


THE UNITED REPUBLIC OF TANZANIA



No. 22 OF 1968

I ASSENT


President

16th MAY, 1968

An Act to make provision for the Acquisition of certain Urban Lands developed by persons other than the owners and for the Regrant of Lands so acquired

[17TH MAY, 1968]

ENACTED by the Parliament of the United Republic of Tanzania.

PART I

PRELIMINARY

1. This Act may be cited as the Urban Leaseholds (Acquisition and Short title
Regrant) Act, 1968.

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

Interpreta-
tion

“building” means any structure of whatever materials constructed and whether of a temporary or permanent nature;

“Government lease” has the meaning ascribed thereto in the Freehold Titles (Conversion) and Government Leases Act, 1963;

Cap. 523

“Minister” means the Minister for the time being responsible for lands;

“owner”, in relation to land held for a Government lease, means the holder of such lease and, in relation to land held under a right of occupancy, means the holder of the right;

“registered land” and “unregistered land” have the meanings respectively ascribed to those expressions in the Land Registration Ordinance; Cap. 334

“registered right or interest” means any right or interest in land registered under the Registration of Documents Ordinance or the Land Registration Ordinance; Cap. 117

- Cap. 113 "Registrar", in relation to registered land, means the Registrar of Titles appointed under the Land Registration Ordinance and, in relation to unregistered land, means the Registrar appointed under the Registration of Documents Ordinance;
- "right of occupancy" means a right of occupancy granted under the Land Ordinance;
- "temporary right of occupancy" means a right of occupancy under which a tenant is deemed to hold urban land by operation of section 8;
- "tenant" means any person who holds land under a lease, sub-lease, an agreement for a lease or sub-lease or an agreement for a tenancy, whether such lease, sub-lease or agreement be oral or in writing, and also means a person who occupies land under a licence or any arrangement whatsoever whereunder he pays in cash or kind for his occupancy of the land to any person entitled to possession thereof; and "tenancy" shall be construed accordingly;
- "the title" in relation to any urban land means the Government lease or the right of occupancy for which the urban land and all other land under the same lease or right is held;
- "unexhausted improvement" has the meaning ascribed thereto in the Land Ordinance;
- "urban land" means land in an urban area which is held for, or forms part of land held for—
- (a) a Government lease; or
 - (b) a right of occupancy.
- (2) In the definition of "urban land" in subsection (1), "urban area" means any area—
- (a) within the jurisdiction of a city, municipal or town council; or
 - (b) an area which, immediately before the establishment of a district council for any part of Tanganyika, was a township declared under the Townships Ordinance or a minor settlement declared under the Minor Settlements Ordinance; or
 - (c) a planning area declared under section 13 of the Town and Country Planning Ordinance which includes any area described in paragraph (a) or (b) of this definition or any part of such an area.
- Cap. 101
- Cap. 102
- Cap. 378

PART II

ACQUISITION AND REGRANT

Minister
may
acquire
certain
urban lands
for the
purpose of
making new
grants

3.—(1) Where a tenant is in or entitled to possession of urban land and such land has been developed by construction thereon of a building or buildings and the Minister is of the opinion that, by reason of such development having been carried out by—

- (a) the tenant;
- (b) a deceased tenant formerly in or entitled to possession of the urban land, who is in the prescribed relationship to the present tenant; or
- (c) both the present tenant and such deceased tenant,

by his or their own effort or at his or their own expense, it is fitting that a right to such urban land should be granted to the present tenant, the Minister may, subject to the provisions of this Act, acquire such urban land and any necessary additional area for the purpose of making a grant thereof to the tenant under section 10.

(2) For the purposes of this Act—

(a) a person is a tenant of urban land if he is in or entitled to possession thereof otherwise than—

(i) as a servant of any person having any title, right or interest in the land:

Provided that nothing in this sub-paragraph shall apply to any such servant who makes any payment in cash or kind for the possession of the land by him to any person (whether his employer or otherwise) entitled to possession thereof;

(ii) as a trustee, personal representative, receiver or agent, or under any mortgage or charge:

(iii) as a trespasser:

Provided that nothing in this sub-paragraph shall apply to a person who entered upon the land under a licence,

and references to the tenancy held by a deceased tenant shall have a corresponding meaning;

(b) a person who, had this Act come into operation on the 29th of February, 1968, would have been a tenant in or entitled to possession of urban land but who has, between that date and the commencement of the Act, been evicted from such urban land or whose tenancy in respect of such urban land has terminated, shall, during the period beginning on the date on which this Act comes into operation and the first anniversary of that date, be deemed to be a tenant in or entitled to possession of the relevant parcel of the urban land;

(c) a deceased tenant is in the prescribed relationship to a present tenant if—

(i) he was the father, grandfather, uncle or brother of the present tenant, the wife of any of the foregoing or the husband or wife of the present tenant; and

(ii) the present tenant has inherited the deceased's right or interest in the relevant parcel of the urban land by operation of the law regulating succession to the estate of the deceased;

(d) a tenant or a deceased tenant shall be deemed to have constructed a building by his own effort even if such building was constructed with the assistance of or by the effort of any other person acting for and on behalf of the tenant or the deceased tenant, as the case may be;

- (e) a necessary additional area means so much of the owner's urban land contiguous to the land in respect of which the tenant holds the tenancy as, in the opinion of the Minister, it is necessary to acquire—
 - (i) to ensure compliance with any written law for the time being in force which restricts the area of a plot of land which may be covered by a building or buildings to such portion of the plot as is prescribed by such law;
 - (ii) in order that the boundaries between the land to be acquired and the remainder of the land held for the same title are rational and convenient;
- (f) urban land, in respect of which a tenant holds a tenancy, shall not be deemed to have been developed by the tenant or a deceased tenant who is in the prescribed relationship to the tenant, if the building constructed by the effort of or at the expense of the tenant or such deceased tenant or both is a building which serves as an appurtenance to another building on the same land and such other building was not constructed by the effort of or at the expense of the tenant or such deceased tenant;

Notice of
intention to
acquire land

4.—(1) Where the Minister intends to acquire any urban land under this Act, he shall serve notice of his intention—

- (a) upon the owner thereof and upon every other person having a registered right or interest in the land; and
- (b) upon the tenant in respect of whom he proposes to acquire the land.

(2) Every notice served in accordance with paragraph (a) of subsection (1) shall be in the prescribed form and shall—

- (a) call upon the owner and such other persons aforesaid (other than persons who holds rights or interests to which section 12 applies), unless previously notified of the Minister's withdrawal from the acquisition, to assign, convey or surrender to the President all title, right and interest in the land to be acquired within such period, not being less than six weeks from the service of notice upon the owner, as the Minister may specify therein;
- (b) be accompanied by a sketch map of the land to be acquired which map shall show any line of demarcation between the land to be acquired and any other land of the owner contiguous therewith.

(3) Every notice served in accordance with paragraph (b) of subsection (1) shall be in the prescribed form and shall—

- (a) contain a statement of the term of the grant which the Minister proposes to make to the tenant under section 10, of the rent and premium (if any) payable thereunder, and of any conditions thereof;

- (b) contain a statement of terms and conditions subject to which the tenant shall, by virtue of the operation of section 8, be deemed to hold a temporary right of occupancy in respect of the land which the Minister proposes to grant to the tenant under section 10;
 - (c) be accompanied by a sketch map of the land which the Minister proposes to grant to the tenant under section 10, due regard being had to the provisions of subsection (2) of that section.
- (4) The Minister shall give notice in the *Gazette* of his intention to acquire any urban land under this Act. Every such notice shall be published in the *Gazette* as soon as is practicable after service upon the owner of notice under subsection (1) and shall contain a statement of the name of the owner, a description of the whole land held for the title and of the title, and a description of the land to be acquired.
- 5.—(1) The Minister may withdraw from the acquisition of any urban land at any time before the title of the owner thereof is transferred to the President or, as the case may be, extinguished. Withdrawal from acquisition
- (2) Where the Minister withdraws from the acquisition of land—
- (a) any instrument for the assignment, conveyance or surrender of any title, right or interest in the land which was made in accordance with any notice relating to such acquisition but which has not, at the date of withdrawal, taken effect, shall be void; and
 - (b) the Minister shall, so far as he is able and free of charge, cause to be granted, re-assigned or conveyed to the persons formerly entitled thereto (other than any such persons whose interest or title would have expired by the passage of time) any right or interest assigned, conveyed or surrendered to the President in accordance with any notice relating to such acquisition.
6. Where the period specified in accordance with subsection (2) of section 4 has expired and all title, right and interest in the land to be acquired has not been assigned, conveyed or surrendered to the President, the Minister may apply, *ex parte*, to the Registrar for the grant and registration of a certificate of title to such land, and, notwithstanding anything to the contrary contained in the Land Registration Ordinance, or any other written law or in any order made or issued by a court, the Registrar shall, if satisfied by affidavit or otherwise that— Certificate of title where no conveyance etc. available
- (a) the application is made in such circumstances aforesaid in respect of an acquisition in pursuance of the powers conferred by section 3; and
 - (b) no proceedings in respect of the acquisition of the land are pending in the High Court or the Court of Appeal,

and unless it appears that the Minister has withdrawn from the acquisition, grant to the President a certificate of title to such land and register the same in the appropriate register.

Effect of conveyance, etc.

7. Where—

(a) an instrument of assignment, conveyance or surrender of any title, right or interest in respect of any land acquired under this Act is executed in favour of the President and such instrument is duly registered in the appropriate registry in accordance with the provisions of the Land Registration Ordinance or the Registration of Documents Ordinance, as the case may be;

(b) a certificate of title is registered under section 6,

such instrument or certificate of title shall, subject to the provisions of section 12, confer upon the President the right, title or interest referred to in the instrument and, in the case of a certificate of title, the absolute right and title to the land comprised therein free from all adverse or competing titles, rights or interests, trusts, claims, and demands whatsoever and such adverse or competing titles, rights, interests, trusts, claims and demands shall, to the extent that they touch or concern the land, be extinguished.

Temporary right of occupancy

8.—(1) Where any urban land is acquired and the title therein is vested in the President in accordance with the foregoing provisions of this Act, the tenant in respect of whom the land is acquired shall, immediately upon such acquisition being complete and until a grant of such land is made in accordance with section 10, be deemed to hold a temporary right of occupancy over such land on such terms and conditions as the Minister may determine.

(2) Subject to the provisions of the Land Ordinance, the terms and conditions of temporary rights of occupancy shall be at the discretion of the Minister.

Minister may pay compensation

9.—(1) Where any land is acquired under this Act, any person (other than the tenant in respect of whom it is acquired or any person having any right or interest to which section 12 applies) who enjoyed any title, right or interest in the land prior to its acquisition may, within six weeks of the publication of the notice in the *Gazette* provided for by subsection (4) of section 4, or such longer period as the Minister may allow, apply in writing to the Minister for the payment of compensation for the assignment, conveyance or surrender, or, as the case may be, the extinguishment of such title, right or interest.

(2) The Minister may, in his discretion (such discretion being exercisable in respect of whether or not compensation shall be paid, the persons to whom compensation shall be paid, the amount of any compensation and the manner of payment), pay compensation to any person who enjoyed any title, right or interest in the land prior to its acquisition and who has made a claim therefor in accordance with subsection (1); but the total sum which may be paid in respect of the acquisition of any one parcel of land shall not exceed the value of the unexhausted improvement of the land effected otherwise than by the tenant in respect of whom the land is acquired or by any deceased tenant who is in the prescribed relationship to the first-mentioned tenant.

(3) Save to the extent (if any) that the Minister makes a payment of compensation in accordance with this section, no compensation shall be payable for the acquisition of any urban land or the assignment, conveyance, surrender or extinguishment of any title, right or interest, trust, claim or demand in accordance with the foregoing provisions of this Act.

(4) Save insofar as any compensation shall be recoverable from any premium paid on a regrant of the land acquired, any compensation paid shall be paid out of moneys provided by Parliament.

10.—(1) Subject to the provisions of this section, where any land is acquired under this Act, the Minister shall grant a right of occupancy over the land to the tenant in respect of whom it was acquired. Regrant of
acquired
land

(2) Where contiguous parcels of land are acquired under this Act in respect of two or more tenants, the Minister may divide the whole as he thinks fit into the like number of portions and, subject to the provisions of this section, shall grant a right of occupancy over one of such portions to each of such tenants.

(3) Subject to the provisions of the Land Ordinance, the terms and conditions of rights of occupancy granted under this section shall be at the discretion of the Minister, and in making a grant under this section the Minister shall not be bound by anything contained in the notice served on the tenant in accordance with subsection (1) of section 4, unless the tenant has notified the Minister in writing of his acceptance of the terms and conditions set out in such notice.

(4) Where the tenant in respect of whom the land was acquired refuses or neglects to accept a grant of the same within a period of three months after an offer thereof to him, or the acquisition of the land, whichever is the later, the Minister may make a grant of the land as he thinks fit; and the validity of the acquisition of any urban land shall not be impugned solely by reason of the Minister having made a grant of land in the circumstances set out in this subsection to a person other than the tenant in respect of whom the land was acquired.

(5) Immediately upon a grant of land being made under this section the temporary right of occupancy shall be deemed to have been revoked.

11. Where a tenant holds urban land on a temporary right of occupancy created by the operation of section 8 or where a grant of a right of occupancy is made under section 10, the Minister shall have power to grant or reserve any easement of necessity over or in respect of the land or any other land of the former owner. Easements

12.—(1) Notwithstanding the provisions of section 7, where a tenant of any urban land acquired under this Act held such land, immediately before such acquisition, subject to any mortgage, charge or other incumbrance, or to a sub-lease, and such mortgage, charge, incumbrance or sub-lease was created or granted by the tenant or by a deceased tenant who is in the prescribed relationship to the tenant, such mortgage, charge, incumbrance or sub-lease shall not be extinguished by reason of the acquisition but shall subsist against the land comprised in the temporary right of occupancy and, when a grant is made under section 10, against the land comprised in the right of occupancy granted under that section. Saving of
incumbrances
etc. created
by tenant

(2) The Minister may, as a condition of the temporary right of occupancy and, when a grant is made under section 10, as a condition of the grant made under that section, require the tenant or, where the grant under section 10 is made to some other person, such other person to make such dispositions as he thinks necessary or expedient to give effect to the provisions of subsection (1).

(3) If the tenant or any other person who is required in accordance with subsection (2) to make any disposition refuses or neglects to make the same the Minister may direct the Commissioner for Lands to make such disposition on behalf of the tenant or such person, and a disposition made by the Commissioner for Lands in accordance with this subsection shall be deemed to have been made by the tenant or by the person who was required to make the same, as the case may be.

(4) The Minister may, by notice in writing, require the tenant in respect of whom urban land is or is intended to be acquired under this Act to make a full disclosure of mortgages, charges, incumbrances and sub-leases to which this section applies and if the tenant neglects or refuses to make such disclosure within the time specified in the notice or if he makes any statement which he knows to be false or does not believe to be true in purported compliance with any such notice he shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

PART III

MISCELLANEOUS

Service of
notices

13. A notice under the foregoing provisions of this Act shall be deemed to have been served on a person—

- (a) if it is served on him personally; or
- (b) if it is left for him at his last known address and a copy is affixed on some conspicuous part of the land concerned; or
- (c) if it is sent by prepaid registered post addressed to him at his last known address and a copy is affixed on some conspicuous part of the land concerned:

Provided that in any case in which a copy of a notice is required to be affixed to a conspicuous part of any land—

- (i) if the notice is directed to a person other than the tenant, it shall, so far as is possible, be affixed to a part of the land outside the area in possession of the tenant;
- (ii) if the notice is directed to a tenant, it shall be affixed within the area in his possession.

Power of
entry

14.—(1) Where any person authorized for the purpose has reason to believe that any person other than the owner has developed any urban land by construction thereon of a building or buildings and is of the opinion that an investigation ought to be made of the nature of his possession and the extent of his development, or of his expenditure of money or effort upon such urban land, such person may enter upon

such urban land and make such investigations, and may survey the urban land and determine any boundary or line of demarcation between the land in any tenant's occupation (including any necessary boundary area) and any other land of the owner contiguous therewith.

(2) A person who enters upon any urban land in pursuance of the powers conferred by this section, shall, on demand, produce his written authorization to the owner or other person having a present right to possession.

15. Where any urban land is acquired under the provisions of this Act, any person authorized for the purpose may enter and take possession of such land for the purpose of giving effect to such acquisition or to any grant of such land in accordance with this Act, and if any other person hinders or obstructs any person so authorized, the Minister may apply *ex parte* to the court of the resident magistrate within whose jurisdiction such land is situate for an order of ejectment and such court may, upon proof of the acquisition of the land, issue an order of ejectment addressed to any officer of the court or to any police officer under which such officer or police officer may forthwith eject any person withholding possession.

16.—(1) A person is authorized for the purpose of section 14 or section 15 if he is authorized in that behalf in writing under the hand of the Commissioner for Lands.

(2) Every person who—

- (a) wilfully hinders or obstructs any person duly authorized for the purpose of section 14 or section 15 from entering upon any land for the purposes for which he is so authorized; or
- (b) hinders, obstructs or molests any such person in the exercise of the powers conferred upon him by the relevant section; or
- (c) hinders, obstructs or molests any person serving a notice or affixing a copy thereof to any part of urban land for the purposes of this Act,

shall be guilty of an offence and shall be liable on conviction to imprisonment for a term not exceeding three months or to a fine not exceeding one thousand shillings or to both such fine and imprisonment.

17.—(1) Where any parcel of land has been acquired, or any easement of necessity has been granted or reserved, under this Act, the Registrar shall make such entries in or amendments to the appropriate registers as the circumstances may require and may, in the case of registered land and if the appropriate certificate of title or interest is delivered to him, issue a new certificate of title or interest (due provision being made for any subsidiary estates or interests which have not been assigned, conveyed, surrendered or extinguished) over the remainder of the land held for the same title.

(2) The Registrar may require the owner of any registered land or any other person having a registered interest therein to deliver to him any certificate of title or interest relating to any parcel of land acquired under this Act in order that the Registrar may exercise any power conferred on him by subsection (1) of this section, or may require such person to give security for his failure to make such delivery.

(3) Any person who, without lawful excuse, fails to produce any such certificate in his possession or under his control, or who, without reasonable cause, refuses or neglects to give such security, within the time specified by the Registrar, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one thousand shillings.

Exemption
from stamp
duty and
fees

18. Every—

- (a) assignment, conveyance and surrender made in accordance with a notice relating to the acquisition of land under this Act;
- (b) rectification or amendment of a register or of a certificate of title or interest, and every instrument of security, under section 17;
- (c) instrument (including a grant) made for the purposes of subsection (2) of section 5 or for the purposes of making a disposition under section 12,

shall be exempt from—

- (i) any fee payable under the Land Ordinance;
- (ii) any fee payable under the Registration of Documents Ordinance or the Land Registration Ordinance;
- (iii) stamp duty.

Abatement
of rent

19. Where any land is acquired under this Act, any rent payable in respect of the title upon which such land was held prior to such acquisition or of any other right or interest in the land shall be reduced by the like proportion as the land acquired bears to the whole of the land formerly comprised in the title, right or interest.

Forms

20. The Minister may make rules prescribing the forms to be used for the purposes of this Act.

Tenant not
to be
evicted

21. Where a notice of intention to acquire urban land has been served upon the owner in accordance with section 4, no proceedings may be brought by or on behalf of the owner or any person claiming under him, for the determination of the tenancy of the tenant in respect of whom the urban land is intended to be acquired or for the eviction of any such tenant from such urban land or for the execution of any decree for the eviction of any such tenant from such urban land, unless the Minister has withdrawn from the acquisition.

Passed in the National Assembly on the tenth day of May, 1968.


Clerk to the National Assembly