

CHAPTER 184

THE LANDS ACT

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CHAPTER 184 LANDS

Act No.
29 of 1995
20 of 1996

An Act to provide for the continuation of Leaseholds and leasehold tenure; to provide for the continued vesting of land in the President and alienation of land by the President; to provide for the statutory recognition and continuation of customary tenure; to provide for the conversion of customary tenure into leasehold tenure; to establish a Land Development Fund and a Lands Tribunal; to repeal the Land (Conversion of Titles) Act; to repeal the Zambia (State Lands and Reserves) Orders, 1928 to 1964, the Zambia (Trust Land) Orders, 1947 to 1964, the Zambia (Gwembe District) Orders, 1959 to 1964, and the Western Province (Land and Miscellaneous Provisions) Act, 1970; and to provide for matters connected with or incidental to the foregoing.

[13th September, 1995]

PART I

PRELIMINARY

1. This Act may be cited as the Lands (Amendment) Act, 1996, and shall be read as one with the Lands Act, 1995, in this Act referred to as the principal Act.

Short title
Act No. 29 of 1995

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

Interpretation

"Certificate of Title" means a Certificate of Title to land issued in accordance with the Lands and Deeds Registry Act;

Cap. 185

"customary area" means, notwithstanding section *thirty-two*, the area described in the Schedules to the Zambia (State Lands and Reserves) Orders; 1928 to 1964 and the Zambia (Trust Land) Orders, 1947 to

Appendix 9 of the
Laws of Zambia

1964;

"Fund" means the Land Development Fund established by section *sixteen*;

"improvements" means anything resulting from expenditure of capital or labour and includes carrying out of any building, engineering or other operations in, on, over, or under land, or the making of any material change in the use of any building or land and charges for services provided and other expenses incurred in the development or towards the development of land;

"land" means any interest in land whether the land is virgin, bare or has improvements, but does not include any mining right as defined in the Mines and Minerals Act in respect of any land; Cap. 213

"lease" means a lease granted by the President or a lease that was converted from a freehold title under the repealed Act and "lessee" shall be construed accordingly;

"Permanent Resident" means an established resident or a person holding an entry permit in accordance with the Immigration and Deportation Act; Cap. 123

"Provisional Certificate of Title" means a Provisional Certificate of Title to land issued in accordance with the Lands and Deeds Registry Act; Cap. 185

"Registrar" has the meaning assigned to it in the Lands and Deeds Registry Act; Cap. 185

"Repealed Act" means the Land (Conversion of Titles) Act; Cap. 289 of the 1972 Edition

"State Land" means land which is not situated in a customary area;

"Tribunal" means the Lands Tribunal established by section *nineteen*.

PART II

ADMINISTRATION OF LAND

3. (1) Notwithstanding anything to the contrary contained in any other law, instrument or document, but subject to this Act, all land in Zambia shall vest absolutely in the President and shall be held by him in perpetuity for and on behalf of the people of Zambia. All land to vest in the President

(2) Subject to subsection (4) and to any other law, the President may alienate land vested in him to any Zambian.

(3) Subject to any other provisions and procedures relating to alienation of land, the President may alienate land to a non-Zambian under the following circumstances:

(a) where the non-Zambian is a permanent resident in the Republic of Zambia;

(b) where the non-Zambian is an investor within the meaning of the Investment Act or any other law relating to the promotion of investment in Zambia; Cap. 385

(c) where the non-Zambian has obtained the President's consent in writing under his hand;

(d) where the non-Zambian is a company registered under the Companies Act, and less than twenty-five per centum of the issued shares are owned by non-Zambians; Cap. 388

(e) where the non-Zambian is a statutory corporation created by an Act of Parliament;

(f) where the non-Zambian is a co-operative society registered under the Co-operative Societies Act and less than twenty-five per centum of the members are non-Zambians; Cap. 397

(g) where the non-Zambian is a body registered under the Land (Perpetual Succession) Act and is a non-profit making, charitable, religious, educational or philanthropic organisation or institution which is registered and is approved by the Minister for the purposes of this section; Cap. 186

- (h) where the interest or right in question arises out of a lease, sub-lease, or under-lease, for a period not exceeding five years, or a tenancy agreement;
- (i) where the interest or right in land is being inherited upon death or is being transferred under a right of survivorship or by operation of law;
- (j) where the non-Zambian is a Commercial Bank registered under the Companies Act and the Banking and Financial Services Act; or Cap. 388
Cap. 387
- (k) where the non-Zambian is granted a concession or right under the National Parks and Wildlife Act. Cap. 201

(4) Notwithstanding subsection (3), the President shall not alienate any land situated in a district or an area where land is held under customary tenure-

- (a) without taking into consideration the local customary law on land tenure which is not in conflict with this Act;
- (b) without consulting the Chief and the local authority in the area in which the land to be alienated is situated, and in the case of a game management area, and the Director of National Parks and Wildlife Service, who shall identify the piece of land to be alienated;
- (c) without consulting any other person or body whose interest might be affected by the grant; and
- (d) if an applicant for a leasehold title has not obtained the prior approval of the chief and the local authority within whose area the land is situated.

(5) All land in Zambia shall, subject to this Act, or any other law be administered and controlled by the President for the use or common benefit, direct or indirect, of the people of Zambia.

(6) The President shall not alienate any land under subsection (2) or (3) for a term exceeding ninety-nine years unless-

- (a) the President considers it necessary in the national interest or in the fulfilment of any obligations of the Republic; and
- (b) it is approved by a two-thirds majority of the members of the National Assembly.

(7) In alienating land the President shall take such measures as shall be necessary to-

- (a) control settlements, methods of cultivation and utilisation of land as may be necessary for the preservation of the natural resources on that land; and
- (b) set aside land for forest reserves and game management areas and national parks and for the development and control of such reserves, game management areas and national parks.

4. (1) The President shall not alienate any land under subsection (2) or (3) of section *three* without receiving any consideration, in money for such alienation and ground rent for such land except where the alienation is for a public purpose:

Conditions on
alienation of land

Provided that where a person has the right of use and occupation of land under customary law and wishes to convert such right into leasehold tenure, no consideration shall be paid for such conversion.

(2) In this section "public purpose" includes the following:

- (a) for the exclusive use of Government or for the general benefit of the people of Zambia;
- (b) for or in connection with sanitary improvements of any kind including reclamations;
- (c) for or in connection with the laying out of any new township or the extension or improvement of any existing township;
- (d) for or in connection with aviation;

- (e) for the construction of any railway authorised by legislation;
- (f) for obtaining control over land contiguous to any railway, road or other public works constructed or intended at any time to be constructed by Government;
- (g) for obtaining control over land required for or in connection with hydro-electric or other electricity generation and supply purposes;
- (h) for or in connection with the preservation, conservation, development or control of forest produce, fauna, flora, soil, water and other natural resources.

5. (1) A person shall not sell, transfer or assign any land without the consent of the President and shall accordingly apply for that consent before doing so.

Consent of
President

(2) Where a person applies for consent under subsection (1) and the consent is not granted within forty-five days of filing the application, the consent shall be deemed to have been granted.

(3) Where the President refuses to grant consent within thirty days, he shall give reasons for the refusal.

(4) A person aggrieved with the decision of the President to refuse consent may within thirty days of such refusal appeal to the Lands Tribunal for redress.

6. (1) Subject to subsection (2), all land held by a Council on a lease including that which has been subleased, for a period of ninety-nine years or less shall, by virtue of this Act and without further assurance or conveyance, be deemed to have been surrendered to the President and the sub-lessee be deemed to hold that land, as if a direct lease had been granted by the President.

Surrender of land
held by a Council

(2) Subject to subsection (3) the sublessee referred to in subsection (1) shall be deemed to hold land on the conditions and covenants of the lease granted to the Council, except that the lessee shall pay such annual

ground rent to the President as may be prescribed by statutory instrument.

(3) Subsection (1) shall not apply to land held by the Councils for their own use or held under the Housing (Statutory Improvement Areas) Act. Cap. 194

(4) On the commencement of this Act, and on the payment of a prescribed fee, the Registrar shall endorse on the relevant folio of the register, the effect of this section.

7. (1) Notwithstanding subsection (2) of section *thirty-two* but subject to section *nine*, every piece of land in a customary area which immediately before the commencement of this Act was vested in or held by any person under customary tenure shall continue to be so held and recognised and any provision of this Act or any other law shall not be so construed as to infringe any customary right enjoyed by that person before the commencement of this Act. Customary holdings to be recognised and to continue

(2) Notwithstanding section *thirty-two*, the rights and privileges of any person to hold land under customary tenure shall be recognised and any such holding under the customary law applicable to the area in which a person has settled or intends to settle shall not be construed as an infringement of any provision of this Act or any other law except for a right or obligation which may arise under any other law.

8. (1) Notwithstanding section *seven*, after the commencement of this Act, any person who holds land under customary tenure may convert it into a leasehold tenure not exceeding ninety-nine years on application, in the manner prescribed, by way of- Conversion of customary tenure into leasehold tenure

- (a) a grant of leasehold by the President;
- (b) any other title that the President may grant;
- (c) any other law.

(2) The conversion of rights from a customary tenure to a leasehold tenure shall have effect only after the approval of the chief and the local authorities in whose area the land to be converted is situated, and in the

case of a game management area, and the Director of National Parks and Wildlife Service, the land to be converted shall have been identified by a plan showing the exact extent of the land to be converted.

(3) Except for a right which may arise under any other law in Zambia, no title, other than a right to the use and occupation of any land under customary tenure claimed by a person, shall be valid unless it has been confirmed by the chief, and a lease granted by, the President.

9. (1) A person shall not without lawful authority occupy or continue to occupy vacant land.

Prohibition of unauthorised occupation of land

(2) Any person who occupies land in contravention of subsection (1) is liable to be evicted.

10. (1) The President shall renew a lease, upon expiry, for a further term not exceeding ninety-nine years if he is satisfied that the lessee has complied with or observed the terms, conditions or covenants of the lease and the lease is not liable to forfeiture.

Renewal of leases

(2) If the President does not renew a lease the lessee shall be entitled to compensation for the improvements made on the land in accordance with the procedure laid down in the Lands (Acquisition) Act.

Cap. 189

11. (1) Notwithstanding severance of a reversionary estate, ground rent and the benefit of every covenant or provision contained in a lease or any Act of Parliament having reference to the subject matter of the lease shall be annexed and incidental to, and shall go with, the reversionary estate in the land or in any part of the estate immediately expectant on the term granted by the lease.

Ground rent and benefit of lessee's covenants and conditions

(2) The obligation under a condition of a covenant entered into by the President or contained in any Act of Parliament having reference to the subject matter of the lease shall be annexed and incidental to and shall go with the reversionary estate, or the several parts of that estate, notwithstanding severance of that estate and may be enforced by the person in whom the term is vested by assignment, transfer, devolution in law or otherwise.

(3) Subsection (1) shall be without prejudice to any covenant, lease or Act of Parliament which imposes a duty on a lessee to observe or perform the covenant and to every condition of re-entry.

12. (1) Every condition or right of re-entry and every other condition contained in the lease except for ground rent fixed in the grant shall be apportioned, in like manner as if the land comprised in each several part, or the land as to which the term remains subsisting, as the case may be, had alone originally been comprised in the lease, notwithstanding-

Apportionment of conditions on severance

(a) the severance by assignment, transfer, surrender, or otherwise of the reversionary estate in any land comprised in a lease or any other grant of land; and

(b) the avoidance or cesser in any other manner of the term granted by a lease as to part only of the land comprised in the lease.

(2) Every condition or right of re-entry referred to in subsection (1), shall remain annexed to the severed parts of the reversionary estate as the term where each several part is reversionary, or the term in part of the land as to which the term has not been surrendered or has been avoided or has not ceased in the manner as if the land comprised in each several part, or the land as to which the term remains subsisting, as the case may be, had alone originally been comprised in the lease.

(3) This section applies to leases or any other grant subsisting before or made after the commencement of this Act and whether the severance of the reversionary estate was effected before or after the commencement of this Act.

13. (1) Where a lessee breaches a term or a condition of a covenant under this Act the President shall give the lessee three months notice of his intention to cause a certificate of re-entry to be entered in the register in respect of the land held by the lessee and requesting him to make representations as to why a certificate of reentry should not be entered in the register.

Certificate of re-entry to be entered on register

(2) If the lessee does not within three months make the representations required under subsection (1), or if after making representations the President is not satisfied that a breach of a term or a condition of a

covenant by the lessee was not intentional or was beyond the control of the lessee, he may cause the certificate of reentry to be entered in the register.

(3) A lessee aggrieved with the decision of the President to cause a certificate of re-entry to be entered in the register may within thirty days appeal to the Lands Tribunal for an order that the register be rectified.

14. (1) A lessee shall pay such ground rent as may be prescribed by the President, by statutory instrument.

Payment and
penalty for late
payment of rent

(2) Subject to subsection (3) where any amount of ground rent unpaid after the day on which it became payable under subsection (1) remains unpaid after the day on which it became payable, the lessee shall be liable to pay a penalty of twenty-five per centum of the rent due.

15. (1) Any person aggrieved with a direction or decision of a person in authority may apply to the Lands Tribunal for determination.

Application to
Lands Tribunal on
land disputes

(2) In this section "person in authority" means the President, the Minister or the Registrar.

PART III

THE LAND DEVELOPMENT FUND

16. (1) There is hereby established a Land Development Fund.

Land Development
Fund

(2) The Fund shall consist of-

(a) all moneys appropriated by Parliament for the purposes of the Fund;

(b) seventy-five per centum of the consideration paid under section *four*; and

(c) fifty per centum of ground rent collected from all land.

17. The Fund shall be vested in the Minister responsible for finance and shall be managed and administered by the Minister responsible for land. Administration of the Fund

18. (1) The Ministers referred to in section *seventeen* shall apply the moneys of the Fund to the opening up of new areas for development of land. Application of moneys of the Fund

(2) A council that wishes to develop any area in its locality may apply to the Fund for money to develop the area.

19. The Ministers referred to in section *seventeen* shall cause an annual statement of the income and expenditure to be prepared and laid before the National Assembly. Statement of income and expenditure

PART IV

THE LANDS TRIBUNAL

20. (1) There is hereby established a Lands Tribunal. Lands Tribunal

(2) The Tribunal shall consist of the following members who shall be appointed by the Minister:

(a) a Chairman who shall be qualified to be a judge of the High Court;

(b) a Deputy Chairman who shall be qualified to be appointed as a judge of the High Court;

(c) an advocate from the Attorney-General's Chambers;

(d) a registered town planner;

- (e) a registered land surveyor;
- (f) a registered valuation surveyor; and
- (g) not more than three persons from the public and private sectors.

(3) The members referred to in paragraph (a) and (b) of subsection (2) shall be appointed after consultation with the Judicial Service Commission.

(4) The members of the Tribunal shall be appointed on such terms and conditions as may be specified in their letters of appointment.

21. The Tribunal may appoint persons who have ability and experience in land, agriculture, commerce or other relevant professional qualifications as assessors for purposes of assisting it in the determination of any matter under this Act. Assessors

22. The Tribunal shall have jurisdiction to- Jurisdiction of Tribunal

- (a) inquire into and make awards and decisions in any dispute relating to land under this Act;
- (b) to inquire into, and make awards and decisions relating to any dispute of compensation to be paid under this Act;
- (c) generally to inquire and adjudicate upon any matter affecting the land rights and obligations, under this Act, of any person or the Government; and
- (d) to perform such acts and carry out such duties as may be prescribed under this Act or any other written law.

23. (1) The Chairman or the Deputy Chairman shall preside over the sittings of the Tribunal. Proceedings of Tribunal

(2) The Tribunal, when hearing any matter, shall be duly constituted if it consists of five members which number shall include either the Chairman or the Deputy Chairman.

(3) The determination of any matter before the Tribunal shall be

according to the opinion of the majority of the members considering the matter.

(4) A member of the Tribunal or an assessor shall not sit at a hearing of the Tribunal if he has any interest direct or indirect, personal or pecuniary, in any matter before the Tribunal.

(5) The Tribunal shall not be bound by the rules of evidence applied in civil proceedings.

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| <p>24. The Chief Justice may, by statutory instrument, make rules-</p> <p>(a) regulating the procedure of the Tribunal; and</p> <p>(b) prescribing the procedure for the summoning and appearance of witnesses and the production of any document or other evidence before the Tribunal.</p> | <p>Rules</p> |
| <p>25. A person appearing as a party before the Tribunal may appear in person or through a legal practitioner at his own expense.</p> | <p>Legal representation</p> |
| <p>26. If the Tribunal is satisfied that any application to the Tribunal is frivolous or vexatious, it may order the applicant to pay his costs, that of the other party and that of the Government in connection with the proceedings.</p> | <p>Frivolous or vexatious proceedings</p> |
| <p>27. The expenses and costs of the Tribunal shall be paid out of funds appropriated by Parliament for the performance of the Tribunal's functions under this Act.</p> | <p>Expenses of Tribunal</p> |
| <p>28. The Ministry responsible for legal affairs shall provide the necessary secretarial and accounting assistance to the Tribunal to enable the Tribunal to perform its functions under this Act.</p> | <p>Secretarial and accounting</p> |
| <p>29. Any person aggrieved by any award, declaration or decision of the Tribunal may within thirty days appeal to the Supreme Court.</p> | <p>Appeals</p> |

PART V

GENERAL

30. Subject to the other provisions of this Act, nothing in this Act shall affect any estate, right or interest legal or equitable, in or over any land which was at any time before the commencement of this Act created, granted, recognised or acknowledged. Saving of existing interests and rights

31. (1) The Minister may, by statutory instrument, make regulations for the better carrying out of the provisions of this Act. Regulations

(2) In particular, but without prejudice to the generality of subsection (1), such regulations may prescribe-

- (a) the terms, conditions and covenants of leases;
- (b) the procedure for applying for the President's consent to any transaction relating to or affecting land;
- (c) the procedure for converting customary tenure to leasehold tenure;
- (d) the procedure for applying for the renewal of a lease;
- (e) the ground rent for land;
- (f) fees for transactions in land; and
- (g) any other matter which is to be or may be prescribed under this Act.

(As amended by Act No. 20 of 1996)

32. (1) The Land (Conversion of Titles) Act is hereby repealed.

(2) The Laws set out in the Schedule are hereby repealed.

Repeal of Cap. 289 of the old Edition and Laws in the Schedule

SCHEDULE

(Section 32)

REPEALED LAWS

1. The Zambia (State Lands and Reserves) Orders, 1928 to 1964.
2. The Zambia (Trust Land) Orders, 1947 to 1964.
3. The Zambia (Gwembe District) Orders, 1959 to 1964.
4. The Western Province (Land and Miscellaneous Provisions) Act, 1970.