

ARRANGEMENT OF SECTION

SECTION

1. Short title
2. Amendment of s. 2 of CAP. 57:01
3. AMENDMENT of S.5 of the principal Act
4. Insertion of new ss. 24B, 24C, 24D and 24E in the principal Act
5. Insertion of new s.40A in the principal Act
6. Saving of existing tenure of estates of private land

An Act to amend the Land Act

ENACTED by the parliament of Malawi as follows-

1. This Act may be cited as the Land (Amendment) Act,2003. Short title
2. The Land Act (hereinafter referred to as the “principal Act”) Amendment of s. 2 of Cap. 57:01
As amended, in section 2, by inserting therein, in proper alphabetical sequence, the following new definition-

“ “ person who is not a citizen of Malawi” includes a company or other corporate or unincorporated body with majority ownership or control in persons who are not citizens of Malawi;”.

3. Section 5 of the principal Act is amended, in subsection (1), Amendment of s.5 of the principal Act
By deleting the proviso thereto and substituting therefore the following-

“Provided that the Minister shall not make a grant of-

- (a) customary land to any person for an estate greater than a lease of 99 years;
- (b) any public land or, notwithstanding paragraph (a), any customary land to any person who is not a citizen of Malawi for an estate greater than a lease of 50 years, unless the Minister, in relationship to a particular case or classes of cases, is satisfied that a greater estate is required for the realization of investment.”

4. The principal Act is amended by inserting therein, immediately after Insertion of new ss. 24 B, 24c, section 24A, the following new sections- 24D and 24E in the principal Act

24B. Any grant of private land to any person who is not a citizen of “Grants of private land to persons Malawi, whether by way of sale, conveyance, assignment, lease, who are not citizens of Malawi transfer or other transaction, shall not be for an estate greater than a lease of 50 years unless, for reasons fully explained in writing

accompanying the application for the registration of the grant, a greater estate is required for the realization of investment:

Provided that where, at the time of the transaction, the existing interest in the private land concerned is for an estate greater 50 years, a grant of private land may be made extending up to the entire remaining estate.

24C.-(1) Without prejudice to the requirements of section 24 A or any Restriction of sale of private other provision of this Act, no person shall sell, whether by private land to persons who are not transaction or by tender, auction or other means, any private land to a citizens of Malawi person who is not a citizen of Malawi, unless-

(a) the intention to sell the private land has been published in a new paper in daily circulation in Malawi not less than twenty-One days before the date of sale, specifying the price, location and size of the private land, any developments thereon and any other particulars sufficient to identify the land;

(b) following the public referred to in paragraph (a), no person who is a citizen of Malawi has made an offer, or has been able, to purchase the private land at a price that is not lower than the published price; and

(c) the purchaser, if not citizen of Malawi, has purchased the private land at a price that is not lower than the published price.

(2) Notwithstanding any provision to the contrary in any other written law, no title private land shall pass under any sale made or purportedly made in contravention of subsection (1), but registration of title upon such sale shall be prima facie evidence of validity of title to the land.

24D. Where private land under freehold title is held by a person who Freehold and held by Nono- is not a citizen of Malawi and who is not ordinarily resident in Malawi residents who are not citizen for a continuous period of more than two years and during that period of malawi

such person has not shown or effected his intention to develop the land or dispose of it or to use or own the land jointly with a citizen or a permanent resident of Malawi, the Minister may, without prejudice to any other powers conferred on him by this Act or any other written law-

(a) by written notice to the person concerned addressed to his registered or his last known address in Malawi, demand voluntary surrender of the land by that person to he Government within a period of ninety days from the date of the notice;

(b) in the event that there is no voluntary surrender as demanded under paragraph (a)-

(i) acquire the land under the Lands Acquisition Act;

Cap. 23: 01 (ii) consult with the Minister responsible for the Town and Country Planning Act for the exercise of the powers under section 55 of that Act.

24E. No title to private land shall pass as between persons who are not citizens of Malawi by way of a gift *inter vivos*.”

5. The principal Act is amended =, by therein, immediately after section 40, following new section-

40A. Where, in relation to any land transaction, a person who is party t such transaction is required, whether as a matter of law, procedure or practice, to disclose his citizenship to the Minister and claims to be a citizen of Malawi, he shall furnish to the Minister evidence of proof of his Malawi Citizenship in accordance with the Malawi Citizenship Act or other applicable law in Malawi.”