

CHAPTER 118
THE LAND ACQUISITION ACT
[PRINCIPAL LEGISLATION]
ARRANGEMENT OF SECTIONS

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CHAPTER 118

THE LAND ACQUISITION ACT

An Act to provide for the compulsory acquisition of lands for public purposes and in connection with housing schemes.

[23rd March, 1968]

[GN. No. 12 of 1968]

Acts Nos.
47 of 1967
25 of 1968
2 of 2002

PART I

PRELIMINARY PROVISIONS

Short title

1. This Act may be cited as the Land Acquisition Act.

Interpretation

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

Act No.
2 of 2002 Sch.

“corporation” means any body corporate incorporated or established by or under any written law and includes a company which, though not incorporated in Tanzania, has complied with the respective provisions of the Companies Act;

Cap. 212

“Court” means the High Court (Land Division);

Cap. 393

“land” means any parcel of land held for a Government lease as defined in the Freehold Titles (Conversion) and Government Leases Act or under a right of occupancy as defined in the Land Act and any portion of, or any estate or interest in, such land;

Cap. 113

“Minister” means the Minister responsible for land;

Cap. 287

“minor settlement” means a minor settlement declared as such under the Local Government (District Authorities) Act, or an area under the jurisdiction of the District Council which immediately prior to the establishment of such District Council was a minor settlement;

- Cap. 288 “municipality” means a municipality established under the Local Government (Urban Authorities) Act;
- R.L.
Cap. 101 “township” means an area within the jurisdiction of a Town Council and an area which, immediately before the establishment of a District Council for any part of Tanzania, was a Township declared under the Township Ordinance.

PART II

COMPULSORY ACQUISITION

(a) President may acquire lands

Power of
President to
acquire lands

3. The President may, subject to the provisions of this Act, acquire any land for any estate or term where such land is required for any public purpose.

Definition of
public purpose

4.-(1) Land shall be deemed to be required for a public purpose where it is-

- (a) for exclusive Government use, for general public use, for any Government scheme, for the development of agricultural land or for the provision of sites for industrial, agricultural or commercial development, social services or housing;
- (b) for or in connection with sanitary improvement of any kind, including reclamations;
- (c) for or in connection with the laying out of any new city, municipality, township or minor settlement or the extension or improvement of any existing city, municipality, township or minor settlement;
- (d) for or in connection with the development of any airfield, port or harbour;
- (e) for or in connection with mining for minerals or oil; or
- (f) for use by any person or group of persons who, in the opinion of the President, should be granted such land for agricultural development.

(2) Where the President is satisfied that a corporation requires any land for the purposes of construction of any work which in his opinion would be of public utility or in the public interest or in the interest of the national economy, he may, with the approval, to be signified by resolution, of the National Assembly and by order published in the *Gazette*, declare the purpose for which such land is required to be a public purpose and upon such order being made such purpose shall be deemed to be a public purpose for the purposes of this Act.

Preliminary
investment

5.-(1) Where the President considers it desirable that land in any locality should be examined with a view to its possible acquisition for any public purpose, it shall be lawful for any person either generally or specially authorised by the Minister in this behalf, and for his assistants and workmen, to do all or any of the following things-

- (a) to enter upon and survey and take levels of any land in such locality;
- (b) to dig or bore under the subsoil;
- (c) to do all other acts necessary to ascertain whether the land is adapted for such purpose; and
- (d) to clear, set out and mark the boundaries of the land proposed to be taken and the intended line of the work (if any) proposed to be made thereon:

Provided that, no person except with the consent of the occupier thereof shall enter into any building or upon any enclosed court or garden attached to a dwelling house, without previously giving such occupier at least three days notice of his intention to do so.

(2) As soon as conveniently may be after any entry made under subsection (1), the Government shall pay for all damage done in consequence of the exercise of any of the powers conferred by subsection (1), and, in the case of a dispute as to the amount to be paid, either the Minister or the person claiming compensation may refer such dispute to the Regional Commissioner for the region in which the land is situate and the decision of the Regional Commissioner shall be final.

Notice of
intention to take
lands

6. Where the President resolves that any land is required for a public purpose, the Minister shall give notice of intention to acquire the land to the persons interested or claiming to be interested in such land, or to the persons entitled to sell or convey the same, or to such of them as shall, after reasonable inquiry, be known to him.

Notice or
intention to yield
possession and
power to take
possession

7.—(1) The Minister may, by notice under section 6 or intention by any subsequent notice, direct the persons upon whom the notice is required to be served under section 6 to yield possession of such land after the expiration of the period specified in the notice, which period shall not be less than six weeks from the date of the publication of the notice in the *Gazette* in accordance with subsection (3) of section 8:

Provided that, where the President has certified that the land is urgently required for a public purpose, such persons may be required to yield up possession of the land within such lesser period as the President may direct.

(2) At the expiration of the period specified in subsection (1), the President and all persons authorised by him shall be entitled to enter into and take possession of such land accordingly.

Service and
publication of
notice

8.—(1) Every notice under section 6 and 7 shall be served either personally on the persons to be served or shall be left at their last usual place of abode or business, if any such place can after reasonable inquiry be found, and in case any such person is absent from Tanzania or if such person or his last usual place of abode or business after reasonable inquiry cannot be found, such notice shall be left with the occupier of such land, or if there be no such occupier, shall be affixed upon some conspicuous part of such land.

(2) Where any person upon whom a notice under section 6 or 7 is required to be served is a corporation, such notice shall be deemed to have been served personally upon the corporation if it is left at the principal office of such corporation in Tanzania or if no such office can after reasonable inquiry be

found, is served upon some officer (if any) or agent (if any) of such corporation in Tanzania.

(3) Every notice under section 6 and 7 shall be published in the *Gazette* as soon as may be practicable after the same has been served in accordance with subsection (1).

(4) Where any notice under section 6 or 7 has been published in the *Gazette*, the acquisition of the land to which such notice relates shall not be invalid by reason only of any irregularity in the service of the notice or by reason of it having been published prior to its service on any person required to be served therewith.

Party not to be compelled to sell or convey part of house

9. A person shall not at any time be required to yield up possession to the President of a part only of any house or other building if such person is willing and able to yield possession of the whole of such house or building.

Owners of inter-related lands may insist on same being taken

10.—(1) Where any land acquired under this Act is a portion of land held for a Government lease or under a right of occupancy in the circumstances in which the remainder of land would be of less than half an acre, the holder of the Government lease or right of occupancy may, within thirty days of the notice that the portion of the land is required for a public purpose being published in the *Gazette*, by notice in writing served upon the Minister, require the President to acquire the whole of the land comprised in the Government lease or right of occupancy, as the case may be, and upon such notice being served the President shall acquire the whole of such land:

Provided that, where the President is satisfied that the holder of the Government lease or right of occupancy holds a Government lease or right of occupancy in respect of land immediately adjoining the land which would remain in his possession should the acquisition of the portion required for a public purpose be completed, so that the land so remaining in his possession together with such adjoining land would exceed

half an acre in area, the President may refuse to acquire the remainder of the land.

(2) This section shall not apply to any land situate within any city, municipality or township.

(b) Compensation

Government to
pay compensation

11.—(1) Subject to the provisions of this Act, where any land is acquired by the President under section 3, the Minister shall on behalf of the Government pay in respect thereof, out of moneys provided for the purpose by Parliament, such compensation as may be agreed upon or determined in accordance with the provisions of this Act.

Cap. 113

(2) Notwithstanding any provision of the Land Act to the contrary, the President may, with the consent of the person entitled to compensation under subsection (1) and shall, in cases where it is so required by subsection (3) of section 12, make to the person entitled to compensation a grant of public land not exceeding in value the value of the land acquired, for an estate not exceeding the estate acquired and upon the same terms and conditions as the land acquired was held, so far as the same may be practicable, in lieu of or in addition to any compensation payable under this section.

Restriction on
compensation

12.—(1) A compensation shall not be awarded in respect of any land which is vacant ground.

(2) Where the development of any land acquired under this Act is inadequate, whether such land is in an urban area or in a rural area, any compensation awarded shall be limited to the value of the unexhausted improvements of the land.

(3) Where the land acquired is land which, immediately prior to its acquisition, was being used as a cemetery or a crematorium or for any purpose other than for gain or profit for, or personal occupation by, the person holding the Government lease or right of occupancy in respect of the land the compensation shall, if the President so directs, consist of the value of any unexhausted improvements of the land and

a grant of some public land not exceeding in value the value of the land acquired, for an estate not exceeding the estate acquired and upon the same terms and conditions as the land acquired was held so far as the same may be practicable and the public land so granted shall, so far as the same may be practicable, be within the same city, municipality, township or minor settlement, as the case may be, within which the land acquired is situate unless the holder of such Government lease or right of occupancy agrees to accept a grant of public land elsewhere.

(4) Land shall not cease to be vacant ground for the purpose of this section by reason only of it-

- (a) having been fenced or hedged;
- (b) having been levelled;
- (c) having been ploughed or cleared;
- (d) consisting of a cleared or partially cleared site of some former development; or
- (e) being used, otherwise than as an ancillary to adjacent land which is not vacant land or land which is inadequately developed, as a place of deposit for refuse or waste or as standing or parking places for vehicles:

Provided that, in the case of land in a rural area which is used for agricultural, pastoral or mixed agricultural and pastoral purposes, the land shall not be deemed to be vacant ground unless such land has not been used for cultivation or pasturage or mixed cultivation and pasturage, as the case may be, at any time during the period of twelve months immediately preceding the publication of the notice in the *Gazette* stating that the land is required for a public purpose.

(5) The development of land shall be deemed to be inadequate for the purposes of this section-

- (a) where the land is in an urban area, if-
 - (i) it has been developed by erection of buildings, structures or works which have fallen into substantial disrepair, or into desuetude, and the land has been unoccupied, or occupied solely by a

person employed as a watchman, for a continuous period of not less than three months immediately preceding the publication of the notice stating that the land is required for a public purpose;

- (ii) it is used or developed at the time of the publication of such notice solely for cultivation or pasturage or both cultivation and pasturage; or
- (iii) it is used at the time of the publication of such notice solely for habitation, in dwellings of their own construction or dwelling places adapted from buildings formerly abandoned, by persons holding at the will or sufferance of a person having title to the land or by trespassers; and

(b) where the land is in a rural area, if, having regard to the character and situation of the land and other relevant circumstances, the development of the land is not in accordance with good estate management.

(6) Nothing in this section shall apply to land within the six months immediately following-

- (a) the grant of a right of occupancy under the Land Act;
- (b) a declaration under the Freehold Titles (Conversion) and Government Leases Act that the land is ripe for development;
- (c) the approval of the Minister of, or the consent of the Commissioner for Lands to, a disposition of the land; or
- (d) the approval of the local government authority within whose area of jurisdiction the land is situate of a scheme for the development or redevelopment of the land.

(7) In this section-

“rural area” means any area which is not an urban area;

“unexhausted improvements” means any quality permanently attached to the land directly resulting from the expenditure of capital or labour by a person holding under a right of occupancy or Government lease, or any person acting on his behalf or holding under him for a term of years, and increasing the productive capacity, utility or amenity

Cap. 113
R.L.
Cap. 523

thereof, but does not include the results of ordinary cultivation other than standing crops or growing produce; “urban area” means an area within the jurisdiction of a city, municipal or town council.

Disputes as to compensation, etc.
Act No.
2 of 2002 Sch.

13. Where any land is acquired under this Act and there is a dispute or disagreement relating to any of the following matters-

- (a) the amount of compensation;
- (b) the right to acquire the land;
- (c) identity of persons entitled to compensation;
- (d) the application of section 12 to the land;
- (e) any right, privilege or liability conferred or imposed by this Act; or
- (f) the apportionment of compensation between the persons entitled to the same,

and such dispute or disagreement is not settled by the parties concerned within six weeks from the date of the publication of notice that the land is required for a public purpose, the Minister or any person holding or claiming any interest in the land may institute a suit in the Court for the determination of the dispute.

Assessment of compensation

14. In assessing compensation for any land acquired under the provisions this Act, the Minister or the Court, as the case may be, shall, subject to section 12-

- (a) take into account the value of such land at the time of the publication of a notice under section 8 without regard to any improvement or work made or constructed thereon thereafter or to be made or constructed in the implementation of the purpose for which it is acquired;
- (b) when part only of the land belonging to any person is acquired, take into account any probable enhancement of the value of the residue of the land by reason of the proximity of any improvements or works made or constructed or to be made or constructed on the part acquired;

- (c) take into account the damage, if any, sustained by the person having an estate or interest in the land by reason of the severance of such land from any other land or lands belonging to the same person or other injurious effect upon such other land or lands;
- (d) not take into account any probable enhancement in the value of the land in future;
- (e) not take into account the value of the land where a grant of public land has been made under the provisions of subsection (2) of section 11;
- (f) assess such compensation in accordance with such principles, in addition to and not inconsistent with the principles specified in this section, as may be prescribed.

Interest

15.—(1) Subject to the provisions of subsection (2), where the President, in pursuance of a notice under section 7, has entered into possession of any land before the compensation has been paid to the person or persons entitled to the same, or before compensation awarded by a decree of the Court in respect of such land has been paid into the Court, as the case may be, the Minister shall pay to such person or persons, in addition to the compensation, interest thereon at the rate of six *per centum* per annum from the date when possession is taken until such compensation is paid to such person or persons entitled to the same or is paid into the Court.

(2) At any time after the publication in the *Gazette* of a notice under section 7 to yield possession of any land, the Minister may, without prejudice to the ultimate conclusion of any agreement as to the compensation to be paid or to the ultimate award of compensation by the Court, pay or tender to any person or persons entitled to such compensation such amount as he may consider to be a fair compensation for the land acquired, and where such payment or tender has been duly made, then, as from the date of the payment or tender, interest shall not be payable under subsection (1) of this section upon such part of the compensation ultimately agreed

on or of the compensation ultimately awarded by the Court as may be equal to the amount so paid or tendered.

Effect of decision of court and postponement of payment of compensation
Cap. 216
Act No.
2 of 2002 Sch.

16.—(1) Appeals from decisions of the Court shall be governed by the provisions of the Land Disputes Courts Act.

(2) In all cases where any compensation has been awarded by the Court, the amount thereof shall, except where the Court otherwise directs be paid into the Court and shall not be paid out of Court save in accordance with the directions of the Court.

(3) The payment of the amount of compensation into the Court as aforesaid shall operate as a complete discharge of the Minister from all claims in respect of the land but shall not bar any subsequent proceedings by any person claiming to have a better right to the compensation or a right to a share of the same against the person to whom the same has been awarded: Provided that, proceedings under this subsection by any person claiming to have a better right to any compensation or a right to share in any compensation shall not be commenced three years after the date of the final decision.

(4) For the purposes of this section, the date of the final decision means the date of the decree of the Court or, where an appeal has been made against such decree, the date of the judgment of the Court of Appeal.

Parties in possession as owner to be deemed entitled to lands

17. Where any question arises respecting the title to any land to be acquired under this Act, the parties in possession as being the owners thereof, or in receipt of the rents of such land as being entitled thereto, immediately before the time when such land is acquired shall be deemed to have been lawfully entitled to such land unless the contrary is shown to the satisfaction of the Court; and all parties claiming under them or consistently with their possession shall be deemed entitled to the compensation, but without prejudice to any subsequent proceedings against such parties at the instance of any person claiming to have a better right thereto.

Payment to
operate as
discharge

18.—(1) Where the Minister pays the amount of compensation to any person who appears to him to be entitled to such payment under section 17 or where he pays such amount into the Court in accordance with subsection (2) of section 16, such payment shall effectively discharge the Minister from being answerable for any misapplication of the amount of compensation or for payment of the whole or any part thereof to any person or persons not entitled to the same.

(2) Where it appears to the Minister that any estate or interest in any land acquired under this Act was held by any person in any fiduciary or representative character, the Minister may, if he thinks fit, apply to the Court for directions as to whom and in what proportions the compensation should be paid.

(3) An application for directions under subsection (2) shall be by chamber summons and shall be regulated, insofar as the same may be applicable, by the rules prescribed in the Civil Procedure Code.

Cap. 33

(c) *Miscellaneous*

When President
may withdraw
from acquisition
of land
Act No.
2 of 2002 Sch.

19.—(1) Nothing in this Act shall be construed as requiring the President to complete the acquisition of any land unless he has entered into possession of the land or has failed within one month of the judgment of the Court to intimate to the Court that he does not intend to proceed with the acquisition:

Provided that, where acquisition is not completed, the owner of the land and all persons entitled to any estate or interest in the land shall be entitled to receive from the Government all such costs as may have been incurred by them by reason or in consequence of the proceedings for acquisition and compensation for the damage (if any) which they may have sustained by reason or in consequence of the notice of intended acquisition.

(2) Where the amount of costs or compensation to which a person may be entitled to under the proviso to subsection (1) is not agreed upon, such person may institute a suit in the Court for the assessment and recovery of the same.

(3) Every suit under subsection (2) shall be governed by the Court and the decree of the Court may be appealed against in the same manner and to the same extent in all respects as other decrees of the Court.

Costs and execution in proceedings in which Government is party

20.—(1) In any proceedings under this Act to which the Government is a party, the parties thereto shall be entitled to receive costs against each other in the same manner as if such proceedings were conducted and had been between private persons:

Provided that, in proceedings under section 13 or section 19 for compensation or costs where the amount awarded by the Court as such compensation or costs to any person does not exceed the sum offered to him by the Minister as such compensation or costs, such person shall pay the costs of all proceedings under section 13 or section 19, as the case may be, rendered necessary by his action.

(2) Where in any proceedings under this Act, a decree or order for the payment of money is passed or made against the Government, such decree or order shall not be enforced save in the manner provided for in the law for the time being in force regulating the enforcement of decrees and orders against the Government.

Proceedings where possession of land withheld
Acts Nos.
25 of 1968 s. 2,
2 of 2002 Sch.

21. Where any person hinders or obstructs any person duly authorised by the President from entering upon and taking possession of any land on which the President may lawfully enter in pursuance of this Act, the Minister may apply *ex parte* at any time to the District Land and Housing Tribunal within whose jurisdiction such land is situate for an order of ejectment and such court may thereupon and upon proof of the publication in accordance with section 8 of the notice under section 7, issue an order of ejectment addressed to any officer of the court or to any police officer and such officer or police officer shall forthwith eject any person so withholding possession.

Penalty for obstruction

22. A person who wilfully hinders or obstructs any person duly authorised by the President from entering upon or taking possession of any land in pursuance of the provisions of this Act or exercising in respect of any land any of the rights conferred by section 5, or who molests, hinders or obstructs such person when in possession of such land, or when exercising any of such rights or hinders or obstructs any officer of court or police officer when executing an order of ejection, shall be liable to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding two years or to both.

Effect of service of notice

23. The fact that a notice has been served upon any person under section 6 or 7 or that any such notice has been published in the *Gazette* shall not be taken as an admission by the President that the person on whom such notice has been served or the person named in the notice or any other person has any estate or interest in the land or any part of the land specified in the notice, or debar the Minister from alleging in any proceedings under this Act or otherwise that all rights in or in relation to such land are vested in the President.

Saving for acquisition by agreement or under any law

24. This Act shall not prevent the President or the Minister from entering into any agreement with a person having any estate or interest in the land for the acquisition of such estate or interest or from acquiring any land under any terms or conditions contained in any Government lease or right of occupancy or under the provisions of any other written law.

Transfer to President Act No. 25 of 1968 s. 3

25. Where a notice to acquire any land under this Act has been published in accordance with the provisions of section 8, the persons entitled to transfer the land shall, within six weeks of the publication of the notice in the *Gazette*, transfer and convey the same to the President, notwithstanding anything to the contrary contained in any written law or in any order made or issued by a court otherwise than under the provisions of this Act.

- Persons entitled to transfer **26.** The persons entitled to transfer land to the President shall be the persons who are seized, possessed of or entitled to land or any estate or interest or interest therein and also all guardians, managers of the estates of lunatics, trustees, executors and administrators, and all persons for the time being entitled to the receipt of the rents and profits of the land; and the power to transfer land to the President as aforesaid may lawfully be exercised by such persons not only on behalf of themselves and their respective heirs, executors, administrators and successors, but also for and on behalf of every person entitled in reversion or remainder after them or in defeasance of their estates, and as to such guardians on behalf of their wards, as to such managers of the estates of lunatics on behalf of such lunatics, and as to such trustees, executors and administrators on behalf of their *cestuis que trust* respectively to the same extent as such wards, lunatics, and *cestuis que trust* could have exercised the same powers under this Act if they had respectively been under no disability.
- Form of transfer **27.** Every transfer and disposition to the President under this Act shall, notwithstanding anything to the contrary contained in any written law, be in the prescribed form.
- Certificate of title where no deed available
Acts Nos.
25 of 1968 s. 4
2 of 2002 Sch.
Cap. 334 **28.**—(1) Where six weeks have elapsed since the publication, in accordance with section 8, of a notice to acquire any land, and no deed of transfer or disposition has been executed for the transfer of such land to the President in accordance with the terms of such notice or other terms as may have been agreed upon between the Minister and the person entitled to transfer such title, the Minister may apply, *ex parte*, to the Registrar for the grant and registration of a certificate of title to the land in accordance with such terms, and notwithstanding anything to the contrary contained in the Land Registration Act or any other written law or any order made or issued by a court otherwise than under the provisions of this Act, the Registrar shall, if satisfied by affidavit or otherwise that-

- (a) the application is made in such circumstances as aforesaid; and
- (b) no proceedings in respect of the acquisition of the land other than proceedings for or relating to compensation, are pending before the Court or the Court of Appeal of Tanzania,

grant to the President a certificate of title to the land in accordance with such terms and record and register the same in the appropriate register.

(2) In this section, Registrar means-

- Cap. 334 (a) where the land is registered land, the Registrar of Titles appointed under the Land Registration Act; and
- Cap. 117 (b) where the land is unregistered land, the Registrar appointed under the Registration of Documents Act.

Effect of transfer
Act No.
25 of 1968 s. 5

29. Where-

- (a) a deed of transfer or disposition is granted in accordance with the provisions of this Act in respect of any land and such transfer or disposition is registered in the appropriate registry in accordance with the provisions of the Land Registration Act or the Registration of Documents Act, as the case may be; or

Caps. 334 and 117

(b) a certificate of title is registered under section 28, such transfer, disposition or certificate of title shall confer upon the President the land comprised or referred to in such transfer, disposition or certificate of title free from all adverse or competing rights, title, trusts, claims and demands whatsoever, but subject, however, to the terms and conditions, if any, therein mentioned.

Conditions to be
imposed upon
corporation for
which land may
be acquired

30. It shall be lawful for the President to require any corporation as a condition precedent to any declaration under subsection (2) of section 4 to enter into a contract with the Government making stipulations to the satisfaction of the President with regard to any of the following matters-

- (a) the provision of security for the payment of the cost of and compensation for acquisition of the land;

- (b) the terms on which the land shall be held;
- (c) the time within which and the conditions under which the work for the construction of which the land is to be acquired shall be executed and maintained; and
- (d) the terms on which the public shall be entitled to use and derive benefit from the work and to deal with the corporation in connection therewith.

Publication of conditions imposed upon corporation

31. Upon the execution of any contract referred to in section 30, the stipulations contained in such contract shall be embodied in the order of the President under subsection (2) of section 4.

Compensation to be under this Act regardless of any law

32. Where any land is acquired under this Act then, notwithstanding the provisions of any other law, the compensation payable, if any, shall be in accordance with the provisions of this Act.

PART III REDEVELOPMENT AREAS

Interpretation of Part III

33.—(1) In this Part, unless the context otherwise requires—
 “appointed day”, in relation to any redevelopment area, means the day on which the order declaring the area to be a redevelopment area is first published in the *Gazette*;
 “building” means any structure of whatsoever materials constructed and whether of a temporary or a permanent nature;
 “development owner”, in relation to any building, means the owner, or where the building was built by or on behalf of the occupier with the consent of the owner, or the building was built by or on behalf of some previous occupier with the consent of the owner and the current occupier paid the immediately preceding occupier consideration for the building, means the occupier;
 “occupier” means the person in occupation of land on the appointed day and, where there are more than one such

person, means that one of them who is the owner, or who is responsible (or would be so responsible if the land were let at a rent or otherwise occupied in circumstances in which consideration or damages for such occupation would be payable) for the payment of rent or other consideration or damages to the owner;

“owner” in relation to land, means the holder of a government lease or a right of occupancy in respect of the land;

“peri-urban area” means any area which is defined by the Minister and is within a radius of five miles outside the boundaries of an urban area;

“urban area” means an area within the jurisdiction of a city, municipal or town council, and an area which, immediately before the establishment of a district council for any part of Tanzania, was a township declared under the Township Ordinance or a minor settlement declared under the Minor Settlements Ordinance.

R.L.
Cap. 101
R.L.
Cap. 102

(2) Where the owner of any land has accepted rent from an occupier who, or whose predecessor has constructed any building on the land, the building shall be deemed to have been constructed with the consent of the owner.

Declaration of
redevelopment
areas

34.—(1) Where the Minister is satisfied as respects any area within an urban area or as respects any peri-urban area-

- (a) that the area is one developed principally for housing and that the greater number of houses therein-
 - (i) are, by reason of their bad arrangement or manner of construction, or of the materials used therein, or of the lack of sanitary facilities or facilities for the storage of food, unsuitable as urban dwellings;
 - (ii) are not of permanent construction; or
 - (iii) are unfit for human habitation; and
- (b) that a scheme for the redevelopment of such area and the provision of housing of improved standards has been or will be prepared, and that such redevelopment cannot be carried out expeditiously or conveniently by the owner or owners,

he may, by order published in the *Gazette*, declare the area to be a redevelopment area.

(2) Where the Minister declares any area to be a redevelopment area, he shall cause the area to be defined on a map and shall cause copies of such map to be exhibited at the offices of the local government authority within whose jurisdiction the redevelopment area or any part thereof is situate.

Extinction of private rights

35.—(1) Upon the appointed day, all interests in or over land within the rights redevelopment area, other than—

(a) the wayleaves, easements or licences described in subsection (4); and

(b) the interests of the President, shall be extinguished and, subject to this Act, all land in such area shall be under the control and subject to the disposition of the President.

(2) Save to the extent that a person entitled to any rights extinguished is eligible for a grant of a right of occupancy under section 36, or provision is made for the preservation of such rights in accordance with section 36 or section 37, compensation shall not be payable for the extinction of any right under this section.

(3) Any agreement for the disposition of any interest in or over land within a redevelopment area which is made, but is not given effect to, before the appointed day shall be void.

(4) Wayleaves, easements or licences to which this section refers are any wayleaves, easements or licences granted by or under any written law in respect of any works of electrical, highway, sewage and drainage, or water undertakings or authorities, post office works or railway works.

Re-grant of land on right of occupancy

36.—(1) Subject to the provisions of section 37, the Minister shall, as soon as may be after the appointed day, grant to every development owner within the redevelopment area, a right of occupancy over the land on which the building of which he is the development owner is situate; and until such

right is granted, the development owner shall be deemed to hold a right of occupancy over such land on such terms as the Minister may by order prescribe, and any person who, immediately before the appointed day, held such land or any part thereof as a tenant or sub-tenant of the development owner shall be deemed to hold the same land or part thereof under a tenancy created out of such right of occupancy on the terms and conditions on which he held the same immediately before the appointed day.

Cap. 113

(2) Subject to the provisions of the Land Act, the terms and conditions of rights of occupancy granted under this section shall be at the discretion of the Minister.

(3) This section shall not require the Minister to make a grant of a right of occupancy to any local government authority but where for this subsection any such authority, would be eligible under subsection (1) for a grant of right of occupancy, the Minister may make land available in accordance with any written law in that behalf.

Preservation
of trusts,
encumbrance,
etc.

37.—(1) Where the person eligible in accordance with section 36 for a right of occupancy over any land held the land or any building or part thereof on the land, immediately before the appointed day-

- (a) on trust for any person or purpose; or
- (b) subject to any incumbrance, interest, right, term or condition for the benefit of another (not being an encumbrance, interest, right, term or condition for the benefit of a lessor as such),

the Minister may, as a condition of the grant, require the proposed grantee to make such disposition or declarations as he thinks necessary or expedient to preserve such trust, encumbrance, interest, right, term or condition for the benefit of the person or purpose formerly entitled thereto.

(2) Where the proposed grantee refuses or neglects to make any disposition or declaration required of him under this section, the Minister may, whether by grant of a right of occupancy to the person for whose benefit any such trust,

encumbrance, interest, right, term or condition subsisted, or otherwise, make such provision for the preservation thereof as he thinks necessary and just.

(3) The Minister may, by notice in writing, require any person eligible for the grant of a right of occupancy under section 36 to make a full disclosure of all trusts and other interests to which this section refers, and any person who neglects or refuses to make such disclosure within the time specified in the notice or who makes any statement which he knows to be false or does not believe to be true in purported compliance with any such notice commits an offence and on conviction shall be liable to imprisonment for a term not exceeding two years or to a fine not exceeding five thousand shillings or to both.

Exemption from fees and stamp duty
Caps. 113 and 334

38.—(1) Fees shall not be payable under the Land Act or the Land Registration Act on the grant of a right of occupancy under section 36 or section 37, or on the first registration of such right.

(2) Stamp duty shall not be payable in respect of the grant of a right of occupancy under section 36 or section 37, or on any disposition or declaration made in accordance with a notice under section 37.

PART IV MISCELLANEOUS PROVISIONS

Repeal

39. [Repeals the Land Acquisition Ordinance R.L Cap. 118.]

Saving and transitional provisions
R.L.
Cap. 118

40. Notwithstanding the repeal of the Land Acquisition Ordinance—

- (a) all proceedings commenced under the Ordinance and pending before any court immediately before the commencement of this Act shall be continued and concluded as if this Act had not been enacted:

Provided that, where any proceedings are pending before any court otherwise than in appeal from a decision of

another court and such proceedings are for assessment of compensation, the compensation shall, if the same has not been assessed, be assessed in accordance with the provisions of this Act and compensation shall not in any such proceedings be awarded in any case in which no compensation would be awarded under this Act;

- (b) all orders, notices, directions, appointments and other acts and things lawfully made, issued or done under any of the provision of the Ordinance and made, issued or done before the commencement of this Act, shall be deemed to have been made, issued or done under the corresponding provision of this Act, and shall continue to have effect accordingly;
- (c) any decree or order of the Court passed or made before the commencement of this Act may be enforced as if this Act had not been enacted.

Regulations

41. The Minister may make regulations for the better carrying out of the purposes of this Act and, without prejudice to the generality of the foregoing, may make regulations-

- (a) prescribing anything which under the provisions of this Act may be prescribed;
- (b) prescribing forms of notices, transfers and dispositions to be issued or made under this Act;
- (c) prescribing, subject to the provisions of section 14, the principles upon which compensation under Part II shall be assessed;
- (d) prescribing rules for the registration of trusts and other interests to which section 37 refers.