

Uganda

## Land Act Chapter 236

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Land Act (Chapter 236)  
 Contents

Part I – Interpretation ..... 1

    1. Interpretation ..... 1

Part II – Land holding ..... 3

    2. Land ownership ..... 3

    3. Incidents of forms of tenure ..... 3

    4. Certificate of customary ownership ..... 4

    5. Functions of committee on application for certificate of customary ownership ..... 4

    6. Procedures for application for certificate of customary ownership ..... 5

    7. Functions and procedure of board on application for certificate of customary ownership ..... 6

    8. Incidents of certificate of customary ownership ..... 7

    9. Conversion of customary tenure to freehold tenure ..... 8

    10. Application for grant of land in freehold ..... 8

    11. Functions of committee on application for freehold tenure ..... 8

    12. Procedures for application for freehold tenure ..... 8

    13. Functions of board on application for freehold tenure ..... 9

    14. Duties of Registrar of Titles in respect of applications under sections 9 and 10 ..... 10

    15. Communal land associations ..... 10

    16. Meeting to form association and elect managing committee ..... 10

    17. Constitution of association ..... 11

    18. Incorporation of officers as managing committee ..... 11

    19. Powers of managing committee ..... 11

    20. Disputes ..... 12

    21. Dissolution and decertification of association ..... 12

    22. Individual holding of land created out of communal land ..... 12

    23. Establishment of areas of common land use in communally owned land ..... 13

    24. Management of areas of common land use ..... 13

    25. Content of common land management scheme ..... 14

    26. Basic rights and duties of members of community using common land ..... 15

    27. Rights of women, children and persons with disability regarding customary land ..... 15

    28. Conversion of leasehold into freehold ..... 16

    29. Meaning of “lawful occupant” and “bona fide occupant” ..... 16

    30. Mediator to assist persons not qualified to be bona fide occupants ..... 17

    31. Tenant by occupancy ..... 17

    32. Jurisdiction of district land tribunal in respect of non-payment of ground rent ..... 18

|   |    |
|---|----|
| 33. Lawful or bona fide occupants to be evicted only for non-payment of ground rent ..... | 19 |
| 34. Certificate of occupancy .....  | 19 |
| 35. Transactions with tenancy by occupancy .....  | 20 |
| 36. Option to purchase .....  | 21 |
| 37. Mutual agreement between tenant by occupancy and registered owner .....               | 21 |
| 38. Abandonment and termination of occupancy .....  | 22 |
| 39. Security of occupancy .....   | 22 |
| 40. Restrictions on transfer of family land .....   | 23 |
| 41. Acquisition of land by non-citizen .....  | 24 |
| 42. Land Fund .....   | 24 |
| Part III – Control of land use .....  | 26 |
| 43. Acquisition of land by Government .....   | 26 |
| 44. Utilisation of land according to various laws .....                                   | 26 |
| 45. Control of environmentally sensitive areas .....                                      | 26 |
| 46. Land use planning and zoning .....  | 27 |
| Part IV – Land management .....   | 27 |
| Uganda Land Commission .....  | 27 |
| 47. Establishment of Commission .....   | 27 |
| 48. Membership of Commission .....  | 27 |
| 49. Tenure of office .....  | 27 |
| 50. Functions of Commission .....   | 28 |
| 51. Secretary and other officers of Commission .....                                      | 28 |
| 52. Meetings of Commission .....  | 28 |
| 53. Authentication of common seal, etc. ....  | 28 |
| 54. Powers of Commission .....  | 29 |
| 55. Salaries and expenses of Commission .....   | 29 |
| 56. Commission to conform to Government policy .....                                      | 29 |
| District land boards .....  | 29 |
| 57. Establishment of district land boards .....   | 29 |
| 58. Membership of board .....   | 30 |
| 59. Tenure of office of members of board .....  | 30 |
| 60. Functions of board .....  | 30 |
| 61. Powers of board .....   | 31 |
| 62. Secretary to board, etc. ....   | 31 |
| 63. Meetings of board .....   | 32 |

|  |    |
|--|----|
| 64. Expenses of board, remuneration of members and audit .....           | 32 |
| Land committees .....  | 32 |
| 65. Establishment of land committees .....                               | 32 |
| 66. Qualification for appointment as member of committee .....           | 33 |
| 67. Remuneration of members of committees .....                          | 33 |
| 68. Meetings of committee .....  | 33 |
| 69. Recorder .....   | 34 |
| General powers of disposal and rights .....                              | 34 |
| 70. General powers of disposal .....                                     | 34 |
| 71. Water rights .....   | 34 |
| 72. Rights of way .....  | 34 |
| 73. Rights of officials to encamp .....                                  | 34 |
| 74. Execution of public works .....                                      | 35 |
| Part V – Land tribunals .....  | 35 |
| 75. District land tribunals .....  | 35 |
| 76. Tenure of office of members of district land tribunals .....         | 36 |
| 77. Jurisdiction of district land tribunals .....                        | 36 |
| 78. Computation of compensation .....                                    | 37 |
| 79. Rules of procedure .....   | 37 |
| 80. Registrar of district land tribunals .....                           | 37 |
| 81. Assistant registrar of district land tribunal .....                  | 37 |
| 82. Management of administrative affairs of district land tribunal ..... | 38 |
| 83. Supervisory powers over district land tribunals .....                | 38 |
| 84. Right of appeal .....  | 38 |
| 85. Customary dispute settlement and mediation .....                     | 38 |
| 86. Appointment and functions of mediator .....                          | 38 |
| Part VI – Miscellaneous .....  | 39 |
| 87. Disposal of fees, etc. ....  | 39 |
| 88. Special powers of Registrar of Titles .....                          | 39 |
| 89. Offences and penalties .....   | 40 |
| 90. Regulations .....  | 41 |
| 91. Existing rights .....  | 42 |
| 92. Power to amend Schedule .....  | 42 |
| Schedule (Sections 1, 92) .....  | 42 |

# Uganda

## Land Act Chapter 236

Commenced on 2 July 1998

*[This is the version of this document at 31 December 2023.]*

*[Note: This legislation was revised and consolidated as at 31 December 2000 and 31 December 2023 by the Law Reform Commission of Uganda. All subsequent amendments have been researched and applied by Laws.Africa for ULII.]*

*[Amended by [Land \(Amendment\) Act, 2001 \(Act 3 of 2001\)](#) on 2 July 2000]*

*[Amended by [Land \(Amendment\) Act, 2004 \(Act 1 of 2004\)](#) on 18 March 2004]*

*[Amended by [Land \(Amendment\) Act, 2010 \(Act 1 of 2010\)](#) on 12 February 2010]*

*[Amended by [Law Revision \(Miscellaneous Amendments\) Act, 2023 \(Act 17 of 2023\)](#) on 28 July 2023]*

**An Act to provide for the tenure, ownership and management of land and for related matters.**

*[Act 16/1998; Cap. 227 (Revised Edition, 2000); Act 3/2001; Act 1/2004; Act 1/2010; Act 17/2023]*

### Part I – Interpretation

#### 1. Interpretation

In this Act, unless the context otherwise requires—

“**alienated**” means alienated by the grant of an estate in freehold or leasehold which is registered under the Registration of Titles Act, and “unalienated” shall be interpreted accordingly;

“**association**” means a communal land association established by section 15;

“**authorised undertaker**” means a person or authority authorised or required by law to execute public works;

“**board**” means a district land board established by Article 240 of the Constitution and referred to in section 57;

“**bona fide occupant**” and “lawful occupant” have the meanings assigned to them in section 29;

“**certificate of customary ownership**” means a certificate issued under section 4;

“**certificate of occupancy**” means a certificate issued under section 34;

“**Commission**” means the Uganda Land Commission established by Article 238 of the Constitution and referred to in section 47;

“**committee**” means a land committee established by section 65;

“**community**” means an indigenous community of Uganda as provided for in the Third Schedule to the Constitution, or any clan or subclan of any such indigenous community communally occupying, using or managing land;

“**currency point**” has the value assigned to it in the Schedule to this Act;

“**customary tenure**” means a system of land tenure regulated by customary rules which are limited in their operation to a particular description or class of persons the incidents of which are described in section 3;

“**District Land Tribunal**” means the District Land Tribunal established under section 75;

“**former controlling authority**” means the Uganda Land Commission or a designated authority in existence before the coming into force of the Constitution;

“**former designated authority**” means a city council, municipal council, town council or town board established in a designated urban area;

“**former public land**” means land previously administered under the Public Lands Act, 1969, prior to the coming into force of the Land Reform Decree, 1975;

“**freehold land tenure**” means the holding of registered land in perpetuity subject to statutory and common law qualifications the incidents of which are described in section 3;

“**gazetted**” means published in the official *Gazette* by either a statutory instrument or a legal notice issued by the responsible Minister;

“**leasehold land tenure**” means the holding of land for a given period from a specified date of commencement, on such terms and conditions as may be agreed upon by the lessor and lessee, the incidents of which are described in section 3, and includes a sublease;

“**mailo land tenure**” means the holding of registered land in perpetuity and having roots in the allotment of land pursuant to the Uganda Agreement, 1900 and subject to statutory qualifications, the incidents of which are described in section 3;

“**mediator**” has the meaning assigned to it in section 86;

“**Minister**” means the Minister responsible for lands;

“**public works**” means the construction of railways, roads, canals or airfields; the placing of telegraph lines and electric lines, and the erection of supports for those lines; the laying of sewer and water pipes; the construction of drains; the prospecting, exploration, mining and extraction of petroleum resources; the construction of dams and hydropower plants; the establishment of meteorological and water quality stations; the construction of water and sewerage treatment plants, storage reservoirs and pumping stations; and any other works, construction of public buildings and other public institutions, declared by statutory instrument to be public works, the construction of buildings for public use, such as hospitals and universities, for the purposes of section 74; and any other works ancillary or incidental to the foregoing;

“**recorder**” means the recorder established by section 69;

“**Register Book**” means the book kept by the Registrar of Titles in accordance with the Registration of Titles Act;

“**registered owner**” means the owner of registered land registered in accordance with the Registration of Titles Act;

“**registrable interest**” means an interest registrable under the Registration of Titles Act, namely, mailo, freehold, leasehold and subleasehold, but includes a certificate of customary tenure and a certificate of occupancy;

“**Registrar of Titles**” means the registrar of titles appointed under the Registration of Titles Act;

“**road**” means a road reserve as defined in the Roads Act;

“**tenant by occupancy**” means the lawful or *bona fide* occupant declared to be a tenant by occupancy by section 31;

“**third party right**” means a right, interest, privilege or liberty which a person has or possesses, either indefinitely or for life or for a lesser period under customary law, common law or equity to use or occupy for a specific purpose or for a specific period all or part of the land of a landowner or to prevent a landowner from exercising any right, interest, privilege or liberty in, on, under or over his or her land, and includes but is not limited to an easement, a *profit a prendre*, a usufructuary right, a restrictive covenant, a right arising out of a share cropping agreement, a right of a person as a member of a group to go on to and to gather and use the fruits of communally owned land or a right to use land which a spouse may acquire by virtue of marriage, but does not include a lease or sublease;

“urban area” means an area gazetted as an urban area by the Minister responsible for urban affairs.

## Part II – Land holding

### 2. Land ownership

Subject to Article 237 of the Constitution, all land in Uganda shall vest in the citizens of Uganda and shall be owned in accordance with the following land tenure systems—

- (a) customary;
- (b) freehold;
- (c) mailo; and
- (d) leasehold.

### 3. Incidents of forms of tenure

- (1) Customary tenure is a form of tenure—
  - (a) applicable to a specific area of land and a specific description or class of persons;
  - (b) subject to section 27, governed by rules generally accepted as binding and authoritative by the class of persons to which it applies;
  - (c) applicable to any persons acquiring land in that area in accordance with those rules;
  - (d) subject to section 27, characterised by local customary regulation;
  - (e) applying local customary regulation and management to individual and household ownership, use and occupation of, and transactions in, land;
  - (f) providing for communal ownership and use of land;
  - (g) in which parcels of land may be recognised as subdivisions belonging to a person, a family or a traditional institution; and
  - (h) which is owned in perpetuity.
- (2) Freehold tenure is a form of tenure deriving its legality from the Constitution and its incidents from the written law which—
  - (a) involves the holding of registered land in perpetuity or for a period less than perpetuity which may be fixed by a condition;
  - (b) enables the holder to exercise, subject to the law, full powers of ownership of land, including but not necessarily limited to—
    - (i) using and developing the land for any lawful purpose;
    - (ii) taking and using any and all produce from the land;
    - (iii) entering into any transaction in connection with the land, including but not limited to selling, leasing, mortgaging or pledging, subdividing, creating rights and interests for other people in the land and creating trusts of the land;
    - (iv) disposing of the land to any person either as a gift inter vivos or by will.
- (3) For the avoidance of doubt, a freehold title may be created which is subject to conditions, restrictions or limitations which may be positive or negative in their application, applicable to any of the incidents of the tenure.

- (4) Mailo tenure is a form of tenure deriving its legality from the Constitution and its incidents from the written law which—
- (a) involves the holding of registered land in perpetuity;
  - (b) permits the separation of ownership of land from the ownership of developments on land made by a lawful or *bona fide* occupant; and
  - (c) enables the holder, subject to the customary and statutory rights of those persons lawful or *bona fide* in occupation of the land at the time that the tenure was created and their successors in title, to exercise all the powers of ownership of the owner of land held of a freehold title set out in subsections (2) and (3) and subject to the same possibility of conditions, restrictions and limitations, positive or negative in their application, as are referred to in those subsections.
- (5) Leasehold tenure is a form of tenure—
- (a) created either by contract or by operation of law;
  - (b) the terms and conditions of which may be regulated by law to the exclusion of any contractual agreement reached between the parties;
  - (c) under which one person, namely the landlord or lessor, grants or is deemed to have granted another person, namely the tenant or lessee, exclusive possession of land usually but not necessarily for a period defined, directly or indirectly, by reference to a specific date of commencement and a specific date of ending;
  - (d) usually but not necessarily in return for a rent which may be for a capital sum known as a premium or for both a rent and a premium but may be in return for goods or services or both or may be free of any required return;
  - (e) under which both the landlord and the tenant may, subject to the terms and conditions of the lease and having due regard for the interests of the other party, exercise such of the powers of a freehold owner as are appropriate and possible given the specific nature of a leasehold tenure.

#### 4. Certificate of customary ownership

- (1) A person, family or community holding land under customary tenure on former public land may acquire a certificate of customary ownership in respect of that land in accordance with this Act.
- (2) A certificate of customary ownership shall be in the prescribed form.
- (3) An application for a certificate of customary ownership shall be in the prescribed form and shall be submitted, together with the prescribed fee, to the committee of the area in which the land the subject of the application is situated.

#### 5. Functions of committee on application for certificate of customary ownership

- (1) On receipt of an application for a certificate of customary ownership, the committee shall—
  - (a) determine, verify and mark the boundaries of all interests in the land which is the subject of the application;
  - (b) demarcate rights of way and other easements over the land the subject of the application and any adjacent land which benefit or burden or are reputed to benefit or burden any such land or which it considers will be necessary for the more beneficial occupation of any such land in respect of which an application may be granted or any adjacent land;
  - (c) adjudicate upon and decide in accordance with and applying customary law any question or matter concerning the land referred to it by any person with an interest in land which is the subject of an application or any land adjacent to it, including the question of



- whether the customary law applicable to the land the subject of the application recognises individual rights to the occupation and use of land and, if so, subject to what conditions and limitations;
- (d) record that if any person has, or two or more persons have, exercised rights under customary law over the land the subject of the application that should be recognised as ownership of that land, that person or those persons, as the case may be, shall, *prima facie*, be entitled to be issued with a certificate of customary ownership and in the case of two or more persons, the shares of each person and the nature of their ownership;
  - (e) if any persons have exercised any right over the land or any part of it or are entitled to any interest in the land or part of it not amounting to ownership, including any lease, right of occupation or use, charge, pledge or other encumbrance whether by virtue of customary law or otherwise, hereafter in this Act referred to as a third party right, record the nature, incidents and extent of that third party right and the persons entitled to the benefit of it;
  - (f) advise the board upon any question of customary law;
  - (g) safeguard the interests and rights in the land which is the subject of the application of women, absent persons, minors and persons with or under a disability;
  - (h) take account of any interest in land in respect of which, for any reason, no claim has been made; and
  - (i) exercise such other functions as may be prescribed.
- (2) The committee shall, in the exercise of any of its powers under this section which involve a hearing, comply with the rules of natural justice and, subject to that duty, may—
    - (a) hear evidence which would otherwise not be admissible in a court of law;
    - (b) call evidence of its own motion;
    - (c) use evidence contained in any official record or adduced in any other claim;
    - (d) refer any matters to any customary institution habitually accepted within the area as an institution with functions over land for its advice and, where relevant, use, with or without adaptations and additions, customary procedures relating to the settlement of disputes over land recognised and in general use within the community where the land is situated; and
    - (e) generally, determine its own procedures.
  - (3) In order to discharge the functions referred to in subsection (1), the Chairperson of a committee shall have power to administer oaths and to issue summonses, notices and orders requiring the attendance of such persons and the production of such documents as he or she may consider necessary for carrying out the functions of the committee.

## 6. Procedures for application for certificate of customary ownership

- (1) The Chairperson of a committee shall be responsible for ensuring that the procedures to be followed by the committee as set out in this section and any other procedures that may be prescribed are complied with.
- (2) Where an application has been submitted to the committee, a notice in the prescribed form shall be published and posted in a prominent place in the area and on the land which is the subject of the application—
  - (a) specifying the location and approximate area of the land;
  - (b) requiring all persons who claim any interest in the land or in any adjacent land which may be affected by the application, including in respect of any adjacent land claims as to the boundaries of that land, to attend a meeting of the committee at a specified time and put

forward their claims; and the time specified shall be not less than two weeks from the date on which the notice is published and posted as required by this subsection.

- (3) On the date specified under subsection (2), the committee shall hear and determine all claims made under that subsection.
- (4) The committee may adjourn any hearing into any claim and request an officer from the district land office, any other person or a group of persons recognised within the area as having knowledge about the land and its incidents of tenure to conduct further investigations into that claim.
- (5) In hearing and determining any claim, the committee shall use its best endeavours to mediate between and reconcile parties having conflicting claims to the land.
- (6) The committee shall—
  - (a) prepare a report on the application, recording all claims to interests and rights in the land or to the occupation and use of the land and its opinion on whether those claims have been proved to exist, setting out its findings and recommendations with reasons on the application, including in all cases whether the application should be approved with or without conditions, restrictions or limitations endorsed on the certificate and forming part of the incidents of customary ownership evidenced by the certificate or refused, and all claims made in relation to the application;
  - (b) give or send a copy of the report to the applicant;
  - (c) submit the report to the board;
  - (d) make a copy of the report available within the area for inspection by all persons who submitted claims to or who were heard by the committee.

## **7. Functions and procedure of board on application for certificate of customary ownership**

- (1) The board shall, upon receipt of the report and recommendations of the committee referred to in section 6(6), consider the application in the light of that report and those recommendations and may—
  - (a) confirm the recommendations of the committee and where those recommendations are to issue a certificate of customary ownership with or without conditions, restrictions or limitations, approve the issue of a certificate of customary ownership accordingly and where the recommendations are to refuse to issue a certificate of customary ownership, confirm that refusal;
  - (b) where the recommendation of the committee is to approve the issue of a certificate subject to conditions, restrictions or limitations, vary the recommendation of the committee and approve the issue of a certificate of customary ownership, with or without conditions, restrictions or limitations in accordance with any such variations as it may make;
  - (c) return the report to the committee with directions as to what action, including further investigations or hearings, the committee is to undertake on the application; or
  - (d) reject the report of the committee and where the recommendation of the committee is to issue a certificate, refuse the issue of a certificate and where the recommendation of the committee is to refuse the issue of a certificate, approve the issue of a certificate.
- (2) Where the board rejects or varies a recommendation of the committee, it shall give reasons for its decision.
- (3) Where the committee has recorded under section 5(1)(e) that a person is entitled to the benefit of a third party right, a certificate of customary ownership may only be issued subject to that third party right, a record of which shall be endorsed on the certificate.
- (4) The board shall communicate its decision in writing to the recorder.

- (5) Where the board approves the issue of a certificate of customary ownership with or without conditions, restrictions or limitations, the recorder shall issue the applicant with a certificate in the terms of the decision of the board.
- (6) Any person aggrieved by a decision of the board under this section may appeal to a district land tribunal against that decision; and the district land tribunal may confirm, vary, reverse or modify the decision of the board and make such other order in respect of that decision or as it is empowered to make by this Act.

## 8. Incidents of certificate of customary ownership

- (1) A certificate of customary ownership shall be taken to confirm and is conclusive evidence of the customary rights and interests specified in it, and the land to which the certificate refers shall continue to be occupied, used, regulated and any transactions in respect of the land undertaken and any third party rights over the land exercised in accordance with customary law.
- (2) A certificate of customary ownership shall confer on the holder of the certificate the right of the holder to undertake, subject to the conditions, restrictions and limitations contained in the certificate and subject to subsection (1), any transactions in respect of that land which may include, but shall not be limited to—
  - (a) leasing the land or a part of it;
  - (b) permitting a person usufructuary rights over the land or a part of it for a limited period which may include a period for the life of the person granting or the person granted the usufructuary right;
  - (c) mortgaging or pledging the land or a part of it, where a certificate of customary ownership does not restrict it;
  - (d) subdividing the land or a part of it, where a certificate of customary ownership does not restrict it;
  - (e) creating, or with the consent of the person entitled to the benefit, altering or discharging any easement, right in the nature of an easement or third party right applicable to the land or a part of it;
  - (f) selling the land or a part of it, where a customary certificate of customary ownership does not restrict it;
  - (g) transferring the land or a part of it to any other person in response to an order of a court or a district land tribunal;
  - (h) disposing of the land either as a gift inter vivos or by will.
- (3) The holder of a certificate of customary ownership who undertakes any transaction in respect of the land to which the certificate relates shall provide the recorder with a copy or other accurate record of the transaction, and the recorder shall keep all such records in the prescribed manner.
- (4) A transaction referred to in subsection (2)(a), (c) or (f) shall not have the effect of passing any interest in the land to which the transaction relates unless it is registered by the recorder under subsection (3).
- (5) For the avoidance of doubt, where a mortgage of land to which this section applies has been made under the Mortgage Act, the mortgagee has the power to sell and execute a transfer of that land to a purchaser in case of default by the mortgagor.
- (6) In this section, “usufructuary right” means the right to use and derive profit from a piece of property belonging to another while the property itself remains undiminished and uninjured in any way.

- (7) A certificate of customary ownership shall be recognised by financial institutions, bodies and authorities as a valid certificate for purposes of evidence of title.

## 9. Conversion of customary tenure to freehold tenure

- (1) A person, family, community or association holding land under customary tenure on former public land may convert the customary tenure into freehold tenure in accordance with this Act.
- (2) The decision of the board approving the conversion to freehold tenure shall be in the prescribed form.
- (3) An application for conversion from customary tenure to freehold tenure shall be in the prescribed form and shall be submitted, together with the prescribed fee, to the committee of the area in which the land the subject of the application is situated.
- (4) On receipt of the report and recommendations of the committee, the board shall cause the land in respect of which the application is made to be surveyed before approving the application.
- (5) When the board approves an application for conversion, the board may attach conditions to the conversion.
- (6) Any party aggrieved by the decision of the board may appeal to a district land tribunal; and the district land tribunal may confirm, reverse, vary or modify the decision and make such orders as it is empowered to make by this Act.

## 10. Application for grant of land in freehold

- (1) A person who wishes to be granted a freehold shall apply in the prescribed form to the board.
- (2) The application referred to in subsection (1) shall be lodged with the committee.

## 11. Functions of committee on application for freehold tenure

- (1) Upon receipt of an application made under section 9 or 10, the committee shall, subject to this section, exercise in respect of the application all its functions under section 5.
- (2) The committee shall when exercising the functions set out in section 5(1)(c) consider or take into account the question whether the customary law applicable to the land the subject of an application, to which this section applies, recognises or provides for individual ownership of land.
- (3) In respect of an application made under section 9, the committee shall, when exercising the functions set out in section 5(1)(d), record whether the person or persons referred to in that paragraph are *prima facie* entitled to have their customary tenure converted to freehold tenure and in any case where two or more persons are *prima facie* entitled to convert their customary tenure to freehold tenure shall record whether they own or are entitled jointly or in common and in the latter case, the share of each.
- (4) A person who holds a certificate of customary ownership shall be exempted in respect of that land from the verification described by section 5.

## 12. Procedures for application for freehold tenure

- (1) The committee shall, subject to this section, in respect of an application made under section 9 or 10, comply with all the procedures set out in section 6.
- (2) Where the applicant is in possession of a certificate of customary ownership—
  - (a) section 6(2)(b), (3), (4), (5) shall not apply to the application; and
  - (b) the committee may, when preparing a report on the application to which section 9 applies, make use of any report prepared under section 6(6)(a) but shall, in so doing, have regard

to section 11 and whether, in the circumstances of the application, there are any new or additional matters not dealt with in the report submitted under section 6 that should be brought to the attention of the board.

### 13. Functions of board on application for freehold tenure

- (1) The board shall, upon receipt of the report and recommendations of the committee referred to in section 12(2)(b), consider the application in light of that report and those recommendations and, subject to section 12(1), may—
  - (a) confirm the recommendations of the committee and where those recommendations are to approve the application, with or without conditions and restrictions, confirm that approval and refer the approval to the Registrar of Titles to issue the applicant with a certificate of title or, as the case may be, a limited certificate under the Registration of Titles Act and where the recommendations are to refuse the application, confirm that refusal;
  - (b) where the recommendation of the committee is to approve the application, subject to conditions, restrictions and limitations, vary the recommendation of the committee and approve the application, with or without conditions, restrictions and limitations in accordance with any such variations as it may make;
  - (c) return the report to the committee with directions as to what action, including any further investigations or hearings, the committee is to undertake on the application; or
  - (d) reject the report of the committee and where the recommendation of the committee is to approve the application, refuse to approve the application and where the recommendation of the committee is to refuse the application, approve the application; and where the application is rejected, the board shall give reasons as to why the application was rejected.
- (2) Where the committee reports, under section 12(2)(b) that a person is entitled to the benefit of a third party right, the board shall, if it accepts the report of the committee on the matter, and after taking into account the advice of the district land office, determine the nature of the third party right.
- (3) Before approving the report and recommendations under subsection (1)(a) or (b), the board shall cause the land in respect of which the application is made to be surveyed.
- (4) The board may, where it has determined that any person is entitled to the benefit of a third party right in land which is subject to an application for conversion to freehold tenure, determine that any freehold title of such land shall be subject to such restrictions, conditions and limitations as it considers desirable in the interests of efficiency and equity in land management or as will enable full effect to be given to those third party rights.
- (5) In respect of an application to which section 10 applies, the board shall charge a fee for the freehold title which shall be prescribed and any such charge at the fair market valuation shall be set by the board at the level determined by the chief government valuer, and any fee may be paid in one lump sum or in instalments as the board may determine.
- (6) Where the board approves an application, it shall—
  - (a) send a copy of its decision to the Registrar of Titles to enable the Registrar of Titles to issue a certificate;
  - (b) request the Registrar of Titles to issue a certificate of freehold title to the applicant in terms of its decision, including endorsing on the title as an incumbrance any restriction, condition or limitation as is referred to in subsection (4).
- (7) A person aggrieved by a decision or determination of the board under this section may appeal to a district land tribunal against that decision; and the district land tribunal may confirm, vary, reverse or modify the decision or determination of the board and make such other order in respect of that decision or determination as it is empowered to make by this Act.

#### 14. Duties of Registrar of Titles in respect of applications under sections 9 and 10

- (1) On receipt of a decision of the board approving an application for the conversion of customary tenure to freehold tenure or approving a grant of land in freehold tenure accompanied by a certified survey plan, the Registrar of Titles shall issue a freehold certificate of title to the applicant.
- (2) The Registrar of Titles may, in accordance with section 39 of the Registration of Titles Act, on the advice of the Commissioner responsible for surveys, issue to the applicant a certificate of title endorsed with the words "Limited as to Parcels".
- (3) Where the decision of the board includes a request under section [13\(6\)\(b\)](#) that the Registrar of Titles shall endorse the certificate of title with an incumbrance so as to give effect to a restriction, condition or limitation on the freehold title, the Registrar of Titles shall give effect to that request.

#### 15. Communal land associations

- (1) A communal land association may be formed by any group of persons in accordance with this Act for any purpose connected with communal ownership and management of land, whether under customary law or otherwise.
- (2) Within each district, the Registrar of Titles shall perform such functions relating to communal land associations as are conferred on that officer by this Act or as may be prescribed.
- (3) The Registrar of Titles shall keep a public register of associations in the prescribed form and shall exercise a broad and general supervision over the administration of the associations within his or her district in order to ensure that they comply with their constitutions and manage the communal land under their control with due regard to the interests of the members of the association; and without limiting the generality of that function, the Registrar of Titles may, at any time that he or she considers it necessary for the proper performance of his or her functions or that it is in the public interest so to do, give directions to any officer of an association as to the proper performance of his or her duties, and that officer shall be under a duty to comply with any such order.

#### 16. Meeting to form association and elect managing committee

- (1) A group of persons who wish to form themselves into an association may apply to the Registrar of Titles to become an association under the Act.
- (2) The Registrar of Titles shall, on receipt of an application, convene a meeting of the group of persons.
- (3) A notice to convene a meeting shall—
  - (a) state the place where and the time, being not less than twenty-one days from the date of the notice, at which the meeting is to be held;
  - (b) be drawn to the attention of all members of the group of persons in such manner that they will understand its nature and purpose.
- (4) A meeting of a group of persons convened under this section shall—
  - (a) determine whether to incorporate themselves into an association;
  - (b) where not less than sixty percent of the group determine so to incorporate themselves, elect not more than nine nor less than three persons, of whom not less than one-third shall be women, to be the officers of the association.
- (5) The Registrar of Titles or an authorised officer shall preside at the meeting convened under this section.

## 17. Constitution of association

- (1) The officers elected under section 16 shall be responsible for preparing a constitution for the association.
- (2) The Registrar of Titles shall assist the officers in preparing a constitution for the association and may provide the officers with a model constitution containing such matters as may be prescribed.
- (3) A constitution prepared by the officers shall be submitted to the Registrar of Titles for his or her certification that it complies with such matters as may have been prescribed or where no matter has been prescribed, that it provides for a transparent and democratic process of management of the affairs of the association.
- (4) Where the Registrar of Titles is of the opinion that the constitution does not comply with subsection (3), the Registrar of Titles shall, within not more than thirty days from the receipt of that constitution, return it to the officers with a statement of reasons as to why he or she has rejected it.
- (5) A constitution which has been rejected under subsection (4) may be revised and resubmitted for certification.
- (6) A constitution which has been certified as complying with subsection (3) shall be put before and voted on by a meeting of the members of the association specifically convened for that purpose.
- (7) A constitution shall be the approved constitution of the association when and only when it is approved by an absolute majority of all the members of that association at the meeting referred to in subsection (6).
- (8) An approved constitution shall be binding on all members of the association.

## 18. Incorporation of officers as managing committee

- (1) The officers of an association which has voted to approve a certified constitution shall apply to the Registrar of Titles on the prescribed form to be incorporated under this Act.
- (2) On receiving an application under subsection (1), the Registrar of Titles shall, if he or she is satisfied that the requirements of this Act and any regulations made under this Act have been complied with, issue a certificate of incorporation of the officers of the association in the prescribed form, subject to such conditions and limitations as may be prescribed.
- (3) Upon the issue of a certificate of incorporation, the persons named in it as the officers shall become a body corporate with the name specified in the certificate and shall have perpetual succession and a common seal.
- (4) Where a certificate of incorporation has been issued subject to conditions and limitations, the officers may, with the approval of the Registrar of Titles, vary any of those conditions or limitations.

## 19. Powers of managing committee

- (1) The issue of a certificate of incorporation shall, subject to this Act, confer on the officers the powers to sue and the liability to be sued in the corporate name of the association, to make contracts binding on the association and all its members, to grant mortgages, pledges or liens over any property of the association and to dispose of any property of the association.
- (2) The managing committee shall hold any land and other property which it holds as such and exercise its powers as such for and on behalf of all members of the association on any exercise of its functions.
- (3) Where land is held on a certificate of customary ownership or a freehold or leasehold title by the managing committee on behalf of an association, no transactions of any kind in respect of the land or any part of the land shall be entered into or undertaken or concluded by the managing committee unless a majority convened for the purpose approve the specific transactions which are

the subject of the meeting, and any transaction which is concluded which does not comply with this subsection shall be null and void and shall give rise to no rights or interest in the land.

## 20. Disputes

- (1) If a dispute arises within an association, the Registrar of Titles may of his or her own motion or on a request in writing by not less than one-tenth of the membership of that association—
  - (a) undertake an inquiry into the activities of the association and the matters which have caused or contributed to the dispute;
  - (b) refer the dispute to the board or such other person as he or she considers suitable to act as a conciliator to mediate the dispute between the members;
  - (c) propose amendments to the constitution or the rules of the association to avoid similar disputes in the future;
  - (d) take such other action as he or she shall consider appropriate in the circumstances, including action under this section.
- (2) Where the Registrar of Titles has intervened in a dispute within an association under this section, all members of that association shall comply with any directions given by that officer in connection with the resolution of that dispute and shall cooperate with any person appointed by that officer to assist in resolving the dispute.

## 21. Dissolution and decertification of association

- (1) The managing committee may apply to the Registrar of Titles for dissolution of the association.
- (2) An application under subsection (1) shall be made in the prescribed form and shall be—
  - (a) signed by the officers;
  - (b) accompanied by the duly and properly signed minutes of the meeting of the members of the association specifically convened for the purpose at which a resolution to support the dissolution of the association was approved by a majority of all members of the association; and
  - (c) delivered or sent to the Registrar of Titles within fourteen days of the date on which the resolution was approved.
- (3) The Registrar of Titles may, if he or she thinks fit, consent to the dissolution applied for; but the consent shall not affect any liability for any debts or remove any obligation to pay any taxes, fees, dues or other sums which the officers, on behalf of the association, owed up to the time of the dissolution, and any action or proceedings against those officers which have been or which may be commenced in respect of any such debts or sums owing may be continued or commenced, as the case may be.
- (4) When an order of dissolution is consented to, the Registrar of Titles shall—
  - (a) give appropriate publicity to the dissolution and its effect;
  - (b) cancel the certificate of incorporation of the association; and
  - (c) give such other directions and make such other orders as are necessary to give full effect to the dissolution and decertification of the association.

## 22. Individual holding of land created out of communal land

- (1) Where an association holds land under a certificate of customary ownership or for a freehold title on behalf of a community, the association shall, where the customary law of the area makes



provision for it, recognise and verify that all or part of the land so held by it is occupied and used by individuals and families for their own purposes and benefit.

- (2) For the purpose of holding land under customary tenure, a family shall be deemed to be a legal person represented by the head of the family.
- (3) Where any individual member of or family within a community referred to in subsection (1) or otherwise wishes to own, in his or her or its own capacity, land which is held communally but which, in accordance with customary law, is made available for the occupation and use of that individual or household, then—
  - (a) if it is before the land held by an association on behalf of the community, the individual or household may apply for a certificate of customary ownership under section 4, or for a freehold title under section 10, in respect of his or her or its portion of land, and sections 5 and 6 or, as the case may be, sections 11, 12, 13 and 14 shall apply to that application;
  - (b) where the land communally owned is held by an association under a certificate of customary ownership, the individual or family may apply to the association to transfer to him, her or it, his or her or its portion of land, and the association shall consider the application and take a decision in the matter; and if the association approves the application, the applicant may cause his or her or its portion of the land to be demarcated and transferred to the applicant and registered by the recorder;
  - (c) where the land communally owned is held by an association under freehold title, the individual or family may apply to the association to transfer to him, her or to it, his, her or its portion of land, and the association shall consider the application and take a decision in the matter; and if the association approves the application, the applicant may cause his or her or its portion of the land to be surveyed and transferred to the applicant and registered by the Registrar of Titles.
- (4) Any person aggrieved by a decision of the association under this section may appeal against the decision to a district land tribunal; and the district land tribunal may confirm, vary, reverse or modify the decision of the association and make such other order as it is empowered to make under this Act.

### **23. Establishment of areas of common land use in communally owned land**

- (1) An association may, and shall, when so requested to do so by the community on whose behalf it holds land, set aside one or more areas of land for common use by members of the group.
- (2) The boundaries of any area of land which has been set aside for common use shall be marked out in such a manner, including any such manner as is customary among the persons who will use that land, so as to enable those persons to recognise and keep to those boundaries.
- (3) The purposes for which land may be set aside for common use are—
  - (a) the grazing and watering of livestock;
  - (b) hunting;
  - (c) the gathering of wood fuel and building materials;
  - (d) the gathering of honey and other forest resources for food and medicinal purposes; and
  - (e) such other purposes as may be traditional among the community using the land communally.

### **24. Management of areas of common land use**

- (1) An area of land set aside for common use shall be used and managed in accordance with the terms of a common land management scheme.

- (2) A common land management scheme shall be made by an association, but it shall only come into effect when it is agreed to by the community on whose behalf the association holds land.
- (3) A common land management scheme may extend to cover the use and management of more than one area of common land.
- (4) A person who is not a member of the community may, with the agreement of the association, which agreement shall not be unreasonably withheld, use common land in accordance with the terms of the common land management scheme applicable to that land.
- (5) Where a common land management scheme is made in respect of land held by an association under freehold, all members of the community and persons referred to in subsection (4) shall be deemed to have the benefit and be subject to the burden of easements and rights in the nature of easements in respect of their use of the common land.
- (6) The board may prepare and publish a model common land management scheme; and where a model scheme has been published, an association shall have regard to that scheme when it makes its own scheme.

## 25. Content of common land management scheme

- (1) A common land management scheme may include all or any of the following matters as seems most appropriate to the association—
  - (a) a description of the area of common land to which it applies;
  - (b) where common land is to be used for the communal grazing and watering of livestock—
    - (i) the numbers and type of livestock which each member of the community may graze on the common land;
    - (ii) the locations within the common land where livestock may be grazed and the times when those locations may be used for the grazing;
    - (iii) the routes to and from the common land which livestock are required to use;
  - (c) where the common land is to be used for hunting, the terms and conditions on which hunting may take place, due regard being given to the Animal Diseases Act, Cattle Grazing Act and the Uganda Wildlife Act; and
  - (d) where common land is to be used for the gathering of wood fuel, building materials and other natural resources—
    - (i) the amount of wood fuel, building materials and other natural resources which any member of the community may gather for the use of his or her homestead and his or her family;
    - (ii) the terms and conditions on which wood fuel and other natural produce may be gathered for sale;
  - (e) a description of the management activities to be undertaken by the association;
  - (f) general rules concerning access to and use of common land by members of the community and by other persons;
  - (g) fees that may be charged to those using the common land, and any such fees may differentiate between members of the community and other persons using the common land with permission of the association;
  - (h) the penalties that may be imposed on those violating the terms of the scheme, including the grounds for excluding any person from using the common land;
  - (i) the duration of the scheme;

- (j) the procedures for reviewing and amending the scheme; and
  - (k) such other matters as the members of the association may think fit to include or as may be prescribed.
- (2) There shall be deemed to be included in every scheme the basic rights and duties of the members of the community using the common land to which that scheme applies as set out in section 26.

## 26. Basic rights and duties of members of community using common land

- (1) The basic rights and duties of the members of a community under a common land management scheme are as follows—
- (a) the right to make reasonable use of the common land, jointly with all other members of the group, in accordance with the terms of the scheme;
  - (b) the right to gather wood fuel and building materials and harvest the resources of the common land in accordance with the terms of the scheme;
  - (c) the duty to comply with and assist in the enforcement of the rules set out in the scheme;
  - (d) the right to exclude non-members of the group from the common land, other than those non-members who have been permitted to enter and use the common land;
  - (e) the duty to bear a reasonable and proportionate share of any expenses or losses incurred in using and managing the common land or through any natural disaster affecting the common land;
  - (f) the duty to support the establishment and management of a fund for the purposes of carrying out activities on and improvements to the common land in accordance with the terms of the scheme and to pay into the fund any fees and penalties collected under the scheme;
  - (g) the duty not to transfer any rights to occupy or use or gather the produce of any common land to any person whether for a fee or otherwise, except in accordance with the terms of the agreement and the rules of the scheme;
  - (h) the duty to comply with any decisions of the association or any dispute settlement body established by the association to settle disputes arising from the management of the scheme;
  - (i) such other basic rights and duties as may be proposed by the association and agreed to by the community.
- (2) Any person aggrieved by a decision of an association made in connection with the management of a scheme may appeal against that decision to a district land tribunal; and the district land tribunal may confirm, vary, reverse or modify the decision of the association and make such other order in respect of that decision as it is empowered to make by this Act.

## 27. Rights of women, children and persons with disability regarding customary land

Any decision taken in respect of land held under customary tenure, whether in respect of land held individually or communally, shall be in accordance with the customs, traditions and practices of the community concerned, except that a decision which denies women or children or persons with a disability access to ownership, occupation or use of any land or imposes conditions which violate Articles 33, 34 and 35 of the Constitution on any ownership, occupation or use of any land shall be null and void.

## 28. Conversion of leasehold into freehold

- (1) Any lease which was granted to a Uganda citizen out of former public land and was subsisting on the coming into force of this Act may be converted into freehold if the board is satisfied that the following conditions have been complied with—
  - (a) that the leasehold is authentic and genuine;
  - (b) that there were no customary tenants on the land at the time of acquisition of the lease;
  - (c) that if there were any customary tenants on the land at the time of acquisition whose tenancy was disclosed, those tenants were duly compensated;
  - (d) that all development conditions and covenants have been complied with;
  - (e) that any other conditions imposed by law from time to time have been complied with; and
  - (f) that the conversion shall be limited to one hundred hectares and that any area in excess of one hundred hectares shall be converted only if the board has verified it and is satisfied that it is desirable in the public interest that it should be converted into freehold.
- (2) Where a lease of land exceeding one hundred hectares is converted into freehold, the owner shall pay the market value as determined by the chief government valuer for the new interest before the conversion becomes effective and the money paid shall become part of the Land Fund.
- (3) Any sublease held under a lease converted in accordance with subsection (1) shall be taken to be upgraded to a lease under the same terms, conditions and covenants.
- (4) Upon conversion, the Registrar of Titles shall endorse on the leasehold certificate of title the words “Converted to Freehold”, cite the applicable law and append his or her signature.
- (5) The Registrar of Titles shall have power to ask for the production of the duplicate of the certificate of title for endorsement in accordance with subsection (4).
- (6) The Registrar of Titles shall endorse on a subleasehold deed to which subsection (3) applies the words “Converted to Leasehold”, cite the applicable law and append his or her signature.
- (7) For the avoidance of doubt, the Registrar of Titles shall issue a certificate of title in respect of any sublease upgraded to a lease under this section.
- (8) Any person aggrieved by the decision of the board under this section may appeal to a district land tribunal against the decision; and the district land tribunal may confirm, reverse, vary or modify the decision and make such order as it may think fit.

## 29. Meaning of “lawful occupant” and “*bona fide* occupant”

- (1) “Lawful occupant” means—
  - (a) a person occupying land by virtue of the repealed—
    - (i) Busuulu and Envujjo Law of 1928;
    - (ii) Toro Landlord and Tenant Law of 1937;
    - (iii) Ankole Landlord and Tenant Law of 1937;
  - (b) a person who entered the land with the consent of the registered owner, and includes a purchaser; or
  - (c) a person who had occupied land as a customary tenant but whose tenancy was not disclosed or compensated for by the registered owner at the time of acquiring the leasehold certificate of title.

- (2) “*Bona fide* occupant” means a person who before the coming into force of the Constitution—
  - (a) had occupied and utilised or developed any land unchallenged by the registered owner or agent of the registered owner for twelve years or more; or
  - (b) had been settled on land by the Government or an agent of the Government, which may include a local authority.
- (3) In the case of subsection (2)(b)—
  - (a) the Government shall compensate the registered owner whose land has been occupied by persons resettled by the Government or an agent of the Government under the resettlement scheme;
  - (b) persons resettled on registered land may be enabled to acquire registrable interest in the land on which they are settled; and
  - (c) the Government shall pay compensation to the registered owner within five years after the coming into force of this Act.
- (4) For the avoidance of doubt, a person on land on the basis of a licence from the registered owner shall not be taken to be a lawful or *bona fide* occupant under this section.
- (5) Any person who has purchased or otherwise acquired the interest of the person qualified to be a *bona fide* occupant under this section shall be taken to be a *bona fide* occupant for the purposes of this Act.

### 30. Mediator to assist persons not qualified to be *bona fide* occupants

- (1) Where a person has occupied and utilised or developed any land unchallenged by the registered owner of the land or agent of the registered owner for less than twelve years and therefore does not qualify to be a *bona fide* occupant under section 29, that person shall take all reasonable steps to seek and identify the registered owner of the land for the purpose of undertaking negotiations with that owner concerning his or her occupation of the land.
- (2) Where any negotiations are entered into between the occupant and the registered owner under subsection (1) and the parties are unable, within a prescribed time, to reach agreement in the matter of the occupation of the land, either party may, in the prescribed manner, invite the mediator to assist them in their negotiations.
- (3) The mediator may, upon being invited under subsection (2) and after satisfying himself or herself that there are reasonable prospects of reaching a satisfactory agreement between the parties, accept the invitation and give all reasonable assistance to the parties to reach an agreement on the occupation.
- (4) Where, after a period of not less than three months, the mediator certifies that he or she is unable to assist the parties to reach an agreement under this section or the parties or any one of them declines to make use of the services of the mediator, either party may appeal to a district land tribunal and the district land tribunal may make such order as it thinks fit but if the district land tribunal determines that the occupation of land to which this section refers should come to an end, it shall give not less than one year’s notice to the occupant of the land to vacate that land.

### 31. Tenant by occupancy

- (1) A tenant by occupancy on registered land shall enjoy security of occupancy on the land.
- (2) The tenant by occupancy referred to in subsection (1) shall be deemed to be a tenant of the registered owner to be known as a tenant by occupancy, subject to such terms and conditions as are set out in this Act or as may be prescribed.

- (3) The tenant by occupancy shall pay to the registered owner an annual nominal ground rent as shall, with the approval of the Minister, be determined by the board.
- (4) The Minister shall, within sixty days after receipt of a request for approval under subsection (3), communicate his or her decision in writing to the board.
- (5) Where the Minister makes no communication of his or her decision after the expiration of the period prescribed in subsection (4), it shall be deemed that the approval has been given.
- (6) For the purposes of this section, nominal ground rent shall mean reasonable ground rent—
  - (a) taking into consideration the circumstances of each case; and
  - (b) in any case, of a non-commercial nature.
- (7) Where the board has not determined the annual nominal ground rent payable by a tenant by occupancy within six months after the 12th day of February, 2010, the rent may be determined by the Minister.
- (8) The rent payable under this section shall be paid within one year after the Minister has approved the rent payable under subsection (3) or determined the rent payable under subsection (7).
- (9) The tenant and the registered owner if aggrieved by the decision of the board may appeal against the decision to a district land tribunal; and the district land tribunal may confirm, reverse, vary or modify the decision or make such other orders as it is empowered to make by this Act.
- (10) If a tenant by occupancy fails to pay the approved ground rent for a period exceeding one year, the registered owner may give a notice in the prescribed form to the tenant requiring him or her to show cause why the tenancy should not be terminated for non-payment of rent and shall send a copy of the notice to the committee.
- (11) If the ground rent is not paid within one year from the date of service of notice or the tenant by occupancy has not taken any steps within six months after the date of service of the notice to challenge the notice by referring to a district land tribunal, the registered owner may apply to the district land tribunal for an order terminating the tenancy for non-payment of the rent.
- (12) For the avoidance of doubt, the security of tenure of a lawful or *bona fide* occupant shall not be prejudiced by reason of the fact that he or she does not possess a certificate of occupancy.

### **32. Jurisdiction of district land tribunal in respect of non-payment of ground rent**

- (1) In any case before a district land tribunal concerning the nonpayment of the ground rent referred to in section 31, whether the case is commenced by a tenant or a landlord, the district land tribunal shall have regard to the following factors—
  - (a) whether the person claiming the ground rent is the registered owner of the land or his or her lawfully authorised agent;
  - (b) whether the landlord has interfered with the quiet enjoyment by the tenant of his or her occupation of the land or contravened section 31(1) in any way;
  - (c) the circumstances, means and the necessary outgoings of the tenant;
  - (d) whether the tenant has vacated the land, leaving dependents with no means of support on the land;
  - (e) whether the non-payment of the ground rent is deliberate;
  - (f) the efforts made by the tenant or the dependents referred to in paragraph (d) to pay the ground rent;
  - (g) any negotiations over the arrears which have taken place between the landlord and the tenant and their outcome;

- (h) the likelihood that if the arrears were averaged out over such reasonable period as a district land tribunal may determine, the tenant or dependent referred to in paragraph (d) would be able to pay both those arrears and the regular yearly ground rent;
  - (i) such other factors as a district land tribunal shall think relevant or as may be prescribed.
- (2) After hearing the parties to the case, a district land tribunal shall make an order—
- (a) directing that the tenant shall pay the arrears either in one lump sum by a due date or in instalments over such period of time as the district land tribunal shall set;
  - (b) granting the application for the termination of the tenancy but suspending the coming into effect of the order so as to allow the tenant the opportunity to pay the arrears in accordance with any order made for their payment by the district land tribunal; or
  - (c) granting the application for the termination of the tenancy stating in the order the date, being not less than six months from the date of the order, by which the tenant shall have vacated the land, and may grant any such order on such conditions, if any, as to expenses, damages, compensation or any other relevant matter as the district land tribunal thinks fit.

### 33. Lawful or *bona fide* occupants to be evicted only for non-payment of ground rent

- (1) A lawful or *bona fide* occupant shall not be evicted from registered land except upon an order of eviction issued by a court and only for nonpayment of the annual nominal ground rent.
- (2) A court shall, before making an order of eviction under this section, take into consideration the matters specified in section [32\(1\)](#).
- (3) When making an order for eviction, the court shall state in the order, the date, being not less than six months after the date of the order, by which the person to be evicted shall vacate the land and may grant any other order as to expenses, damages, compensation or any other matter as the court thinks fit.
- (4) For the purposes of this section, the word “court” shall mean a court presided over by a magistrate grade I or a chief magistrate as the case may be, and reference to a district land tribunal in this Act and amendments thereto shall be interpreted accordingly.

### 34. Certificate of occupancy

- (1) A tenant by occupancy may apply to the registered owner for and be issued with a certificate of occupancy in the prescribed form in respect of the land which he or she occupies in accordance with this section.
- (2) On receipt of the application, the registered owner shall notify the committee; and the committee shall appoint a day, being not less than three weeks and not more than three months from the date of the receipt of the application, when it will meet at the place where the land is situated to determine, verify and adjudicate on the boundaries to the land and shall inform the tenant by occupancy and the owner of that date.
- (3) In exercising its functions of determining, verifying and adjudicating on the boundaries of the land, the committee shall, in the exercise of any of its powers under this section which involve a hearing of the affected parties, comply with the rules of natural justice and, subject to that duty, may—
  - (a) hear evidence which would not be admissible in a court of law;
  - (b) call evidence of its own motion;
  - (c) use evidence contained in any official record or adduced in any other claim; and
  - (d) generally, determine its own procedures.

- (4) A determination of the committee on the boundaries of the land shall be sent to the tenant in occupancy and the owner of the land.
- (5) A tenant in occupancy shall only be entitled to be issued with a certificate of occupancy if he or she has paid the ground rent for the land and has no arrears of ground rent outstanding or where there are arrears, the matter has been determined by a decision of a district land tribunal under section 32.
- (6) Subject to subsection (5), on receipt of the determination of the committee, the owner shall, without undue delay, give a consent in the prescribed form to the tenant.
- (7) Where the registered owner has not, within six months after the receipt of the determination of the committee, granted a consent to a certificate of occupancy to the tenant by occupancy, the tenant may appeal to a district land tribunal; and the district land tribunal shall proceed as provided for in this Act to grant a consent to the certificate of occupancy.
- (8) A grant of consent shall entitle the tenant by occupancy to be issued with a certificate of occupancy by the recorder, and the recorder shall, on being satisfied with the grant of consent, issue a certificate of occupancy to the tenant by occupancy who presented the grant of consent to the recorder.
- (9) The recorder shall notify the Registrar of Titles of the issue of a certificate of occupancy and an encumbrance to that effect shall be endorsed on the certificate of title by the Registrar of Titles.

### **35. Transactions with tenancy by occupancy**

- (1) A tenant by occupancy may, in accordance with the provisions of this section, assign, sublet or subdivide the tenancy with the consent of the land owner.
- (2) A tenancy by occupancy may be inherited.
- (3) Prior to undertaking any transaction to which subsection (1) refers, the tenant by occupancy shall submit an application in the prescribed form to the owner of the land for his or her consent to the transaction.
- (4) The registered owner shall, within six weeks from the date of receipt of the application or such longer time as may be prescribed, either grant a consent to the transaction in the prescribed form, with or without conditions, or refuse consent to the transaction.
- (5) Where the registered owner refuses to grant consent to the transaction or grants consent subject to conditions which the tenant by occupancy objects to or fails within the prescribed time to give any decision on the application, the tenant by occupancy may appeal to a district land tribunal against the refusal or the conditions, as the case may be.
- (6) For the purposes of appealing under this section, the failure to give a decision referred to in subsection (5) shall be taken to be a refusal.
- (7) A district land tribunal shall, in the exercise of its functions under this section, grant the consent, with or without conditions which may include or depart from conditions imposed by the owner, or refuse consent to the transaction or may adjourn the proceedings to enable the parties to reach an agreement on the matter.
- (8) A copy of every consent, signed by the owner or, where the consent has been granted by a district land tribunal, by the secretary of the district land tribunal, shall be delivered or sent to the recorder who shall keep a record in the prescribed form of all such consents.
- (9) No transaction to which this section applies shall be valid and effective to pass any interest in land if it is undertaken without a consent as provided for in this section, and the recorder shall not make any entry on the record of any such transaction in respect of which there is no consent.



### 36. Option to purchase

- (1) A tenant by occupancy who wishes to assign the tenancy shall, subject to this section, give the first option of taking the assignment of the tenancy to the owner of the land.
- (2) Subject to subsection (8), a tenant by occupancy who purports to assign the tenancy by occupancy without giving the first option of taking the assignment of the tenancy to the owner of the land commits an offence and is liable, on conviction, to a fine not exceeding ninety-six currency points or to imprisonment for a term not exceeding four years, or both; and the transaction shall be invalid and the tenant shall forfeit the right over the land and the land shall revert to the registered owner.
- (3) The owner of land who wishes to sell the reversionary interest in the land shall, subject to this section, give the first option of buying that interest to the tenant by occupancy.
- (4) Any offer made under this section shall be on a willing buyer willing seller basis.
- (5) Where an option to buy is offered to any party under subsection (1) or (2), the party who makes the offer must set out the terms of the offer with sufficient detail and clarity for the party to whom the offer is made to understand the offer and make an appropriate response to it.
- (6) A party to whom an offer to buy is made under subsection (1) or (2) shall, within three months after the receipt of the offer, either refuse the offer or make such a response as will enable meaningful negotiations to take place between the parties.
- (7) Either party to the negotiations to which subsection (6) refers may, at any time after three months have elapsed since the negotiations commenced, refer the matter to the mediator for him or her to assist the parties to reach an agreement.
- (8) Where the mediator is unable, after three months of negotiations, to assist the parties to reach an agreement on the option to buy, he or she shall make a declaration to that effect; and the party who made the offer of the option to buy shall thereupon be enabled to assign the tenancy by occupancy or, as the case may be, sell the reversionary interest free of the option to buy, to such other person as he or she thinks fit.
- (9) Subject to this section, a change of ownership of title effected by the owner by sale, grant and succession or otherwise shall not in any way affect the existing lawful interests or *bona fide* occupant and the new owner shall be obliged to respect the existing interest.

### 37. Mutual agreement between tenant by occupancy and registered owner

- (1) A registered owner and a tenant by occupancy may mutually agree that the land in which a tenant by occupancy has an interest be subdivided in such portions as the parties may agree with each party having exclusive occupancy or ownership of such portions as may be agreed or that the parties become joint proprietors of the land either as joint tenants or as tenants in common, and where they agree to be tenants in common, the shares of each in the land on such terms and conditions as they may agree.
- (2) Where the parties agree to subdivide the land and become owners of individual portions of the subdivided land or where the parties agree to become joint proprietors of the land, they shall provide the Registrar of Titles with documentary evidence of their agreement and certified survey plans where applicable, and the Registrar of Titles shall—
  - (a) make the appropriate entries on the certificate of title of the land;
  - (b) issue new certificates of title to the parties;
  - (c) inform the recorder of the changes that must be made to the certificate of occupancy, including where relevant the cancellation of the certificate.

### 38. Abandonment and termination of occupancy

- (1) Subject to section 27, where a tenant by occupancy voluntarily abandons his or her occupancy—
  - (a) the right of occupancy shall lapse;
  - (b) the occupant may remove any structures, buildings and other things placed by him or her on the land but not dams or trees;
  - (c) the occupant is not entitled to any compensation for loss of the occupancy.
- (2) For the purposes of subsection (1), a person shall be taken to have abandoned his or her occupancy—
  - (a) where he or she gives notice to the registered owner of his or her intention to abandon the occupancy; or
  - (b) where he or she leaves the whole of the land unattended to by himself or herself or a member of his or her family or his or her authorised agent for three years or more.
- (3) Where the occupant proves that he or she was under a disability during any part of the period, the period of three years shall be extended by the period during which disability prevented the tenant by occupancy from exercising his or her right of occupancy and there was no member of the family and no authorised agent who could exercise the right of occupancy on behalf of the tenant.
- (4) Where the tenant by occupancy is compelled to vacate the land by reason of the fact that his or her building has been condemned or demolished by order of a body or authority authorised to do so under any enactment, then where the occupancy is in respect of land in an urban area—
  - (a) the occupant's right of occupancy shall not be taken to have been extinguished;
  - (b) if development is not possible, owing to planning or building restrictions under any law, the occupant is entitled to assign his or her right of occupancy giving the registered owner the first option;
  - (c) the registered owner shall have the right with the approval of the board to acquire the right of occupancy upon payment to the occupant of compensation for the right of occupancy and any development of the land, determined by a valuer appointed by the Government.
- (5) The urban council within whose jurisdiction land in an urban area is situated may determine that, subject to any existing scheme approved under the Physical Planning Act, no building may be erected and no development may be carried out on that land unless the owner and the tenants by occupancy have agreed to a programme of planned development which has been approved by that urban council; and any such programme of planned development shall include arrangements for the future ownership and occupation of the land, having regard to the provisions of this Act.
- (6) A tenant by occupancy or a registered owner of land who is aggrieved by the decision of the board or valuation of the appointed valuer under subsection (4)(c) may appeal to a district land tribunal.

### 39. Security of occupancy

- (1) Every spouse shall enjoy security of occupancy on family land.
- (2) The security of occupancy prescribed under subsection (1) means a right to have access to and live on family land.
- (3) For the purposes of subsection (2), the spouse shall in every case have a right to use the family land and give or withhold his or her consent to any transaction referred to in section 40, which may affect his or her rights.
- (4) In this section—

“**family land**” means land—

- (a) on which is situated the ordinary residence of a family;
- (b) on which is situated the ordinary residence of the family and from which the family derives sustenance;
- (c) which the family freely and voluntarily agrees shall be treated to qualify under paragraph (a) or (b); or
- (d) which is treated as family land according to the norms, culture, customs, traditions or religion of the family;

“**ordinary residence**” means the place where a person resides with some degree of continuity apart from accidental or temporary absences; and a person is ordinarily resident in a place when he or she intends to make that place his or her home for an indefinite period;

“**land from which a family derives sustenance**” means—

- (a) land which the family farms;
- (b) land which the family treats as the principal place which provides the livelihood of the family; or
- (c) land which the family freely and voluntarily agrees, shall be treated as the family’s principal place or source of income for food.

- (5) For the avoidance of doubt, this section shall not apply to spouses who are legally separated.

#### 40. Restrictions on transfer of family land

- (1) A person shall not—
  - (a) sell, exchange, transfer, pledge, mortgage or lease any family land;
  - (b) enter into any contract for the sale, exchange, transfer, pledge, mortgage or lease of any family land; or
  - (c) give away any family land inter vivos, or enter into any other transaction in respect of family land, except with the prior consent of his or her spouse.
- (2) The consent required under subsection (1) shall be in the manner prescribed by regulations made under this Act.
- (3) Subsection (1) shall not apply to any transfer of land by the mortgagee in exercise of powers under the mortgage.
- (4) Where any transaction is entered into by a purchaser in good faith and for value without notice that subsection (1) has not been complied with, the transaction shall be void but the purchaser shall have the right to claim from any person with whom he or she entered into the transaction, any money paid or any consideration given by him or her in respect of the transaction.
- (5) The consent referred to in subsection (1) shall not be unreasonably withheld.
- (6) Where the consent required by subsection (1) is withheld, the person aggrieved by the withholding of the consent may appeal to a district land tribunal and the district land tribunal shall require the spouse to show cause why he or she cannot give consent and may, in its discretion, dispense with the consent.
- (7) A spouse, not being the owner of the land to which subsection (1) applies, may lodge a caveat on the certificate of title, certificate of occupancy certificate of customary ownership of the person who is the owner of the land to indicate that the property is subject to the requirement of consent under subsection (1).

- (8) Notwithstanding section 124(2) of the Registration of Titles Act, a caveat referred to in subsection (7) shall not lapse while the caveator's right to security of occupancy subsists.
- (9) For the purposes of subsection (4)—
  - “**notice**” means actual or constructive notice;
  - “**purchaser**” means a grantee, lessee, sublessee, assignee, mortgagee, chargee or other person who acquires an estate or an interest or right in the land.

#### 41. Acquisition of land by non-citizen

- (1) Subject to Article 237(2)(c) of the Constitution, a non-citizen may acquire a lease in land in accordance with this section.
- (2) A lease of five years or more acquired by a non-citizen shall be registered in accordance with the Registration of Titles Act.
- (3) A non-citizen shall not be granted a lease exceeding ninety-nine years.
- (4) Subject to the other provisions of this section, a non-citizen shall not acquire or hold mailo or freehold land.
- (5) For the avoidance of doubt, any non-citizen who immediately before the coming into force of the Constitution held land as lessee on conversion within the meaning of the Land Reform Decree, 1975 shall be deemed to have continued to hold a lease for ninety-nine years from the first day of June, 1975.
- (6) A citizen who holds land under freehold or mailo tenure and who ceases to be a citizen of Uganda, shall by virtue of ceasing to be a citizen, cease to hold land under freehold or mailo tenure and any such tenure shall automatically and without any other legal requirement than this subsection, be converted into a lease for a period of ninety-nine years from the date of that person ceasing to be a citizen of Uganda.
- (7) For the purposes of this section, “non-citizen” means—
  - (a) a person who is not a citizen of Uganda as defined by the Constitution and the Uganda Citizenship and Immigration Control Act;
  - (b) in the case of a corporate body, a corporate body in which the controlling interest lies with non-citizens;
  - (c) in the case of bodies where shares are not applicable, where the body's decision making lies with non-citizens;
  - (d) a company in which the shares are held in trust for non-citizens;
  - (e) a company incorporated in Uganda whose articles of association do not contain a provision restricting transfer or issue of shares to non-citizens.
- (8) For the purposes of subsection (7), “controlling interest” means—
  - (a) in the case of companies with shares, the majority shares are held by persons who are not citizens; and
  - (b) in the case of companies without shares, a company in which decisions are arrived at by the majority of members who are not citizens.

#### 42. Land Fund

- (1) There is established a fund to be known as the Land Fund.

- (2) Subject to the provisions of this section, the Commission shall be responsible for the management of the Fund, and may contract out the management of any part of the Fund to an organisation in the public or private sector; but no such contract shall absolve the Commission from the responsibility of management.
- (3) The money to form part of the Land Fund shall be derived from the following sources—
  - (a) money appropriated by Parliament;
  - (b) loans obtained by the Government;
  - (c) grants from any donors;
  - (d) any money paid into the Fund under this Act;
  - (e) any other source approved by the Minister in writing in consultation with the Minister responsible for finance.
- (4) The Fund shall be utilised as follows—
  - (a) to give loans to tenants by occupancy to enable them to acquire registrable interests pursuant to Article 237(9)(b) of the Constitution;
  - (b) by the Government to purchase or acquire registered land to enable tenants by occupancy to acquire registrable interests pursuant to the Constitution;
  - (c) to resettle persons who have been rendered landless by Government action, natural disaster or any other cause;
  - (d) to assist persons to acquire titles under this Act in accordance with a prescribed scheme.
- (5) For the purposes of giving effect to subsection (4), the Commission shall, in particular, carry out the following functions—
  - (a) give loans to lawful or *bona fide* occupants to enable them to acquire registrable interests pursuant to Article 237(9)(b) of the Constitution;
  - (b) purchase or acquire land where necessary in order to redistribute it to the tenants in occupancy on such terms and conditions as shall be determined by the Commission;
  - (c) verify and distribute the land referred to in paragraph (b) to the tenants by occupancy;
  - (d) cause and facilitate the holding under paragraph (c) to be surveyed and the occupant to acquire a registrable interest of the holding;
  - (e) give loans to other persons to enable them to have their land surveyed for the purpose of acquiring certificates of title;
  - (f) perform such other functions as provided in this Act or as the Minister may in writing determine.
- (6) Notwithstanding any provisions to the contrary in the Land Acquisition Act—
  - (a) any compulsory acquisition of land for purposes of implementing subsection (4)(b) shall be at a fair market valuation assessed on a willing seller willing buyer basis;
  - (b) no person from whom land is to be acquired under this section shall be required to vacate that land until he or she has received the compensation awarded to, or agreed to, by him or her;
  - (c) the Commission shall pay compensation for any losses caused by severance or injurious affection;
  - (d) the Commission shall pay all reasonable costs of disturbance to the person from whom land is to be acquired; and

- (e) in the case of land occupied under customary tenure, in addition to compensation assessed under this section, there shall be paid as a disturbance allowance a sum not exceeding fifteen percent of the sum awarded to the person from whom land is to be acquired where that person was using the land as his or her home.
- (7) The statutory and administrative charges such as fees and stamp duty shall be payable by the tenant in occupancy and shall not be paid out of the Fund.
- (8) The Commission shall ensure that as far as possible the officers and other employees of the Commission who are allocated to the affairs of the Land Fund are identifiable and devote their attention exclusively to the affairs of the Fund.
- (9) Subject to this section, the administrative costs of managing the Land Fund shall be charged on the Fund, but salaries and other emoluments shall not be payable out of the Fund.
- (10) The Minister shall ensure that money are provided for the Land Fund and ensure that the Fund is duly established within one year after the coming into force of this Act.
- (11) The Commission shall maintain separate accounts for the Land Fund from its other accounts.
- (12) The accounts of the Land Fund shall be audited by the Auditor General in accordance with Article 163 of the Constitution, and the Auditor General shall report to Parliament on the accounts of the Fund under Article 163(4) of the Constitution.
- (13) The Commission shall submit to the Minister once in every six months a report on its operations in the management of the Land Fund giving such information on the affairs of the Fund as the Minister may specify in writing.
- (14) The Minister shall submit progress reports to Parliament annually on the performance of the Land Fund.

### Part III – Control of land use

#### 43. Acquisition of land by Government

The Government or a local government may acquire land in accordance with Articles 26 and 237(2) of the Constitution.

#### 44. Utilisation of land according to various laws

A person who owns or occupies land shall manage and utilise the land in accordance with the National Forestry and Tree Planting Act, the Mining and Minerals Act, the National Environment Act, the Water Act, the Uganda Wildlife Act and any other law.

#### 45. Control of environmentally sensitive areas

- (1) The Government or a local government shall hold in trust for the people and protect natural lakes, rivers, ground water, natural ponds, natural streams, wetlands, forest reserves, national parks and any other land reserved for ecological and touristic purposes for the common good of the citizens of Uganda.
- (2) A local government may, upon request to the Government, be allowed to hold in trust for the people and the common good of the citizens of Uganda any of the resources referred to in subsection (1).
- (3) Any resource that is not covered under subsection (1) which is identified after the coming into force of this Act may, upon request to the Government and with the approval of Parliament, be held in trust for the people and for the common good of the citizens of Uganda by a local government.
- (4) The Government or a local government shall not lease out or otherwise alienate any natural resource referred to in this section.

- (5) The Government or a local government may grant concessions or licences or permits in respect of a natural resource referred to in this section subject to any law.
- (6) Parliament or any other authority empowered by Parliament may review any land held in trust by the Government or a local government whenever the community in the area or district where the reserved land is situated so demands.

#### **46. Land use planning and zoning**

Any use of the land shall conform to the provisions of the Physical Planning Act and any other law.

### **Part IV – Land management**

#### **Uganda Land Commission**

#### **47. Establishment of Commission**

- (1) There is established a commission to be known as the Uganda Land Commission.
- (2) The Commission shall be a body corporate with perpetual succession and a common seal and may sue or be sued in its corporate name.

#### **48. Membership of Commission**

- (1) The Commission shall consist of a Chairperson and not less than four other members appointed by the President with the approval of Parliament.
- (2) A person shall not qualify for appointment as a member of the Commission unless the person—
  - (a) is of or above the age of twenty-one years;
  - (b) is of sound mind;
  - (c) is of high moral character and proven integrity;
  - (d) has not been convicted of an offence involving moral turpitude; or
  - (e) has not been declared bankrupt.
- (3) At least two of the members referred to in subsection (1) shall be persons with qualifications and experience in matters related to land.
- (4) At least one of the members referred to in subsection (1) shall be a woman.
- (5) A person holding office as a member of Parliament or a member of a local government council shall relinquish the office upon appointment as a member of the Commission in accordance with Article 238 of the Constitution.

#### **49. Tenure of office**

- (1) The members of the Commission shall hold office for a period of five years and shall be eligible for re-appointment for a further one term.
- (2) A member of the Commission may be removed from office by the President only for—
  - (a) inability to perform the functions of his or her office arising from infirmity of body or mind;
  - (b) misbehaviour or misconduct; or
  - (c) incompetence.

## 50. Functions of Commission

The functions of the Commission shall be to—

- (a) hold and manage any land in Uganda which is vested in or acquired by the Government in accordance with the Constitution;
- (b) where applicable, hold and manage any land acquired by the Government abroad, except that the Commission may delegate the management of such land to Uganda's missions abroad;
- (c) procure certificates of title for any land vested in or acquired by the Government;
- (d) perform such other functions as may be prescribed by or under this Act or any other enactment.

## 51. Secretary and other officers of Commission

- (1) There shall be a Secretary to the Commission who shall be a public officer appointed by the President on the advice of the Public Service Commission upon such terms and conditions as may be specified in the letter of appointment.
- (2) The Secretary shall be a person with knowledge and experience in matters related to land.
- (3) The Secretary shall not be a member of the Commission but shall conduct the correspondence of the Commission, keep records and perform such other functions as the Commission may direct.
- (4) The Secretary shall keep custody of the seal of the Commission.
- (5) The Commission shall have such other officers and employees as may be necessary for the discharge of its functions, and those officers or employees shall be appointed by the Public Service Commission on such terms and conditions as may be specified in their letters of appointment.

## 52. Meetings of Commission

- (1) The Chairperson shall preside at all meetings of the Commission and shall, in addition to his or her deliberative vote, have a casting vote.
- (2) Where the Chairperson is absent from any meeting of the Commission, the members present shall elect one of their number to preside; and the member so elected shall have the powers and perform the functions of the Chairperson.
- (3) The Commission shall meet for the discharge of its functions under this Act at least once in every two months at such place and time as the Chairperson shall appoint.
- (4) Quorum at any meeting of the Commission shall be three, and any decision of the Commission shall be by consensus; but if there is no consensus it shall be by the majority of members present and voting.
- (5) Subject to this Act, the Commission may regulate its own procedure.

## 53. Authentication of common seal, etc.

- (1) The common seal of the Commission shall be authenticated by the signature of the Chairperson or of some other member authorised by the Commission in writing, and the signature of the Secretary.
- (2) Any order or decision of the Commission shall be in writing and signed by—
  - (a) the Chairperson; or
  - (b) any other member duly authorised by it in writing; and
  - (c) the Secretary.



- (3) Any instrument or contract which does not require to be under seal, may be entered into and executed on behalf of the Commission by any member or agent duly authorised in writing by the Commission for the purpose.
- (4) Any document presented in evidence as—
  - (a) an instrument executed or issued by the Commission and sealed with the common seal of the Commission and authenticated in the manner prescribed in subsection (1);
  - (b) an order or decision of the Commission and signed in the manner prescribed in subsection (2); or
  - (c) an instrument or contract of the kind referred to in subsection (3) and entered into and executed on behalf of the Commission in the manner prescribed in that subsection,shall be received in evidence and be presumed to be so executed, so signified and entered into on behalf of the Commission without further proof unless the contrary is shown.

#### **54. Powers of Commission**

For the purpose of performing its functions under the Constitution and this Act, the Commission may—

- (a) acquire by purchase or exchange or otherwise hold land rights, easements or interests in land;
- (b) erect, alter, enlarge, improve or demolish any building or other erection on any land held by it;
- (c) sell, lease or otherwise deal with the land held by it;
- (d) cause surveys, plans, maps, drawings and estimates to be made by or through its officers or agents; and
- (e) do such other things as may be necessary for or incidental to the exercise of those powers and the performance of those functions.

#### **55. Salaries and expenses of Commission**

- (1) The members of the Commission shall be paid such salaries and allowances as may be specified in their letters of appointment, and the salaries and allowances shall be charged on the Consolidated Fund.
- (2) All expenses incurred by or on behalf of the Commission in connection with or incidental to the performance of its functions under this Act shall be paid for out of funds appropriated by Parliament.

#### **56. Commission to conform to Government policy**

- (1) In the performance of its functions under the Constitution and this Act, the Commission shall conform to the policy of the Government in relation to land matters.
- (2) Subject to the Constitution, the Minister may, without prejudice to any other powers he or she may have under this Act, give to the Commission such policy directions as are necessary to ensure compliance with subsection (1), and the Commission shall give effect to the directions.

### **District land boards**

#### **57. Establishment of district land boards**

- (1) There shall be for each district a district land board.
- (2) A board shall be a body corporate with perpetual succession and a common seal and may sue or be sued in its corporate name.

## 58. Membership of board

- (1) A board shall be appointed by the district council on the recommendation of the district executive committee and with the approval of the Minister.
- (2) Subject to a minimum membership of five, a board shall consist of the following persons—
  - (a) a Chairperson;
  - (b) one member representing municipal councils;
  - (c) one member representing urban councils;
  - (d) at least one member from each county in the district.
- (3) A person shall not qualify to be appointed as a member of a board the person—
  - (a) is less than eighteen years of age;
  - (b) is suffering from mental illness;
  - (c) is a member of Parliament;
  - (d) has been convicted of an offence involving moral turpitude; or
  - (e) has been declared bankrupt.
- (4) At least one-third of the members referred to in subsection (2) shall be women.
- (5) At least one of the members of a board shall be a person with qualifications and experience in matters relating to land.
- (6) A person holding office as a member of a local government council shall relinquish the office upon appointment as a member of a board.

## 59. Tenure of office of members of board

- (1) The members of a board shall hold office for a period of five years and may be eligible for re-appointment for a further one term.
- (2) A member of a board may be removed from office by the district council on the recommendation of the district executive committee only for—
  - (a) inability to perform the functions of his or her office arising from infirmity of body or mind;
  - (b) misbehaviour or misconduct;
  - (c) incompetence; or
  - (d) absenting himself or herself from meetings of the board for six consecutive times without reasonable cause.

## 60. Functions of board

- (1) The functions of a board shall be to—
  - (a) hold and allocate land in the district which is not owned by any person or authority;
  - (b) facilitate the registration and transfer of interests in land;
  - (c) take over the role and exercise the powers of the lessor in the case of a lease granted by a former controlling authority;
  - (d) cause surveys, plans, maps, drawings and estimates to be made by or through its officers or agents;

- (e) compile and maintain a list of rates of compensation payable in respect of crops, buildings of a non-permanent nature and any other thing that may be prescribed;
  - (f) review every year the list of rates of compensation referred to in paragraph (e) of this subsection; and
  - (g) deal with any matter which is incidental or connected to the other functions referred to in this subsection.
- (2) Where a board enters into or undertakes or concludes any such transaction or allocates land in contravention of subsection (1)(a), the transaction shall be void.
  - (3) A board within a district may, in the performance of its functions under Article 241(1)(a) of the Constitution, do so under the name of the institution of a traditional leader or cultural leader existing under Article 246 of the Constitution in relation to that district.
  - (4) For the avoidance of doubt, nothing in subsection (3) shall be construed as conferring on the traditional leader or cultural leader referred to in that subsection the power of direction or control over a board.
  - (5) In carrying out its functions under subsection (1)(a), a board shall have regard to Article 237(1) of the Constitution.
  - (6) A board shall, in compiling a list of rates of compensation referred to in subsection (1)(e) and (f), consult the technical officers in the district.
  - (7) Each district shall have a district land office, which shall provide technical services through its own staff, or arrange for external consultants to a board.
  - (8) A board shall hold in trust for the citizens the reversion on any lease to which subsection (1)(c) relates and may exercise in relation to the lease and the reversion the powers of a controlling authority under the Public Lands Act, 1969, as if that Act had not been repealed; but subject to the foregoing, that Act shall, in respect of any such lease or reversion, have effect with such modifications as may be necessary to give effect to this Act and shall be subject to the provisions of the Constitution.

## 61. Powers of board

- (1) In the performance of its functions, a board shall be independent of the Uganda Land Commission and shall not be subject to the direction or control of any person or authority but shall take into account the national and district council policy on land and the particular circumstances of different systems of customary land tenure within the district.
- (2) A board shall have power to—
  - (a) acquire, by purchase or otherwise, rights or interests in land and easements;
  - (b) erect, alter, enlarge, improve or demolish any building or other erection on any land held by it;
  - (c) sell, lease or otherwise deal with the land held by it; and
  - (d) do and perform all such other acts, matters and things as may be necessary for or incidental to the exercise of those powers and the performance of those functions.
- (3) In the performance of its functions, a board shall prepare and publish an annual report and shall have regard to any comments that the district council may make on that annual report.

## 62. Secretary to board, etc.

- (1) There shall be a secretary to a board who shall be a public officer appointed by the district service commission.

- (2) The secretary shall be a person with knowledge and experience in matters relating to land.
- (3) The secretary to a board shall conduct the correspondence of the board, keep records and custody of the seal of the board and perform such other functions as the board may direct.
- (4) A board shall have such support staff as may be recruited for the purpose in accordance with the public service regulations.

### **63. Meetings of board**

- (1) The chairperson shall preside at all meetings of the board and shall, in addition to his or her deliberative vote, have a casting vote.
- (2) Where the chairperson is absent from any meeting of the board, the members present shall elect one of their number to preside; and the member so elected shall have the powers and perform the functions of the Chairperson and shall have a casting vote.
- (3) A board shall meet for the discharge of its functions under this Act at least once in every two months at such place and time as the Chairperson shall appoint.
- (4) The quorum at any meeting of the board shall be three.
- (5) A decision of the board shall be arrived at by consensus and, in case of a contentious issue, by a majority vote.
- (6) Subject to this Act, the board may regulate its own procedure.

### **64. Expenses of board, remuneration of members and audit**

- (1) All expenses of the board shall be charged on the district administration funds.
- (2) Members of the board shall be remunerated and paid allowances out of the Consolidated Fund.
- (3) The accounts of the board shall be audited annually.

## **Land committees**

### **65. Establishment of land committees**

- (1) A district council, on the advice of the subcounty or division council, may, in accordance with this section, appoint a land committee at subcounty or division level which shall exercise the functions conferred on a committee by this Act or any other law.
- (2) A committee appointed under this section shall consist of a chairperson and four other persons who shall serve on a part-time basis.
- (3) A person holding office as a member of a local government council shall relinquish that office upon appointment as a member of a committee.
- (4) A member of a committee shall hold office for a period of three years and is eligible for re-appointment for one further term.
- (5) A district council may terminate the appointment of a member of a committee for his or her inability to perform the functions of his or her office, or for good cause.
- (6) In determining whether to appoint a committee, the district council shall have regard to—
  - (a) any request from any of the areas referred to in subsection (1) for which a committee may be appointed and in particular, whether any request is for a committee to be appointed to perform the functions allocated to a committee in Part II of this Act;

- (b) the extent of the demand, if any, from the people within the areas referred to in subsection (1) for any of the services which they may apply for under Part II of this Act;
  - (c) whether any of the areas referred to in subsection (1) indicate that they are prepared to assist in the funding of the committee;
  - (d) the opinions of any of the bodies referred to in subsection (1), on whose recommendation the district council is to appoint the members of a committee;
  - (e) the state of the finances of the district council;
  - (f) the economic and social benefits of appointing and costs of not appointing a committee in any particular area; and
  - (g) any advice and guidance from the Ministry responsible for local governments which shall before issuing any such advice and guidance, consult with and take account of, the views of the Ministry responsible for land.
- (7) A committee shall assist the board in an advisory capacity on matters relating to land including ascertaining rights in land and shall perform any other functions conferred on it by this Act or any other law.
- (8) Where a committee has been appointed, it may, with the agreement of the parties to a dispute about land, act as a mediator in that dispute and when acting as a mediator, a committee shall have all the functions of a mediator set out in section 86 and as may be prescribed.

#### **66. Qualification for appointment as member of committee**

- (1) A person shall qualify for appointment as a member of the committee if—
- (a) he or she is thirty years of age or more;
  - (b) he or she has not been convicted of an offence involving moral turpitude; and
  - (c) in the case of the Chairperson, he or she is able to speak and write English.
- (2) At least one of the members referred to in section 65 shall be a woman.
- (3) At least one of the members referred to in section 65 shall be a person with knowledge and experience in matters relating to land.

#### **67. Remuneration of members of committees**

- (1) A member of a committee shall be paid such remuneration as may be determined by the district council on the recommendation of the district executive committee.
- (2) All expenses incurred by or on behalf of the committee shall be charged on the district administration funds.

#### **68. Meetings of committee**

- (1) The chairperson shall preside at all meetings of a committee and shall, in addition to the chairperson's deliberative vote, have a casting vote.
- (2) Where the chairperson is absent from any meeting of the committee, the members present shall elect one of their number to preside over the meeting, and the person shall have a casting vote in addition to his or her deliberative vote.
- (3) The quorum of the committee shall be three.
- (4) The proceedings and decisions of the committee shall be in writing and the records shall be kept.

- (5) A decision of the committee shall be reached by consensus and in case of a contentious matter by majority vote.
- (6) The records and instruments of the committee shall be kept by the Chairperson.
- (7) Subject to this Act, the committee may regulate its own procedure.

## 69. Recorder

- (1) There shall, for the purposes of sections 7 and 34, be a recorder for each subcounty, each gazetted area and each division in the case of a city, who shall be answerable to the board.
- (2) The recorder shall be responsible for keeping records relating to certificates of customary ownership and certificates of occupancy.
- (3) For the purposes of subsection (1), in the case of—
  - (a) a rural area, the subcounty chief shall be the recorder;
  - (b) a gazetted urban area, the town clerk shall be the recorder;
  - (c) a division of a city, the assistant town clerk in charge of the division shall be the recorder.
- (4) A copy of each certificate referred to in subsection (2) shall be deposited with the board which shall accordingly lodge it as an encumbrance on the respective title.

## General powers of disposal and rights

### 70. General powers of disposal

Subject to this Act, the Commission or the board shall have power to grant estates and create rights or interests in land and to manage, dispose of and otherwise deal with the estate or interest in relation to land vested in it.

### 71. Water rights

- (1) Subject to section 45, all rights in the water of any natural spring, river, stream, watercourse, pond, or lake on or under land, whether alienated or unalienated, shall be reserved to the Government; and no such water shall be obstructed, dammed, diverted, polluted or otherwise interfered with, directly or indirectly, except in pursuance of permission in writing granted by the Minister responsible for water or natural resources in accordance with the Water Act.
- (2) Nothing in this section shall prevent the reasonable use by an occupier of land of any waters referred to in subsection (1) for domestic, small scale agricultural or pastoral purposes.

### 72. Rights of way

All land, whether alienated or unalienated, shall be subject to all existing public rights of way which shall be reserved to and vested in the Government on behalf of the public; and all such rights of way shall be maintained by the public uninterrupted unless they are terminated or altered by the direction of the Minister in writing.

### 73. Rights of officials to encamp

- (1) Where any officer of the Government necessarily and unavoidably in order to carry out his or her duties needs to enter private land, he or she may enter, giving not less than three days' notice of the proposed entry to the owner or occupier of the land.

- (2) A person who exercises the right conferred upon him or her by subsection (1) shall, if so required by the occupier of the land in respect of which the right is exercised, establish his or her encampment in such suitable place as the occupier may select.
- (3) The Government shall pay promptly—
  - (a) a reasonable fee to the owner or occupier of the land for every day that the land is encamped upon under this section, and any such fee shall include payment for any produce or other things taken from the land with the permission of the owner or occupier;
  - (b) for all damage caused to the land or anything attached to or forming part of the land or any movable property on the land or anything wrongly taken away from the land by the actions of any person encamped upon the land under this section, and the owner or occupier may appeal to the relevant district land tribunal against any failure by the Government to comply with this section.
- (4) A person who, being the occupier of any land, refuses to allow a person to exercise a right conferred upon him or her by subsection (1) or willfully interferes with or obstructs the exercise of any such right, commits an offence and is liable, on conviction, to a fine not exceeding five currency points or to imprisonment for a term not exceeding six months, or both.
- (5) This section shall not apply to the encampment of any authorised security forces.

#### **74. Execution of public works**

- (1) Where it is necessary to execute public works on any land, an authorised undertaker shall enter into mutual agreement with the occupier or owner of the land in accordance with this Act; and where no agreement is reached, the Minister may, compulsorily acquire land in accordance with section 43.
- (2) Where under subsection (1), an authorised undertaker executes public works upon or takes stone, murrum or similar material from the land, the authorised undertaker shall have over the land such rights of access and other rights as may be reasonably necessary for the execution, construction and maintenance of the works or, as the case may be, the taking of the material; and the land shall be deemed to be subject to those rights whether or not they have been registered under the Registration of Titles Act.
- (3) An authorised undertaker executing public works on land under this section shall promptly pay compensation to any person having an interest in the land for any damage caused to crops or buildings and for the land and materials taken or used for the works.
- (4) A dispute as to compensation payable under subsection (3) shall be referred to a district land tribunal.

### **Part V – Land tribunals**

#### **75. District land tribunals**

- (1) There shall be a tribunal in each district to be known as the District Land Tribunal, which shall consist of a chairperson and two other members, and which shall sit from time to time to hear and determine disputes concerning land matters within the district.
- (2) A chairperson shall be a person qualified to be a magistrate grade I.
- (3) The other members of the District Land Tribunal shall be persons with knowledge and experience in land matters.
- (4) A person shall not qualify for appointment as a member of the District Land Tribunal unless the person—
  - (a) is a person of the age of thirty years or more;

- (b) is of sound mind;
  - (c) is of high moral character and proven integrity;
  - (d) has not been convicted of an offence involving moral turpitude;
  - (e) has not been declared bankrupt.
- (5) Members of district land tribunals shall be appointed by the Chief Justice on the advice of the Judicial Service Commission.
- (6) Members of district land tribunals shall be paid such salaries and allowances as may be determined by the Public Service Commission on the recommendation of the Judicial Service Commission, and those salaries or allowances shall be charged on the Consolidated Fund.
- (7) A chairperson of a district land tribunal shall be appointed on a full time basis.
- (8) The other members of the District Land Tribunal shall be appointed on a part-time basis.

#### **76. Tenure of office of members of district land tribunals**

- (1) Members of district land tribunals shall hold office for a period of five years and may be eligible for re-appointment.
- (2) A member of a district land tribunal may be removed from office by the Chief Justice only for—
- (a) inability to perform the functions of his or her office arising from infirmity of body or mind;
  - (b) misbehaviour or misconduct;
  - (c) incompetence;
  - (d) absence from at least five consecutive meetings of the tribunal without lawful excuse;
  - (e) having been convicted of an offence involving moral turpitude; or
  - (f) having been declared bankrupt.

#### **77. Jurisdiction of district land tribunals**

- (1) The jurisdiction of a district land tribunal shall be to—
- (a) determine disputes relating to the grant, lease, repossession, transfer or acquisition of land by individuals, the commission or other authority with responsibility relating to land;
  - (b) determine any dispute relating to the amount of compensation to be paid for land acquired under section 43;
  - (c) determine disputes as the court of first instance in all land matters where the subject matter does not exceed two thousand five hundred currency points;
  - (d) determine any other dispute relating to land under this Act.
- (2) In the exercise of jurisdiction over land matters provided for by this section, a district land tribunal shall have the power to grant decrees of specific performance and issue injunctions and generally shall have the power to grant such relief, make such orders and give such decisions against the operation of any action, notice, order, decree or declaration made by any official or any board or any committee or any association or the commission, as the circumstances of the case require, and without limiting the generality of that power, may—
- (a) cancel any action, notice, order, decree or declaration;
  - (b) vary the operation of any action, notice, order, decree or declaration;
  - (c) postpone the operation of any action, notice, order, decree or declaration;



- (d) substitute a different decision for the one determined by any official, board, committee, association or the commission;
  - (e) confirm any action, notice, order, decree or declaration made, notwithstanding that some procedural errors took place during the making of that action, notice, order, decree or declaration if a district land tribunal is satisfied that—
    - (i) the person applying for relief was made fully aware of the substance of the action, notice, order, decree or declaration; and
    - (ii) no injustice will be done by confirming that action, notice, order, decree or declaration, andmay grant that relief and all other orders made and decisions given on such conditions if any, as to expenses, damages, compensation or any other relevant matter as the district land tribunal considers fit.
- (3) Notwithstanding subsection (1), a district land tribunal shall not make an order for cancellation of entries in a certificate of title and vesting title, but shall refer such cases to the High Court for the necessary consequential orders.

## 78. Computation of compensation

- (1) A district land tribunal shall, in assessing compensation referred to in section 77(1)(b) take into account the following—
- (a) in the case of a customary owner, the value of land shall be the open market value of the unimproved land;
  - (b) the value of the buildings on the land, which shall be taken at open market value for urban areas and depreciated replacement cost for the rural areas;
  - (c) the value of standing crops on the land, excluding annual crops which could be harvested during the period of notice given to the tenant.
- (2) In addition to compensation assessed under this section, there shall be paid as a disturbance allowance fifteen percent or, if less than six months' notice to give up vacant possession is given, thirty percent of any sum assessed under subsection (1).
- (3) The rates set out in the list of rates of compensation referred to in section 60(1)(e) shall be used in determining the amount of compensation payable.

## 79. Rules of procedure

A district land tribunal shall apply rules of procedure made by the Chief Justice, who shall take into account the need to have rules of evidence with such modifications as are necessary to ensure the expeditious disposal of land disputes.

## 80. Registrar of district land tribunals

- (1) There shall be a registrar of the district land tribunals who shall coordinate and monitor the activities of the district land tribunals.
- (2) A person shall not be qualified to be appointed a registrar unless he or she is qualified to be appointed as a registrar of the High Court.

## 81. Assistant registrar of district land tribunal

- (1) A district land tribunal shall have an assistant registrar who shall be a person qualified to be an advocate of the courts of judicature.

- (2) The assistant registrar shall be in charge of the registry of a district land tribunal and in particular shall carry out the following functions—
  - (a) receive and register applications, notices of decisions and all documents or things relating to applications;
  - (b) issue and serve notices and summons of a district land tribunal;
  - (c) issue interim orders in the absence of a chairperson;
  - (d) keep all documents, books, things or records of the proceedings of a district land tribunal;
  - (e) taxation of costs; and
  - (f) perform such other functions as a district land tribunal may direct.
- (3) In the exercise of his or her functions under this section, the assistant registrar shall comply with the advice and guidance of the registrar of district land tribunals under section 80.

## **82. Management of administrative affairs of district land tribunal**

- (1) A chairperson of a district land tribunal shall be responsible for the administration of the tribunal.
- (2) In the administration of the district land tribunal, the Chairperson shall be assisted by the assistant registrar of the tribunal and such other officers and employees as may be necessary for the efficient discharge of the tribunal's functions.

## **83. Supervisory powers over district land tribunals**

- (1) The general powers of supervision over district land tribunals and the office of the registrar of district land tribunals under this Act shall be exercised by the Chief Registrar of the High Court.
- (2) All assets, liabilities and money for the operation of district land tribunals and the office of the registrar of district land tribunals shall be appropriated through the Secretary to the Judiciary.

## **84. Right of appeal**

- (1) An appeal shall lie from the decision of a district land tribunal to the High Court.
- (2) An appeal from the decision of a district land tribunal in the exercise of its appellate jurisdiction shall lie to the High Court.

## **85. Customary dispute settlement and mediation**

- (1) Nothing in this Part shall be taken to prevent or hinder or limit the exercise by traditional authorities of the functions of determining disputes over customary tenure or acting as a mediator between persons who are in dispute over any matters arising out of customary tenure.
- (2) At the commencement of a case or at any time during the hearing of the case, a land tribunal may advise the parties to the case that, in its opinion, the nature of the case is such that the parties would be better served by using mediation to resolve their differences than by continuing with litigation in the tribunal; and where such an opinion has been given, the land tribunal may adjourn the case for such period as it considers fit to enable the parties to use the services of the traditional authorities or the mediator or some other person to mediate in the dispute.

## **86. Appointment and functions of mediator**

- (1) There shall be one or more mediators in each district who shall be appointed by a district land tribunal and the appointment shall be on an *ad hoc* basis.

- (2) The mediator shall be a person of high moral character and proven integrity who by virtue of his or her skill, knowledge, work, standing or reputation in society is capable and likely to be able to bring parties who are in disagreement or dispute about an issue over land arising out of any matter provided for in this Act together to negotiate and reach a mutually satisfactory agreement or accommodation on that matter.
- (3) The mediator shall have such functions as are provided for in this Act or as may be conferred on him or her by regulations.
- (4) In the exercise of his or her functions, the mediator shall be independent and shall not be subject to the direction or control of any other person.
- (5) In exercising any functions under this Act, the mediator shall be guided by the principles of natural justice, general principles of mediation and the desirability of assisting the parties to reconcile their differences, understand each other's point of view and be prepared to compromise to reach an agreement; but the mediator shall not compel or direct any party to a mediation to arrive at any particular conclusion or decision on any matter the subject of the mediation.
- (6) The mediator shall in each case be a person agreed to by the two parties.
- (7) A mediator shall be paid such allowance as may be prescribed.

## Part VI – Miscellaneous

### 87. Disposal of fees, etc.

- (1) All rents, fees and other revenues received by the board in respect of lands and in respect of its activities under this Act shall be paid to the district treasury and form part of the revenues of the district administration, except that revenues received by the board in respect of urban land shall be paid to and form part of the revenue of the urban authority.
- (2) The fees for assurance of title shall be part of the Consolidated Fund.

### 88. Special powers of Registrar of Titles

- (1) Subject to the Registration of Titles Act, the Registrar of Titles shall, without referring a matter to a court or a district land tribunal, have power to take such steps as are necessary to give effect to this Act, whether by endorsement or alteration or cancellation of certificates of title, the issue of fresh certificates of title or otherwise.
- (2) The Registrar of Titles shall, where a certificate of title or instrument—
  - (a) is issued in error;
  - (b) contains a wrong description of land or boundaries;
  - (c) contains an entry or endorsement made in error;
  - (d) contains an illegal endorsement;
  - (e) is illegally or wrongfully obtained; or
  - (f) is illegally or wrongfully retained, give not less than twenty-one days' notice, of the intention to take the appropriate action, in the prescribed form to any party likely to be affected by any decision made under this section.
- (3) The Registrar of Titles shall conduct a hearing, giving the interested party under subsection (2) an opportunity to be heard in accordance with the rules of natural justice, but subject to that duty, shall not be bound to comply with the rules of evidence applicable in a court of law.

- (4) Upon making a finding on the matter, the Registrar of Titles shall communicate his or her decision in writing to the parties, giving the reasons for the decision made, and may call for the duplicate certificate of title or instrument for cancellation, correction or delivery to the proper party.
- (5) If a person holding a certificate of title or instrument referred to in subsection (2) fails or refuses to produce it to the Registrar of Titles within a reasonable time, the Registrar of Titles shall dispense with the production of it and amend the registry copy and where necessary issue a special certificate of title to the lawful owner.
- (6) The Registrar of Titles may—
  - (a) correct errors in the Register Book or in entries made in it;
  - (b) correct errors in duplicate certificates or instruments; and
  - (c) supply entries omitted under this Act.
- (7) The Registrar of Titles may make amendments consequent upon alterations in names or boundaries but in the correction of any such error or making of any such amendment shall not erase or render illegible the original words.
- (8) Upon the exercise of the powers conferred on the Registrar of Titles under subsection (7), the Registrar of Titles shall affix the date on which the correction or amendment was made or entry supplied and shall initial it.
- (9) Any error or any entry corrected or supplied under this section shall have the same validity and effect as if the error had not been made or entry not omitted.
- (10) In the exercise of any powers under this section, the Registrar of Titles shall—
  - (a) give not less than twenty-one days' notice in the prescribed form to any party likely to be affected by any decision made under this section;
  - (b) provide an opportunity to be heard to any such party to whom a notice under paragraph (a) has been given;
  - (c) conduct any such hearing in accordance with the rules of natural justice but subject to that duty, shall not be bound to comply with the rules of evidence applicable in a court of law;
  - (d) give reasons for any decision that he or she may make.
- (11) The Registrar of Titles shall communicate his or her decision in writing to the parties and the committee.
- (12) Any party aggrieved by a decision or action of the Registrar of Titles under this section may appeal to a district land tribunal within sixty days after the decision was communicated to that party.
- (13) Where the Registrar of Titles has cancelled a certificate of title or an entry in the Register Book, a party in whose favour the cancellation is made shall not transfer the title until the expiry of the time within which an appeal may be lodged; and where an appeal is lodged against the cancellation, he or she shall not transfer the title until the determination of the appeal.
- (14) The party who lodges an appeal under this section shall take steps to ensure that the Registrar of Titles and the other party are served with the notice of appeal.
- (15) Where the person who appealed under this section fails to prosecute the appeal, the tribunal shall, on application by any other party to the appeal, strike out the appeal.

## 89. Offences and penalties

- (1) Any person who—
  - (a) being a non-citizen, acquires land in freehold using fraudulent means;

- (b) makes a false declaration in any manner relating to land;
  - (c) willfully and without the consent of the owner occupies land belonging to another person;
  - (d) being a member of a land tribunal, a board, a committee, solicits or receives any payment from any person to whom any service is rendered under this Act being payment which the member is not authorised to collect or receive under this Act; or
  - (e) attempts to evict, evicts or participates in the eviction of a lawful or *bona fide* occupant from registered land without an order of eviction,
- commits an offence.
- (2) Any person convicted of an offence specified in subsection (1)(a) is liable to a fine not exceeding one thousand currency points or to imprisonment for a term not exceeding three years, or both.
  - (3) Any person convicted of an offence specified in subsection (1)(b) is liable to a fine not exceeding twenty-five currency points or to imprisonment for a term not exceeding one year, or both.
  - (4) Any person convicted of an offence specified in subsection (1)(c) is liable to a fine not exceeding ninety-six currency points or to imprisonment for a term not exceeding four years, or both.
  - (5) Any person who commits an offence under subsection (1)(d) is liable, on conviction, to a fine not exceeding twenty-five currency points or to imprisonment for a term not exceeding six months, or both.
  - (6) Any person convicted of an offence specified in subsection (1)(e) is liable to imprisonment for a term not exceeding seven years.
  - (7) Where a person is convicted under subsection (6), the court may—
    - (a) order that person to pay compensation or damages to the person who was evicted; or
    - (b) make an order for restitution in favour of the person who was evicted.
  - (8) A court convicting a person of an offence to which subsection (4) relates may, in addition, issue a warrant addressed to a police officer requiring the officer immediately and subject to such conditions as the court may impose to—
    - (a) enter upon the land which was the subject of the conviction;
    - (b) dispossess and remove from the land the person convicted together with his or her family, dependents and servants;
    - (c) take possession of the land on behalf of the owner, together with crops growing on the land and buildings and other immovable property;
    - (d) hand over the property to the owner immediately after taking possession.
  - (9) No order shall be made under subsection (8)(c) if the court is satisfied that some person other than the person convicted or his or her family, dependents or servants is in lawful possession of the land.

## 90. Regulations

- (1) The Minister may, by statutory instrument, make regulations for the better carrying into effect of the provisions of this Act, and such regulations shall be laid before Parliament within two months after publication in the *Gazette*.
- (2) Without prejudice to the general effect of subsection (1), regulations made under this section may—
  - (a) prescribe the procedure to be followed in the alienation of freehold and leasehold and the terms and conditions of any such grant;

- (b) fix fees to be charged for the preparation of any documents for or in connection with any disposition or dealing in land;
- (c) fix charges to be made by a board or Commission in respect of agreements or other documents for the occupation of land; and
- (d) prescribe anything to be prescribed under this Act.

### **91. Existing rights**

- (1) A person whose lease had expired by the time of the coming into force of the Constitution and who had partially or fully developed the land, shall be entitled to a fresh grant upon application to the board.
- (2) Where any case relating to a land dispute was pending before the High Court prior to the coming into force of this Act, that case shall continue to be heard by the High Court until completion.
- (3) Where any case relating to a land dispute was pending before a magistrate's court or an executive committee court prior to the 2nd July, 2000, the case shall continue to be heard by the magistrate's court or the executive committee court until completion.

### **92. Power to amend Schedule**

The Minister may, by statutory instrument, with the approval of Cabinet, amend the Schedule to this Act.

## **Schedule (Sections 1, 92)**

### **Currency point**

A currency point is equivalent to twenty thousand shillings.