

THE UNITED REPUBLIC OF TANZANIA



No. 8 OF 1966

I ASSENT,

Julius K. Nyerere
President

6TH JANUARY 1966

An Act to make provision for the acquisition of certain farmlands in the occupation of persons other than their owners and for the regrant of lands so acquired

[7TH JANUARY, 1966]

ENACTED by the Parliament of the United Republic of Tanzania.

- 1.** This Act may be cited as the Rural Farmlands (Acquisition and Regrant) Act, 1965. short title
- 2.**-(1) In this Act, unless the context otherwise requires- Interpretation
- "cultivator", in relation to any rural farmland, means a person, other than the owner, who cultivates that rural farmland, and includes a person, other than the owner, who uses that rural farmland for any, agricultural, horticultural or forestry purpose or for the pasturing of livestock or other domestic animals and a "deceased cultivator" means a person, other than the owner, who so cultivated or used the rural farmland;
- "Government lease" has the meaning ascribed thereto in the Freehold Titles (Conversion) and Government Leases Act, 1963; Acts 1963
No. 24
- "the Minister" means the Minister for the time being responsible for lands;
- "owner", in relation to land held for a Government lease, means the tenant and, in relation to land held for a right of occupancy, means the grantee of the right;
- "registered land" and "unregistered land" have the meanings respectively ascribed to those expressions in the Land Registration Ordinance; Cap. 334
- "registered right or interest" means any right or interest in land registered under the Registration of Documents Ordinance or the Land Registration Ordinance; cap. 117

"the Registrar", in relation to registered land, means the Registrar of Titles appointed under the Land Registration Ordinance and, in relation to unregistered land, means the Registrar appointed under the Registration of Documents Ordinance;

Cap. 113

"right of occupancy" means a right of occupancy granted under the Land Ordinance;

"rural farmland" means land **in** a rural area which is held for, or forms part of land held for-

(a) a Government lease;

(b) a right of occupancy granted, or deemed to have been granted, for agricultural, pastoral or mixed agricultural and pastoral purposes, before or in pursuance of a contract made before the tenth day of December, 1948,

Acts 1963
No. 40

but does not include any land which is, or which is used for the purposes of, or which is the property of, an approved enterprise within the meaning ascribed to that expression in the Foreign Investments (Protection) Act, 1963;

"the title- in relation to any rural farmland means the Government lease or the right of Occupancy for which such farmland and all other land held under the same lease or right is held;

"unexhausted improvement- has the meaning ascribed thereto in the Land Ordinance.

(2) In the definition "rural farmland" in subsection (1), "rural area" means any area which is not-

(a) within the jurisdiction of a city, municipal or town council; or

(b) an area which, immediately before the establishment of a district council for any part of Tanganyika, was a township declared under the Townships Ordinance or a minor settlement declared under the Minor Settlements Ordinance; or

Cap. 102

(c) a planning area declared under section 13 of the Town and Country Planning Ordinance which includes any area described in paragraph (a) or (b) of this definition or any part of such an area.

Cap. 378

(3) For the purposes of the definition "cultivator" in subsection (1), the use of any land as a residence by a person who, in respect of any other land contiguous thereto is a cultivator, shall be deemed to be a use of the land for agricultural purposes.

Acquisition and Regrant of certain rural farmlands

Minister may acquire certain rural farmlands for the purpose of making new grants

3.(1) Where-

(a) a cultivator is in occupation of rural farmland; and

(b) the Minister is of the opinion that, by reason of the development or improvement of, or expenditure of money or effort upon such rural farmland by-

- (i) such cultivator; or
- (ii) a deceased cultivator formerly in occupation of such rural farmland who is in the prescribed relationship to the present cultivator; or
- (iii) both such cultivator and such deceased cultivator,

it is fitting that a right to such rural farmland should be granted to such first-mentioned cultivator,

the Minister may, subject to the provisions of this Act, acquire the rural farmland so occupied and any necessary **boundary area for the** purpose of making a grant to the cultivator under section 8.

(2) For the purposes of this Act-

- (a) a cultivator is in occupation of rural farmland if he is in actual personal occupation of such rural farmland, or if he enjoys any right or licence to cultivate or use such rural farmland either continuously or seasonally, otherwise than—
 - (i) under a grant of a right or interest therein made with the approval of the appropriate authority; or
 - (ii) under a grant of a right or interest therein for a term of not less than ten years (such term being a term certain or the sum of an initial term certain and any other term certain for which the initial term may be renewed under an option exercisable by the grantee), if such grant was, at the time it was made, a grant for which no consent or approval of any authority was required by written law;
 - (iii) as a servant of any person having any title, right or interest in the land:

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

- (iv) as a trustee, personal representative, receiver or agent, or under any mortgage or charge;
- (v) as a trespasser:

Provided that nothing in this paragraph shall apply to a person who entered upon the land under a licence to use the land as a cultivator;

and references to the former occupation of a deceased cultivator shall have a corresponding meaning;

- (b) a person who, had this Act come into operation on the twenty-ninth day of November, 1965, would have been a cultivator in occupation of rural farmland but who has, between that date and the commencement of this Act, been evicted from such rural farmland, shall, during the period beginning on the date on which this Act comes into operation and the first anniversary of that date, be deemed to be a cultivator in occupation of the relevant parcel of rural farmland;

- (c) a deceased cultivator is in the prescribed relationship to a present cultivator if-
- (i) he was the father, grandfather, uncle or brother of the present cultivator, the wife of any of the foregoing, or the husband or wife of the present cultivator; and
 - (ii) if the rural farmland had been land held by the deceased cultivator for a right under customary law, it would have passed from the deceased to the present cultivator on the death of the former intestate;
- (d) a necessary boundary area means so much of the owner's rural farmland contiguous to the land occupied by the cultivator as, in the opinion of the Minister, it is necessary to acquire in order that the boundaries between the land to be acquired and the remainder of the land held for the same title are rational and convenient:

Provided that the total area of any necessary boundary area shall not exceed one tenth of the area of the land contiguous thereto which is occupied by the cultivator and which the Minister then proposes to acquire under this Act.

(3) In subsection (2) of this section, "authority" means the Minister or the Commissioner for Lands, or any other public authority or public officer of, or in the service of, the Government or any former Government in whom a power to consent or approve a disposition of land presently vested in the Minister or Commissioner was vested at the relevant time; and "the appropriate authority" means such authority aforesaid whose approval or consent to the relevant grant is or was required by law.

Notice of
intention to
acquire land

4. (1) Where the Minister intends to acquire any rural farmland under this Act, he shall serve notice of his intention-

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

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

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

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

- (a) contain a statement of the term of the grant which the Minister proposes to make to the cultivator under section 8, of the rent and premium (if any) payable thereunder, and of any conditions thereof,
- (b) be accompanied by a sketch map of the land which the Minister proposes to grant to the cultivator under section 8, due regard being had to the provisions of subsection (2) of that section.

(4) The Minister shall give notice in the *Gazette* of his intention to acquire any rural farmland under this Act. Every such notice shall be published in the *Gazette* as soon as is practicable after service upon the owner of notice under subsection (1) and shall contain a statement of the name of the owner, a description of the whole land held for the title and of the title, and a description of the land to be acquired.

5-(1) The Minister may withdraw from the acquisition of any rural farmland at any time before the title of the owner thereof is transferred to the President or, as the case may be, extinguished.

Withdrawal
from
acquisition

(2) Where the Minister withdraws from the acquisition of land-

- (a) any instrument for the assignment, conveyance or surrender of any title, right or interest in the land which was made in accordance with any notice relating to such acquisition but which has not, at the date of withdrawal, taken effect, shall be void; and
- (b) the Minister shall, so far as he is able and free of charge, cause to be granted, re-assigned or conveyed to the persons formerly entitled thereto (other than any such persons whose interest or title would have expired by the passage of time) any right or interest assigned, conveyed or surrendered to the President in accordance with any notice relating to such acquisition.

6.--(I) Where the period specified in accordance with subsection (2) of section 4 has expired and all title, right and interest in the land to be acquired has not been assigned, conveyed or surrendered to the President, the Minister may apply, *ex parte*, to the Registrar for the grant and registration of a certificate of title to such land, and, notwithstanding anything to the contrary contained in the Land Registration Ordinance, the Registrar shall, if satisfied by affidavit or otherwise that-

Extinguish-
ment of title
to acquired
land

- (a) the application is made in such circumstances aforesaid in respect of an acquisition in pursuance of the powers conferred by section 3; and
- (b) no proceedings in respect of the acquisition of the land are pending in the High Court or the Court of Appeal,

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

(2) Where a certificate of title is registered in accordance with subsection (1), such certificate shall confer on the President the absolute right and title to the land comprised therein free from all adverse or competing titles, rights, interests, trusts, claims and demands whatsoever and such adverse or competing titles, rights, interests, trusts, claims and demands shall, to the extent that they touch or concern the land, be extinguished.

(3) A certificate of title shall be in the prescribed form.

Minister
may pay
compensa-
tion

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

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

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

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

Regrant of
acquired land

8.-(I) Subject to the provisions of this section, where any land is acquired under this Act, the Minister shall grant a right of occupancy over the land to the cultivator in respect of whom it was acquired.

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

(3) Subject to the provisions of the Land ordinance, the terms and conditions of rights of Occupancy granted under this section shall be at the discretion of the Minister, and in making a grant under this section

the Minister shall not be bound by anything contained in the notice served on the cultivator in accordance with subsection (1) of section 4, unless the cultivator has notified the Minister in writing of his acceptance of the terms and conditions set out in such notice.

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

(5) Where the Minister makes a grant of land under this section, he shall have power to grant, or reserve, any easement of necessity over or in respect of the land or any other land of the former owner.

Miscellaneous

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

Service of notices

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

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

- (i) if the notice is directed to a person other than the cultivator, it shall, so far as is possible, be affixed to a part of the land outside the area occupied by the cultivator:
- (ii) if the notice is directed to a cultivator, it shall be affixed within the area occupied by him.

10.-(1) Where any person authorized for the purpose has reason to believe that any person other than the owner is carrying on any farming operation on any rural farmland and is of the opinion that an investigation ought to be made of the nature of his occupation and the extent of his development or improvement of, or of his expenditure of money or effort upon, such farmland, such person may enter upon such rural farmland and make such investigation, and may survey the rural farmland and determine any boundary or line of demarcation between the land in any cultivator's occupation (including any necessary boundary area) and any other land of the owner contiguous therewith.

Power of entry

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

Possession of land acquired	<p>11. Where any rural farmland is acquired under the provisions of this Act, any persons authorized for the purpose any enter upon and take possession of such land for the purpose of giving effect to such acquisition or to any grant of such land in accordance with this Act, and if any other persons hinders or obstructs any person so authorized, the Minister may apply ex parte to the court of a civil magistrate for a writ of possession and such court may, upon proof of the acquisition of the land issue a writ of possession (in the like form, with any necessary variations, as that prescribed in the schedule to the Land Acquisition Ordinance) addressed to any officer of the court or to any police officer under which such officer or police officer may forthwith eject any person withholding possession.</p>
cap.118	
Authorized persons and penalty for obstruction	<p>12.(1) A person is authorized for the purposes of section 10 or section 11 if he is authorized in that behalf in writing under the hand of the Commissioner for Lands.</p> <p>(2) Every person who-</p> <p>(a) wilfully hinders or obstructs any person duly authorized for the purpose of section 10 or section 11 from entering upon any land for the purposes for which he is so authorized; or</p> <p>(b) hinders, obstructs or molests any such person in the exercise of the powers conferred upon him by the relevant section; or</p> <p>(c) hinders, obstructs or molests any person serving a notice or affixing a copy thereof to any part of rural farmland for the purposes of this Act,</p> <p>shall be guilty of an offence and shall be liable on conviction to imprisonment for a term not exceeding three months or to a fine not exceeding one thousand shillings or to both such fine and imprisonment.</p>
Amendment of registers	<p>13, (1) Where any parcel of land has been acquired or any easement of necessity has been granted or reserved, under this Act, the Registrar shall make such entries in or amendments to the appropriate registers as the circumstances may require and may, in the case of registered land and if the appropriate certificate of title or interest is delivered to him, issue a new certificate of title or interest (due provision being made for any subsidiary estates or interests which have not been assigned, conveyed, surrendered or extinguished) over the remainder of the land held for the same title.</p> <p>(2) The Registrar may require the owner of any registered land or any other person having a registered interest therein to deliver to him any certificate of title or interest relating to any parcel of land acquired under this Act in order that the Registrar may exercise any power conferred on him by subsection (1) of this section, or may require such person to give security for his failure to make such delivery.</p> <p>(3) Any person who, without lawful excuse, fails to produce any such certificate in his possession or under his control, or who, without reasonable cause, refuses or neglects to give such security, within the time specified by the Registrar, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one thousand shillings.</p>

14. Every -

- (a) assignment, conveyance and surrender made in accordance with a notice relating to the acquisition of land under this Act;
- (b) rectification or amendment of a register or of a certificate of title or interest, and every instrument of security, under section 13;
- (c) instrument (including a grant) made for the purposes of subsection (2) of section 5,

Exemption
form stamp
duty stamp
duty and
fees

shall be exempt from-

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

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

Abatement
or rent

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

Forms

Restriction of certain proceedings relating to eviction and of sub-leasing

17. (1) During the period beginning on the day this Act comes into operation and ending on the first anniversary of that day, no proceedings may be brought by or on behalf of the owner or any person claiming under him for the determination of any interest in rural farmland of any cultivator in occupation thereof, for the eviction of any such cultivator from such rural farmland or for the execution of any decree for the eviction of any such cultivator from any such farmland unless-

Cultivator
not to be
evicted

- (a) the Commissioner for Lands has consented thereto; or
- (b) entry has been made on the rural farmland concerned in pursuance of the powers contained in section 10 and the Minister has since discontinued acquisition.

(2) Where-

- (a) any person acting in pursuance of the powers conferred by section 10 has entered upon any rural farmland for the purposes of making any investigation in accordance with that section; or
- (b) the Minister has served notice on the owner of any rural farmland of his intention to acquire the same under this Act,

then, so long as the Minister proceeds with the acquisition, no proceedings may be brought by or on behalf of the owner or any person claiming under him for the determination of any interest in the rural farmland of any cultivator in occupation thereof, for the eviction of any such cultivator from such rural farmland, or for the execution of any decree for the eviction of any such cultivator.

(3) For the purposes of this section the Minister shall be deemed to have discontinued acquisition-

- (a) if six weeks have expired since the entry of an authorized Person upon the rural farmland in pursuance of the powers contained in section 10 and no notice of the Minister's intention to acquire the same has been served on the owner of such farmland;
- (b) on the Minister's withdrawal from the acquisition;
- (c) on the grant of the land in accordance with section 8 to any person other than the cultivator.

No sub-lease
to be granted
of rural
farmlands
without
consent

18. Notwithstanding anything contained in the Freehold Titles (Conversion) and Government Leases Act, 1963, no person shall, without the consent of the Commissioner for Lands, grant any sub-lease of any rural farmland or create any possessory or reversionary interest out of any such sub-lease, and any purported disposition made in contravention of the provisions of this section on or after the twenty-ninth day of November, 1965 shall be void.

Passed in the National Assembly on the twenty-third day of December, 1965.


Msekwa
Clerk to the National Assembly