

TANGANYIKA



No. 18 OF 1963

I ASSENT,

Julius K. Nyerere
President

16TH MAY, 1963

An Act to apply certain Development Conditions to certain Rights of Occupancy granted before the tenth day of December, 1948

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ENACTED by the Parliament of Tanganyika.

PART I

PRELIMINARY AND APPLICATION

1.-(1) This Act may be cited as the Rights of Occupancy (Development Conditions) Act, 1963, and shall be read as one with the Land Ordinance.

Short title
construction
and
commence-
ment
Cap 113

(2) This Act shall come into operation on such date (hereinafter referred to as the "appointed day") as the Minister shall, by notice in the *Gazette*, appoint:

Provided that-

- (a) at any time after the enactment of this Act, the Minister and the Commissioner may exercise any of the powers, functions or duties conferred on them respectively by sections 6, 7, 8, 10, 11, 12 or 20, and the Minister may make rules under section 23 for the purposes thereof; and
- (b) in addition, the provisions of sections 20 and 21 and of any such rules shall come into operation in relation to the exercise of such powers, functions and duties on the enactment of this Act or, as the case may be, the making of such rules.

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

Interpretation

"Commissioner" means the Commissioner for Lands, and includes any person to whom the functions of the Commissioner for Lands have been delegated under section 20;

"development conditions" mean, subject to the provisions of section 6, those terms and conditions set out in the relevant paragraphs of regulation 6 of the 1948 Regulations which are implied in a contract for, or certificate of occupancy issued in respect of, a farming right by subsection (1) of section 5;

"exempt right of occupancy" means a right of occupancy-

(a) which is due to expire within five years after the appointed day;

or

(b) which, on the appointed day, extends over less than, fifty acres of land; or

(c) which is declared by the Minister, under section 10, to be an exempt right of occupancy;

"excluded part" in relation to land subject to a right of occupancy, means a part of such land declared, under section 12, to be an excluded part;

"fanning purpose" means agricultural purposes, pastoral purposes, or mixed agricultural and pastoral purposes;

"fanning right" has the meaning ascribed to that expression in section 3;

"Governor" means the Governor of the former Trust Territory of Tanganyika;

"the grant", in relation to a right of occupancy, means the contract for, or the certificate of occupancy issued in respect of, that right of occupancy;

"lease" means a term created out of a right of occupancy, and includes a sub-lease;

"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;

"operative date" means-

(a) in the case of any farming right in relation to which the Commissioner has postponed the operative date, and of any lease thereof, the date to which the operative date is postponed;

(b) in any other case, the appointed day;

"permitted period" means a period of six months after the appointed day, or, if on the appointed day a person otherwise entitled to make a disclaimer is not in possession, a period of six 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 any period between the taking out of a summons under subsection (6) of section 14 and the withdrawal or determination of that summons shall be excluded in computing any such period of six months;

"possession" means actual possession;

"registered", in relation to a mortgage, means a mortgage which is registered or (in the case of a lien) of which notice of deposit has been given to the Registrar under the Land Registration Ordinance;

"Registrar" means the Registrar of Titles appointed under the Land Registration Ordinance;

"1948 Regulations" means the Land Regulations, 1948;

"tenant" includes a sub-tenant;

"urban land" means land situated within the boundaries of a municipality, town, township or minor settlement.

R.L.
Cap. 113
Supp.57
p.16

(2) For the purpose of paragraph (b) of the definition "exempt right of occupancy, the area of land over which the right extends shall be computed without deducting any excluded part.

(3) For the purposes of this Act, in the absence of any express provision in the grant, a right of occupancy shall be deemed to have been granted on the date on which the contract for the right of occupancy was made.

3. In this Act, the expression "farming right" means a right of occupancy granted under the Land Ordinance before the tenth day of December, 1948, being-

Of farming rights

- (a) a right of occupancy which was expressly granted for a farming purpose; or
- (b) any other right of occupancy except a right of occupancy-
 - (i) expressly granted for a particular purpose which is not a farming purpose; or
 - (ii) over land, the whole area of which was, on the date on which such right was granted, urban land;

but does not, in either case, include an exempt right of occupancy.

4. A farming right which was not expressly granted for a particular farming purpose shall be deemed to have been granted-

Purposes for which farming right deemed to have been granted

- (a) where the land is used on the appointed day both for depasturing livestock and cultivation, for mixed agricultural and pastoral purposes;
- (b) where the land is used on the appointed day for depasturing livestock but not for cultivation (otherwise than for the purposes of producing food for the consumption of persons in occupation of, or working on, the land, their households, and such livestock), for pastoral purposes;
- (c) in any other case, for agricultural purposes,

and such purposes shall be deemed to be specified in the respective grants.

PART II

DEVELOPMENT CONDITIONS

5.(1) Subject to the provisions of subsection (3), on the operative date, every contract for, and every certificate of occupancy granted in respect of, every farming right shall become subject to the terms and conditions set out in paragraphs (a), (b), (c) and (d) of sub-regulation (1) of regulation 6 of the 1948 Regulations, and, in addition-

Implied development conditions

- (a) in the case of a farming right which was expressly granted, or is deemed by this Act to have been granted, for agricultural purposes, shall become subject to the terms and conditions set out in paragraphs (a) and (b) of sub-regulation (2) of regulation 6 of the 1948 Regulations;

(b) in the case of a farming right which was expressly granted, or is deemed by this Act to have been granted, for pastoral purposes, shall become subject to the terms and conditions set out in paragraphs (a) and (b) of sub-regulation (3) of regulation 6 of the 1948 Regulations;

(c) in the case of a farming right which was expressly granted, or is deemed by this Act to have been granted, for mixed agricultural and pastoral purposes, shall become subject to the terms and conditions set out in paragraphs, (a) and (b) of sub-regulation (4) of regulation 6 of the 1948 Regulations,

and such terms and conditions shall—

(i) have effect in relation to such farming rights as if the term of the right of occupancy commenced on the operative date; and

(ii) subject to the provisions of sub-paragraph (i) of this subsection, be implied in every such contract and certificate.

(2) Where a contract for, or certificate of occupancy granted in respect of a farming right, which prior to the commencement of this Act was subject to regulation 2 of the Land Regulations 1926, or to regulation 2 of the Land (Pastoral Purposes) Regulations, 1927, becomes subject to the development conditions, the said regulation shall cease to apply to or to be implied in such contract and certificate except in relation to any excluded part.

(3) The development conditions shall not apply in relation to any excluded part, and for the purposes of computing any proportion of land subject to a farming right which an occupier is required to cultivate or stock under the development conditions, there shall first be deducted from the total area of such land the area of the excluded part thereof, and the proportion shall be computed from the remainder.

6.-(1) Where there is any conflict or inconsistency between any term or condition expressly included in any contract for, or certificate of occupancy granted in respect of, a farming right and the development conditions the Commissioner may make a declaration as to which term or condition shall prevail, and where the Commissioner makes a declaration-

(a) that an express term or condition shall prevail, the development conditions shall thereafter have effect subject to such declaration;

or

(b) that the development conditions shall prevail, the terms and conditions of such contract or certificate shall thereafter have effect subject to such declaration,

and references in the following provisions of this Act to the development conditions shall, in the case of a farming right in relation to which a declaration is made under paragraph (a), be a reference to the development conditions as modified by such declaration.

(2) Until the Commissioner makes a declaration under paragraph (a) of subsection (1), any express term or condition, shall have effect only to the extent that it is not inconsistent with the development conditions.

7. (1) Subject to the provisions of this section, on and after the operative date there shall be implied in every lease granted before the operative date over land subject to a farming right a covenant binding

R.L.
Cap. 113
Supp.57
Subsidiary
pp.13 and 15

Conflict
between
express and
implied
conditions

Leases

the tenant to comply with the development conditions, and any express term or condition of any such lease shall have effect only to the extent that it is not inconsistent with the development conditions.

(2) Where a lease extends to part only of the land subject to a farming right, the covenant implied in the lease by subsection (1) shall have effect as if the part to which the lease extends were the subject of a separate farming right:

Provided that, in the case of a farming right which was expressly granted, or is deemed by this Act to have been granted, for mixed agricultural and pastoral purposes, the tenant in possession may, unless the user of the land in accordance with his application would be inconsistent with the express terms of his lease, and after serving the prescribed notice on, the occupier and all mesne landlords, apply to the Commissioner for a declaration that the part of the land of which he is the tenant shall be deemed to have been granted either for agricultural purposes or for pastoral purposes, and, where any such application is made, the Commissioner may, after giving the occupier and all mesne landlords an opportunity of making representations in writing, make a declaration that the relevant part shall be deemed to have been so granted.

(3) Subject to the provisions of section 8, where the Commissioner makes a declaration under the proviso to subsection (2) of this section, the provisions of this Part of this Act shall have effect as if the farming right had been granted-

- (i) in so far as that part of the land which is subject to the relevant lease is concerned, for the purposes so declared;
- (ii) in so far as the remainder of the land is concerned, for the purposes for which the farming right was expressly granted or is deemed, by this Act, to have been granted.

(4) The covenant implied in registered leases by paragraph (c) of subsection (1) of section 56 of the Land Registration Ordinance shall extend to binding the tenant to permit the landlord or his agent to effect any developments and improvements (the landlord exercising his own discretion as between alternative developments or improvements permitted by the development conditions), in the event of the tenant failing to comply with the development conditions, and to pay the cost thereof to the landlord.

(5) Nothing in this section shall apply-

(a) to a lease which extends over an excluded part only; or

(b) in the case of a lease which extends over both an excluded part and some other part of the land, in relation to the excluded part,

and, in the case provided for in paragraph (b), for the purposes of computing any proportion of the land comprised in the lease which the tenant is required to cultivate or stock under the development conditions and this section, there shall first be deducted from the total area of such land the area of the excluded part thereof, and the proportion shall be computed from the remainder.

Right to
declaration
over
separate
part of
farming
right for
mixed
purposes

8. Where the Commissioner makes a declaration under the proviso to subsection (2) of section 7 in respect of any part of any land subject to a farming right, the occupier, or any tenant, in possession of any other part of such farming right may, within six months of such declaration, apply to the Commissioner for a declaration that that other part shall be deemed to have been granted for agricultural purposes or for pastoral purposes, and the Commissioner shall make a declaration accordingly, and thereupon the provisions of this part of this Act shall have effect as if the farming right had been granted, in so far as the relevant part is concerned, for the purposes so declared.

Mortgages

9.-(1) Subject to the provisions of subsection (2), on and after the operative date there shall be implied in every mortgage made before the operative date of a farming right or of a lease of land subject to a farming right, covenants by the borrower with the mortgagee binding the borrower-

- (a) to comply with the development conditions and to keep the mortgagee effectually indemnified against any damage or loss whatsoever in respect of any breach of the conditions;
- (b) in case of default in complying with the development conditions, to permit the mortgagee to enter upon the land and to effect such developments and improvements as may be necessary to ensure that the development conditions are complied with (the mortgagee exercising his own discretion as between alternative developments or improvements permitted by the development conditions), and to repay the mortgagee every sum expended by the mortgagee on such developments and improvements with interest at the same rate as is payable on the principal sum secured by the mortgage, and every sum so expended by the mortgagee and the interest thereon shall be a charge on the mortgaged Property.

(2) Nothing in this section shall apply in relation to any excluded part.

PART III

EXEMPTION, POSTPONEMENT, EXCLUSION AND SURRENDER

Power to
exempt

10. Where the Minister is satisfied that-

- (a) the application of the development conditions to a farming right (or, where any part of the land subject to a farming right has been declared an excluded part, to the remainder of the land) would be unreasonable, oppressive or would cause undue hardship; or
- (b) that the development of the land subject to a farming right for any farming purpose would not be in accordance with good estate management; or
- (c) that it would be in the general interests of Tanganyika that the land subject to a farming right be developed for purposes other than any farming purpose,

he may declare such farming right to be an exempt right of occupancy:

Provided that the Minister shall not make any such declaration on the grounds set forth in paragraphs (b) or (c) unless the occupier enters into a deed of variation with the Commissioner prescribing express conditions for the development of the exempt right of occupancy.

11.-(1) The occupier or tenant of a farming right or of any part thereof may, not later than three months after the appointed day, apply to the Commissioner to postpone the operative date in relation to such right on the grounds that the immediate application of section 5 to such right would be unreasonable, oppressive or cause undue hardship.

Postponement
of application

(2) The Commissioner shall forthwith inquire into every application under this section, and, if satisfied that the immediate application of section 5 to such right would be unreasonable, oppressive or cause undue hardship, he may postpone the operative date in relation to that farming right for a period not exceeding six months.

12. Where the Commissioner is satisfied that-

Exclusion of
parts of land

(a) any part of any land subject to a farming right which was granted expressly for agricultural purposes was used-

(i) before the twenty-fifth day of September, 1934, or

(ii) with the permission of the Governor, after the twenty-fourth day of September, 1934,

for purposes other than farming purposes and purposes ancillary thereto, and such part is used for such purposes on the appointed day;

(b) any part of any land subject to a farming right which was granted expressly for pastoral purposes was used-

(i) before the thirtieth day of June, 1927, or

(ii) with the permission of the Governor, after the twenty-ninth day of June, 1927,

for purposes other than farming purposes and purposes ancillary thereto, and such part is used for such purposes on the appointed day;

(c) any part of any land subject to a farming right (other than a farming right granted expressly for a farming purpose) is developed on the appointed day, for purposes other than farming purposes and purposes ancillary thereto;

(d) the development of any part of any land subject to a farming right for any farming purpose would be in contravention of any written law or of any scheme made, or in course of preparation, under the Town and Country Planning Ordinance or in the case of urban land, would constitute a breach of a covenant which touches and concerns the land, being a covenant made before the eighth day of March, 1963 (or, if made on or after that date, made with the consent of the Commissioner) otherwise than between lessor and lessee,

Cap. 378

he may or, in the case provided for in paragraph (d), he shall declare such part to be an excluded part for the purposes of this Act.

13.-(1) Subject to the provisions of this section, an occupier of a farming right in possession may-

Surrender
by occupier

(a) disclaim the farming right; or

(b) disclaim the farming right for the purposes of accepting a new right in place thereof-

(i) over the residential area; or

(ii) over any excluded part; or

(iii) over both the residential area and any excluded part, (hereinafter, in any such case, referred to as a "retained part").

- (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 consent of the mortgagee under every registered mortgage of the farming right.
- (3) Where he receives a disclaimer made by an occupier in possession in accordance with the provisions of paragraphs (a) and (b) of subsection (2) and accompanied by the consent of the mortgagee under every registered mortgage, the Commissioner shall-
 - (a) in the case of a disclaimer made under paragraph (b) of subsection (1), forthwith grant a new right of occupancy over the retained part on the statutory terms, and present the certificate thereof, together with the disclaimer, for registration under the Land Registration Ordinance;
 - (b) in the case of a disclaimer made under paragraph (a) of subsection (1), forthwith present the same for registration under the Land Registration Ordinance.
- (4) Upon the registration of-
 - (a) a disclaimer and a new certificate of occupancy, the farming right shall be deemed to have been surrendered and the former occupier shall be deemed to have accepted a new right of occupancy over the retained part- and, subject to the provisions of this section and of section 16, all interests in the farming right so disclaimed and the land subject thereto, other than in the retained part thereof, of the occupier or any person claiming under him shall be extinguished;
 - (b) a disclaimer made under paragraph (a) of subsection (1), the farming right shall be deemed to have been surrendered and, subject to the provisions of this section and of section 16, all interests in the farming right so disclaimed and the land subject thereto of the occupier or any person claiming under him shall be extinguished.
- (5) Where a farming right is deemed to have been surrendered under this section, the Commissioner shall cause the unexhausted improvements existing on the land surrendered (other than such as are on any retained part) to be valued, and the land surrendered (other than any retained part) shall be advertised for disposal under a right of occupancy for a term of not less than the term outstanding of the farming right immediately before the surrender, upon terms and conditions no more onerous than those obtaining in relation to the farming right immediately before the 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 after its first being advertised, the premium paid by that person (or, in the event of his default, any damages recovered in respect of such premium) shall be paid by the Commissioner to the former occupier:
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 of such right under this section; or

(ii) in respect of any such mortgagee by a submortgagee under a submortgage created by him out of the mortgage of the farming right, 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 16, hold the same on trust-

(A) first to pay to 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 occupier, and, in any such case, the sums due from the occupier 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 submortgagee, under a submortgage created by such mortgagee, paid under section 16;

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

(6) 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 (other than any retained part) is made within six months after such land being first advertised for disposal under subsection (5), every interest of the occupier and of any person claiming under him in the unexhausted improvements thereon or in any premium paid on a disposal of such land or any damages in lieu thereof shall be extinguished.

(7) Where an occupier disclaims a farming right under this section for the purposes of accepting a new right in place thereof over a retained part, the surrender of the farming right and the acceptance of the new right shall not affect the respective rights or liabilities in or over the retained part of the occupier or any person claiming under him, except insofar as the new certificate of occupancy modifies the rights or liabilities of the occupier in relation to the President.

(8) In this section-
"occupier" does not include a mortgagee to whom the farming right has been assigned, unless the equity of redemption of the mortgagor has been foreclosed;

"the residential area" means an area of land subject to a farming right on which the principal dwelling house of such farming right is situated equal to ten acres for every one thousand pounds or additional part thereof of the value of the principal dwelling house, or fifty acres, whichever is the less:

Provided that-

(a) where there is more than one dwelling house on land subject to a farming right, the occupier may select any one as the principal dwelling house for the purposes of this section; and

- (b) where an occupier who wishes to retain a principal dwelling house does not wish to retain the maximum number of acres to which this subsection refers, the area of the residential area shall be deemed to be that lesser number of acres which he wishes to retain;

"statutory terms" mean a term not less than the term outstanding of the farming right immediately before the surrender at a rent which shall be such proportion of the rent reserved by the surrendered farming right as the area of the retained part bears to the whole area of the farming right, together with such other terms and conditions as would have applied had Part II of this Act not been enacted and the farming right not surrendered.

Surrender
by tenant

14.-(1) This section applies to a lease granted before the appointed day if the terms and conditions of the lease to be performed by the tenant become, by reason of the provisions of this Act, substantially more onerous than the terms and conditions which would have obtained had this Act not been enacted.

(2) Subject to the provisions of this section, a tenant under a lease to which this section applies, in possession, may disclaim the lease.

(3) 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 lease.

(4) Where a disclaimer by a tenant in possession made in accordance with the provisions of paragraphs (a) and (b) of subsection (3) and accompanied by the consent of the mortgagee under every registered mortgage, is registered under the provisions of the Land Registration Ordinance-

- (a) the lease disclaimed shall be deemed to have been surrendered; and
- (b) all interests in the lease and the land comprised therein of the tenant or any person claiming under him shall be extinguished.

(5) 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 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.

(6) Any dispute whether a lease is a lease to which this section applies may be referred to the High Court on a summons taken out by a party thereto, and the decision of the High Court thereon shall be final and shall not be subject to review in any other court.

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

Powers of
Registrar

15.-(1) In addition to any other powers in that behalf, the Registrar may refuse to register a disclaimer of a farming right or a lease under section 13 or 14 unless the party disclaiming delivers to the Registrar the contract for and certificate issued in respect of, the farming right, or the 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 contract, certificate or 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.

16. A submortgagee under a submortgage created out of a mortgage of a farming right by a mortgagee, being a mortgagee-

Claims by sub-mortgagees

(a) who consents to the disclaimer of such right under section 13; and

(b) who serves notice, or in respect of whom notice is served under paragraph (a) of the proviso to subsection (5) of section 6, may by notice served on the Commissioner at any time before he receives any such premium or damages to which that section refers in respect of such farming right, claim the payment of any sum due as principal and interest under the submortgage 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 submortgagee, or if notices are served under this section by more than one, to the submortgagees, 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 submortgagee under the submortgage shall be reduced by the amounts paid to the latter under this section.

PART IV

GENERAL

17. For the avoidance of doubts it is hereby declared that nothing in this Act shall preclude the Commissioner and an occupier under a farming right from entering into a deed of variation altering, adding to or deleting the terms and conditions to which the farming right is subject or the purposes for which the farming right was or is deemed to have been granted.

Variation of conditions of occupancy

18. In the absence of agreement as to the value of any unexhausted improvements assessed under the provisions of section 13, between the Commissioner and a person having any interest in the premium or damages referred to in that section, the matter shall be settled by the High Court upon a summons taken out by the party to the dispute and the decision of the High Court thereon shall be final and shall not be subject to review in any court.

Arbitration as to value

19. (1) There shall be an Agricultural Land Tribunal composed of-

Appeals

(a) a Chairman, being a person qualified for appointment as a judge of the High Court, appointed by the Minister for Justice;

(b) one member appointed by the Minister for Lands, Forests and Wildlife; and

(c) one member, being an officer of the Ministry of Agriculture, appointed by the Minister for Agriculture.

(2) An occupier or a tenant, aggrieved by the decision of the Commissioner in that behalf may appeal to the Agricultural Land Tribunal against-

(a) a refusal to make a declaration under paragraph (a) of subsection (1) of section 6;

(b) a refusal to make a declaration, or the making of a declaration under the proviso to subsection (2) of section 7;

(c) a refusal to postpone the operative date under section 11. or

(d) a refusal to declare any part of land an excluded part on the grounds set out in paragraphs (a), (b) or (c) of section 12.

(3) The Agricultural Land Tribunal shall determine any appeal as the merits of the case require, and the Commissioner shall give effect to any such determination inconsistent with a decision from which the appeal was made.

(4) The decision of the Agricultural Land Tribunal on an appeal under this section shall be final and shall not be subject to review by any court or other authority.

Miscellaneous
power of
Commissioner

20.-(1) The Commissioner may require any occupier of a farming right or tenant of land subject to a farming right or the agent or manager of such occupier or tenant to make a return of the use to which the land subject thereto is put, and any such occupier, tenant, manager or agent who fails to make such return within the time (not being less than twenty-eight days) specified in such requirement, or wilfully makes a return false in a material particular shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one thousand shillings.

(2) The Commissioner may, by notice in the *Gazette*, delegate to any person holding office in the service of the Republic any of his functions under this Act.

Service of
notices

21. A notice under this, Act shall be deemed to have been served on or given to any person—

(a) if served on him personally or on an agent appointed by him to receive service;

(b) if left for him at his last known address;

(c) if sent by registered post addressed to, him at his last known address,

and in the case of an occupier who appoints a manager who is approved under the 1948 Regulations, by service on, or leaving or sending the same for or to the manager in the manner provided in the foregoing provisions of this section.

Exemption
from
duties
and fees

22.-(1) A disclaimer and surrender under section 13 or 14 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;

(c) stamp duty-

(2) An occupier to whom a new right of occupancy over any retained part has been granted under section 13 shall be exempt from payment of—

(a) any fee payable to the Republic or any person in the service of the Republic for a survey of the retained part;

(b) any fee payable under the Land Ordinance or the Land Registration Ordinance, and stamp duty, on the issue of the certificate of occupancy in respect thereof.

23.-(1) The Chief Justice may make rules of court regulating the procedure to be followed and the fees to be paid in proceedings by way of summons under this Act. Rules

(2) Subject to the provisions of subsection (1), 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 provide for-

- (a) the survey of any retained part;
- (b) prescribing forms to be used and for fees otherwise than for the matters specified in section 22;
- (c) prescribing the times at which and the periods within which acts shall or may be done for the purposes of this Act;
- (d) the practice and procedure of the Agricultural Land Tribunal.

24. Nothing in this Act shall prejudice any rights or remedies which the President may have by reason of—

Saving of
the President's
rights

- (a) the failure of the occupier of any farming right prior to the operative date or any surrender to comply with any conditions then applicable to the right of occupancy; or
- (b) the failure of the occupier of any exempt right of occupancy, or of any right of occupancy over a residential area (as defined in section 13) or excluded part to comply with any conditions applicable thereto.

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

Pius Msekwa
Clerk of the National Assembly