

THE UNITED REPUBLIC OF TANZANIA



No. 28 OF 1970

I ASSENT,

Julius K. Nyerere
President

25TH JULY, 1970

An Act to amend the Land Ordinance and the Land (Law of Property and Conveyancing) Ordinance

[25TH JULY, 1970]

ENACTED by the Parliament of the United Republic of Tanzania.

1. This Act may be cited as the Land Laws (Miscellaneous Amend- Short title
ments) Act, 1970.

PART I

AMENDMENTS OF THE LAND ORDINANCE

2. This Part shall be read as one with the Land Ordinance. Construction
Cap. 113
3. In this Part, unless the context otherwise requires, "the Ordinance" Interpreta-
tion
means the Land Ordinance.
4. Section 2 of the Ordinance is amended by deleting the definition Definition
"native"
amended
"native" and substituting therefor the following—
" 'native' means any person who is a citizen of the United Republic
and who is not of a European or Asiatic origin or descent;".
5. Section 3 of the Ordinance is amended in subsection (1) by delet- Section 3
of Cap. 113,
amended
ing the proviso thereto and substituting therefor the following proviso:—
"Provided that, subject to the provisions of subsection (2), nothing
in this Ordinance shall be construed as affecting the validity of any
right of occupancy granted, or deemed by the provisions of the Govern-
ment Leaseholds (Conversion to Rights of Occupancy) Act, 1969 to Acts 1969
No. 44
have been granted, in accordance with the provisions of this Ordinance
as in force immediately before the date of the coming into operation of

Acts 1970
No. 28

the Land Laws (Miscellaneous Amendments) Act, 1970, (hereinafter referred to as the "effective date") and subsisting on the effective date, or the validity of any other right over or interest in any land lawfully acquired before, and subsisting on, the effective date, and all such rights of occupancy, other rights and interests shall, subject to the provisions of section 14B and section 14C, have the same effect and validity in all respects as they had before the effective date."

Section 7
of Cap. 113
amended

6. Section 7 of the Ordinance is amended—

(a) by adding immediately after subsection (2) the following subsection:—

"(2A) The President may, where in his opinion any person in whose favour a grant of right of occupancy has been made is unable by reason of poverty, infirmity or any other reason whatsoever to pay the rent which he is required to pay under the right of occupancy, direct that such person shall be excused from payment of the whole of the rent or such portion of the rent as the President may determine for the remainder of the term of the right of occupancy or for such portion of such term as the President may determine.";

(b) by deleting the proviso to subsection (3) and substituting therefor the following proviso:—

"Provided that—

(i) notwithstanding any provision to the contrary in any certificate of occupancy or of the provisions of any condition of a right of occupancy, the President shall have power to determine the rent in accordance with the provisions of section 15 and revise or confirm the same at intervals of not less than ten years;

(ii) the President may waive the provisions of this subsection where a right of occupancy is granted to the holder of a mining lease in connection with his mining operations and such right is subject to a condition prohibiting the transfer of the right of occupancy to any person other than the holder of a mining lease.";

(c) by adding immediately below subsection (4) the following new subsection:—

"(5) For the avoidance of doubts, it is hereby declared that the provisions of paragraph (i) of the proviso to subsection (3) shall apply to all rights of occupancy including the rights of occupancy granted before the date of the coming into operation of the Land Laws (Miscellaneous Amendments) Act, 1970."

Section 10
of Cap. 113
amended

7. Section 10 of the Ordinance is amended—

(a) by renumbering the section as subsection (1) of section 10;

(b) by adding immediately below subsection (1) the following subsections:—

"(2) Notwithstanding the provisions of subsection (1) the President may revoke a right of occupancy if, in his opinion, it is in the public interest so to do.

(3) Where a right of occupancy is revoked under this section, such revocation shall take effect and be valid notwithstanding any provision to the contrary contained in any other written law or any order made or issued by any court prohibiting the occupier from transferring or otherwise disposing of his interest in the land or of any unexhausted improvement existing on the land."

8. Section 14 of the Ordinance is amended by deleting the semicolon at the end and adding immediately after the word "occupation", the words "and that this condition shall not be discharged by the occupier making payment of the whole or any part of such amount direct to the previous occupier;" Section 14 of Cap. 113 amended

9. The Ordinance is amended by adding immediately below section 14A the following new sections:— Section 14B added

"Mortgagee to have preferential claim over compensation

14B.—(1) Where any amount is paid to the President on behalf of a previous occupier in accordance with the provisions of paragraph (b) of section 14 and the President is satisfied that—

- (a) such previous occupier had created a mortgage on the right of occupancy of the land previously held by him; and
- (b) that the amount payable to the mortgagee in respect of such mortgage remains wholly or partly unpaid, the President shall, out of the amount so received by him, make payment to the mortgagee of the amount remaining due to him under the mortgage, and where such payment is made to a mortgagee the remainder only, if any, shall be paid to the previous occupier:

Provided that the President may refuse to make a payment under this subsection to a mortgagee if such mortgagee fails to lodge his claim for such payment in writing with the Minister within three months of the date when the right of occupancy of the previous occupier was revoked.

(2) Where there are two or more mortgagees, the priority applicable for payment to them under subsection (1) shall be on the same basis as obtained with mortgages under the law for the time being regulating mortgages.

"President may direct compensation not to be paid where occupier not ordinarily resident in Tanzania

14C. Notwithstanding the provisions of section 14 or of any other written law or of any term, express or implied, in any certificate of occupancy, where the President revokes a right of occupancy of an occupier who is not ordinarily resident in the United Republic, the President may direct that no compensation or any payment shall be payable to such occupier in respect of any unexhausted improvement or otherwise and that the provisions of section 14 shall not apply in relation to any person to whom a right of occupancy is granted in respect of such land subsequent to such revocation."

Section 16
of Cap. 113
repealed
and
replaced

10. Section 16 of the Ordinance is repealed and replaced by the following section:—

“Right of
appeal
on revision
of rent

16. Where the rent demanded from an occupier is raised on revision and the occupier is aggrieved by the increase in rent, he may, within thirty days of being notified of the revision of rent, appeal to the Minister and the decision of the Minister on every such appeal shall be final and conclusive and shall not be subject to review by any court.”.

New
section
23A added

11. The Ordinance is amended by adding immediately below section 23, the following new section:—

“Penalty
on unpaid
rent

23A. Where any rent or instalment of rent payable in respect of a right of occupancy, or any part of such rent or instalment, remains unpaid for a period of six months after the date on which the same is required to be paid, interest at the rate of one per centum per month shall be payable on the unpaid amount until payment of the amount is made, and such interest shall be collected and recoverable in the same manner as rent.”.

Section 24
of Cap. 113
amended

12. Section 24 of the Ordinance is amended—

(a) by deleting subsection (1) and substituting therefor the following subsection:—

“(1) Subject to the provisions of this section but without prejudice to any other remedy for the recovery of rent and interest payable under section 23A, where any person who is liable for rent for a right of occupancy granted under this Ordinance fails to pay such rent or any instalment thereof on the due date, an authorized officer may serve or cause to be served on such person, a written notice calling upon such person to pay such rent or instalment, together with interest, if any, within fourteen days of the service of the notice and, if at the expiration of such period of fourteen days, the rent or instalment and interest, if any, has not been paid, the authorized officer may cause a copy of the notice to be filed in the district court having jurisdiction within the area in which the land to which the right of occupancy relates is situate, and upon such copy being so filed, it shall be deemed to be a decree passed by such district court against the person to whom the notice is addressed for payment by him to the President of the amount specified in such notice as being due from him together with such interest thereon at the court rate from the date on which such notice is so filed till payment, and such decree may be executed by the court on the application made *ex parte* by the authorized officer, either by the issue of a warrant in the form set out in the Schedule to this Ordinance, or in any other manner in which a decree passed by such court may be executed, and the district court shall have jurisdiction

to execute such decree notwithstanding that the amount involved may exceed the pecuniary jurisdiction of the district court.”;

- (b) in subsection (3) by deleting the words “four hundred” which occur in the second and third lines and substituting therefor the words “four thousand.”;
- (c) by adding immediately below subsection (3) the following new subsection:—

“(3A) The notice required to be served under subsection (1) shall be served either by delivering a copy thereof to the person to whom it is addressed or by leaving a copy thereof at his usual place of residence or business or by publishing such notice in such newspaper or newspapers as the authorized officer may determine.”.

PART II

AMENDMENT OF THE LAND (LAW OF PROPERTY AND CONVEYANCING) ORDINANCE

13. This Part shall be read as one with the Land (Law of Property and Conveyancing) Ordinance. Construction
Cap. 114

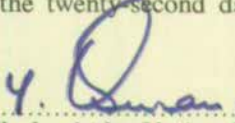
14. Section 11 of the Land (Law of Property and Conveyancing) Ordinance is amended by deleting subsection (8) and substituting therefor the following subsection:— Section 11
of Cap. 114
amended

“(8) In this section the expression “native” means any person who is a citizen of the United Republic and who is not of a European or Asiatic origin or descent.”.

15. Section 16 of the Land (Law of Property and Conveyancing) Ordinance is amended by deleting subsection (2) and substituting therefor the following subsection:— Section 16
of Cap. 114
amended

“(2) In this section the expression “native” means any person who is a citizen of the United Republic and who is not of a European or Asiatic origin or descent.”.

Passed in the National Assembly on the twenty-second day of July, 1970.


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Acting Clerk of the National Assembly