

THE LAND CONTROL ACT 1967**No. 34 of 1967***Date of Assent: 11th December 1967**Date of Commencement: 12th December 1967***ARRANGEMENTS OF SECTIONS****PART I—PRELIMINARY***Section*

- 1—Short title and commencement.
- 2—Interpretation.

PART II—ESTABLISHMENT OF LAND CONTROL AREAS AND DIVISIONS

- 3—Application of control.
- 4—Establishment of divisions.

PART III—LAND CONTROL BOARDS

- 5—Establishment of land control boards.

PART IV—CONTROL OF DEALINGS IN AGRICULTURAL LAND

- 6—Transactions affecting agricultural land.
- 7—Recovery of consideration.

PART V—GRANTING OF CONSENT

- 8—Application for consent.
- 9—Granting or refusal of consent.

PART VI—PROVINCIAL LAND CONTROL APPEALS BOARDS

- 10—Establishment of provincial land control appeals boards.
- 11—Appeal to provincial land control appeals board.

PART VII—CENTRAL LAND CONTROL APPEALS BOARD

- 12—Establishment of central land control appeals board.
- 13—Appeal to central land control appeals board.

PART VIII—PROVISIONS AS TO BOARDS

- 14—Tenure of office of members of boards.
- 15—Procedure of boards.
- 16—Decisions of boards.
- 17—Power to order attendance.
- 18—Power to inspect land.

ARRANGEMENT OF SECTIONS—(Contd.)

PART IX—MISCELLANEOUS

Section

- 19—Form of appeal.
- 20—Registration of documents.
- 21—False statements.
- 22—Acts in furtherance of void transaction.
- 23—Prohibition of land transactions.
- 24—Exemptions.
- 25—Regulations.

PART X—SUPPLEMENTAL

- 26—Saving of applications under L.N. 457/1963.
- 27—Amendment of laws.

SCHEDULES

**An Act of Parliament to provide for controlling transactions
in agricultural land**

ENACTED by the Parliament of Kenya, as follows:—

PART I—PRELIMINARY

1. This Act may be cited as the Land Control Act 1967, and shall come into operation on the 12th December 1967.

2. In this Act, except where the context otherwise requires—

“agricultural land” means—

(a) land that is not within—

(i) a municipality or a township; or

(ii) an area which was, on or at any time after the 1st July 1952, a township under the Townships Act (now repealed); or

(iii) an area which was, on or at any time after the 1st July 1952, a trading centre under the Trading Centres Act (now repealed); or

(iv) a market;

(b) land in the Nairobi Area or the municipality of Mombasa that is declared by the Minister, by notice in the Gazette, to be agricultural land for the purposes of this Act,

other than land which, by reason of any condition or covenant in the title thereto or any limitation imposed by law, is subject to the restriction that it may not be used for agriculture or to the requirement that it shall be used for a non-agricultural purpose;

Short title and commencement.

Interpretation.

Cap. 133 (1948).

Cap. 264.

“a board” means a land control board, a provincial land control appeals board or the central land control appeals board;

“the central land control appeals board” means the central land control appeals board established by section 12 of this Act;

“controlled transaction” means one of the transactions specified in section 6 (1) of this Act, other than those specified in section 6 (3) of this Act;

“co-operative society” means a society registered as a co-operative society under the Co-operative Societies Act;

39 of 1966.

“county council” means a county council established under the Local Government Regulations 1963;

L.N. 256/1963.

“land” includes an estate, interest or right in land;

“land control area” means an area to which the Minister has applied this Act under section 3 of this Act;

“land control board” means a land control board established under section 5 of this Act;

“mortgage” includes charge;

“private company” means a private company within the meaning of section 30 of the Companies Act;

Cap. 486.

“province” includes the Nairobi Area, and “Provincial Commissioner” in relation to the Nairobi Area means the District Commissioner of the Nairobi Area;

“provincial land control appeals board” means a provincial land control appeals board established under section 10 of this Act;

“the registrar” means any person charged with the registration of dealings in land under a written law or, in relation to shares, the person keeping the register of the shares;

“share” means a share within the meaning of the Companies Act or a debenture within the meaning of that Act, or any interest or right therein.

**PART II—ESTABLISHMENT OF LAND CONTROL AREAS
AND DIVISIONS**

Application of
control.

3. The Minister may, by notice in the Gazette, apply this Act to any area, if he considers it expedient to do so.

Establishment
of divisions.

4. The Minister may, by notice in the Gazette, divide a land control area into two or more divisions, if he considers it expedient to do so.

PART III—LAND CONTROL BOARDS

Establishment
of land control
boards.

5. (1) The Minister shall, by notice in the Gazette, establish a land control board for every land control area or, where it is divided into divisions, for each division.

(2) The membership of a land control board shall be as provided in the First Schedule of this Act.

PART IV—CONTROL OF DEALINGS IN AGRICULTURAL LAND

Transactions
affecting
agricultural
land.

6. (1) Each of the following transactions, that is to say—

(a) the sale, transfer, lease, mortgage, exchange, partition or other disposal of or dealing with any agricultural land which is situated within a land control area;

(b) the division of any such agricultural land into two or more parcels to be held under separate titles, other than the division of an area of less than twenty acres into plots in an area to which the Development and Use of Land (Planning) Regulations 1961 for the time being apply;

(c) the issue, sale, transfer, mortgage or any other disposal of or dealing with any share in a private company or co-operative society which for the time being owns agricultural land situated within a land control area,

is void for all purposes unless the land control board for the land control area or division in which the land is situated has given its consent in respect of that transaction in accordance with this Act.

(2) An agreement to be a party to a controlled transaction becomes void for all purposes—

(a) at the expiration of three months after the making of the agreement, if application for the appropriate land control board's consent has not been made within that time; or

(b) if application for the appropriate land control board's consent has been made and consent has been refused—

(i) at the end of thirty days from the date of the refusal; or

(ii) where a party has appealed under section 11 of this Act against the refusal of consent, on the dismissal of the appeal; or

(iii) where a party has appealed under section 13 of this Act against the dismissal of the appeal, on the dismissal of that appeal.

(3) This section does not apply to—

(a) the transmission of land by virtue of the will or intestacy of a deceased person, unless that transmission would result in the division of the land into two or more parcels to be held under separate titles; or

(b) a transaction to which the Government or the Settlement Fund Trustees or (in respect of Trust land) a county council is a party.

7. If any money or other valuable consideration has been paid in the course of a controlled transaction that becomes void by virtue of subsection (1), or under any agreement that becomes void by virtue of subsection (2), of section 6 of this Act, that money or consideration shall be recoverable as a debt by the person who paid it from the person to whom it was paid, but without prejudice to section 22 of this Act.

Recovery of consideration.

PART V—GRANTING OF CONSENT

8. An application for consent in respect of a controlled transaction shall be made to the appropriate land control board, and the board, acting in its absolute discretion, shall either give or refuse its consent in respect of the transaction, and, subject to the right of appeal conferred by section 11 of this Act, the decision of a land control board shall be final and conclusive and shall not be questioned in any court.

Application for consent.

9. (1) In deciding whether to grant or refuse consent in respect of a controlled transaction, a land control board shall—

Granting or refusal of consent.

(a) have regard to the effect which the grant or refusal of consent is likely to have on the economic development of the land concerned or on the maintenance or

improvement of standards of good husbandry within the land control area;

- (b) act on the principle that consent ought generally to be refused where—
- (i) the person to whom the land is to be disposed of—
 - (a) is unlikely to farm the land well or to develop it adequately; or
 - (b) is unlikely to be able to use the land profitably for the intended purpose owing to its nature; or
 - (c) already has sufficient agricultural land; or
 - (ii) the person to whom the share is to be disposed of—
 - (a) already has sufficient shares in a private company or co-operative society owning agricultural land; or
 - (b) would, by acquiring the share, be likely to bring about the transfer of the control of the company or society from one person to another and the transfer would be likely to lower the standards of good husbandry on the land; or
 - (iii) the terms and conditions of the transaction (including the price to be paid) are markedly unfair or disadvantageous to one of the parties to the transaction; or
 - (iv) in the case of the division of land into two or more parcels, the division would be likely to reduce the productivity of the land;
- (c) refuse consent in any case in which the land or share is to be disposed of by way of sale, transfer, lease, exchange or partition to a person who is not—
- (i) a citizen of Kenya; or
 - (ii) a private company or co-operative society all of whose members are citizens of Kenya.

(2) Where an application for consent in respect of a controlled transaction is made to a land control board, and the board does not determine the application within a period of three months after the application is made, the application shall be deemed to have been refused at the expiry of that period.

PART VI—PROVINCIAL LAND CONTROL APPEALS BOARDS

10. (1) The Minister shall establish for each province which contains a land control area, in consultation with the Provincial Commissioner of that province, a provincial land control appeals board.

Establishment of provincial land control appeals boards.

(2) The membership of a provincial land control appeals board shall be as provided in the First Schedule of this Act.

11. (1) Where a land control board refuses to grant consent in respect of a controlled transaction, the applicant may, within thirty days of the copy of the board's decision being delivered or posted under section 16 (2) of this Act, appeal to the provincial land control appeals board for the province in which the land in question is situated.

Appeal to provincial land control appeals board.

(2) A provincial land control appeals board shall, in its absolute discretion, hear and determine all appeals made to it under subsection (1) of this section, and, subject to the right of appeal conferred by section 13 of this Act, the decision of a provincial land control appeals board shall be final and conclusive and shall not be questioned in any court.

PART VII—CENTRAL LAND CONTROL APPEALS BOARD

12. (1) There is hereby established a central land control appeals board.

Establishment of central land control appeals board.

(2) The membership of the central land control appeals board shall be as provided in the First Schedule of this Act.

(3) The Commissioner of Lands shall be the secretary of the central land control appeals board, and shall attend and may speak at meetings, but may not vote.

13. (1) Any person whose appeal has been dismissed by a provincial land control appeals board may, within thirty days of the copy of the board's decision being delivered or posted under section 16 (2) of this Act, appeal to the central land control appeals board.

Appeal to central land control appeals board.

(2) The central land control appeals board shall, in its absolute discretion, hear and determine all appeals made to it under subsection (1) of this section, and the decision of the central land control appeals board shall be final and conclusive and shall not be questioned in any court.

PART VIII—PROVISIONS AS TO BOARDS

Tenure of office
of members of
boards.

14. An appointed member of a board shall hold office for such period as may be prescribed or, where no period is prescribed, for such period as may be specified in his appointment:

Provided that a member's appointment may be terminated at any time by the Minister, and a member may resign at any time by notice in writing to the Minister.

Procedure of
boards.

15. (1) If the chairman of a board is absent from a meeting of the board, the members present at the meeting shall elect one of their number to preside at that meeting.

(2) The quorum of a meeting of a land control board or a provincial land control appeals board, where the total number of members of the board is an even number, shall be one-half of that number, and where the total number is an uneven number it shall be one-half of the even number which is greater than the uneven number by one.

(3) The quorum of a meeting of the central land control appeals board shall be three.

(4) If there is an equality of votes on any matter before a board, the chairman of the board or other member presiding shall have a casting vote as well as an original vote.

Decisions of
boards.

16. (1) Every decision of a board shall be given in writing in the prescribed manner and shall be signed by or on behalf of the chairman or other person presiding, and where consent is refused or an appeal is dismissed the reasons for the refusal or dismissal shall be stated in the decision.

(2) A copy of the decision shall in every case be delivered or sent by post to the applicant and, in the case of an appeal, to the board whose decision is appealed against.

Power to order
attendance.

17. (1) Where an application for consent or an appeal is before a board, the board may—

(a) require the applicant or appellant or any person interested in or affected by the application to attend before it;

(b) require the applicant or appellant to adduce evidence to its satisfaction as to the applicant's identity and as to the ownership of the land to which the application relates;

(c) require any person to produce any document or other evidence relating to the land,

and shall allow such reasonable time as it may think fit for a person to appear before it or produce a document or other evidence.

(2) A board may depute one or more of its members or appoint a representative to visit and report on any land to which the application or appeal relates.

(3) Any person who, without reasonable excuse, refuses or neglects to attend before a board or to produce, within the time allowed, any document or evidence, having been required to do so under subsection (1) of this section, shall be guilty of an offence and liable to a fine not exceeding five hundred shillings.

18. Any member of a board and any person authorized in writing by a board may, at any reasonable time after giving at least forty-eight hours' notice, and on production of his authority to any person reasonably requiring it, enter upon and inspect any land for the purpose of carrying out the functions of the board under this Act.

Power to inspect land.

PART IX—MISCELLANEOUS

19. An appeal under this Act shall be in writing and shall state separately each of the grounds of the appeal.

Form of appeal.

20. (1) The registrar shall refuse to register an instrument effecting a controlled transaction unless he is satisfied that any consent required by this Act to be obtained in respect of the transaction has been given, or that no consent is required.

Registration of documents.

(2) If the registrar contravenes subsection (1) of this section in relation to a share, he shall be guilty of an offence and liable to a fine not exceeding two thousand shillings or to imprisonment for a term not exceeding two months, or to both such fine and such imprisonment.

21. Any person who knowingly makes any false statement in an application or appeal under this Act, or who knowingly gives any false information to any person in connexion with the determination of an application or appeal under this Act, shall be guilty of an offence and liable to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding six months, or to both such fine and such imprisonment.

False statements.

No. 34

Acts in furtherance of void transaction.

22. Where a controlled transaction, or an agreement to be a party to a controlled transaction, is avoided by section 6 of this Act, and any person—

(a) pays or receives any money; or

(b) enters into or remains in possession of any land, in such circumstances as to give rise to a reasonable presumption that the person pays or receives the money or enters into or remains in possession in furtherance of the avoided transaction or agreement or of the intentions of the parties to the avoided transaction or agreement, that person shall be guilty of an offence and liable to a fine not exceeding three thousand shillings or to imprisonment for a term not exceeding three months, or to both such fine and such imprisonment.

Prohibition of land transactions.

23. The President may, by notice in the Gazette, prohibit any controlled transaction or any class of controlled transaction.

Exemptions.

24. The President may, by notice in the Gazette, exempt—

(a) any land or share, or any class of land or share; or

(b) any controlled transaction, or any class of controlled transaction; or

(c) any person in respect of controlled transactions or some class of controlled transaction,

from all or any of the provisions of this Act, or from any prohibition made under section 23 of this Act, on such conditions (if any) as he may think fit to impose.

Regulations.

25. (1) The Minister may make regulations for prescribing anything which may be prescribed under this Act, and generally for carrying into effect the purposes and provisions of of this Act.

(2) Without prejudice to the generality of subsection (1) of this section, such regulations may prescribe—

(a) the forms to be used and the fees to be paid for things to be done under this Act;

(b) the procedure for the making of applications and appeals under this Act, and the particulars and material to be furnished;

(c) the convening of and procedure at meetings of boards;

(d) the allowances to be paid to members or representatives of boards (other than public officers).

PART X—SUPPLEMENTAL

26. Any application for consent duly made under regulation 10 or regulation 11 of the Kenya (Land Control) (Transitional Provisions) Regulations 1963 which immediately before the commencement of this Act has not been finally determined under those Regulations shall be deemed to be an application duly made under this Act, and it shall be forwarded by the person in whose possession it is to the land control board who would be responsible for determining a corresponding application under this Act, and thereafter it shall be determined in accordance with this Act.

Saving of applications under L.N. 457/1963.

27. The written laws specified in the first column of the Second Schedule of this Act are amended, in relation to the provisions thereof specified in the second column of that Schedule, in the manner specified in relation thereto in the third column of that Schedule.

Amendment of laws.

FIRST SCHEDULE (ss. 5, 10 and 12)

1. A land control board shall consist of—

- (a) the District Commissioner of the district in which the land control area or division is situated, or a District Officer deputed by him in writing, who shall be chairman;
- (b) not more than two other public officers;
- (c) two persons nominated by the county council having jurisdiction within the area of jurisdiction of the board; and
- (d) not less than three and not more than seven persons resident within the area of jurisdiction of the board,

all appointed by the Minister after consultation with the Provincial all appointed by the Minister:

Provided that—

- (i) not less than eight and not more than twelve persons shall be appointed as members of the board; and
- (ii) more than one-half of the members of the board shall be owners or occupiers of agricultural land within the area of jurisdiction of the board.

2. A provincial land control appeals board shall consist of—

- (a) the Provincial Commissioner, who shall be chairman;
- (b) not more than two other public officers appointed by the Minister; and
- (c) not less than two and not more than five persons appointed by the Minister:

FIRST SCHEDULE—(Contd.)

Provided that more than one-half of the members of the board shall be owners or occupiers of agricultural land within the province.

3. The central land control appeals board shall consist of—
- (a) the Minister, who shall be chairman;
 - (b) the Minister for the time being responsible for economic planning;
 - (c) the Minister for the time being responsible for agriculture;
 - (d) the Minister for the time being responsible for home affairs; and
 - (e) the Minister for the time being responsible for co-operatives and social services; and
 - (f) the Attorney-General.

4. Notwithstanding the foregoing provisions of this Schedule, no person shall be appointed a member of more than one board.

SECOND SCHEDULE

(s. 27)

| <i>Written Law</i> | <i>Provision</i> | <i>Amendment</i> |
|--|---------------------|--|
| The Building Societies Act (Cap. 489). | s. 23 (1). | Delete "and section 218 of the Constitution", and substitute "and the Land Control Act 1967". |
| The Constitution of Kenya (Amendment) Act 1965 (No. 14 of 1965). | s. 6 (7). s. 21. | Delete. Delete. |
| The Development and Use of Land (Planning) Regulations 1961 (L.N. 516/1961). | r. 3. | Delete the definitions of "Appeals Tribunal" and "Divisional Board". Insert in their respective alphabetical positions the following new definitions— "Appeal Tribunal" means the central land control appeals board established by the Land Control Act 1967; "Land Control Board" means a land control board established under the Land Control Act 1967; |
| | r. 23. | Delete. |