

TANGANYIKA



No. 25 OF 1963

I ASSENT,

Julius K. Nyerere
President

16TH MAY, 1963

An Act to provide for the Settlement of certain Disputes between the Owners and Occupiers of certain Lands and for matters incidental thereto

[.....]

ENACTED by the Parliament of Tanganyika.

1. This Act may be cited as the Land (Settlement of Disputes) Act, 1963, and shall come into operation on such date as the Minister may, by notice in the *Gazette*, appoint. Short title and commencement

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

“alienated land” means land subject to a Government lease, or to a right of occupancy granted under section 6 of the Land Ordinance; Cap. 113

“Commission” means a Commission of Inquiry appointed under section 5;

“Commissioner” means the Commissioner for Lands;

“disputed land” means land declared by order under section 3 to be disputed land;

“Government lease” has the meaning ascribed thereto in section 2 of the Freehold Titles (Conversion) and Government Leases Act, 1963; Act 1963 No. 24

“Land Tribunal” means the Tribunal established by section 49 of the Freehold Titles (Conversion) and Government Leases Act, 1963;

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

“mortgage” includes a lien or charge by deposit of title deeds and a registered charge, and “mortgagee” includes a person entitled to such lien or charge;

“occupier” in relation to any land means a person who is in actual occupation of the land or any part thereof otherwise than under a written title which he has executed, or in accordance with a written contract, or under a vesting declaration, order or assent, and includes any person in actual occupation of the land or any part thereof who the Minister by order declares to be an occupier for the

purposes of this Act and the Minister may make such order notwithstanding that such person would not otherwise be an occupier under this definition;

"owner" in relation to any alienated land means the holder of the Government lease or the right of occupancy to which the land is subject and any person who is a sub-tenant of such land under a written title which he has executed, or in accordance with a written contract, or under a vesting declaration, order or assent but does not include any person declared by the Minister to be an occupier of the land;

"Permitted period" means a period of three months after the date of publication of an order made under paragraph (b) of subsection (1) of section 9, or, in cases where on such date of publication a person otherwise entitled under section 14 or section 15 to make a disclaimer is not in possession, a period of three months after he becomes entitled to possession by reason of a surrender (whether under this Act or otherwise) by a person of an interest in the land made within a period that is, in relation to the latter person, the permitted period:

Provided that, where any person appeals to the President under subsection (2) of section 11, the permitted period in relation to that person shall commence on the final determination of the matter by the President or, if the appeal is withdrawn, on, the date of such withdrawal;

Cap. 334

"Registrar" means, in the case of registered land within the meaning of the Land Registration Ordinance, the Registrar of Tides appointed under that Ordinance, and, in the case of land which is not registered land, means the Registrar of Documents appointed under the Registration of Documents Ordinance, and includes any person, authorized under those enactments to exercise the powers and functions conferred on such Registrars respectively;

Cap. 117

"sub-tenant" includes a tenant of land held for a right of occupancy and "sub-lease" shall be construed accordingly.

(2) References in this Act to the date of publication of an order under paragraph (b) of subsection (1) of section 9 shall, in cases where the operation of such order is suspended under subsection (6) of that section, be deemed to be references to the date on which such order comes into operation.

(3) References in this Act to the date on which land was first alienated are references to the date on which the land was first granted by the Government or any former Government, by the former Governor or Governor-General or by any of the bodies specified in subsection (2) of section 15 of the Land Registration Ordinance for an absolute or freehold estate or for a lease or right of occupancy, as the case may be.

(4) For the purposes of subsection (3), in the absence of express provision, an absolute or freehold estate, a lease or a right of occupancy shall be deemed to have been granted on the date on which the contract for the estate, lease or right was made.

Declaration
that land
is disputed
land

3. Where the Minister is satisfied that a dispute exists-

(a) between the owner of any alienated land and any occupier thereof relating to a claim by the occupier to continue to occupy the land or as to the terms on which such occupier occupies the land; or

- (b) between the owner of any alienated land and any occupier thereof or of any land adjacent thereto relating to the position of the boundaries of the alienated land or any of them,

and that by reason of the causes and circumstances of the dispute it is desirable that the provisions of this Act should be applied for the settlement of such dispute, he may, by order published in the *Gazette*, declared the alienated land to be disputed land.

4.-(1) Subject to the provisions of subsection (2), where the Minister, by order made under section 3, declares any land to be disputed land, no proceedings, including any proceedings under section 23 of the Land Ordinance, shall, after the date of publication of such order, be commenced with a view to the eviction from the disputed land of any occupier thereof, and any such proceedings which on such date have been commenced but not completed shall be stayed.

Proceedings
to be
stayed

(2) Where an order under section 9 is made in respect of any disputed land, the prohibition contained in subsection (1) against the commencement or continuance of proceedings shall cease to apply upon the date of publication of the order or, in the event of an appeal being made under subsection (2) of section 11 against the making of the order, upon the date of the determination of the appeal or, if the appeal is withdrawn, upon the date of such withdrawal or, in the event of the order being revoked under subsection (6) of section 9, upon the date of such revocation.

5.-(1) Within thirty days after the date of publication of an order under section 3, the Minister shall appoint a Commission of Inquiry to inquire into the nature, causes and circumstances of the dispute between the owner of the disputed land and any occupiers thereof or of land adjacent thereto and to report thereon to the Minister.

Appointment
of
Commission

(2) The provisions of the Schedule to this Act shall have effect as to the constitution, powers and proceedings of, and otherwise in relation to, every Commission appointed under this section.

6.-(1) It shall be the duty of the Commission, as soon as may be, to inquire into and to prepare and submit to the Minister a report on the nature, causes and circumstances of the dispute in relation to which the Commission was appointed.

Duties of
Commission

(2) Without prejudice to the generality of subsection (1). the report of the Commission shall contain-

(a) the opinion of the Commission-

- (i) as to whether, immediately prior to the date on which the disputed land was first alienated, such land or any part thereof was occupied by any persons and if the land or any part thereof was so occupied-

(A) whether the land or the part thereof so occupied was occupied under and in accordance with the customary law then pertaining in the area; and

- (B) if so, whether consultation relating to the alienation of the land took place with such previous occupiers or with any local or native authority within whose area of jurisdiction the land was situate, and whether compensation for such alienation was paid to such previous occupiers, or to any such authority;
- (ii) as to whether the present occupiers of the disputed land or any of them-
 - (A) have, or, if the land had not been alienated, would have, succeeded by descent or otherwise under such customary law to such rights over the land or any part thereof as were under such customary law vested in such previous occupiers; and
 - (B) are present on the land with the consent of the owner thereof and, if so, whether any payment is made or any services are rendered to such owner by such occupiers as a condition of such consent;
- (iii) as to the period during which the present occupiers of the disputed land or their predecessors under the customary law pertaining in the area have occupied the land and whether such occupation has been continuous;
- (iv) as to whether there is, in the vicinity of the disputed land, other land available for the occupation of the present occupiers of the disputed land; or
- (v) in cases where the dispute falls under paragraph (b) of section 3, as to whether the boundaries of the disputed land or any of them are inadequately demarcated;
- (b) the recommendations of the Commission-
 - (i) as to whether the occupiers of the disputed land or any of them should be evicted from the land by order under paragraph (a) of subsection (1) of section 9;
 - (ii) as to whether any part of the land should be excised from the area of the disputed land by order under paragraph (b) of that subsection; or
 - (iii) in cases where the dispute falls under paragraph (b) of section 3, as to whether any, and if so, what steps require to be taken so as to ensure that the boundaries of the land or any of them are adequately demarcated.

(3) Where the Commission recommends that any occupiers of the disputed land be evicted therefrom there shall be included as part of the report of the Commission a list of the persons in respect of whom the recommendation is made together with sufficient particulars of such persons as to enable them to be identified.

(4) Where the Commission recommends that any part of the land be excised from the area of the alienated land there shall be included as part of the report of the Commission-

- (a) a plan, prepared after a survey, of the total area of the alienated land and showing clearly that part of the land in respect of which the recommendation is made;
- (b) a precise description of the boundaries of that part of the land in respect of which the recommendation is made;
- (c) a statement of the proportion which the area of that part of the land in respect of which the recommendation is made bears to the total area of the alienated land;
- (d) particulars of all persons who, to the knowledge of the Commission, are the holders of any estate or interest in the alienated land or any part thereof (other than any such estate or interest particulars of which are given pursuant to paragraph (f) of this subsection) and where any such estate or interest would be diminished or extinguished by, the excision recommended, proposals as to the sum to be paid by way of compensation to the holder of such estate or interest;
- (e) a summary of the evidence upon which the opinions and recommendations of the Commission are based;
- (f) particulars, where such are known to the Commission, of-
 - (i) all easements and rights of way to which the land is subject and which affect the use or occupation of that part of the land in respect of which the recommendation is made;
 - (ii) any covenant touching and concerning the land to the burden of which the land is subject and which affects the use or occupation of that part of the land in respect of which the recommendation is made;
 - (iii) any profit in the land to which any person is entitled and which affects the use or occupation of that part of the land in respect of which the recommendation is made;
- (g) in cases where the Commission considers that the modification or extinguishment of any such easement, way, covenant, or profit is necessary or desirable in view of the recommendation for excision of part of the land from the area of the alienated land, proposals for such modification or extinguishment and as to the sum to be paid by way of compensation to any person entitled to the benefit of such easement, way or covenant or to such profit which is modified or extinguished.

7. As soon as practicable after receipt of the report of the Commission, the Minister shall-

Publication
of report

- (a) cause to be published in the Gazette and in at least two issues of a newspaper circulating in the area in which the disputed land is situate, a notice stating that the report has been received and the place and times at which it may be inspected;
- (b) cause to be displayed upon the disputed land a notice stating that the report has been received and the place and times at which it may be inspected.

Objections

8. Any person who has or claims any estate or interest in or over the disputed land or any part thereof and any other person who would in the event of the proposals contained in the report of the Commission being implemented be a person aggrieved thereby may, within one month of the date of publication of the report in the *Gazette*, in writing addressed to the Minister, object to any of the proposals contained in the report.

Order by
Minister

9.-(1) After considering the report of the Commission and any objections made thereto under section 8, the Minister may, by order published in the *Gazette*-

(a) if he is satisfied that the present occupiers of the disputed land or any of them-

- (i) have occupied the land for a period of less than five years immediately preceding the date of publication of the order under section 3 declaring the land to be disputed land; and
- (ii) were in occupation of the land without the express consent of the owner of the land; and
- (iii) are not the successors under the customary law pertaining in the area of persons who immediately prior to the date on which the land was first alienated occupied the land, or any part thereof, under and in accordance with such customary law,

declare such present occupiers or any of them to be unlawfully in occupation of the land and require them to quit the land within such period, not being less than one month, from the date of publication of the order, as he may specify; or

(b) if he is satisfied-

- (i) that the land was first alienated without any adequate consultation relating to the alienation of the land with such previous occupiers or with any local or native authority within whose area of jurisdiction the land was situate, or that no adequate compensation for such alienation was paid to such previous occupiers or to any such authority, and that the present occupiers of the land have, or, if the land had not been alienated would have, succeeded by descent or otherwise under such customary law to such rights over the land or any part thereof as were under such customary law vested in such previous occupiers; or
- (ii) that the present occupiers of the land, not being persons falling within sub-paragraph (i) of this paragraph, have been continuously in occupation of the land for a period of five years immediately preceding the date of publication of the order under section 3 declaring the land to be disputed land,

order that such part of the land as he may specify be excised from the area of the alienated land; or

(c) in cases where the dispute falls under paragraph (b) of section 3, if he is satisfied that the boundaries of the land, or any of them, are inadequately demarcated, require such steps as may be specified in the order to be taken by such persons as may be so specified to demarcate such boundaries or such of them as may be so specified.

(2) Where the Minister, by order under paragraph (a) of subsection (1), orders any person to quit the land, there shall be included in the order a list of the persons to whom it applies together with sufficient particulars of such persons as to enable them to be identified, and where a person is named in such order the order shall be deemed to apply to any dependants of such person residing with him although such dependants are not themselves listed in the order.

(3) Where the Minister, by order under paragraph (b) of subsection (1), orders the excision of part of the alienated land from the area thereof there shall be included in the order-

- (a) a plan, prepared after a survey, of the total area of the alienated land and showing clearly that part of the land in respect of which the excision order is made;
- (b) a precise description of the boundaries of that part of the land in respect of which the excision order is made;
- (c) a statement of the proportion which the area of that part of the land in respect of which the excision order is made bears to the total area of the alienated land.

(4) In addition to the matters specified in subsection (3), an order made under paragraph (b) of subsection (1), shall-

- (a) specify, subject to the provisions of section 10, the sums to be paid by way of compensation to the holders of estates or interests (other than interests dealt with under paragraph (b) of this subsection) in the alienated land which are diminished or extinguished by reason of the order, the persons to whom the same are to be paid, and if such sums are to be paid in instalments, the instalments (which shall be payable annually over a period of not more than twenty years) in which they are to be paid;
- (b) modify or extinguish any easement, right of way or restrictive covenant to which the land is subject and any profit in the land to which any person is entitled where such easement, way, covenant or profit affects the use or occupation of that part of the land in respect of which the excision order is made and where the Minister considers such modification or extinguishment to be necessary or desirable; and
- (c) where any easement, way, covenant or profit is modified or extinguished by the order, specify the sum to be paid by way of compensation to any person entitled to the benefit of any such easement, way or covenant or to such profit, the persons to whom such sums are to be paid and, if such sums are to be paid in instalments, the instalments (which shall be payable annually over a period of not more than twenty years) in which they are to be paid.

(5) Compensation awarded under subsection (4) shall be based on the value of the estate or interest diminished, modified or extinguished on the date when the land was declared to be disputed land.

(6) In any case where, under paragraph (b) of subsection (1), the Minister is empowered to make an order excising part of the land he may suspend the coming into operation of the order for such period, not being less than three nor more than twelve months, on the condition that the owner of the land pays to the Commissioner on behalf of the occupiers of the land such sum as the Minister may specify to assist such occupiers to move to and settle on other land in the vicinity of the disputed land, and if such sum is, within such period of suspension, paid to, the Commissioner by the owner of the land the Minister shall, within one month of the date of such payment, revoke the order excising part of the land-

Provided that no order shall be suspended under this subsection unless-

(i) other land in the vicinity of the disputed land is available for the occupation of the occupiers of the disputed land; and

(ii) such occupiers have agreed to settle on such other land.

(7) Any sums received by the Commissioner under subsection (6) shall be paid by him to the occupiers of the disputed land in such proportions as the Minister may direct.

Compensation

10.-(1) No compensation shall be awarded under section 9 to any holder of an estate or interest in land which is diminished or extinguished by reason of an order made under paragraph (b) of subsection (1) of that section in any case where the Minister is satisfied-

(a) that the present occupiers of the land are the successors under the customary law pertaining in the area of persons who immediately prior to the date on which the land was first alienated occupied the land or any part thereof under and in accordance with such customary law, that such persons present on the land have, or, if the land had not been alienated, would have, succeeded under such customary law to such rights over the land or any part thereof as were under such customary law vested in such previous occupiers and, that when the land was first alienated no or insufficient compensation was paid either to such previous occupiers or to any native or other local authority within whose area of jurisdiction the land was situate; or

(b) that the present occupiers of the land (not being persons in respect of whom an eviction order is made under paragraph (a) of subsection (1) of section 9) entered on the land without the consent of the owner thereof.

(2) Subject to the provisions of subsection (3) and to any decision of the Land Tribunal under subsection (3) of section 11, any sum specified under paragraph (a) or paragraph (c) of subsection (4) of section 9 as being payable to any person by way of compensation shall be paid to such person by the Government out of moneys provided by Parliament for the purpose in such instalments as are so specified.

(3) No person to whom the provisions of section 14, section 15 or section 19 apply and who exercises the rights of disclaimer or requirement of compulsory acquisition conferred by those sections shall be entitled to receive any compensation awarded under section 9.

11.-(1) Save as provided in subsection (2), no appeal shall lie against the making of an order under section 9. Appeals

(2) Any person who-

- (a) is declared by an order under paragraph (a) of subsection (1) of section 9 to be unlawfully in occupation of any land and required by such order to quit the land; or
- (b) is a person aggrieved by an order of excision under paragraph (b) of that section,

may, within one month of the date of publication of the order, appeal in writing against the making of the order to the President whose decision on the determination of such appeal shall be final.

(3) Any dispute as to the amount of compensation awarded to any person under section 9 or as to the instalments in which the same is payable and any claim by any person that he is a person to whom such compensation should be awarded shall be settled by the Land Tribunal upon application being made thereto by the party to the dispute and the decision of the Land Tribunal thereon shall be final and shall not be subject to review in any court or by any other authority.

12. Where any person declared by an order under paragraph (a) of subsection (1) of section 9 to be unlawfully in occupation of any land fails without reasonable cause to quit such land within the period specified in the order, he shall be guilty of an offence and liable on conviction to a fine not exceeding one thousand shillings or to imprisonment for a period not exceeding three months or to both such fine and imprisonment:

Holding over by persons ordered to quit land

Provided that where any such person has, under section 11, appealed against the making of the order, the period specified therein shall (in the event of the disallowance of the appeal) be deemed to commence on the date of determination of the appeal, or, if the appeal is withdrawn, on the date of such withdrawal.

13. Where the Minister, under paragraph (b) of subsection (1) of section 9, orders the excision of part of any alienated land from the area thereof, then, with effect from the date of publication of the order, the estate or interest of the holder of the Government lease or the right of occupancy, as the case may be, and of any person claiming under him, in that part of the land shall, subject to the provisions of this Act, be extinguished.

Effect of excision order

14.-(1) Subject to the provisions of this section, where an order under paragraph (b) of subsection (1) of section 9 is made for the excision from any alienated land of a part of the land which, in area, is more than one-half of the total area of such alienated land, the holder of the Government lease in or right of occupancy over the land, if he is in actual possession of the land, may disclaim the lease or right of occupancy.

Surrender by holder of lease or right of occupancy

(2) Every disclaimer under this section shall-

(a) be made within the permitted period; and

(b) be made in writing to the Commissioner in the prescribed form; and

- (c) be accompanied by the written consent of the mortgagee under every registered mortgage of the Government lease or right of occupancy; and
- (d) state that the person disclaiming waives any right to receive any compensation which but for his disclaimer might have been payable to him under section 10.

(3) Where the Commissioner receives a disclaimer made in accordance with the provisions of this section, he shall forthwith present the same for registration, in the case of registered land, under the Land Registration Ordinance and, in the case of land which is not registered land, under the Registration of Documents Ordinance, and upon the registration of the disclaimer the Government lease or the right of occupancy, as the case may be, shall be deemed to have been surrendered and, subject to the provisions of this section and of section 17, all interests in the lease or right of occupancy so disclaimed and in the land subject thereto of the holder of the lease or the right of occupancy and any person claiming under him shall be extinguished.

(4) Where a Government lease or a right of occupancy is deemed to have been surrendered under this section, the Commissioner shall cause the unexhausted improvements existing on the land surrendered to be valued, and the land surrendered shall be advertised for disposal under a right of occupancy for a term of not less than the term outstanding of the lease or right of occupancy surrendered immediately before such surrender and upon terms and conditions no more onerous than those obtaining in relation to the lease or right of occupancy surrendered immediately before such surrender, together with a premium for disposal equal to the value as so assessed of such unexhausted improvements; and where any person enters into a contract for a right of occupancy over such land within six months of its first being advertised, the premium paid by that person (or, in the case of his default, any damages recovered in respect of such premium) shall be paid by the Commissioner to the former holder of the lease or right of occupancy:

Provided that-

- (a) where a notice is served on the Commissioner prior to his receipt of such premium or damages-
 - (i) by a mortgagee who consents to a disclaimer under this section; or
 - (ii) in respect of any such mortgagee by a sub-mortgagee under a sub-mortgage created by him out of the mortgage of the lease or right of occupancy,
requiring the principal and interest due under the mortgage on the date of the surrender to be discharged out of such premium or damages, the Commissioner shall, subject to the provisions of section 17, hold the same on trust-
 - (A) first to pay such mortgagee, or if notices are served under this proviso by or in respect of more than one, to pay such mortgagees, in the order of their respective priorities, the sums due as principal and interest aforesaid; and

(B) to pay any sum remaining thereafter to the former holder of the lease or right of occupancy,

and, in any such case, the sums due from the former holder to any such mortgagee under the mortgage shall be reduced by the aggregate of the amounts paid to the latter under this section and to any sub-mortgagee under a sub-mortgage created by such mortgagee, paid under section 17; and

(b) where the holder of the lease or right of occupancy and the mortgagee under every registered mortgage thereof elect to waive all claims to their respective shares in the premium or damages in lieu thereof, the Commissioner shall not be required to value the unexhausted improvements or to advertise the land under this subsection.

(5) The provisions of this section relating to unexhausted improvements shall have effect on a surrender under this section in lieu of any provisions in that behalf in the Land Ordinance, and if no new contract for or grant of a right of occupancy over any land surrendered under this section is made within six months after such land being first advertised for disposal under subsection (4), every interest of the former holder of the Government lease or right of occupancy and of any person claiming under him in the unexhausted improvements thereon or in any premium paid on disposal of such land or any damages in lieu thereof shall be extinguished.

(6) In this section the expression "holder" in relation to a Government lease or right of occupancy does not include a mortgagee to whom the lease or right of occupancy has been assigned, unless the equity of redemption of the mortgagor has been foreclosed.

15.-(1) Subject to the provisions of this section, where an order under paragraph (b) of subsection (1) of section 9 is made for the excision from the area of any alienated land, of any land which is held by a sub-tenant, and where the area of land in respect of which the order is made is more than one-half of the total area of the land so held by such sub-tenant, the sub-tenant may, if he is in actual possession of the land and subject to the provisions of this section, disclaim the sub-lease.

Surrender
by
sub-tenant

(2) Every disclaimer under this section shall-

- (a) be made within the permitted period; and
- (b) be made in writing in the prescribed form; and
- (c) be accompanied by the written consent of the mortgagee under every registered mortgage of the sub-lease; and
- (d) state that the person disclaiming waives any right to receive any compensation which but for his disclaimer might have been payable to him under section 10.

(3) Where a disclaimer made in accordance with the provisions of paragraphs (a), (b) and (d) of subsection (2) and accompanied by the consent of the mortgagee under every registered mortgage is registered, in the case of registered land, under the Land Registration Ordinance and, in the case of land which is not registered land, under the Registration of Documents Ordinance, the sub-lease shall be deemed to have been surrendered and all interests in the sub-lease so disclaimed and in the land subject thereto of the sub-tenant or any person claiming under him shall be extinguished.

(4) The Registrar shall not register a disclaimer under this section which does not contain an acknowledgment of service of notice of such disclaimer signed by the lessor until after the expiration of a period of twenty-eight days from the date of his serving a notice in the prescribed form on the lessor. The cost of serving any notice under this subsection shall be borne by the party disclaiming.

(5) In this section the expression "sub-tenant" does not include a mortgagee to whom the sub-lease has been assigned unless the equity of redemption of the mortgagor has been foreclosed.

Powers of Registrar

16.-M In addition to any other powers in that behalf, the Registrar may refuse to register a disclaimer under section 14 or section 15 unless the person disclaiming delivers to the Registrar the certificate of title to the Government lease, the contract for and the certificate issued in respect of the right of occupancy, or the sub-lease, as the case may be, or gives the Registrar such security for the failure to deliver the same as the Registrar may reasonably require.

(2) Any such certificate, contract, or, sub-lease delivered to the Registrar under this section shall be sent by the Registrar to the Commissioner or the lessor, as the case may be.

Claims by sub-mortgagees

17.- A sub-mortgagee under a sub-mortgage created out of a mortgage of a Government lease or a right of occupancy by a mortgagee, being a mortgagee-

- (a) who consents to the disclaimer of such lease or right of occupancy & under section 14; and
- (b) who serves notice, or in respect of whom notice is served, under paragraph (a) of the proviso to subsection (4) of that section, may, by notice served on the Commissioner at any time before he receives any such premium or damages to which that section refers, claim the payment of any sum due as principal and interest under the sub-mortgage on the date of the surrender under that section out of any sum held by the Commissioner under that proviso on trust for such mortgagee, and, in any such case-
 - (i) the Commissioner shall pay out of any sum held by him on such trust to the sub-mortgagee, or if notices are served under this section by more than one, to the sub-mortgagees in the order of their respective priorities, the sums due as principal and interest aforesaid; and
 - (ii) the sums due from the mortgagee to any such sub-mortgagee under the sub-mortgage shall be reduced by the amounts paid to the latter under this section.

Arbitration as to value

18. In the absence of agreement as to the value of any unexhausted improvements assessed under the provisions of section 14, by any person having an interest in the premium or damages referred to in that section, the matter shall be settled by the Land Tribunal upon application being made thereto by the party to the dispute and the decision of the Land Tribunal thereon shall be final and shall not be subject to review in any court or by any other authority.

19.-(1) Subject to the provisions of this section, where an order under paragraph (b) of subsection (1) of section 9 is made for the excision from any alienated land of a part of the land which, in area, is more than three-quarters of the total area of such alienated land, the holder of the Government lease in or right of occupancy over the land may (whether he is in possession of the alienated land or not) serve notice that he requires the whole of the alienated land to be compulsorily acquired under the provisions of the Land Acquisition Ordinance.

Holder of lease or right of occupancy may in certain cases require all land to be taken
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(2) A notice under subsection (1) shall-

- (a) be made in writing in the prescribed form and addressed to the Commissioner;
- (b) be made within the permitted period;
- (c) state that the person giving the notice waives-
 - (i) any right to receive any compensation which if the notice had not been given might have been payable to him under section 10;
 - (ii) any right to disclaim the lease or the right of occupancy under section 14.

(3) The holder of any Government lease or right of occupancy who gives notice under subsection (1) shall, forthwith upon the giving of such notice, in writing, inform all persons who to his knowledge have or claim any estate or interest in the land that such notice has been given.

(4) The Commissioner shall, on receipt of a notice under subsection (1), publish the same in the *Gazette*.

(5) Where a notice is given under and in accordance with the provisions of this section-

- (a) the land in respect of which the notice is given shall be deemed to be land required for a public purpose within the meaning of the Land Acquisition Ordinance; and
- (b) a notice under section 5 of that Ordinance of intention to take such land shall be deemed to have been given, served and published in accordance with the provisions of that Ordinance on the date on which the notice under this section was, pursuant to subsection (4), published in the *Gazette*; and
- (c) all the provisions of the Land Acquisition Ordinance shall apply to and in respect of the whole of the land in respect of which the notice is given as if the land was being acquired under that Ordinance.

Provided that the provisions of section 17 of the Land Acquisition Ordinance shall not apply to or in respect of any land in respect of which notice is given under this section.

20.-(1) A disclaimer and surrender under section 14 or section 15 shall be exempt from-

- (a) any surrender fee or fine payable under the Land Ordinance or the relevant lease;
- (b) any registration fee payable under the Land Registration Ordinance or the Registration of Documents Ordinance;
- (c) stamp duty.

Exemption from duties, etc.

(2) The modification or extinguishment of any interest under paragraph (b) of subsection (4) of section 9 shall be exempt from-

- (a) any fee payable in respect thereof under the Land Ordinance-
- (b) any registration fee payable under the Registration of Documents Ordinance or the Land Registration Ordinance.
- (c) stamp duty.

Amendments
to register

21. Notice of any order made by the Minister under section 9 shall be given by the Commissioner to the Registrar who shall, subject to any specific provisions in that behalf in this Act contained, make such entries in and amendments to the appropriate register as the circumstances of the case may require.

Rules

22.-(1) Subject to the provisions of subsection (2), the Minister may make rules for the better carrying out of the purposes of this Act and, without prejudice to the generality of the foregoing, such rules may

- (a) prescribe forms to be used and fees to be charged under this Act;
- (b) provide for the survey of any land to which this Act applies;
- (c) provide for the practice and procedure of Commissions appointed under section 5.

(2) The Minister may-

- (a) by order published in the *Gazette*, apply any rules made by him with the consent of the Minister for Justice under subsection (2) of section 58 of the Freehold Titles (Conversion) and Government Leases Act, 1963, and which relate to applications to, or the procedure to be followed and fees to be paid in proceedings before, the Land Tribunal under the provisions of that Act, to any applications to or Proceedings before that Tribunal under the provisions of this Act; or
- (b) with the consent of the Minister for Justice, make rules regulating applications to, and the procedure to be followed and the fees to be paid in Proceedings before, the Land Tribunal under the Provisions of this Act.

Transitional
provisions

23. In relation to any period prior to the coming into operation of the Freehold Titles (Conversion) and Government Leases Act, 1963, references in this Act to land which is subject to a C shall be read and construed as references to freehold land and references to the holder of a Government lease shall be read and construed as references to the holder of a freehold estate.

SCHEDULE

(Section 5 (2))

CONSTITUTION, POWERS AND PROCEEDINGS OF COMMISSIONS OF INQUIRY

(a) Constitution

1.-(1) A Commission of Inquiry shall consist of-

- (a) a Chairman appointed by the Minister;
- (b) not less than two and not more than four other members appointed by the Minister.

(2) One of the members appointed under item (b) of sub-paragraph (1) shall be an officer of the Ministry for the time being responsible for land,

2. If any member of a Commission dies, or is permanently incapacitated, or resigns, or if his appointment is revoked, the Minister may appoint another qualified person in his place.

3. A quorum of a Commission shall be the Chairman and one other member.

4. Subject to the provisions of paragraph 3, a Commission may act notwithstanding any vacancy in its number.

5. No act or other proceeding of a Commission shall be invalid by reason only of the fact that there is some defect in the appointment of a person purporting to be a member thereof.

(b) *Proceedings and Powers*

6. The Minister may appoint a Secretary to attend the sittings of a Commission, to record the proceedings of a Commission and generally to perform such duties as the Chairman of the Commission may prescribe.

7.-(1) A Commission shall have the powers of the High Court to summon witnesses, and to call for the production of plans and other documents and to examine witnesses on oath.

(2) Where the Commission considers it desirable it may receive evidence by affidavit.

(3) Summonses for attendance of witnesses or for the production of documents shall be signed by the Chairman or the Secretary of the Commission and oaths and affirmations shall be administered by the Chairman.

8. All persons summoned to attend and give evidence or to produce plans or documents before a Commission shall be bound to obey the summons served upon them as fully in all respects as witnesses are bound to obey a summons issued from the High Court, and shall be entitled to the like expenses as if they had been summoned to attend at such Court on a criminal trial, if the same shall be allowed by the Commission.

9. For the purposes of the inquiry in respect of which it was appointed a Commission may enter upon and inspect any land, occupied or unoccupied, without the permission of the occupier thereof:

Provided that this paragraph shall not entitle a Commission to enter any dwelling house except with the permission of the person in actual possession thereof.

10. A Commission or any person who is a party to the dispute in relation to which the Commission was appointed may, in writing, require the Area Commissioner of the District in which the disputed land is situate, or the Commissioner, to produce before the Commission any documents in his possession or under his control which relate to the question of whether consultation took place and compensation was paid prior to the date when the land was first alienated or which are otherwise relevant to the dispute, and the Area Commissioner or the Commissioner, as the case may be, shall comply with any such requirement.

11. Subject to the provisions of this Schedule and to any rules made under section 22, a Commission may regulate its own proceedings.

Passed in the National Assembly on the twenty-fourth day of April, 1963.

Pius Msekwa
Clerk of the National Assembly