

THE UNITED REPUBLIC OF TANZANIA



NO. 27 OF 1965

I ASSENT,

Jalisco K. Nyerere
President

8TH JULY, 1965

An Act to regulate the Tenure of Land in Village Settlements and for connected matters

[9TH JULY, 1965]

ENACTED by the Parliament of the United Republic of Tanzania.

1. This Act may be cited as the Land Tenure (Village Settlements) Short title Act, 1965.

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

Interpreta-
tion

“agricultural plot” means a plot of land within a village settlement designed for use by a farmer for the purpose of agriculture, pasturage, horticulture, market gardening or forestry;

“the Commission” means the Rural Settlement Commission, established by the Rural Settlement Commission Act, 1963, and includes any person to whom the functions of the Commission have been delegated in accordance with this Act;

“derivative right” means a right or interest granted under subsection (1) of section 9 and any right or interest created out of such a right or interest so granted;

“homestead plot” means a plot of land within a village settlement designed for occupation as a homestead by a farmer;

“lease” means a term created out of a right of occupancy;

“settlement right” means a right of occupancy held by the Commission or a society for the purposes of a village settlement;

“society” means a village settlement co-operative society established for the general purposes of a village settlement and recognized by the Commission as a village settlement co-operative society for the purposes of this Act, and includes any person to whom the functions of the society have been delegated in accordance with subsection (3) of this section;

"unexhausted improvement" means any thing or quality permanently attached to the land directly resulting from the expenditure of the capital or labour of a former licensee or tenant or any person acting on his behalf and increasing the production, capacity, utility or amenity thereof, but does not include the results of ordinary cultivation other than standing crops or growing produce.

"village settlement" means an area over which the Commission or a society holds a settlement right or settlement rights, and which is planned for development or developed as a village settlement.

(2) A certificate by the Commission that any area of land which it or a society holds for one or more settlement rights is a village settlement shall be conclusive evidence that such area is a village settlement.

(3) The Commission, by order published in the Gazette, and a society, by its by-laws, may delegate to any person specified therein any of the functions conferred upon it in sections 9, 10, 11 or 12 and, in the case of the Commission, in section 21.

Settlement Rights

Grants of
rights of
occupancy for
village
Settlements
Cap. 113

3.-(1) The Power of the Minister for the time being responsible for lands to, grant rights of occupancy under section 6 of the Land Ordinance shall include power to grant such rights to the Commission for the purposes of village settlements.

(2) Notwithstanding the provisions of the Land Ordinance, a settlement right-

(a) may be granted free of a premium or rent;

(b) shall not be subject to revision of rent;

(c) shall not, unless it is specifically so provided in the contract for, or certificate of, occupancy, be subject to, any regulations made under the Land Ordinance other than regulations providing for the survey and demarcation of the areas subject thereto and 'the maintenance of boundary marks and regulations authorizing persons to enter on the land for the purposes of ensuring that the terms and conditions on which the right was granted are being carried out:

Provided 'that nothing in this paragraph shall be construed as precluding the inclusion of conditions in a contract for a settlement right.

Commission
to develop
village
settlements

4. Where a settlement right has been granted to the Commission, the Commission and any society to which such right is assigned shall make provision for the development and use of the right (either by itself or together with other settlement rights) for the purposes of a village settlement.

Settlement
rights may
be assigned
to societies

5.-(1) The Commission may assign a settlement right in the whole or part of the land subject thereto, to a society.

(2) A society may assign a settlement right in the whole or part of the land subject thereto to the Commission or, with the prior approval of the, Commission, to some other society.

(3) If the Commission is of the opinion that a society has failed to administer a village settlement or otherwise perform its functions efficiently or in the best interest of the members of such society, or if such circumstances arise as require the Minister for the time being responsible for co-operative societies to order an inquiry into the affairs of the society under section 50 of the Co-operative Societies Ordinance, the Commission may require such society to assign any settlement right vested in such society to itself or to some other society, and in any case in which it has made any such requirement the Commission may appoint some person to execute the assignment on behalf of such society; and every assignment executed by any such person shall be as effectual as, if it had been executed by such society.

Cap. 211

(4) If a society is dissolved and immediately before such dissolution it held any land for a settlement right, the settlement right over such land shall forthwith vest, by virtue of this Act and without further assurance, in the Commission.

6.-(1) Save as provided in sections 5 and 9, and in subsection (2) of this section, neither the Commission nor a society shall have power to assign, transfer, exchange, mortgage or charge land held for a settlement right or to grant any lease or other right therein.

Restriction
On Other
dealings

(2) Nothing in subsection (1) shall be construed as depriving the Commission of the power to transfer or surrender land held for a settlement right to the President.

7.-(1) No land held for a settlement right shall be liable to attachment or sale in execution of a decree against the Commission or a society.

Land held for
settlement
right not
liable to
attachment
for debts of
Commission
or a society

(2) Nothing in subsection (1) shall apply to any buildings or other things annexed to any land, and where, but for the provisions of that subsection a court has power to order the attachment or sale of the land, the court may, if it is satisfied that the materials salvaged from the demolition of any building or any other thing severed from the land, is saleable, order the demolition of the building or the severance of such other thing and the attachment and sale of the materials salvaged or thing severed, and, for the purpose of effecting such demolition or severance, the court may order that the decree holder be put in possession of the land for such period as may be necessary and that the costs of demolition or severance be added to the costs of attachment and sale.

8. Neither the Commission nor a society shall be liable for any rate or other impost levied by a local government authority on or in respect of land held by it for a settlement right:

Exemption
from local
authority
rates, etc.

Provided that nothing in this section shall exempt a society from any such rate or impost on or in respect of any parcel of such land on which such society carried on any undertaking for trade or profit.

Derivative Rights

9.-(1) The Commission or a society may grant in and over any part of land which it holds for a settlement right-

Derivative
rights

- (a) licences for use and occupation;
- (b) leases;

(c) easements, ways, way, leaves and profits:

Provided, that where a society is established for a village settlement, no licence or lease of a homestead plot or an agricultural plot in that settlement shall be granted to any person who is not a member of that society; except on the condition that such licence or lease shall determine at the expiration of two months from the date of the grant if the grantee is not then a member, of that society.

(2) Any derivative right granted by the Commission or a society may be granted-

- (a) for a rent, premium or other consideration or free of rent or payment, at the discretion of the grantor; and
- (b) upon such express terms and conditions as may be contained in the grant,

and every such right shall be subject to the terms and conditions (if any) to be implied in the grant or in any contract for the grant by rules made under this Act.

Forfeiture

10. (1) The Commission, or a society acting with the prior approval of the Commission, may forfeit any derivative right granted under section 9 in or over land which it holds for a settlement right-

- (a) for non-payment of rent or other sum due to the grantor or its successor in title, or of rates or other imposts upon the land; or
- (b) for breach of any express or implied term or condition; or
- (c) for repeated failure to comply with rules made under section 18 or of the provisions of a scheme made in accordance with such rules; or
- (d) for abandonment of the land, or of the derivative right, for a period exceeding six months.

(2) Where a society is established for any village settlement, the Commission, or the society acting with the prior approval of the Commission, may forfeit a licence or lease for a homestead plot or an agricultural plot granted under section 9 in or over land which it holds for a settlement right if the licensee or tenant is not, at any time after the expiration of two months from the date of the establishment of such society or from the date on which the licensee or tenant became entitled to enter upon such plot, whichever is the later, a member of such society.

(3) The acceptance by or on behalf of the Commission or a society of any rent or payment shall not operate as a waiver by or on behalf of the Commission or such society of any right to forfeit a derivative right.

(4) Notwithstanding any other law to the contrary, neither the Commission nor a society shall be required to serve any notice of its intention to forfeit a derivative right, or to give the holder of a derivative right any opportunity of making good any breach of a term or condition, or otherwise of remedying his default, or of compensating the grantor or its successor in title.

(5) The Commission and a society may exercise their respective powers of forfeiture-

- (a) by serving written notice on the holder of the derivative right; or
- (b) by displaying a written notice in a prominent manner on the land subject to the derivative right.

11.-(1) A disposition of any derivative right, unless made with the prior approval of the Commission or, if the land is held for a settlement right by a society, unless made with the prior approval of that society, shall be void.

Dispositions
inter vivos

(2) In this section, the expression "disposition" includes a sale, conveyance, mortgage, lease, sub-lease, transfer of possession, declaration of trust, partition and every other disposition whether similar to those before enumerated or not, an agreement for a disposition and, in the case of a derivative right for a homestead plot or an agricultural plot or a derivative right held by a society, a disposition in execution of any decree or order of a court.

(3) No homestead plot or agricultural plot held for a derivative right, and no land held for a derivative right by a society, shall be liable to attachment or sale in execution of a decree against the holder of such right, but nothing in this subsection or in subsection (2) shall be construed as precluding a court from making (and the court is hereby empowered to make and perfect), in relation to any building or other thing annexed to the land, such orders as are provided for in subsection (2) of section 7 in any case where, but for the provisions of this subsection, the court has power to order the attachment and sale of such land, and effect shall be given to such orders according to the terms thereof.

12.-(1) Notwithstanding any other law regulating the succession of property on death, the succession to a derivative right shall be governed by the provisions of this section.

Succession
on death

(2) The holder of a derivative right may at any time nominate-

- (a) i not more than one natural person to whom, in accordance with the relevant law of succession, he may dispose of immovable property by will; or
- (b) if, in accordance with the relevant law of succession, he has no power to dispose of immovable property by will, not more than one natural person who would, but for the provisions of this section, succeed to such property or any share therein,

as his successor to the right, and such person shall be registered in the prescribed manner as his successor:

Provided that-

- (i) no person shall be nominated under this subsection unless he, is approved by the Commission, or, if the land is held for a settlement right by a society, by that society;
 - (ii) the holder shall not nominate different persons as his successor under this section and as his nominee for the purposes of section 26 of the Co-operative Societies Ordinance.
- (3) Where no person living at the death of the holder of a derivative right has been nominated in accordance with subsection, (2), any person who but for the provisions of this section would be entitled to, or to

share in, the derivative right on the death of the holder intestate may apply to a primary court for the nomination of himself or some other person as a successor, and on any such application the court shall, subject to its nominee being approved in accordance with paragraph (i) of the proviso to subsection (2), nominate such person (whether or not the application is made on his behalf), being a person who is qualified to make an application, as to the court seems just and equitable.

(4) Where a person succeeds to a derivative right by virtue of his nomination in accordance with the foregoing provisions of this section-

- (a) any other person who but for the provisions of this section would be entitled to, or to a share in, the derivative right on the death of the holder intestate (not being, in the case of a nomination by the deceased holder, a person whose entitlement was defeasible by a bequest of the derivative right to the successor); and
- (b) any person who, in accordance with the relevant law of succession, would, but for the provisions of this section be entitled to receive any benefit from a successor to the immovable property of the deceased holder, may apply to a primary court for relief under this subsection, and the court may-
 - (i) if the deceased holder left property other than the derivative right to which or to any share in which the successor is entitled, abate such successor's interest therein and compensate the applicant out of the interest so abated; or
 - (ii) if the successor has not such sum, or if the court considers that the successor could not without undue hardship pay such sum immediately, the court may give notice of such fact to the Commission, or, if the land is held for a settlement right by a society, to that society and the Commission or the society shall pay such sum and shall recover the same from the successor in such installments, together with interest on the sum outstanding at such rate as the Commission may prescribe.
 - (iii) make such other order (other than an order relating to any property in the derivative right) as is just and equitable to compensate the applicant.

(5) Where the person nominated as successor is not of full age and capacity, his guardian under the relevant law of succession may, with such approval aforesaid, appoint a trustee to act for the successor until he comes of age or regains his capacity.

(6) Where no person is nominated as successor in accordance with the foregoing provisions of this section, the derivative right shall be forfeit and on such a forfeiture the Commission or, if the land is held for a settlement right by a society that society shall pay to the person or persons who but for the provisions of this section would have succeeded to the derivative right the value of the unexhausted improvement of the land subject to the derivative right less any sums due to the Commission or the society by such holder, and, if any such person was living with the deceased holder within, the village settlement, reasonable compensation for disturbance.

13.- (1) Where a licence to use and occupy a homestead plot or an agricultural plot, or any lease, granted under section 9 is forfeited, the holder of such forfeited licence or lease shall be entitled, on the grant to a third party of a subsequent licence to use or occupy the same plot or any part thereof, or of a subsequent lease over the same land or any part thereof, to be paid the value (at the date of the subsequent grant) of the unexhausted improvement existing on the land included in such subsequent licence or lease.

Compensation for unexhausted improvements

(2) The value of the unexhausted improvement shall be assessed by a committee consisting of—

- (a) two representatives of the Commission, or if a society has been established for the relevant village settlement, one representative of the Commission and one representative of such society;
- (b) if he so wishes, one representative of the person entitled to the compensation.

14.-(1) The provisions of the Registration of Documents Ordinance or of the Land Registration Ordinance shall not apply to derivative rights, but the Commission shall cause to be maintained in each village settlement a register of all derivative rights granted in that settlement and of all approved dispositions and transmissions thereof.

Registration of derivative rights
Cap. 117
Cap. 334

(2) Every register of derivative rights shall be open to inspection in the village settlement to which it refers at such times and on payment of such fees as may be prescribed.

(3) Where the settlement right or rights for the land comprised in a village settlement are vested in a society, the Commission may delegate to that society the duty of maintaining the register of derivative rights for that settlement.

MISCELLANEOUS

15.-(1) Notwithstanding the provisions of the Co-operative Societies Ordinance-

Village Settlement co-operative societies

- (a) the Registrar of Co-operative Societies shall not register a co-operative society which seeks registration as a village settlement co-operative society for the general purposes of a village settlement unless the proposed by-laws of the society are approved by the Commission;
- (b) the Registrar of Co-operative Societies shall not register any alteration in the by-laws of a village settlement co-operative society unless such alterations are approved by the Commission.

(2) For the purposes of the Co-operative Societies Ordinance, a society having as one of its objects the disposal of agricultural produce shall be deemed to include a village settlement co-operative society.

(3) The Minister for the time being responsible for village settlement may, with the concurrence of the Minister for the time being responsible for co-operative societies, make rules modifying in their application to village settlement co-operative societies any rules made under the Co-operative Societies Ordinance, and may, with the like concurrence, exercise the powers of exemption and modification conferred by section 68 of that Ordinance in respect of such societies.

Minimum plots

16. Notwithstanding the provisions of section 9 or any power to approve dispositions of derivative interests, a society shall not make a grant of any licence or lease of a homestead plot or agricultural plot or approve any disposition thereof, if the size of the proposed plot, or of any subdivision of the plot for which its approval is sought, is less than the minimum size prescribed by the Commission for homestead plots or agricultural plots, as the case may be, for the purposes of the relevant village settlement.

Restrictions on transfer

17. Nothing in section 8 of the Land Ordinance or in section 11 of the Land (Law of Property and Conveyancing) Ordinance (both of which restrict certain transfers of land) or in regulations made under section 21 of the Land Ordinance for the restriction of the transfer or dealing in rights of occupancy or interests therein shall apply to-

- (a) any assignment by a society to the Commission or, with the approval of the Commission, to some other society;
- (b) any grant of a derivative right by a society;
- (c) any disposition of a derivative right made with the approval of the Commission or, if the land is held for a settlement right by a society, of that society; or
- (d) any nomination of a successor to a derivative right which is approved by the Commission or, if the land is held for a settlement right by a society, by that society,

if the same is made in accordance with the provisions of this Act.

Rules relating to cultivation and development

18.-(1) The Commission may make rules for the development of village settlements and the plots therein, for the use and cultivation of land in village settlements, for the harvesting and marketing of produce, and for the conservation and protection of natural resources in village settlements.

(2) Without prejudice to the generality of subsection (1), rules made under this section may make provision-

- (a) relating to-
 - (i) the crops to be cultivated and the rotation thereof, and the method and course of the preparation, cultivation and irrigation of land;
 - (ii) the keeping and depasturing of animals;
 - (iii) the methods of fertilization, pest destruction and the prevention of weeds and plant diseases, the uprooting of weeds and diseased plants and the disinfection and clearance of land;
 - (iv) the afforestation of land, the protection of slopes and the drainage of land, including the construction, maintenance and repair of artificial and natural drains, gullies, contour banks, terraces and diversion ditches;
 - (v) the erection, construction and siting of buildings, structures and works;
- (b) requiring the holder of any homestead or agricultural plot to use any specified seed, fertiliser, pesticide, machinery or other thing for the purpose of such rules;

(c) for the making of schemes by societies or such other persons or authorities as may be specified therein for or in relation to any matter in respect of which rules may be made under, this section.

(3) The Commission may, by order published in the Gazette, delegate to a society all or any of its powers to make rules and schemes under this section in relation to a village settlement for which such society is established.

19. The Commission may make rules for the health and administration of village settlements and, without prejudice to the generality) of the foregoing, may make rules-

Rules relating to health and administration, etc

- (a) providing the terms and conditions to be implied in contracts for and grants of derivative interests;
- (b) regulating the manner in which dispositions of derivative interests may be made;
- (c) providing for the procedure to be observed in assessing compensation; and
- (d) prescribing anything which may be prescribed.

20.- (1) Rules made by the Commission under section 18 or 19 may be applied to all village settlements or to such settlements as are specified therein.

General provisions relating to rules

(2) Rules made by the Commission under section 18 or 19 may prescribe penalties for any breach of any such rules, of any rules made by a society under section 18, or of any provision of a scheme made in pursuance of rules made under section 18, not exceeding imprisonment for three months or a fine of five hundred shillings or both; and in the case of the continuance of the breach or non-observance of any such rule or provision after notice of such breach or non-observance shall have been given in the manner specified in such rules to the person offending, a daily penalty during the continuance of the breach or non-performance not exceeding thirty shillings in addition to any other penalty imposed in accordance with the foregoing provisions of this section.

(3) Rules made by the Commission under section 18 may authorize the Commission, or where the land is held for a settlement right by a society, the society to impose a forfeit not exceeding twenty shillings for any such breach or non-observance aforesaid, which sum may be recovered by deduction from any sums owing by the Commission or the society to the person on whom the forfeit is imposed or in civil proceedings in a primary court:

Provided that a person shall not be liable both to a penalty under rules made under section 18 and to a forfeiture under such rules in respect of the same breach or non-observance.

(4) Rules made by the Commission or a society under section 18, and any scheme made in pursuance of such rules, may require any holder of a household or agricultural plot, and any other person residing within the village settlement to which the rules or scheme applies, to comply with the directions of such persons as may be specified therein in respect of any matter contained in such rules or scheme.

Cap. I (5) Rules made by the Commission under this Act shall be published in the *Gazette* and rules made by a society shall, notwithstanding the provisions of section 7 of the Interpretation and General Clauses Ordinance, be published in such manner as the Minister for the time being responsible for village settlement may direct.

Settlers not
to be
employees of
Commission development
21. For the avoidance of doubt it is hereby declared that the employment by the Commission, for purposes connected with the establishment, development or maintenance of a village settlement, of any person whom the Commission designates as a settler in such village settlement shall not give rise to the relationship of employer and employee between the Commission and such settler unless such employment is undertaken under a written contract in which the provisions of this section are expressly excluded.

Passed in the National Assembly on the thirtieth day of June, 1965.


Clerk of the National Assembly