE
PROPERTY**

23 (1) On sale of any property except jewel, iron, clove, clove stems, coconuts and copra.....	7% of the value of the property
(2) On sale of clove stems, coconuts and copra ..	2%
(3) On sale of jewel and iron	1%

**BROKER'S FEES ON SALE OF IMMOVABLE
PROPERTY**

24. The value of the property sold.....	6%
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Provided that if the property when offered for sale by public is not for any cause other than the default of the Broker himself the Broker shall be entitled 3% of the value of the property.

To enable the value of the property to be assessed by the decree-holder and the Broker shall mutually agree to the value thereof before offering for sale and in case of dispute the value of the property shall be assessed by the Chairman of the Lands Tribunal.

The half fees shall be payable upon the value of such agreement or assessment.

In case of an abortive sale the costs for advertising the property for sale and reasonable out of pocket expenses incurred by the Broker such to be certified by the Chairman, shall be paid forthwith by the decree-holder.

25. Upon issue of notice to settle proclamation service fees only to be charged as in Fee No.9.	
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26. Upon every warrant of sale, where the value of the subject matter;-	
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a) Exceeds Shs 10,000/= but does not exceed Shs 100,000/=	1,000.00
b) Exceeds Shs 100,000/= but does not exceed Shs 500,000/=.....	1,500.00

c) Exceeds Shs 500,000/= but does not exceed Shs 1,000,000/=.....	2,000.00
d) Exceeds Shs 1,000,000/= but does not exceed Shs 5,000,000/=.....	2,500.00
e) Exceeds Shs 5,000,000/=	3,000.00
27. Upon drawing Proclamation for sale Schedule of property where the value of subject matter;-	
a) Exceeds Shs 200,000/= but does not exceed Shs 500,000/=.....	2,500.00
b) Exceeds Shs 500,000/= but does not exceed Shs 1,000,000/=.....	5,000.00
c) Exceeds Shs 1,000,000/=	7,500.00
28. For attendance at sale at the request either of parties in interested or legal authority. If absent from Land Tribunal not more than two hours for each additional hour or fraction thereof	10,000.00

SALE CERTIFICATE

29. For supplying certificate confirming sale of immovable property sold by order of The Land Tribunal.	
Does not exceed Shs. 500,000/=	2,500.00
Where purchase money exceed Shs. 500,000/= but does not exceed Shs. 1,000,000/=	3,000.00
Where purchase money exceeds shs. 1,000,000/= but does not exceed Shs. 5,000,000/=	5,000.00
Where purchase money exceed shs. 5,000,000/= but does not exceed 10,000,000/=	7,500.00
Exceeds Shs. 10,000,000/=	10,000.00

MISCELLANEOUS

30.. Upon taking on account and declaiming the amount due upon the date fixed, for redemption on a mortgage	1,000.00
When an agreed account is filed, signed by the parties or their advocates.	
31. Upon order for adjournment of hearing when rendered necessary by defaulting of either party to be paid by the defaulter of either party.....	2,000.00
Such sum not exceeding Shs. 50,000/=.	
32. Attending to view in addition to all travelling expenses	15,000.00
33. Upon deposit of any document	1,000.00
34. Upon evidence taken, the commission for every day or part of a day.....	5,000.00
35. On the examination of any witness of debone case unless the chairman otherwise Order.....	3,000.00
36. Upon taking an affidavit for each person sworn or affirmed	1,000.00
37. For superintending and taking an inventory where directed by the Land Tribunal.....	15,000.00
38. On deposit of any money or valuable in Land Tribunal.....	25% with a maximum of Shs 50,000/=
39. For attesting signature upon a document.....	1,500 00
40. Upon reference to Land Tribunal archives.....	2,000.00
41. Upon search in Land Tribunal Archives a proportionate charge at the rate of Shs 2,000 per day.....	2,000.00

42. Upon communication with another Tribunal	3,000.00
43. For certificate that no execution has been levied.....	1,500.00

CERTIFIED COPIES AND TRANSLATIONS

For certified copy of any document or Proceedings in archives:

For the first folio of 100 words or part thereof	3,000.00
For every subsequent folio.....	3,000.00

Provided that in every group of figures shall count as one word.

45. For uncertified copies of book, document or proceedings in archives:

For the first folio of 100 words or part thereof	2,000.00
For every subsequent folio or part thereof ...	2,000.00

46. For an official certified translation of any document.

For first folio of 100 words	4,000.00
For each subsequent folio	3,000.00

47. For certifying copy of any document tendered by a party.

For first folio of 100 words	4,000.00
For each subsequent folio	3,000.00

48. For a certifying as correct a translation tendered by a party.

For first folio of 100 words	2,000.00
For each subsequent folio.....	1,500.00

Made at Zanzibar this 14TH Day of April, 2006.

(SGD)

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{ Hon. Mansoor Yussuf Himid }

Minister of Water, Construction, Energy and Land.

ZANZIBAR