

THE UNITED REPUBLIC OF TANZANIA



No. 28 OF 1965

I ASSENT,

Julius K. Nyerere
President

8TH JULY, 1965

An Act to amend the Public Land (Preserved Areas) Ordinance

[.....]

ENACTED by the Parliament of the United Republic of Tanzania.

1. This Act may be cited as the Public Land (Preserved Areas) Ordinance (Amendment) Act, 1965, and shall be read as one with the Public Land (Preserved Areas) Ordinance (hereinafter referred to as "the Ordinance").

2. Subject to the provisions of this Act, the Ordinance is hereby amended by deleting the references therein to the Governor in Council (which, in accordance with the provisions of section 8 of the Republic of Tanganyika (Consequential, Transitional and Temporary Provisions) Act, 1962, are to be read as references to the President) and by substituting therefor references to the Minister for the time being responsible for lands.

3. Subsection (1) of section 2 of the Ordinance is hereby amended by inserting, in their appropriate alphabetical positions, the following new definitions:—

“‘Government lease’ has the meaning ascribed to that expression in the Freehold Titles (Conversion) and Government Leases Act, 1963;

‘Minister’ means the Minister for the time being responsible for land;”.

4. Section 4 of the Ordinance is hereby amended by deleting paragraph (b) and by substituting therefor the following new paragraph:—

“(b) it shall not be lawful for any person to use or occupy any such land except under—

(i) a Government lease; or

Provided that where the declaration is made for the purposes of preserving land for future development by the Rural Settlement Commission, the Commission or some person holding office under the Commission may be authorized and required to record such titles."

New section
7A added to
Cap. 338

7. The Ordinance is hereby amended by adding, immediately below section 7, the following new section: —

"Compensation for extinguishment of certain titles

7A.—(1) Where the Minister proposes to grant to the Rural Settlement Commission a right of occupancy over any part of a preserved area in which any such title as is referred to in paragraph (a) or (b) of section 5 subsists, he may require the Commission to compensate the persons or communities having such titles therein in accordance with the provisions of this section.

(2) Compensation under this section shall be—

- (a) the value of the unexhausted improvement in the land effected by the occupier other than any crops which he may harvest in accordance with subsection (2) of section 5; and
- (b) if the occupier is not nominated by or on behalf of the Rural Settlement Commission as a settler in an approved scheme or if, having been so nominated, he becomes entitled to compensation in cash in accordance with subsection (3), reasonable compensation for disturbance.

(3) Notwithstanding paragraph (a) of subsection (2), where any occupier is nominated by or on behalf of the Rural Settlement Commission as a settler in an approved scheme he shall not be entitled to be paid any compensation in cash for the value of the unexhausted improvement in the land unless—

- (i) he is not granted a licence to occupy land in accordance with the scheme; or
- (ii) he is not granted a lease in accordance with the scheme within five years of the date on which a right of occupancy over the land was granted to the Rural Settlement Commission; or
- (iii) if he has been granted such licence or lease, the same is revoked or forfeit within such period of five years,

but the value of such unexhausted improvement shall be credited to such person's account with the Rural Settlement Commission or any village settlement co-operative society of which he may become a member and utilized to reduce any sums owing by him to the Commission or such society.

(4) In the event of there being any dispute as to the amount of compensation or as to the person to whom it is payable it shall be determined by a district court whose decision shall be final.

- (ii) a right of occupancy granted under section 6 or section 12 of the Land Ordinance; or
- (iii) a sub-lease or other grant created out of a Government lease or any such right of occupancy; or
- (iv) any other written authority to use or occupy land granted by or on behalf of the President or any other person holding office in the service of the United Republic under an Ordinance or Act in force in Tanganyika (other than the Land Ordinance) or for the purposes of an Act of the Common Services Organization.”.

5. Section 5 of the Ordinance is hereby amended as follows:—

Section 5 of
Cap. 338
amended

- (a) by renumbering the same as subsection (1) of section 5;
- (b) by deleting the first proviso thereto and by substituting therefor the following new proviso:—

“Provided that such title shall be extinguished if—

- (i) at any time after the effective date such person or community, or his or its successor in title, as the case may be, abandons the land concerned for a period of three months or more; or
- (ii) such person or community fails to apply for the recording of the title within the time prescribed therefor under section 6 or any extension of such time granted by or under regulations made under section 8; or
- (iii) if the title is merged in a right of occupancy granted in respect of the land concerned under section 6 or section 12 of the Land Ordinance; or
- (iv) if a right of occupancy is granted to the Rural Settlement Commission over the land concerned:”;

- (c) by adding the following new subsection:—

“(2) Where any title is extinguished in the circumstances described in paragraph (ii) or paragraph (iv) of the first proviso to subsection (1), the person whose title is so extinguished shall, during the period of twelve months immediately succeeding such extinguishment, have the same right to enter upon the land subject thereto for the purpose of harvesting any crop planted or growing thereon before such extinguishment as he would have enjoyed had such title not been extinguished.”.

6. Section 6 of the Ordinance is hereby repealed and replaced by the following new section:—

Section 6
of Cap. 338
repealed and
replaced

“Recording
of title
saved

6. An order made under section 3 declaring a preserved area shall prescribe a date (not being earlier than three months after the effective date) before which every person or community to whom section 5 refers shall apply to the Area Commissioner, or some other person holding office in the service of the United Republic who is notified therein, for the recording of any title to which that section refers in land in the area:

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(5) A scheme shall be an authorized scheme for the purposes of this section if it is made by the Rural Settlement Commission, is approved by the Minister, and contains provisions whereby persons included as settlers therein shall be entitled to a licence to cultivate some part of the land in the area to which the scheme relates and, subject to their compliance with the provisions of the scheme and to the rules made for the administration and development of the settlement to which it relates, to a lease of some part of such land.”

Section 8
of Cap. 338
repealed and
replaced

8. Section 8 of the Ordinance is hereby repealed and replaced by the following new section:—

“Regulations 8. The Minister may make regulations prescribing the manner in which titles to which section 5 refers shall be recorded, as to the adjudication of such titles, and the reporting thereof to the Land Office, and generally for the better carrying into effect of the provisions of this Ordinance.”

Passed in the National Assembly on the eleventh day of June, 1965.


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Clerk of the National Assembly

