

CHAPTER 355
THE TOWN AND COUNTRY PLANNING ACT
[PRINCIPAL LEGISLATION]

ARRANGEMENT OF SECTIONS

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CHAPTER 355

THE TOWN AND COUNTRY PLANNING ACT

An Act to make provision for town and country planning.

[28th December, 1956]

[R.L. Cap. 378]

Ords. Nos. 42 of 1956 and 14 of 1961;

Acts Nos. 38 of 1966, 41 of 1969, 13 of 1991, 9 of 1996 and 2 of 2002

G.Ns. Nos. 260 of 1974 and 68 of 1978

PART I
PRELIMINARY PROVISIONS (ss 1-12)

1. Short title
This Act may be cited as the Town and Country Planning Act.
2. Interpretation Acts Nos. 14 of 1961 ss. 2 and 3; 2 of 2002 Sch.; G.Ns. Nos. 260 of 1974; 68 of 1978
 - (1) In this Act, unless the context requires otherwise–
"amending scheme" means a scheme amending a general planning scheme or a detailed scheme or an earlier amending scheme prepared pursuant to the provisions of subsection (2) or subsection (3) of section 23;
"Area Planning Committee" means an Area Planning Committee constituted or appointed under the provisions of section 15;
"building" means any building, erection or other structure erected or made on, in or under any land and includes the land on, in or under which the building is situated;
"building operations" includes any building or erectional operations, and the making of roads, railways, water works, sewage disposal works, electrical or telephonic installations and any road works or earth-works preliminary or incidental to the erection of buildings;
"built-up area" means an area which is predominantly developed with buildings;
"court" includes the District Land and Housing Tribunal and the High Court (Land Division);
"detailed scheme" means a scheme prepared or adopted pursuant to the provisions of section 24 making provision for the detailed planning of any part of a planning area included in a general planning scheme or in respect of which a general planning scheme is in course of preparation;
"development" means the carrying out of any building operation, engineering operation or mining operation in, on, under or over any land, the subdivision or laying out of land, or the making of any change in the use of land, but does not include–
 - (a) the making of any change of use from a purpose within any class which may be prescribed to the use thereof for any other purpose within the same class; or
 - (b) any operation or change of use set out in the Second Schedule; or
 - (c) any other operation or change of use specifically excluded by regulations made under this Act, and the expression "develop" with its grammatical variations shall be construed accordingly;
"general development order" means an order issued under the provisions of section 42;

"general planning scheme" means a scheme prepared pursuant to the provisions of subsection (1) of section 23 making provision for the general overall planning of a planning area;

"land" includes mining rights, forestry rights, buildings and any permanent fixture to land whether natural or artificial;

"local government authority" means subject to subsection (4), a local government authority as defined in the Local Government (District Authorities) Act Cap. 287* or, as the case may be, the Local Government (Urban Authorities) Act Cap. 288*:

Provided that in the case of a planning area adjoining the boundaries of an urban authority the local government authority in relation to such planning area shall be deemed to be the urban authority or Town Council whose boundaries it adjoins in any case where the Minister so specifies in the notice declaring that area to be a planning area or in any subsequent notice;

"material date", in relation to any planning area, means the date on which the order made by the Minister under section 13 in respect of such planning area is published in the Gazette;

"Minister" means the Minister responsible for town and country planning; but in the case of the Capital Development Area, "Minister" means the Minister responsible for the Capital Development Area as described in Drawing Area No. CDA.74/1 (consisting of paragraphs (a) and (b)) prepared by the Capital Development Authority titled "Interim Land Use Plan for Dodoma";

"owner" includes a joint owner, a holder of, or a lessee under, a right of occupancy or a lease, tenant for life and any other person in actual possession of any land or entitled to receive the rents of any land of any tenure or description and the holder of mining rights or forestry rights and the agent or attorney of such persons or any of them;

"planning area" means an area declared to be a planning area under the provisions of section 13;

"planning consent" means consent to the development of any land within a planning area given by the authority empowered to give such consent pursuant to the provisions of this Act;

"Preparatory Authority" means the authority responsible under the provisions of section 17 for the preparation of a scheme;

"prescribed" means prescribed by regulations under this Act;

"road" means any road or street, square, court, alley or passage, bridge, lane, driftway, bridlepath, footpath, or highway, whether a thoroughfare or not, and whether public or private, but does not include a sanitary lane;

"scheme" means any general planning scheme, detailed scheme or amending scheme made under this Act;

"site" in relation to any building includes offices, outbuildings, yards, courts or gardens occupied or intended to be occupied therewith.

- (2) Save as is excepted in the Second Schedule, the placing or keeping on any land of any tent, shed, caravan or other object whether fixed or collapsible, shall be deemed to be a use of such land.
- (3) References in this Act to a scheme, in relation to any land within a planning area, shall be construed as references to the general planning scheme, as amended from time to time by any subsequent amending scheme, affecting such land or, if any detailed scheme affects such land, shall be construed as references to such detailed scheme.
- (4) Where, under Part V, section 60, or subsection (3) of section 70, provision is made—
 - (a) for an agreement between the local government authority and the owner of land for the acquisition of such land or as to the value of land; or
 - (b) for the service of notice to acquire land or otherwise on or by the local government authority; or
 - (c) for the payment of the expenses of acquisition or for the payment of compensation or costs by the local government authority; or
 - (d) for the bringing of a suit by or against the local government authority, and, in any such case, the local government authority concerned is not a municipal, town or district council, such provisions as aforesaid shall be read as if the Minister were substituted for the Local Authority, and, accordingly, where the Minister is required to pay the expenses of acquisition or to pay compensation or costs, he shall pay the same out of moneys provided by the Legislature.

3.-10. Repealed

[Repealed by Ordinance No. 14 of 1961 s. 4.]

11. Power of Minister to give directions Ord. No. 14 of 1961 s. 5

The Minister may, after consultation with the local government authority, Area Planning Committee or Preparatory Authority concerned, give general or special directions in writing to such local government authority, Area Planning Committee or Preparatory Authority as to the performance of its functions under this Act, and a local government authority, Area Planning Committee, or Preparatory Authority so directed shall comply with all written directions so given.

12. Repealed

[Repealed by Ordinance No. 14 of 1961 s. 4.]

PART II
PLANNING AREAS (ss 13-20)

13. Declaration of planning areas Ord. No. 14 of 1961 s. 6
- (1) If, after consultation with the local government authority concerned, the Minister is of the opinion that a general planning scheme should be made in respect of any area, he may by order published in the Gazette declare that area to be a planning area.
 - (2) An order under this section shall come into operation on the material date.
 - (3) A copy of every order made under this section, together with a plan of the area, shall be posted by the local government authority concerned at such places within the planning area as it may direct.
14. Validity of orders Ord. No. 14 of 1961 s. 7
- An order made under section 13 shall, unless it is sooner revoked, cease to have effect three years after the material date if no scheme in respect of that planning area or any part thereof has been approved by the Minister in accordance with section 31 or 32 within the said period of three years:
- Provided that the Minister may, by order published in the Gazette, extend the period of validity of such order beyond the period of three years from the material date.
15. Area Planning Committees Ord. No. 14 of 1961 s. 2
- (1) There shall be an Area Planning Committee for every planning area.
 - (2) In the case of a planning area wholly within the boundaries of a municipality, the Area Planning Committee shall be the Municipal Council.
 - (3) In the case of a planning area wholly within the boundaries of a township, whose authority is a Town Council, the Area Planning committee shall be the Town Council.
 - (4) In the case of a planning area partly within and partly without the boundaries of a municipality-
 - (a) if the Municipal Council and the local government authorities of that part of the planning area outside the municipality consent, the Area Planning Committee shall be the Municipal Council;
 - (b) if the Municipal Council or the local government authorities of that part of the Planning Area outside the municipality do not agree that the Municipal Council shall be the Area Planning Committee for the whole planning area, there shall be two Area Planning Committees in respect of the planning area and the Municipal Council shall be the Area Planning Committee for that part of the planning area within the municipality and the Minister shall

appoint a joint Area Planning Committee (on which there shall be at least one representative each of the Government, the Municipal Council, and the local government authorities, District Councils concerned) in respect of that part of the planning area outside the municipality.

- (5) In the case of a planning area partly within and partly without a township whose authority is a Town Council—
 - (a) if the Town Council and the local government authorities of that part of the planning area outside the township consent, the Area planning Committee shall be the Town Council;
 - (b) if the Town Council or the local government authorities of that part of the planning area outside the township do not agree that the Town Council shall be the Area Planning Committee for the whole planning area, there shall be two Area Planning Committees in respect of the planning area and the Town Council shall be the Area Planning Committee for that part of the planning area within the township and the Minister shall appoint a joint Area Planning Committee (on which there shall be at least one representative each of the Government, the Town Council, and the local government authorities, concerned) in respect of that part of the planning area outside the township.
- (6) In any other case the Minister may appoint the local government authority, or such other person as the Minister may think fit after consultation with the local government authorities concerned, as the Area Planning Committee, and may appoint a joint Area Planning Committee in respect of any planning area within the boundaries of two or more local government authorities.

16. Repealed
[Repealed by Act No. 9 of 1996 Sch.]

17. Preparatory Authorities Ord. No. 14 of 1961 ss. 2 and 8
- (1) For every planning area there shall be a Preparatory Authority responsible for preparing schemes in the manner provided in this Act.
 - (2) In the case of a planning area of which the Area Planning Committee is—
 - (a) a Municipal Council; or
 - (b) a Town Council or a township which has either—
 - (i) a population of over thirty thousand inhabitants; or
 - (ii) a valuation roll for rating purposes which at the last valuation exceeded thirty million shillings, the Preparatory Authority shall be the Area Planning Committee:

Provided that a Preparatory Authority constituted under this subsection shall not have authority to prepare detailed schemes to which the provisions of the Third Schedule have been applied under section 27 or detailed schemes involving the re-development of built-up areas:

And provided further that an Area Planning Committee constituted a Preparatory Authority under the provisions of paragraph (b) of this subsection may from time to time, by resolution, decline to accept the functions of a Preparatory Authority and any such resolution shall remain in force for a period of five years from the making thereof unless the Minister agrees to an earlier revocation thereof.

- (3) In the case of an Area Planning Committee to which functions of a Preparatory Authority have been delegated under section 18, the Area Planning Committee shall be the Preparatory Authority to the extent of the powers so delegated to it.
 - (4) In any case where the Area Planning Committee is not the Preparatory Authority under the provisions of subsection (2) or subsection (3) of this section, and to the extent to which any Preparatory Authority constituted under those subsections has no authority in relation to the preparation or adoption of any schemes, the Preparatory Authority shall be the Minister.
 - (5) It is hereby declared for the avoidance of doubt that, notwithstanding that the valuation roll of any township includes any property which is not rateable property, all such property shall be excluded in ascertaining the amount of such roll for the purposes of subsection (2) of this section.
18. Power of Minister to delegate functions Ord. No. 14 of 1961 s. 2
- The Minister may, at any time after the material date, delegate to an Area Planning Committee all or any of the functions of—
- (a) preparing a general planning scheme;
 - (b) preparing an amending scheme;
 - (c) preparing a detailed scheme, other than—
 - (i) a detailed scheme to which the provisions of the Third Schedule have been applied under section 27; or
 - (ii) a detailed scheme involving the re-development of a built-up area;
 - (d) the adoption, with or without modification, of a detailed scheme prepared by owners, other than—
 - (i) a detailed scheme to which the provisions of the Third Schedule have been applied under section 27; or
 - (ii) a detailed scheme involving the re-development of a built-up area.
19. Cancellation of powers of certain Preparatory Authorities Ord. No. 14 of 1961 s. 9
- (1) The Minister may, for good cause, after serving not less than one month's notice upon an Area Planning Committee constituted a Preparatory

Authority under subsection (2) of section 17, direct that all or any of the functions of such Preparatory Authority shall be vested in himself; and, from the date specified in such direction until it is cancelled, the functions specified therein shall no longer be performed by the Area Planning Committee concerned.

- (2) The Minister may, for good cause, after serving not less than one month's notice upon an Area Planning Committee to which any functions of a Preparatory Authority have been delegated pursuant to the provisions of subsection (3) of section 17 and section 18, direct that all or any of the functions so delegated be withdrawn and revested in himself; and from the date specified in such direction, until it is cancelled, the functions specified therein shall no longer be performed by the Area Planning Committee concerned.

20. Restriction on powers of Preparatory Authorities other than Minister Ord. No. 14 of 1961 s. 2

An Area Planning Committee constituted a Preparatory Authority under subsection (2) of section 17 or to which functions have been delegated pursuant to the provisions of subsection (3) of section 17 and section 18 may perform its functions as a Preparatory Authority only in respect of the planning area for which it is appointed or constituted under the provisions of this Act.

PART III PREPARATION OF SCHEMES (ss 21-34)

21. Resolutions to prepare general planning schemes

- (1) An Area Planning Committee which is constituted a Preparatory Authority under subsection (2) of section 17 shall be deemed to have passed a formal resolution to prepare a general planning scheme for its area with effect from the material date.
- (2) An Area Planning Committee which is constituted a Preparatory Authority under subsection (3) of section 17 shall be deemed to have passed a formal resolution to prepare a general planning scheme with effect from the date of such delegation.

22. Repealed
[Repealed by Ordinance No. 14 of 1961 s. 10.]

23. Preparation of general planning schemes and amending schemes

- (1) The Preparatory Authority shall prepare a general planning scheme for the planning area for which it is responsible.

- (2) The Preparatory Authority may, at any time after the coming into effect of a general planning scheme, prepare an amending scheme in respect of its planning area, as amended from time to time, or any part thereof.
 - (3) The Preparatory Authority shall, at intervals of not more than five years from the date of the coming into effect of a general planning scheme or amending scheme, carry out a re-examination of such scheme, and if, in its opinion, revision is necessary, the Preparatory Authority may prepare a further amending scheme in respect of its planning area, as amended from time to time, or any part thereof.
24. Preparation and adoption of detailed schemes Ord. No. 14 of 1961 s. 11
- (1) Notwithstanding that a general planning scheme has not been prepared for a planning area, a Preparatory Authority may, subject to the provisions of section 17, prepare a detailed scheme for the development of any area within its planning area:
Provided that, before preparing any such detailed scheme, other than a detailed scheme to which the provisions of the Third Schedule have been applied under section 27 or a detailed scheme involving the re-development of a built-up area, the Preparatory Authority shall-
 - (a) serve six months' notice on the land owners concerned of its intention to prepare such scheme; and
 - (b) allow during that period an opportunity for the land owners concerned to prepare their own scheme and submit it to the Preparatory Authority.
 - (2) A Preparatory Authority may, between the material date and the coming into effect of a general planning scheme, adopt, with or without modification, a detailed scheme prepared by a land owner or group of land owners in respect of the land comprised therein.
 - (3) A Preparatory Authority may, after the date of coming into effect of a general planning scheme, adopt, with or without modification, a detailed scheme prepared by a land owner or group of land owners in respect of an area scheduled in a general planning scheme for detailed planning.
25. Minister to furnish estimate of cost of compensation and to consult Area Planning Committee Ord. No. 14 of 1961 s. 2
- (1) The Minister shall, in the preparation or adoption of a scheme, furnish an estimate of the cost of meeting claims for compensation to the Area Planning Committee concerned.
 - (2) Where the Minister is the Preparatory Authority he shall, in the preparation or adoption of a scheme, consult the Area Planning Committee concerned.

26. Contents of schemes

- (1) A scheme may make provision for all or any of the matters set out in the First Schedule.
- (2) Every scheme shall specify and define the area to which it relates and shall include a plan in which shall be shown the extent of the scheme and such other matters as can conveniently be included therein.

27. Redistribution of land in certain cases Ord. No. 14 of 1961 s. 12

- (1) Where the Minister is satisfied that, by reason of the complexity of the boundaries of land within an area scheduled or likely to be scheduled in a general planning scheme for detailed planning, the preparation and execution of a detailed scheme for the orderly layout and development of land is impractical unless provision is made for the redistribution of land in that area, he may, by notice in the Gazette, declare that the provisions of the Third Schedule shall apply to such land and, thereupon, such detailed scheme may make provision for the redistribution of land in accordance with the provisions of the Third Schedule, and the provisions of the Third Schedule shall apply to such land in the execution of such scheme.
- (2) Any reference in this Act to a detailed scheme to which the provisions of the Third Schedule are applied under section 27 shall be construed as references to a detailed scheme in which provision may be made for the redistribution of land in accordance with the provisions of the Third Schedule.

28. Minor boundary adjustment to give effect to schemes Ord. No. 14 of 1961 s. 13

- (1) Where the orderly development of land so requires, a scheme may provide for the adjustment of the boundaries of plots or holdings in different ownership:

Provided that no such adjustment may be made in a scheme where the adjustment would effect a substantial decrease in the value of any property or holding affected thereby.

- (2) On the registration (under the provisions of subsection (4) of this section) of the title to land re-distributed pursuant to this section, the boundaries of the land so adjusted shall be as provided in such scheme and the land affected by such adjustment shall be deemed to be re-distributed in accordance with such adjusted boundaries.
- (3) The title of an owner to any land re-distributed to him pursuant to the provisions of this section shall correspond to the title of that owner to the former plot or holding immediately prior to the registration of his new title.

- (4) As soon as practicable after the date of the coming into force of a scheme providing for the redistribution of land pursuant to this section the Minister shall, without charge, arrange for the amended boundaries thereof to be surveyed and for the issue to the owners of the land so redistributed of an appropriate title thereto and for the registration of such titles under any law relating to registration of land and the provisions of paragraphs 8 to 11 inclusive of the Third Schedule shall apply thereto.
29. Deposit of schemes Ord. No. 14 of 1961 s. 2
- (1) Any scheme prepared or adopted by a Preparatory Authority, other than the Minister, shall be submitted by the Preparatory Authority in the prescribed manner to the Minister who may authorise the deposit and publication of the scheme in accordance with the provisions of this section.
- (2) A copy of every scheme prepared or adopted by a Preparatory Authority and authorised by the Minister and every scheme prepared by the Minister as Preparatory Authority shall be deposited by the Preparatory Authority in such place as it may consider fit and notice of such deposit shall be published by the Preparatory Authority in the Gazette and at least one newspaper circulating in Tanzania or, in its discretion, in such other manner as may be customary in the area concerned.
30. Inspection and objections Ord. No. 14 of 1961 s. 14
- (1) Any person, including the Government and local government authorities may, within two months after the date of the publication of notice of deposit of a scheme, inspect the scheme and make objections in writing thereto to the Preparatory Authority in respect of any provisions in such scheme.
- (2) The Preparatory Authority shall deposit with the scheme a copy of every written objection received within the period specified in subsection (1), and shall allow a further period of one month for any person, including the Government and local government authorities, to inspect such objections and to make representations in writing thereon.
31. Submission of scheme to, and approval of scheme by, Minister Ord. No. 14 of 1961 s. 15
- Not later than four months after the date of the publication of notice of deposit of a scheme, the Preparatory Authority (where the Preparatory Authority is not the Minister) shall submit the scheme as deposited in accordance with subsection (2) of section 29, together with a schedule of objections and representations received under section 30, the representations thereon of the Preparatory Authority and a statement of the amount of compensation (if any) paid under section 58, to the

Minister for his consideration and the Minister may, with or without modification, approve the scheme.

32. Consideration of objections and approval of schemes by Minister Ord. No. 14 of 1961 s. 15

Where the Minister is the Preparatory Authority, he shall as soon as is practicable after the expiration of the period limited for the making of objections and representations under section 30, give consideration to any such considerations or representations as may have been made, and may thereafter approve the scheme prepared by himself either with or without modifications.

33. Publication of schemes Ord. No. 14 of 1961 s. 15

Where the Minister approves any scheme under the provisions of section 31 or 32, he shall deposit the scheme (with any modifications made thereto) in such place as he shall consider desirable and shall, by notice in the Gazette and any newspaper circulating in the neighbourhood or, in his discretion, in such other manner as may be customary in the area concerned, declare the scheme to be in force and inform the public where it may be inspected.

34. Date of coming into effect of scheme

A scheme shall take effect seven days after the date of its publication in the Gazette under the provisions of section 33.

PART IV

CONTROL OF DEVELOPMENT AND EXECUTION OF SCHEMES (ss 35-44)

35. No development in planning area without planning consent

Notwithstanding any other law to the contrary, no person shall develop any land within a planning area without planning consent or otherwise than in accordance with planning consent and any conditions specified therein.

36. Authorities responsible for control of development in planning area Ord. No. 14 of 1961 s. 2

Notwithstanding any other law to the contrary, after the material date the Area Planning Committee shall, subject to any directions given to it by the Minister, be the authority responsible for controlling and regulating development in the planning area concerned and for the giving or withholding of planning consent: Provided that where the Area Planning Committee is not the local government authority, that authority shall be responsible for the control and regulation of development and for the giving or withholding of planning consent, pursuant to any other law, to the same extent as it was so responsible immediately before the area concerned became a planning area, but in so controlling and regulating

development and in giving or withholding planning consent, the local government authority shall comply with such directions as may be given to it by the Area Planning Committee.

37. Development and planning consent to have regard to scheme in course of preparation
In controlling and regulating development within a planning area (including, in the case of an Area Planning Committee, the giving of directions to a local government authority pursuant to section 36) and in giving or withholding planning consent, the Area Planning Committee or local government authority, as the case may be, shall have regard to any scheme in course of preparation for the planning area concerned and shall withhold planning consent to any development which would render abortive any scheme in course of preparation.
38. Conformity with scheme when in force
On the coming into force of a scheme, it shall be the duty of the Area Planning Committee or local government authority, as the case may be, to execute and enforce such scheme and in controlling and regulating development within its planning area (including, in the case of an Area Planning Committee, the giving of directions to a local government authority, pursuant to section 36) and in giving or refusing planning consent the Area Planning Committee or local government authority, as the case may be, shall conform to the requirements, intent and purpose of such scheme.
39. Power to impose conditions
An Area Planning Committee or local government authority, as the case may be, in giving planning consent to any proposal to develop, may impose such conditions as are in accordance with the intent and purpose of any scheme in course of preparation or in force for the planning area concerned as it deems fit; and the person developing land pursuant to such planning consent shall comply with all conditions so imposed.
40. Planning consent not to be withheld in certain cases Ord. No. 14 of 1961 s. 16
An Area Planning Committee or local government authority, as the case may be, shall not be entitled to withhold planning consent for the enlargement, improvement or alteration of any buildings existing at the material date, if such enlargement, improvement or alteration does not—
(a) increase the original building by more than one-eighth in floor area:
Provided that such enlargement, improvement or alteration does not increase the total floor area of the building, the proportion of the site covered, or the height of the building, beyond the limits prescribed in the

- appropriate provisions of a scheme or a scheme in course of preparation;
or
- (b) involve the pulling down of the building to the extent of more than one-half the superficial area of the main containing walls of the building, account being taken of any previous works of alteration subsequent to the material date; or
 - (c) conflict with any provision in a scheme for reserving the site of any road or proposed road, or any improvement line or building line; or
 - (d) seriously injure the amenities of the neighbourhood; or
 - (e) involve the use of such part of the building in any noxious or otherwise offensive manner, except in an offensive industrial zone; or
 - (f) occupy land proposed to be reserved or zoned by the scheme for any purpose, the carrying out of which in the future would necessitate the removal or alteration of such enlargement, improvement or alteration; or
 - (g) interfere with the safety of traffic at or near the corner, bend or junction of any road.
41. Powers of Minister to arrest certain development in planning areas Ord. No. 14 of 1961 s. 2
- (1) If it comes to the notice of the Minister that any development which appears to the Minister, after consultation with the Area Planning Committee or local government authority concerned, as the case may be, to be contrary to the provisions of a scheme in course of preparation, has been permitted before the material date, the Minister may direct the authority which gave permission therefor, pursuant to any law, to cancel such permission and the authority so directed shall comply with the directions so given.
 - (2) If it comes to the notice of the Minister that any planning consent has been given after the material date otherwise than in accordance with the provisions of this Act, the Minister, after consultation with the Area Planning Committee or Local Authority concerned, as the case may be, may direct the authority which has given such planning consent to cancel the same and an authority so directed shall comply with the directions so given.
 - (3) Any person who has been given planning consent or other permission pursuant to any law to develop any land within a planning area shall, where such planning consent or permission is cancelled under this section, be entitled to compensation under the provisions of section 52.
42. General development orders Ord. No. 14 of 1961 s. 2
- (1) If a Preparatory Authority is satisfied that the reasons for any restriction or prohibition made in a scheme under the provisions of paragraphs 2 or 3

of Part III of the First Schedule no longer apply in relation to the land in respect of which development is restricted or prohibited, it may, with the consent of the Minister, issue a general development order in the prescribed form permitting development to take place in the manner specified therein.

- (2) A general development order issued under this section shall have effect as part of any scheme which governs the area to which such general development order relates and all references in this Act to a scheme shall include a reference to any general development order which has effect as part of such scheme under this section.

43. Ad hoc planning consent Ord. No. 14 of 1961 s. 2

Where a general planning scheme provides that development will be prohibited in any area for any period on the grounds that the use for the time being is undetermined and awaiting zoning, development may be permitted by the Area Planning Committee, with the consent of the Minister, ad hoc having regard to the general pattern of development in or around that area.

44. Application for planning consent

- (1) An application for planning consent for any development within a planning area shall be made to the Area Planning Committee or local government authority, as the case may be, in such manner and in such form as may be prescribed.
- (2) The decision of an Area Planning Committee or local government authority, as the case may be, on an application for planning consent shall be communicated to the applicant in such manner as may be prescribed within seventy days after receipt thereof or within such time as may be agreed upon in writing between the applicant and the Area Planning Committee or local government authority, as the case may be.

PART V

ACQUISITION OF LAND AND COMPENSATION (ss 45-59)

45. Acquisition of land Ord. No. 14 of 1961 ss. 2 and 17

- (1) Where it appears to the President that it is necessary to acquire any land within a planning area for the purpose of securing its use in the manner provided in the scheme applicable thereto and agreement for the acquisition thereof between the local government authority and the owner of such land cannot be reached, the President may acquire such land under any law relating to the compulsory acquisition of land.
- (2) Without prejudice to the generality of the provisions of subsection (1) of this section, the power of the President thereunder shall extend to the

acquisition of land which has not been developed in accordance with the scheme applicable thereto and which, in his opinion, it is necessary to acquire in order to secure its good development or the proper, orderly and continuous development of a planning area or any part of it or the good development of neighbouring land:

Provided that before acquiring any land under the provisions of this subsection, the President shall be satisfied that the owner of such land has taken no reasonable steps to develop such land in accordance with the provisions of the scheme applicable thereto.

- (3) Without prejudice to the provisions of any law relating to the compulsory acquisition of land, the purposes for which land may be acquired under the provisions of this Act shall be deemed to be public purposes.
- (4) Nothing in this section or section 49 shall derogate from any express provision relating to the acquisition of land for a public purpose and the compensation payable therefor contained in any instrument under which such land is held.

46. Land owner may require land to be acquired in certain circumstances Ord. No. 14 of 1961 s. 2

- (1) Subject to the provisions of section 47, if by reason of any provision in a scheme—
 - (a) the whole of any undivided plot or parcel of land within a planning area will not be permitted to be developed; or
 - (b) so great a proportion of any land within a planning area cannot be permitted to be developed that the remainder is incapable of reasonable development; or
 - (c) any land within a planning area has been severed in such a manner that one or more severed portions are so small or so badly shaped as to be incapable of reasonable development, the owner may serve notice on the local government authority requiring it to acquire his land in whole or in part.
- (2) If the local government authority agrees to the demand of the owner made under subsection (1) of this section, it shall advise the President accordingly and where agreement between the local government authority and the owner as to the value of such land cannot be reached, such land shall be acquired as though the acquisition were a compulsory acquisition made under the provisions of section 45.

47. Restriction on right to require land to be acquired Ord. No. 14 of 1961 ss. 2 and 18

- (1) An owner shall not be entitled to require the local government authority to acquire his land if development is prevented only by any provision of a scheme which zones his land as unfit for building or as agricultural land.

- (2) An owner shall not be entitled to require the local government authority to acquire his land if development is prevented only by any provision in a scheme which zones his land as land awaiting later zoning or land on which development is deferred for a period pending the issue of a general development order unless—
- (a) the zoning of such land is not determined within two years (or such longer period not exceeding five years as the Minister may, for good cause, direct in any particular case) after the date of the coming into effect of a general planning scheme; and
 - (b) no general development order is made in respect of such land under the provisions of section 42 within the period specified in paragraph (a) of this subsection; and
 - (c) the owner of such land has, since the expiration of the period specified in paragraph (a) of this subsection made application for planning consent for ad hoc development pursuant to the provisions of section 43 and such planning consent has been unreasonably withheld.

48. Allocation of land acquired Ord. No. 14 of 1961 s. 19

- (1) Subject to the provisions of subsection (2) of this section, the President may allocate any land acquired compulsorily pursuant to the provisions of this Act to the local government authority, any public utility company or corporation or any religious, educational, charitable, cultural or social institution or organisation or to any person on such terms and conditions as he shall consider necessary to secure its use in the manner provided in the scheme applicable thereto within a reasonable period after the coming into effect of the scheme.
- (2) Where the cost of the acquisition of land has been met by a local government authority, the land so acquired shall, if such authority so requires, be transferred to such authority or to any person specified by such authority.

49. Valuation for purposes of acquisition and expenses Ord. No. 14 of 1961 s. 2

- (1) Notwithstanding the provisions of any Act relating to the compulsory acquisition of land, the provisions of section 50 shall apply to the valuation of land for the purposes of the acquisition of land, pursuant to the provisions of this Act, in like manner as it applies to the valuation of land for the purposes of compensation:
- Provided that so much of any money paid or payable by way of compensation as may be referable to any land acquired for the purposes of this Act shall be deducted from the value of such land in determining its value for the purposes of acquisition.

- (2) The provisions of section 52 and section 53 shall not apply to the valuation of land for the purposes of the acquisition thereof.
 - (3) The expenses incurred in the acquisition of land in any planning area pursuant to the provisions of this Act shall be met by the local government authority.
50. Value of land for purposes of compensation
- (1) Subject to the provisions of subsection (2) of this section, the value of any land within a planning area shall, for the purposes of determining the amount of compensation payable pursuant to the provisions of this Act, be deemed to be the value of such land on the material date together with the value of any development carried out thereafter with planning consent.
 - (2) In giving planning consent under the provisions of this Act to the temporary development of any land within a planning area, the authority concerned may give such planning consent on the condition that the value of such temporary development shall not be taken into account for the purposes of assessing any compensation payable to the owner of such land and in any such case the value of any such temporary development shall not be taken into account for the purposes of assessing compensation payable.
51. Public land subject to compensation in certain cases Ord. No. 14 of 1961 s. 20
For the avoidance of doubt it is hereby declared that the President shall, in respect of any public land, be entitled to claim compensation under the provisions of this Act.
52. Compensation for injury caused by scheme Ord. No. 14 of 1961 ss. 2 and 21
Subject to the provisions of this Act, any person-
- (a) whose land is injuriously affected by the coming into operation of any provision contained in a scheme; or
 - (b) who, for the purpose of complying with a provision contained in such scheme or in making or resisting a claim under the provisions of this Act relating to compensation, has incurred expenditure which is rendered abortive by a subsequent revocation or subsequent modification of such scheme; or
 - (c) who suffers loss or injury by reason of the operation of any provision of a scheme or any action taken by an Area Planning Committee or local government authority in pursuance of such scheme which prohibits the continuance of or terminates the use of a building or land existing at the material date and not conforming with the provisions of the scheme; or

- (d) who is entitled to compensation under the provisions of subsection (3) section 41; or
 - (e) whose mining rights or forestry rights are rendered abortive by the coming into operation of any scheme, shall, if he makes a claim within the time limited for the purpose by this Act, be entitled to recover as compensation from the local government authority the amount by which his land is decreased in value by reason of such provision or action or, in so far as it was reasonably incurred, the amount of abortive expenditure or the loss or injury suffered, as the case may be.
53. Factors to be taken into account in assessing compensation
- In assessing compensation–
- (a) there shall be taken into account any enhancement of the value of such land, or any other land under the same ownership, whether in the same planning area or not, by reason of any provision contained in any scheme or any work executed in accordance with a scheme;
 - (b) where the use of a building or land is prohibited because such use does not conform with the scheme applicable thereto such non-conforming use shall, in the case of land, be deemed to have a life of twenty-five years from the material date and, in the case of a building, shall be deemed to have a life assessed according to the nature and condition of its structure, but not in any case exceeding twenty-five years from the material date; and any compensation payable in respect of the termination or prohibition of such non-conforming use shall be related to the unexpired portion of its life so calculated.
54. No compensation in certain cases Ord. No. 14 of 1961 s. 22
- (1) No compensation shall be payable by reason only of the withholding of planning consent by the Minister, an Area Planning Committee or a local government authority, pursuant to the provisions of this Act.
 - (2) No compensation shall be payable in respect of any development commenced after the material date unless such development was commenced pursuant to, and accords with, planning consent given in respect thereof.
 - (3) No compensation shall be payable in respect of conditions imposed pursuant to the provisions of section 39 in any planning consent.
 - (4) No compensation shall be payable in respect of any provisions contained in a detailed scheme adopted pursuant to the provisions of subsection (2) or subsection (3) of section 24.
 - (5) No compensation shall be payable in respect of any of the following provisions in a scheme, namely, any provision which–

- (a) prescribes the location of buildings, the extent of the yards, gardens and curtilages of buildings;
- (b) imposes any sanitary conditions in connection with buildings;
- (c) limits the number of buildings or the number of buildings of a specified class which may be constructed, erected or made in, on or under the area;
- (d) prohibited or regulates the subdivision of land;
- (e) regulates the size, height, spacing, design, colour and materials of buildings unless thereby the cost of the building is increased to an unreasonable amount in relation to the general class of development planned for the neighbourhood;
- (f) controls, restricts or prohibits the objects which may be affixed to buildings;
- (g) prohibits or restricts building operations permanently on the grounds 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 the pollution of any waters or excessive expenditure of public money in the provision of roads, sewers, or water supply or other public services;
- (h) prohibits or restricts the use of land temporarily on the grounds that its proper use is undetermined and awaiting zoning or the issue of a general development order;
- (i) 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;
- (j) 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 buildings of a specified class or to be used for a specified purpose;
- (k) in the interests of safety, regulates the height and position of proposed walls, fences or hedges near the corners or bends of roads or at railway level crossings;
- (l) restricts the height of boundary walls, fences or hedges in the interests of amenity and road appearance;
- (m) limits the number or prescribes the sites of new roads or private vehicular accesses entering or joining on to a road or the site of a proposed road;
- (n) fixes in relation to any road or intended road a line beyond which no building in that road or intended road may project;

- (o) in the case of the erection of any building in an area zoned for purposes of business or industry, requires the provision of accommodation for parking, loading, unloading or fuelling vehicles, with a view to preventing obstruction of traffic on any road;
- (p) prohibits, restricts or controls, either generally or in any particular place, the exhibition, whether on the ground, or on any building or on any temporary erection of all or any particular forms of advertisements, signs, or other public notices; or
- (q) prevents, remedies or removes injury to amenities arising from the ruinous or neglected condition of any building or by the objectionable or neglected condition of any land attached to a building or abutting on a road or situate in a residential area.

55. No compensation in respect of undeveloped Area

- (1) No compensation shall be payable in respect of any provision in a scheme which reserves any land in a substantially undeveloped area-
 - (a) for a road which is not of a greater width than a standard street or, where a road is of a greater width than a standard street, for that portion of a road which is equal to the width of a standard street; or
 - (b) for a public open space, unless such reservation effects a total reduction in the area of a plot or holding to an extent greater than twenty-eight per centum of the area thereof physically suited for and zoned for development.
- (2) Where any such reservation reduces the area of a plot or holding to an extent greater than twenty-eight per centum of the area thereof physically suited for and zoned for development, compensation shall be payable in respect of any such percentage reduction in area in excess of twenty-eight per centum.
- (3) For the purposes of subsection (1) "standard street" means, in relation to areas in which the premises fronting the street are mainly residential, a street of overall width of fifty feet and, in relation to areas in which the premises fronting the street are mainly commercial or industrial, a street of overall width of sixty feet.

[s. 54A]

56. Circumstances limiting compensation

Where any provisions of a scheme is revoked or modified by a later scheme, no compensation shall be payable in respect of any land on the ground that it has been injuriously affected by any provision contained in the later scheme if and in so far as that later provision is the same, or substantially the same, as the earlier

provision so revoked or modified, but if at the date when the revocation or modification of that earlier provision becomes operative–

- (a) there is still outstanding any claim for compensation duly made thereunder; or
- (b) the time originally limited for making such a claim has not expired, any such outstanding claim, and any such claim made within the time so limited, shall be entertained and determined and may be enforced in the same manner in all respects as if all the provisions of the earlier scheme had continued in operation unless the claim is in respect of a restriction removed by the later scheme.

[s. 54B]

57. Date when compensation becomes payable

No compensation shall be payable until the loss in value of the land injuriously affected is suffered on the sale or transfer of such land, or any estate therein, by the person entitled to such compensation, or, where the use of a building or land is prohibited because such use does not conform to a scheme applicable thereto, until notice is served on the owner by the local government authority or Area Planning Committee, as the case may be, prohibiting such non-conforming use.

[s. 55]

58. Local government authority may pay compensation in certain cases before scheme in operation Ord. No. 14 of 1961 s. 23

- (1) Notwithstanding the provisions of this Act to the contrary, where–
 - (a) in any planning area, a person develops land in accordance with planning consent or is refused planning consent to develop land; and
 - (b) in giving or refusing, as the case may be, such planning consent, the Area Planning Committee or local government authority has regard to a scheme in course of preparation for the planning area concerned; and
 - (c) the provisions of the scheme in course of preparation which affect the land or development and the loss or injury suffered by such person are such that, had the scheme been in operation at the time planning consent was given or refused, as the case may be, such person would be entitled to recover compensation in respect of that land under the provisions of this Act,
the local government authority may, in its discretion and subject to the approval of the Minister, pay compensation as if the scheme were in operation at the time planning consent was given or refused:

Provided that no compensation shall be paid under this section until the loss in value of the land is suffered on the sale or transfer thereof, or any estate therein, by the person eligible for compensation.

- (2) Where any compensation paid under this section is accepted—
 - (a) no objection by the person who accepted the same, or any person claiming title under him, shall be allowed to any provision of a scheme deposited in accordance with section 29, by virtue of which compensation was paid under this section; and
 - (b) no further compensation shall be paid in respect of the operation of such provision on or in respect of such land, or by reason of any modification of such scheme in course of preparation or of the scheme when made, or by reason of such provision being omitted for such scheme when approved by the Minister.

[s. 55A]

59. Making of claims for compensation Ord. No. 14 of 1961 s. 2

- (1) A claim for compensation shall be made by serving upon the local government authority a notice in writing stating the grounds of the claim and the amount claimed.
- (2) Subject to the provisions of subsection (3) of this section, no claim for compensation shall be entertained unless such written notice has been served on the local government authority within six months after the date on which the provision giving rise to the claim came into operation or within such longer period as may be specified in a scheme or, in respect of expenditure rendered abortive by the revocation or modification of a scheme, or in the case of any other loss or injury giving rise to a claim for compensation, within six months after the date on which the revocation or modification of such scheme became operative or the loss or injury was suffered, as the case may be.
- (3) Where it is alleged that land has been injuriously affected by the execution of any work, the period within which a claim in respect of that injurious affect may be made shall be a period of three years after completion of the work.

[s. 56]

PART VI
MISCELLANEOUS PROVISIONS (ss 60-84)

60. Determination of disputes Ord. No. 14 of 1961 ss. 2 and 24
- (1) Any dispute arising under this Act as to-
 - (a) the right of a claimant to recover compensation;
 - (b) the amount and manner of payment of any such recoverable compensation; or
 - (c) whether a local government authority shall acquire the land of any owner within the planning area under the provisions of section 46, shall, upon the application of any party concerned, be heard and determined by the High Court (Land Division)..
 - (2) Any dispute referred to the High Court (Land Division) under the provisions of subsection (1) of this section shall be by way of a suit by or against the local government authority.
 - (3) The procedure governing the lodging and hearing of disputes under this section shall correspond mutatis mutandis to the procedure regulating the civil jurisdiction of the High Court (Land Division).

[s. 57]

61. Appeals Ord. No. 14 of 1961 s. 25
- Any person aggrieved by the decision of an Area Planning Committee or local government authority to refuse planning consent for any development, or to impose conditions to such planning consent under section 39 may, within ninety days of the notification of such decision appeal to the Minister in the prescribed manner:
- Provided that no such appeal shall lie unless notice of intention to appeal is given within fourteen days of the notification of such decision, or such further period as the Minister may in any particular case allow.

[s. 58]

62. Determination of appeals Ord. No. 14 of 1961 s. 25; Act No. 2 of 2002 Sch.
- (1) On receipt of an appeal under section 61, the Minister shall appoint one or more delegates to inquire into the case and to hear evidence from or on behalf of the appellant, the Area Planning Committee or local government authority, as the case may be, and from such other persons who may appear to the delegate or delegates to have an interest in the subject matter of the appeal, and to report and advise thereon, and upon receipt of such report and advice the Minister may confirm, reverse or modify the decision of the Area Planning Committee or local government authority.
 - (2) For the purpose of any inquiry held under this section, a delegate may administer oaths and may issue a summons under his hand directing the

person named therein to attend at the time and place therein mentioned to give evidence or to produce documents and books therein specified or both to give evidence and to produce documents and books.

- (3) Any person who having been paid, or having had tendered to him by the party calling him, the prescribed witness fee, fails, when summoned in accordance with the provisions of this section, to attend or to produce any documents or books which he is required to produce, shall be guilty of an offence and on conviction is liable to a fine not exceeding two thousand shillings.
- (4) The Minister shall have power to make such order as he thinks fit as to the payment by any party of the costs of or incidental to an inquiry held under this section, and any such order shall be enforceable to the same extent and in the same manner as an order for costs made by the High Court (Land Division).

[s. 59]

63. Finances of Area Planning Committees Ord. No. 14 of 1961 s. 25

- (1) All expenses incurred and all sums received by an Area Planning Committee which is not a local government authority shall be defrayed from moneys provided by Parliament, or, as the case may be, paid into the general revenues of Tanzania.
- (2) All expenses incurred and all sums received by an Area Planning Committee which is a local government authority, shall be defrayed from or paid into, as the case may be, the general revenue fund of that authority.

[s. 60]

64. Duty of certain local government authorities to make provision for acquisition and compensation and power of Government to contribute Ord. No. 14 of 1961 s. 25

- (1) Every local government authority shall make suitable provision in its estimates for any expenses for the acquisition of land or otherwise or for any compensation which it is required to pay under the provisions of this Act.
- (2) The Minister may, in his discretion, authorise the payment to a local government authority, out of moneys provided by Parliament, of such contribution in such cases as he shall think fit towards the expenses of acquisition of land acquired compulsorily under this Act or the payment of compensation.

[s. 61]

65.-69. Repealed

[Repealed by Ordinance No. 14 of 1961 s. 25.]

70. Revocation of a scheme Ord. No. 14 of 1961 ss. 2 and 26

- (1) The Minister may at any time revoke any scheme.
- (2) When a scheme is revoked under the provisions of this section, the Minister shall, within one month after the date of such revocation, publish a notice in the Gazette and at least one newspaper circulating in Tanzania to that effect, and the local government authority shall serve notice upon any person who has claimed compensation and whose claim has not been finally settled, and thereupon any compensation already awarded shall, upon payment by the local government authority of any costs to such person, be discharged, and any compensation awarded by the local government authority shall likewise be discharged but without prejudice to the right of such person to make any further claim for compensation permitted by the terms of section 52 in respect of a later scheme.

[s. 67]

71. Obligation to give information to Minister or Area Planning Committee Ord. No. 14 of 1961 s. 2

- (1) The Minister or an Area Planning Committee may, for any purpose arising in relation to the enforcement or carrying out of a scheme, by notice in writing, require the owner of any land in the area to which such scheme relates or is intended to relate to state in writing and deliver or forward by registered post to the Minister or Area Planning Committee, as the case may be, within three months after the date of the notice, particulars of his estate, interest in or right over or in respect of such land, and the name and address, and the estate, interest or right (so far as they are known to him) of every person who to his knowledge has any estate or interest in or right over or in respect of such land.
- (2) Any person required to make and deliver or forward a statement under this section who shall wilfully make and deliver or forward any false statement, or fail or refuse to make and deliver or forward a statement, shall be liable on conviction to a fine not exceeding two thousand shillings.

[s. 68]

72. Power of entry Ord. No. 14 of 1961 s. 2; Act No. 13 of 1991

- (1) Any person authorised in writing in that behalf by the Minister or by an Area Planning Committee may, on production of such written authority to the owner or occupier, enter at any reasonable time upon any land for the purpose of examining such land in connection with the preparation of a

scheme or investigating whether or not the provisions of a scheme are being carried out.

- (2) Any person who wilfully obstructs or interferes with a person in the exercise of any power vested in him by virtue of this section shall be liable on conviction to a fine not exceeding forty thousand shillings.

[s. 69]

73. Payment of compensation for damage Ord. No. 14 of 1961 ss. 2 and 27

When any person authorised under section 72 causes damage to any property in the course of his duties, the Minister may appoint a person to value such damage and compensation shall be payable by the Minister or the Area Planning Committee, as the case may be, to the person whose property has been damaged accordingly.

[s. 70]

74. Penalty for contravention of scheme Act No. 13 of 1991

Without prejudice to the provisions of section 75, any person who wilfully does any act, or wilfully fails to do any act, in contravention of a provision contained in a scheme, shall be liable on conviction to a fine not exceeding fifty thousand shillings, and, in the case of a continuing offence, to a further fine not exceeding one thousand shillings for every day during which the default continues after conviction:

Provided that, where in any scheme the use of a building or land is prohibited because such use does not conform with a scheme applicable thereto, the use of such building or land in the manner in which it was used immediately prior to the coming into effect of such scheme shall not constitute an offence under this section until the local government authority or Area Planning Committee, as the case may be, has served notice on the owner prohibiting such non-conforming use.

[s. 71]

75. Powers of local government authority to order demolition, etc.

- (1) Without prejudice to the provisions of any other law, a local government authority may, in any case where land is developed without planning consent or otherwise than in accordance with any conditions specified in any planning consent, serve notice on the owner of such land requiring him to discontinue such development and to alter or pull down and remove any works or buildings comprised in such development within such time after service (not being less than one month) as may be specified in such notice.
- (2) In any case where a building, erected before the material date, does not conform with the planning scheme, the local government authority may

serve notice on the owner requiring him to demolish such non-conforming building or to cease such non-conforming use or to alter it in such a way as to conform to the provisions of the scheme, subject to the provisions of section 52 relating to compensation.

[s. 72]

76. Appeal against demolition order Ord. No. 14 of 1961 s. 2

- (1) If any person on whom a notice is served under section 75 is aggrieved by the notice, he may, at any time within the period mentioned in such notice, appeal against the notice to the Minister.
- (2) If on any such appeal the Minister is satisfied—
 - (a) that permission was granted under this Act for the development to which the notice relates, or that no such permission was required in respect thereof, or, as the case may be, that the conditions subject to which such permission was granted have been complied with; or
 - (b) in the case of a building erected before the material date, that the building conforms with the scheme, the Minister shall quash the notice to which the appeal relates.
- (3) If on any such appeal the Minister is not satisfied as to any of the matters specified in subsection (2) of this section, but is satisfied that the requirements of the notice exceed what is necessary for restoring the land to its condition before the development took place or for securing compliance with the conditions or, in the case of a building existing before the material date, securing conformity with the scheme, as the case may be, the Minister shall vary the notice accordingly.
- (4) In any other case the Minister shall dismiss the appeal.
- (5) Where a notice is varied under subsection (3) of this section or the appeal is dismissed under subsection (4) of this section, the Minister may, if he thinks fit, direct that the notice shall not come into force until such date (not being later than one month from the determination of the appeal) as the Minister thinks fit.

[s. 73]

77. Power of local government authority to effect compliance with notice Ord. No. 14 of 1961 ss. 2 and 28

If the owner of any land refuses or neglects to comply with any notice issued under section 75 or any decision of the Minister on appeal within the time specified, or such longer period as the local government authority may in any case allow, the local government authority, or its duly authorised agent, may enter upon such land and take such steps, including the alteration or pulling down and removing of any works or buildings, as may be necessary to give effect to such notice.

[s. 74]

78. Recovery of costs by local government authority Ord. No. 14 of 1961 s. 29

All costs incurred by a local government authority or its duly authorised agent, in giving effect to any notice issued under section 75, may be recovered by the local government authority from the owner of the land as a civil debt and, until paid, such costs shall—

- (a) where the land is registered land within the meaning of the Land Registration Act Cap. 334*, when entered as an incumbrance in the land register on the application of the local government authority; or
- (b) in any other case, when notice thereof has been registered under the Registration of Documents Act Cap. 117* (which notice shall be deemed to be a document the registration of which is compulsory), constitute a charge upon the land concerned, and all estates and interests therein, other than the title of the President to any public land.

[s. 75]

79. Service of notices Ord. No. 14 of 1961 s. 30

- (1) Any notice, summons, writ or other process, or any document, required or authorised to be served on the Minister or a local government authority or Area Planning Committee, may be served by delivering it to the person authorised by the Minister, local government authority or Area Planning Committee, to accept service, or by sending it to the Minister, the local government Authority or the Area Planning Committee by registered post.
- (2) Subject to the provisions of subsection (1) of this section, any notice, order or other document required or authorised to be served under this Act may be served either—
 - (a) by delivering it to the person on whom it is to be served;
 - (b) by leaving it at the usual or last known place of abode of that person;
 - (c) by sending it by registered post to that person at his usual or last known place of abode;
 - (d) in the case of a company or body registered in Tanzania, by delivering it to the secretary of the company or body at its registered or principal office or sending it by registered post to the company or body at such office;
 - (e) in the case of a company or body incorporated outside Tanzania, by delivering it to the registered address of the company or body in Tanzania or sending it by registered post to such registered address of the company or body in Tanzania; or

- (f) if it is not practicable after reasonable enquiry to ascertain the name or address of any person on whom it should be served, by addressing it to him by the description of "owner" or "occupier" of the premises (naming them) to which it relates, and by delivering it to some person on the premises or, if there is no person on the premises to whom it can be delivered, by affixing it, or a copy of it, to some conspicuous part of the premises.
- (3) In any case where any notice, order or other document required or authorised to be served under this Act has been posted to the person on whom it is to be served by registered post, it shall prima facie be deemed to have been served at the time when the letter containing the same would be delivered in the ordinary course of post and it shall be sufficient in proving such service to prove that the notice, order or other document was properly addressed and put in the post.

[s. 76]

80. Protection from liability Ord. No. 14 of 1961 s. 31
No matter or thing done by any officer or servant of the Government, or any member, officer or employee of an Area Planning Committee or local government authority shall, if the matter or thing was done bona fide for the purpose of executing any of the provisions of this Act, subject any such officer, servant, member or employee, or any person acting by his directions, personally to any action, liability, claim or demand whatsoever.

[s. 77]

81. Power to make regulations Ords. Nos. 14 of 1961 ss. 2 and 32; 41 of 1969 Sch.; 13 of 1991 Sch.
- (1) The Minister may make regulations for the better carrying out of this Act and, without prejudice to the generality of the foregoing, for all or any of the following matters–
 - (a) the determination and adjustment of the limits of plots or parcels within planning areas;
 - (b) the maximum and minimum sizes of plots in various use zones, the Act number of buildings to be permitted on each plot, and the maximum proportion of the area of each plot to be covered by buildings, the height of buildings, the proportion of building floor space area to land or plot area;
 - (c) [Omitted];
 - (d) the minimum proportion of land in any use zone to be devoted to roads and open spaces in relation to the proportion to be devoted to building and development;

- (e) the classification of industries into various classes for zoning purposes;
- (f) the classification of various forms of development for regulating changes of use of land;
- (g) the changes of use which are deemed to constitute or not to constitute development;
- (h) the permissible changes of use of any buildings or premises in one class to the use thereof in another class;
- (i) the classes and uses of buildings which may be permitted in any zone;
- (j) the use of existing buildings not conforming with a scheme;
- (k) the width of roads in relation to their length and importance; the width of carriageway, footways, verges and other ways;
- (l) prohibiting or regulating the erection or display of, or controlling the design of, advertisements;
- (m) prescribing the fees to be paid and the forms to be used in relation to any matter governed by this Act and anything which is to be or may be prescribed under this Act;
- (n) prescribing matters which shall be included in any scheme prepared under section 23 or section 24;
- (o) the procedure generally in connection with schemes and with applications for planning consent and in particular, but without prejudice to the generality of the foregoing, with respect to the following matters–
 - (i) the submission of claims for compensation;
 - (ii) the preparation, deposit, publication and submission of schemes;
 - (iii) the grant and exercise of all powers in connection with schemes and the preparation of schemes;
 - (iv) the procedure in respect of applications to the Minister;
 - (v) the further, better or more convenient carrying out of the provisions and purposes of schemes or of any particular scheme;
 - (vi) the modification and revocation of schemes;
 - (vii) the obtaining, with or without charge, of information which may be required for the purposes of or in connection with the preparation of making or carrying into effect of schemes by inspection of or obtaining copies from assessment rolls, valuation rolls, rate books and other similar documents;
 - (viii) the giving or publication of information regarding the manner in which planning proposals or planning provisions

may affect any land in a planning area, and the manner in which such information may be obtained;

- (ix) the procedure for ascertaining whether planning consent is necessary for any particular development where doubt exists.
- (2) Such regulations may impose a fine not exceeding forty thousand shillings and in the case of a continuing offence, a further penalty not exceeding five hundred shillings for each day during which the default continues after conviction.
- (3) The Minister may make different regulations in respect of different planning areas.

[s. 78]

82. Records of planning consent Ord. No. 14 of 1961 s. 33

- (1) Every Area Planning Committee and local government authority shall keep records in the prescribed manner of all applications for planning consent and the decisions given and shall remit a copy of such records to the office of the Minister within ten days after making the decision.
- (2) Any person may, during the normal office hours of an Area Planning Committee or a local government authority or of the office of the Minister, on paying the prescribed fee, examine any such records and on payment of such further fee as may be prescribed therefor, he shall be entitled to copies of any such records.

[s. 79]

83. Planning consent to prevail over certain by-laws and rules Ord. No. 14 of 1961 s. 34

- (1) Any development which accords with planning consent given pursuant to the provisions of this Act shall be lawful notwithstanding that such development contravenes the provisions of any by-law made under the Local Government (District Authorities) Act, the Local Government (Urban Authorities Act not being a by-law or rule prescribing or relating to the strength, structure, stability or sanitary or electrical requirements, of buildings or any other matter for which provision is not made in the First Schedule to this Act.
- (2) Notwithstanding the provisions of any other Act for the time being in force, no consent, permission or licence affecting or likely to affect the development of any land in any planning area shall have effect to confer any right specified in such other Act until after planning consent has been given for the development.

[s. 80]

84. Repeal
[Repeal of R.L. Cap. 103.]
[s. 81]

FIRST SCHEDULE
MATTERS IN RESPECT OF WHICH PROVISIONS MAY BE MADE IN SCHEMES
Ord. No. 14 of 1961 s. 35
(Section 26)

PART I
ROADS

1. Providing for the location and reservation of land for roads, car parks and bus stations and the widening, improvement, re-alignment and extension of any roads, and the fixing of building lines.
2. Providing for the closure or diversion of existing roads.
3. Restricting and controlling the design and construction of new roads and the siting of road junctions and accesses, whether public or private, to existing or proposed main roads.
4. Regulating the line, width, level and general dimensions and character of roads, whether new or existing.

PART II
PUBLIC SERVICES

Facilitating the construction of works relating to aerodromes, railways, electricity supply, telephone and telegraph lines, wireless facilities, sewerage and refuse disposal, water supply and other public utility services, allocating sites for use in relation to such services and providing for the reservation of land therefor.

PART III
USES OF LAND

1. Providing for the reservation of areas, zones and sites for—
 - (a) dwelling houses, flats and tenements of various classes and densities, including dwelling houses of temporary materials which are not subject to by-law control other than by-laws relating to public health;
 - (b) shops, offices, trading premises and other commercial development, with or without residential accommodation;
 - (c) industries of various classes, warehousing and service trades, or any particular industry or trade;
 - (d) buildings required for charitable or religious purposes, schools, hospitals or other medical or public health purposes, cemeteries, crematoria, educational or recreational institutions, libraries, theatres, cinemas, hotels, restaurants and other places of public entertainment, amusement, refreshment or assembly;
 - (e) agricultural purposes;

- (f) other purposes.
- 2. Permanently prohibiting or restricting the development of any land on any of the following grounds–
 - (a) that the land is unsuitable for building; or
 - (b) that development would be prejudicial to neighbouring land or development or to public health or other public interests.
- 3. Providing for zones or areas in which development of any land shall be restricted or prohibited for any periods, pending the issue of a general development order releasing the land for development on any of the following grounds–
 - (a) that the land is unsuitable for building;
 - (b) that the provision of public services would be unduly difficult or uneconomic;
 - (c) to prevent ribbon development; or
 - (d) that the use for the time being is undetermined and awaiting zoning.
- 4. Providing for the reservation, regulation and control of quarries and mines and buildings ancillary thereto.
- 5. Providing for–
 - (a) the delineation of areas for which detailed schemes shall be made;
 - (b) the delineation of areas in which development is prohibited, restricted or controlled under the provisions of any other law.

PART IV

BUILDINGS AND STRUCTURES

- 1. Regulating and controlling either generally or in any particular area all or any of the following matters–
 - (a) the size, height, spacing and building line of buildings and the levels of pavements;
 - (b) the objects which may be affixed to buildings;
 - (c) the location of buildings, the extent of yards, gardens and curtilage of buildings;
 - (d) the purposes 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;
 - (e) the design, external appearance and materials of buildings and fences.
- 2. Reserving or allocating any particular land or all land in any particular area for buildings of a specific class, (including dwellings of temporary materials not subject to by-law control other than by-laws relating to public health) or prohibiting or restricting either permanently or temporarily, the construction of any building or any particular class of building on any specified land.

3. Regulating and controlling the density of development in any area, either by limiting the number of buildings of any type which may be constructed on or in any area or plot or by limiting the number and size of plots in any area.
4. Providing for the demolition or alteration of buildings or works which are inconsistent with or obstruct or retard the operation of a scheme.

PART V AMENITIES

1. Providing for the reservation of land as open spaces, whether public or private, parks, sports grounds and playing fields.
2. Preventing, remedying or removing injury to amenities arising from the ruinous or neglected condition of any building or fence, or by the objectionable or neglected condition of any land attached to a building or fence or abutting on a road or situate in a residential area.
3. Providing for the preservation of views and prospects and of the amenities of places and features of natural beauty or interest.
4. Providing for the preservation or protection of forests, woods, trees and groups of trees.
5. Prohibiting, regulating and controlling the deposit of liquids, materials and refuse.
6. Prohibiting, regulating and controlling the display of advertisements.

PART VI MISCELLANEOUS PROVISIONS

1. Providing for and regulating the making of agreements for the purpose of a scheme by the Preparatory Authority with owners and other persons and by such persons with one another.
2. Dealing with the use or disposal of land acquired under the provisions of this Act.
3. Any other matter (not hereinbefore mentioned) necessary or incidental to a 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
OPERATIONS OR USES OF LAND DEEMED NOT TO BE DEVELOPMENT FOR
THE PURPOSES OF THE ACT

(Section 2)

1. The carrying out of minor building operations which do not affect the design or external appearance of the building concerned as seen from the street.
2. The carrying out by a highway authority of any works required for the maintenance or improvement of a road, being works carried out on land within the boundaries of the road.
3. The use of any land within the curtilage of a dwelling house for any purpose reasonably incidental to the enjoyment of the dwelling house as such.
4. The carrying out on land which was used for the purposes of agriculture or forestry on the material date, or which is zoned for those purposes in the scheme, of any building or other operations reasonably required for the purposes of these uses, other than operations for the erection, enlargement, improvement or alteration of dwelling houses or of buildings used for the purposes of market gardens, nursery grounds or for other purposes which are not connected with general farming and forestry operations.
5. The erection, construction or alteration of any wall or fence not exceeding six feet in height except within one hundred feet of any road junction or fronting on to any road in a residential area.
6. The use of any building or land for any temporary purpose not exceeding sixty days in a year or for not more than thirty consecutive days.
7. The use of land and the construction, alteration and removal of plant, machinery, lines, pipes, drains, ditches and channels within their operational areas, required solely in connection with the proper running of the undertaking, by the Tanzania Railways Corporation, the Tanzania Harbours Authority, the Tanzania Corporation Posts and the Tanzania Telecommunications Company Ltd., sewage disposal, water supply and electricity supply undertakers except where such construction, alteration, removal or use confronts any street, save only as provided in paragraph 8 of this Schedule.
8. The taking up and relaying or repair on the same line and in the same position of pipes, main drains, cables and similar works in connection with public utility undertakings, and the construction of drains or water pipes inside the curtilage of a building or plot.
9. The filling of hollows and depressions in the ground to a level not higher than that of the ground:
Provided that the material used for filling is not, in the opinion of the public health authority, offensive or putrescent or liable to become offensive or putrescent.

10. The erection of temporary huts or shelter or worksheds required in connection with any development for which planning consent has been given, for a period not exceeding twelve months.
11. The construction of internal roadways, hardstandings, vehicle standings, stacking grounds and similar paved areas within the curtilage of a building or plot but not in front of the building or the building line.
12. In the case of land which is used for a purpose of any class specified in any regulation made under section 81, the change of use thereof to any other class as may be permitted in such regulation.

THIRD SCHEDULE
PROVISIONS RELATING TO REDISTRIBUTION OF LAND IN AREAS
SCHEDULED FOR DETAILED SCHEMES TO WHICH SECTION 27 APPLIES Ord.
No. 14 of 1961 s. 2; Act No. 38 of 1966
(Section 27)

1. In this Schedule, unless the context otherwise requires—
"plot or holding in private ownership, occupation or possession" includes any plot or holding held for a Government lease by virtue of the provisions of the Freehold Titles (Conversion) and Government Leases Act Cap. 393*;
"registered" means registered under the Land Registration Act Cap. 334* or any written law amending or replacing the same and the word "unregistered" means not so registered;
"Registrar of Documents" means the Registrar of Documents appointed under section 3 of the Registration of Documents Act Cap. 117* and includes any person authorized by law to act in his behalf;
"Registrar of Titles" means the Registrar of Titles appointed under section 3 of the Land Registration Act Cap. 334* and includes any person authorized under that Act to act in his behalf"; and
 2. All land to which the provisions of section 27 and this Schedule have been applied within an area scheduled or likely to be scheduled for a detailed scheme shall be pooled and the boundaries of all plots and holdings therein shall be expunged.
- [1A]
3. The detailed scheme shall provide for the equitable redistribution of plots or holdings in the land so pooled, among the owners of plots or holdings pooled.
- [2]
4. In making provisions for such redistribution regard shall be had to the need for reserving land for the provision of roads, open spaces and sites for public buildings, educational, religious, recreational and other public purposes, and the redistribution of the land so pooled shall be on the basis that the area zoned for and physically suitable for development in every plot or holding has been reduced, as nearly as may be practicable, by such percentage as may be necessary for the reservation of land for such purposes.
- [3]
5. The land reserved pursuant to and for the purposes specified in paragraph 3 of this Schedule shall vest in the President on the coming into effect of the detailed scheme and the President shall thereafter allocate the land so vested in him for the purposes specified in the detailed scheme.
- [4]
6. On the registration (pursuant to the provisions of this Schedule) of the title of an owner to a plot or holding redistributed to him pursuant to the provisions of this

Schedule, such title shall correspond to the title of that owner to the plot or holding in respect of which such new plot or holding is allocated to him and the Minister shall, so far as is practicable, arrange for the issue to such owner of an appropriate title thereto and for the survey of the amended, boundaries thereof, both without charge.

[5]

7. No claim for compensation under the provisions of this Act, shall be entertained by reason only of the reduction in area pursuant to the provisions of this Schedule of the plot or holding of any owner:

Provided that where any such plot or holding has been reduced in area to an extent greater than twenty-eight per centum of the area zoned for and physically suitable for development in the original plot or holding, compensation shall be payable in respect of any such percentage reduction in area in excess of twenty-eight per centum.

[6]

8. Where in the circumstances of any particular case the equitable redistribution of land to any owner cannot, or cannot conveniently, be effected, financial or other provision may be made in the detailed scheme for the compensation of such owner having regard to paragraphs 3 and 6 of this Schedule in respect of the plot or holding held by him and pooled under the detailed scheme.

[7]

9. The provisions of Part V of the Act relating to compensation shall apply only in respect of the redistributed land in its new form and new holdings.

[8]

10. Where in the circumstances of any particular case it is impracticable or undesirable that a plot or holding pooled under the detailed scheme shall be reduced in area by the percentage provided in paragraph 3 of this Schedule or any part thereof, provision may be made in the detailed scheme for the payment to the funds of the local government authority or, in any other case, to the general revenues of Tanzania by the person to whom such plot or holding is allocated under the detailed scheme of such amount as would represent the value or any part of the value of the percentage of land by which such plot or holding is not reduced in area and such amount until paid shall—

- (a) where the land is registered land within the meaning of the Land Registration Act Cap. 334*, or any Act amending or replacing the same, when entered as an incumbrance in the land register on the application of the local government authority or the Minister, as the case may be; or
- (b) in any other case, when notice thereof has been registered under the Registration of Documents Act Cap.117*, or any Act amending or replacing the same (which notice shall be deemed to be a document the registration of which is compulsory), constitute a charge upon the land

concerned, and all estates and interests therein, other than the title of the President to public land.

[9]

11. Objections to the details of redistribution may be lodged by the owners of the land concerned as objections to the detailed planning scheme in accordance with the provisions of section 30.

[10]

12. On the approval of the scheme by the Minister under section 33 he shall, as soon as possible, furnish—

- (a) to the Registrar of Titles particulars in writing of each registered plot or holding which immediately prior to the publication of the notification under section 33 was in private ownership, occupation or possession, and which is pooled under the detailed scheme, together with particulars of the plot or holding to be substituted for the same under the detailed scheme;
- (b) to the Commissioner for Lands particulars in writing of each plot or holding pooled under the detailed scheme which immediately prior to the publication of the notification under section 33 was held—
 - (i) under a valid and subsisting right of occupancy which is registered; or
 - (ii) under a valid and subsisting right of occupancy which is unregistered; or
 - (iii) under no valid title, stating in respect of each such plot or holding—
 - (A) how the same is held;
 - (B) in the case of a right of occupancy, what plot or holding is to be substituted for the same under the approved scheme;
 - (C) in the case of a plot or holding of a kind mentioned in subparagraph (iii) of this paragraph, the recommendations of the Minister, if any, with regard to the granting of a right of occupancy in substitution for such plot or holding.

[11]

13. (1) As soon as may be after receipt of the particulars mentioned in subparagraph (a) of paragraph 11 of this Schedule the Registrar of Titles shall, unless in any case he is precluded by any law other than this Act from so doing, prepare new certificates of title for issue to each registered owner of a plot or holding which is pooled under the detailed scheme in order that such registered owner may hold the plot or holding to be substituted for the same under such detailed scheme for the same interests and subject to the same terms and conditions for and on which he held the plot or holding which was so pooled.
- (2) When a new certificate of title has been prepared for issue to any person under the writing to such person intimating that such new certificate of title has been prepared and is ready to be delivered to him and calling

upon him to deliver up to the Registrar of Titles for cancellation the document or documents of title in lieu of which the new certificate of title is to be issued; and upon receipt of such document or documents of title from such person the Registrar of Titles shall deliver to him the new certificate of title:

Provided that the Registrar of Titles may in his discretion issue the certificate of title without having received the document or documents of title required by this subparagraph to be delivered up.

- (3) (a) When it comes to the knowledge of the Registrar of Titles that any document or documents of title required to be delivered up by any person under subparagraph (2) of this paragraph is or are in the possession or under the control of another person the Registrar of Titles may by notice in writing call upon such other person to deliver up to him for cancellation such document or documents of title.
- (b) On being called upon to deliver up any document or documents of title under item (a) of this subparagraph, the person having possession of the same shall, without prejudice to any interest, claim or right of action had by him by virtue of the possession of such document or documents of title, deliver the same to the Registrar of Titles for cancellation.
- (c) Upon receipt of any document or documents of title delivered to him under this subparagraph, the Registrar of Titles shall deliver to the person from whom such document or documents of title was or were received the certificate of title to be issued by him in lieu thereof:

Provided that if it is impracticable to deliver such new certificate of title at the moment of receiving such document or documents of title, the Registrar of Titles shall, pending delivery of such new certificate of title, issue a receipt for such document or documents of title to the person from whom the same was or were received.

- (4) Every new certificate of title issued under this paragraph shall, except insofar as the detailed scheme may provide to the contrary, be subject to all mortgages, charges, leases or other encumbrances, trusts and restrictions, if any, to which the corresponding old document or documents of title was or were subject immediately prior to the extinguishment of the title to which such old document or documents of title related, and so that mortgage's, charge's, lease's and other encumbrancers or persons who, immediately prior to the extinguishment of the title to the plot or holding to which such old document or documents of title related, had interests in such last-mentioned plot or holding, shall have, as nearly as may be, the same remedies and rights against and in the plot or holding to which such new certificate of title

relates as they severally had against and in the plot or holding to which such old document or documents of title related.

- (5) (a) Every new certificate of title shall be substantially in the relevant form as provided for in the Land Registration Act Cap. 334*.
- (b) The date of the issue of each new certificate of title shall be the date on which it is executed by the Registrar of Titles; and each such certificate shall be deemed to operate as a grant from the President to the person to whom it is issued of the title therein described subject to any interests and encumbrances lawfully attaching thereto.
- (6) The reference in subparagraph (1) of this paragraph to a registered owner of a plot or holding which is pooled under the detailed scheme shall be deemed to include reference to all persons in whom such plot or holding becomes vested by operation of law.

[12]

- 14. (1) As soon as may be after receipt of the particulars mentioned in subparagraph (b) or paragraph 11, the Commissioner for Lands shall cause contracts to be prepared granting a right of occupancy in accordance with the detailed scheme—
 - (a) to each person who held a right of occupancy over a plot or holding which was pooled under the detailed scheme and who is entitled under the said scheme to have a new right of occupancy in lieu of that over the plot or holding which was so pooled, in order that such person may hold the new right of occupancy for the unexpired period of, and subject to the same terms and conditions which were imposed under, the right of occupancy over the plot or holding which was so pooled;
 - (b) to each person to whom the grant of a right of occupancy was recommended under the detailed scheme if such grant has been approved by the President in order that such person may hold such right of occupancy for such period and subject to such terms and conditions as the President may approve.
- (2) Where a certificate of occupancy was issued in respect of a right of occupancy over a plot or holding which is pooled under the detailed scheme, and in lieu of which a new right of occupancy is granted under this paragraph, the Commissioner for Lands shall—
 - (a) cause to be prepared for issue to the person who held such first-mentioned right of occupancy a certificate of occupancy in respect of such new right of occupancy; and
 - (b) issue a notice in writing to such person intimating that a certificate of occupancy has been prepared in respect of such new right of occupancy and calling upon him to deliver up to the Commissioner for Lands all documents of title in his possession or under his

control which relate to the plot or holding which was pooled under the approved scheme.

- (3) Upon receiving the document or documents of title required to be delivered up to him under subparagraph (2) of this paragraph, the Commissioner for Lands shall submit such document or documents of title together with the certificate of occupancy issued in respect of the new right of occupancy, in duplicate, to the Registrar of Titles for registration of such new right of occupancy, and, on receiving back from the Registrar of Titles the duplicate with the memorial of registration duly entered thereon, shall deliver the same to the person from whom was received the document or documents of title required to be delivered up.
- (4) (a) When it comes to the knowledge of the Commissioner for Lands that any document or documents of title required to be delivered up by any person under subparagraph (2) of this paragraph is or are in the possession of another person, the Commissioner for Lands may by notice in writing call upon such other person to deliver up to him such document or documents of title.
 - (b) On being called upon to deliver up any document or documents of title under item (a) of this subparagraph, the person having possession of the same shall, without prejudice to any interest, claim or right of action had by him by virtue of the possession of such document or documents of title, deliver the same to the Commissioner for Lands.
 - (c) Upon receiving the document or documents of title required to be delivered up to him under this subparagraph the Commissioner for Lands shall issue a receipt therefor to the person from whom the same was or were received and shall submit such document or documents of title together with the certificate of occupancy issued in respect of the new right of occupancy, in duplicate, to the Registrar of Titles for registration of such new right of occupancy and, on receiving back from the Registrar of Titles the duplicate with the memorial or registration duly entered thereon, shall deliver the same to the person from whom was received the document or documents of title required to be delivered up.
- (5) When the Registrar of Titles receives from the Commissioner for Lands, under subparagraph (3) or subparagraph (4) of this paragraph a document or documents of title and a certificate of occupancy in respect of a new right of occupancy he shall—
 - (a) cancel the registration of the right of occupancy over the plot or holding to which the document or documents of title relates or relate;
 - (b) register the new right of occupancy; and

- (c) return the duplicate certificate of occupancy relating to the new right of occupancy with a memorial of registration duly entered thereon to the Commissioner for Lands, and retain the document or documents of title.
- (6) Where a certificate of occupancy was not issued in respect of a right of occupancy over a plot or holding which is pooled under the detailed scheme, and in lieu of which a new right of occupancy is granted under this paragraph, the Commissioner for Lands shall-
 - (a) issue to the person who held such first-mentioned right of occupancy a notice in writing stating that a contract is being prepared for the grant to him of such new right of occupancy and if the Commissioner for Lands considers it necessary so to do, calling upon him to deliver up any document of title relating to such first-mentioned right of occupancy; and
 - (b) subject to the delivery up to him of any document of title so required to be delivered up, proceed under subparagraph (1) of this paragraph with the grant of a right of occupancy to such person in the manner contemplated by the Land Act Cap.113*.
- (7) The Commissioner for Lands shall cause to be endorsed as cancelled every contract for the grant of a right of occupancy in lieu of which a new right of occupancy is granted under subparagraph (1) of this paragraph.
- (8)(a) Every new certificate of occupancy issued under this paragraph shall have attached thereto a plan signed by the Commissioner for Surveys.
 - (b) Every new right of occupancy granted under this paragraph shall, except insofar as the approved scheme may provide to the contrary, be subject to all mortgages, charges, leases or other encumbrances, trusts and restrictions, if any, to which the corresponding old right of occupancy was subject immediately prior to the extinguishment thereof, and so that mortgage's, charge's, lease's and other encumbrancers or persons who, immediately prior to the extinguishment of such old right of occupancy had interests in such old right of occupancy, shall have, as nearly as may be, the same remedies and rights against and in such new right of occupancy as they severally had against and in such old right of occupancy.
- (9) The references in subparagraphs (1) and (2) of this paragraph to a person holding a right of occupancy over a plot or holding which is pooled under the detailed scheme shall be deemed to include reference to all persons in whom such plot or holding becomes vested by operation of law.

[13]

- 15. The Registrar of Titles and the Registrar of Documents shall perform all such acts, and make all such endorsements and entries in the books of their offices as may be necessary to give effect to the provisions of paragraphs 12 and 13.

[14]

16. (1) Every person aggrieved by any decision or action of the Registrar of Titles or of the Registrar of Documents under or in pursuance of the provisions of this Schedule, may, within two months from the date of such decision or action or within such longer period as the High Court may allow, give notice to the Registrar of Titles or the Registrar of Documents, as the case may be, in the prescribed form, of intention to appeal to the High Court against such decision or action.
- (2) On receipt of a notice of appeal, the Registrar of Titles or the Registrar of Documents, as the case may be, shall prepare and send to the High Court and the appellant, and any other person appearing to him to be affected by the appeal a brief statement of the question in issue.
- (3) On the hearing of the appeal, the appellant, the Registrar of Titles or the Registrar of Documents, as the case may be, and any other person who, in the opinion of the High Court, is affected by the appeal, may, subject to any rules of the High Court, appear and be heard in person or by advocate.
- (4) The High Court may make such order on the appeal as the circumstances may require, and every such order shall be obeyed by the Registrar of Titles or the Registrar of Documents, as the case may be.
- (5) The costs of the appeal shall be in the discretion of the High Court: Provided that neither the Registrar of Titles nor the Registrar of Documents shall be ordered to pay any costs unless, in the opinion of the High Court, the appeal was occasioned by his wilful misconduct.

[15]

17. (1) An appeal to the High Court shall not affect a dealing for value registered before delivery of notice of the appeal to the Registrar of Titles or the Registrar of Documents, as the case may be.
- (2) A note that an appeal to the High Court is pending shall be registered against the entry in the register affected by the appeal.
- (3) This paragraph shall apply to an appeal from an order of High Court to the Court of Appeal where such an appeal lies, in like manner as it applies to an appeal to the High Court.

[16]

18. The Registrar of Titles or the Registrar of Documents, as the case may be, may apply to the High Court in a summary manner for the determination of any question of doubt or difficulty, whether of law or fact, arising in connection with his duties under this Schedule, and a reference in this Schedule to an appeal to the High Court shall be construed as including an application to the High Court under this paragraph.

[17]

19. No stamp duty or fees shall be payable in respect of any act of record or registration, or the preparation or issue of any document, required under any provision of paragraphs 12, 13 or 14.

[18]

20. Any person who, without reasonable cause—
- (a) fails or neglects within three months of the issue of a notice under subparagraph (2) or subparagraph (3) of paragraph 12 to deliver up to the Registrar of Titles any document of title required by that notice to be delivered up; or
 - (b) fails or neglects within three months of the issue of a notice under subparagraph (2), (4) or (6) (a) of paragraph 13 to deliver up to the Commissioner for Lands any document of title required by that notice to be delivered up, commits an offence and on conviction is liable to a fine not exceeding three thousand shillings.