

THE FREEHOLD TITLES (CONVERSION) AND GOVERNMENT LEASES BILL, 1963

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TANGANYIKA



No. 24 OF 1963

I ASSENT,

Julius K. Nyerere
 President

16TH MAY, 1963

An Act to convert Freehold Estates in land into Leasehold Estates and to provide for the corresponding diminution of other estates and interests in and over land, to declare the incidents of such Leasehold Estates and to provide for the Development of land subject thereto, and to amend the law relating to property in land

[.....]

ENACTED by the Parliament of Tanganyika.

PART I

PRELIMINARY

1. This Act may be cited as the Freehold Titles (Conversion) and Government Leases Act, 1963, and shall come into operation on such date as the Minister for Lands, Forests and Wildlife shall, by notice in the *Gazette*, appoint. Short title and commencement

2.—(1) In this Act, unless the context otherwise requires— Interpretation
 “appointed day” means the day appointed by the Minister under section 1;

“Commissioner” means the Commissioner for Lands and includes any person to whom the relevant function, power or duty of the Commissioner has been delegated under section 56;

“compulsory purchase order” means an order made under section 46 as varied in accordance with any directions of the Land Tribunal, and any order substituted therefor in accordance with any such directions;

“the Court” means the High Court;

“development requirements” mean development requirements annexed to leased land under Part IV of this Act as varied in accordance with any directions of the Land Tribunal, and any requirements substituted therefor in accordance with any such directions;

- Cap. 334 "fee simple" includes an estate of absolute ownership created before the twenty-sixth day of January, 1923, and any other absolute estate or interest which is, or if it had been registered under the Land Registration Ordinance prior to the appointed day would have been, registered as a freehold estate;
- "Government lease" means the term vested in any person by section 5 or a grant made under section 16, and includes any renewal thereof;
- "Land Tribunal" means the Tribunal established by section 49;
- "leased land" means land held for a Government lease;
- "Minister" means the Minister for the time being responsible for land;
- "mortgage" includes a lien or charge by deposit of title deeds, a registered charge and a sub-mortgage, and "mortgagee" shall be construed accordingly;
- "person of full age" includes a corporation;
- "registered land" and "land register" have the meanings respectively ascribed to those expressions in the Land Registration Ordinance;
- Cap. 117 "Registrar" means, in the case of registered land, the Registrar of Titles appointed under the Land Registration Ordinance, and in the case of land which is not registered land means the Registrar of Documents appointed under the Registration of Documents Ordinance, and includes any person authorized under those enactments to exercise the powers and functions conferred on such Registrars respectively;
- "sub-lease" includes a lease of land which on the appointed day becomes held of a tenant, and any sub-lease, and "sub-lessee" shall be construed accordingly;
- "tenant" means the person who for the time being holds any leased land for a Government lease, and includes his personal representatives and other statutory assignees, and any person who acquires a title to such lease by adverse possession;
- "will" includes a codicil.
- (2) In this Act, references to development conditions in relation to rights of occupancy mean those conditions and covenants relating to the use, development and exploitation thereof expressly or impliedly contained in a contract for, or certificate issued in respect of, a right of occupancy.
- (3) For the purposes of this Act, a freehold estate which is extinguished under section 5 shall be deemed to have been converted into a Government lease and references in this Act to the conversion of interests and converted interests shall be construed accordingly.
- Application to certain rights of occupancy
Cap. 113 3.-(1) Nothing in Parts II, III, IV or V of this Act shall apply to any right of occupancy granted under the Land Ordinance or to any land subject thereto, other than a right of occupancy granted before the appointed day over land held at the time of such grant for an estate of freehold, and the land subject thereto.

(2) A right of occupancy granted before the appointed day over land held at the time of the grant for an estate of freehold, and a term created out of such right of occupancy shall be deemed to be a "derivative lease" and an "interest" for the purposes of this Act.

PART II

CONVERSION OF ESTATES AND INTERESTS

4. In this Part of this Act, unless the context otherwise requires—
 "derivative lease" means a lease or a sub-lease granted before the appointed day over land which, by virtue of the provisions of section 5, become vested in any person for a Government lease, other than any such lease or sub-lease which expires or is otherwise determined before that day;
 "interest" means any estate, term, interest, charge, lien, right, title, equity or other property in or over land or in or over an incorporeal hereditament, whether the same be vested or contingent, legal or equitable, and whether created by statute or grant or acquired by user, and includes the benefit of any covenant which touches and concerns land, but does not include any such interest which expires or is otherwise determined before the appointed day;
 "land" includes an undivided share of land, but does not include incorporeal hereditaments;
 "Possession" includes the receipt of the rents and profits, and the right to receive the same.

Interpretation of Part II

(a) Conversion and diminution of interests in real property

5.-(1) All land, which immediately before the appointed day is vested in any person of full age for an estate of fee simple in possession shall, on the appointed day, vest in such person for a term of ninety-nine years from the appointed day, and thereupon such estate in fee leases simple shall be extinguished.

Conversion of freehold estates into Government leases

(2) All land, which immediately before the appointed day is settled land within the meaning of the Settled Land Acts, 1882 to 1890, other than land vested in a person of full age for an estate in fee simple in possession, shall, on the appointed day, vest in the trustees of the settlement or, if there are none and until trustees are appointed, in the Public Trustee, for a term of ninety-nine years from the appointed day; and thereupon every legal estate of freehold in the land created by or under the settlement shall cease to subsist at law and shall be converted into equitable interests in the term vested in the trustees or the Public Trustee, as the case may be.

45&46
 Vict. c.38
 47&48
 Vict. c. 18
 50&51
 Vict. c.30,
 52&53
 Vict. c. 36
 53&54
 vict. c. 69

6.-(1) The extinguishment, conversion or diminution of any interest in accordance with the provisions of this Act, or of any order of Court under section 9, shall not destroy or defeat any other interest created or derived from or subsisting against any such first-mentioned interest, or subsisting in or against any land which, prior to, the appointed day, was vested in any Person for any such first-named interest; but every such other interest shall, according to its nature, title and extent and subject to the rents, services and conditions (if any) on which the same is held and to accrued rights and liabilities—

Continuance of other interests correspondingly diminished

- (a) be deemed to have been created or derived from and shall subsist against the converted or diminished interest, or shall subsist in or against the land held for such converted or diminished interest, as the case may be; and
- (b) be itself converted and diminished to the extent, if any, necessitated by any conversion or diminution of the interest out of which it is deemed to have been created or derived or against which it subsists, and to the extent expressly provided in this Act or by order of the Court under section 9,

unless it is itself expressly extinguished by this Act or by an order of the Court under section 9-

Provided that nothing in this section shall be construed as varying *inter se* the respective interests of persons beneficially entitled in succession under any settlement or trust to any converted or diminished interest.

(2) For the avoidance of doubts it is hereby declared that-

- (a) no interest granted or subsisting before the appointed day shall be destroyed or defeated for the reason that, apart from the Provisions of this paragraph, it is only capable of being created out of, or subsisting as or against, or being appurtenant to, a freehold estate or of being enjoyed or created by or subsisting against a person in whom an estate of inheritance is vested, and that the relevant freehold estate or estate of inheritance is hereby converted to an interest of less than freehold; and
- (b) subject to the proviso, to subsection (1) of this section, the conversion of an interest under this section shall extend to the conversion of estates of inheritance or perpetual interests, or interests equivalent to such estates, into interests for terms of years.

Derivative
leases

7.-(1) Where-

- (a) on the appointed day, the unexpired term of any derivative lease equals or is less than the statutory term, the term of that lease shall remain unchanged;
- (b) on the appointed day, the unexpired term of any derivative lease exceeds the statutory term, the term of that lease shall be diminished to the statutory term;
- (c) the term of any derivative lease granted before and to commence after the appointed day, together with the period between the appointed day and the day on which the lease is to commence, exceeds the statutory term, the term of that lease shall be diminished to the statutory term less such period;
- (d) on the appointed day, land is vested in any person for a derivative lease for a life or lives, at a rent or fine, the lease shall unless sooner determined, determine at the expiration of the statutory term.

(2) Where any derivative lease which is renewable either perpetually or for a term or terms is renewed on or after the appointed day for a term which, together with the period which has elapsed since the appointed day, would exceed the statutory term, the renewal shall

have effect only for a term (if any) equal to the difference between the statutory term and such period; and any right to renew such lease after the expiration of the statutory term is hereby extinguished.

(3) Subject to the provisions of section 8, in this section and in section 12, "statutory term" means a term equal to the term of the Government lease for which the land is held less the last ten days thereof:

Provided that in the case of a derivative lease which is-

- (a) a lease of the grantor's reversion, and, by reason of the provisions of this section, such lease would expire, unless sooner determined, on the same date as the expiration of a derivative lease on which such first-mentioned lease is immediately expectant, the statutory term of the former shall be one day longer than the statutory term of the latter or one day shorter than the term of the grantor or his successor in title, whichever is the less;
- (b) itself created out of a derivative lease (not being a lease of the grantor's reversion), the "statutory term" means a term one day less than the term (as determined in accordance with the provisions of this section) of the lease out of which it is created.

8.-(1) Where any Government lease is renewed in accordance with the provisions of this Act-

- (a) the statutory term in relation to any derivative lease which—
 - (i) but for the provisions of paragraph (b) of subsection (1) of section 6, or of section 7, would have been subsisting on the date of renewal; and
 - (ii) has not otherwise determined prior to the date of renewal, shall be deemed to have been the aggregate of the term of the Government lease and any such renewal or renewals, less the last ten days;
- (b) the provisions of subsection (1) of section 6 shall have effect in relation to any other interest, which—
 - (i) but for the provisions of paragraph (b) thereof would have been subsisting on the date of renewal; and
 - (ii) has not otherwise determined prior to the date of renewal, as if the term of the Government lease to which the relevant land is subject had been the aggregate of the original term thereof and of any such renewal or renewals.

(2) The provisions of this section in relation to, any interest shall have effect subject to any agreement made after the appointed day.

(3) In this section "renewal" includes a grant of a Government lease under section 16 on a surrender for the purposes of a re-grant.

9.-(1) Any person entitled to any beneficial interest, whether legal or equitable or vested or contingent, created by or under a settlement within the meaning of the Settled Land Acts, 1882 to 1890 (not being an interest in any property held on trust for sale) may apply to the Court for an order varying the limitations or trusts of the settlement, or revoking the same and substituting new limitations or trusts.

Effect of
renewal of
Government
leases

Settled
land and
rent-
charges

(2) If, on any such application, the Court is satisfied that, by reason of the conversion or diminution by or under this Act of any interest in land which is subject to or created by the settlement, or of any change thereby in the relative values of the beneficial interests created by or under the settlement, it is just and equitable that fresh provision be made in order to give effect to the intentions of the settlor or to re-define the several beneficial interests therein, it may vary the limitations or trusts of the settlement or revoke the same and substitute new limitations or trusts.

(3) Without prejudice to the generality of the jurisdiction conferred by subsection (2), the Court may, on an application under this section-

- (a) vest the settled land in the trustees of the settlement or other trustees on trust for sale, either with or without a power of postponement, free from the limitations and trusts of the settlement, but subject to trusts of the proceeds of sale;
- (b) make provision for the redemption of any legal or equitable rent-charge, notwithstanding that it was not created by or under the settlement;
- (c) create limitations or trusts corresponding to the limitations or trusts subsisting in the settled land immediately before the appointed day, notwithstanding that, apart from this section, the interest thereby created is not an interest which may be created in a term of years;
- (d) convert legal interests into equitable interests;
- (e) bar any entail, other than an entail vested in a tenant in tail after possibility of issue extinct, or convert any entail vested in any such tenant into a life estate;
- (f) in any case in which it is satisfied that a determinable fee vested in a natural person is unlikely to determine during the lifetime of any person in existence entitled to the reversion, or that a right of entry which arises on the breach of any condition subject to which an estate of inheritance was granted to a natural person is unlikely to be exercisable during the lifetime of any person in existence entitled to exercise the same, or in any case in which it vests land subject to a determinable or conditional fee in trustees for sale, extinguish such possibility of reverter or right of entry;
- (g) confer on trustees or on the tenant for life such powers of management, advancement and maintenance as in the circumstances are desirable.

(4) An order of the Court under this section shall have effect as a settlement or grant to trustees of the relevant interest by the settlor, and shall operate to extinguish, in addition to every interest expressly extinguished, the interest of any person under any limitation or trust which is thereby varied or revoked which exceeds the interest of such person under the limitations or trusts as so varied or substituted therefor.

(5) The vesting of any interest in trustees for sale by an order under this section shall not affect any priority as between competing interests therein acquired before the date of the order.

(b) *Consequential provisions*

10.-(1) A trustee-

- (a) in whom a Government lease is vested by this Act shall not be liable for breach of trust by reason only of his continuing to hold the same, notwithstanding any prohibition against investment in a term of years, or any direction to realize terms of years, contained in a trust instrument or will made before the appointed day;
- (b) shall not be liable for breach of trust by reason only of his continuing to hold any other interest converted or diminished in accordance with the provisions of this Act, notwithstanding any prohibition, contained in a trust instrument or will made before the appointed day, against holding the same or investing in any interest on which such first-mentioned interest is charged.

Trustees
may
retain
converted
interests

(2) The provisions of this section shall be in addition to the provisions of section 4 of the Trustee Act, 1893, Amendment Act, 1894.

57&58
Vict.c.10

11.-(1) Where in any written law, instrument, contract or will made before the appointed day property is described by reference to, its real nature (whether or not that term is used expressly), or a distinction is made between real and personal property, and the devolution of such property under such written law, instrument, contract or will after that day is dependent on such description or distinction, then, for the purposes of the identification and devolution of the property thereunder, a Government lease shall be deemed to be real property.

Description
of property
as real
property,
and
equitable
conversion

(2) Where in any written law, instrument, contract or will made before the appointed day trustees are directed to expend money on the purchase of real property (whether or not that term is used expressly), and to hold the same on trust for, or to convey the same to any person, and such purchase has not been made before the appointed day, the same may be expended on the purchase of a Government lease, or of any investments authorized thereby or by the general law, but the identification of the beneficiaries or grantee shall be determined as if this Act had not been passed.

12. No contract made before the appointed day-

Contracts

- (a) for the grant of any freehold estate by the Republic or the President, shall become void or voidable by reason of the provisions of section 60; but every such contract shall be construed as a contract for the grant of a Government lease:

Provided that every person who claims that he is entitled under such a contract to a grant of a Government lease under this paragraph shall give notice of his claim to the Commissioner within six months after the appointed day, and, if any such person fails to do so, such contract shall be void and, notwithstanding the provisions of the Law of Contract Ordinance, 1961, any sums paid thereunder shall be irrecoverable;

Ord. 1961
No 1

- (b) for the disposition of any freehold estate, shall become void or voidable by reason of the conversion of such estate into a term of years or of a legal estate into an equitable interest, or by any other diminution thereof, by or under the provisions of this Act; but every such contract shall be construed as if it were a contract for the term or interest into which the estate is converted or for the diminished interest, as the case may be;
- (c) for the disposition of any other interest, shall become void or voidable by reason of the conversion or diminution in accordance with the provisions of this Act of such interest, or of the conversion or diminution in accordance with the provisions of this Act of any other interest out of which such first-mentioned interest is to be created; but every such contract shall be construed as if it were a contract for such first-mentioned interest as so converted or diminished, or as if such first-mentioned interest were to be created out of such other interest as so converted or diminished, as the case may be:

Provided that a contract for a lease for a term greater than the term vested in the proposed grantor on the appointed day shall be construed as a contract for a lease for the unexpired term vested in the grantor on the appointed day less the last day thereof.

Claims not
defeasible
by absence
of freehold
estates

13. No claim by prescription or user to any incorporeal hereditament made on or after the appointed day, whether the enjoyment or user by reason of which the claim is made commenced before, on or after the appointed day, shall be defeated on the ground that there is, no freehold or absolute estate in the dominant or servient tenement, but where in accordance with the law in force immediately prior to the appointed day any such claim lay in favour of an estate of inheritance in a dominant tenement as against an estate of inheritance in a servient tenement, then on and after the appointed day such claim may be made in favour of the Government lease in a dominant tenement against the Government lease in a servient tenement.

No new
entails in
personality

14. For the avoidance of doubts it is hereby declared that a purported disposition of property (other than a limitation under an order of the court made under section 9) made on or after the appointed day for an entailed interest shall have effect as if it included a disposition of the reversion expectant on such entailed interest vested in the grantor immediately before the disposition:

Provided that nothing in this section shall apply to any disposition of an interest which subsists immediately before the appointed day as an entailed estate or interest, or to any entailed interest created by an order of the Court made under section 9.

(c) Final determination of interests

Final
determina-
tion of
interests

15. For the avoidance of doubts it is hereby declared that, notwithstanding the foregoing provisions of this Act or any disposition, made on or after the appointed day, every interest in or over land, or in any incorporeal hereditament in or covenant touching or concerning land, which is vested in any person for a Government lease, other than the reversionary interest of the Republic or the President therein, shall,

unless it has previously determined, determine and be extinguished at the expiration of ninety-nine years from the appointed day, or in the event of the relevant Government lease being renewed, at the expiration of the period or periods for which it is renewed:

Provided that nothing in this section shall apply to-

- (a) the interests specified in subsection (1) of section 64;
- (b) the interest of any person in compensation payable for un-exhausted improvements under section 22; or
- (c) any right of action which accrued prior to the land ceasing to be held for a Government lease, or to any personal liability of a person formerly entitled thereto or to any interest therein.

PART III

GOVERNMENT LEASES

(a) *Grants and renewals*

16.-(1) The Commissioner may, on behalf of the Republic-

Grants
and
renewals

- (a) renew any Government lease;
- (b) where any Government lease is surrendered for the purpose of accepting a new Government lease over the same land, grant a Government lease over such land; or
- (c) Where, immediately before the appointed day, any person is entitled by virtue of any provision in a lease granted under the former German law, or under any undertaking of the Government or any former Government in pursuance of any such provision, to a grant of a freehold estate in any land, grant such person or his personal representatives a Government lease over such land:

Provided that where a grant is made under paragraph (c) of this subsection, the initial term shall be ninety-nine years less the period which has expired since the appointed day.

(2) The term of every renewal or re-grant made by the Commissioner under this section shall commence on the expiry or surrender, as the case may be, of the immediately preceding term.

(3) Where the tenant does not seek a renewal of a Government lease, the Commissioner may, in the case of any sub-lease or mortgage to which section 25 applies, renew the lease to the sub-lessee or mortgagee thereunder.

(b) *Terms and conditions of Government leases*

17.-(1) Subject to the provisions of this Act, the tenant shall hold the leased land of the Republic-

Conditions:
general

- (a) without impeachment for waste, other than equitable waste:

Provided that this paragraph shall have effect subject to section 21;

- (b) at a rent per annum calculated in accordance with the provisions of the First Schedule to this, Act.

Provided that the Commissioner shall waive the rent of land held for a Government lease which is used exclusively for the purposes of public worship or for burial or exclusively both for public worship and for burial, or, where part only of such land is so used, such part of such rent as is attributable to such part of such land; and

(c) subject to the rights reserved to the grantor, and to the restrictions contained (if any) in the relevant grant of the freehold estate for which the land was held immediately before the appointed day.

(2) The relationship of landlord and tenant between the Republic and the tenant shall not imply any covenant for quiet enjoyment by the Republic in respect of the acts of any person claiming any interest in land from or under the Republic or the President, nor shall the provisions of section 7 of the Conveyancing and Law of Property Act, 1881, apply in relation to any grant or renewal made under section 16.

44 & 45
Vict. c. 41

(3) Notwithstanding the registration, under the Land Registration Ordinance, of any freehold estate or Government lease, the provisions of section 56 of that Ordinance shall not apply to a Government lease.

(4) For the avoidance of doubts it is hereby declared that rights reserved to the grantor, and restrictions, contained in the grant of the freehold estate for which land was held immediately before the appointed day shall be enforceable according to their tenor by the Republic against the tenant of the Government lease to which such land is subject notwithstanding any rule of law against perpetuities or against exceptions m, grants:

Provided that nothing in this section shall apply to any such right or restriction expressed to be exercisable or operative for a limited period, after the expiry of that period.

Rent

18.-(1) Rent for a Government lease shall be due and payable without demand annually in advance-

- (a) in the year 1963, within three months after the appointed day, and thereafter, on the anniversary of the appointed day; or
- (b) in the case of a Government lease granted under section 16, on the date specified in the grant,

and shall be paid to the Commissioner or to such person as he shall direct.

(2) Notwithstanding the provisions of paragraph (q) of subsection (1) of section 24, a Government lease shall not be liable to forfeiture on the grounds of non-payment of part only of the rent without formal demand for the residue thereof, unless the sum paid as rent by the tenant is less than the sum paid by him as rent for a previous year.

(3) The acceptance of any sum by or on behalf of the Commissioner as rent for a Government lease, or a receipt therefor, shall not-

- (a) constitute an admission by or on behalf of the Republic that such sum is the sum due as rent for such lease, or estop the Republic from claiming any greater sum therefor; or

(b) operate as a waiver by or on behalf of the Republic of any forfeiture accruing by reason of the breach of any obligation, condition, covenant or restriction.

(4) Directions under subsection (1) may be given by notice in the *Gazette* or by service on the tenant.

19.-(1) A disposition of a Government lease shall not be operative without the consent of the Commissioner.

(2) In this section, "a disposition" means-

(a) an assignment, sub-lease, mortgage or settlement of the term whether in the whole leased land or a part thereof, other than-

(i) any transaction in pursuance of a contract made before the tenth day of April, 1963; or

(ii) a sub-lease-

(A) for a term of five years or less, unless such sub-lease contains an option, whereby the sub-lessee can require the tenant to grant him a further term or terms which, together with the original term, exceed five years; or

(B) from year to year or for periods of less than a year whether or not the lease includes an initial fixed term, unless such initial fixed term exceeds four years; or

(iii) a re-assignment or surrender by a mortgagee to the person entitled to the equity of redemption, or the reversion, immediately expectant on the mortgage term, as the case may be;

(b) a partition;

(c) a vesting declaration;

(d) a deed or arrangement or declaration of trust binding any party thereto to make any such disposition aforesaid, including a deed or agreement entitling a party thereto to require any disposition to be made,

but does not include-

(I) an assent by personal representatives; or

(II) a sale by a mortgagee under any express or statutory power, or under an order of the court; or

(III) an assignment under a foreclosure order; or

(IV) a sale in execution of a decree under an order of the court.

20. Where the Commissioner fails to give his consent to any disposition to which section 19 applies within six months after it is sought, or refuses his consent, the transaction shall become void.

21. Where development requirements are annexed under this Act to leased land, there shall be implied in the Government lease for which such land is held covenants by the tenant with the Republic, binding the tenant-

Dealings
with
Government
leases

Dispositions
without
consent
to be void

Development
require-
ments

- (a) to comply with such requirements within the time (if any) limited therefor; and
- (b) to permit the Commissioner and any person authorized by him to enter upon the leased land at any reasonable time and to inspect the same in order to ascertain if the tenant is complying with such requirements.

Unexhausted
improve-
ments

22.-(1) Where-

- (a) after the expiration of a Government lease- or
- (b) after the prior determination of a Government lease, otherwise than on a forfeiture thereof for failure to comply with the covenant implied therein by paragraph (a) of section 21,

a right of occupancy is granted under the Land Ordinance over the former leased land or any part thereof to any person other than the former tenant, the former tenant shall be entitled to obtain from the grantee of the right of occupancy the value of any unexhausted improvements existing on the land or part on the date of such grantee's entering into occupation.

(2) Where a Government lease is forfeited for failure to comply with the covenant implied therein by paragraph (a) of section 21, the Commissioner shall cause the unexhausted improvements existing on the former leased land to be valued, and the land shall forthwith thereafter be advertised for disposal for a right of occupancy on the following conditions:-

- (a) the term of the right of occupancy shall be a term not less than the unexpired term of the Government lease immediately before the forfeiture;
- (b) the rent for the land shall not exceed the rent currently reserved in rights of occupancy for unimproved land of a similar description and extent;
- (c) the land shall be advertised for disposal at a reserved premium equal to the assessed value of the unexhausted improvements aforesaid and tenders shall be invited for the enhancement of the premium;
- (d) the remaining conditions of the right of occupancy shall not be more onerous than the terms, conditions and covenants subject to which the former leased land was held immediately prior to its forfeiture.

(3) Where-

- (a) tenders are received for a right of occupancy within six months of the same being first advertised under subsection" (2), the tenders shall be published and the Commissioner shall, on receipt of the premium from the person to whom a right of occupancy over the land is granted (or in the event of his default, any damages recovered in respect of such premium), whether or not such person tendered the highest premium, pay to the former tenant a sum equal to the highest premium tendered;

(b) no tenders for a right of occupancy advertised under subsection (2) are received within six months of the first advertisement thereof. the Provisions of subsection (1) of this section shall apply as if the Government lease had been forfeited otherwise than for failure to comply with the covenant implied therein by paragraph (a) of section 21.

(4) Where a right of occupancy is granted over land which was formerly held for a Government lease otherwise than to a person whose tender therefor is accepted under paragraph (a) of subsection (3) of this section, the provisions of paragraph (b) of section 14 of the Land Ordinance shall have effect as if such provisions were contained in the contract for the relevant right of occupancy and as if the reference therein to the Previous occupier included a reference to the former tenant.

(5) Any dispute as to the value of unexhausted improvements existing on former leased land shall be settled by the Land Tribunal on the application of a party thereto.

(6) Nothing in subsections (1) to (4) inclusive of this section shall apply in any case where a Government lease which is forfeited is vested in any other person under the provisions of section 4 of the Conveyancing and Law of Property Act, 1892, and section 29 of this Act. 55&56
Vict. c. 13

23.-(1) Notwithstanding the forfeiture, surrender or other termination of a Government lease, the former tenant may, within a period of three months thereafter, enter upon the former leased land and sever and remove any fixture which he might have severed and removed prior to the termination of the lease. Removal of fixtures

(2) The tenant or, if the application is made within one month of the termination of a Government lease, the former tenant, may apply to the Court for a declaration. that any fixture on the leased land shall be deemed to be a fixture of a kind which a tenant may sever and remove, and if the Court is satisfied that the application is made in respect of a fixture which was annexed to the land by the tenant or former tenant, or by any predecessor in title being of kin to the tenant or former tenant, and that the fixture possesses a special value for the tenant or former tenant or his kin, it may declare the same to be of a kind which a tenant may sever and remove, and, if the application is made after the termination of the lease, may extend the time within which the former tenant may enter upon the former leased land and sever and remove the same. The Commissioner shall be made a party to every application under this subsection.

(3) Where any person severs or removes a fixture in pursuance of a declaration under this section, he shall repair any damage caused by such severance or removal (such repair to include, where it is necessary to prevent any damage to any building or other structure or to the land, the replacement of the fixture by a new fixture of a similar nature) and, if he does not do so, the Commissioner may make such repairs and recover the cost thereof from such person.

Forfeiture

24.-(1) There shall be implied in every Government lease a condition that if—

- (a) the tenant fails, on demand made therefor and after any relevant conditions precedent to be complied with by the Republic or the President have been complied with by or on behalf of the Republic, to grant or surrender to the Republic any rights reserved to the grantor in the relevant grant of the freehold estate for which the leased land was held immediately before the appointed day, or if the tenant contravenes any restrictions contained in such grant; or
- (b) the tenant fails to comply with or breaks the covenants implied in the lease by section 21; or
- (c) the rent or any part thereof remains unpaid for three months after becoming payable (whether formally demanded or not); or
- (d) the tenant fails to pay the rates and taxes or other dues imposed on the land within three months of the same becoming Payable.

the Commissioner may, on behalf of the Republic, by certificate under his hand, forfeit the lease, and thereupon, subject to the provisions of this Act, the Government lease shall determine:

Provided that the Commissioner shall not forfeit a Government lease-

- (a) unless he has first served notice on the tenant specifying the default and, if it is capable of being remedied, requiring the tenant to remedy the same, and the tenant fails, within a reasonable time thereafter, to remedy the default; and
- (b) unless he has first published in the *Gazette* a notice of his intention to forfeit the lease and not less than twenty-eight days have expired after the first publication thereof; and
- (c) in any case in which application for relief under section 29 has been received by the Land Tribunal before the expiration of such period of twenty-eight days, until after the determination or withdrawal of such application.

(2) Subject to the provisions of this Act, the Commissioner may include in any notice under subsection (1) a claim for compensation for the default for which he seeks to forfeit the lease.

(3) The tenant shall, with all convenient speed, inform every person who holds the leased land or any part thereof of him for a sub-lease, and every mortgagee of the Government lease, of every notice served on him under subsection (1) and every sub-lessee and mortgagee shall, with all convenient speed, inform the persons claiming immediately under them of such information.

(4) Nothing in this section shall be construed as precluding the Commissioner, on behalf of the Republic, from forfeiting, subject to the proviso to subsection (1), any Government lease on any other ground authorized by the general law.

(c) Sub-leases and mortgages

25.-(1) There shall be implied-

- (a) in every sub-lease to which this section applies, a covenant by the sub-lessor with the sub-lessee, binding the sub-lessor;

Implied
covenant by
sub-lessor and
mortgagor

(b) in every mortgage to which this section applies, a covenant by the borrower with the mortgagee binding the borrower.

to inform the sub-lessee or mortgagee, as the case may be, not later than six months before the expiry of the relevant Government lease whether or not he proposes to apply to the Commissioner for a renewal, and if he does not and the sub-lessee or mortgagee, as the case may be, so, requests, to apply forthwith to the Commissioner to renew the lease to the sub-lessee or mortgagee, as the case may be.

(2) This section applies-

(a) to a sub-lease of leased land which

- (i) on the appointed day is held directly of the tenant; and
- (ii) is a derivative lease to which sub-paragraph (i) of paragraph (a) of subsection (1) of section 8 of this Act applies, which has not determined prior to six months before the expiration of the relevant Government lease;

(b) to a mortgage which-

- (i) on the appointed day is a mortgage of a Government lease; and
- (ii) is an interest to which sub-paragraph (i) of paragraph (b) of subsection (1) of section 8 of this Act applies, which has not determined prior to six months before the expiration of the relevant Government lease.

(3) In this section, "derivative lease" and "interest" have the meanings respectively ascribed to those expressions in section 4.

26.-(1) There shall be implied in every sub-lease granted before the date on which any development requirements are annexed to any leased land held for such sub-lease, a covenant by the sub-lessee with the sub-lessor binding the sub-lessee to comply with the development requirements in so far as they affect the land held for such sub-lease, and any express term or condition of any such sub-lease shall, after the annexure of any development requirements to such land, have effect only to the extent that it is not inconsistent with the development requirements.

Covenants in sub-leases granted before annexure of development requirements

(2) Where any sub-lease to which subsection (1) of this section applies contains any covenant or condition (whether express or implied) whereby the sub-lessee is required to permit the sub-lessor or any other person to enter, in case of default, upon the land held for such sub-lease in order to effect any developments or improvements prescribed in the sub-lease to be effected by the sub-lessee or to make good any defect or breach of covenant, such covenant or condition shall be deemed to include the like covenant or condition in the case of any default by the sub-lessee in complying with the development requirements annexed to such land.

(3) Where the covenant specified in subsection (1) of this section is, in accordance with the provisions of that subsection, implied in any sub-lease which was granted before the appointed day, and the covenants and conditions of the sub-lease to be performed by the sub-lessee become thereby substantially more onerous than the terms and conditions which would have obtained had this Act not been passed, the sub-lessee may disclaim the sub-lease and upon the

registration of the disclaimer under the Land Registration Ordinance or the Registration of Documents Ordinance, as the case may require, the sub-lease shall be deemed to have been surrendered:

Provided that nothing in this section shall entitle a mortgagee to whom the sub-lease has been assigned to disclaim a sub-lease unless either the equity of redemption of the mortgagor has been foreclosed or the person entitled to the equity of redemption consents thereto.

Covenants
in
mortgages

27-(1) There shall be implied in every mortgage made before the appointed day, which on that day becomes a mortgage of a Government lease, covenants by the borrower with the mortgagee binding the borrower-

- (a) to pay the rent for the Government lease and to comply with the terms and conditions on which the borrower holds the land, and to keep the mortgagee effectually indemnified against any damage or loss whatsoever in respect of any breach thereof;
- (b) in case of default by the borrower in complying with any development requirement annexed to the leased land, to permit the mortgagee to enter upon the land and to effect such developments and improvements as may be necessary to ensure that the development requirements are complied with (the mortgagee exercising his own discretion as between alternative developments or improvements permitted by the development requirements), and to repay the mortgagee every sum expended by the mortgagee on such developments and improvements with interest at the same rate as is payable on the principal sum secured by the mortgage,

and every sum so expended by the mortgagee and the interest thereon shall be a charge on the mortgaged property.

(2) Where any mortgage made before the appointed day other than a mortgage specified in subsection (1) of this section contains any covenant or condition (whether express or implied) whereby the borrower is required to permit the mortgagee or any other person to enter, in case of default, on land held for the interest thereby mortgaged in order to repair or make good any damage or breach of covenant, such covenant or condition shall be deemed to include the like covenant or condition in the case of any default by the borrower in complying with any covenant implied in such interest by section 26.

(3) Where, prior to the appointed day, any money was advanced on the security of any estate of freehold without any personal covenant for repayment, there shall on and after that day, be implied in the transaction a personal covenant by the borrower, with the lender, binding the borrower and his legal personal representatives to repay such money, with the interest (if any) then stipulated, if such security is, by reason of the conversion or diminution thereof in accordance with the provisions of Part II of this Act, insufficient to discharge such debt and interest or if the security is forfeited in accordance with the provisions of this Part.

Agreements

28. The provisions of sections 25, 26 and 27 shall be in addition to any other law whereby covenants are implied in leases or mortgages and shall have effect subject to any agreement made after the appointed day.

(d) Relief against forfeiture

29.-(1) Notwithstanding that a Government lease is held of the Republic, or the reversionary interest of the Republic or the President in any land held for a Government lease, the Land Tribunal may grant to the tenant or persons claiming under him the like relief against the forfeiture of a Government lease as is available to any other lessee or the persons claiming under him respectively, and the Land Tribunal shall have such jurisdiction in that behalf as is vested by written law and otherwise in the High Court; and the Land Tribunal may grant relief in accordance with the general law notwithstanding that the Commissioner is proceeding to forfeit, or has forfeited, the Government lease for breach of an obligation, covenant, condition or restriction to which the relevant lease or sub-lease or the tenant or sub-lessee, is subject in accordance with this Act.

Relief

(2) The provisions of sections 211 and 212 of the Common Law Procedure Act, 1852 of section 14 of the Conveyancing and Law of Property Act 1881, of section 4 of the Conveyancing and Law of Property Act, 1892, and of section 57 of the Land Registration Ordinance, shall have effect in relation to the jurisdiction conferred on the Land Tribunal by this section as if the references to the Court having jurisdiction to grant or refuse relief were references to the Land Tribunal and the provisions of the general law shall have effect *mutatis mutandis* in relation to such jurisdiction.

15&16
Vict. c. 76

(3) Notwithstanding the provisions of subsection (1) of section 14 of the Conveyancing and Law of Property Act 1881, or section 4 of the Conveyancing and Law of Property Act, 1892, the Commissioner shall not be entitled to claim any compensation for any breach of a covenant to comply with development requirements, other than the requirements specified in section 43.

(4) The conditions upon which an order may be made under section 4 of the Conveyancing and Law of Property Act, 1892, and this section shall extend, in any case in which the Land Tribunal thinks it just and equitable, to the payment to the tenant by the person in whom the lease is to be vested, of the value of the unexhausted improvements on the leased land, or of an apportioned part thereof.

(5) The High Court shall have no jurisdiction to grant relief against the forfeiture of a Government lease.

(e) Miscellaneous

30. Subject to the provisions of this Act, the Republic as landlord of any leased land shall have and enjoy all the same rights therein as, but for the passing of this Act, would have been enjoyed by a person seized in fee simple in possession of land who had granted a lease thereof on the same terms and conditions as those for which the leased land is held:

The
Republic as
landlord

Provided that nothing in this section shall be construed as derogating from the provisions of subsection (1) of section 7 of the Republic of Tanganyika (Consequential, Transitional and Temporary Provisions) Act, 1962.

C.A.,
Act 2

Com-
missioner to
exercise
functions
on behalf
of Republic

Cap. 5

31.-(1) In addition to the powers and functions expressly conferred on him by this Act, the Commissioner may exercise and perform on behalf of the Republic all the rights, powers, functions and obligations of the Republic as landlord of, or in relation to the interest of the Republic or the President in or over, any leased land.

(2) Notwithstanding the provisions of section 2 of the Government Suits Ordinance, suits and other proceedings by or against the Republic relating to any leased land or to the interest of the Republic or the President in or over the same shall be instituted by or against the Commissioner.

(3) The provisions of subsection (1) of this section shall not be construed as precluding the President from exercising or performing any power, function or duty which he has power to exercise or perform under subsection (1) of section 7 of the Republic of Tanganyika (Consequential, Transitional and Temporary Provisions) Act, 1962.

Assignee of
Government
lease
entitled to
call for
certain title

32. Notwithstanding the provision of any law whereby an intended assignee of a term of years shall not be entitled to call for the title to the freehold, the intended assignee of a Government lease (not being a lease granted under section 16) may call for the title under which the tenant or his predecessor in title held the leased land immediately before the appointed day:

Provided, where the leased land is registered under the Land Registration Ordinance after the appointed day, the intended assignee shall not be entitled to call for any title other than the registered title.

Taxes,
rates and
charges

33.-(1) Where under the provisions of any written law enacted or made before the date on which this Act is enacted, the liability for any tax, rate or other imposition, or for any charge, is imposed, chargeable, or subsists, either primarily or in default of some other person or interest primarily liable-

(a) on the person who holds land for an estate of freehold or against land held for an estate of freehold; or

(b) on the person who receives or is entitled to receive the rack rent of any premises or land, or who would be entitled to receive the rack rent if the premises or land were let at a rack rent, or against such person's interest in the premises or land,

such law shall, in respect of any period commencing, or time, on or after the appointed day, be read and construed in relation to leased land as if such liability were imposed and chargeable on the person in whom the leased land is vested for a Government lease, or subsisted against the leased land, as the case may be; and no liability thereunder shall adhere to the Republic, or to the land after it ceases to be held for a Government lease.

(2) Where under the provisions of any written law enacted or made before the date on which this Act is enacted, the liability for any tax, rate or other imposition, or for any charge, is imposed, chargeable or subsists, either primarily or in default of some other person or interest primarily liable, on a person who holds a head lease of or over land or against such person's interest in the land, such law shall, in respect of any period commencing, or time, on or after the appointed day,

be read and construed in relation to leased land as if such liability were imposed and chargeable on the person who holds a sub-lease of the land direct of the tenant of the leased land, or the interest of such sub-lessee in the leased land, as the case may be.

(3) Where the amount of any tax, rate or other imposition, or of any charge, is determined by reference to a 'valuation of a freehold estate in any property prepared before the appointed day under any written law, such valuation shall not be varied or reduced so long as it is in force under such law by reason only of the extinguishment by this Act of the freehold estate in the land or the conversion thereby of the interest of the owner of the former freehold estate into a Government lease.

34. Nothing in this Act shall preclude the Commissioner and a tenant (not being a mortgagee) from entering into a deed of variation altering, adding to or deleting the terms and conditions on which a Government lease is held.

Variation of government leases

PART IV

DEVELOPMENT REQUIREMENTS

35. In this Part of this Act, unless the context otherwise requires- "urban holding" means leased land wholly situated within-

Interpretation of Part IV

- (a) a municipality established under the Municipalities Ordinance;
- (b) a township within the meaning of that expression in the Local Government Ordinance;
- (c) a township or minor settlement declared as such under the Township Ordinance or the Minor Settlements Ordinance, or an area under the jurisdiction of a District Council which, immediately prior to the establishment of such District Council was such a township or minor settlement;
- (d) a planning area declared as such under section 13 of the Town and Country Planning Ordinance. being a planning area which includes any of the places or areas described in paragraphs (a), (b) or (c), or any part thereof.

Cap.105
Cap. 333

Cap.101
Cap 102

Cap. 378

"large rural holding" means leased land, not being an urban holding, exceeding one hundred and twenty acres in area;

"small rural holding" means leased land, not being an urban holding, of one hundred and twenty acres or less in area;

"local authority" means the city council, municipal council, town council, township authority or district council within whose area of jurisdiction the leased land lies or, where the leased land lies within the area of jurisdiction of two or more such authorities, means that one of them which the Commissioner shall appoint.

(a) *Annexure of development requirements*

36.-(1) This section applies to urban holdings situated in an area which has been declared to be a planning area under section 13 of the Town and Country Planning Ordinance.

Urban holdings in planning areas

(2) Where a detailed scheme has been approved under section 31 or 32 of the Town and Country Planning Ordinance, the Preparatory Authority may declare the area to which such scheme applies to be ripe for development-

- (a) as a whole forthwith- or

(b) in parts on specified dates in accordance with a programme of development for the whole of such area, specified in the declaration;

and, where any such declaration is made, the Commissioner may annex such development requirements to any urban holding in the area as, having regard to the detailed scheme, he would have included as development conditions in a grant, made on the date of annexure, of a right of occupancy over the same land for the unexpired term of the Government lease.

(3) In this section, "detailed scheme", "planning area" and "Preparatory Authority" have the meanings respectively ascribed to those expressions in the Town and Country Planning Ordinance.

Urban
holdings
in other
areas

37.-(1) This section applies to urban holdings situated in an area which is not a planning area within the meaning of the Town and Country Planning Ordinance.

(2) The Minister may, on the recommendation of the local authority or of his own motion, by notice in the *Gazette* declare-

(a) any area, being an area defined in the declaration as a zone of homogeneous use; or

(b) any area, being an area defined by the local authority, by notice in the *Gazette* and in such manner as may be prescribed, as a zone of homogeneous use,

to be ripe for development-

(i) as a whole forthwith; or

(ii) in parts on specified dates in accordance with a programme of development for the whole area specified in the declaration,

and, where any such declaration is made, the Commissioner may annex such development requirements to any urban holding in the area as, having regard to the declaration of user made under paragraph (a) or (b) of this subsection, he would have included as development conditions in a grant, made on the date of annexure, of a right of occupancy over the same land for the unexpired term of the Government lease.

Large
rural
holdings

38.-(1) Where, after causing to be made such survey of the existing development, potentiality and cost of further development of any large rural holding as he considers necessary, the Minister for Agriculture is satisfied that such holding is capable of further development and that further development would be in accordance with good estate management (having regard to the character and situation of the holding and other relevant circumstances), he may declare the holding as ripe for development, and thereupon the Commissioner may annex development requirements to the holding.

(2) The development requirements which may be annexed to a holding under this section are such of the development conditions as are for the time being prescribed for rights of occupancy by regulations made under the Land Ordinance, or such other requirements as the Commissioner would have included in a grant, made on the date of annexure, of a right of occupancy over the same land for the unexpired term of the Government lease.

(3) In this section, "relevant circumstances" include all circumstances affecting the management or development of the holding other than the personal circumstances of the tenant or any occupier.

39. Where the local authority-

- (a) represent to the Minister that the appropriate development of any small rural holding is development as, or as part of, a building scheme; and
- (b) produce to the Minister a plan of the building scheme laid out in building plots; and
- (c) satisfy the Minister that the demand for buildings within the area of the scheme is such as to require the development of the holding as, or as part of, the scheme,

Small rural holdings: building development

the Minister may declare such holding as ripe for development as, or as part of, a building scheme, and thereupon the Commissioner may annex such development requirements to the holding as he would have included as development conditions in a grant, made on the date of annexure, of a right of occupancy over the same land for the unexpired term of the Government lease for the purposes of development as, or as part of, a building scheme of a similar nature.

40.-(1) Where, on the recommendation of the local authority or of his own motion, the Minister is satisfied that any small rural holding is, having regard to all the relevant circumstances including comparison with the development of neighboring land of a like character, underdeveloped, and that further development would be in accordance with good estate management (having regard to the character and situation of the holding and other relevant circumstances), he may declare such holding as ripe for development, and thereupon the Commissioner may annex such development requirements to the holding as he would have included as development conditions in a grant, made on the date of annexure, of a right of occupancy over the same land for the unexpired term of the Government lease.

Small rural holdings: other development

(2) In this section, "relevant circumstances" has the meaning ascribed to that expression in section 38.

41. Where-

- (a) the Commissioner makes a grant of a Government lease under paragraph (c) of subsection (I) of section 16; or
- (b) an application is made to the Commissioner for his consent to a disposition of any leased land to which development conditions have not hitherto been annexed,

Annexure on grant or assignment

the Commissioner may, as a condition of making such grant or giving such consent, annex such development requirements to the leased land as he would have included as development conditions in a grant, made on the date of annexure, of a right of occupancy over the same land for the term, or as the case may be, the unexpired term, of the Government lease.

42. Where, on an application made for an order under section 45 or for a compulsory purchase order, the Commissioner is of the opinion that alternative development requirements of a kind appropriate to the leased land, and which he is authorized by the provisions of this Part to annex thereto, would provide for the development of such land to a like extent as those already annexed to the land, and that such alternative development requirements are consistent with the continued existence of the interests sought to be modified, extinguished or compulsorily acquired, he may-

Annexure on applications under section 45 and 46

(a) instead of making such order; or

N in the case of any easement, right of way or covenant, in addition to making an Order for the modification thereof, revoke the existing development requirements and annex such alternative development requirements to the leased land.

Continuing
require-
ments

43.-(1) Where the commissioner annexes any development conditions to any leased land under the foregoing provisions of this Part, he may, in addition, annex further requirements to the leased land-

(a) in the case of development requirements whereby the tenant is required to erect any building or other structure, to keep and maintain such building or structure in good and substantial repair and condition during the remainder of the Government lease and any renewal thereof and, in the event of the destruction thereof, to replace the same with a like building or structure of the same value; and

(b) in the case of farm or plantation land, to keep and maintain the land in good heart, to keep the land cultivated, planted or stocked in accordance with the development requirements, and to farm the leased land in accordance with the rules of good husbandry practised in the neighborhood.

(2) Where the Commissioner renews a lease or makes a grant thereof under section 16, or consents to a disposition of leased land, and in either case development requirements have not hitherto been annexed to the leased land, he may annex requirements to the leased land-

(a) where the development of the leased land consists of buildings or structures to keep and maintain such buildings or structures in good and substantial repair and condition during the remainder of the Government lease and any renewal thereof and, in the event of the destruction thereof, to replace the same with like buildings or structures of the same value; and

(b) in the case of farm or plantation land, to keep and maintain the land in good heart, to keep the land cultivated, planted or stocked, and to farm the same in accordance with the rules of good husbandry practised in the neighborhood.

(3) Every requirement annexed to leased land under this section shall be deemed to be a development requirement within the meaning of that expression in this Act.

Notice of
annexure of
development
require-
ments

44.-(1) Where the Commissioner annexes any development requirements to any leased land, he shall cause the Prescribed notice thereof to be served on the tenant and on the Registrar.

(2) Where notice is served on the Registrar of Titles under this section, he shall mark the register in the Prescribed manner.

(3) The annexure of development requirements shall have effect on such date as may be specified in the notice, which, except in the case of requirements annexed under section 42 or 43, shall not be less than thirty days after the date of service thereof on the tenant:

Provided that where a declaration is made-

(a) under paragraph (b) of subsection (2) of section 36; or

(b) under paragraph (ii) of subsection (2) of section 37,

that an area is ripe for development in parts, the annexure of development requirements shall not have effect before the date specified in such declaration as the date on which that part of the area in which the holding to which the requirements are annexed, or any part thereof, is situated is ripe for development.

(4) No proceedings may be instituted by the tenant or any person claiming under him for the forfeiture of a sub-lease for failure to comply with the covenant implied in such sub-lease by subsection (1) of section 26, or to permit the tenant or any other person to enter upon the land held for such lease for the purposes described in subsection (2) of section 26, unless a copy of the relevant notice under this section has been served on the sub-lessee in sufficient time to enable him to comply therewith.

(b) *Modification and extinguishment of easements, etc., and covenants, and acquisition of certain sub-leases and profits*

45.-(1) Where, at the time at which development requirements are annexed to any leased land, the land is subject to any easement or right of way or to the burden of any covenant touching or concerning the land, the tenant may apply to the Commissioner for an order for the modification or" extinguishment thereof, and if the Commissioner is satisfied-

Easements,
etc. and
covenants

- (a) that the Proper and effective development of the leased land in accordance with the development requirements necessitates the modification or extinguishment of such easement, way or covenant; and
- (b) in any case in which any person entitled to make representations against the order requests the Commissioner to annex alternative requirements, that any alternative development requirements_
 - (i) of a kind appropriate to the leased land and which he is authorized by this Act to annex thereto- and
 - (ii) consistent with the continued existence, or as the case may be. unmodified continuance of the relevant easement, way or covenant,
 would not provide for the development of the land to the same extent as those annexed to the land,

he may, subject to the provisions of this section. make an order for the modification or extinguishment, as the case may be, of the easement, way or covenant:

Provided that the commissioner shall not make an order for the extinguishment of an easement of way granted or acquired before the appointed day in any case where such easement is the sole means of access to the dominant tenement.

(2) The tenant shall serve notice in the prescribed form of the application on the person entitled to the benefit of the easement, way or covenant, or, in the case of a public right of way, on the local authority.

(3) Before making an order under this section, the Commissioner shall give the person entitled to the benefit of the easement, way or covenant, an opportunity of making representations in writing or , if such Person so requires, in Person or by his agent.

(4) Where an application is made for an order to modify or extinguish any public way under this section, the Commissioner shall give notice of such proposal (at the cost of the applicant) in two consecutive editions of the *Gazette* prescribing the date (not being less than thirty days after the first publication of such notice) before which representations in writing or requests for an oral hearing shall be made, and where such notice is so published no proceedings shall lie by or on behalf of any person claiming to impugn the modification or extinguishment of such public way on the grounds that he was not afforded an opportunity to make representations in accordance with the provisions of subsection (3) unless such person has made a request for an oral hearing within the period prescribed in the notice and the Commissioner has refused or neglected to grant the same.

(5) Where the Commissioner makes an order under this section-

- (a) he shall serve a copy thereof on the tenant and the person entitled to the benefit of the easement, way or covenant, as the case may be (or, in the case of a public way, on the local authority); and
- (b) he shall serve a copy on the Registrar, and the Registrar shall register the same and, in the case of registered land, make such entry in the land register as the circumstances of the case require.

(6) Every order made under this section shall come into effect on such date, not being less than sixty days after the service of a copy of the order on the person entitled to the benefit of the easement, way or covenant or, as the case may be, the local authority, as may be specified in the order.

Compulsory
acquisition
of sub-leases
of parts of
leased land,
and
profits

46.-(1) Where, at the time at which development requirements are annexed to any leased land-

- (a) any part or parts of the land are sub-leased so that the land is sub-divided, and the sub-divisions are severally held by two or more sub-lessees or by the tenant and one or more sub-lessees; or
 - (b) any person is entitled to a profit in the land,
- the tenant may apply to the Commissioner for an order for the compulsory acquisition of such sub-leases or one or more of them, or of the profit, as the case may be.

(2) Where, on an application made under this section, the Commissioner is satisfied-

- (a) that the proper and effective development of the leased land in accordance with the development requirements cannot be effected, or will be substantially impeded, on account of such sub-division of the land or the enjoyment of the profit, as the case may be; and
- (b) in any case in which any person entitled to make representations against the order requests the Commissioner to annex alternative requirements, that any alternative development requirements-
 - (i) of a kind appropriate to the leased land and which he is authorized by this Act to annex thereto, and
 - (ii) consistent with the continued existence of the relevant sub-lease or profit, would not provide for the development of the land to the same extent as those annexed to the land,

he may, subject to the provisions of this section, make a compulsory purchase order, for the acquisition of the sub-leases or any one or more of them, or of the profit, as the case may be.

(3) The tenant shall serve notice in the prescribed form of the application-

- (a) on every sub-lessee or person entitled whose sub-lease or profit he seeks to acquire compulsorily; and
- (b) on every person having a registered interest under such sub-lessee or person entitled or whom he knows is eligible, in accordance with the provisions of the Second Schedule, to claim a share in compensation paid on such compulsory acquisition.

(4) The Commissioner shall not make an order under this section unless-

- (a) he has given an opportunity to make representations in writing or, if such person so requires, in person or by his agent, to the sub-lessee or person entitled whose sub-lease or profit is sought to be acquired compulsorily and to every other person who notifies the Commissioner under Head A of the Second Schedule that he wishes to make representations; and
- (b) he has compiled a compensation list in accordance with the provisions of the Second Schedule.

(5) Where the Commissioner makes a compulsory purchase order, he shall-

- (a) serve a copy thereof on the tenant, on the sub-lessee or person entitled to a profit, as the case may be, whose sub-lease or profit is to be compulsorily acquired, and on every other Person whose name appears in the compensation list as a claimant to a share in compensation;
- (b) serve a copy thereof on the Registrar; and
- (c) give notice in the *Gazette* of the making of the order.

(6) A compulsory purchase order shall come into effect on such date, not being less than sixty days after the Publication of notice of the making thereof in the *Gazette*, as may be specified in the order, and on such date-

- (a) every sub-lease specified in such order shall be deemed to have been surrendered to the tenant and all interests therein of the sub-lessee and of any person claiming under him shall be determined;
- (b) every profit specified in such order shall be deemed to have been released to the tenant and all interests therein of the person entitled thereto and of any person claiming under him shall be determined.

Provided that the Commissioner may except, on such terms as he thinks fit and with or without modification, any easement, right of way or covenant touching or concerning the land from determination under this section.

47-(1) Where a compulsory purchase order is made, the tenant shall pay compensation to the Commissioner for every sub-lease or profit, as the case may be., acquired compulsorily. All such compensa-

Compensation for compulsory acquisition

tion shall be a debt due to the Commissioner, with interest at the rate of six per centum per annum or such other rate as may be prescribed, and shall be paid in accordance with the terms of a compensation scheme made under the provisions of the Second Schedule.

(2) Subject to the provisions of section 48, on the registration of a copy of the compulsory purchase order under that section, the leased land shall stand charged with the payment of such compensation and interest from the date on which the order takes effect, and thereupon the Commissioner and any assignee of the Commissioner under this section shall have all the powers and remedies in case of default and be subject to all the obligations that would be conferred or implied in a mortgage by deed by way of sub-demise of the leased land.

(3) The Commissioner shall hold all moneys received from the tenant as compensation or interest thereon on trust to apply the same in accordance with the provisions of the compensation scheme.

(4) The Commissioner may, instead of himself proceeding to recover any sums due on the tenant's default in making payment in accordance with the provisions of the compensation scheme, or to enforce the charge, and upon such terms as to security or providing that any money received be paid into Court, as he thinks fit, assign the right to recover the debt or any instalment thereof, or to enforce the charge, to any person entitled to or to a share in the compensation, who shall thereupon be entitled to sue in his own name and to recover thereon as trustee for all such persons.

(5) Every assignment under subsection (4) shall be under the hand and seal of the Commissioner.

Charge for
compensation

48.-(1) On the receipt of a copy of an order served on him in accordance with the provisions of subsection (5) of section 46, the Registrar shall register the same and, in the case of registered land and notwithstanding any law to the contrary, shall make such entry in the land register relating to the surrender, release or other determination of an interest, and to the charge created by subsection (2) of section 47, as the circumstances of the case require.

(2) When the Commissioner certifies under his hand and seal that compensation and interest due under a compensation scheme has been paid, the Registrar shall endorse a memorandum of satisfaction on the copy of the order served on him under subsection (5) of section 46 and, in the case of registered land, enter the same in the land register.

(3) The charge created by subsection (2) of section 47 shall have priority according to the sub-leases or profits to which it relates, and the priority of the charge in respect of each such interest shall be determined by the date of the creation thereof:

Provided that if, had such interests not been determined under section 46, any such interest would have been postponed to any other interest in the leased land, the charge in respect of such first-mentioned interest shall be postponed to such second-mentioned interest.

PART V

THE LAND TRIBUNAL

Land
Tribunal

49.-(1) There shall be a Land Tribunal for the purposes of this Act.

(2) The provisions of the Third Schedule to this Act shall have effect as to the constitution and proceedings of, and otherwise in relation to, the Land Tribunal.

50.-(1) The former tenant may appeal to the Land Tribunal against the advertised rent and conditions (other than the term or the reserved premium) on which land is to be disposed of for a right of occupancy under the provisions of subsection (2) of section 22 on the grounds that the rent is excessive or the conditions are more onerous than the terms, conditions and covenants subject to which the former leased land was held immediately prior to its forfeiture.

Appeals to
Tribunal

(2) The tenant, or any sub-lessee who holds leased land or any part thereof to which development requirements have been annexed, may appeal to the Land Tribunal against-

- (a) the annexure of development requirements on the ground that the leased land has been developed prior to the annexure of the development requirements and the value or extent of the development equals or exceeds the value or extent of development that would have been required had a right of occupancy subject to development conditions been granted over the land at the time the development was commenced, or five years before the annexure of the development requirements, whichever is the later, and the development is kept and maintained in good and substantial repair and condition and, in the case of agricultural land, the land is kept and maintained in good heart; or
- (b) against any particular development requirement or requirements so annexed (other than the requirements specified in section 43) on the grounds that-
 - (i) it is not such as would have been included in a grant, made at the date of annexure, of a right of occupancy over the same land for the unexpired term of the Government lease; or
 - (ii) it fails to take into account any existing development of the leased land, or is otherwise unreasonable or inappropriate.

(3) Any person entitled to any easement way or covenant which is modified or extinguished under section 45 may appeal to the Land Tribunal against the modification or extinguishment thereof, and any person entitled to any sub-lease or profit in respect of which a compulsory purchase order is made, or to any interest which will determine on such an order taking effect, may appeal to the Land Tribunal against such order, on the grounds that-

- (a) the continued or unmodified existence of the relevant interest will not prevent or impede the development of the leased land in accordance with the development requirements; or
- (b) there are alternative development requirements appropriate to the leased land and which the Commissioner is authorized to annex in accordance with the provisions of Part IV of this Act, which will Permit of the continued or unmodified existence of the relevant interest.

Powers of Tribunal
On appeal under Section 50

51 On an appeal under this Part, the Land Tribunal may give directions for-

- (a) the Variation of the rent and the variation or deletion of any condition (not being a condition prescribing the term or reserved Premium) on which land is advertised for disposal under the Provisions of subsection (2) of section 22;
- (b) the revocation, of the annexure of development requirements;
- (c) the variation or deletion of any particular development requirement or requirements (other than a requirement specified in section 43); and with the consent of the Commissioner, the substitution of a new development requirement or requirements;
- (d) the variation or revocation of any order modifying or extinguishing any easement, way or covenant or for the compulsory acquisition of any sub-lease or profit and, with the consent of the Commissioner, the substitution of a new order modifying, extinguishing or acquiring the same;
- (e) the postponement of any development requirement or any order.

Decisions of Tribunal to be final and duties of Commissioner thereon

52.-(1) No appeal shall lie to any court or other authority from any decision or act of the Commissioner under any of the provisions of this Act if an application or appeal lies therefrom to the Land Tribunal and the decisions or acts of the Commissioner under subsection (2) of section 22, or under Part IV of this Act, shall not be subject to review in any court if the issue to be determined on such review is such as may be determined on an appeal to the Land Tribunal.

(2) The decision of the Land Tribunal on any application or appeal under this Act shall be final.

(3) The Commissioner shall give effect to every order or direction of the Land Tribunal given under this Act.

(4) In the case of directions to vary, delete or substitute any development requirement, or to vary or substitute any order under section 45 or any compulsory purchase order, the Commissioner shall give notice of the variation, deletion or substitution and serve the same on the same Persons and in the same manner as he is required by this Act to give or serve notice of the annexure of development requirements or the making of any such order, as the case may be, and the requirements or order as so varied, or the substituted requirement or order, shall have effect forthwith upon the date of service on the tenant, or on such other date thereafter as may be specified therein.

(5) Upon the delivery of any notice under subsection (4) to the Registrar, he shall register the same and, in the case of any registered land, make such entry in the land register as the circumstances of the case require.

PART VI

MISCELLANEOUS

(a) *General and administrative*

Rights of entry, and Power to call for information

53.-(1) Any person authorized in that behalf by the Minister for Agriculture shall have power to enter and inspect at all reasonable times any large or small rural holding (other than any part thereof occupied exclusively as a dwelling house) in order to make a survey of the existing development, potentiality or cost of further development thereof.

(2) Any Person authorized in that behalf by the Commissioner shall have power to enter and inspect at all reasonable times any leased land (other than any part thereof occupied exclusively as a dwelling house) for the purposes of ascertaining the existing development, potentiality and cost of further development prior to annexing development requirements to such land.

(3) Every person authorized to enter or inspect land under this section shall be furnished with a written authorization signed by or on behalf of the Minister or the Commissioner, as the case may be, and, if so required by any person having any interest in any leased land which he enters or inspects, shall produce the same to such person.

(4) The Commissioner may require any person whom he believes to be in possession of any land held immediately before the appointed day for an estate of freehold or to be entitled to any interest therein, to inform him in writing, within such time (not being less than seven days after the requirement) as he may specify, of the extent of his estate or interest in the land, the size of his holding, the name of the person of whom he holds such estate or interest and such other matters relating to the estates and interests in the land and the devolution thereof as may be prescribed.

(5) Any person who-

(a) wilfully obstructs or delays any person authorized to enter or inspect land under this section in the lawful exercise of the power in that behalf; or

(b) refuses or wilfully neglects to inform the Commissioner within the specified time of such matters as may be required of him under this section, or knowingly gives the Commissioner information of such matters which is false in any material particular,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one thousand shillings.

(6) In this section "large rural holding" and "small rural holding" have the meanings respectively ascribed to, those expressions in section 35.

54.-(1) Any direction, notice or copy of an order required to be served on any person under this Act shall be sufficiently served-

(a) if it is addressed to and left for him at his last known place of abode or business; or

(b) if it is sent by prepaid registered post addressed to him at his last known place of abode or business and is not returned through the post office undelivered; or

(c) in the case of a notice or copy of an order required to be served on a tenant, mortgagor or sub-lessee of leased land, if it is addressed to him and affixed in a prominent manner on the leased land.

(2) Any notice or copy of an order required to be served under this Act on any tenant, mortgagor or sub-lessee shall be sufficiently addressed although only addressed to him by such designation.

(3) Any notice or copy of an order served in accordance with the provisions of paragraph (b) of subsection (1) shall be deemed to have been served at the time at which the registered letter would be delivered in, the ordinary course of post.

(4) Nothing in this section applies to; notices or copies of orders served in proceedings in the court or before the Land Tribunal.

Service of
notices, etc.

Authentic-
ation of
certain
notices and
copies of
orders

55. Every notice served in accordance with the provisions of section 44 or 52, and every copy of an order served in accordance with the provisions of section 45, 46 or 52 shall be authenticated by the seal of the Commissioner and the signature of the Commissioner or of some other person authorized to affix the seal of the Commissioner, and shall not be valid unless so, authenticated.

Delegation
of Com-
missioner's
powers

56. The Commissioner may, by notice in the Gazette-

- (a) delegate to any person holding office in the service of the Republic, any of his functions, powers or duties under this Act, including the functions, powers and duties conferred on him by section 31;
- (b) authorize any such person to affix the seal of the Commissioner.

Exemption
from
certain
duties and
fees

57.-(1) A disclaimer and surrender under section 26 shall be exempt from-

- (a) any surrender fine payable under the relevant sub-lease;
 - (b) any registration fee payable under the Registration of Documents Ordinance or the Land Registration Ordinance,
 - (c) stamp duty.
- (2) The-
- (a) modification or extinguishment of any interest under section 45;
 - (b) compulsory acquisition of any sub-lease or profit under section 46;
 - (c) creation or satisfaction of any charge under section 47 or 48; or

(d) delivery or entry of any notice under section 52,
shall be exempt from-

- (i) any registration fee payable under the Registration of Documents Ordinance or the Land Registration Ordinance;
- (ii) stamp duty.

(3) The issue of a certificate of title to leased land for a Government lease in substitution for a certificate of title to such land for an estate of freehold, if made to the registered owner of the freehold estate shall be exempt from any issue or registration fee under the Land Registration Ordinance.

Rules

58.-(1) The Chief Justice may make rules of court regulating the procedure to be followed and the fees to be paid in proceedings in the Court under this Act.

(2) Subject to the provisions of subsection (1), the Minister may make rules prescribing anything to be prescribed under this Act, and, with the consent of the Minister for Justice, for applications and appeals to, and for the procedure to be followed and the fees to be paid in, proceedings before, the Land Tribunal.

(b) *Amendment of land register*

Amendment
of land
register

59.-(1) The Registrar of Titles may, at anytime after the appointed day, and shall when so directed by the Minister or any person having any interest in leased land which is registered land, make such amendments to the relevant folio of the land register as the provisions of Part II of this Act require.

(2) Where the Registrar makes an amendment to the land register under this section, he shall forthwith give notice to all persons having registered interests therein which are thereby affected, and the provisions of Part XVI of the Land Registration Ordinance shall apply as if the amendment had been made under that Ordinance.

(3) Before issuing a certificate of title to an interest inscribed in the land register after such amendment in substitution for any certificate previously issued in respect of the former corresponding interest, the Registrar shall call upon the person entitled thereto to surrender such previous certificate, and the Registrar shall not issue a new certificate unless the previous certificate is surrendered or the person entitled to such interest gives the Registrar such security for the failure to surrender the same as the Registrar may reasonably require.

(c) Amendment and construction of laws, and saving

60. On and after the appointed day, no grant of land may be made for an estate of freehold or for any absolute or perpetual interest.

No new grants of freehold

61. Subject to any order made under section 62, any reference in any Ordinance or Act enacted before the passing of this Act to freehold land shall be construed in relation to any period commencing, or any time, on or after the appointed day, as including a reference to leased land.

General amend laws

62.-(1) The President may-

(a) at any time before the expiration of six months after the appointed day, by order published in the *Gazette*, amend or modify any Ordinance or Act in order to bring the same into conformity with the conversion by this Act of freehold estates into terms of years and equitable interests in terms of years; or

Power to amend laws

(b) by order in the *Gazette*, amend, modify or disapply any Act of the Parliament of the United Kingdom which is in force by virtue of the Land (Law of Property and Conveyancing) ordinance in order to bring the same into conformity with the conversion by this Act of freehold estates into terms of years and equitable interests in terms of years.

Cap. 114

63.-(1) The laws set forth in the first and second columns of Part I of the Fourth Schedule to this Act are hereby repealed or amended, as the case may be accordance with the provisions of the third column thereof.

Particular amendments of laws

(2) The law of Property is hereby amended in the manner set forth in Part II of the Fourth Schedule.

64.-(1) Nothing in this Act shall, unless the Minister otherwise directs in any particular case, Operate to extinguish, determine or diminish, or authorize any person to extinguish, modify or acquire compulsorily-

Exemption

(a) any road of access granted under the Highways Ordinance;

Cap. 167

(b) any way leave to which a statutory undertaker is entitled under a law authorizing the undertaking;

(c) any mining right or mineral oil right within the meanings respectively ascribed to those expressions in section 11 of the Mining Ordinance;

Cap.123

- Cap. 410 (d) any existing right or water right (within the meanings respectively attached to those expressions in the Water Ordinance) declared appurtenant to land under section 17 of that Ordinance, or an easement made appurtenant to land under section 28 of that Ordinance;
- (e) any right, title or interest in or over land vested in the Republic or the President by any Ordinance or Act.
- Cap. 131
Cap. 281
Cap. 336 (2) In subsection (1), "statutory undertaker- means a licensee under the Electricity Ordinance, a Water Authority under the Waterworks Ordinance, an Authority under the Public Health (Sewerage and Drainage) Ordinance, and a city, municipal, town or district council or township or minor settlement authority in relation to its health or sanitary services.

—————
THE FIRST SCHEDULE
—————

(Section 17)

RENTS

1. In this Schedule-
"urban holding", "large rural holding" and "small rural holding" have the meanings respectively ascribed to those expressions in section 35.
- Cap. 317 "municipality" has the meaning ascribed to that expression in section 3 of the Local Government (Rating) Ordinance.
2. The rent for an urban holding-
- (a) wholly situated within a municipality in which a valuation roll is in force for the purposes of the Local Government (Rating) Ordinance, is one-thousandth part to the nearest shilling of the rateable value of the holding in the valuation roll for the time being in force;
- (b) no part of which is situated within a municipality in which a valuation roll is in force as aforesaid, is Shs. 20/-;
- (c) partly situated within a municipality in which a valuation roll is in force as aforesaid and partly situated outside such municipality, is one-thousandth part to the nearest shilling of the rateable value of that part of the holding which appears - the valuation roll for the time being in force, or Shs. 20/-, whichever is the greater.
3. Subject to the Provisions of paragraph 5, the rent for a small rural holding is Shs. 20/-.
4. Subject to the provisions of paragraph 5, the rent for a large rural holding-
- (a) not exceeding 999 acres is Shs. 20/;
- (b) exceeding 999 acres but not exceeding 1,999 acres is Shs. 40/-;
- (c) exceeding 1,999 acres but not exceeding 2,999 acres is Shs. 60/-;
- (d) exceeding 2,999 acres but not exceeding 3,999 acres is Shs. 80/-;
- (e) exceeding 3,999 acres but not exceeding 4,999 acres is Shs. 100/-;
- M exceeding 4,999 acres is Shs. 120/-.
5. Where any small rural holding or large rural holding is either wholly or in part situated in any municipality, the provisions of sub-paragraph (a) or (c) of paragraph 2, as the case may be, shall apply *mutatis mutandis* for the ascertainment of the rent.
- Provided that if sub-paragraph (c) applies, there shall be substituted for the sum "Shs. 20/-" therein, the words and figures "the rent assessed in accordance with the provision of paragraph 3 or 4, as the case may be"

THE SECOND SCHEDULE

(Sections 46 and 47)

COMPENSATION FOR COMPULSORY ACQUISITION

(a) *Compensation list*

1.—(1) On receipt of an application for a compulsory purchase order, the Commissioner shall (at the cost of the applicant), in not less than two consecutive editions of the *Gazette*, give notice of the application, and call upon all persons entitled to any sub-lease or profit sought to be compulsorily acquired, and all persons entitled to any other interest which would be determined on the coming into effect of the compulsory purchase order for which application is made, to notify him and the tenant, before such date, not being less than sixty days after the first publication thereof, as may be specified in the notice—

- (a) if such person wishes to make representations in writing or in person or by agent;
- (b) if such person wishes to claim compensation for the sub-lease or profit acquired or, as the case may be, a share in the compensation payable in respect of the sub-lease or profit out of which his interest was created.

(2) Every notice served on the Commissioner or tenant in pursuance of this paragraph shall contain an address for service of the person serving the same.

2.—(1) After the date specified in the notice published under paragraph 1, the Commissioner shall compile a compensation list in two parts.

(2) Part I of the compensation list shall contain the names, addresses and interests of the sub-lessees and the persons entitled to profits, whose sub-leases and profits are sought to be compulsorily acquired and a statement whether or not each sub-lessee or person claims compensation. Each sub-lease and profit shall be identified by a serial number.

(3) Part II of the compensation list shall consist of such number of heads as there are sub-leases and profits listed in Part I. Subject to the provisions of sub-paragraph (4) of this paragraph, each head of Part II shall contain the names, addresses and interests of the persons claiming a share in the compensation payable in respect of the same sub-lease or profit. Each such head shall be identified by the same number as is used in Part I to identify the sub-lease or profit out of which the interests included in such head are created.

(4) The Commissioner shall not include any entry relating to an easement, right of way or restrictive covenant in the compensation list.

(5) No person shall be entitled to compensation or a share therein payable in respect of any sub-lease or profit compulsorily acquired under this Act unless his name is included in the compensation list.

(b) *Assessment of compensation*

3.—(1) The Commissioner shall draw up a compensation scheme in three parts.

(2) Part I of the compensation scheme shall contain the entries contained in Part I of the compensation list, and against each entry there shall be specified the value of each sub-lease or profit compulsorily acquired as agreed between the parties or determined in accordance with this Schedule.

(3) Part II of the compensation scheme shall contain the entries contained in Part II of the compensation list arranged under the same heads and, against each entry, there shall be specified the value of the interest as agreed between the parties or determined in accordance with this Schedule.

(4) Part III of the compensation Schedule shall contain—

- (a) the number of the instalments in which the compensation shall be paid by the tenant, and the dates of each instalment;
- (b) the order and method of distribution of the compensation between the persons entitled thereto or claiming a share therein,

as determined in accordance with the provisions of this Schedule, or any agreement varying the same.

4.—(1) In the absence of agreement by the interested parties as to—

- (a) the title of any person to a sub-lease, profit or other interest;
- (b) the value of any sub-lease, profit or other interest,

the matter shall be referred to the Court on a summons taken out by a party; and the decision thereon of the Court shall be final and shall not be subject to review in any other Court.

(2) For the purposes of item (b) of sub-paragraph (1), a person whose name is included in a head in Part II of the compensation list shall be deemed to be an interested party in relation to the value of a sub-lease or profit out of which his interest was created.

5. The Court shall assess the value of any interest in accordance with the value thereof at the date on which the notice published under paragraph 1 first appears in the *Gazette*. No deduction shall be made from the value of any sub-lease or profit specified in Part I of the compensation Schedule on account of any interest specified in Part II thereof which was created out of such sub-lease or profit.

Payment of compensation

6.—(1) In the absence of any agreement by the interested parties, the tenant shall pay compensation in twenty equal annual instalments.

(2) The maximum compensation payable by the tenant shall be the sum of the values specified in Part I of the compensation scheme, with interest thereon.

7. On receipt of any compensation, the Commissioner shall divide the same into as many parts (hereinafter referred to as head sums) as there are sub-leases and profits specified in Part I of the compensation Schedule in proportion to the respective values thereof.

8.—(1) Unless the parties otherwise agree, the Commissioner shall hold each such head sum on trust—

(a) first, to pay to the persons specified in the head specified in Part II of the compensation scheme which has the same number as the sub-lease or profit to which the head sum relates, the values of their respective interests:

Provided that—

(i) where any interest specified in any head in Part II of the compensation scheme was created out of some other interest specified in that head, the maximum sum payable in respect of the first such interest shall not exceed the value of the second such interest;

(ii) where there is more than one such interest in the same head in Part II of the compensation scheme, payments shall be made in respect of each such interest in the order of their creation, earlier interests taking precedence over later interests;

(b) secondly, to pay the residue to the person entitled to the relevant sub-lease or profit in Part I of the compensation Schedule, if his claim thereto is recorded therein, or if such claim is not so recorded to repay the same to the tenant.

(2) Unless the parties otherwise agree, the Commissioner shall hold any interest paid by the tenant on trust to pay the same to the persons to whom compensation or any share therein is due, in proportion to the net sum payable to each such person.

9. Nothing in this Act shall preclude any person whose interest is determined upon a compulsory purchase order taking effect from recovering any money lent on the security of such interest from the borrower by action; but any compensation or share therein paid to the lender in respect of such interest under this Schedule shall be deducted from the sum due.

THE THIRD SCHEDULE

(Section 49)

THE LAND TRIBUNAL

(a) *Constitution*

1.—(1) The Land Tribunal shall be composed of—

(a) a Chairman and a Vice-Chairman, appointed by the Minister for Justice;

(b) four other members appointed by the Minister for Lands, Forests and Wildlife.

(2) The Minister for Justice shall appoint as Chairman a person qualified for appointment as a judge of the High Court, and as Vice-Chairman a person who holds one of the professional qualifications required, by the provisions of the Advocates Ordinance, to be held by persons who make application to be admitted under that Ordinance as an advocate.

2. A member of the Tribunal shall hold office for such period not exceeding three years as the appointing Minister may specify in his appointment, unless his appointment shall have been previously revoked; and he shall be eligible for re-appointment.

3.—(1) If any member of the Tribunal is incapacitated by illness, temporary absence from Tanganyika or other sufficient cause, from performing the duties of his office, another qualified person may be appointed by the appointing Minister to act in his stead, and every person so appointed shall have all the powers and authority of the member for whom he is acting until such member is again able to perform the duties of his office or ceases to hold office as a member of the Tribunal.

(2) If any member dies, or is permanently incapacitated from holding office for any cause, or resigns, or if his appointment is revoked, the appointing Minister may appoint in his place another qualified person who shall hold office for the unexpired residue of the period of office of the member in whose place he is appointed.

4. A member may resign by giving notice in writing to the appointing Minister.

5. A quorum of the Tribunal shall be the Chairman or the Vice-Chairman and two other members.

6. Subject to the provisions of paragraph 5, the Tribunal may act notwithstanding a vacancy in its number.

7. No act or other proceeding of the Tribunal shall be invalid by reason only of the fact that there is some defect in the appointment of a person purporting to be a member thereof.

(b) *Additional powers*

8. The Tribunal may delegate to any member any of the functions or powers of the Tribunal other than the determination of an application or an appeal.

9.—(1) Applications and appeals shall be determined according to the opinion of the majority of the members who hear the same:

Provided that the Tribunal shall be bound by the decision of the presiding member on a point of law.

(2) In the event of the Tribunal being equally divided on any issue, the presiding member shall have a casting vote.

10. The Tribunal shall determine every appeal as, having regard to the provisions and purposes of this Act and in particular to the grounds of appeal set out in section 50, the merits of the case require.

11. The Tribunal may award costs. The costs shall be such sum as the Chairman or Vice-Chairman shall assess having regard to the nature of the proceedings and the work involved:

Provided that the Tribunal may direct costs to be taxed in accordance with rules made in that behalf.

12. The Tribunal may award allowances to witnesses at the rate for the time being prescribed for allowances to witnesses in the High Court.

13. An order of the Tribunal awarding costs or allowances to witnesses may be enforced in the same manner as an order of a district court in that behalf, and a district court shall have jurisdiction therein notwithstanding the sum awarded exceeds any pecuniary limit on its jurisdiction.

14. Save as may be provided by rules made under this Act, the Tribunal may regulate its own procedure.

THE FOURTH SCHEDULE

(Section 63)

REPEALS AND AMENDMENTS

Part I

1	2.	3.
45 & 46 Vict. c. 38	The Settled Land Act, 1882.	Section 63 is repealed.
47 & 48 Vict. c. 18	The Settled Land Act, 1884.	Subsection (1) of section 6, and section 7 are repealed.
56 & 57 Vict. c. 53	The Trustee Act, 1893	(1) Paragraph (b) of section 1 is deleted and the following paragraph substituted therefor:—

1.	2.	3.
	Acts 1963 No. 24	<p>“(b) on a first legal mortgage of land held for a Government lease at a rent not greater than the rent prescribed in the First Schedule to the Freehold Titles (Conversion) and Government Leases Act, 1963, if, at the time of investment—</p> <p>(i) the unexpired term is not less than eighty years; and</p> <p>(ii) development requirements have been annexed to the land under that Act, and such requirements other than those which were annexed under section 43 of that Act or others of a continuing nature, have been complied with; and</p> <p>(iii) there has been no breach of a requirement annexed under the said section 43 or any other requirement of a continuing nature.”</p> <p>(2) Subsection (1) of section 5 is repealed.</p> <p>Sections 20 and 20A are repealed.</p>
Cap. 113	The Land Ordinance	
Cap. 114	The Land (Law of Property and Conveyancing) Ordinance	Acts 1963 No. 24
		<p>(1) There is added immediately below subsection (3) of section 2 the following new subsection:—</p> <p>“(4) Without prejudice to the generality of subsection (3), on and after the commencement of the Freehold Titles (Conversion) and Government Leases Act, 1963, the provisions of this Ordinance shall have effect subject to the provisions of that Act.”</p> <p>(2) Paragraph (b) of section 4 is amended by adding immediately after the words “married women” the words “or aliens”.</p> <p>(3) Subsection (1) of section 6 is repealed.</p> <p>(4) Section 11 is amended by adding below subsection (8) the following new subsection:—</p> <p>“(9) The Minister for the time being responsible for lands may, by order published in the <i>Gazette</i>, exempt from the provisions of this section, and section 8 of the Land Ordinance, any disposition in favour of, or granting rights to or made on behalf of the owner by, any corporation established by Ordinance or Act of Parliament named in such order.”</p> <p>(5) Section 12 is repealed.</p>
Cap. 118	The Land Acquisition Ordinance	
Cap. 317	The Local Government (Rating) Ordinance	
		<p>Subsection (1) of section 3 is amended by deleting the words “for an estate in fee simple or for a term of years” and by substituting “for any estate or term”.</p> <p>The definition “unimproved value of land” in section 3 is amended by deleting the words “the freehold interest in such land” and by substituting the words “a Government lease for an unexpired term of ninety-nine years of such land”.</p>

1. Cap. 334 The Land Registration Ordinance

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3.

- (1) Section 9 is amended—
- (a) by renumbering the same subsection (1);
 - (b) by deleting the commas and words "within any area defined in such order," therein; and
 - (c) by adding the following new subsection:—

"(2) An order under this section may be made in respect of registrable estates within an area defined in the order or in respect of a particular registrable estate (in which case the order shall also be served on the person whom the Registrar believes to have the greatest estate therein and shall be affixed in a prominent place on the land)."
- (2) Section 27 is amended by deleting the words "an estate of freehold" in the first line and by substituting therefor the words "a Government lease".
- (3) Section 57 is amended by deleting the full stop at the end of the proviso thereto, substituting a semi-colon, and by adding the following words and full stop at the end of the proviso:—
- "and the Court may grant the lender the like protection against the forfeiture of the lease as it may grant to a sub-lessee."
- (4) Section 82 is amended as follows:—
- (a) by deleting the words and commas "of the owner of the freehold estate in any contiguous parcels, or with the consent of the Land Officer, of the owner" in the second and third lines, and by substituting the commas and words "made with the consent of the Commissioner for Lands, of the owner of Government leases or"; and
 - (b) by deleting the words "freehold estate" in paragraph (a) of the proviso and substituting the words "Government lease".
- (5) Section 83 is amended as follows:—
- (a) by deleting the words and commas "of the owner of the freehold estate in any parcel, or, with the consent of the Land Officer, of the owner of" in the second and third lines, and by substituting the words "made with the consent of the Commissioner for Lands of the owner of a Government lease or"; and
 - (b) by deleting the words "freehold estate" in the first proviso and substituting the words "Government lease".
- (6) Section 85 is amended as follows:—
- (a) by deleting the words "freehold estate" in the second line of subsection (1) and by substituting the words "Government leases"; and

1.	2.	3.
		(b) by deleting the commas and words "in respect of rights of occupancy, of the Land Officer" in the sixth and seventh lines of subsection (1) and by substituting the words "the Commissioner for Lands".
		(7) Section 100 is amended by adding immediately below subsection (8) the following new subsection:— “(9) Notwithstanding the foregoing provisions of this section, no person shall be entitled to any indemnity from the Government for any loss occasioned by— (a) any alteration made in the land register in accordance with the provisions of section 59 of the Freehold Titles (Conversion) and Government Leases Act, 1963; or (b) the retention on the land register of a memorial relating to any estate or interest created before the commencement of that Act which is not amended to disclose the nature of any conversion or the extent of any diminution thereof in accordance with the provisions of that Act.”
	Acts 1963 No. 24	
Cap. 369	The Tanganyika Higher Education Trust Fund Ordinance	Section 23 is amended by deleting the brackets and words “(including freehold)”.
Cap. 380	The St. Michael's and St. George's Schools Establishment Ordinance.	Section 26 is amended by deleting the brackets and words “(including freehold)”.
Ords. 1961 No. 6	The University College, Dar es Salaam (Provisional Council) Ordinance, 1961	Section 14 is amended by deleting the brackets and words “(including freehold)”.
Acts 1962 No. 42	The Rent Registration Act, 1962	Add below subsection (3) of section 1, the following new subsection:— “(4) For the purposes of this Act, premises on land held for a Government lease or land subject to a right of occupancy shall not be premises which are the property of the Government, and the provisions of this Act relating to landlord and tenant shall not apply in relation to the Republic in its capacity as landlord of land held for a Government lease or to a person who holds a Government lease in his capacity as a tenant of the Republic.”

Part II

- 1.—(1) The doctrine of *interesse termini* is hereby abolished.
- (2) As from the appointed day all terms of years shall, whether the interest is created before or after such day, be capable of taking effect at law and in equity, according to the estate, interest or powers of the lessor, from the date fixed for the commencement of the term without actual entry.
2. A covenant in a lease or sub-lease to do some act relating to land held for such lease or sub-lease shall be capable of binding any successor in title of the lessee or sub-lessee, notwithstanding that it is not expressed to be made by or to be binding on the assignees of the lessee or sub-lessee and notwithstanding that the subject matter is not in existence at the time when the covenant is made or implied.

Passed in the National Assembly on the twenty-fourth day of April, 1963.


 Clerk of the National Assembly