

CHAPTER 62
THE URBAN LEASEHOLDS (ACQUISITION AND REGRANT) ACT
[PRINCIPAL LEGISLATION]

ARRANGEMENT OF SECTIONS

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CHAPTER 62

THE URBAN LEASEHOLDS (ACQUISITION AND REGRANT) ACT

An Act to make provision for the acquisition of certain urban lands developed by persons other than the owners and for the regrant of lands so acquired.

[17th May, 1968] AND Act No. 22 of 1968

PART I
PRELIMINARY PROVISIONS (ss 1-2)

1. Short title
This Act may be cited as the Urban Leaseholds (Acquisition and Regrant) Act.
2. Interpretation
 - (1) In this Act, unless the context otherwise requires-
 - "building" means any structure of whatever material constructed and whether of a temporary or permanent nature;
 - "Government lease" has the meaning ascribed in section 5 or 16 of the Freehold Titles (Conversion) and Government Leases Act Cap. 393*;
 - "Minister" means the Minister for the time being responsible for lands;
 - "owner" in relation to land held for a Government lease, means the holder of such lease and, in relation to land held under a right of occupancy, means the holder of the right;
 - "registered land" and "unregistered land" have the meanings respectively ascribed to those expressions in the Land Registration Act Cap. 334*;
 - "registered right or interest" means any right or interest in land registered under the Registration of Documents Act Cap. 117* or the Land Registration Act Cap. 334*;
 - "Registrar" in relation to registered land, means the Registrar of Titles appointed under the Land Registration Act and, in relation to unregistered land, means the Registrar appointed under the Registration of Documents Act;
 - "right of occupancy" means a right of occupancy granted under the Land Act Cap. 113*;
 - "temporary right of occupancy" means a right of occupancy under which a tenant is deemed to hold urban land by operation of section 8;
 - "tenant" means any person who holds land under a lease, sublease, an agreement for a lease or sublease or any agreement for a tenancy, whether such lease, sublease or agreement be oral or in writing, and also means a person who occupies land under a licence or any arrangement under which he pays in cash or in kind for occupancy of the land to any person entitled to possession of such land and "tenancy" shall be construed accordingly;
 - "the title" in relation to any urban land means the Government lease or the right of occupancy for which the urban land and all other land under the same lease or right is held;
 - "unexhausted improvement" has the meaning ascribed to it in the Land Act;
 - "urban land" means land in an urban area which is held for, or forms part of land held for-
 - (a) a Government lease; or
 - (b) a right of occupancy.

- (2) In the definition of "urban land" in subsection (1), "urban area" means any area-
- (a) within the jurisdiction of a city, municipal or town council; or
 - (b) an area which, immediately before the establishment of a district council for any part of Mainland Tanzania, was a township declared under the Townships Ordinance or a minor settlement declared under the Minor Settlements Ordinance R.L. Cap. 102*; or
 - (c) a planning area declared under section 13 of the Town and Country Planning Act Cap. 355* which includes an area described in paragraph (a) or (b) of this definition or any part of such an area.

PART II
ACQUISITION AND REGRANT (ss 3-12)

3. Minister may acquire certain urban lands for the purpose of making new grants
- (1) Where a tenant is in or entitled to possession of urban land and such land has been developed by construction of a building or buildings and the Minister is of the opinion that, by reason of such development having been carried out by-
- (a) the tenant;
 - (b) a deceased tenant formerly in or entitled to possession of the urban land, who is in the prescribed relationship to the present tenant; or
 - (c) both the present tenant and such deceased tenant, by the effort or at the expense of one or both it is fitting that a right to such urban land should be granted to the present tenant, the Minister may, subject to the provisions of this Act, acquire such urban land and any necessary additional area for the purpose of making a grant to the tenant under section 10.
- (2) For the purposes of this Act-
- (a) a person is a tenant of urban land if he is in or entitled to possession otherwise than-
 - (i) as a servant of any person having any title, right or interest in the land:
Provided that nothing in this subparagraph shall apply to any such servant who makes any payment in cash or in kind for the possession of the land to any person, whether the servant's employer or otherwise, entitled to possession of such land;
 - (ii) as a trustee, personal representative, receiver or agent, or under any mortgage or charge;
 - (iii) as a trespasser;
Provided that nothing in this subparagraph shall apply to a person who entered upon the land under a licence, and references to the

tenancy held by a deceased tenant shall have a corresponding meaning;

- (b) a person who, had this Act come into operation on the 29th of February, 1968, would have been a tenant in or entitled to possession of urban land but who has, between that date and the commencement of the Act, been evicted from such urban land or whose tenancy in respect of such urban land has terminated, shall, during the period beginning on the date on which this Act comes into operation and the first anniversary of that date, be deemed to be a tenant in or entitled to possession of the relevant parcel of the urban land;
- (c) a deceased tenant is in the prescribed relationship to a present tenant if-
 - (i) he was the father, grandfather, uncle or brother of the present tenant, the wife of any of them or the husband or wife of the present tenant; and
 - (ii) the present tenant has inherited the deceased's right or interest in the relevant parcel of the urban land by operation of the law regulating succession to the estate of the deceased;
- (d) a tenant or a deceased tenant shall be deemed to have constructed a building by his own effort even if such building was constructed with the assistance of or by the effort of any other person acting for and on behalf of the tenant or the deceased tenant, as the case may be;
- (e) a necessary additional area means so much of the owner's urban land contiguous to the land in respect of which the tenant holds the tenancy as, in the opinion of the Minister, it is necessary to acquire-
 - (i) to ensure compliance with any written law of the time being in force which restricts the area of a plot of land which may be covered by a building or buildings to such portion of the plot as is prescribed by such law;
 - (ii) in order that the boundaries between the land to be acquired and the remainder of the land held for the same title are rational and convenient;
- (f) urban land, in respect of which a tenant holds a tenancy, shall not be deemed to have been developed by the tenant or a deceased tenant who is in the prescribed relationship to the tenant, if the building constructed by the effort of or at the expenses of the tenant or such deceased tenant or both is a building which serves as an appurtenance to another building on the same land and such other building was not constructed by the effort of or at the expense of the tenant or such deceased tenant.

4. Notice of intention to acquire land

- (1) Where the Minister intends to acquire any urban land under this Act, the Minister shall serve notice of such intention-
 - (a) upon the owner of the land and upon every other person having a registered right or interest in the land; and
 - (b) upon the tenant in respect of whom the Minister proposes to acquire the land.
- (2) Every notice served in accordance with paragraph (a) of subsection (1) shall be in the prescribed form and shall-
 - (a) call upon the owner and such other persons referred to in subsection (i), other than persons who hold rights or interests to which section 12 applies, unless previously notified of the Minister's withdrawal from the acquisition, to assign, convey or surrender to the President all title, right and interest in the land to be acquired within such period, not being less than six weeks from the service of notice upon the owner, as the Minister may specify in the notice;
 - (b) be accompanied by a sketch map of the land to be acquired which map shall show any line of demarcation between the land to be acquired and any other land of the owner contiguous with such land.
- (3) Every notice served in accordance with paragraph (b) of subsection (1) shall be in the prescribed form and shall-
 - (a) contain a statement of the term of the grant which the Minister proposes to make to the tenant under section 10, of the rent and premium, if any, payable and of any conditions of the grant;
 - (b) contain a statement of terms and conditions subject to which the tenant shall, by virtue of the operation of section 8, be deemed to hold a temporary right of occupancy in respect of the land which the Minister proposes to grant to the tenant under section 10;
 - (c) be accompanied by a sketch map of the land which the Minister proposes to grant to the tenant the provisions of subsection (2) of that section.
- (4) The Minister shall give notice in the Gazette of intention to enquire any urban land under this Act and every such notice shall be published in the Gazette as soon as is practicable, after service upon the owner, of a notice under subsection (1) and such notice shall contain a statement of the name of the owner, a description of the whole land held for the title, of the title, and a description of the land to be acquired.

5. Withdrawal from acquisition
 - (1) The Minister may withdraw from the acquisition of any urban land at any time before the title of the owner is transferred to the President or, as the case may be, extinguished.
 - (2) Where the Minister withdraws from the acquisition of land-
 - (a) any instrument for the assignment, conveyance or surrender of any title, right or interest in the land which was made in accordance with any notice relating to such acquisition but which has not, at the date of withdrawal, taken effect, shall be void; and
 - (b) the Minister shall, so far as he is able and free of charge, cause to be granted, re-assigned or conveyed to the persons formerly entitled land, other than any persons whose interest or title would have expired by the passage of time, any right or interest assigned, conveyed or surrendered to the President in accordance with any notice relating to such acquisition.

6. Certificate of title where no conveyance available
Where the period specified in accordance with subsection (2) of section 4 has expired and all title, right and interest in the land to be acquired has not been assigned, conveyed or surrendered to the President, the Minister may apply, ex parte, to the Registrar for the grant and registration of a certificate of title to such land, and, notwithstanding anything to the contrary contained in the Land Registration Act Cap. 334* or any other written law or in any order made or issued by a court, the Registrar shall, if satisfied by affidavit or otherwise that-
 - (a) the application is made in the circumstances in respect of an acquisition in pursuance of the powers conferred by section 3; and
 - (b) no proceedings in respect of the acquisition of the land are pending in the High Court or the Court of Appeal, and unless it appears that the Minister has withdrawn from the acquisition, grant to the President a certificate of title to such land and register the same in the appropriate register.

7. Effect of conveyance
Where-
 - (a) an instrument of assignment, conveyance or surrender of any title, right or interest in respect of any land acquired under this Act, is executed in favour of the President and such instrument is duly 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;
 - (b) a certificate of title is registered under section 6, such instrument or certificate of title shall, subject to the provisions of section 12, confer upon the President the right, title or interest referred to in the instrument and, in the case of a certificate of title, the absolute right

and title to the land comprised in such certificate of title, free from all adverse or competing titles, rights or interests, trusts, claims, and any other demands whatsoever and such adverse or competing titles, rights, interests, trusts, claims and any other demands shall, to the extent that they touch or concern the land, be extinguished.

8. Temporary right of occupancy

- (1) Where any urban land is acquired and the title is vested in the President in accordance with the provisions of this Act, the tenant in respect of whom the land is acquired shall, immediately upon such acquisition being complete and until a grant of such land is made in accordance with section 10, deemed to hold a temporary right of occupancy over such land on such terms and conditions as the Minister may determine.
- (2) Subject to the provisions of the Land Act Cap. 113*, the terms and conditions of temporary rights of occupancy shall be at the discretion of the Minister.

9. Minister may pay compensation

- (1) Where any land is acquired under this Act, any person, other than the tenant in respect of whom it is acquired or any person having any right or interest to which section 12 applies, who enjoyed any title, right or interest in the land prior to its acquisition may, within six weeks of the publication of the notice in the Gazette pursuant to subsection (4) of section 4, or such longer period as the Minister may allow, apply in writing to the Minister for the payment of compensation for the assignment, conveyance, surrender, or, as the case may be, the extinction of such title, right or interest.
- (2) The Minister may, in his discretion, such discretion being exercisable in respect of, whether or not compensation shall be paid, the persons to whom compensation shall be paid, the amount of any compensation and the manner of payment, pay compensation to any person who enjoyed any title, right or interest in the land prior to its acquisition and who has made a claim therefor in accordance with subsection (1); but the total sum which may be paid in respect of the acquisition of any one parcel of land shall not exceed the value of the unexhausted improvement of the land effected otherwise than by the tenant in respect of whom the land is acquired or by any deceased tenant who is in the prescribed relationship to the first-mentioned tenant.
- (3) Except to the extent that the Minister makes a payment of compensation, if any in accordance with this section, no compensation shall be payable for the acquisition of any urban land or the assignment, conveyance,

surrender or extinction of any title, right or interest, trust, claim or demand in accordance with the provisions of this Act.

- (4) Except in so far as any compensation shall be recoverable from any premium paid on a regrant of the land acquired, any compensation paid shall be paid out of moneys provided by Parliament.

10. Regrant of acquired land

- (1) Subject to the provisions of this section, where any land is acquired under this Act, the Minister shall grant a right of occupancy over the land to the tenant in respect of whom it was acquired.
- (2) Where contiguous parcels of land are acquired under this Act in respect of two or more tenants, the Minister may divide the whole as the Minister thinks fit, into the like number of portions and, subject to the provisions of this section, shall grant a right of occupancy over one of such portions to each of such tenants.
- (3) Subject to the provisions of the Land Act Cap. 113*, the terms and conditions of rights of occupancy granted under this section shall be at the discretion of the Minister, and in making a grant under this section the Minister shall not be bound by anything contained in the notice served on the tenant in accordance with subsection (1) of section 4, unless the tenant has notified the Minister in writing of the tenants acceptance of the terms and conditions set out in such notice.
- (4) Where the tenant in respect of whom the land was acquired refuses or neglects to accept a grant of right of occupancy within a period of three months after such grant or the acquisition of the land, whichever is the later, the Minister may make a grant of the land as he thinks fit; and the validity of the acquisition of any urban land shall not be impugned solely by reason of the Minister having made a grant of land in the circumstances set out in this subsection to a person other than the tenant in respect of whom the land was acquired.
- (5) Immediately upon a grant of land being made under this section, the temporary right of occupancy shall be deemed to have been revoked.

11. Easements

Where a tenant holds urban land on a temporary right of occupancy created by the operation of section 8 or where a grant of a right of occupancy is made under section 10, the Minister shall have power to grant or reserve any easement of necessity over or in respect of the land or in respect of any other land of the former owner.

12. Saving of incumbrances, etc., created by tenant
- (1) Notwithstanding the provisions of section 7, where a tenant of any urban land acquired under this Act held such land, immediately before such acquisition, subject to any mortgage, charge or other incumbrance, or to a sublease, and such mortgage, charge, incumbrance or sublease was created or granted by the tenant or by a deceased tenant who is in the prescribed relationship to the tenant, such mortgage, charge, incumbrance or sublease shall not be extinguished by reason of the acquisition but shall subsist against the land comprised in the temporary right of occupancy and, when a grant is made under section 10, against the land comprised in the right of occupancy granted under that section.
 - (2) The Minister may, as a condition of the temporary right of occupancy and, when a grant is made under section 10, as a condition of the grant made under that section, require the tenant or, where the grant under section 10 is made to some other person, such other person, to make such dispositions as the Minister thinks necessary or expedient to give effect to the provisions of subsection (1).
 - (3) If the tenant or any other person who is required in accordance with subsection (2) to make any disposition refuses or neglects to make the same, the Minister may direct the Commissioner for Lands to make such disposition on behalf of the tenant or such person, and a disposition made by the Commissioner for Lands in accordance with this subsection, shall be deemed to have been made by the tenant or by the person who was required to make the disposition as the case may be.
 - (4) The Minister may, by notice in writing, require the tenant in respect of whom urban land is or is intended to be acquired under this Act, to make a full disclosure of mortgages, charges, encumbrances and subleases to which this section applies and if the tenant neglects or refuses to make such disclosure within the time specified in the notice or if the tenant makes any statement which he knows to be false or does not believe to be true in purported compliance with any such notice the tenant shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding two years or to both.

PART III
MISCELLANEOUS PROVISIONS (ss 13-21)

13. Service of notices

A notice under the provisions of this Act shall be deemed to have been served on a person-

- (a) if it is served on him personally; or
- (b) if it is left for him at his last known address and a copy is affixed on some conspicuous part of the land concerned; or
- (c) if it is sent by prepaid registered post addressed to him at his last known address and a copy is affixed on some conspicuous part of the land concerned: Provided that in any case in which a copy of a notice is required to be affixed to a conspicuous part of any land-
 - (i) if the notice is directed to a person other than the tenant, it shall, so far as is possible, be affixed to a part of the land outside the area in possession of the tenant;
 - (ii) if the notice is directed to a tenant, it shall be affixed within the area in his possession.

14. Power of entry

- (1) Where any person authorised for that purpose has reason to believe that any person other than the owner has developed any urban land by construction of a building or buildings and is of the opinion that an investigation ought to be made of the nature of possession of, and the extent of development by that person, or of his expenditure of money or effort upon such urban land, the person authorised may enter upon such urban land and make such investigations, and may survey the urban land and determine any boundary or line of demarcation between the land in any tenant's occupation, including any necessary boundary area, and any other land of the owner contiguous with such land.
- (2) A person who enters any urban land in pursuance of the powers conferred by this section, shall, upon demand, produce the written authorisation to the owner or other person having a present right to possession.

15. Possession of land acquired

Where any urban land is acquired under the provisions of this Act, any person authorised for that purpose, may enter and take possession of such land for the purpose of giving effect to such acquisition or to any grant of such land in accordance with this Act, and if any other person hinders or obstructs any person so authorised, the Minister may apply ex parte to the court of the resident magistrate within whose jurisdiction such land is situate for an order of

ejection and such court may, upon proof of the acquisition of the land, issue an order of ejection addressed to any officer of the court or to any police officer under which such officer of the court or police officer may eject any person withholding possession.

16. Authorised persons and penalty for obstruction

- (1) A person is authorised for the purpose of section 14 or section 15 if he is authorised in that behalf in writing under the hand of the Commissioner for Lands.
- (2) Every person who—
 - (a) wilfully hinders or obstructs any person duly authorised for the purpose of section 14 or section 15 from entering upon any land for the purposes for which he is so authorised; or
 - (b) hinders, obstructs or molests any such authorised person in the exercise of the powers conferred upon by the relevant section; or
 - (c) hinders, obstructs or molests any person serving a notice or affixing a copy of the notice to any part of urban land for the purposes of this Act, shall be guilty of an offence and shall be liable on conviction to imprisonment for a term not exceeding three months or to a fine not exceeding one thousand shillings or to both.

17. Amendment of registers

- (1) Where any parcel of land has been acquired, or any easement of necessity has been granted or reserved, under this Act, the Registrar shall make such entries in or amendments to, the appropriate registers as the circumstances may require and may, in the case of registered land and if the appropriate certificate of title or interest is delivered to the Registrar, issue a new certificate of title or interest, due provision being made for any subsidiary estates or interests which have not been assigned, conveyed, surrendered or extinguished, over the remainder of the land held for the same title.
- (2) The Registrar may require the owner of any registered land or any other person having a registered interest in such land to deliver to the Registrar any certificate of title or interest relating to any parcel of land acquired under this Act, in order that the Registrar may exercise any power conferred by subsection (1) of this section, or may require such person to give security for failure to make such delivery.
- (3) Any person who, without lawful excuse, fails to produce any control, or certificate in his possession or under his control, or who, without reasonable cause, refuses or neglects to give security, within the time specified by the Registrar, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one thousand shillings.

18. Exemption from stamp duty and fees
Every-
- (a) assignment, conveyance and surrender made in accordance with a notice relating to the acquisition of land under this Act;
 - (b) rectification or amendment of a register or of a certificate of title or interest, and every instrument of security, under section 17;
 - (c) instrument, including a grant, made for the purposes of subsection (2) of section 5 or for the purposes of making a disposition under section 12, shall be exempt from-
 - (i) any fee payable under the Land Act Cap. 113*;
 - (ii) any fee payable under the Registration of Documents Act Cap. 117* or under the Land Registration Act Cap. 334*;
 - (iii) stamp duty.
19. Abatement of rent
Where any land is acquired under this Act, any rent payable in respect of the title upon which such land was held prior to such acquisition or of any other right or interest in the land, shall be reduced by the like proportion as the land acquired bears to the whole of the land formerly comprised in the title, right or interest.
20. Forms
The Minister may make rules prescribing the forms to be used for the purposes of this Act.
21. Tenant not to be evicted
Where a notice of intention to acquire urban land has been served upon the owner in accordance with section 4, no proceedings may be brought by or on behalf of the owner or by any person claiming under the owner, for the determination of the tenancy of the tenant in respect of whom the urban land is intended to be acquired or for the eviction of any such tenant from such urban land or for the execution of any decree for the eviction of any such tenant from such urban land, unless the Minister has withdrawn from the acquisition.