

THE LAND (AMENDMENT OF LAWS) ACT 1968

No. 39 of 1968

Date of Assent: 26th June 1968

Date of Commencement: 28th June 1968

An Act of Parliament to amend the Government Lands Act, the Mining Act, the Mineral Oil Act and the Water Act in consequence of constitutional changes, to amend the Government Lands Act, the Registration of Titles Act and the Registered Land Act so as to require the production of a certificate as to payment of Government rent on the occasion of dealings with registered land, and to make other minor amendments to the Government Lands Act and a consequential amendment to the Interpretation and General Provisions Act

ENACTED by the Parliament of Kenya, as follows:—

Preliminary

1. This Act may be cited as the Land (Amendment of Laws) Act 1968.

Short title.

The Government Lands Act

2. Section 2 of the Government Lands Act is amended—

Amendment of section 2 of Cap. 280.

(a) by deleting the definition of "land units";

(b) by replacing the definition of "Government land" with a new definition as follows—

"Government land" means land for the time being vested in the Government by virtue of sections 204 and 205 of the Constitution (as contained in Schedule 2 of the Kenya Independence Order in Council 1963), and sections 21, 22, 25 and 26 of the Constitution of Kenya (Amendment) Act 1964;

L.N. 718/
1963.

28 of 1964.

(c) by adding at the end of the section a new definition as follows—

"unalienated Government land" means Government land which is not for the time being leased to any other person, or in respect of which the Commissioner has not issued any letter of allotment.

Amendment of section 3 of Cap. 280.

3. Section 3 of the Government Lands Act is amended by replacing paragraph (a) thereof with a new paragraph as follows—

(a) subject to any other written law, make grants or dispositions of any estates, interests or rights in or over unalienated Government land;

Insertion of new section 8A in Cap. 280.

4. The Government Lands Act is amended by inserting therein, immediately after section 8 thereof, two new sections as follows—

Escheat.

8A. (1) Where any person in whom there is vested an estate, interest or right in or over land dies intestate and without heirs, that estate, interest or right shall escheat to the Government.

(2) Where a company in which there is vested any estate, interest or right in or over land is dissolved, that estate, right or interest shall escheat in like manner as if it were vested in a person who dies intestate and without heirs, except in so far as the Companies Act provides for it to vest in some other person or authority.

(3) This section does not apply in respect of Trust land.

Cap. 486.

Confirmation of earlier titles. 28 of 1964.

8B. Section 20 of the Constitution of Kenya (Amendment) Act 1964 shall continue to have effect, as if it were set out in this section.

Replacement of Part VII of Cap. 280.

5. Part VII of the Government Lands Act is replaced with a new Part as follows—

PART VII—KIBERA SETTLEMENT AREA

Kibera Settlement Area.

43. (1) The area of Government land situated in the Nairobi Area and described in the Fourth Schedule to this Act shall be known as the Kibera Settlement Area.

(2) The Minister may make rules for the management, administration and control of the Kibera Settlement Area.

Replacement of Fourth Schedule of Cap. 280.

6. The Fourth Schedule to the Government Lands Act is replaced with a new Schedule as follows—

FOURTH SCHEDULE

(s. 43)

KIBERA SETTLEMENT AREA

An area of land of approximately 550 acres adjoining Kibera Station reserve in the City of Nairobi and lying on

both sides of the 200 ft. wide railway reserve of the main Nairobi-Nakuru line. The boundaries of the Kibera Settlement Area are described as follows—

Commencing at the intersection of the centre line of the Motoine River with the north-eastern boundary of the Ngong Road Forest;

thence north-westerly by that forest boundary on a true bearing of $334^{\circ} 35' 00''$ for a distance of approximately 1,610 ft. to a beacon BSI at the easternmost corner of L.R. No. 7710;

thence continuing north-westerly by the north-eastern boundaries of L.R. No. 7710 and 9141 on the same true bearing of $334^{\circ} 35' 00''$ for a distance of 2,158.16 ft. to a beacon MBX;

thence easterly by a straight line on a true bearing of $88^{\circ} 08' 07''$ for a distance of 7,338.53 ft. to a beacon T5 at the westernmost corner of L.R. No. 209/4202;

thence south-easterly by the south-western boundary of L.R. 209/4202 on a true bearing of $164^{\circ} 05' 41''$ for a distance of 1,183.07 ft. to a beacon T7a on the northern boundary of the railway reserve, and continuing by the same true bearing of $164^{\circ} 05' 41''$ for a distance of 95.62 ft. to a beacon T7;

thence on a true bearing of $145^{\circ} 05' 53''$ for a distance of 109.19 ft. to a beacon T7b on the southern boundary of the railway reserve;

thence south-easterly by the south-western boundary of L.R. No. 209/4204 continuing on the same true bearing of $145^{\circ} 05' 53''$ for a distance of 848.68 ft. to a beacon T9;

thence continuing south-easterly by the same boundary of L.R. No. 209/4204 on a true bearing of $132^{\circ} 17' 05''$ for a distance of 681.82 ft. to a beacon T10b at the southernmost corner of that portion;

thence by a straight line due south for a distance of approximately 1,770 ft. to its intersection with the centre line of the Motoine River;

thence generally north-westerly and westerly upstream by the centre line of that river to the point of commencement;

Excepting nevertheless from the above area the 200 ft. wide railway reserve of the main Nairobi-Nakuru line and the Kibera Station reserve.

The above boundaries are more particularly delineated, and the area cross-hatched yellow, on Boundary Plan No. 183/22 which is signed, sealed with the seal of Survey of Kenya and deposited at the Survey Records Office, Survey of Kenya, Nairobi.

Repeal of certain provisions of Cap. 280.

7. Section 96, section 98 and the Fifth, Sixth and Seventh Schedules of the Government Lands Act are repealed.

Amendment of various provisions of Cap. 280.

8. The provisions of the Government Lands Act specified in the first column of the Schedule to this Act are amended in the manner specified in relation thereto in the second column of that Schedule.

The Registration of Titles Act

Amendment of Cap. 281.

9. Section 33 of the Registration of Titles Act is amended by adding at the end thereof a new subsection as follows—

(3) A registrar shall not register any document purporting to transfer or create any interest in land, unless a certificate is produced to him certifying that no rent is owing to the Government in respect of the land, or that the land is freehold.

The Registered Land Act

Amendment of Cap. 300.

10. The Registered Land Act is amended by inserting therein, immediately after section 86 thereof, a new section as follows—

Certificate as to rent.

86A. The Registrar shall not register any instrument purporting to transfer or create any interest in land, unless a certificate is produced to him certifying that no rent is owing to the Government in respect of the land, or that the land is freehold.

The Mining Act

Amendment of Cap. 306.

11. The Mining Act is amended by inserting therein, immediately after section 3 thereof, a new section as follows—

Minerals vested in Government.

4. All unextracted minerals (other than common minerals) under or upon any land are vested in

the Government, subject to any rights in respect thereof which, by or under this Act or any other written law, have been or are granted, or recognized as being vested, in any other person.

The Mineral Oil Act

12. The Mineral Oil Act is amended by replacing section 3 thereof with a new section as follows—

Amendment of
Cap. 307.

Mineral oil
vested in
Government. 3. All unextracted mineral oil under or in any land is vested in the Government, subject to any rights in respect thereof which, by or under any other written law, have been or are granted or recognized as being vested, in any other person.

The Water Act

13. The Water Act is amended by inserting therein, immediately after section 2 thereof, a new section as follows—

Amendment of
Cap. 372.

Water vested
in Govern-
ment. 3. The water of every body of water under or upon any land is vested in the Government, subject to any rights of user in respect thereof which, by or under this Act or any other written law, have been or are granted, or recognized as being vested, in any other person.

The Interpretation and General Provisions Act

14. Section 3 (1) of the Interpretation and General Provisions Act is amended by replacing the definition of "Government land" with a new definition as follows—

Amendment of
Cap. 2.

"Government land" has the same meaning as in the Government Lands Act;

Supplemental

15. Sections 17 and 18 of the Constitution of Kenya (Amendment) Act 1965 are repealed.

Amendment of
14 of 1965.

SCHEDULE

(s. 8)

Provision

Amendment

- s. 5. Replace all the words down to and including "necessary," with "There shall be a Commissioner of Lands, and such other officers as may be necessary for the administration of this Act".

SCHEDULE—(Contd.)

<i>Provision</i>	<i>Amendment</i>
ss. 6, 19, 84, 88, 148 (1) and (2).	Replace "President" with "Minister".
s. 7.	Replace "3, 5, 6, 12, 19 and 20, Part VII or any of sections 93" with "3, 12, 20, "
s. 8 (1).	Delete "Her Majesty or by or on behalf of". Add "or any other land" after "in respect of Government lands".
s. 8 (2).	Replace "Government officer" with "public officer".
s. 8 (3).	Replace "Her Majesty or the President" with "the Government".
s. 18 (1).	Replace "President" with "Commissioner". Delete "to the Crown" in paragraph (ii) of the proviso.
s. 18 (2) and 34 (2).	Replace "the consent of the President" with "consent".
s. 19.	Replace "The Commissioner may cause land available for leasing" with "Subject to any general or special directions of the President, the Commissioner may cause land available for alienation". Delete all the words appearing after "farms".
s. 27 (1) (c) (ii).	Insert "(except that interest shall not be payable for the first year)" after "in advance".
s. 27 (1) proviso.	Delete "and the approval of the President".
s. 27 (2).	Replace "31st March 1961" with "30th June 1961".
s. 34 (1).	Replace "President" with "Commissioner".
ss. 35 (1), 40 (1), 130 (1), 131, 142, 143.	Insert "unalienated" before "Government land".
s. 36.	Delete "without the sanction of the President first obtained" and substitute "except with the approval of the President".
s. 40 (3).	Replace the subsection with— (3) The rent payable under a licence under this section, the period and the agreements and conditions of the licence shall be such as may be prescribed by rules under this Act or as may be determined by the Commissioner.
s. 69.	Insert "grant or" before "lease" throughout. Insert "grant or" before "lessor" throughout. Insert "grantee or" before "lessee".
s. 70.	Insert "grant," before "lease". Insert "grantee," before "lessee" in line 3.

SCHEDULE—(Contd.)

<i>Provision</i>	<i>Amendment</i>
s. 71.	Replace "Her Majesty" with "the Government".
s. 71 proviso.	Replace "whenever land is leased by the Crown with "in the case of a lease".
	Replace "the President and the lessee not agreeing" with "disagreement".
s. 72 (1).	Insert "grant," before "lease" throughout. Insert "grantee," before "lessee" throughout.
s. 75 (1).	Replace "ninety" with "one hundred and fifty".
s. 83 (1), (2) and (3).	Replace the subsections with— (1) A conveyance, lease or licence under this Act or under any Act replaced by this Act shall not confer any right to any unextracted minerals or mineral oil, except in so far as the conveyance, lease or licence provides. (2) There is hereby reserved to the Government the right to enter on any Government land which has been conveyed, leased or occupied under licence under this Act or any Act replaced by this Act, and to search for, work and remove any minerals and any substance containing minerals and any mineral oil under or upon the land. (3) The Minister may make rules providing for compensation to be paid or relief to be given to the grantee, purchaser, lessee or occupier under a licence for any damage to buildings, roads or crops or otherwise, and for any interference with the rights of occupancy of land, caused by the exercise of the rights hereby reserved.
s. 83 (7).	Replace "President may, by proclamation," with "Minister may by order".
s. 85.	Delete "by the order of the Governor or". Renumber as subsection (1), and add— (2) In subsection (1) of this section, "reserved roads" includes land which is in any manner described in a conveyance or lease under this Act or any Act repealed by this Act, as being reserved for a road.
ss. 86 and 87.	Replace "President" with "Government".
s. 91.	Replace "is" with "was".
s. 93.	Replace "President may prescribe" with "Commissioner may determine".

SCHEDULE—(Contd.)

<i>Provision</i>	<i>Amendment</i>
s. 107.	Insert after subsection (2)— (2A) A registrar shall not register any document purporting to transfer or create any interest in land, unless a certificate is produced to him certifying that no rent is owing to the Government in respect of the land, or that the land is freehold.
s. 111 (2).	Delete "by a Government or licensed surveyor and countersigned".
s. 132.	Replace "dominions of the Sultan of Zanzibar" with "former Protectorate".
s. 144.	Replace "except by gates approved by the President. wilfully obstructs or injures any road, street, highway or waterway vested in the Crown" with "wilfully obstructs or injures any road, street, highway or waterway on Government land, except by gates approved by the Minister".