

ZANZIBAR LAND LAWS

COMPILED BY:

Department of Lands and
Registration, Zanzibar

P. O. Box 811

Forodhani - Zanzibar, TANZANIA

Email: info@zltb.go.tz

Web: www.zltb.go.tz

Tel/Fax: +255 242 237 008

Whilst much effort has been made to provide totally accurate copies of Acts and Regulations, no responsibility is taken for inaccuracies and omissions contained herein. Any difficulty should be referred to primary copies of the legislation.

June, 2012

TABLE OF CONTENTS:

Coms. of Lands and Environment (Repealed) Act No. 6 of 1989.....	3
Land Adjudication Act No. 8 of 1990	15
Land Survey Act No. 9 of 1990.....	32
Registered Land Act No. 10 of 1990	48
Land Tenure Act No. 12 of 1992	119
Land Tribunal Act No. 7 of 1994.....	148
Land Transfer Act No. 8 of 1994	167
Land Tenure (Amendment) Act No. 15 of 2003	176
Land Transfer (Amendment) Act No. 10 of 2007	182
Land Tribunal (Amendment) Act No. 1 of 2008	186
Condominium Act No. 10 of 2010.....	198
Land Tenure (Revised) Act No. 12 of 1992	217
Land Transfer (Revised) Act No. 8 of 1994	250
Land Rent Regulations, LN. 50 of 2007.....	259
Land Surveyor’s Board Regulations, LN. 58 of 2007.....	262
Land Survey Regulations, LN. 60 of 2007	268
Land Transfer Regulations, LN. 70 of 2011	277

Coms. of Lands and Environment (Repealed) Act No. 6 of 1989

**Bill Supplement to the Zanzibar – Revolutionary Government
Gazette
Vol. XCVIII, No. 5521 of 11 September 1989**

**(REPEALED)
A BILL
For
AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF THE
COMMISSION FOR LAND AND ENVIRONMENT, TO
MATTERS CONNECTED THEREWITH AND
INCEDENTAL THERETO**

ENACTED by the House of Representatives of Zanzibar.

**PART I
PRELIMINARY**

1. This Act may be cited as the Commission for Land and Environment Act, 1989 and shall come into operation immediately upon being assented by the President. Short title and commencement.

2. In this Act, unless the context otherwise requires:- Interpretation
"Board" means the Board established under section 10,
"Commission" means the Commission established under section 3,
"Director" means head of any department established under this Act;
"Executive Secretary" means the Executive Secretary of the Commission appointed under section 5;

"Government" means the Revolutionary Government of Zanzibar;

"Minister" means the Minister responsible for Land and Environment;

"President" means the President of Zanzibar and Chairman of the Revolutionary Council.

**PART II
THE COMMISSION FOR LAND AND ENVIRONMENT**

3 – (1) There is hereby established a Commission to be known as the Commission for Land and Environment Establishment of the Commission

- (2) The Commission shall be a body corporate and shall –
 - (a) have perpetual succession and official seal;
 - (b) in its corporate name, be capable of suing and be sued;
 - (c) subject to this Act, be capable of holding, purchasing or acquiring
 - in any other way any movable or immovable property and of disposing any of its property for the purpose of carrying out the functions conferred on the Commission by this Act.

4. (1) The Commission shall be the principal advisory organ of the government on all matters related to land use and conservation of environment and for that purpose, shall

Function of
of
The
Commi-
ssion

- (a) formulate policy on land use planning and recommend its implementation by the Government;
- (b) co-ordinate the activities of all bodies concerned with land use planning matters and serves as a channel of communication between these bodies and the Government;
- © encourage public institutions and private individuals in projects related to land use to be utilized for the national interest;

evaluate existing and proposed policies and the activities of the Government directed to the safe guarding of land against its wrongful, wasteful or premature use or development and, on the basis of that, recommend to the Government policies and programmes which will achieve, more effective protection and enhancement of the land quality and encourage better land use planning;

- (d) recommend measures to ensure that Government policies including those for the development and conservation of land take adequate account of its effects on land use;
- (e) stimulate public and private participation in programmes and activities related to land use planning for the national beneficial use of the land;
- (f) foster co-operation between the Government, local government authorities and other bodies of persons engaged in land use planning programmes;
- (g) seek the advancement of scientific knowledge of changes in land use and encourage the development of technology to

prevent or minimize adverse effects that endangers man's health or welfare;

- (h) specify standards, norms and criteria for the protection of beneficial uses and the maintenance of the quality of the land;
- (i) set standards and criteria for protection of environment in general law under ground water, sea water, vegetation in particular and protection of land and land utilization in accordance with its carrying capacity;
- (j) establish and operate a system of documentation and dissemination of information relating to land use planning;
- (k) examine existing laws, and where appropriate formulate proposals for legislation in the area of land use planning issues and recommend their implementation by the Government;
- (l) establish and maintain liaison with other countries and international organizations with respect to issues and matters relating to land use planning;
- (m) establish and maintain liaison with the Land Advisory Committees in the Districts and Regions with respect to issues and matters related to land use planning so as to ensure that national and local interests in land use are taken into consideration;
- (n) prepare integrated regional economic land use plan, regional physical plan and ensure its implementation by the regions;
- (o) undertake and promote general educational programmes in land use planning for the purpose of creating an enlightened public opinion regarding the land and the role of the public in its protection and improvement;
- (p) do all such acts as appear to it to be requisite, advantageous or convenient for or in connection with the carrying out of those functions or to be incidental to their proper performance and may carry on any activities in that behalf either alone or in association with any other person or institutions and perform such other functions as the Minister may assign to the Commission, or as are incidental or conducive to the exercise by the Commission not all or any of the preceding functions.

(2) For the purposes of the better performance of its functions the Commission may establish and maintain a system of collaboration and consultation with any person or institution within or outside Tanzania having the same objectives and functions in relation to land use, planning and consecration of environment in general.

(3) Any person who knowingly and without reasonable excuse hinders or obstructs the Commission or its authorized officer in carrying out any of its functions under this section shall be guilty of an offence and shall on conviction be liable to a fine not exceeding 5,000/- shillings or to be sent to the education center for a term not exceeding six months, or both such fine and confinement.

Executive Secretary 5.(1) There shall be an Executive Secretary and Deputy Executive Secretary to the Commission who shall be appointed by the President on such terms and conditions as the President may determine.

(2) The Executive Secretary and Deputy Executive Secretary of the Commission shall be the chief executive officers of the Commission and shall, subject to the provisions of this Act and any directions which may be given to them by the Minister or Board, be responsible for the implementation of all decisions of the Board and for carrying out all the day to day activities of the Commission.

(3) No person shall be appointed Executive Secretary or Deputy Executive Secretary unless he has a sound educational and professional background in land and environmental affairs and have adequate experience in the management of the Government and public affairs.

(4) Executive Secretary and Deputy Executive Secretary of the Commission shall before assuming the duties of their office take oath of allegiance for the due execution of their office administered by the President as prescribed in the Schedule to this Act.

Duties of the Executive Secretary 6.(1) Without prejudice to the generality of subsection (2) of section 5 of this Act it shall be the duty of the Executive Secretary, under the direction of the Board:-

(a) to consider means and initiate steps in the safe-guarding of land against its wrongful, wasteful or premature use or development;

- (b) to carry out investigations into the problems of land use and land use planning;
- (c) to obtain the advice of persons having special knowledge, experience, or responsibility in regard to land use and land use planning;
- (d) to keep under review the progress made in the attainment of the objects and purposes of this Act and to publish reports and provide information for the purposes of this Act and to publish reports and provide information for the purpose of enhancing public awareness of such progress and of the problems and remedies that exist in relation to land use and land use planning;
- (e) to promote, encourage, co0ordinate and carry out short-term and long-term planning and projects in land use together with or separate from other public bodies and other organs;
- (f) generally, to administer and give effect to the provisions of this Act and to carry out other functions as may be prescribed by the Commission.

(2) The functions of the Executive Secretary to the Commission shall be exercisable by the Deputy Executive Secretary.

..... 7. (1) There is hereby established the following departments under the Commission:-

- (a) Department of Lands;
- (b) Department of Survey and Town Planning;
- (c) Department of Environment.

(2) The President may establish any Department under the Commission,

(3) The President shall make the appointment of directors of the department established or to be established under the Commission.

(4) No person shall be eligible for the post of director in the department of Land or Department of Survey and Town Planning or Department of Environment unless he has educational and professional background in their respective field and have working experience of not less than five years.

***tion of the Department 8.(1) The department of land established under this Act shall have the following functions:-

- (a) to co-ordinate and supervise matters related to the administration of lands in general and in particular to issue guidelines to institutions which use land or concerned in the utilization and administration of land in Zanzibar;
- (b) to co-ordinate the activities of the Commission in the administration of land distribution for different purposes and finding administrative and legal strategies in settling land disputes arising from land distribution and land ownership.
- (c) To lay down procedures for evaluation of land and property and be the main co-coordinator to the Commission on the administration of the said procedures;
- (d) To keep records, document and title deeds for the usufructory right in land in accordance with the Land Registration Act or as directed by the Commission;
- (e) To perform any other duties assigned to it by the Commission.

(2) The department of Lands and Survey established under this Act shall have the following functions:-

- (a) to collect, keep and develop all information related to land use in Zanzibar;
- (b) to prepare and revise the integrated regional economic land use plan in the light of the existing or future development sectional policy;
- (c) to advise on methods and ensure the implementation of the integrated regional economic land use plan in supervising and co-coordinating all activities of the land use plan in supervising and co-coordinating all activities of the land survey and drawing of maps and charts for the land and the sea;
- (d) to advise and co-ordinate the implementation, initiation in the revision of laws and regulation related to survey and town planning;
- (e) to co0ordinate all activities related to land survey and drawing of maps and charts for the land and sea;

(f) to perform any other duties assigned to it by the Commission.

(3) The department of environment established under this Act shall have the following functions:-

- (a) to conduct research in the environmental condition and on how it is affected different activities such as agriculture, animal husbandry, industries, tourism and construction;
- (b) to create a policy on conservation of environment;
- (c) to advise on methods to ensure the implementation of the policy on conservation of environment;
- (d) to perform any other duties assigned to it by the Commission.

9. The Commission may appoint on such terms and conditions as it may determine, such number of staff and experts to serve as officers of the Commission as it may consider appropriate or necessary for the performance of the functions of the Commission.

%%%%
%%%%

10. (1) There is hereby established a Board to be known as the National Advisory Board for Land and Environment.

(2) The Board shall supervise and advise the Commission on matters related to land and environment.

&&&&

11. The Board shall consist of the following members:-

- (a) Minister responsible for Regional Administration – Chairmen.
- (b) Attorney General – Member
- (c) Members of the National Executive Committee of CCM from Zanzibar who shall not exceed 3 appointed by the minister – Members
- (d) Members of the Parliament of Tanzania in Zanzibar and or members of the House of Representatives whose number shall not exceed 3 appointed by the Minister – Members
- (e) Person who one experts and conversant in the field of land and environment whose number shall not exceed 5 appointed by the Minister - Member

- (f) Principal Secretary to the Minister responsible for land – Member
- (g) Executive Secretary of the Commission for land and Environment - Secretary

Regional and District Advisory Committees 12. (1) There is hereby established in every Region and every District in Zanzibar Committee to be known as the Regional Land Advisory Committee and District Land Advisory Committee respectively.

- (2) In discharging its duties, the Commission shall work through the Land Advisory Committees established in the districts and regions for the overall supervision of all activities pertaining to land use in the respective districts and regions. The Commission shall have power to issue orders, directions, notices or other documents to the District and Regional Land Advisory Committees and all such orders, directions and notices shall be binding.
- (3) The Minister may make rules prescribing the procedure for the implementation by the committees of the orders, directions and other matters, issued by the Commission.

Composition of the Regional and District Land Advisory 13. (1) The Regional Land Advisory Committee established under the provisions of this Act shall consist of the following:-

- (a) Regional Commissioner - Chairman
- (b) Regional Administrative Officer - Secretary
- (c) Regional Party Secretary - Member
- (d) Two members of the House of Representatives in the Region - Member
- (e) Regional Agricultural Officer - Member
- (f) Regional Land Officer - Member
- (g) Regional Forestry Officer - Member
- (h) Regional Land Survey and Town

- Planning Officer - Member
- (i) Director of Municipality or Chairman of the Town Council - Member
- (2) The District Land Advisory Committee established under the provisions of this Act shall consist of the following:-
 - (a) District Commissioner - Chairman
 - (b) District Administrative Officer - Secretary
 - © District Party Secretary - Member
 - (d) A member of the House of Representatives in the District - Member
 - (e) A Councillor of the Local Government - Member
 - (f) District Agricultural Officer - Member
 - (g) District Land Officer - Member
 - (h) District Forestry Officer - Member
 - (i) District Land Survey Rural/ Urban Planning - Member
 - (j) Secretary of the Town Council - Member

Unction of the Regional and Districtadvisory Committees

14. (1) The Regional Land Advisory Committee established under provisions of this Act shall performs the following functions:-

- (a) to advise on the preparation, implementation and review of the integrated regional economic land use plan in their regions.
- (b) To supervise the implementation of the integrated regional economic land use plan in their respective regions and to ensure standards set and procedure for the land utilization in general is followed.

- (c) to co-ordinate all institutions in their districts related to land utilization and act as link and source of information between the District and the regional Government.
 - (d) to advise on methods which shall ensure the integrated regional economic land use plan take into consideration adverse effect of different land use;
 - (e) to review the implementation of laws related to land and adverse and propose amendment on the same where necessary;
 - (f) to establish and maintain good relations between the Commission and the Regional and District Committee.
- (2) The District Land Advisory Committee established under the provisions of this Act shall perform the following functions:-
- (a) to supervise the implementation of the integrated regional economic land use plan in their respective Districts and ensure standards set and procedures for the land utilization in general is followed;
 - (b) to co-ordinate all institutions in their District related to land utilization and act as link and source of information between the District and the local Government in their Districts;
 - (c) to advise on methods which shall ensure the integrated regional economic land use plan take into consideration adverse effect of different land use;
 - (d) to review the implementation of laws related to land and advise and propose amendment on the same where necessary.

Sub-committees 15. Subject to the approval of the Minister, the commission may, from time to time establish such sub-committees amongst the Board members or invites persons who are not Board members and who are expert in different field of learning as it may consider necessary for the purpose of facilitating the carrying out of the objective and function of the commission

(2) Every person or body of persons which is required to furnish information under sub section (1) shall comply with the requirement and any person or body of persons which refuses or

fails to comply with that requirement shall be guilty of an offence and shall be liable on conviction to a fine not exceeding ten thousand shillings or to be sent to the education center for a term not exceeding six months or to both such fine and imprisonment

Regulations 17. (1) The Minister may make regulations for the better carrying out the provisions of this Act.

- (2) Without prejudice to the generality of the foregoing provision the Minister may:-
 - (a) provide for the charges for any services rendered by the Commission or its Committees;
 - (b) give to the Commission directions of a general or specific character regarding the performance by the Commission of any of its functions.

OBJECTS AND REASONS

This Bill is designed to make provision related to the establishment of the Commission for land and environment and to provide for its functions and matters connected therewith.

The Bill has seventeen clauses in all divided into two parts. Part I of the Bill contains preliminary provisions. These include the short title, commencement and interpretation clauses.

Part II of the Bill covers the establishment of the Commission and its Departments specifying its functions, appointment of the Executive Secretary to the Commission as well as providing for his functions and further establishing of the National Land Advisory Committees and lay down its composition and functions. This Part also gives power to the Minister to make regulations for the better carrying out the provisions of this Act..

SCHEDULE

OATH TO BE MADE BY EXECUTIVE SECRETARY/DEPUTY EXECUTIVE SECRETARY OF THE COMMISSION.

(1) OATH OF ALLEGIANCE

I,

Swear by Almighty God that I will be faithful to Zanzibar and its people which are part of the United Republic of Tanzania and that I

will serve them wholeheartedly and that I will defend and protect the interest of Zanzibar in accordance with the established laws.

So help me God.

(2) OATH OF EXECUTION OF OFFICE

I,
Swear by Almighty God that I shall diligently and truly serve Zanzibar and its people in the execution of the execution of my duties as Executive Secretary/Deputy Executive Secretary and shall at all times advise the Chairman in good faith and will not directly or indirectly disclose, or reveal the nature or content of any documents of the Commission to any person other than authorized person.

So help me God

I hereby confirm that I have taken these oaths at Zanzibar, today the day of, 19.....

.....
Signature

.....
President

Land Adjudication Act No. 8 of 1990

THE LAND ADJUDICATION ACT, NO.8 OF 1990

ARRANGEMENT OF SECTIONS

SECTIONS

TITLE

PART I

PRELIMINARY AND APPLICATION

1. Short title.
2. Interpretation.
3. Application.

PART II

OFFICERS AND COMMITTEES

4. Appointment and general powers of officers.
5. Appointment and functions of adjudication committees.

PART III

CLAIMS AND DEMARCATION

6. Adjudication sections.
7. Notice by adjudication officer.
8. Claims in respect of wakf trust land.
9. Staying of land suits.
10. Claims and attendance.

11. Safeguarding of rights of absent persons and minors.
12. Notice of demarcation.
13. Duties of the Demarcation Officer.
14. Special powers of the Demarcation Officer.
15. Duties of the Survey Officer.
16. Duties of the Recording Officer.
17. Disputes.

PART IV
PRINCIPLES OF ADJUDICATION AND PREPARATION
OF ADJUDICATION RECORD

18. Principles of adjudication.
19. Rules to be followed in adjudication.
20. Adjudication record.
21. Notice of completion of the adjudication record.

PART V
OBJECTION AND FINALITY

22. Objections to the adjudication record.
23. Procedure in hearing objections.
24. Corrections of adjudication record.
25. Finality of adjudication record.

**PART VI
APPEAL**

26. Appeals.

**PART VII
MISCELLANEOUS**

27. Offences.

28. Indemnity of officers.

29. Regulations.

THE LAND ADJUDICATION ACT, NO.8 OF 1990

I ASSENT

**SALMIN AMOUR
PRESIDENT OF ZANZIBAR AND
CHAIRMAN OF THE REVOLUTIONARY COUNCIL**

1st August, 1991

**AN ACT TO PROVIDE FOR THE ADJUDICATION AND
FIRST REGISTRATION OF RIGHTS AND INTEREST IN
LAND, AND FOR MATTERS CONNECTED THEREWITH
AND INCIDENTAL THERETO**

ENACTED by the House of Representatives of Zanzibar.

**PART I
PRELIMINARY AND APPLICATION**

Short title. 1. This Act may be cited as the Land Adjudication Act 1989 and shall come into operation immediately upon being assented by the President.

Interpretation. 2. In this Act except where the context otherwise

requires:-

"adjudication area" means an area to which this Act has been applied under section 3;

"adjudication committee" means an adjudication committee appointed under section 5 in respect of an adjudication section;

"adjudication officer" means an adjudication officer appointed under section 4;

"adjudication record" means the adjudication record prepared in accordance with the provisions of section 20 in respect of an adjudication section;

"adjudication section" means an adjudication section declared under section 6;

"charge" bears the meaning ascribed to that word by the Registered Land Act;

"Court" save as otherwise expressly provided means the High Court of Zanzibar;

"demarcation map" means a demarcation index map prepared under section 15 in respect of an adjudication section;

"demarcation officer" means a demarcation officer appointed under section 4;

"easement" bears the meaning ascribed to that word by the Registered Land Act;

"guardian" means any person responsible (whether under customary law or otherwise) for protecting the interests of any person who is under a disability, whether by reason of age, unsoundness of mind or any other cause;

"land" includes land covered with water, all that is growing on land, building and other things permanently affixed to land, and an undivided share in land;

"lease" bears the meaning ascribed to that word by the Registered Land Act;

"Minister" means the Minister for the time being responsible for land affairs;

"occupation of land" includes the receipt of rents or profits from the land;

"parcel" means an area of land separately delineated on the demarcation map and thereon given a number;

"person" includes any corporate body, registered company registered association or society, and any association or community recognised by the adjudication officer or the Court as a unit for the purpose of holding land;

"President" means the President of Zanzibar and Chairman of the Revolutionary Council;

"profit" bears the meaning ascribed to that word by the Registered Land Act;

"recording officer" means a recording officer appointed under section 4;

"registered" bears the meaning ascribed to that word by the Registered Land Act;

"Registrar of Documents" means the Registrar of Documents appointed under the Registration of Documents Decree;

"survey officer" means a survey officer appointed under section 4;

"Wakf and Trust Commission" means the Wakf and Trust Commission established by the Commission for the Administration of Wakf and Trust Property Decree, 1980.

Application.

3.(1) Whenever it appears expedient to the Minister that adjudication and first registration of rights and interest in land in any area should be effected, the Minister may by order published in the Gazette declare that this Act shall apply to that area and thereupon that area shall become an adjudication area.

(2) Any order made under subsection (1) of this section shall define the situation and limits of the adjudication area to which it relates either by means of a plan or by a description, or by both, and the Minister may at any time by order published in the Gazette vary the limits of the adjudication area.

PART II OFFICERS AND COMMITTEES

Appointment and
general powers
of officers.

4.(1) Whenever an order made under section 3 is published, the Minister shall appoint a named person or the holder of a named office as adjudication officers for the adjudication area to perform the duties and exercise the power imposed and conferred upon the adjudication officer by this Act.

(2) The adjudication officer may appoint such demarcation officer, recording officers and survey officers as may be necessary for performing the duties and exercising the powers imposed and conferred upon them by this Act.

(3) The Adjudication officer shall, subject to the direction of the Minister, be in charge of the adjudication under this Act of rights and interest in land in the adjudication area for which he is appointed and may issue such general or special direction as he thinks necessary to the other officer appointed under subsection (2) for such area, and may himself perform and exercise all or any of the duties given under this Act to demarcation officer and recording officers.

(4) The adjudication officer shall be competent to administer oaths and take affidavits in any enquiry made by him and to issue summons, notices or orders requiring the attendance of such persons or the production of such documents as he may consider necessary for carrying out the adjudication.

(5) A demarcation officer or survey officer may at any reasonable time enter upon any land within the adjudication area for the purpose of demarcation or surveying any parcel therein and may summon any person who can give information regarding the boundaries of any such parcel to point out the boundaries.

Appointment and
functions of

5.(1) For any adjudication section declared under

adjudication committees.

section 6 the adjudication officer, after consultation with the Area Commissioner within whose area the adjudication section is situated, may appoint not less than six persons resident in the adjudication section to form an adjudication committee.

(2) The committee appointed for an adjudication section shall:-

- (a) advise the adjudication officer or any officer subordinate to him upon any question of recognized customary law as to which he has sought its guidance;
- (b) safeguard the interests of absent persons and persons under disability;
- (c) bring to the attention of officer engaged in the adjudication any interest in respect of which for any reason no claim has been made;
- (d) assist generally in the adjudication process.

PART III CLAIMS AND DEMARCATION

Adjudication sections.

6. The adjudication officer shall divide each adjudication area into two or more adjudication sections or declare the whole area to be a single adjudication, section, and shall give each section a distinctive name.

Notice by adjudication officer.

7.(1) The adjudication officer shall prepare a separate notice in respect of each adjudication section, and in such notice shall:-

- (a) specify the situation and limits of the adjudication section;
- (b) declare that all interests in land in such section will be ascertained and recorded in accordance with the provisions of this Act;
- (c) require any person who claims any interest in land within the adjudication section to make a claim thereto either in person or by agent within the period, to the person, at the place and in the manner specified in the notice;

(d) require any person who claims to occupy land within the adjudication section to mark or indicate the boundaries of the land in such manner and before such date as shall be required by the demarcation officer.

(2) The adjudication officer shall as soon as possible after preparing a notice under subsection (1):-

(a) cause such notice to be published at such administrative and other offices as he thinks fit;

(b) cause the substance of such notice to be made known throughout the adjudication section and elsewhere in such manner as he considers to be most effective for the purpose of bringing it to the attention of all persons affected thereby.

Claims in respect of wakf trust land.

8. Claims to interest in any Wakf and trust land administered by the Wakf and Trust Commission shall be presented to the adjudication officer by the Executive Secretary duly authorised on that behalf by the Commission.

Staying of land suits.

9.(1) Except with the consent in writing of the adjudication officer, no action concerning land or an interest in land in any adjudication section in respect of which a notice has been published under section 7 shall be begun until proceedings under this Act with regard to such land or interest have been completed.

(2) Where at the time of publication of a notice under section 7 an action concerning land or an interest in land in the adjudication section referred to in such notice is pending or in progress, such action shall, where practicable, be determined before the adjudication under this Act of the land or interest therein is commenced:

Provided that it shall be lawful for the adjudication officer at any stage of such section to order that it shall be stayed and it shall be stayed accordingly.

Claims and attendance.

10.(1) Every person claiming an interest in land within an adjudication section shall make his claim in the manner and within the period fixed by the relevant notice under section 7.

(2) Every person whose presence is required by the

Safeguarding of rights of absent persons and minors.

adjudication officer, demarcation officer, or recording officer, as the case may be, shall attend in person or by agent at the time and place specified if any such person fails so to attend, the demarcation, recording or other proceedings may continue in his absence.

11.(1) If the adjudication officer, demarcation officer or recording officer is satisfied that any person who has not made a claim has a claim to any interest in land within the adjudication section the adjudication officer, demarcation officer or recording officer may, but shall not be bound to, proceed as if a claim had been made, and may call upon the Registrar of Documents to supply him with a certified copy of any document relevant thereto and registered under the Registration of Documents Decree.

Notice of demarcation.

(2) If the adjudication officer, demarcation officer, or recording officer is satisfied that a claim might be established by a minor and no person has been appointed to represent the, minor, he shall proceed as if a claim by, or on behalf of, such minor had been made.

12.(1) Not less than seven clear days before the demarcation of land in an adjudication section is begun, the demarcation officer shall give notice of such demarcation and of the time and place at which it will begin, in such manner as the adjudication officer shall deem most likely to bring the notice of demarcation to the attention of the persons likely to be affected thereby.

Duties of the Demarcation Officer.

(2) Such notice shall require every person who claims to occupy land to indicate the boundaries of the land affected by his claim in the manner specified in the notice.

13. Subject to any general or particular directions issued by the adjudication officer, the demarcation officer shall within, each adjudication section:-

(a) ensure that the boundaries of each parcel of land which is the subject of a claim are indicated or demarcated in accordance with the requirements of the notice given under section 12;

(b) indicate or cause to be indicated the boundaries of:-

Special powers

(i) any public road, public rights of way and

of the
Demarcation
Officer.

- other public land;
- (ii) any unclaimed land.

14.(1) The demarcation officer may:-

- (a) divide the adjudication section into blocks which shall be given distinctive numbers or letters or combinations of numbers and letters;
- (b) adjust the boundaries of any land in the adjudication section or reallocate the same to ensure the more beneficial occupation thereof or to effect a more suitable subdivision thereof;
- (c) make any reservations he considers necessary for the purpose of defining existing roads and paths or for the better drainage of any land; make a declaration of such existing rights of way over any land in the adjudication section and may direct the manner in which such rights of way are to be exercised and in such cases he shall direct that such rights of way be recorded in the adjudication record in respect of the dominant land and the servient land;
- (d) demarcate a right of way necessary to give access to a public road in favour of any parcel completely surrounded by other parcels;
- (e) award such compensation as may to him appear just to any person who has suffered loss of land as a result of any adjustment of boundaries or the partition or reallocation of any land or the declaration of any rights of way and may make an order directing by whom such compensation shall be paid;

Provided that no compensation shall be awarded against the Government:

Provided also that any award may be the subject of an objection under section 22.

- (g) determine the proportion in which the

expenses of any partition shall be borne by the persons interested therein and make an order accordingly.

Duties of the Survey Officer.

(2) Any order for the payment of compensation or expenses made against an occupier of land shall create a debt to be charged on such land which shall have priority over all other debts whatever except debt due to the Government.

15. Subject to any general or particular directions issues by the adjudication officer, the duties of the survey officer shall be:-

- (a) to carry out such survey work as may be required in the execution of the adjudication process; and
- (b) to prepare or cause to be prepared a demarcation index map of the adjudication section on which shall be shown every separate parcel of land identified by a distinguishing number, except that rivers and public roads shall not be required to be identified by a number:

Duties of the Recording Officer.

Provided that the foreshore as defined in the Foreshore Decree, shall not be included in any parcel.

Disputes.

16. The recording officer shall consider all claims to any interest in land and after such investigation as he considers necessary shall prepare in accordance with the provisions of section 20 an adjudication record in respect of every parcel of land shown in the demarcation map.

17. (1) If in any case:-

- (a) there is a dispute as to any boundary whether indicated to the demarcation officer or demarcated or readjusted by him, which the demarcation officer is unable to resolve; or
- (b) there are two or more claimants to any interest in land and the recording officer is unable to effect agreement between them the demarcation officer or the recording officer, as the case may

Principles of adjudication.

be, shall refer the matter to the adjudication officer.

(2) The adjudication officer shall adjudicate upon and determine any dispute referred to him under subsection (1), having due regard to any law which may be applicable, and shall make and sign a record of the proceedings.

(3) In hearing a dispute the adjudication officer shall follow the procedure in section 23.

**PART IV
PRINCIPLES OF ADJUDICATION AND
PREPARATION OF ADJUDICATION RECORD**

18. (1) In preparing an adjudication record:-

(a) if the recording officer is satisfied that a person:-

- (i) is in occupation of the land and provides documentary evidence consisting of a grant, conveyance, assignment or mortgage which is more than twelve year old; or
- (ii) is in occupation of the land and is a beneficiary of a disposition of land lawfully made under Presidential Decree No. 5 of 1966 or 1 of 1969, whether or not an instrument of grant or a certificate of title is produced; or
- (iii) is in occupation of the land and has been in peaceful, opened and uninterrupted occupation thereof, whether under recognized customary law or otherwise, for a period of more than twelve years, the recording officer shall record such person as the occupation of the land;

(b) if the recording officer is satisfied that any land is wakf or trust land administered by the Wakf and Trust Commission under the provisions of Revolutionary Council Decree 5 of 1980, he shall record the Commission as occupation of the land;

Rules to be followed in adjudication.

(c) if the recording officer is satisfied that any land referred to in an adjudication record is subject to any right which would be registerable as a lease, charge, easement, profit or restrictive agreement under the Registered Land Act, he shall record such particulars as shall enable the right and the name of the person entitled to the benefit thereof to be registered under the said Act;

(d) if the recording officer is satisfied that any land is entirely free from any private rights or that the rights existing in it would be insufficient to entitle a person to be registered under the Registered Land Act as the occupant of the land, he shall record such land as public land.

(2) In performing his duties under this section the recording officer shall observe the rule contained in section 19.

19.(1) All unoccupied land shall be deemed to be public land until the contrary be proved.

(2) The exercise by any person of any rights of occupation in over one or more parcels of land shall not be taken as a presumption in his favour of any rights of occupation in or over any greater extent of land than that in or over which such rights are exercised.

(3) Occupation or receipt of rents or profits by any person through whom a claimant derives his occupancy shall be deemed to be the occupation or receipt of rent or profits of the claimant.

Adjudication record.

(4) Where from the relationship of the parties or from other cause it appears that the person in occupation of land is or was in occupation on behalf of another, his occupancy shall be deemed to be or to have been the occupancy of that other.

(5) Where two or more persons have rights in any land which will entitle them to be registered as occupants in common under the Registered Land Act, the recording officer shall record such persons as occupants in common and the share of each.

20.(1) The adjudication record shall consist of a form in receipt of each parcel of land, which form shall show:-

- (a) the number and approximate area of the parcel as shown on the demarcation map;
- (b) either the name and description of the person entitled to be registered as the occupant of the parcel with particulars of the manner in which he became the occupant of it and of any restriction affecting his power of dealing with it, or the fact that the parcel is public land;
- (c) such particulars of any right registerable under the Registered Land Act as shall enable it to be registered as a lease, charge, easement, profit or restrictive agreement, as the case may be, affecting the parcel together with the name and description of the person entitled to the benefit thereof and particulars of any restriction affecting his power of dealing with it;
- (d) if any person shown in the adjudication record is under a disability, whether by reason of age, unsoundness of mind or otherwise, the name of his guardian;
- (e) a list of the documents, if any, produced to the recording officer and retained by him;
- (f) the date on which the form is completed.

Notice of completion of the adjudication record.

(2) When completed the form shall be signed by the recording officer and, in the case of land occupied by a private person, shall where possible include an acknowledgement signed by the occupant or his agent, and by any person recorded under the provisions of subsection (1) (c) as having an interest in the land, that such occupant and every such person accepts the record.

Objections to the adjudication record.

21. When the adjudication record in respect of any adjudication section has been completed, the adjudication officer shall sign and date a certificate to that effect and shall forthwith give notice of the completion thereof and of the place at which the same can be inspected together with the demarcation map.

PART V
OBJECTION AND FINALITY

Procedure in hearing objections.

22. Any person, including the Minister, named in or claiming an interest in any land referred to in any adjudication record or demarcation map who considers such record or map to be inaccurate or incomplete in any respect may within ninety days from the date upon which the notice of completion of the adjudication record is published, inform the adjudication officer stating the grounds of his objection.

Corrections of adjudication record.

(2) The adjudication officer, after giving reasonable notice to all persons affected by the objections, shall hear and determine the matter in such manner as he thinks fit.

23.(1) In hearing an objection the adjudication officer shall, so far as may be practicable, follow the procedure directed to be observed in the hearing of civil suits save that in his absolute direction he may admit evidence which would not be admissible in a court of law, and may use evidence adduced in any other claim or contained in any official record and may call evidence of his own motion.

(2) A record of all proceedings on an objection shall be made or caused to be made by the adjudication officer.

Finality of adjudication record.

24.(1) Any correction in the adjudication record required by a decision of the adjudication officer given under section 22 shall be made by the recording officer, any alteration in the demarcation map required by such decision shall be made by the survey officer.

(2) At any time before the adjudication record becomes final the recording officer may:-

(a) correct any error or omission not materially affecting the interest of any person; and

(b) with the consent of every person whose interest is affected, make the adjudication record any alteration which in his opinion is necessary.

Appeals.

25. After the expiry of ninety days from the date of the publication of the notice of completion of the adjudication record under section 21, or on determination

of all objections in accordance with section 22, which ever shall be the later, the adjudication record shall become final and the adjudication officer shall sign a certificate to that effect and shall forthwith deliver the adjudication record and the relevant demarcation map to the Registrar, together with all documents received and retained by him in the process of adjudication.

PART VI APPEAL

26.(1) Any person, including the Minister, who is aggrieved by an act or decision of the adjudication officer may within thirty days from the date of the certificate of finality made under section 25, or within such extended time as the Court in the interest of justice may allow, appeal to the Court in prescribed form.

(2) Any person, including the Minister appealing under subsection (1), shall give notice to the Registrar of his intention to appeal and the Registrar shall enter a restriction under section 137 of the Registered Land Act in any register affected by the appeal.

(3) On any such appeal the Court may, make such order or substitute for the decision of the adjudication officer such decision as it may consider just and may order rectification of the register, and the decision of the Court shall be final and conclusive and shall not be questioned in any proceedings whatsoever.

Offences.

(4) A decision of the Court on an appeal under subsection (1) shall be in writing and copies of it shall be furnished by the Court to the Registrar, to the appellant and to all other parties to the appeal and, by the Registrar, to all other parties who, in his opinion may be affected by the appeal.

PART VII MISCELLANEOUS

27. Any person who:-

- (a) after the delivery of a summons issued under the provisions of this Act, wilfully neglects or refuses to attend in pursuance of such summons, or to produce any document which he is required to produce;

Indemnity of officers.

(b) wilfully neglects or refuses to answer upon oath or otherwise any question which may lawfully be put to him under this Act by any officer;

(c) without reasonable cause wilfully neglects or refuses to indicate his land or to assist in the demarcation of his land when required under this Act to do so by demarcation officer;

Regulations.

shall be guilty of an offence and shall be liable to a fine not exceeding two thousand shillings or to imprisonment for a term not exceeding six months, or to both such fine and imprisonment.

28. No officer shall be liable to any act or proceedings for or in respect of any act or matter in good faith done or omitted to be done in exercise or supposed exercise of the powers conferred by this Act.

29. The Minister may make regulations for better carrying out the provisions of this Act.

PASSED in the House of Representatives on the 19th of December, 1989.

**KHAMIS JUMA CHANDE
CLERK OF THE HOUSE OF REPRESENTATIVES
OF ZANZIBAR**

Land Survey Act No. 9 of 1990

THE LAND SURVEY ACT NO.9 OF 1990

ARRANGEMENT OF SECTIONS

SECTION

PART I PRELIMINARY

1. Short title.
2. Interpretation.
3. Appointment of Director, his powers and functions.

PART II THE LAND SURVEYOR'S BOARD

4. Establishment and composition of the Board.
5. Functions of the Board.
6. Procedure for the grant of licence to practise land surveying.
7. Grant of licence.
8. Register.
9. Breach of professional ethics.
10. Appeal.
11. Power of the Board to restore licence.
12. Notice to be published.

PART III THE CONDUCT OF THE SURVEYORS

13. Surveyor to abide with the law.
14. Power to survey.
15. Compensation.
16. Power to enter.

PART IV THE PRESERVATION OF SURVEY MARKS

17. Offences.
18. Recovery of sum as civil debt.

PART V GENERAL

19. Delegation of powers by the Director.
20. Submission of plans to the Director.

21. Powers of the Director.
22. Authentication by the Director.
23. Inaccurate plans.
24. Permission for aerial photography.
25. Regulations.
26. Penalty.
27. Joint responsibility.
28. Repeal and savings.

FIRST SCHEDULE

The land Surveyor's Licence.

Summons to appear before the Board.

ACT NO.9 OF 1990

I ASSENT

**SALMIN AMOUR
PRESIDENT OF ZANZIBAR AND
CHAIRMAN OF THE REVOLUTIONARY COUNCIL**

1st August 1991

**AN ACT TO MAKE PROVISIONS FOR THE LICENSING AND
PROFESSIONAL CONDUCT OF LAND SURVEYORS, FOR
REGULATING AND THE MAKING OF LANDSURVEYS, AND
FOR MATTERS CONNECTED THEREWITH
AND INCIDENTAL THERETO**

ENACTED by the House of Representatives of Zanzibar.

PART I PRELIMINARY

- Short title. 1. This Act may be cited as the Land Survey Act, 1989 and shall come into operation immediately upon being assented by the President.
- Interpretation. 2. In this Act, unless the context otherwise

requires:-

“assistant” means a person, not being a surveyor, who is engaged on survey work directly under the control of a surveyor;

“Board” means the Land Surveyor's Board established pursuant to the provisions of section 4;

“cadastral survey” means any survey the purpose of which is to obtain information for recording the position of the boundaries of lands in separate ownership, or intended to be the subject of any disposition or partition, or re-establishing such boundaries on the ground or setting out new boundaries on the ground;

“Director” means the Director of Surveys appointed under section 3(1);

“Licensed Surveyor” means a land surveyor duly licensed as such under the provisions of this Act;

“Minister” means the Minister responsible for survey matters;

“old law” means the Land Survey Decree, Cap. 100 of the Laws of Zanzibar;

“owner” in relation to any land, means any person receiving or entitled to receive rents or profits from any tenant or occupier thereof whether on his own account or as an agent or trustee for any person or who would receive the same if the land were let;

“plan” includes map, plot, diagram, aerial photograph or satellite image approved by the Director for survey purposes;

“prescribed” means prescribed by Regulations made under this Act;

“President” means the President of Zanzibar and Chairman of Revolutionary Council;

“public survey” means any survey made for the purpose of defining the boundaries of any land which is owned by the Government of Zanzibar or any public authority, or in which the Government or any public authority possesses or dispossesses of any interest or any survey which forms part of a survey of Zanzibar or any part thereof;

“Regulations” means Regulations made under section 25;

“section” means a section of this Act;

“survey” means a survey defining the boundaries of any land in Zanzibar;

“Survey Department” means the department in Zanzibar exercising functions relating to survey matters;

Appointment of Director, his powers and functions.

“Surveyor” means the licensed land surveyor or an officer of the Survey Department authorised by the Director to carry out surveys.

3.(1) There shall be a Director of Land Surveys appointed by the President.

(2) The Director shall subject to the provisions of this Act:-

(a) direct and control all public surveys;

(b) supervise and control all other surveys;

(c) examine all general and particular plans of surveys and approve such plans if satisfied that such surveys have been carried out and the plans have been prepared in accordance with the Regulations;

(d) take charge of and preserve all survey-records;

(e) subject to the provisions of this Act cancel or correct any survey plan or diagram found to be incorrect, outdated or inadequate;

(f) prepare, certify and issue at the request of any person upon payment of the prescribed fees, copies of diagrams and documents filed within his department which are available to the public.

(3) The Director shall be a sole authority for the preparation and publication of the official maps of Zanzibar, and no other person shall, without licence in writing from the Director make use of any material which has been prepared or published in official maps in the preparation or publication of any other map.

PART II THE LAND SURVEYOR'S BOARD

Establishment
and composition
of the Board.

4.(1) There is hereby established a Board, to be known as the Land Surveyor's Board consisting of the Director, who shall be the Chairman of the Board, and not less than four and not more than seven members appointed by the Minister and not less than three of whom shall, if practicable be surveyors licensed to practise in Zanzibar. The quorum for any meeting of the Board shall be not less than half the number of members.

(2) A member of the Board shall be appointed by the Minister for a term of three years, which is renewable and such member may at any time resign by giving notice in writing to the Minister.

(3) The Minister may, at his discretion, revoke the appointment of any person appointed by him to be a member of the Board.

(4) Notice of appointment and revocation of appointment of a member of the Board shall be published in the Gazette.

(5) The Minister shall appoint as Secretary of the Board a lawyer with an experience of more than three years. The Secretary shall not be a member of the Board.

Functions of the

(6) The Board shall appoint examiners and other officers who are not board members as may be necessary for carrying out the duties of the Board, and all such persons shall hold office during the pleasure of the Board.

Board.

5. The Board shall be the sole competent authority:-

- (a) to grant to persons duly qualified therefor in accordance with the provisions of this Act licences to practise land surveying in Zanzibar;
- (b) to provide for examination to be taken by applicants for such licences;
- (c) to keep a register of all licensed surveyors in accordance with section 8;
- (d) to take disciplinary measures against licensed surveyors in accordance with the provisions of this Act;
- (e) to hear and determine any dispute between a licensed surveyor and his client;
- (f) to perform such other functions as are prescribed by this Act or any Regulations made thereunder.

Procedure for the grant of licence to practise land surveying.

6. The Board shall not grant licence to practise land surveying to any person unless such person has passed such examination as the Board may from time to time prescribe, or who has been granted exemption therefrom.

Grant of licence.

7.(1) The grant of a licence shall be in the form prescribed in the First Schedule of this Act and notice thereof shall be published in the Gazette.

(2) There shall be payable in respect of the grant of a licence to a surveyor such fee as may be prescribed.

Register.

8. The Board shall cause a register to be kept which shall contain the names, addresses and qualifications of all persons to whom licences have been granted, the date upon which each such licence was granted and any other particulars as may be prescribed.

Breach of professional ethics.

9.(1) Where after due enquiry by the Board, a licensed surveyor has been found guilty of professional misconduct, or having been convicted of a criminal offence, is found by the Board to be unfit to practise, the Board may:-

- (a) revoke the licence granted to such licensed surveyors; or
- (b) suspend the licence for a period not exceeding three years; or
- (c) impose a fine not less than five thousand shillings and not exceeding fifty thousand shillings; or
- (d) reprimand such licensed surveyor.

(2) Upon any inquiry held by the Board under subsection (1) of this section the person whose conduct is being inquired into shall be afforded an opportunity of being heard, either in person or by an advocate.

(3) For the purpose of proceedings at any inquiry held by the Board, the Board may administer oaths and affirmations and may, subject to the provisions of any Regulations made under this Act, enforce the attendance of persons as witnesses and the production of books and documents.

Appeal.

(4) Any person who, having been summoned by the Board in the form prescribed in the Second Schedule to attend before it fails so to attend, or fails to produce any books or documents which he is required to produce shall be guilty of an offence against this Act.

Power of the Board to restore licence.

10. Any person aggrieved by a decision of the Board under section 9, or under subsection (4) of section 23, may within one month following the date of the decision, appeal to the High Court against the decision and, on any such appeal the High Court may give such directions in the matter as it thinks proper, including directions as to costs of the appeal, and no appeal shall lie from an order of the High Court under this section.

Notice to be published.

11. Where an order has been made for the revocation of the licence, granted to any person or for suspension of such a licence, the Board may either of its own motion or on the application of the person concerned, and in either case after holding such inquiry as the Board deems fit, grant a new licence and cause the name of the person to be restored to the register.

Surveyor to
abide with the
law.

12. Notice of the grant, revocation or suspension of any licence or the termination of the suspension thereof, under this part shall be by publication in the Gazette.

PART III THE CONDUCT OF THE SURVEYORS

13.(1) Every surveyor shall carry out every survey undertaken by him in such a manner as will ensure that the survey accords in all respects with the provisions of this Act and any Regulations made thereunder; and shall be responsible to ensure that every survey carried out by him or under his supervision is correct and complete:

Provided that the Director may, at his discretion in the case of a particular survey, by notice to the surveyor in writing, direct that the standards of accuracy, prescribed by such Regulations may be relaxed in such a manner, and to such extent and subject to conditions as he may specify in the notice.

Power to survey.

(2) Neither the Government nor any public officer shall be liable for any defective survey, or any work appertaining thereto, performed by a licensed surveyor notwithstanding that any plan relating to such survey has been authenticated in accordance with the requirement and provisions of this Act.

14.(1) No person, other than a surveyor, shall survey any holding or land for the purpose of preparing any plan which is to be attached to, or referred to in any document or instrument purporting to confer, declare, transfer, limit, extinguish or otherwise deal with or affect any right, title or interest, whether vested or contingent to, in or over any holding or land, being a document or instrument which is required to be registered, or is ineffectual until registered, under any law for the time being in force relating to the registration of transactions in or of title to land.

(2) For the purpose of any public survey the Director or any surveyor authorised by him may enter upon land with such assistants as may be reasonably required, and may affix or set up or place thereon or therein trigonometrical stations, monuments, survey beacons, marks or poles and do all things necessary for such surveys.

(3) The Director or any surveyor authorised by him

Compensation. shall, when practicable, give reasonable notice to the owner or occupier of the land of his intention to enter thereon Where the owner or occupier cannot be found, notice may be placed on a conspicuous place on the land.

15. Compensation shall be payable out of the public revenues to the owner of any crops or trees cut or damaged in the exercise of any power conferred by section 14, and if any question shall arise as to the amount of compensation to be paid, or the right of a claimant to recover compensation, such question shall, in absence of agreement between the Director and all persons concerned, be finally determined by a Magistrate on application made to him by the Director or any person authorised by him in that behalf, or by any person claiming to be entitled to compensation under the provisions of this section:

Power to enter. Provided that save at the discretion of the Director no such application shall be granted if it is by a person claiming to be entitled to compensation and is made more than thirty days after the date on which the crop or trees in respect of which the claim is brought were cut or damaged.

16.(1) After giving notice as required by section 14 (3) any surveyor may, for the purpose of surveying any land for which he is employed to survey, enter on and pass over any land whether private or public, causing as little inconvenience to the owner or occupier of such land as is necessary in the execution of his duties.

(2) Compensation shall be payable for any damage done to any land by reason of the exercise of the powers contained in subsection (1) of this section.

(3) Where a surveyor is a Government employee, compensation shall be assessed in accordance with the provisions of section 15.

(4) Where the surveyor is not a Government employee, any compensation payable shall be subject to agreement between the surveyor and the aggrieved party or parties:

Provided that where such agreement is not possible, the Director shall act as an arbitrator; and in case of disagreement between the Director and any party or

Offences. parties concerned, compensation shall be determined by a magistrate as set out in section 15.

(5) No compensation shall be paid out of Government revenue for damage to land done by a private surveyor.

PART IV THE PRESERVATION OF SURVEY MARKS

Recovery of sum as civil debt. 17.(1) Any unauthorised person who wilfully obliterates, removes or damages any trigonometrical station, monument, survey beacon, mark or pole, or any boundary mark affixed, set up or place for the purpose of conducting any public or other survey under this Act, shall be guilty of an offence and in addition to any other punishment imposed on summary conviction, may be ordered to pay the cost of repairing or replacing the thing obliterated, removed or damaged and of carrying out any survey rendered necessary by the act for which he is convicted.

Delegation of powers by the Director. (2) Any person who wilfully obstructs, hinders, resists or threatens any surveyor in the execution of his duty in or about the conduct of any public survey or other survey under this law, or any workman or other person acting in aid of any such surveyors, shall be guilty of an offence.

18. Any sum due under the provisions of this Act may be sued for and recovered by the Director or any person authorised by him, by action in any court of competent jurisdiction.

PART V GENERAL

Submission of plans to the Director. 19.(1) The Director may delegate any of his functions under this Act to any officer in the Survey Department, by name or office.

(2) Any such delegation shall be revocable at will, and no delegation shall prevent the exercise by the Director of any function so delegated.

Powers of the 20.(1) Every surveyor who executes any survey in accordance with the provisions of this Act and of the Regulations made thereunder, shall send to the Director all plans, field notes and computations relating thereto, and all such plans field notes and computations shall be

Director. deposited in the Survey Department and shall become the property of the Government.

(2) No plan deposited in the Survey Department in accordance with subsection (1) of this section shall be altered or amended in any way without the permission of the Director.

21.(1) The Director may at any time undertake such field and office checks on the survey work of a licensed surveyor as he thinks fit.

(2) The Director may, by notice in writing, instruct any licensed surveyor to correct at his own expense, within a time specified in such notice any error made by him in a survey represented by a plan submitted for authentication.

(3) In the event of such licensed surveyor refusing or neglecting within the time specified to correct such error it shall be lawful for the Director to undertake such correction and to recover the whole cost of such correction from the licensed surveyor concerned.

Authentication
by the Director.

(4) If such licensed surveyor refuses or neglects to pay the cost of the correction referred to in subsection (3) of this section within fourteen days of the same having been demanded of him, the Director may report the facts to the Board for disciplinary action and after due inquiry, the Board may order such licensed surveyor to pay the cost of correction to the Director and if such licensed surveyor refuses or neglects to comply with such an order within one month after the date of the order, the Board may, subject to the provisions of section 18 of this Act suspend the licence of the licensed surveyor until the cost of the correction has been paid, or for a period not exceeding three years, whichever it deems fit.

22.(1) No land shall be deemed to have been surveyed or resurveyed until the plan thereof has been authenticated by the signature of the Director.

Inaccurate plans.

(2) Every plan authenticated by the Director under subsection (1) shall in any court of law or in any proceeding of a legal or quasi-legal nature be conclusive evidence of the survey information contained therein unless and until such plan is cancelled by the director by virtue of section 23.

(3) Every plan purporting to bear the signature of the Director for the purposes of subsection (1) of this section shall be deemed to be properly authenticated unless and until the contrary is proved.

23.(1) Where, in the case of a document or instrument to which the authenticated plan is attached, or in which reference to such a plan is made:-

- (a) the plan is found to be inaccurate by reason of any error or omission in the surveys; or
- (b) the plan does not conform with the terms and conditions subject to which permission to subdivide the land to which the plan relates had been given, the Director may cancel the authentication of such plan and may recall any copies which may have been issued, and in every such case the provision of section 21 shall apply.

Permission for
aerial
photography.

(2) The Director shall forthwith upon the cancellation of the authentication of any plan, notify in writing:-

- (a) the owner of the land to which such plan relates;
- (b) the surveyor by whom the survey was executed; and
- (c) such office where the title documents are registered.

24.(1) Any person who wishes to carry out aerial photography of Zanzibar for use in mapping or similar purpose shall, before carrying out the same, obtain permission for such photography from the Minister.

(2) Any person who has carried out such aerial photography shall, if the Director so requires in writing:-

Regulations.

- (a) produce to the Director for his inspection all the photography thereby produced or such of them as the director may specify; and
- (b) supply to the Director, at the Director's cost such copies and diagrams as the Director may require of such photographs:

Provided that the supply of photographs to the Director under this section shall not in any way affect the copyright therein of the person supplying them or other owner of such copyright.

25. The Minister may make Regulations:-

- (a) prescribing the manner in which surveys are to be made, the records to be kept by the licensed surveyors and the manner of keeping the same;
- (b) prescribing the manner in which survey marks shall be construed;
- (c) with regard to plans of surveys and their preparation and the manner to be shown thereon;
- (d) with regard to the publication, issue of services and forms of the notices to be published, issued or served under this Act or Regulations made thereunder;
- (e) prescribing the return to be made by licensed surveyors to the Director;
- (f) requiring surveyors to report to the Director matters connected with surveys on which they are engaged, or with previous surveys ascertained by them in the course of their work;
- (g) for securing the maintenance of survey marks in their correct position and the preparation of the same;
- (h) providing for the checking of surveys alleged to be erroneous and, for the payment of the expenses for such checking;
- (i) providing for the checking of the tapes and instruments used by surveyors;
- (j) providing for and regulating the inspection and the taking of copies of plans of surveys in any office of the Survey Department;
- (k) prescribing any fees which may be charged under this Act;

Penalty.

- (l) prescribing the syllabus of any examination for the purpose of section 6;
- (m) prescribing any other matter which this Act requires or authorises to be prescribed by him; and
- Joint responsibility. (n) generally for giving effect to the purposes of this Act so far as the Director and the Minister are the appropriate authorities therefor.

Repeal and savings.

26. Any person who contravenes or fails to comply with any provision of this Act or any regulations made thereunder shall be guilty of an offence and unless otherwise provided shall, on conviction be liable to a fine of less than five thousand but not exceeding twenty thousand shillings or imprisonment for a term not exceeding six months or to both such fine and imprisonment.

27. Where there exists a relationship of master and servant, principal and agent or corporation and officer of that corporation, every such person concerned in that behalf shall be jointly and severally responsible for compliance with the provisions of this Act.

28. Without prejudice to any rights and liabilities existing or capable of arising thereunder, the Land Survey Decree, Chapter 100 of the Laws of Zanzibar is hereby repealed.

**FIRST SCHEDULE
ZANZIBAR GOVERNMENT**

**THE LAND SURVEYOR'S LICENCE
(UNDER SECTION 2)**

Mr./Mrs./Miss.
of is hereby registered as a Land
Surveyor in accordance with the provisions of section 7 of
the Land Surveyor's Act, 1989.

Given at Zanzibar this day of.....
19.....

.....
CHAIRMAN
LAND SURVEYOR'S BOARD

SECOND SCHEDULE

ZANZIBAR GOVERNMENT

THE LAND SURVEYOR'S ACT, 1989

**SUMMONS TO APPEAR BEFORE THE BOARD
(UNDER SECTION 9(4))**

To

WHEREAS
of..... has instituted a suit against you, you are hereby summoned to appear before this Board in person, or by an advocate duly instructed, and able to answer all material questions relating to the suit, or who shall be accompanied by some person able to answer all such questions, as the day of19..... at o'clock in the noon, to answer the claim; should you appear and dispute the claims the Board will proceed to give directions for the disposal of the suit but in default of your appearance on the day aforementioned, the suit will be heard and determined in your absence.

GIVEN under my hand and the Seal of the Board, this day of 19.....

.....
**CHAIRMAN
LAND SURVEYOR'S BOARD**

PASSED in the House of Representatives on the 19th day of December, 1989.

**KHAMIS JUMA CHANDE
CLERK OF THE HOUSE OF REPRESENTATIVES OF
ZANZIBAR**

Registered Land Act No. 10 of 1990

THE REGISTERED LAND ACT NO.10 OF 1990

ARRANGEMENT OF SECTIONS

SECTION

TITLE

PART I PRELIMINARY

1. Short title.
2. Interpretation.
3. Application.
4. Reconciliation with other laws.

PART II

ORGANIZATION AND ADMINISTRATION

5. Registration districts.
6. Land registries.
7. Appointment of officers.
8. General powers of Registrar.
9. Indemnity of officer.
10. Seal of registry.

Division 2 The Land Register.

11. The Land Register.
12. Compilation of the Land Register.
13. First registration.
14. Manner of registration.
15. Cancellation of obsolete entries.
16. New editions of registers

Division 3 Maps, Parcels and Boundaries.

17. Registry Map.

18. Correction of Registry Map and new editions.
19. Mutation.
20. Boundaries.
21. Fixed Boundaries.
22. Maintenance of boundary features.
23. Interference with boundary features.
24. Combinations and subdivisions.
25. Reparcellation.
26. Foreshore.

PART III

EFFECT OF REGISTRATION

27. Interest conferred by registration.
28. Rights of proprietor.
29. Voluntary transfer.
30. Overriding interests.
31. Entries to constitute actual notice.

PART IV

CERTIFICATES AND SEARCHES

32. Land certificate and certificates of lease.
33. Production of certificates.
34. Disposition of leases and charges.
35. Lost or destroyed certificates.
36. Searches and copies.
37. Evidence.

PART V

DISPOSITIONS

38. Subsequent dealings.
 39. Protection of persons dealing in registered land.
-
40. Fees for delayed registration.
 41. Power to compel registration.
 42. Priority of registered interests.
 43. Stay of registration.
 44. Merger of registered interests.
 45. Leases.

- 46. Periodic tenancy.
- 47. Registration of lease.
- 48. Lessor's consent to dealing with lease.
- 49. Lease of charged land.
- 50. Computation of lease.
- 51. Future leases.
- 52. Holding over.
- 53. Agreements implied in leases on the part of lessor.
- 54. Agreements implied in leases' on the part of lessee.
- 55. Meaning of 'in repair'.
- 56. Lessor's right of forfeiture.
- 57. Effect of forfeiture on subleases.
- 58. Notice before forfeiture.
- 59. Relief against forfeiture.
- 60. Variation and extension of leases.
- 61. Substitution of leases.
- 62. Subleases.
- 63. Surrender of lease.
- 64. Termination of leases.

Division 3 Charges

- 65. Form and effect of charges.
 - 66. Second or subsequent charges.
 - 67. Presumption that money paid is interest.
 - 68. Agreements implied in charges.
 - 69. Chargee's consent to transfer.
 - 70. Variation of charges.
 - 71. Charger's right of redemption.
 - 72. Right of third party to transfer of charge.
 - 73. Chargee's remedies.
 - 74. Appointment, powers, remuneration and duties of receiver.
-
- 75. Chargee's powers of leasing.
 - 76. Chargee's power of sale.
 - 77. Application of purchase money.
 - 78. Variation of powers.
 - 79. No right of entry into possession or of foreclosure.
 - 80. Discharge of charge.
 - 81. Satisfaction of charges.
 - 82. Taking and further advances.
 - 83. Consolidation of charges.

Division 4 Transfers

- 84. Transfer.
- 85. Consolidation transfers not registerable.
- 86. Conditions repugnant to interests transferred.
- 87. Transfer of part.
- 88. Transfer of leases.
- 89. Effect of transfer on agreements in leases.
- 90. Transfer subject to charges and interest.
- 91. Transfer subject to lease.
- 92. Transfer of unregistered lease.

Division 5 Easements, Profits, and Restrictive Agreements

- 93. Easements.
- 94. profits.
- 95. Restrictive agreements.
- 96. Release and extinguishment of easement, profits and restrictive agreements.
- 97. Discharge and modification of easement, profits and restrictive agreement by Court order.
- 98. Natural rights.
- 99. Licences.

Division 6 Co-proprietorship and Partition

- 100. co-proprietorship.
- 101. Characteristics of joint proprietorship.

- 102. Characteristics of proprietorship in common.
- 103. Statutory trusts.
- 104. Appointment of statutory trustees.
- 105. Registration of statutory trustees.
- 106. Effect of registration of statutory trustees.
- 107. Removal and replacement of statutory trustees.
- 108. partition of land held in common.
- 109. Where Registrar may order sale.
- 110. procedure where share is small.

PART VI

INSTRUMENTS AND AGENTS

- 111. Form of instruments.
- 112. Execution of instruments.
- 113. Identity of the executor of instrument.
- 114. Stamp Duty.
- 115. Disposal of instruments.
- 116. Minors.

Division 2 Agents

- 117. Agents.
- 118. Gift to person under a disability.
- 119. powers of attorney.
- 120. Effect of registered power of attorney.

PART VII TRANSMISSION AND TRUSTS

- 121. Transmission on death of joint proprietor.
- 122. Transmission on death of sole proprietor or proprietor in common.
- 123. Transmission on death.
- 124. Transmission on bankruptcy.
- 125. Liquidation.

- 126. Transmission of compulsory acquisition or order of court.
- 127. Trusts.
- 128. Survivor of trustees.

PART VIII

RESTRAINTS ON DISPOSITION

- 129. Power of Court to inhibit registered dealings.
- 130. Effect of inhibition.
- 131. Cancellation on inhibitions.
- 132. Lodging of cautions.

**Division 2
Cautions**

- 133. Notice and effect of cautions.
- 134. Withdrawal removal of cautions.
- 135. Second caution in respect of same matter.
- 136. Wrongful cautions.

**Division 3
Restrictions**

- 137. Restrictions.
- 138. Notice and effect of restriction.
- 139. Removal and variation of restrictions.

PART IX

DESCRIPTION

- 140. Acquisition of right of occupancy by prescription.
- 141. Principles of occupancy.
- 142. Procedure of application.
- 143. Cap. 12 - Acquisition of easements and profits.

PART X

RECTIFICATION AND INDEMNITY

- 144. Rectification by Registrar.
- 145. Rectification by the Court.
- 146. Right to indemnity.
- 147. Amount of indemnity.
- 148. Procedure for claiming indemnity.
- 149. Recovery of indemnity paid.
- 150. Errors in Survey.

PART XI

APPEALS FROM DECISIONS OF THE REGISTRAR

- 151. Registrar may state case.
- 152. Appeals.

153. Effect of appeal on disposition.
154. Appeal rules.

PART XII

MISCELLANEOUS

155. Addresses.
156. Service of notices.
157. Meaning of "opportunity of being heard".
158. Offences.
159. Fees.
160. Recovery of unpaid expenses.
161. Enforcement of Registrar's orders for payment.
162. Suits to be tried by High Court.
163. Regulations.
164. Savings of rights of Government.
165. Act to bind Government.
166. Other law.
167. Cessation of application of certain laws.

ACT NO.10 OF 1990

I ASSENT

{ SALMIN AMOUR }
PRESIDENT OF ZANZIBAR
AND
CHAIRMAN OF THE REVOLUTIONARY COUNCIL

1st August, 1991

**AN ACT TO PROVIDE FOR THE REGISTRATION OF
LAND AND INTEREST THEREIN, FOR THE REGULATION
OF DEALINGS IN LAND SO REGISTERED, AND FOR
MATTERS CONNECTED THEREWITH**

ENACTED by the House of Representatives of Zanzibar

PART I PRELIMINARY

- Short title. 1. This Act may be cited as the Registered Land Act 1989 and shall come into operation immediately upon being assented by the President.
- Interpretation. 2. In this Act, except where the context otherwise requires -
- "adjudication officer" "adjudication record" and "adjudication section" have the meaning assigned to those words by the Land Adjudication Act;
- "application book" means the application book kept under section 6 (d) ;
- "certificate of lease" means a certificate of lease issued under section 32;
- "charge" means an interest in land securing payment of money or money's worth of the fulfillment of any condition and includes a subcharge and the instrument creating a charge;
- "chargee" means the proprietor of a charge;
- "charger" means the proprietor of a charged land or of a charged lease or charge;
- "the court" save as otherwise expressly provided, means the High Court of Zanzibar;
- "dealing" includes disposition and transmission;
- "disposition" means any act by a proprietor whereby his rights in or over his land, lease or charge are affected, but does not include an agreement to transfer, lease or charge;
- "easement" means a right attached to a parcel of land which allows the proprietor of the parcel either to use the land of another in a particular manner or to restrict its use to a particular extent, but does not include a profit;
- "file" means place in the file, kept under section 6(c), which

relates to the parcel or lease of land affected;

"guardian" means any person responsible, whether under customary law or otherwise, for protecting the interest of any person who is under a disability, whether by reason of age, unsoundness of mind or any other cause;

"instrument" includes any deed, judgment, decree, order or other document requiring or capable of registration under this Act;

"land" includes land covered with water, all things growing on land, and buildings and other things permanently affixed to land;

"Land certificate" means a land certificate issue to a proprietor of land under section 32;

"land register" means the land register compiled and maintained under the provisions of Division 2 of Part II of this Act;

"lease" means a grant, with or without consideration, by the proprietor of land of the right to exclusive possession of his land, and includes the right so granted and the instrument granting it, and also includes a sublease by the proprietor of a lease, but does not include an agreement to lease;

"lessee" means the holder of a lease;

"lessor" means the proprietor of leased land, and includes, in respect of a sublease, the proprietor of a lease;

"Minister" means the Minister for the time being responsible for legal affairs;

"parcel" means an area of land separately delineated on the Registry Map and given a number;

"personal representative" means the executor of the will or the administrator of the estate of a deceased person;

"President" means the President of Zanzibar and Chairman of the Revolutionary Council;

"profit" means a right to go on the land of another and take particular substance from that land, whether the soil or products of the soil;

"proprietor" means –

(a) in relation to land or lease, the person or body of persons named in the register as the proprietor thereof, and

(b) in relation to a charge of land or of a lease, the person or body of persons named in the register of the land or lease in whose favour the charge is made;

"Register" means a separate register of the land Register kept in respect of a parcel for public or private land or of a registered lease;

"to register" means to make an entry, note or record in a register under the provisions of this Act, and the words "registered", "unregistered" and "registration" bear a corresponding meaning;

"Registrar" means the Registrar of land appointed in accordance with the provisions of section 7 and includes the Deputy Registrar so appointed and any Assistant Registrar so appointed to the extent that he has been authorized to exercise or perform any of the powers or duties conferred by this Act upon the Registrar;

"registration district" means a land registration district constituted under section 5;

"registration section" means a division of a registration district made in accordance with section 17;

"Registry Map" means the map or series of maps compiled in accordance with the provisions of section 17;

"transfer" means the passing of land, a lease or a charge by act of the parties and not by operation of law, and includes the instrument by which such passing is effected but does not include an agreement to transfer;

"transmission" means the passing of land, a lease or a charge from one person to another by operation of law or death or insolvency or otherwise howsoever, and includes compulsory acquisition or revocation of grants

under any written law;

"trustee" includes personal representative and statutory trustee;

"valuable consideration" includes marriage, but does not include a nominal consideration;

"Wakf and Trust commission" means the Wakf and Trust Commission established by the Commission for the Administration of Wakf and Trust Property Decree, 1980.

Application. 3. This Act shall apply to any area constituted as a registration district under section 5.

Reconciliation with other laws. 4. Except where otherwise provided in the Act, no law, regulation, practice or procedure relating to land shall apply to land registered under this Act so far as it is inconsistent with this Act,

Provided that, except where a contrary intention appears, nothing contained in this Act shall be construed as permitting any dealing which is forbidden by the express provisions of any other written law or as overriding any provision of any other written law requiring the consent or approval of any authority to any dealing,

PART II ORGANIZATION AND ADMINISTRATION

Division 1 - Land Registries and officers.

Registration districts. 5. For the purpose of this Act, the Minister may by order constitute an area or areas of land as land registration district or land registration districts and may at any time vary the limits of any such district or districts.

Land registries. 6. There shall be maintained in each registration district a land registry, in which shall be kept:

- (a) a register, to be known as the Land Register, in accordance with Division 2 of this Part;
- (b) a map, to be known as the Registry Map, in accordance with Division 3 of this Part;

- (c) parcel files containing the instruments which support subsisting entries in the Land Register and any filed plans and documents;
- (d) a book, to be known as the application book, in which shall be kept a record of all applications numbered consecutively in the order in which they are received at the registry;
- (e) an index in alphabetical order of the names of proprietors of land, lease and charges showing the number of the parcels in which they are interested;
- (f) a record to be known as the mutation record, in accordance with the provisions of section 19;
- (g) a register and file of powers of attorney.

Appointment of officers.

7.(1) The President shall appoint a qualified person to be the registrar of land who shall be responsible for administering the land registry or land registries in accordance with the provisions of this Act.

(2) The Minister may appoint a Deputy Registrar of land and as many Assistant Registrars of Land as may be necessary for carrying out the provisions of this Act.

(3) The Registrar may in writing authorize the Deputy Registrar or any Assistant Registrar to exercise or to perform all or any of the powers or duties conferred on the Registrar by this Act or by any regulations made thereunder, and may at any time revoke or vary any such authorization.

Provided that no such authorization shall be deemed to divest the Registrar of any of his powers or duties, and he may, if he thinks fit, exercise all his powers or duties notwithstanding any such authorization.

Provided further that in the absence for whatsoever reason of the Registrar, the Deputy Registrar may exercise any of the powers vested in the Registrar by this Act.

General powers of Registrar.

8. The Registrar may exercise the following power in addition to any other powers conferred on him by this Act, that is to say –

- (a) he may require any person to produce any instrument, certificate or other document or plan relating to the land, lease or charge in question and the person shall produce the same;

- (b) he may summon any person to appear and give any information or explanation respecting land, a lease or charge, or any instrument, certificate or other document or plan relating to the land, lease or charge in question, and such person shall appear and give such information or explanation;
- (c) he may refuse to proceed with any registration if any instrument, certificate, or other document, plan, information or explanation required to be produced or given is withheld, or any act required to be performed under this Act is not performed;
- (d) he may administer oaths or take a declaration in lieu thereof, and may require that any proceedings, information or explanation shall be verified on oath or by statutory declaration;
- (e) he may order that the costs, charges and expenses incurred by him or by any person in connection with any investigation or hearing held by him or on his orders shall be borne and paid by such persons and in such proportions as he, the Registrar, thinks fit.

Indemnity of officer.

9. The Registrar shall not, nor shall any other officer of the land registry, be liable to any action or proceedings for or in respect of any act or matter done or omitted to be done in good faith in the exercise of the powers and duties under this Act, or any regulations made thereunder.

Seal of registry.

10. Each registry shall have a seal, and every instrument purporting to bear the imprint of such seal shall be received in evidence and, unless the contrary is shown, shall be deemed without further proof to be issued by or under the direction to the Registrar.

Division 2

The Land Register

The Land Register.

11.(1) The Land Register shall comprise a register in respect to every parcel in each registration section and a register in respect of each lease required by this Act to be registered.

(2) Each register shall show whether the land is public land or private land, and shall be divided into three sections as follows –

- A. the property section, containing a brief description of the land or lease, together with particulars of its appurtenances and reference to the Registry Map and filed plan, if any:
- B. the proprietorship section, containing particulars of the proprietor of the land or lease, and any inhibition, caution or restriction affecting his right of disposition;
- C. the encumbrances section containing particulars of every encumbrance and every right adversely affecting the land or lease.

(3) No entry shall be required in the proprietorship section of a register relating to land which is public land.

Compilation of the Land Register.

12.(1) Whenever an adjudication record in respect of any adjudication section is certified as final under section 25 of Land Adjudication Act, the Adjudication Officer shall forthwith deliver such record and the demarcation map to the Registrar.

(2) The Registrar shall forthwith prepare a register for every parcel of public and private and contained in the adjudication record and shown on the demarcation map, and shall register –

- (a) any person recorded as the occupant of a parcel in such record as the proprietor of that parcel to any restriction contained in such record affecting his power of dealing with the land;
- (b) particulars of any lease, charge or other encumbrance affecting the parcel and the names of the persons recorded in such record as entitled to the benefit thereof.

First registration.

13. The date of first registration under this Act shall be the date on which the adjudication record in respect of land in any adjudication section is certified as final under section 25 of the Land Adjudication Act.

Manner of registration.

14.(1) The First registration of any parcel shall be effected by preparation of a register in accordance with the provision of subsection (2) of section 12 of this Act and the signing by the Registrar of the particulars of proprietorship, restrictions, on power of dealing and encumbrances, if any, appearing thereon.

(2) Every subsequent registration shall be effected by an entry

in the register in such form as the Registrar may from time to time direct, and by the cancellation of the entry, if any, which it replaces.

Cancellation of obsolete entries.

15. The Registrar may cancel any entry in a register which he is satisfied has ceased to exist.

New editions of registers.

16. The registrar may at any time open a new edition of a register showing only subsisting entries and omitting therefrom all entries which have ceased to have effect.

Division 3 Maps, Parcels and Boundaries

Registry Map.

17.(1) The Registry Map shall be compiled from the demarcation maps under the Land Adjudication Act and shall be divided into registration sections which, so far as is possible, shall have the same boundaries and names as the adjudication sections, the registration sections, where the adjudication sections are so divided, shall be divided into blocks, which shall be given the same letters or number or combination of letters and numbers as are given on the demarcation maps.

(2) The parcels in each registration section or block shall be numbered consecutively following the numbering in the adjudication proceedings, and the name of the registration section and the letters or numbers of the registration block, if any, and the number of the parcel shall together, be a sufficient reference to any parcel.

(3) The Registrar may from time to time cause registration sections or blocks to be combined or divided, or cause their boundaries to be varied.

(4) A plan may be filed in respect of a particular parcel to augment the information available from the Registry Map, and the filing of such plan shall be noted in the register.

Correction of Registry Map and new editions.

18.(1) The Registrar may cause to be made a survey of land for any purpose connected with this Act and, after informing every person affected thereby, may cause the Registry Map to be corrected as a result of such survey.

(2) The Registrar may at any time direct the preparation of a new edition of the Registry Map or any part thereof, and there may be omitted therefrom any matter which the Registrar considers obsolete.

Mutation.

19.(1) On the application of a proprietor of land, and subject to

the agreement of all persons affected thereby, the Registrar may order the alteration of the Registry Map, but no such alteration shall be effected except on the instructions of the Registrar in writing in the prescribed form, to be known as a mutation form and the mutation form shall be filed and recorded in the mutation record.

(2) Whenever the boundary of a parcel is altered on the Registry Map, the parcel number shall be cancelled and the parcel shall be given a new number.

Boundaries.

20.(1) Except where, under section 21 of this Act, it is noted in the register that the boundaries of a parcel have been fixed, the Registry Map and any filed plan shall be deemed to indicate the approximate boundaries, and the approximate situation only of the parcel.

(2) Where any uncertainty or dispute arises as to the position of any boundary, the Registrar, on the application of any interest party shall, on such evidence as the Registrar considers relevant, determine and indicate the position of the uncertain or disputed boundary.

(3) Where the Registrar exercises the power conferred by subsection (2) of this section, he shall make a note to that effect on the Registry Map and in the register and shall file such plan or description as may be necessary to record his decision.

(4) No Court shall entertain any action or other proceedings relating to a dispute as to boundaries of registered land unless the boundaries have first been determined by the Registrar as provided in this section.

(5) Except where it is noted in the register that the boundaries of a parcel have been fixed under section 21 of this Act, the Court or the Registrar may, in any proceedings concerning the parcel, receive such evidence as to its boundaries and situation as it or he thinks fit.

Fixed
Boundaries.

21.(1) Where any interested person makes application to the Registrar to indicate on a filed plan, or otherwise to define in the Register, the precise position of the boundaries of a parcel or any part thereof, the Registrar shall give notice to the proprietors and any person having interest in the Land adjoining the boundaries in question of the intention to ascertain and fix the boundaries.

(2) The Registrar shall, after giving all persons appearing by the register to be affected an opportunity of being heard, cause to be defined by survey the precise position of the boundaries in question,

file a plan containing necessary particulars and make a note in the register that the boundaries have been fixed, and thereupon the plan shall be deemed to define accurately the boundaries of the parcel.

Maintenance of boundary features.

22.(1) Every proprietor of land shall maintain in good order any fences, hedges, stone pillars, wall or other marks which demarcate his boundaries.

(2) The Registrar may in writing order the demarcation of any boundary in such manner as he may direct and any person who fails to comply with such an order shall be guilty of an offence.

(3) The Registrar may in writing order which of adjoining proprietors shall be responsible for the care and maintenance of any feature demarcating a common boundary and any proprietor so ordered to be responsible who allows the boundary feature to fall into disrepair or to be destroyed or removed shall be guilty of an offence.

Interference with boundary features.

23.(1) Any person who willfully defaces, removes or otherwise impairs any boundary, feature or any part of it unless authorized to do by the Registrar, shall be guilty of an offence.

(2) Any person convicted of such an offence, whether or not any penalty therefore, is imposed upon him, shall be liable to pay the cost of restoring the boundary feature and such cost shall be recoverable as a civil debt by any person responsible under section 22 of this Act for maintenance of the feature.

Combinations and subdivisions.

24.(1) Where contiguous parcels are held by the same proprietor and are subject in all respects to the same right and obligations, the Registrar, on application by the proprietor, may combine those parcels by closing the registers relating to them and opening a new register or registers in respect of the parcel or parcels resulting from the combination.

(2) Upon the application of the proprietor of a parcel for the division of his parcel into two or more parcels, the Registrar shall effect the division by closing the register relating to the parcel and opening new registers in respect of the new parcels resulting from the division, and recording in the new registers all subsisting entries appearing in the closed register.

Provided that –

- (i) nothing shall be done under this section which would be inconsistent with this Act or any other written law; and

- (ii) no parcel which is subject to a lease shall be subdivided so as to subdivide the land comprised in such lease.

Reparcellation. 25.(1) The Registrar may, on the application of the proprietors of contiguous parcels who are desirous of changing the layout of their parcels, and with the consent in writing of all other persons in whose names any right or interest in such parcel is registered and of any cautioner, cancel the registers relating to such parcels and prepare new registers in accordance with revised layout.

Provided that, where in the opinion of the Registrar a proposed reparcellation involves substantial changes which should be effected by transfers without invoking this section, he may in his discretion refuse to accept such reparcellation.

(2) Upon any such reparcellation, the persons named in the revised layout shall, notwithstanding section 38 of this Act, be registered as the proprietors of the parcels.

Foreshore. 26. Land adjacent to the sea which is alternately left dry and covered with water by the ordinary ebb and flow of the tides shall be deemed to be public land and shall not be included in any parcel.
Cap. 105

PART III EFFECT OF REGISTRATION

Interest conferred by registration. 27. Subject to the provisions of this Act –

- (a) the registration of a person as the proprietor of land shall vest in that person an exclusive right of occupancy of that land, together with all rights and privileges belonging thereto, but subject to the conditions thereof, conferred or imposed by the provisions of the Public Land Decree;
- (b) the registration of a person as the proprietor of a lease shall vest in that person the leasehold interest described in the lease, together with all implied and expressed rights and privileges belonging thereto, and subject to all implied and expressed agreements, liabilities and incidents of the lease.

Rights of proprietor. 28. The rights of a proprietor, whether acquired on first registration or subsequently for valuable consideration or by order of a court, shall be rights not liable to be defeated except as provided in this Act, and shall be held by the proprietor, together with all privileges

belonging thereto, free from all other interests and claims whatsoever, but subject –

- (a) to the leases, charges and other encumbrances and to the conditions and restrictions, if any shown in the register; and
- (b) unless the contrary is expressed in the register, to such liabilities, rights and interests as affect the same and are declared by section 30 of this Act, not to require noting on the register.

Provided that nothing in this section shall be taken to relieve a proprietor from any duty or obligation to which he is subject as a trustee.

Voluntary transfer.

29. Every proprietor who has acquired land, a lease or a charge by transfer without valuable consideration shall hold it subject to any unregistered rights or interest to which the transferor holds it, and subject also to the provisions of any law relating to bankruptcy and to the winding-up provisions of any law relating to companies, but save as aforesaid such transfer shall in all respects have the same effect as a transfer for valuable consideration.

Overriding interests.

30. Unless the contrary is expressed in the register, all registered land shall be subject to the following overriding interest as may from the time being subsist and affect the same without their being noted on the register –

- (a) rights of way, rights of water and profits subsisting at the time of first registration under this Act;
- (b) natural rights of light, air, water and support;
- (c) rights of compulsory acquisition, resumption, entry, search and user conferred by any other law;
- (d) lease or agreements for lease for a term not exceeding two years, periodic tenancies and indeterminate tenancies within the meaning of section 46 of this Act;
- (e) charges for unpaid taxes, rates or other moneys which, without reference to registration under this Act, are expressly declared by any law to be a charge on land;
- (f) rights acquired or in process of being acquired by virtue of any law relating to limitations of action by prescription;

- (g) the rights of a person in actual occupation of land or in receipt of rents or profits therefrom save where enquiry is made of such person and the rights are not disclosed;
- (h) electric supply lines, telephone and telegraph lines or poles, pipelines, aqueducts, canals and dams erected, constructed or laid by virtue of any power conferred by any law.

Entries to constitute actual notice.

31. Every proprietor acquiring any land, lease or charge shall be deemed to have notice of every entry in the register relating to the land, lease or charge.

PART IV CERTIFICATES AND SEARCHES

Land certificate and certificates of lease.

32.(1) The Registrar shall, if requested by any proprietor of land or a lease where no land certificate or certificates of lease has been issued, issue to him a land certificate or certificate of lease, as the case may be, in the prescribed form showing all subsisting entries in the register affecting that land or lease.

Provided that –

- (i) only on such certificate shall be issued in respect of each parcel or lease;
- (ii) no certificate of lease shall be issued unless the lease is for a certain period exceeding two years.

(2) A land certificate or certificate of lease shall be only prima facie evidence of the matters shown therein, and the land or lease shall be subject to all entries in the register whether they are shown on the certificate or not.

(3) Where there is more than one proprietor, the proprietors shall agree among themselves as to who shall receive the certificate, and failing agreement the certificate shall be filed in the registry.

(4) The date of issue of land certificate or of a lease shall be noted in the register.

Production of certificates.

33.(1) If a land certificate or certificate of lease has been issued, then, unless it is filed in the registry or the Registrar dispenses with its

production, it shall be produced on the registration of any dealing with land or lease to which it relates, and, if the certificate shows all subsisting entries in the register, a note of such registration shall be made on the certificate.

(2) If the disposition is a transfer, the certificate if produced shall be destroyed, and in such case a new certificate may be issued to the new proprietor.

(3) If the disposition is a charge, the certificate, if produced shall be filed in the registry.

Disposition of leases and charges.

34. On the registration of any disposition of a lease or charge the duplicate and triplicate of the lease or charge shall, unless the Registrar is satisfied that they cannot be produced, be produced to the Registrar, who shall note particulars of the disposition of the filed lease or charge and on the duplicate and triplicate thereof.

Lost or destroyed certificates.

35.(1) If a land certificate or certificate of lease is lost or destroyed, the proprietor may apply to the Registrar for the issue of a new certificate, and shall produce evidence to satisfy the Registrar of the loss or destruction of the previous certificate.

(2) The Registrar may require a statutory declaration that the certificate has been lost or destroyed.

(3) The Registrar, if satisfied with the evidence as to the loss or destruction of the certificate, and after the publication of such notice as he thinks fit, may issue a new certificate.

(4) When a lost certificate is found, it shall be delivered to the Register for cancellation.

Searches and copies.

36.(1) Any person, on application in the prescribed form and on paying the prescribed fee, may inspect during official hours of business any register and any sheet of the Registry Map or any filed instrument or plan.

(2) Any person, on application in the prescribed form and on paying the prescribed fee, shall be entitled to a certified copy of any register or part of the Registry Map or any filed instrument or plan.

(3) Any person, on application in the prescribed form and on paying the prescribed fee, may require an official search in respect of any parcel, and the Registrar shall issue a certificate of official search setting forth particulars of all subsisting entries in the register of that parcel.

Evidence.

37.(1) A certified copy of the register or part of the Registry Map or any filed instrument, or plan shall be admissible in evidence in all actions and matters and between all persons and parties to the same extent as the original, and a signature on any such certified copy purporting to be the signature of the Registrar shall be presumed to be the signature of the Registrar until the contrary is proved.

(2) No legal practitioner, trustee, personal representatives or other person in a fiduciary position shall be held liable in respect of any loss occasioned by the inaccuracy of any such certified copy as is referred to in subsection (1) of this section.

(3) No process for compelling the production of a register of the Registry Map or of any filed instrument or plan shall be issued from any court except with leave of that court, which leave shall not be granted if a certified copy or extract will suffice, and any such process, if issued, shall bear thereon a statement that is issued by leave of the court.

PART V DISPOSITION

Division 1 - General

Subsequent dealings.

38.(1) No land, lease or charge registered under the Act shall be capable of being disposed of except in accordance with this Act, and every disposal of such land, lease or charge otherwise than in accordance with this Act shall be incapable of creating, extinguishing, transferring, varying or affecting any right or interest in the land, lease or charge.

(2) Nothing in this section shall be construed as preventing any unregistered instrument from operating as a contract.

Protection of persons dealing in registered land.

39.(1) No person dealing or proposing to deal for valuable consideration with a proprietor shall be required –

(a) to enquire or research the circumstances in or the consideration for which such proprietor or any previous proprietor was registered; or

(b) to search any register kept under the Registration of Documents Decree.

(2) Where the proprietor of land, a lease or a charge is a trustee, he shall, in dealing therewith be deemed to be the proprietor

thereof, and no disposition of such trustee to a bona fide purchaser for valuable consideration shall be defeasible by reason of the fact that such disposition amounted to a breach of trust.

Fees for delayed registration.

40.(1) An instrument shall be presented for registration within three months from the date of execution thereof.

(2) Where an instrument is presented for registration later than three months from the date of execution, an additional fee equal to the registration fee shall be payable for every period of three months or part thereof which has elapsed since the expiry of three months from the date of the instrument.

Provided that in no such case shall the sum of the additional fee exceed five times the original registration fee.

Power to compel registration.

41.(1) If the Registrar is satisfied that any person, through his willful default, has failed to register any instrument which is registerable under the Act, he may by notice in writing order such person to present such instrument for registration and thereupon the registration fee and any additional fee payable under section 40 of this Act shall become due and shall be payable whether the instrument is produced or not.

(2) Any person who fail to comply with an order of the Registrar under subsection (1) of this section within one month of the service of the notice shall be guilty of an offence.

Priority of registered interests.

42.(1) Interests appearing in the register shall have priority according to the order in which the instruments which led their registration were presented to the registry, irrespective of the date of the instruments and notwithstanding that the actual entry in the register may be delayed.

Provided that where an instrument is prepared in the registry it shall be deemed to have been presented on the date on which application for its preparation was made to the Registrar.

(2) Instruments sent by post or under cover and received during the hours of business shall be deemed to be presented simultaneously immediately before the closing of the office on that day, and instruments so sent but received between the time of closing and next opening of the office of business shall be deemed to be presented simultaneously immediately after such opening.

(3) Where more than one instrument or application is presented on the same day, or on different days but at so short an interval from each other that in the opinion of the Registrar there is doubt about their order or priority, the Registrar may refuse registration until he has heard and determined the rights of the parties interested thereunder.

Stay of registration.

43.(l) Where any person proposing to deal with registered land has, with the consent in writing of the proprietor, applied for an official search and has stated in his application the particulars of the proposed dealing, the registration of any instrument affecting the land to be comprised in or affected by the proposed dealing shall be stayed for a period thereafter referred to as the suspension period of fourteen days from the time at which application for the official search was made, and a note shall be made in the register accordingly.

(2) If within the suspension period a properly executed instrument affecting the proposed dealing is presented for registration, such instrument shall have priority over any other instrument which may be presented during the suspension period, and shall be registered notwithstanding any caution or other entry for which application for registration may have been made during the suspension period.

(3) Subject to subsection (2) of this section, any instrument or document for which application for registration is made during the suspension period, other than that affecting the proposed dealing, shall be dealt with in the same manner, shall have the same priority and shall be as effectual as if no stay of registration had been obtained.

Merger of registered interests.

44. Where upon the registration of dealing, the interests of –

- (a) lessor and lessee; or
- (b) charger and chargee, or
- (c) the proprietor of a parcel which is burdened with an easement, profit or restrictive agreement and the proprietor of a parcel which benefits therefrom, vest in the same proprietor, such interests shall not merge unless a surrender or discharge is registered or the parcels are combined or there is a declaration of merger, which may be contained in the instrument evidencing the dealing.

Division 2

Leases.

Leases

45. Subject to the provision of this Act and any other law, the proprietor of land may lease the land or part of it to any person for a definite term or for the life of the lessor or of the lessee or for a period which though indefinite may be determined by the lessor or the lessee, and subject to such conditions as he thinks fit.

Periodic tenancy.

Provided that, if only part of the land is leased, the lease shall be accompanied by a plan or other description which the Registrar, in his absolute discretion, deems adequate to identify the part leased.

46.(1) Subject to any law governing agricultural tenancies –

- (a) where in any lease the term is not specified and no provision is made for the giving of notice to terminate the tenancy, the lease shall be deemed to have created a periodic tenancy.
- (b) where a proprietor of land permits the exclusive occupation of the land or any part thereof by any other person at a rent but without any agreement in writing, that occupation shall be deemed to constitute a periodic tenancy.
- (c) the period of a periodic tenancy created by this section shall be the period by reference to which the rent is payable, and the tenancy may be terminated by either party giving to the other notice, the length of which shall, subject to any other law, be not less than the period of the tenancy and shall expire on one of the days on which the rent is payable.

Registration of lease.

(2) No periodic tenancy of any kind shall be capable of registration.

47. A lease for a specified period exceeding two years, or for the life of the lessor or of the lessee, or a lease which contains an option whereby the lessee may require the lessor to grant him a further term which, together with the original term, exceeds two years, shall be in the prescribed form and shall be completed by –

- (a) opening a register in respect of the lease in the name of the lessee; and

	(b) filing the lease; and
Lessor's consent to dealing with lease.	(c) noting the lease in the encumbrances section of the register of the lessor's land or lease.
Lease of charged land.	<p>48. Upon the registration of a lease containing an agreement, expressed or implied, by the lessee that he will not transfer, sub-let, charge or part with possession of the land leased or any part thereof without the written consent of the lessor, the agreement shall be noted in the register of the lease and no dealing with the lease shall be registered until the written consent of the lessor, verified in accordance with section 113 of this Act, has been produced to the Registrar.</p>
Computation of lease.	<p>49. Where any land is subject to a charge, no lease of such land shall be registered without the previous consent in writing of the proprietor of the charge, verified in accordance with section 113 of this Act, unless the charge expressly dispenses with the necessity for such consent.</p>
Future leases.	<p>50.(1) Where a lease is expressed as commencing on a particular day, that day is excluded in computing the period.</p> <p>(2) Where no day of commencement is named, the lease shall be deemed to commence on the day it is executed.</p> <p>(3) Where the period is a year or a number of years, in the absence of an express agreement to the contrary, the lease shall last during the whole anniversary of the day on which such period commences.</p>
Holding over.	<p>51.(1) A lease may be made for a period to commence on a future date, not being later than twenty-one years from the date on which the lease is executed, but shall be of no effect unless it is registered.</p> <p>(2) An instrument purporting to create a lease to commence on a date more than twenty-one years after the date of the instrument, or to take effect on the fulfillment of any condition, is void.</p>
	<p>52.(1) Where a person, having lawfully entered into occupation of any land as a lessee, continues to occupy that land with the consent of the lessor after the termination of the lease, he shall, subject to the provisions of any law governing agricultural tenancies and in the absence of any evidence to the contrary, be deemed to be a tenant holding the land on a periodic tenancy on the same conditions as those of the lease so far as these conditions are appropriate to a periodic tenancy.</p>

Agreements implied in leases on the part of lessor.

(2) For the purposes of this section, the acceptance of rent in respect of any period after the termination of the lease shall, if the former tenant is still in occupation and subject to any agreement to the contrary, be taken as evidence of consent to the continued occupation of the land.

53.(1) Save as otherwise expressly provided in the lease, the lessor shall be implied in every lease to have agreed –

- (a) that, so long as the lessee pays the rent and observes and performs the agreement and conditions expressed or implied in the lease and on his part to be observed and performed, the lessee shall and may peaceably and quietly possess and enjoy the leased land during the period of the lease without any interruption from or by the lessor or any person rightfully claiming through him;
- (b) not to use or permit to be used any adjoining land of which he is the proprietor or lessee in any way which would render the leased land unfit or materially less fit for the purpose for which it is leased;
- (c) where part only of a building is leased, to keep the roof, main walls and main drains, and the common passages and the common installation of the lease;
- (d) where any dwelling-house, flat or room is leased furnished, that such house, flat or room is fit for habitation at the commencement of the lease;
- (e) that if at any time the leased premises are damaged or destroyed by fire, hurricane, civil commotion or any other accident not attributable to the negligence of the lessee or his servants so as to render the leased premises wholly or partially unfit for occupation, the rent or a just proportion thereof shall be suspended and cease to be payable until such premises have been rendered fit for occupation.

Provided that, if the leased premises have not been so rendered fit within six months of their damage or destruction, the lessee may, on giving one month's written notice, terminate the lease.

Agreements implied in leases on the part of lessee.

54. Save as otherwise expressly provided in the lease, the lessee shall be implied in every lease to have agreed -

- (a) to pay the rent reserved in the lease at the times and in

the manner therein specified;

- (b) to pay all rates, taxes and other outgoings which are at any time payable in respect of the leased premises during the continuance of the lease unless the same are payable exclusively by the lessor by virtue of any other law;
- (c) except where part only of a building is leased, or where a dwelling-house is leased furnished, to keep all building comprised in the lease and all boundary marks in repair;
- (d) where part only of a building is leased, or where a dwelling house is leased furnished, to keep the leased premises except the roof and main walls and main drains and the common passages and common installations, in repair;
- (e) to permit the lessor or his agent with or without workmen or others at all convenient times and after reasonable notice to enter on the leased premises and examine the condition thereof;
- (f) in the case of agricultural land, to farm the same in accordance with the practice and any rules of good husbandry, and to yield up the land at the end of the term in good condition.
- (g) to repair any defect or breach of agreement for which the lessee is responsible and of which notice has been given by the lessor to the lessee, within such reasonable period as may be specified in the notice; and
- (h) not to transfer, charge, sublease or otherwise part with the possession of the leased premises or any part thereof without written consent from the lessor but such consent shall not be unreasonably withheld.

Meaning of in repair.

55. Where an agreement is contained or implied in any lease to keep a building or a particular part thereof "in repair", it shall, in the absence of an express provision to the contrary, mean in such state or repair as that in which a prudent owner might reasonably be expected to keep his property, due allowance being made for the age, character and locality of the building at the commencement of the lease.

Lessor's right of forfeiture.

Provided that there shall not be read into such an agreement and undertaking to put any building into a better state of repair than that in which it was at the commencement of the lease.

56.(1) Subject to the provisions of section 59 of this Act and to any provision to the contrary in the lease, the lessor shall have the right to forfeit the lease if the lessee –

- (a) commits any breach of or omits to perform, any agreement or condition on his part expressed or implied in the lease;
or
- (b) is adjudicated a bankrupt; or
- (c) being a company, goes into liquidation.

(2) The right of forfeiture may be –

- (a) exercised, where neither the lease nor any person claiming through or under him is in occupation of the leased land, by entering thereon and remaining in possession thereof;
or
- (b) enforced by action in the Court.

(3) The right of forfeiture shall be taken to have been waived if –

- (a) the lessor accepts rent which has become due since the breach of the agreement or condition which entitled the lessor to forfeit the lease or has by any other positive act shown an intention to treat the lease as subsisting and;
- (b) the lessor is, or should by reasonable diligence have become aware of the commission of the breach.

Effect of forfeiture on subleases.

Provided that the acceptance of rent after the lessor has commenced an action in the Court under subsection (2) of this section shall not operate as a waiver.

57. The forfeiture of a lease terminates every sublease and every other interest in the register relating to that lease, but –

- (a) where the forfeiture is set aside by a Court on the grounds that it was procured by the lessor in fraud of the sublessee; or
- (b) where a court grants relief against the forfeiture under section 59 of this Act, every such sublease and other interest shall be deemed not to have terminated.

Notice before forfeiture.

58. Notwithstanding anything to the contrary contained in the

lease, no lessor shall be entitled to exercise the right of forfeiture for the breach of any agreement or condition in the lease, whether expressed or implied, until the lessor has served on the lessee a notice –

- Relief against forfeiture.
- (a) specifying the particular breach complained of, and
 - (b) if the breach is capable of remedy, requiring the lessee to remedy the breach within such reasonable period as is specified in the notice; and
 - (c) in any case other than nonpayment of rent, requiring the lessee to make compensation in money for the breach, and the lessee has failed to remedy the breach within a reasonable time thereafter, if it is capable of remedy, and to make reasonable compensation in money.

59.(1) A lessee upon whom a notice has been served under section 58 of this Act, or against whom the lessor is proceeding by action or re-entry to enforce his right of forfeiture, may apply to the Court for relief, and the Court may grant or refuse relief, as it thinks fit, and, if it grants relief, may grant it on such terms as it thinks fit.

Provided that nothing in this subsection shall apply in the case of a forfeiture arising from a breach to which the sub-lessee is a party, or from the breach of an expressed agreement or condition against subleasing, parting with the possession of or disposing of the property.

- Variation and extension of leases.
- (2) This section shall have effect notwithstanding any stipulation or agreement to the contrary and whether the lease is registered or not.

60. Subject to the provisions of section 58 of this Act, the agreements and conditions expressed or implied in any registered lease may be varied, negatived or added to and the period of any registered lease may from time to time be extended by an instrument executed by the lessor and lessee and registered before the expiration of the then current term of the lease.

Substitution of leases.

61. Where upon presentation of a lease for registration the Registrar is satisfied that , the lessee is the person registered as the proprietor of a prior lease in respect of the same land, he shall cancel the registration of the prior lease and register the new lease subject to the encumbrances registered against the prior lease.

Subleases.

62.(1) Subject to any provision in his lease affecting his right to do so, the proprietor of a registered lease may, by instrument in the prescribed form, sublease for any period of his lease.

(2) Save as otherwise provided in this Act, the provisions of this Act affecting leases, lessors and lessees shall apply to subleases, sublessors and sublessees, with such adaptations as are necessary.

(3) If a lease is terminated by operation of law or by surrender under any law relating to bankruptcy or liquidation proceeding, such termination shall terminate the sublease.

(4) In addition to the agreements specified in this Act to be implied in lease, there shall be implied in every sublease under this Act an agreement by the sublessor that he will, during the continuance of the sublease, pay the rent reserved by the lease under which the sublessor holds, and observes and performs the agreements and conditions thereof.

(5) Where a sub-lessee has paid to the sublessor's lessor the rent or any part of the rent payable by the sublessor under the lease under which the sublessor holds, the sublessee shall be entitled to set off any sum so paid against the rent payable by him to the sublessor in respect of the sublease.

Surrender
of lease.

63.(1) Where the lessor and the lessee agree that a registered lease shall be surrendered, it shall be surrendered in the following manner –

- (a) either an instrument shall be prepared in the prescribed form, or the word "surrendered" shall be inscribed on the lease or on the duplicate or triplicate thereof;
- (b) the instrument or inscription shall then be executed by the lessor and lessee;
- (c) the Registrar shall then cancel the registration of the lease; and
- (d) the instrument or inscribed lease shall be filed, and thereupon, or upon such earlier date as is expressed in the instrument or inscription, the interest of the lessee shall cease.

Termination
of leases.

(2) No lease which is subject to a charge or a sublease shall be surrendered without the consent in writing of the proprietor of the charge or sublease.

64.(1) Where –

- (a) the period of the lease has expired; or
- (b) the event upon which a lease is expressed to terminate has happened; or
- (c) the lessor has lawfully re-entered and recovered possession of the leased land; or
- (d) a notice duly given to terminate the lease has expired and the lessor has recovered possession of the leased land, the lease and every other interest appearing on the register relating to the lease shall thereupon terminate, and the lessor may apply in writing to the Registrar to cancel its registration.

(2) An application under this section shall be supported by such evidence of the matter giving rise to the termination and the recovery of possession by the lessor as the Registrar may require, and the Registrar on being satisfied on the matters set forth in the application shall cancel the registration of the lease.

Division 3 - charges

Form and effect
of charges.

65.(1) A proprietor may, by instrument in the prescribed form, charge his land, lease or charge to secure payment of an existing or a future or contingent debt or other money or money's worth or the fulfillment of a condition, and the instrument shall contain a special acknowledgement that the charger understands the effect of section 73 of this Act, and the acknowledgement shall be signed by the charger or, where the charger is a corporation, by one of the persons attesting the affixation of the common seal.

Provided that the Minister may prescribe the persons, authorities or institutions in favour of which any land, lease or charge may be charged, and until the Minister so prescribes, no charge of any land, lease or charge shall be registered otherwise than in favour of a housing, agricultural or other bank established and operating in Zanzibar.

(2) A date for the repayment of the money secured by the charge may be specified in the instrument or charge and where no such date is specified or repayment is not demanded by the charges on the date specified the money shall be deemed to be repayable three months after the service of a demand in writing by the charges.

(3) The charge shall be completed by the registration as an encumbrance and registration of the person in whose favour it is created as its proprietor and by filing the instrument and the charge.

(4) A charge shall not operate as a transfer but shall have effect as a security only.

(5) There shall be included in an instrument of charge securing fulfillment of a condition or the payment of an annuity or other periodical payment not of the nature of interest on a capital sum such provisions as the parties think fit for disposing, subject to the provisions of section 77 of this Act, of money which may arise on exercise by the chargee of his power of sale either by setting aside the proceeds of sale or part thereof on investment to make future periodical payments, or by payment to the chargee of such proceeds or part thereof, to the extent of the estimated capital value of the chargee's interest, or otherwise.

Second or subsequent charges.

66. A proprietor whose land or lease is subject to a charge may create a second or subsequent charge in the same manner as the first charge and the same provisions shall apply thereto, but any sale under the power expressed or implied in any such charge shall be expressed to be subject to all prior charges unless all those charges have been discharged.

Presumption that money paid is interest.

67. If any question arises whether any payment made by the charger is in respect of principal or interest, such payment shall be presumed to be in respect of interest to the extent of all interest which is due and payable at the date of payment.

Agreements implied in charges.

68. There shall be implied in every charge, unless the contrary is expressed therein, agreements by the charger with the chargee binding the charger : -

- (a) to pay the principal money on the day therein appointed and, so long as the principal sum or any part thereof remains unpaid, to pay interest thereon at the rate and on the days and in the manner therein specified;
- (b) to pay all rates, taxes and other outgoings which are at any time payable in respect of the charged property;
- (c) to repair and keep in repair all buildings or other improvements upon the charged land and to permit the chargee or his agent, at all reasonable notice to the charger, to enter the land and examine the condition of such buildings or improvements;

- (d) to insure and keep insured all buildings upon the charged land against loss or damage by fire in the joint names of the charger and chargee with insurers approved by the chargee to the full value thereof;
- (e) in the case of charge of agricultural land, to farm the land in accordance with the rules of good husbandry;
- (f) in the case of a charge of land or of a lease, not to lease the charged land or part thereof, or sublease the whole or part of the land comprised in the charged lease for any period longer than one year without the previous consent in writing of the chargee, but such consent shall not be unreasonably withheld;
- (g) not to transfer the land, lease or charge or any part thereof without the previous consent in writing of the chargee, but such consent shall not be unreasonably withheld;
- (h) in the case of a charge of a lease, during the continuance of the charge to pay the rent reserved by the lease and observe and perform the agreements and conditions thereof, and keep the chargee indemnified against all proceedings, expenses and claims on account of non-observance of the said agreements and conditions, and, if the lessee has an enforceable right to renew the lease, to renew it;
- (i) where the charge is a second or subsequent charge, to pay the interest from time to time accruing due on each prior charge when it becomes due, and at the proper time to repay the principal money due, on each prior charge; and
- (j) that where the charger fails to comply with any of the agreements implied by paragraph (b), (c), (d), (e), (h) and (i) of this section, the chargee may spend such money as is necessary to remedy the breach, and may add the amount so spent to the principal money, and that thereupon the amount shall be deemed for all purposes to be part of the principal money secured by the charge.

Chargee's consent to transfer.

69. Where a charge contains an agreement, expressed or implied, by the charger with the chargee that he will not transfer the land, lease or charge or any part thereof without the consent in writing of the chargee, the agreement shall be noted in the register, and no

transfer by the charger shall be registered until the written consent of the chargee, verified in accordance with section 113 of this Act, has been produced to the Registrar.

Variation
of charges.

70. The amount secured, the method or repayment the rate of interest or the term of the charge may be varied by the presentation and registration of an instrument of variation executed by the charger and chargee, but no such variation shall affect the rights of the proprietor of a second or subsequent charge unless he has consented to the variation in writing on the instrument of variation.

Charger's right
of redemption.

71.(1) Subject to the provisions of this section a charger, on payment of all money due and owing under the charge at the time of payment or on fulfillment of any condition secured thereby and on payment of any costs or expenses properly incurred by the chargee in exercising any power conferred on him by section 73 of this Act, may redeem the charged land, lease or charge at any time before it has been sold under section 76 of this Act, and any agreement or provision which purports to deprive the charger of this right of redemption shall be void, and, for the purpose of this subsection land, a lease or a charge shall be deemed to have been sold when a bid has been accepted at the auction sale.

(2) Where the charger wishes to redeem the charged land or lease or charge before the date for repayment specified in the charge, he shall be entitled to do so on payment to the redemption.

(3) Where no date for redemption is specified in the charge or where the charger, seeks to redeem the charged land or release of charge after the date specified in the charge, he shall give the chargee three months' notice of his intention to redeem the charged land or lease or charge or shall pay him three months' interest in lieu thereof.

(4) If at any time the charger is entitled and desires to repay the money secured by the charge and the chargee is not in Zanzibar or cannot be found or the Registrar is satisfied that the charge cannot be discharged otherwise, the charger may deposit the amount due with the Registrar in trust for the person entitled thereto, and thereupon the obligations of the charger under the charge shall cease, and the Registrar shall cancel the registration of the charge, and shall pay the amount deposited to the chargee if the chargee applies for it within six years from the date of deposit, and if the amount is not so claimed and paid it shall be appropriated to the general revenue of the Government of Zanzibar.

Provided that, prior to the cancellation of the registration, the Registrar may require that the charger shall publish in a newspaper approved by the Registrar, a notice of his intention to redeem the

charged land or lease or charge.

Right of third party to transfer of charge.

72. On his tendering to the chargee such sum as would have been payable to the chargee if the charger had sought to redeem the charge under section 71 of this Act, any of the following persons, that is to say –

- (a) any person (other than the chargee) who has an interest in the charged land, lease or charge; or
- (b) any surety for the payment of the amount secured by the charge; or
- (c) any creditor of the charger who has obtained an order of Court for sale of the charged land, lease or charge, may require the chargee to transfer the charge to him.

Chargee's remedies.

73.(1) If default is made in payment of the principal sum or of any interest or other periodical payment or part thereof, or in the observance or performance of any agreement expressed or implied in any charge, and such default continues for one month, the chargee may serve on the charger a notice in writing to pay the money due or to observe and perform the agreement, as the case may be.

(2) If the charger does not, within three months from the date of service of a notice served on him under subsection (1), comply with that notice, the chargee may –

- (a) appoint a receiver of the income of the charged property; or
- (b) sell the charged property,

Provided that a chargee who has appointed a receiver may not exercise the power of sale unless the charger fails to comply within three months from the date of service, with a further notice served on him under subsection (1).

(3) The chargee shall be entitled to sue for the money secured by the charge in the following cases only –

- (a) where the charge is bound to an agreement expressed or implied, to repay the same; or
- (b) where by any cause other than the wrongful act or charge of the chargee, the charged property is wholly or partially destroyed or the security is rendered insufficient and the chargee has given the charger a reasonable opportunity of

providing further security which will render the whole security sufficient, and the charger has failed to provide such security; or

- (c) where the chargee is deprived of the whole or part of his security by, on in consequence of, the wrongful act or default of the charger;

Provided that –

- (i) in the case specified in paragraph (a) of this subsection -
- (a) a transferee from the charger shall not be liable to be sued for the money unless he has agreed with the chargee to pay the same; and
 - (b) no action shall be commenced until a notice served in accordance with subsection (1) of this section has expired;
- (ii) the Court may, at its discretion, stay a suit brought under paragraph (a) or paragraph (b) of this subsection notwithstanding any agreement to the contrary, until the chargee has exhausted all his other remedies against the charged property, unless the chargee agrees to discharge the charge.

Appointment,
powers,
remuneration
and duties of
receiver.

74.(1) The appointment of a receiver under the powers conferred by section 73 of this Act, shall be in writing signed by the chargee and a copy shall be filed in the registry.

(2) A receiver may be removed at any time and a new receiver appointed in writing signed by the chargee and a copy of such new appointment shall be filed in the registry.

(3) A receiver appointed under this section shall be deemed to be the agent of the charger for the purposes for which he is appointed, and the charger shall be solely responsible for the receiver's act and defaults unless the chargee otherwise provided.

(4) The receiver shall have power to demand and recover all the income of which he is appointed receiver, by action or otherwise, in the name of the charger, and to give effectual receipts accordingly for the same.

(5) A person paying money to the receiver shall not enquire into

the validity of the receiver's appointment.

(6) Subject to the provision of subsection (8) of this section the receiver shall be entitled to retain out of any money received by him all costs, charges and expenses incurred by him as receiver, and, for his remuneration, a commission at such rate, not exceeding five percent of the gross amount of all moneys received, as is specified in his appointment, or if no rate is specified at the rate of five percent of that gross amount or such other rate as the charger and the chargee and any other chargees, if any, agree or the Court thinks fit to allow on application by the receiver for that purpose.

(7) The receiver shall apply insurance money in making good the loss or damage in respect of which the money is received.

(8) Subject to the provisions of subsection (7) of this section, the receiver shall apply all money received by him in the following order of priority –

- (a) in discharge of all rents, rates, taxes and outgoings whatever affecting the charged property; and
- (b) in keeping down all annual sums or other payments and the interest on all principal sums, having priority to the charge in right whereof he is receiver; and
- (c) in payment of his commission, costs, charges, and expenses and of the premiums of fire or other insurance policies, if any, properly payable under the charge or under this Act, and the cost executing necessary repairs directed in writing by the chargee; and
- (d) in or towards the discharge of the money secured by the charge, if so directed in writing by the charges, and shall pay the residue, if any, of the money received by him to the person who, but for the appointment of the receiver, would have been entitled to receive the income of which he is appointed receiver, or who is otherwise entitled to the charged property.

Chargee's powers of leasing.

75.(1) The proprietor of a charge of land or a lease who has appointed a receiver under the powers conferred on him by section 73 of this Act shall, in the absence of any expressed provision to the contrary contained in the charge, have power subject to the provisions of this Act and of any other law –

- (a) to grant leases in respect of the charged land or the land comprised in the charged lease or any parts thereof; and

- (b) to accept a surrender of any lease so granted and of any lease created by the charger and may, for such purposes, execute in the place of the charger any instrument required to effect such lease or surrender.
- (2) Every lease granted by a chargee shall –
 - (a) be made to take effect in possession not later than twelve months after its date;
 - (b) reserve the best rent that can reasonably be obtained, but without a fine or premium being obtained;
 - (c) be for a term not exceeding twenty - one years; and
 - (d) contain a declaration by the chargee that he has appointed a receiver and the date of such appointment.

Chargee's
power of sale.

76.(1) A chargee exercising his power of sale until act in good faith and have regard to the interests of the charger, and may sell or concur with any person in selling the charged land, lease or charge, or any part thereof, together or in lots, by public auction for a sum payable in one amount or by installments, subject to such reserve price and conditions of sale as the chargee thinks fit, with power to buy in at the auction.

(2) Where the charger is in possession of the charged land or the land comprised in the charged lease, the charges shall become entitled to recover possession of the land upon a bid being accepted at the auction sale.

(3) A transfer by a chargee in exercise of his power of sale shall be made in the prescribed form, and the Registrar may accept it as sufficient evidence that the power has been duly exercised, and any person suffering damage by an irregular exercise of the power shall have his remedy in damages only against the person exercising the power.

(4) Upon registration of such transfer, the interest of the charger as described therein shall pass to and vest in the transferee freed and discharged from all liability on account of the charge or on account of any other encumbrance to which the charge has priority (other than a lease, easement, profit or restrictive agreement subsisting at the time the charge was effected or to which the charge has consented in writing).

(5) A chargee, in exercising his power of sale, shall have the same powers and rights in regard to easements, profits and restrictive agreements as are conferred upon a proprietor by section 93, 94 and 95 of this Act.

Application of purchase money.

77. The purchase money received by the chargee who has exercised his power of sale, after discharge of any prior encumbrances to which the sale is not made subject or after payment into Court of a sum sufficient to meet any such prior encumbrance, shall be applied –

- (a) first, in payment of all costs and expenses properly incurred and incidental to the sale or any attempted sale;
- (b) secondly, in accordance with any expressed provision in the charge (as required by section 65(5) of this Act) for disposing of such money and, in the absence of any such expressed provision, in discharge of the money due to the charge at the date of the sale; and
- (c) thirdly, in payment of any subsequent charges in the order of their priority,

and the residue of the money so received shall be paid to the person who immediately before the sale was entitled to redeem the charged land, lease or charge.

Variation of powers.

78. The provisions of section 71(2) and (3), 73, 74, 75 and 76 of this Act may in their application to a charge be carried or added to in the charge –

Provided that any such variation or addition shall not be acted upon unless the Court, having regard to the proceedings and conduct of the parties and to the circumstances of the case, so orders.

No right of entry into possession or of foreclosure.

79. For the avoidance of doubt, it is hereby declared that the chargee shall not be entitled to foreclose, or to enter into possession of the land or the land comprised in a charged lease or to receive the rents or profits thereof by reason only that default has been made in the payment of the principal sum or of any interest or other periodical payment, or of any part thereof, or in the performance or observance of any agreement expressed or implied in the charge.

Discharge of charge.

80.(1) A discharge whether on the whole or of part of a charge shall be made by instrument in the prescribed form or, in the case of a discharge of the whole, by inscribing the word "Discharged" on the charge or the duplicate or triplicate thereof, and the instrument or inscription shall be executed by the chargee.

(2) A discharge shall be completed by cancellation in the register of the charge, or part thereof as the case may require, and by filing the instrument of discharge of the inscribed charge.

Satisfaction of charges.

81. Upon proof to the satisfaction of the Registrar –

(a) that all money due under a charge has been paid to the charges or by his direction; or

(b) that the event or circumstance has occurred upon which, in accordance with the provisions of any charge, the money thereby secured ceases to be payable and that no money is owing under the charge, the Registrar shall order the charge to be cancelled in the register, and thereupon the land, lease or charge shall cease to be subject to the charge.

Taking and further advances.

82.(1) Provision may be made in the charge for a chargee to make further advances or give credit to the charger on a current account, but, unless that provision is noted in the register, further advances shall not rank in priority to any subsequent charge except with the consent in writing of the proprietor of the subsequent charge.

(2) Except as provided in this section, there is no right to tack.

Consolidation of charges.

83. A chargee has no right to consolidate his charge with any other charge unless the right is expressly reserved in the charges or in one of them and 18 noted the register against all the charges so consolidated.

Division 4

Transfer

Transfer.

84.(1) A proprietor may transfer his land, lease or charge to any person, with or without consideration, by an instrument in the prescribed form.

(2) The transfer shall be completed by cancellation of the registration of the transferor and by Registration of the transferee as the proprietor of the land, lease or charge, and filing the instrument.

(3) The transferee of a charge may require the charger to execute the transfer for the purpose of acknowledging the amount due under the charge at the date of execution of the transfer.

Consolidation transfers not registerable.

85. A transfer to take effect on the happening of any event or on the fulfillment of any condition or at any future time shall not be capable of registration.

Conditions repugnant to interests transferred.

86.(1) Any condition or limitation purporting to restrain absolutely a transferee or any person claiming under him from disposing of the interest transferred shall be void.

(2) Any condition or limitation made in relation to a transfer which purports to terminate the interest of the transferee on the happening of any future event or on the failure of any future event shall be void.

(3) Except as provided in Division 5 of this Part, no transfer of a land shall contain a direction that the land shall be used or enjoyed by the transferee in a particular manner.

(4) This section shall not apply to Wakf properties.

Transfer of part.

87. No part of the land comprised in a register shall be transferred unless the proprietor has first subdivided the land and new registers have been opened in respect of each subdivision.

Transfer of leases.

88. On the transfer of a lease, unless the contrary is expressed in the transfer, there shall be implied;

(a) a warranty on the part of the transferor that the rent, agreements and conditions on the part of the lessee to be paid, performed and observed up to the date specified in the transfer or, if no such date is specified, the date of the transfer; and

(b) an agreement on the part of the transferee to pay the said rent as from the day following the date specified in the transfer or the date of the transfer, as the case may be, and to perform and observe the said agreements and conditions.

Effect of transfer on agreements in leases.

89. A transferee from a lessor or from a lessee shall have all the rights, and be subject to all the liabilities, of the lessor or lessee, as the case may be expressed or implied in the lease or arising or which have arisen thereunder, and the transferor shall cease to be under any obligation or to have any rights in respect of the lease;

Provided that nothing in this section shall affect rights or liabilities of the lessor or lessee as the case may be, in respect of a

breach of any of the agreements expressed or implied in the lease which occurred before the transfer.

Transfer subject to charges and interest.

90. In every transfer of land or a lease subject to a charge, there shall be implied an agreement by the transferee with the transferor to pay the interest secured by the charge at the rate and at the times and in the manner specified in the charge and to keep the transferor indemnified against the principal sum secured by the charge and from and against all liability in respect of any of the agreements on the part of the transferee therein expressly contained or implied.

Transfer subject to lease.

91. A transfer of land which is subject to a lease shall be valid without the lessee acknowledging the transferee as lessor, but nothing in this section –

- (a) shall affect the validity of any payment of rent made by the lessee to the transferor; or
- (b) shall render the lessee liable, on account of his failure to pay the rent to the transferee, for any breach of agreement to pay rent, before notice of the transfer is given to the lessee by the transferee.

Transfer of unregistered lease.

92. The transfer of a lease of registered land which lease does not require registration and is not registered, shall not itself require registration.

Division - 5

Easements, Profits and Restrictive Agreement

Easements.

93.(1) The proprietor of land or of lease may, by instrument in the prescribed form, grant an easement over his land or the land comprised in his lease, to the proprietor or lessee of other land for the benefit of that other land.

(2) Any proprietor transferring or leasing land or a lease may, in the transfer or lease, grant an easement for the benefit of the land transferred or leased over land retained by him, or reserve an easement for the benefit of land retained by him over the land transferred or leased.

- (3) The instrument creating the easement shall specify clearly –
 - (a) the nature of the easement, the period for which it is granted and any conditions limitations or restrictions

intended to affect its enjoyment; and

- (b) the land burdened by the easement and, if required by the Registrar, the particular part thereof; and
- (c) the land which enjoys the benefit of the easement, and shall, if required by the Registrar, include a plan sufficient in the Registrar's estimation to define the easement.

(4) The grant or reservation of the easement shall be completed by its registration as an encumbrance in the register of the land or lease burdened and in the property section of the land which benefits, and by filing the instrument.

(5) An easement granted by the proprietor of a lease shall be capable of subsisting only during the subsistence of the lease.

Profits.

94.(1) The proprietor of land or of a lease may, by instrument in the prescribed form, grant a profit.

(2) The instrument shall specify clearly –

- (a) the nature of the profit and the period for which it is to be enjoyed; and
- (b) whether it is to be enjoyed in gross or as appurtenant to other land or a lease; and
- (c) whether it is to be enjoyed by the grantee exclusively or in common with the grantor.

(3) The grant of a profit shall be completed -

- (a) by its registration as an encumbrance in the register of the land or lease it affects; and
- (b) where it is appurtenant to other land or a lease, by its registration in the property section of the register of the land or lease to which it is appurtenant; and
- (c) by filing the instrument.

(4) A profit which is not appurtenant to land may be dealt with as though it were land and may be transferred or otherwise disposed of accordingly.

(5) A profit granted by the proprietor of a lease shall be capable of subsisting only during the subsistence of the lease.

Restrictive agreements.

95.(1) Where an instrument, other than a lease or charge, contains an agreement (hereinafter referred to as a restrictive agreement) by one proprietor restricting the building on or user or other enjoyment of his land for the benefit of the proprietor of other land, and is presented to the Registrar, the Registrar shall note the restrictive agreement in the encumbrances section of the register of the land or lease burdened by the restrictive agreement, either by entering particulars of the agreement or by referring to the instrument containing the agreement, and shall file the instrument.

(2) Unless it is noted in the register, a restrictive agreement is not binding on the proprietor of the land or lease burdened by it for on any person acquiring the land or lease.

(3) The note of a restrictive agreement in the register does not give the restrictive agreement any greater force or validity than it would have had if it had not been registerable under this Act and had been noted.

(4) In so far as the restrictive agreement is capable of taking effect, the proprietors and their respective successors in title shall be entitled to the benefit and shall be subject to the burden of it respectively, unless the instrument otherwise provides.

Release and extinguishment of easement, profits and restrictive agreements.

96.(1) Upon presentation of a duly executed release in the prescribed form the registration of the easement, profit or restrictive agreement shall be cancelled, and the easement, profit or restrictive agreement shall thereupon be extinguished.

(2) Upon the application of any person affected thereby, the Registrar may cancel the registration of the easement, profit or restrictive agreement upon proof to his satisfaction that –

- (a) the period of time for which it was intended to subsist has expired; or
- (b) the event upon which it was intended to terminate has occurred; or
- (c) it has been abandoned.

Discharge and modification of easement, profits and restrictive agreement by

97. Upon the application of any person interested in land affected by an easement, profit or restrictive agreement, the Court shall have power by order to extinguish wholly, partially, or to modify any such easement, profit or restrictive agreement, with or without payment by the applicant of compensation to any person suffering loss in consequence of the order, or being satisfied –

Court order.

- (a) that, by reason of changes in the character of the property or the neighbourhood or other circumstances of the case which the Court deems material, the easement, profit or restrictive agreement ought to be held to be obsolete; or
- (b) that the continued existence of the easement, profit or restrictive agreement impedes the reasonable user of the land for public or private purpose without securing practical benefits to other persons or, as the case may be, will unless modified so impede such user; or
- (c) that the proposed discharge or modification will not injure the person entitled to the benefit of the easement, profit or restrictive agreement.

Natural rights.

98. Nothing in this Act shall be construed as derogating from natural rights to water, light, air, support or access to a public road appertaining to any land, nor from such ancillary rights as are necessary for effective enjoyment of an easement.

Licences.

99.(1) Without prejudice to section 132(1) of this Act, a licence is not capable of registration.

(2) A licence relating to the use or enjoyment of land is ineffective against a bona fide purchaser for valuable consideration unless the licensee has protected his interest by lodging a caution under the said section.

Division 6

Co-proprietorship and Partition

co-

proprietorship.

100.(1) An instrument made in favour of two or more persons and the registration giving effect to it, shall show:-

- (a) whether such persons are joint proprietors or proprietors in common; and
- (b) where they are proprietors in common, the share of each proprietor.

Characteristics
of joint
proprietorship.

101.(1) Where two or more persons are joint proprietors of any land, lease or charge, no such proprietor shall be entitled to any separate share in the land, lease or charge, and consequently:-

- (a) dispositions may be made only by all the joint proprietors; and
 - (b) on the death of a joint proprietor, his interest shall vest in the surviving proprietor or proprietors jointly.
- (2) For the avoidance of doubt, it is hereby declared that:-
- (a) the sole proprietor of any land, lease or charge may transfer the same to himself and to another person jointly; and
 - (b) a joint proprietor of any land, lease or charge may transfer his interest therein to all the other joint proprietors.
- (3) Joint proprietors, not being trustees, may execute an instrument in the prescribed form signifying that they agree to sever the joint proprietorship, and the severance shall be completed by registration of the joint proprietors as proprietors in common with equal shares, and by filing the instrument.

Characteristics of proprietorship in common.

102.(1) Where two or more persons are proprietors in common of any land, lease or charge, each such proprietor shall be entitled to a separate undivided share in the whole and on his death his share shall be administered as part of his estate.

(2) No proprietor in common shall deal with his undivided share in favour of any person other than another proprietor in common of the same land except with the consent in writing of the remaining proprietor or proprietors of such land, but such consent shall not be unreasonably withheld.

Statutory trusts.

103. When :-

- (a) on first registration under this Act more than ten persons have been registered as proprietors in common of any land; or
- (b) the registration of a dealing results in more than ten persons being registered as proprietors in common of any land, such land shall be held under a statutory trust, and the Registrar shall enter a restriction in the register of such land prohibiting any dealing in the land and in any undivided share thereof until statutory trustees of such land shall have been appointed.

Appointment of statutory

104.(1) Upon entering a restriction under section 103 of this Act, the Registrar shall by notice require the proprietors in common named

trustees.

in the register to appoint not less than two and not more than four persons to be the statutory trustees of the land and for this purpose the Registrar may:-

- (a) summon all the said proprietors in common to appear before him at such place and such time as he may direct, to appoint such statutory trustees in his presence; all proprietors in common present shall be entitled to vote for the selection of persons to be appointed as statutory trustees, and the Registrar shall prepare and sign a record of the statutory trustees so appointed; or
- (b) accept a statement in writing, signed by more than half the number of proprietors in common named on the register and verified in accordance with section 113 of this Act, of the persons, being not less than two or more than four in number, appointed to be the statutory trustees of the land.

(2) If, after the expiry of reasonable time from the date of the notice issued under subsection (1) of this section, the proprietors in common named on register have failed to appoint statutory trustees, the Registrar may, and is so requested by any proprietor in common shall, by order appoint not less than two and not more than four persons to be the statutory trustees of the land.

Registration of statutory trustees.

105. Upon the appointment of statutory trustees under section 104 of this Act, the Registrar shall:-

- (a) cancel the names of all proprietors in common shown on the register; and
- (b) register in the proprietorship section of the register only the names of the persons appointed as statutory trustees, and add after their names the words "as statutory trustees", and
- (c) file:-
 - (i) the record of the appointment of statutory trustees in the presence of the Registrar in accordance with paragraph (a) of section 104 (1) of this Act; or
 - (ii) the statement of appointment of statutory trustees accepted by the Registrar in accordance with paragraph (b) of section 104 (1) of this Act; or

- (iii) the order of the Registrar appointing statutory trustees in accordance with section 104 (2) of this Act; and
- (d) compile and file a list of all occupants in common of the land and share of each; and
- (e) remove the restriction imposed under section 103 of this Act.

Effect of registration of statutory trustees.

106.(1) The registered statutory trustees of land shall have and may exercise the sole and exclusive right, subject to any entry in the register, to deal in the land, and an occupant in common of the land shall be entitled only to a share, corresponding to his undivided share, of the net proceeds of sale of the whole, and to any rents or profits until sale of the whole, but shall not be entitled to deal with his undivided share under this Act.

(2) Nothing in this Act shall relieve any registered statutory trustee from any duty, customary or otherwise, to consult the occupants in common of the land or lease, and any registered statutory trustee shall be bound to exercise the powers vested in him by this Act on behalf, on such occupants in common and for their collective benefit.

(3) Any failure by a registered statutory trustee to comply with any such duty or obligation shall in no way concern or affect any person dealing with him in good faith for valuable consideration nor shall any such failure create any right to indemnity under this Act.

Removal and replacement of statutory trustees.

107.(1) The Registrar shall:-

- (a) on proof to the satisfaction of the Registrar that a registered statutory trustee has died; or
- (b) on being informed in writing by a registered statutory trustee that he no longer wishes to act as a statutory trustee; or
- (c) on being informed in writing by any occupant in common of the land or lease, and on proof to the satisfaction of the Registrar, that a registered statutory trustee is unable to act as a statutory trustee by reason of age, physical disability, unsoundness of mind, absence from Zanzibar or imprisonment, cancel the registration of the name of such registered statutory trustee on the register.

(2) On application to the Court by any occupant in common of the land or lease that a registered statutory trustee should be removed for a breach of trust or for any other reason, the Court may order that the name of the registered statutory trustee shall be struck off the register, and upon receiving a certified copy of such order the Registrar shall cancel the name of such registered statutory trustee on the register accordingly.

(3) The occupants in common of the land or lease may, and if the registrar by notice so requires shall, from time appoint one or more persons to be added to the statutory trustees in accordance with the provisions of section 104 (1) of this Act, or if they fail to do so, the Registrar shall appoint such additional statutory trustees in accordance with section 104 (2) of this Act;

Provided that, the total number of statutory trustees appointed and registered shall at no time exceed four.

(4) So long as two or more statutory trustees remain on the register they shall have all the powers of statutory trustees under this Act.

(5) If less than two statutory trustees remain on the register, the Registrar shall enter a restriction in the register prohibiting any dealing in the land or lease and in any undivided share thereof until two or more statutory trustees shall have been appointed under this Act.

partition of
land held in
common.

108.(1) An application for partition of land held in common may be made to the Registrar by the statutory trustees or, in respect of land for which no statutory trustees have been appointed under the provisions of this Act, by one or more of the proprietors in common.

(2) Subject to the provisions of this Act and of any other law by which minimum area or frontages are prescribed or the consent of any authority is required, the Registrar shall effect the partition in accordance with any agreement of the statutory trustees or of the proprietors in common, as the case may be or, in the absence of agreement, in such manner as the Registrar may order.

(3) Partition shall be completed by closing the register of the parcel partitioned and opening new registers in respect of the new parcels created by the partition, and filing the agreement or order, and the instrument.

Where Registrar may order sale.

109. Where for any reason the land sought to be partitioned is incapable of partition or the partition would adversely affect the proper use of the land, and demand is made by the statutory trustees or by one or more of the proprietors in common, as the case may be that the land or any share or shares in land be sold, the Registrar shall, in default of any agreement between the occupants in common, value the land and the shares of the occupants in common and order the sale of the land or the separation and sale of such shares by public auction or make such other order for the disposal of the application as he thinks fit.

Procedure where share is small.

110.(1) Where the land sought to be partitioned is capable of partition generally, but the resultant share of any particular occupant in common or proprietor in common, as the case may be, would be less in area than any minimum prescribed by law, the Registrar shall add such share to the share of any other occupant or proprietor in common, or shall distribute such share to two or more other occupants or proprietors in common, as in default of agreement, he thinks fit.

(2) Where the Registrar proceeds in accordance with subsection (1) of this section, he shall assess the value of the share added or distributed and shall order that there be paid to the occupant or proprietor of the share by each occupant or proprietor who has received an addition to his share the value of such addition.

PART VI INSTRUMENT AND AGENTS

Division 1

Instrument

Form of instruments.

111.(1) Every disposition of land, a lease or a charge shall be effected by an instrument in the prescribed form or in such other form as the Registrar may in any particular case approve, and every person shall use a printed form issued by the Registrar unless the Registrar otherwise permits.

(2) Leases and charges shall be presented for registration in triplicate.

(3) Instruments shall contain a true statement of the amount or value of the purchase price or loan or other consideration, if any, and an acknowledgement of the receipt of the consideration.

112.(1) Every instrument evidencing a disposition shall be executed

Execution of instruments.

by all person shown by the register to be proprietors of the interest effected and by all other parties to the instrument:

Provided that the Registrar may dispense with execution by any particular party (other than a donee under a disposition by way of gift) where he considers that such execution is unnecessary.

(2) Subject to section 125 (2) of this Act, an instrument shall be deemed to have been executed only:-

(a) by a natural person, if signed by him;

(b) by a corporation:-

(i) if sealed with the common seal of the corporation affixed thereto in the presence of and attested by its clerk, secretary or other permanent officer and by a member of the board of directors, council or other governing body of the corporation; or

(ii) in the case of a corporation not required by law to have a common seal, if signed by such persons as are authorized in that behalf by any law or by the statute charter of the corporation or, in the absence of any expressed provisions, by the person duly appointed in writing for that purpose by the corporation, evidence of which appointment has been produced to the satisfaction of the Registrar.

Identity of the executor of instrument.

113.(1) Subject to the provision of subsection (3) of this section, a person who desires to execute an instrument or document shall appear before the Registrar or such public officer or other person as is prescribed and, unless he is known to the Registrar or such public officer or other person shall be accompanied by a credible witness for the purpose of establishing his identity.

(2) The Registrar or public officer or other person shall satisfy himself as to the identity of the person appearing before him and shall ascertain whether he freely and voluntarily executed the instrument or document and shall complete a certificate to that effect.

(3) An instrument which is required to be executed by or on behalf of the Government shall be deemed to be executed when it has been signed by the Minister for the time being responsible for land affairs.

(4) The Registrar may dispense with verification under this section:-

- (a) if he considers that, it cannot be obtained or can be obtained only with difficulty and he is otherwise satisfied that the document has been properly executed; or
- (b) in cases in which to his knowledge the document has been properly executed, and shall record on the document his reasons for dispensing with the appearance of the parties.

(5) No instrument executed out of Zanzibar shall be registered unless it has endorsed thereon or attached thereto a certificate in the prescribed form completed:-

- (a) if the instrument was executed in the commonwealth, by a judge, magistrate, justice of the peace, notary public or commissioner for oaths;
- (b) if the instrument was executed in a foreign country other than a commonwealth country by a Tanzanian or British consular official or pro-consul or other person or class of persons prescribed.

Stamp Duty.

114. No instrument required by law to be stamped shall be accepted for registration unless it is duly stamped.

Disposal of instruments.

115.(1) Subject to subsection (2) of this section and to section 117 (2) of this Act, all instruments accepted by the Registrar shall be retained in the registry for as long as they support a current entry in the register and for six years thereafter.

(2) When a lease or charge is registered, particulars of registration shall be noted on the duplicate and triplicate thereof, and the duplicate and triplicate shall be returned to the person who presented them.

(3) Six years or more after an entry in the register has been superseded or has ceased to have effect, the Registrar may destroy any instrument which supported that entry.

Minors.

116.(1) For the avoidance of doubt, it is hereby declared that the name of a person under the age of eighteen years may be entered in the register either on first registration or as a transferee or on transmission.

(2) Nothing in this section enables any such person to deal with land or any interest in land by virtue of such registration, and, where to

his knowledge a minor is registered, the Registrar shall enter a restriction accordingly.

(3) A minor or any person representing a minor who applies to register any disposition of land or any interest in land shall state in such application particulars of the age and date of birth of the said minor:

Provided that where a disposition by a minor whose minority has not been disclosed to the Registrar has been registered, such disposition may not be set aside only on the grounds of minority.

Division 2 Agents

117.(1) Except as provided in subsection (3) of this section, no instrument executed by any person as agent for any other person shall be accepted by the Registrar unless the person executing it was authorised in that behalf by a power of attorney executed and verified in accordance with section 112 and 113 of this Act.

Agents.

(2) The original of such power of attorney or, with the consent of the Registrar, a copy thereof certified by the Registrar shall be filed in the file of powers of attorney kept under section 6(f) of this Act.

(3) Where any person who, if not under a disability, might have made any application, done any act or been a party to a proceeding under this Act or any regulations made thereunder is a minor, a person of unsound mind or a person under any other disability, the guardian of such person, or if there is no such guardian, the person appointed under any law to represent that person, may make any application, do any act and be a party to any proceedings on behalf of the person, and shall generally represent that person for the purposes of this Act.

(4) Before accepting any document executed by a guardian or a person so appointed to represent a person under a disability, the Registrar shall satisfy himself that, the person claiming to be the guardian is entitled to execute the document or require the production of the appointment of the person so appointed, and shall file a note of the explanation which satisfied him or a copy of the appointment, as the case may be.

Gift to person under a disability.

118. A person under a disability who has been registered as proprietor of land, a lease or charge acquired by him by way of gift may, within six months after he ceases to be under a disability, repudiate the gift if he has not already disposed of the subject matter thereof, but no such repudiation shall be effective until:-

- (a) he has transferred the land, lease or charge to the donor who shall be bound to accept it; and

(b) the transfer has been registered.

Powers of attorney.

119.(1) Upon the application of the donor or the donee of a power of attorney which contains any power to dispose of any interest in land, such power of attorney shall be entered in the register of powers of attorney and the original, or with the consent of the Registrar a copy thereof certified by the Registrar, shall be filed in the file of powers of attorney kept under section 6(f) of this Act.

(2) Every such power of attorney shall be in the prescribed form or such other form as the Registrar may in any particular case approve, and shall be executed in accordance with sections 112 and 113 of this Act.

(3) The grantor of a power of attorney filed in accordance with subsection (1) of this section may, at any time give notice to the Registrar in the prescribed form that the power has been revoked, and thereupon the revocation shall be entered in the register of powers of attorney and noted upon the power, and the notice shall be filed in the file of powers of attorney.

(4) Any interested person may give notice in writing to the Registrar that a power of attorney which has been registered under subsection (1) of this section, has been revoked by death bankruptcy or disability of the grantor or the death or disability of the donee, accompanied by such evidence as the Registrar requires, and thereupon the revocation shall be entered in the register of powers of attorney and noted on the power, and the notice shall be filed in the file of powers of attorney.

(5) Subsections (3) and (4) of this section do not apply to a power of attorney given for valuable consideration during any time which it is by virtue of the terms thereof, irrevocable.

(6) If owing to the length of time since the execution of a power of attorney or for any other reason the Registrar considers it desirable, he may require evidence that the power has not been revoked, and may refuse to register any disposition by the donee of the power of attorney until satisfactory evidence is produced.

Effect of registered power of attorney.

120.(1) A power of attorney which has been registered under section 119 of this Act and of which no notice of revocation has been registered under that section, shall be deemed to be subsisting as regards any person acquiring any interest in land affected by the exercise of the power, for valuable consideration and without notice of revocation and in good faith, or any person deriving title under such person.

(2) Any person making any payment or doing any act in good faith in pursuance of a power of attorney registered under section 119 of this Act shall not be liable in respect of the payment or act by reason only that before the payment or act the donor of the power had died or become subject to a disability or become bankrupt, or had revoked the power, if the fact of death, disability, bankruptcy or revocation was not at the time of the payment or act known to the person making or doing the payment or act.

PART VII

TRANSMISSION AND TRUST

Transmission
on death of
joint proprietor.

121. If one of two or more joint proprietors of any land lease or charge dies the Registrar, on proof to his satisfaction of the death, shall cancel the name of the deceased in the register.

Transmission
on death of
sole proprietor
or proprietor in
common.

122. If a sole proprietor, or a proprietor in common of land in respect of which statutory trustees have been appointed, dies, his personal representative on application to the Registrar in the prescribed form and on production to him of the grant, shall be entitled to be registered by transmission as proprietor in the place of the deceased with the addition of the words "as executor of the will of deceased" or "as administrator of the estate of deceased", as the case may be.

(2) Upon production of the grant, the Registrar may without requiring the personal representative to be registered, register by transmission:-

- (a) any transfer by the personal representative; or
- (b) any surrender of a lease or discharge of a charge by the personal representative.

(3) In this section "grant" means the grant of probate of the will or letters of administration of the estate of the deceased proprietor.

(4) Nothing in this section shall be construed as affecting the right of a personal representative of a deceased occupant in common of land in respect of which statutory trustees have been appointed to transmit the rights in the undivided share to the heir or heirs of the deceased occupant, but such transmission shall not entitle any such heir to deal with an undivided share under this Act and shall not be registerable.

(5) On being informed in writing by the personal representative of the death of an occupant in common of land and on production of the grant, the Registrar shall cancel the name of the deceased occupant in common in the list filed in accordance with section 105(d) of this Act and enter the name or names of the new occupant or occupants and the share or each.

Transmission on death.

123.(1) Subject to any restriction on his power of disposing of the land, lease or charge contained in his appointment, the personal representative, or person beneficially entitled on the death of the deceased proprietor, as the case may be, shall hold the land, lease or charge subject to any liability, rights or interest which are unregistered but are nevertheless enforceable, and subject to which the deceased proprietor held the same, but for purpose of any dealing he shall be deemed to have been registered as proprietor thereof with all the rights conferred by this Act on a proprietor who has acquired land, or lease or a charge for valuable consideration.

(2) The registration of any person as aforesaid shall relate back to and take effect from the date of the death of the deceased proprietor.

Transmission on bankruptcy.

124.(1) A trustee in bankruptcy shall, upon production to the Register of a certified copy of the order of court adjudging a proprietor bankrupt, or directing that the estate of a deceased proprietor shall be administered according to the law of bankruptcy, be registered as proprietor of any land, lease or charge of which the bankrupt or the deceased proprietor is proprietor, in his place and a copy of the order shall be filed.

(2) A trustee in bankruptcy shall be described in the register as "trustee of the property of a bankrupt".

(3) The trustee in bankruptcy shall hold any land, lease or charge of which he is registered as proprietor subject to any restriction contained in any law relating to bankruptcy or in any order of court and subject to any liabilities, rights or interest which are unregistered but are nevertheless enforceable and subject to which the bankrupt or the deceased proprietor held the same, but for the purpose of any dealing with such land, lease or charge the trustee in bankruptcy shall have all rights and be subject to all the limitations conferred or imposed by this Act or any other law on a proprietor who has acquired land, a lease or a charge for valuable consideration.

Liquidation.

125.(1) Where a company, which is a registered proprietor of any land, lease or charge is being wound up, the liquidator shall produce to the Registrar any resolution or order appointing him liquidator, and the Registrar shall enter the appointment in respect of any land, lease or

charge of which the company is registered as proprietor, and shall file a copy of the resolution or order.

(2) An instrument executed by or on behalf of a company in liquidation presented for registration after the appointment of the liquidator under subsection (1) of this section, shall be sealed with the common seal of the company and attested by the liquidator or, in the case of a company not required by law to have a common seal, shall be signed by the liquidator whose signature shall be verified in accordance with section 113 of this Act.

Transmission of compulsory acquisition or order of court.

126. Where the Government or any person has become entitled to any land, lease or charge under any law or by virtue of any order or certificate of sale made or issued under any law, the Registrar shall, on the application of any interested person register the land as public land or register the person entitled as proprietor of the land, as the case may be.

Trusts.

127.(1) A person acquiring land or a lease or a charge on a fiduciary capacity may be described by that capacity in the instrument and, if so described, shall be registered with the additional words "as trustee" but the Registrar shall not enter particulars of trust in the register.

(2) An instrument which declares or is deemed to declare any trust, or a certified copy thereof, may be deposited in the registry for safe custody, but such instrument shall not form part of the register or be deemed to be registered.

(3) Where the proprietor of land, a lease or a charge is a trustee he shall hold the same subject to any unregistered liabilities, rights or interest to which it is subject by virtue of the instrument creating the trust, but for the purpose of any registered dealings he shall be deemed to be the proprietor thereof, and no person dealing in good faith for valuable consideration shall be deemed to have notice of the trust, nor shall any breach of trust create any right to indemnity under this Act.

Survivor of trustees.

128. Whenever two or more proprietors are registered jointly as trustees, and the survivor of such trustees would not be entitled to exercise alone the powers which are vested in them, the Registrar shall enter a restriction in the register to that effect.

PART VIII

RESTRAINTS ON DISPOSITION

Division 1 - Inhibitions

- Power of Court to inhibit registered dealings. 129.(1) The Court may make an order (hereinafter referred to as an inhibition) inhibiting for a particular time, or until the occurrence of a particular event, or generally until further order, the registration of any dealing with any land, lease or charge.
- (2) A copy of the inhibition under the seal of the Court, which particulars of the land, lease or charge affected thereby, shall be sent to the Registrar, who shall register it in the appropriate register, and no inhibition shall bind or affect the land, lease or charge until it has been registered.
- Effect of inhibition. 130. An instrument which is inconsistent with a registered inhibition shall, for so long as the inhibition remains registered, not be registered.
- Cancellation on inhibitions. 131. The registration of inhibitions shall be cancelled in the following cases –
- (a) on the expiration of the time limited by the inhibition; or
 - (b) on proof to the satisfaction of the Registrar of the occurrence of the event specified in the inhibition; or
 - (c) on the land, lease or charge being sold by a chargee, unless such sale in itself is inhibited; or
 - (d) by order of the Court.
- Lodging of cautions. 132.(1) Any person who –
- (a) claims any unregistrable interest whatsoever in land or a lease or a charge; or
 - (b) is entitled to a licence; or
 - (c) has presented a bankruptcy petition against the proprietor of any registered land, lease or charge; or

- (d) being a Bank, has advanced money on a current account to the proprietor of any land, lease or charge, may lodge a caution with the Registrar forbidding the registration of dispositions of the land, lease or charge concerned and the making of entries affecting the same.
- (2) A caution may either -
 - (a) forbid the registration of dispositions and the making of entries altogether; or
 - (b) forbid the registration of dispositions and the making of entries to the extent therein expressed.
- (3) A caution shall be in the prescribed form and shall state the interest claimed by the cautioner, and the Registrar may require the cautioner to support it by a statutory declaration.
- (4) The Registrar may refuse to register a caution which he considers unnecessary or the purpose of which he considers can be effected by the registration of an instrument under this Act.
- (5) Subject to the provisions of this section, a caution shall be registered in the appropriate register.

Division 2

Cautions

Notice and effect of cautions.

133.(1) The Registrar shall give notice in writing of a caution to the proprietor whose land, lease or charge is affected by it.

(2) So long as a caution remains registered no disposition which is inconsistent with it shall be registered except with the consent of the cautioner or by order of the Court.

Withdrawal removal of cautions.

134.(1) A caution may be withdrawn by the cautioner or removed by order of the Court or, subject to the provisions of subsection (2) of this section, by order of the Registrar.

(2)(a) The Registrar may, on the application of any person interested, serve notice on the cautioner warning him that his caution will be removed at the expiration of the time stated in the notice.

(b) If at the expiration of the time stated the cautioner has not

objected, the Registrar may remove the caution.

- (c) If the cautioner objects to the removal of the caution, he shall notify the Registrar in writing of his objection within the time specified in the notice, and the Registrar, after giving the parties an opportunity of being heard, shall make such order as he thinks fit, and may in the order make provision for the payment of costs.

(3) On registration of a transfer by a chargee in exercise of his powers of sale under section 76 of this Act, the Registrar shall remove any caution which purports to prohibit any dealing by the charger and which was registered after the charge by virtue of which the transfer has been effected.

(4) On the withdrawal or removal of a caution, its registration shall be cancelled, but any liability of the cautioner previously incurred under section 136 of this Act shall not be affected by the cancellation.

Second caution
in respect of
same matter.

135. The Registrar may refuse to accept a further caution by the same person or by anyone on his behalf in relation to the same matter as a previously registered caution.

Wrongful
cautions.

136. Any person who lodges or maintains a caution wrongfully and without reasonable cause shall be liable, in an action for damages at the suit of any person who has thereby sustained damage, to pay compensation to such person.

Division 3 Restrictions

Restrictions.

137.(1) For the prevention of fraud or improper dealing or for any other sufficient cause, the Registrar may, either with or without the application of any person interested in the land, lease or charge, after directing such enquiries to be made and, notices to be served and hearing such persons as he thinks fit, make an order (hereinafter referred to as a restriction) prohibiting or restricting dealings with any particular, land, lease or charge.

- (2) A restriction may be expressed to endure -
- (a) for a particular period; or
 - (b) until the occurrence of a particular event; or
 - (c) until the making of a further order,

and may prohibit or restrict all dealings or only such dealings as do not comply with specified conditions and the restriction shall be registered in the appropriate register.

(3) The Registrar shall order a restriction to be entered in any case where it appears to him that the power of the proprietor to deal with the land, lease or charge is restricted.

Notice and effect of restriction.

138.(1) Upon the entry of a restriction in the register the Registrar shall give notice thereof in writing to the proprietor affected thereby.

(2) So long as any restriction remains registered, no instrument which is inconsistent with it shall be registered except by order of the Registrar or of the Court.

Removal and variation of restrictions.

139.(1) The Registrar may at any time, upon application by any person interested or of his own motion, and after giving the parties affected thereby an opportunity of being heard, order the removal or variation of a restriction.

(2) Upon the application of a proprietor affected by a restriction, and upon notice thereof to the Registrar the Court may order a restriction to be removed or varied or make such other order as it thinks fit, and may make an order as to costs.

PART IX

RESCRIPTION

Acquisition of right of occupancy by prescription.

140.(1) The right of occupancy of land may be acquired by open, peaceful and uninterrupted occupation for a period of twelve years and without the permission of any person lawfully entitled to such right of occupancy.

Provided that no person shall so acquire the right of occupancy of land which is registered as public land or of land which is foreshore.

(2) Any person who claims to have acquired a right of occupancy of land by virtue of the provisions of subsection (1) of this section may apply to the Registrar to be registered as the proprietor thereof.

Principles of occupancy.

141.(1) Where it is shown that a person has, been in occupation of land, or in receipt of rents or profits thereof, at a certain date and is still in occupation or receipt thereof, it shall be presumed that he has, from that date, been in uninterrupted occupation of the land until the contrary be shown.

(2) Occupation of land or receipt of rents or profits thereof by any person through whom a claimant derives his occupation of the land shall be deemed to be or have been the occupation receipt of rents or profits of the claimant.

(3) Where from the relationship of the parties or from other special cause it appear that the person in occupation of the land was in occupation on behalf of another, his occupation shall be deemed to be the occupation of that other.

(4) If a person, whose occupation of land is subject to conditions imposed by or on behalf of the proprietor of the land, continues in such occupation after the expiry of the term during which such conditions subsist, without fulfillment or compliance with them by such person and without any exercise by the proprietor of his right to the land, such subsequent occupation shall be deemed to be peaceful, open and uninterrupted occupation within the meaning of section 140 of this Act.

(5) For the purposes of subsection (4) of this section a periodic tenancy shall be deemed to have terminated at the expiration of the period in accordance with section 46 (1) (c) of this Act:

Provided that where any rent has subsequently been paid in respect of the tenancy it shall be deemed to have terminated at the expiration of the period for which the rent has been paid.

(6) Occupation shall be interrupted –

- (a) by occupation by a person claiming the land in opposition to the person in occupation; or
- (b) by the institution of legal proceedings by the proprietor of the land to assert his right thereto; or
- (c) by any acknowledgement made by the person in occupation of the land to any person claiming to be the proprietor thereof that such claim is admitted.

(7) No person in occupation of land in a fiduciary capacity on behalf of another may acquire by prescription a right of occupancy of land as against such other.

Procedure of application.

142.(1) On application by any person for registration as proprietor under section 140 of this Act the application shall be advertised by the Registrar at the expense of the applicant in such manner as the

Registrar may direct.

(2) The Registrar shall give notice of any such application to the proprietor of the land affected and to any other persons who may, in his opinion, be affected thereby.

(3) After the month have elapsed from the date of giving notice under subsection (2) of this section the Registrar, on being satisfied that the applicant has acquired a right of occupancy of the land claimed, may allow the application and register him as proprietor of the land' claimed subject to any interests on the register which have not been extinguished by his occupation of the land.

Cap. 12 –
Acquisition of
easements and
profits.

143.(1) Subject to the provisions of the Limitation Decree, easements and profits may be acquired by open, peaceable, and uninterrupted enjoyment thereof for a period of twelve years:

Provided that this section shall not apply to any easement or profit affecting registered public land or to land which is foreshore or to any public right of way.

(2) Where any person claims to have acquired an easement or profit by virtue of the provisions of subsection (1) of this section, he may apply to the Registrar for registration thereof and the Registrar, on being satisfied as to the claim and subject to such notices, advertisements and conditions as the Registrar may direct, shall register the easement or profit as an encumbrance in the register of the land affected and, in the case of an easement or a profit which is appurtenant to land, in the property section of the register which benefits.

RECTIFICATION AND INDEMNITY

Rectification
by Registrar.

144.(1) The Registrar may rectify the register or any instrument presented for: registration in the following cases:-

- (a) in formal matter and in the case of errors or omissions not materially affecting the interest of any proprietor;
- (b) person has acquired an interest in land by prescription under Part IX of this Act;
- (c) in any case at any time with the consent of all persons interested;
- (d) where, upon resurvey, a dimension or area shown in the Registry Map in any register is found to be incorrect, but in such case the Registrar shall first give notice to all persons

appearing by the register to be interested or affected of his intention to rectify.

(2) Upon proof of the charge of name or address of any proprietor the Registrar shall on the written application of the proprietor, make an entry in the register to record the change.

Rectification
by the Court.

145.(1) Subject to subsection (2) of this section the Court may order rectification of the register by directing that any registration be cancelled or amended where it is satisfied that any registration (including a first registration) has been obtained, made or omitted by fraud or mistake.

(2) The Register shall not be rectified so as to affect the title of a proprietor who is in occupation and acquired the land, lease or charge for valuable consideration, unless such proprietor had knowledge of the fraud, mistake or omission in consequence of which the rectification is sought, or caused such fraud, mistake or omission or substantially contributed to it by his act, negligence or default.

Right to
indemnity.

146.(1) Subject to the provisions of this Act and of any law relating to limitation of actions, any person suffering damage by reason of –

- (a) any rectification of the register under this Act; or
- (b) any mistake or omission in the register which cannot be rectified under this Act, other than a mistake or omission in a first registration; or
- (c) any error in a copy of or extract from the register or in a copy of or extract from any document or plan certified under this Act, shall be entitled to be indemnified by the Minister out of the public fund of the Government of Zanzibar.

(2) No indemnity shall be payable under this Act to any person who has himself caused or substantially contributed to the damage by his fraud or negligence, or who derives his title (otherwise than under a registered disposition made bona fide for valuable consideration) from a person who so caused or substantially contributed to the damage.

Amount of
indemnity.

147. Where an indemnity is awarded in respect of the loss of any interest in land, it shall not exceed –

- (a) where the register is not rectified, the value of the interest at the time when the mistake or omission which caused the loss was made; or

- (b) where the register is rectified, the value of the interest immediately before the time of rectification.

Procedure for claiming indemnity.

148. The Registrar may, on the application of any interested party, determine whether a right of indemnity has arisen under this Part and, if so, award indemnity, and may thereto award any costs and expenses properly incurred in relation to the matter.

Recovery of indemnity paid.

149. Where any moneys are paid by way of indemnity under this Part, the Minister is entitled to recover by suit or otherwise amount so paid from any person who has caused or substantially contributed to the damage by his fraud or negligence and to enforce any expressed or implied agreement or other right which the person who is indemnified would have been entitled to enforce in relation to the matter in respect of which the indemnity has been paid.

Errors in survey.

150.(1) As between the Government and a proprietor, no indemnity shall arise and no suit shall be maintained on account of any surplus or deficiency in the area or measurement of any land disclosed by a survey showing an area measurement differing from the area or measurement disclosed on any subsequent surveyor from the area or measurement shown on the Registry Map or in a register.

(2) As between a proprietor and any person from or through whom he acquired the land, no claim to indemnity shall be maintainable on account of any surplus or deficiency in the area or measurement above or below that shown in any other surveyor above or below the area or measurement shown on the Registry Map or in a register, after a period of six months from the date of registration of the instrument under which the proprietor acquired the land.

PART XI APPEALS FROM DECISIONS OF THE REGISTRAR

Registrar may state case.

151. Wherever any question arises with regard to the exercise of any power or the performance of any duty conferred or imposed on him by this Act, the Registrar may state a case for the opinion of the Court, and thereupon the Court shall give its opinion thereon, which shall be binding on the Registrar.

Appeals.

152.(1) The Minister or any person aggrieved by a decision, order, determination or award of the Registrar determination or award, may give notice to the Registrar in the prescribed form of his intention to appeal to the Court against the decision, direction, order, determination or award.

- (2) On receipt of a notice of appeal, the Registrar shall prepare

and send to the Court and to the appellant, and to any other person appearing to him from the register to be affected by the appeal, a brief statement of the question in issue.

(3) On the hearing of the appeal the appellant and the Registrar and any other person who, in the opinion of the Court is affected by the appeal, may, subject to any rules of court, appear and be heard in person or by advocate.

(4) The Court may make such order on the appeal, as the circumstances may require, and every such order shall be given effect by the Registrar.

(5) The costs of the appeal shall be in the discretion of the Court.

Effect of appeal on disposition.

153.(1) An appeal to the Court shall not affect a disposition for valuable consideration made in good faith and registered before presentation to the Registrar of the appeal under section 152(1) of this Act.

(2) A note that an appeal is pending shall be, made in the register affected by the appeal and any disposition shall be subject to such notice.

Appeal rules.

154. The Chief Justice may make rules of Court for regulating applications and appeals to the Court under this Act and for the fees to be paid in respect thereof.

PART XII

MISCELLANEOUS

Addresses.

155. Any person who under this Act submits a caution or any instrument for registration, or is the proprietor of any land, lease or, charge, shall furnish to the Registrar in writing a postal address in Zanzibar for service, and shall notify him in writing of any change of address.

Service of notices.

156. A notice under this Act, shall be deemed to have been served on or given to any person -

- (a) if served on him personally; or
- (b) if sent by registered post to him at this last known address in Zanzibar or elsewhere; or

- (c) if served on an attorney holding a power of attorney whereunder such an attorney is authorised to accept such service; or
- (d) if service cannot be effected in one of the above mentioned ways, by displaying the notice in a prominent place on the land.

Meaning of "opportunity of being heard".

157.(1) Where by this Act a thing is to be or may be done after giving a person an opportunity of being heard, that person shall be deemed to have been given such an opportunity –

- (a) if he attends before the Registrar personally or by agent, and is given such an opportunity;
- (b) if he intimates, personally or by agent, that he does not wish to be heard; or
- (c) if he has been served with a notice in writing specifying the thing to be done and appointing a day and time not less than thirty days after service of the notice at which he will, if he attends before the Registrar be heard.

(2) Where a person or his agent attends before the Registrar concerning a matter on which he is entitled to be heard, or fails to attend pursuant to such a notice as aforesaid, the Registrar, if he thinks fit, may adjourn the hearing from time to time, and, notwithstanding failure to attend, may if he thinks fit, hear such person at any time.

(3) Where by this Act all persons interested are to be given an opportunity of being heard, it shall be sufficient if all persons who, according to any subsisting entry in the register, appear to be interested are given such opportunity.

Offences.

158.(1) Any person who -

- (a) fraudulently issues or makes, or fraudulently procures the issue of or making of any certificate or other document, or any registration, or any erasure or alteration in any certificate, other document or register; or
- (b) fraudulently removes from a registry any register of filed instrument; or
- (c) causes any defacement, obliteration, mutilation or unauthorised entry to be made in any register of filed

instrument, shall be guilty of an offence and liable to a fine not exceeding forty thousand shillings or to imprisonment for a term not exceeding three years, or to both such fine and imprisonment.

- (2) Any person who –
 - (a) knowingly misleads or deceives any person authorized by or under this Act to require information in respect of any land or interest in land;
 - (b) willfully defaces, removes, injures or otherwise impairs any boundary feature, unless authorized to do so by the Registrar, shall be guilty of an offence and liable to a fine of four thousand shillings or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.
- (3) Any person who –
 - (a) after delivery to him of a summons to attend before the Registrar or to produce any document, neglects or refuses without reasonable cause to attend in accordance with the summons or to produce any document which he is required by the summons to produce, or to answer upon oath or otherwise any question lawfully put to him by the Registrar; or
 - (b) allows a boundary feature for which he is responsible by virtue of an order made under section 22(3) of this Act, to fall into disrepair or be removed or destroyed; or
 - (c) when ordered by the Registrar under section 22(2) of this Act to demarcate a boundary, fails to comply with such order, shall be guilty of an offence and liable to a fine not exceeding two thousand shillings or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

Fees. 159. There shall be payable in respect of land certificates, certificates of lease, it searches, survey plans and other matters connected with registration, such fees as shall from time to time be prescribed and the Registrar shall refuse registration until the fees are paid.

160. Any expenses incurred by the Registrar or on his behalf shall constitute a civil debt recoverable summarily by the Registrar in

Recovery of unpaid expenses.

the appropriate court.

161. Any sum of money ordered by the Registrar to be paid in the exercise of any power conferred on him by this Act shall be deemed to be a decree of the High Court and shall be enforceable as such.

Enforcement of Registrar's orders for payment.

162. Notwithstanding the provisions of the Magistrates' Courts Act, civil suits and proceedings relating to proprietorship of land or a lease or a charge registered under this Act, or to any interest in any such land, lease or charge, being an interest which is registered or registerable under this Act, or being an overriding interest which is expressed by section 30 of this Act not to require registration, shall be tried by the High Court, or, where the value of the subject matter in dispute does not exceed forty thousand shillings, by the High Court or a subordinate Court presided over by a Resident Magistrate, as the High Court shall direct.

Suits to be tried by High Court.

Regulations.

163. The Minister may make regulations generally to give effect to the purposes and procedures of this Act, and in particular and without prejudice to the generality of the foregoing, for prescribing the form of the registers and instruments to be used and the fees of the registers and instruments to be used and the fees payable for anything to be done under this Act, and for prescribing anything under this Act may be prescribed.

Savings of rights of Government.

164. Nothing in this Act shall prejudice any of the interest, rights, powers and privileges conferred on the Government by any other law.

Act to bind Government.

165. Subject to the provisions of section 164, this Act shall bind the Government.

Other law.

166. Any matter not provided for in this Act or in any other law in relation to land, leases or charges and interest therein registered under this Act shall be decided in accordance with the principles of justice, equity and good conscience.

Cessation of application of certain laws.

167.(1) Without prejudice to anything done thereunder, the following laws shall, upon first registration of any land under this Act, cease to apply to such land -

- (a) Transfer of Property Decree, in so far as it concerns immovable property;

- (b) Registration of Documents Decree.
- (2) The following Decrees are hereby repealed:-
 - (a) Arab and African Guardianship;
 - (b) Land Alienation.

PASSED by the House of Representatives of Zanzibar on the 20th day of December, 1989.

KHAMIS JUMA CHANDE
CLERK OF THE HOUSE OF REPRESENTATIVES

Land Tenure Act No. 12 of 1992

THE LAND TENURE ACT, NO.12 OF 1992

ARRANGEMENT OF SECTIONS

SECTIONS

TITLE

PART I PRELIMINARY

1. Short title and commencement.
2. Interpretation.

PART II PUBLIC LAND

3. Public Land.
4. Confiscated Land.
5. Easements.
6. Boundaries of Public Lands.

PART III RIGHT OF OCCUPANCY TO LAND

7. Right of Occupancy.
8. Conditions of Right of Occupancy.
9. Execution of Right of Occupancy.
10. Effect of Registration.
11. Registration of Provisional Rights of Occupancy.
12. Charges.
13. Default of a Charge.
14. Charges involving Joint or Communal Interests.
15. Size of a Right of Occupancy.
16. Joint Holdings of inherited land.
17. Effect of creation of Jointly Held Interest.
18. Sale of a Right of Occupancy.

PART IV RIGHT TO OWNERSHIP OF TREES

19. Ownership of Trees.
20. Inheritance of Trees.
21. Sale of Trees.
22. Urban Trees.

**PART V
GRANTS OF PUBLIC LANDS**

23. Grants of Land.
24. Right of a Grant of land.
25. Fees Applicable.
26. Status of Grant to land.
27. Inheritance or sale of granted land.
28. Effect of Adjudication on the prior holding of an individual.
29. Refusal or failure to exercise option.
30. Allocation procedure for a grant.
31. Retention of possession.
32. Reallocation.
33. Provisional grant of a Right of Occupancy.
34. Appeal from the Allocation Procedure.
35. Rights of Joint Holders.
36. Sale of Granted Land.
37. Disagreements among joint holders.
38. Appeals of partition Decisions.
39. Urban grants.
40. Inheritance of urban land.
41. Sale of granted urban land.
42. Agricultural grants.
43. Size of grant.
44. Sale of granted agricultural land.
45. Inheritance of agricultural land.

**PART VI
LEASES**

46. Leases to Public Land under Government control.
47. Duration and status of leases of public land under Government control.
48. Violation of the restrictions in a Lease.
49. Appeal of decision for termination.
50. Leases of Right of Occupancy.
51. Duration and status of lease of right of occupancy.
52. Violation of the Restrictions in a Lease of Right of Occupancy.
53. Size of Lease to agricultural right of occupancy.
54. Effect of Lease of Right of Occupancy.

**PART VII
TERMINATION OF RIGHTS OF OCCUPANCY**

55. Termination of right of occupancy.
56. Right to terminate national interest.
57. Zanzibari requirement.

58. Forfeiture.
59. Abandoned land.
60. Idle land.
61. Termination of a jointly held Right of Occupancy.
62. Challenge to an Order of Termination.
63. Compensation upon termination.
64. Relinquishment of possession.
65. Disagreement over value of property.

**PART VIII
MISCELLANEOUS PROVISIONS**

66. Effective date of grants.
67. Regulations.
68. Saving the right of Government.
69. Repeals.

ACT NO.12 OF 1992

I ASSENT

**{ DR. SALMIN AMOUR }
PRESIDENT OF ZANZIBAR AND
CHAIRMAN OF THE REVOLUTIONARY COUNCIL**

29 January 1993

**AN ACT TO PROVIDE FOR LAND OWNERSHIP, USE AND
RIGHTS ATTACHED TO LAND AND MATTERS
CONNECTED OR INCIDENTAL THERETO**

ENACTED by the House of Representatives of Zanzibar.

**PART I
PRELIMINARY**

- | | |
|-------------------------------|---|
| Short title and commencement. | 1. This Act may be cited as the Land Tenure Act of 1992, and shall come into operation immediately upon being assented to by the President. |
|-------------------------------|---|

Interpretation.

2. In this Act, unless the context otherwise requires:-

"abandoned lands" means land which is not in the possession by the person who has the possessory interest for a prescribed statutory period of time;

"adjudication" means the process of regularising land interest as set out under the Land Adjudication Act of 1989;

"allocation" means the process the Government uses to provide an interest in land to an individual or a group of persons;

"charge" means a mortgage or an interest in land securing payment of money or money's worth or the fulfillment of any condition, and includes, a surcharge and the instrument creating a charge;

"charger" means the proprietor of a charge as defined by the Registered Land Act;

"chargee" means the proprietor of a charged land or of a charged lease or charge as defined by the Registered Land Act;

"Commission" means the Commission for Lands and Environment;

"communal interest" means an interest in land which is held in concert by more than one unrelated person;

"consolidation" means the reallocation of land in order to conform the size of the parcels to the provisions of this Act;

"court" shall mean the Lands Tribunal unless expressly provided otherwise;

"easement" means easement as defined in the Registered Land Act of 1989;

"economic trees" means those trees in urban areas

that are not used for beautification or other ornamental purposes and have an economic value because of the fruit they bear or because of their value as timber or for preservation of environment;

“grant” means the provision of a parcel(s) of land from the Government to an individual or a group of individuals because of their eligibility to receive public land or because of land adjudication;

“holder” means the person who has the right to the interest of a right of occupancy;

“idle lands” means land that is not used in accordance with prior existing plans, in conformity with land capability analyses or in accordance with practices of good husbandry during a defined statutory period;

“improvement” means unexhausted improvement;
“instrument” shall assume the meaning ascribed to it by the Registered Land Act;

“interest” means the right of an individual or group of individuals to the right of occupancy defined parcel of land;

“interest holder” means the person or the body of persons named in the register as the rightful holder in relation to a parcel of land or a lease to a parcel of land or a person or persons named in the register in whose favor a charge was made;

“joint interest” means an interest in land that is held together with other persons under the requirements of this Act;

“land” includes land covered by water, all things growing on land, and buildings and other things permanently affixed to land, except trees when specifically classified and owned separately;

“land adjudication” means adjudication as defined above;

“Land Adjudication Act” means the Land Adjudication Act, 1989;

“lease” means a grant, with or without consideration, by the Government or interest holder of land, of the right to exclusive possession of the land in question, and includes the right so granted and the instrument granting it, but it does not include an agreement to lease the land in accordance with the definition so ascribed to lease by the Registered Land Act;

“lessee” means the holder of a lease;

“lessor” means the interest holder of the leased land, and includes, in respect of a sub-lease, the proprietor of a lease;

“Minister” means the Minister for the time being responsible for land affairs;

“natural land” means any land taken in its natural state without man made improvements;

“ornamental trees” means those trees found in the urban area that are used for beautification or otherwise enhance the appearance of their sites and the conservation of environment;

“parcel” means an area of land separately delineated on a demarcation or Registry map and thereby given a number as specified in the Land Adjudication and Land Registration Act;

“person” includes a group of persons, a corporate body and any institution authority or commission empowered by law to hold land;

“President” means the President of Zanzibar;

“public land” means all land in Zanzibar which can be held by either the Government or private persons;

“Registered Land Act” means the Registered Land

Act, 1989;

“residence” means the building in which a person resides;

“right of occupancy” means the exclusive right to the use and occupation of land in accordance with the provisions of this Act;

“rural lands” means any lands lying outside the area classified as urban land;

“trees” includes palms, bamboos, shrubs, bushes, stumps, seedlings, saplings and reshoots of all ages;

“unexhausted improvement” means anything permanently attached to the land resulting from the expenditure of capital or labour by a holder of a right of occupancy or a lessee, or any person authorized to act on their behalf which increases the productive capacity, utility or amenity of the land;

“urban lands” means all land lying within the boundaries of an area classified by law as a municipality or a town where residential, business and industrial activities take place in accordance with the provisions of the Town and Country Planning Act;

“Wakf” means any Wakf established by the Commission for the Administration Wakf and Trust Property Decree, 1980;

“Zanzibari” means:-

- (a) any person who is a citizen of Tanzania in accordance with the laws relating to citizenship and that he was born or has been residing in Zanzibar before and up to the 12th of January 1964;
- (b) any person who, as from the 26th day of April, 1964 is a citizen of Tanzania and was born in Zanzibar with both of his parents being Zanzibaris or either his father or mother being Zanzibari in accordance with

the Zanzibari Act, 1985;

- Public Land.
- (c) any person who is a citizen of Tanzania and was born or has been residing in Zanzibar before the 26th day of April, 1964; and
 - (d) any person who is a citizen of Tanzania with both of his parents being Zanzibaris or either his father or mother being Zanzibari in accordance with paragraph (a), (b) or (c) above.

PART II PUBLIC LAND

3.(1) All natural land within the islands of Zanzibar occupied or unoccupied is hereby declared to be public land and shall be deemed to have been so declared from a March 1964.

(2) Public land is declared to be vested in, and at the disposition of the President, to be held by him, for the use and common benefit, direct or indirect, of the people of Zanzibar.

(3) Subject to the provision of subject 2 and to any directions of the President, public land shall be administered in accordance with this Act by the Minister, who may make dispositions of public land and perform all powers and duties contained in this Act on behalf of the President.

Confiscated Land.

(4) The Minister may, subject to the provisions of this Act, both distribute public lands which are under the control of the Government by grants of rights of occupancy as well as terminate those rights of occupancy when appropriate as defined by this Act.

Easements.

(5) The Minister may, subject to the provisions of this Act, lease public land which is under the control of the Government.

4. All land taken by the Government after the revolution of 1964, no matter what procedures were used, shall be declared as confiscated land and any irregularities shall be resolved through a land adjudication procedure as set out under the Land Adjudication Act.

5.(1) Riparian occupiers along non-navigable waterways shall, except as otherwise provided by Law or Order of the President, that shall appear in the Gazette, be required to accord a right of passage over a strip ten (10) meters in width on each bank.

(2) Easements in respect of right of way, installation, support and clearance necessary for the establishment, maintenance and operation of telegraph and telephone lines, electric transmission lines and water mains, classified in the public interest may be imposed on any parcel of land and building by Order from the appropriate Minister where such action shall be necessary.

Boundaries of Public Lands.

(3) Easements may also be imposed as limits to the height of buildings for obligations to clear trees, and in like manner in areas of protection of airports and military installations or for the safety of air navigation.

(4) As compensation for the above easements, indemnities shall be paid to the persons or communities concerned, the compensation shall be equal to the fair market value of the land and any improvements thereon.

6. Cases of doubt or dispute concerning the boundaries of any public lands or the extent of the easements established under the above provisions or provisions of the Registered Land Act or any other applicable law, shall be decided by the recourse to the procedures available under the Land Adjudication Act and if the dispute is not resolved by the Land Tribunal.

PART III RIGHT OF OCCUPANCY TO LAND

Right of Occupancy.

7. The right of occupancy for a Zanzibari may arise in any of the following ways:-

- (a) a grant from the Minister;
- (b) recognition of a rightful interest following an adjudication carried out under the Land Adjudication Act and subsequent registration under the Registered Land Act;
- (c) inheritance of a lawful registered interest;

- (d) purchase of a lawful registered interest; or
- (e) gift of a registered interest from a bona fide holder of a right of occupancy.

Conditions of
Right of
Occupancy.

8.(1) The right of occupancy shall exist under the following circumstances:-

- (a) that the holder of the interest be a Zanzibari over the age of eighteen, unless special provisions have been made;
- (b) that the holder of a right of occupancy shall have an exclusive right to occupy and use the land which comprises his right;
- (c) that the holder of the right of occupancy shall have the right to make disposition of the land or other interests therein to any other Zanzibari;
- (d) that the interest be held in perpetuity without specific term and be inheritable under the appropriate provisions of the Zanzibar law of Succession.

(2) Provided that:-

- (a) no interest is valid until registered under the Registered Land Act;
- (b) all transactions affecting a right of occupancy shall be recorded in the land register within sixty days, from the date of such transaction;
- (c) no interest may be subdivided without the express authorization of the appropriate land administration officials;
- (d) no interest may be held by any individual which has an area of less than three fifths of a hectare provided that parcels which are less than three fifty of a hectare in area before they are granted and registered for the first time can be maintained at that size, but once the land is registered and entered on the cadastral index map no parcel may be subdivided so that the area is less than three fifths of a hectare;

- (e) the holder of the interest, or a person properly designated by him must be in possession of demarcated land as comprising the interest in question;
- (f) the holder of the interest or persons acting on his behalf use the land designated in the right of occupancy in conformity with the conditions specified in the instrument of grant or if the land be urban, and classified as residential, commercial or industrial it shall be kept in good condition and any building thereon in good repair and, in the case of agricultural land, shall be farmed in accordance with the practices and rules of good husbandry if there is no special use assigned to the land in question;
- (g) the interest shall not include the right to water, mineral or foreshore;
- (h) upon the issuance of an Order of Termination for any right of occupancy, the Registrar shall cancel the registration of the right of occupancy and the land shall be available for distribution.

(3) Where any of the above conditions are not met, the holder of the right of occupancy shall be subject to the forfeiture procedures contained in Part VII of this Act.

Execution of
Right of
Occupancy.

9.(1) An instrument executing a right of occupancy shall be deemed to have been properly executed if signed by the Minister, and no further proof of execution is necessary for purposes of registration under the Registered Land Act or the Registration of Documents Decree.

(2) The Minister may, in his discretion, authorise in writing the Director of Lands to execute certain instruments or categories of instruments on his behalf, and no further proof of execution shall be necessary.

Effect of
Registration.

10. (1) Upon registration of a right of occupancy under the provisions of the Registered Land Act, that interest shall receive the guarantee of the Government as to its regularity and propriety in all of its aspects.

(2) Where the right of occupancy or any subsidiary right or interest is not registered under the provisions of this Act and the Registered Land Act, registration shall take effect in accordance with the Registration of Documents Decree.

Registration of Provisional Rights of Occupancy.

11.(1) Provisional rights of occupancy, provided for under section 33 of this Act, shall be registered as any other interest, but shall also be noted in a Special Register maintained by the Director of Lands.

(2) Upon the expiry of the fixed term stated in each provisional right of occupancy, the Director of Lands shall cancel the notation in the Special Register and record whether it has been replaced by a permanent right of occupancy or has been cancelled for failure to comply with the conditions set out as part of the right of occupancy.

(3) Where a provisional right of occupancy is changed to a permanent one, it shall be so recorded in accordance with the provisions of this Act and the Registered Land Act.

Charges.

12.(1) The lending institution specified in the Schedule appended to this Act shall have charges over land as provided for under the provisions of the Registered Land Act.

(2) The Minister shall review and amend, where necessary, the Schedule setting out the lending institutions authorized to issue charges every three years.

Default of a Charge.

13.(1) Any default by a charges of a charge will allow the lending institution to assume possession of the right of occupancy or other collateral used to secure a charge or a loan and utilize its productivity until the full value of the charge is repaid.

(2) Upon repayment of the value of the charge, possession to the right of occupancy or other collateral shall be redeemed to the original interest holder.

(3) Where the borrower is not willing to repossess the right of occupancy upon repayment of the loan, the sale of the right of occupancy in the open market may be permissible. Provided that under no circumstance shall the right of occupancy be passed to the lending institution.

(4) The interest holder of the right of occupancy may offer his interest for sale on the open market upon default prior to the assumption of possession by the lending institution and the amount of the loan shall then be paid forthwith in a single payment.

Charges involving Joint or Communal Interests.

14. Charges involving interest that are jointly or communally held shall be handled in the same manner as those that are individually held with the added requirements that decisions may require consent of the joint interest holders.

Size of a Right of Occupancy.

15.(1) There shall be no limit to the maximum size of a right of occupancy that is acquired through any means, other than grant, under the provisions of this Act.

(2) In conformity with section 8 (2) (d) of this Act an individual parcel of agricultural land, no matter how acquired, shall not be less than three fifths (3/5) of a hectare.

(3) The size of urban residential, commercial and industrial parcels shall conform to the provisions of the law and practice in force.

Joint Holdings of inherited land.

16. Any interest to a right of occupancy which is inherited shall be jointly held if following the application of the appropriate law of succession, the interest in question would be subdivided into parcel of sizes which are less than the applicable minimum as prescribed under this Act.

Effect of creation of Jointly Held Interest.

17. Where a jointly held right of occupancy is created, the provisions of the Registered Land Act creating a statutory trust shall apply when there are ten or more joint interest holders.

Sale of a Right of Occupancy.

18.(1) Unless otherwise provided for under this Act, there shall be no restriction on the sale of a right of occupancy.

(2) Where the right of occupancy is jointly or communally held, the provisions of this Act or any other Act, calling for the approval of the other joint or communal holders prior to any activity regarding the interest shall be applicable.

**PART IV
RIGHT TO OWNERSHIP OF TREES**

19.(1) Trees can be owned and held separately from a right of occupancy in land.

Ownership of
Trees.

(2) The ownership interest in the trees shall be registered in the name of the owner of the interest and included as part of the registration of the land on which the trees are located.

(3) If a separate tree ownership interest is not registered an irrefutable presumption shall exist that the trees are included in the right of occupancy.

(4) unless otherwise specified, the trees shall be included in any lease which is contained in the register.

20. Trees shall be inherited according to the applicable law of succession as any other piece of immovable property.

Inheritance of
Trees.

21.(1) There shall be no restriction on the sale of trees provided that a person whose trees are located on land on which the right of occupancy is held by a third party must first offer the right to purchase the said trees to the holder of the right of occupancy.

Sale of Trees.

(2) Where the right of occupancy is held jointly, the joint interest holders shall determine among themselves which, if any, shall purchase the ownership rights to the trees.

(3) Upon failure to agree as to who among the joint interest holders shall purchase the trees, the ownership interest shall become part of the joint ownership interest of all joint interest holders and the cost shall be borne by each in proportion to his interest in the right of occupancy.

(4) Where the joint interest holders, or any individual among them does not wish to purchase the ownership interest in the trees, they shall be sold on the open market.

Urban Trees.

22. Unless included as a registered right of occupancy, the right to trees in the urban areas shall

belong to the Municipality in question if the trees are ornamental and to the Ministry of Agriculture, or its successor ministry, if the trees are economic.

PART V GRANTS OF PUBLIC LANDS

Grants of Land. 23. The Minister shall create a right of occupancy by making a grant of land under Government control to individuals or groups of individuals through:-

(a) an instrument of grant; or

(b) recognition of the final adjudication record, made under the Land Adjudication Act, and subsequent registration, under the Registered Land Act.

Right of a Grant of land. 24.(1) The right of occupancy shall only be granted to Zanzibaris who are above the age of eighteen.

(2) A grantee shall not be required to pay for the value of the land that is included in a grant, provided however, that, the grantee shall be responsible for any incidental costs or other fees prescribed by this Act or Regulations issued thereunder.

(3) A person shall during his lifetime be eligible to receive only one grant of agricultural land and two grants of urban land, in accordance with the provisions of this Act.

(4) Any person who has not received a grant, in accordance with the provision of subsection (3) is eligible to receive a grant of land without regard to any other urban or agricultural land that he may hold.

(5) Any person may apply for a grant, and shall so receive the grant to either urban or agricultural land, as may be available, in accordance with the discretion of the Minister.

Fees Applicable. 25. The Minister shall prescribe fees payable for the grant of a right of occupancy or for any other matters done under this Act.

Status of Grant to land. 26. Land that has been allocated through means of a grant shall have the same attributes as any land to which a right of occupancy applies once the final order of grant

has been issued in accordance with Section 33 of this Act.

Inheritance or sale of granted land.

27. Land which has been granted may be inherited or sold in accordance with the applicable provisions of this and other relevant Acts which set forth the manner in which individual, joint or communally held interests in land shall be dealt with.

Effect of Adjudication on the prior holding of an individual.

28. If following the determination of an adjudication, an individual as determined to be in rightful possession of more than:

(a) eight hectares of granted agricultural land, he shall receive a grant for a maximum of eight hectares and receive the entitlement to lease the balance of the lands from the Government at a fair rental value which he is determined to rightfully hold;

(b) two parcels of urban land, he shall receive a grant for two parcels in accordance with the provisions of this Act and any additional parcels will be sold on the open market unless due to hardship or other acceptable reason the Minister, in his discretion, makes an exception.

Refusal or failure to exercise option.

29.(1) If an individual refuses or, fails to exercise the option to lease the land constituting the excess over the eight hectare grant which he has received within sixty days of receiving the notice that the option exists, the land shall revert to the Government and be available for allocation in accordance with the normal procedures.

Allocation procedure for a grant.

(2) Upon failure to exercise the option for a lease, the Government shall provided compensation for any unexhausted improvements on the land.

Retention of possession.

30. Land shall be allocated in accordance with procedures set out in the Regulations.

Reallocation.

31. While an appeal is in progress following the refusal to issue a final order of grant possession of the land shall remain with the petitioner until the matter is finally resolved.

32. All lands that are to be reallocated shall be

processed in the same manner as those lands which are to receive an initial allocation.

Provisional grant of a Right of Occupancy.

33.(1) Each grant shall be made provisionally for a three year period during which time no legal rights shall exist.

(2) Where a provisional right of occupancy is in existence, no transfer of the land shall be permitted.

(3) Final assignment of the grant shall be made through the issuance of an order of grant after the fulfillment of all covenants and conditions laid, down in the document of grant have been satisfied.

(4) The registration of the grant shall take place within three months from the date of delivery of the final document of grant, provided that, the Minister may under extenuating circumstances extend such period.

(5) Failure to fulfill the conditions of the grant during the provisional period shall lead to a withdrawal of the grant.

(6) Following an adjudication, a final order of grant shall be made, without the necessity of a provisional period, in favour of any person or group which has already been in possession of the interest in question.

Appeal from the allocation procedure.

34.(1) In any case where an applicant is refused a provisional or final grant of land which he feels he rightly should have received, an appeal shall lie with the Land Tribunal, within sixty days from the date of such decision. Judicial review by the High Court shall only be allowed in instance where an issue of law is involved.

Rights of joint holders.

35.(1) Each individual among a group of joint holders of an interest shall be eligible for a separate grant of land.

(2) Where the interest held by the joint holder has been received by grant, the subsequent receipt of a grant by any individual among a group of joint or communal holder shall not effect the status of the interest as a whole, but shall terminate that person's interest in the jointly held right of occupancy.

(3) The interest relinquished by one of the joint holders shall vest in the remaining members of the group.

Sale of granted land.

36.(1) Unless otherwise provided for under this Act or any other Act, there shall be no restriction on the ability to sell an interest in land.

(2) Where the granted land is held by less than ten joint holders and all the joint holders agree, any individual among the joint holders may sell his interest to one or more of the existing joint holders.

(3) Subject to the prior approval of the joint holders, the entire interest can be sold to one of the joint holders or to a third party.

(4) Where there are more than ten joint holders, all actions related to the interest in question shall come under the provisions of the Registered Land Act which provide for a statutory trust.

37. All disagreements among members of a jointly held interest shall be resolved by an application of the partition provisions by the Registered Land Act.

Disagreements among joint holders.

38. All appeals from partition decisions shall be referred to the Land Tribunal, judicial review of decisions in the High Court shall be limited to issues of law.

Appeals of partition decisions.

39.(1) Each eligible Zanzibari may during his lifetime receive two grants of urban land for residential purposes, one located at the site of birth and the second located at the site of residence away from the natal locale.

Urban grants.

(2) Any grant issued under the provisions of this Act shall be made on a provisional basis for a three year period during which the recipient shall have the obligation to meet the conditions set out in the provisional instrument of grant.

(3) Grants may be awarded in urban areas to eligible persons for small business handicrafts or industrial purposes.

(4) The urban grant shall from time to time conform to the normal sized parcel utilized for residential purposes.

(5) Urban grants made for commercial or industrial purposes may be of the size necessary to conform to the needs of the land use involved in the commercial or industrial purpose without regard to any restriction as to size.

(6) In special circumstances to be determined on a case-by-case basis, it is possible for additional grants of urban land for residential purposes to be made by the Land Allocation Committee or through recommendation to the Committee by other relevant authority.

(7) There shall be no limit to the number of urban grants a person may receive for a commercial or industrial purpose as long as the procedure utilized conforms with the law governing investments.

Inheritance of urban land.

40.(1) The law of succession shall apply to the inheritance of urban lands provided that the land shall not be subdivided if it would not conform to the normal town planning standards.

(2) Where more than one heir exists, the urban land shall be jointly held.

(3) All decisions concerning matters involving urban lands which are jointly held shall be made by all persons who have an interest.

Sale of granted urban land.

41.(1) A grant of urban land may not be sold for two (2) years, following the expiry of the period of a provisional grant during which time the land shall be developed in accordance with the conditions contained in the order of grant.

(2) Sub-section (1) of this section shall not apply if, following adjudication, the person who is awarded the interest has already been in possession of the property and made improvements thereto.

Agricultural grants.

42.(1) Each eligible Zanzibari may receive one agricultural grant during his lifetime.

(2) The grant shall be made on a provisional basis

for a three year period during which time the recipient shall have the obligation to meet the conditions set out in the provisional instrument of grant.

(3) At a time no sooner than three years from the date of the provisional grant, a final instrument of grant shall be issued to the interest holder if the conditions contained in the provisional instrument have been fulfilled to avoid withdrawal of the grant.

Size of grant.

43.(1) In accordance with the provisions of section 15 (2) of this Act, the size of an agricultural grant shall conform to the provisions set out in section 8(2) (d).

(2) Unless the land which comprises the area granted is commonly owned or part of a Wakf, the total area of land which part of a grant may not exceed eight hectares in total area irrespective of the number of parcels included in the grant, with the understanding that under no circumstances may any individual parcel be less in area than three fifths of a hectare.

Sale of granted agricultural land.

44.(1) No land which comprises a granted agricultural land including the three acre, plots granted under the provisions of the Land (Distribution) Decree of 1966 shall, under any circumstances whatsoever, be sold.

(2) No land shall be transferred though any means during the pendency of a provisional period of grant.

Inheritance of agricultural land.

45.(1) The law of succession shall apply to the inheritance of agricultural lands provided that the land shall not be sub-divided if such sub-division shall lead to the creation of any parcel with a size less than the minimum prescribed under this Act.

Provided further that the land which comprises an agricultural grant including the three acre plots granted under provisions of the Land (Distribution) Decree of 1966 shall not, under any circumstance whatsoever, be subdivided.

(2) Where more than one heir is entitled to the land that cannot be sub-divided, it shall be jointly held.

(3) The decisions concerning land that is jointly held

shall be made in accordance, with the provisions of this Act and the Registered Land Act.

PART VI LEASES

Leases to Public Land under Government control.

46. The Minister may lease any public land which does not comprise a right of occupancy to any person, Zanzibari or non Zanzibari.

Duration and status of leases of public land under Government control.

47.(1) No lease of public land executed under the provisions of this Part shall exceed a maximum of forty nine years.

(2) Notwithstanding the provisions of sub-section (1) leases of public land may be renewed.

(3) Leases of public land shall not be sold, assigned, sub-leased or sub-divided but shall be inheritable.

(4) A fair rental value shall be included in all leases of public land taking into consideration the value of the land in the immediate area without considering the increase in value due to the addition of improvement.

(5) The Minister may, on the basis of evidence of a clear and convincing nature, grant a reduction in rent if it will serve the public interest to do so.

(6) Rent shall be reviewed for leases of a duration of more than ten years at intervals of not more than three years taking into consideration the same criteria utilized for the assignment of the original rental value as set forth in sub-section (3) of this section.

(7) Where there is an increase in rent, the lessee shall have the right to terminate the lease and be entitled to compensation for the value, as of the date of surrender, of any unexhausted improvements on the land made by him.

Violation of the restrictions in a Lease.

48. Any violation or breach of the terms and conditions of a lease of public land restricting the sale, assignment, sub-letting or sub-dividing of the said land, shall on presentation of evidence of such violation or breach, empower the Minister to terminate the said lease.

Appeal of decision for termination.

49. An appeal for the decision to terminate a lease of public land on grounds of a violation or breach of terms and conditions restricting the sale, assignment, sub-letting, sub-lease or sub-division shall be made to the Lands Tribunal.

Leases of right of occupancy.

50.(1) There shall be no restriction on the lease of a right of occupancy, or a part thereof, by the interest holder, provided the lease is for a maximum period of fifteen years.

(2) Where any right of occupancy is jointly or communally held, approval must be given by all joint interest holders or in the instance where there are more than ten, in accordance with the provisions relating to statutory trust as set out in the Registered Land Act.

(3) Where the joint interest holders fail to reach an agreement concerning the possibility of creating a leasehold, and if such failure shall give rise to the possibility of the commencement of an action for termination of the right of occupancy, under the provisions of this Act, the procedure leading to termination shall be postponed until a decision concerning the leasehold is made.

Duration and status of lease of right of occupancy.

(4) Any failure to reach an agreement concerning the possibility of creating a leasehold interest shall be resolved by the Land Tribunal.

51.(1) The lease of a right to occupancy shall be inheritable.

(2) There shall be no right to lease any land for purposes that will violate any zoning provision.

(3) The lease of a right of occupancy shall not be sold, assigned, or sub-divided but inheritable.

(4) There shall be no right to sub-let a right of occupancy without the prior approval of a lessor and any person or institution that holds a registered interest on the land in question, and where prior approval is given by a lessor or any interested person under no circumstances shall a sub-lease of the said right be in excess of five years.

(5) There shall be no right to add fixtures or other unexhausted improvements to the land in question without prior permission of the lessor.

(6) Rent shall be reviewed for leases of a right of occupancy of a duration of more than five years at intervals of not more than two years taking into consideration the same criteria utilized for the setting of the original rental value.

(7) Upon an increase in rent, the lessee shall have the right to terminate the lease and claim the value, at the time or surrender of possession, of any unexhausted improvements authorised under the covenants of the lease.

Violation of the restrictions in a lease of Right of occupancy.

52.(1) Any lessee who violates terms or conditions of a lease of a right of occupancy as set forth in this Act or in the covenants of the lease shall render the lease null and void.

(2) Any lessee who is guilty of such an offence shall pay the lessor damages of not less than one million shillings and for failure to pay such damages the lessee shall be imprisoned for a period of not less than six months.

Size of Lease to agricultural right of occupancy.

53.(1) Unless otherwise provided for under his Act, no lease of agricultural land held by right of occupancy shall be permitted when such land has an area less than the minimum allowed by the law.

(2) The Minister may, with appropriate justification, specially authorize leases of agricultural land of less than three fifths of a hectare on presentation of a petition so requesting by the interest holder.

Effect of lease of right of occupancy.

54.(1) A lease to a right of occupancy shall be registered.

(2) A lease of the right of occupancy shall not effect any separate interest to trees located thereon.

(3) Other than the conditions contained fits covenants, the provisions of this Act the relevant Laws

shall apply to the lease.

PART VII TERMINATION OF RIGHTS OF OCCUPANCY

Termination of right of occupancy. 55. Except as provided in the sections of this Part it shall be unlawful for a right of occupancy to be terminated.

Right to terminate national interest. 56. The Government may terminate any right of occupancy on grounds of national interest provided that the Government shall:

- (a) prove before the Lands Tribunal that clear and convincing reasons exist for the repossession of such right of occupancy; and
- (b) pay market value compensation for the land and any unexhausted improvements thereon.

before an order of termination, subject to the right to appeal before a Court of competent jurisdiction, is issued.

Zanzibari requirement. 57. If it is determined that:

- (a) any grantee is, at any time, proved to be a non-Zanzibari; or
- (b) an interest holder-makes, or attempts to make, a transfer of his right of occupancy to a non-Zanzibari;

an order of termination shall be issued by the Minister which shall provide that the right of occupancy is terminated and the land shall be vacated forthwith.

Forfeiture. 58. Where the Minister is at any time satisfied by the evidence presented to him that the land is abandoned or being utilized not in accordance with the plans of the proper authorities a procedure shall be commenced which may lead to the issuance of an order of termination.

Abandoned land. 59.(1) The land shall be designated as abandoned if the holder of the interest or person properly designated by him is not in possession of the land described as the right of occupancy and has not been for a period of eighteen months or three growing seasons whichever is longer.

(2) The Minister shall issue a notice requiring the rightful holder or a person designated by him to prove his possession within six months from the date of such notice.

(3) Where the holder of the interest does not prove his possession or through a person designated by him within the time allotted, the Minister shall issue an order of termination and shall vest possession of the parcel in question to the proper authority for re-allocation.

Idle land.

60.(1) Where the holder or a person rightfully acting on his behalf has failed over a period of two years to use for the purpose it was allocated, maintain or keep such land or buildings in proper and productive use and repaired, the land described as part of the right of occupancy may be declared as idle.

(2) The Minister may issue a notice requiring the holder to appear in person or by his agent to give reason why the right of occupancy should not be terminated.

(3) The Minister may, in his discretion, at the completion of the hearing, provide up to eighteen months during which time the interest holder must utilize the land in the manner for which it has been designated.

(4) At the end of the designated period the Minister shall review the findings to determine if the land has been put to appropriate use and issue an order which conforms to the findings.

(5) Where the holder fails to appear at the appointed time specified in the notice, or if the Minister is not satisfied with the reasons advanced by the holder why the right of occupancy shall not be terminated, the Minister may issue an order of termination which terminates the right of occupancy.

Termination of a jointly held right of occupancy.

61. Where the right of occupancy affected by an order of termination is jointly or communally held, provisions calling for agreement of all joint interest holders shall apply.

Challenge to an order of termination.

62.(1) The recipient of an order of termination may within forty eight hours of the receipt of the order petition to the Minister for a reconsideration which shall be made

within one week of the request.

(2) The interest holder may, if not satisfied with the decision of the Minister appeal against such decision to the Land Tribunal within sixty days of the issuance of an order of termination.

(3) The Minister shall order a stay of the order, on the request of the interest holder, pending determination before the Land Tribunal.

(4) Where an issue on point of law exists, the interest holder may appeal against the decision of the Land Tribunal to the High Court.

Compensation upon termination.

63.(1) Unless specifically provided for by the Minister, no compensation for the fair market value of the land shall be payable by the Government on termination of the right of occupancy under this Part.

(2) Compensation shall be provided for unexhausted improvements on the land with the value determined at the time of the order of termination.

Relinquishment of possession.

64. Possession to the land in question shall not be relinquished until procedures set out in this section are complied with.

- (a) an assessment of the value of the unexhausted improvements and, if appropriate, the land have been carried out by the Government;
- (b) where the Government fails to carry out the assessment within six months of the date of the order of termination, the interest holder may within ninety days;
 - (i) have the assessment carried out at the Government's expense; or
 - (ii) sell the interest on the open market.
- (c) where the property is sold the interest holder must relinquish possession within thirty days of the completion of the sale;

Disagreement
over value of
property.

(d) where an assessment is carried out the Government shall pay the interest holder within sixty days and the interest holder must vacate the premises within thirty days of the receipt of the payment;

(e) where the payment has not been made by the Government within sixty days from the date of the assessment, a public auction shall take place within thirty days from the date of the default of payment the premises shall be vacated within thirty days from the date the public auction.

65. Any conflict over the determination of the assessed value of the property at the time of an order of termination shall be resolved by the Land Tribunal.

Effective date of
grants.

PART VIII MISCELLANEOUS PROVISIONS

66.(1) Grants shall be considered effective from the date this Act comes into force with the exception of grants made through a procedure which predates the allocation procedure which is set out in the Regulations of this Act.

(2) All such grants shall be subject to a regularisation procedure to be implemented through the administration of the Land Adjudication Act of 1989 aimed at introducing such holdings into a Land Register.

Regulations.

(3) All land lawfully acquired after this Act comes into effect, but prior to any planned Adjudication, shall not be affected by the adjudication.

67.(1) The Minister may make Regulations generally to give effect to the purposes and provisions of this Act, and in particular and without prejudice to the generality of the foregoing, for prescribing the form of land transactions and the instruments to be used to complete any transaction allowed under this Act, and for prescribing anything under this Act which may be allowed.

(2) Regulations may be prepared to give effect to the purposes and procedures of this Act, in particular to specified matters including:-

(a) principles and procedure of land consolidation;

- (b) procedure relating to land allocation;
- (c) fees payable for matters done under this Act;
- (d) forms of instruments to be used;
- (e) standards to be utilized for setting rents and assessing compensation;
- (f) procedures to be followed in revising rents and other payments;
- (g) conditions relating to the application of land capability to the right of occupancy;
- (h) procedures and effects of donations;
- (i) regulations concerning the environmental concerns of lands used for commercial and industrial purposes.

Saving the right of Government.

68. Nothing in this Act shall prejudice any interest, right, power or privilege conferred on the Government by any other law.

Repeals.

69. (1) The following written Laws and portion of Laws are hereby repealed:

- (a) Registration of Land Interests, as set out in the Registered Land Act of (Act 10. 1990) 1989, so far as it requires leases over two years to be registered;
- (b) Public Land Decree (Cap. 93);
- (c) Decree, 13/65 (Government Land Decree);
- (d) Land (Distribution) Decree, 5/66 and Amending Decrees 10/67, 10/68, 1/69 and 3/82 without prejudice to matters done under these Decrees;
- (e) Confiscation of Immovable Property Decree, 8/64 and amending Decree 16/64, 3/68 and 11/79, without prejudice to any matters done under these Decrees;
- (f) Provisions relating to leasehold terms under the Investment Act of 1986;

(g) Provisions of the Registered Land Act concerning provisional rights to occupancy; and

(h) The provisos of sections 8(1) and 8(2) of the Investment Act of 1986.

(2) Notwithstanding the repeal of the Laws and portion of Laws indicated in sub-section (1) of this section anything done under the provisions of the repealed Laws or portion of Laws shall be deemed to have been made under the provisions of this Act.

(3) All pending cases prior to the commencement of this Act shall be dealt with accordance with the provisions of the repealed Laws.

PASSED in the House of Representatives on the 15th day of September, 1992.

(KHAMIS JUMA CHANDE)
CLERK OF THE HOUSE OF REPRESENTATIVES

Land Tribunal Act No. 7 of 1994

THE LAND TRIBUNAL ACT NO.7 OF 1994

ARRANGEMENT OF SECTIONS

SECTION

TITLE

PART I PRELIMINARY

1. Short title and commencement.
2. Interpretation.

PART II LOCATION AND STAFFING OF LAND TRIBUNALS

3. Location of Tribunals.
4. Appointment of Members of Panels.
5. Panel for Hearings.
6. Qualifications.
7. Panel members.
8. Special panel members.
9. Clerks.
10. Deputy Clerk.
11. Functions of clerk.
12. Surveys and valuations.
13. Jurisdiction.
14. Conciliation.
15. Expediting the process.
16. Hearings.
17. Closed hearing.
18. Representations.
19. Experts.

PART IV PROCEDURE FOR TRIBUNAL

20. Filing a petition.
21. Answering the petition.
22. Filing a counter petition.
23. Issuance of summons.
24. Time of service.

25. Deadline for response.
26. Time Schedule for hearing disputes.
27. Pre-trial information.
28. Pre-trial conference.
29. Conducting a pre-trial conference.
30. Notice of a hearing.
31. Failure to attend a hearing.
32. Intervention of additional parties.
33. Discovery and protective order.
34. Witnesses.
35. Trial.
36. Evidence.
37. Judgments.
38. Exparte judgment.
39. Enforcement of judgments.
40. Instalment payment of judgment.
41. Judicial Review.
42. Records.

**PART V
MISCELLANEOUS**

43. Fees.
44. Regulations.
45. The right of Government.
46. Other Laws.
47. Repeals.

ACT NO.7 OF 1994

I ASSENT

**(SALMIN AMOUR)
PRESIDENT OF ZANZIBAR AND
CHAIRMAN OF THE REVOLUTIONARY COUNCIL**

24th February, 1995

**AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF LAND
TRIBUNALS
TO HEAR LAND DISPUTES AND MATTERS CONNECTED
THEREWITH OR INCIDENTAL THERETO**

ENACTED by the House of Representatives of Zanzibar.

**PART I
PRELIMINARY**

- Short title and commencement. 1.(1) This Act may be cited as the Land Tribunal Act, 1994.
- (2) This Act shall come into operation immediately upon being assented to by the President.
- Interpretation. 2. In this Act unless the context otherwise requires:-
- “Assessor” means a person with high community status who sits as a member of a Land Tribunal Panel;
- “Chairman” means the presiding person of Land Tribunal panel and the chief administrator of Land Tribunal;
- “Chief Justice” means the person responsible for the administration of the court system in Zanzibar;
- “Clerk” means the officer in charge of the court records;
- “Conference” means a meeting of the parties or others involved prior to a formal trial or

hearing of the matter brought before the Tribunal;

“Counter-petition” means a claim by a respondent against a petitioner;

“default” means failure to defend against the petitioners claim by failing to answer or to appear for trial;

“hearing” means any meeting of the parties to a dispute including the trial other than a pre-trial conference;

“Judgment” means the decision of the tribunal;

“Land” includes land by itself, land covered with water, all things growing on land and buildings and other things permanently affixed to land except trees when specifically classified and owned separately;

“Land Tribunal” means the tribunal which shall be established to hear land disputes as provided for in section 12 of this Act;

“Minister” means the Minister responsible for administering the Land system in Zanzibar;

“petition” means the paper filed by the person making the claim;

“petitioner” means the party commencing the case;

“respondent” means the person defending against the accusation of wrongdoing;

“statement of defence” means the papers filed by the person(s) alleged to have committed the wrong;

“subpoena” means an order of the court requiring a witness to attend or testify at a trial;

“Summons” means the paper issued by the Clerk of the tribunal which orders the respondent to admit or deny the petitioner’s claim.

PART II
LOCATION AND STAFFING OF LAND TRIBUNALS

Location of
Tribunals.

3.(1) There shall be a Land Tribunal in Zanzibar, which shall deal with the land disputes.

(2) The Tribunal may also sit in the principal town of any District on any island, when there are disputes that involve land located in one of the outlying Districts or any other suitable place.

Appointment of
Members of
Panels.

4.(1) There shall be a Chairman of the Land Tribunal who shall be appointed by the President for the term of five years.

(2) There shall be Assessors who shall sit on the Land Tribunal and who shall be appointed by the Chief Justice for a term of five years.

(3) The Chairman and any Assessor may be dismissed by the Authority who appointed him, at any time after receiving clear evidence of any abuse of power.

Panel for Hearings.

5.(1) The panel shall consist of a Chairman and two Assessors which shall hear the dispute over which the Tribunal has jurisdiction as set out in section 13 of this Act.

(2) The Chairman shall be considered as a member of the judiciary, as an ordinary employee of the Judiciary Department and shall receive the pay and benefits equal to a Regional Court Magistrate.

(3) The Assessors shall be persons who do not necessarily have a background of legal training, but who do have the qualifications as set out in section 6(2) of this Act.

(4) The Assessors shall not be considered as members of the judiciary and they shall receive an allowance, to be determined by the Minister in the consultation with the Chief Justice for their participation on the Tribunal as Assessors.

Qualifications.

6.(1) The Chairman shall have the following

qualifications:-

- (a) he should be a Zanzibari;
- (b) he has a legal training;
- (c) he has knowledge of land issues;
- (d) he should have general leadership abilities;
and
- (e) he should have the possession of skills
necessary for the resolution of disputes.

(2) The qualifications for appointment as an Assessor shall be:-

- (a) residence in Unguja or Pemba;
- (b) a reputation and high status in one's
community for fairness;
- (c) consideration as a wise and learned person in
terms of culture and social practices who is
looked upon for decisions;
- (d) a special knowledge in matters of land; and
- (e) an accepted sense of integrity.

Panel members.

7.(1) The Land Tribunal shall have a Chairman, who shall be the chief administrative officer and preside in all hearings and as many Assessors for each District as are necessary to deal with the disputes of that District.

(2) The Chairman of the Tribunal will sit on all as the presiding person together with two Assessors resident in the District where the dispute is being heard.

Special panel
members.

8.(1) To ensure that the prescribed schedule is adhered to, special Land Tribunal Presiding officers and additional Assessors shall be appointed by the Chairman of the Land Tribunal, in consultation with the Chief Justice, to assist with hearings, if the Schedule set out in section 26 of this Act, cannot be followed.

(2) Special Presiding Officers shall receive the same allowance as an Assessor.

Clerks. 9. The Land Tribunal shall have one Chief Clerk who sits in the Tribunal's principal venues of Zanzibar Town and Deputy Clerks who sit in each District of Unguja and Pemba.

Deputy Clerk. 10.(1) The Deputy Clerk shall perform all the functions and assume all the responsibilities which the Clerk has, but these functions and responsibilities shall be carried out in the District where the Deputy Clerk is assigned.

(2) The Deputy Clerk shall co-ordinate all his activities with the Clerk in the principal office in Zanzibar.

Functions of clerk. 11. The Clerk shall have the following functions:-

- (a) to receive the petitions and counter-petitions and other documents of persons with claims which come under the jurisdiction of this Act;
- (b) to set the location and schedule for hearing disputes by the Tribunal;
- (c) to ensure that each person who should receive notice of completed or pending action of the Tribunal are so notified;
- (d) to issue all subpoenas for the discovery of evidence;
- (e) to notify persons who have been appointed special presiding officers or Assessors of their appointment and assignments;
- (f) to ensure that all persons acting as experts are aware of their role and the schedule for the appearance at the Tribunal;
- (g) to co-ordinate all activities with the Deputy Clerks who are located in the Districts to ensure that the procedures are followed; and
- (h) to perform any other functions that ensure the procedures of the tribunal operated smoothly.

Surveys and valuations.

12. There shall be one person assigned to the office of the Clerk of the Tribunal who shall be a qualified surveyor with experience in valuation who shall perform these functions for the Land Tribunal whenever they shall be necessary.

PART III JURISDICTION AND COURT PROCESS

Jurisdiction.

13. The Land Tribunal shall have primary jurisdiction over proceedings instituted where parties have conflicting claims to land, including the following issues:-

- (a) action involving claims to a right to occupancy and/or possession in respect of any land;
- (b) demarcation of Land which is connected to activities related to the subdivision of parcels and any matter for which demarcation or surveying must be carried out;
- (c) the registration of Land;
- (d) the review of any transfer or lease which has been reviewed by the Land Transfer Board;
- (e) the use, development and capacity of land;
- (f) partition of holdings in which potential multiple ownership is involved;
- (g) Land valuation and issues involving compensation for land;
- (h) removal from possession or eviction from land;
- (i) expropriation of land by the Government;
- (j) agricultural or agro-industrial contracts or lease agreements;
- (k) transfer of property in contravention of the applicable law;

- (l) exchanges, illegal subdivisions and other irregularities involving improper division or partition of land;
- (m) succession to land;
- (n) possession of both urban and agricultural land;
- (o) use and development of land for purpose of conservation, development and the use of natural resources;
- (p) actions brought by the Director of Lands in order to recover land from a person in possession of any land;
- (q) the recovery of publicly held land; and
- (r) all other matters relating to land.

Conciliation. 14. The parties shall have access to conciliation at any stage of a case and if possible they shall, in collaboration with the Chairman, shorten the trial and deliberations in order to reduce the duration of the process.

Expediting the process. 15.(1) In the course of the proceedings the Chairman may unilaterally, if it is deemed appropriate, issue an order which is designed to expedite the process.

(2) The parties may reach an agreement with the Chairman to abbreviate and concentrate deliberations with a view to reducing the duration of the process.

Hearings. 16. The hearings of the Land Tribunal shall be informal, the objects being to dispense justice promptly between the parties. However, in order to allow for the organization of the system, a structured hearing , system, with pre-trial information and conferences shall be part of the procedure.

Closed hearing. 17. With the agreement of the parties involved, the three members of the panel may decide to close the proceedings for the examination of witnesses, for the taking of statements or at any time such a course is deemed appropriate.

Representations. 18.(1) Any party may participate in the hearing in person or, if the party is a judicial person, by a duly authorized legal representative.

(2) Whether or not participating in person, any party may be advised and represented, at the party's own expense, by a legal practitioner, or where allowed by law, any other representative.

Experts. 19.(1) Where technical evidence is required, experts, deemed appropriate by the agreement of the parties to the action, may be brought to testify from Government or non-Government bodies or any other source deemed appropriate by the parties to the action and the members of the panel.

(2) Where the parties cannot agree on the appropriateness of a particular individual, and the members of the panel feel that the person in question is the most appropriate, the Chairman may call in a neutral person, acceptable to the parties, who shall have the final say whether or not the selection of the expert is appropriate.

(3) The members of the panel are not obligated to accept the statements of the experts brought to testify in any matter before the Tribunals as the testimony is merely the opinion of the experts.

PART IV PROCEDURE FOR THE TRIBUNAL

Filing a petition. 20.(1) A case shall begin by filing with the Clerk of the Lands Tribunal, in the District where the land in question is located, a short and plainly written statement showing what the petitioner claims and why he claims it.

(2) The petitioner may combine as many claims in one case as may exist against a respondent and more than one respondent may be included in the case if the petition includes reference to more than one person.

Answering the petition. 21.(1) The respondent shall file a short and plain reply showing what the respondent admits, what is denied and why it is denied.

(2) The Clerk shall cause a copy to be delivered to the petitioner.

Filing a counter petition.

22. Failure of the respondent to make a counter-petition which is based on events which give rise to the petitioner's claim will not of itself prevent the respondent from raising such a claim in another case so long as the respondent either wins his case in the Land Tribunal or prevents the judgement of the Lands Tribunal from becoming a final judgement by filing a notice for judicial as provided in section 42 of this Act.

Issuance of summons.

23.(1) Upon the filing of a petition, the Clerk shall issue summons to each respondent through personal service or through the postal system, whichever is more practicable in the situation of the case.

(2) If the summons is personally served on the respondent, the server shall locate the person to be served and shall deliver the summons and a copy of the petition and any accompanying documents to the person to be served when the summons and the petition have been personally delivered, the server shall endorse the date, place and time of delivery on a copy of the summons and return it to the Clerk who shall make note on the appropriate docket.

(3) When the server is unable to personally serve the summons and a copy of the petition within fourteen days, the server shall endorse that fact and the reason for non-delivery on the summons and return the summons and the petition to the Clerk who shall make note on the appropriate docket, and immediately notify the petitioner, in the most practicable manner, of the inability to deliver the summons and petition. The fact of notifying the petitioner shall be made on the appropriate docket.

(4) If the Clerk elects to serve the summons and the complaint by registered post with a return receipt, the server shall endorse that fact on a copy of the summons and return it to the Clerk who shall make an entry on the appropriate docket.

Time of service.

24.(1) All time periods shall be measured by starting to count on the first day after the petition was served on the respondent or on the first day after the

judgement was entered or on the first day after any other events happened by which this Act starts the running of a time period.

(2) If the last day is anything other than a working day, then the last day is not considered to have arrived until the next working day has arrived.

Deadline for response.

25.(1) The respondent shall file his statement of defence, counter-petition in the office of the Clerk where the original petition was filed, within 14 days after a copy of the summons and petition have been delivered to him by an official server or a person otherwise authorized to make service.

(2) If the service has been made by registered post with a return receipt required a statement of defence or counter-petition must be filed within 14 days of the receipt of the summons and petition which shall be calculated from the time the receipt is signed.

(3) The respondent does not have to, have a copy of his statement of defence served on the petitioner unless his answer contains a counter-petition.

Time Schedule for hearing disputes.

26.(1) The Chairman, together with the Chief Clerk, will determine the schedule of disputes to be heard. The time schedule set out shall be closely followed, whenever possible.

(2) Under no conditions shall the disputes be heard more than once a month after the summons and petition are delivered to the respondent.

Pre-trial information.

27. The parties to any dispute arising under this Act are encouraged to make a voluntary exchange of information before the trial, but under no circumstances shall such an exchange be required.

Pre-trial conference.

28. The Chairman of the Tribunal shall confer the parties before any trial takes place whenever it appears that such a conference might simplify the issues or shorten the hearing or lead voluntary exchange of information which might promote a settlement of the dispute.

Conducting a pre-trial conference.

29. If the pre-trial conference is held the chairman

shall:-

- (a) set the time and place of the proposed conference;
- (b) give reasonable notice to all persons entitled to notice which included all persons who should be present at the conference;
- (c) include in the notice anything which the Chairman feels is desirable to assist in expediting the proceedings; and
- (d) issue an order based on the result of the pre-trial conference which is aimed at either terminating the dispute prior to trial or to narrow the issues which shall be heard at the trial.

Notice of a hearing.

30.(1) The Chairman shall set the time and place the hearing and give written notice in advance to parties and persons who have petitioned to intervene in the dispute.

(2) The notice shall include a copy of any order issued by the Tribunal in the matter under consideration.

Failure to attend a hearing.

(3) The notice may also include any other matters the Chairman considers important to assist in expediting the proceedings.

31.(1) If a Party to the dispute fails to attend or participate in either a pre-trial conference, a trial hearing, or any other meeting called to discuss the matter in question, the Chairman may serve written notice on all parties of a proposed default order. This notice shall include a statement of grounds for such an order.

(2) If after fourteen (14) days no answer has been received, the Chairman shall determine within seven (7) days whether the respondent shall be given an additional seven (7) days to reply from the time the respondent receives that notice to state the reason why a response has not been made to the accusation. If no satisfactory response is received by the end of the additional seven (7) day period, the members of the panel may then issue a default judgment.

(3) Within seven (7) days after the service of a proposed default order the party against whom it has been issued may file a written notice requesting that the proposed default order be vacated and he shall state the reasons for such request.

(4) During the time within a party challenge a proposed default order, the Chairman shall adjourn the proceedings until the time for challenge has passed.

(5) The Chairman shall either issue or vacate the default order promptly after the expiration of the time within which the party may file a written notice under subsection (3).

Intervention of additional parties.

(6) After issuing a default order the Chairman shall conduct any further proceedings necessary to complete the matter that was before the tribunal without the participation of the party who was found to be in default.

32.(1) The Chairman shall grant a petition for intervention by any person in a dispute scheduled to be heard by the Tribunal if:-

- (a) the petition is submitted in writing to the Chairman, with copies distributed to all parties who are named by the Chairman as persons interested in the outcome, at least three days before the hearing is scheduled;
- (b) the petition states facts that demonstrate the petitioner's interest may be substantially affected by the proceedings or that the petitioner qualifies under a provision of law to intervene in the matter;
- (c) the Chairman determines that the interests of justice and the orderly and prompt conduct of the proceedings will not be impaired by allowing the petition.

(2) The Chairman may grant a petition for intervention at any time, upon determining that the intervention sought will serve to assist in a fair disposition of the dispute and will not impair the orderly and prompt conduct of the proceedings.

(3) If a petitioner qualified for intervention, the Chairman may impose any reasonable conditions on the

intervenor's participation in the proceedings either at the time the intervention is allowed or at any subsequent time as conditions may require.

Discovery and protective order. (4) The Chairman shall give notice to the petitioner and any party in interest of any decision allowing or denying intervention at least twenty four hours prior to a scheduled hearing, specifying any conditions attached to an order of intervention and briefly giving reasons for the order.

Witnesses. 33. The Chairman, on his own decision or at the request of any party, may issue a subpoena for discovery, for the protection of a party, or for other purposes which will make the process go more smoothly. These orders shall be in conformity with the rules and practices utilized in civil matters in the normal courts.

Trial. 34. A subpoena requiring a witness to attend and to testify at a trial shall be issued by the Clerk, in the District where the petition was filed, on the request of one of the parties.

35.(1) A trial shall be scheduled to take place, whenever possible, no more than twenty one days following the statement of defence of the respondent and in cases where a counter-petition is filed or petition for intervention is filed, whenever possible, no more than twenty-one days following the response to the counter-petition or decision whether the intervention of an additional party will be allowed.

(2) At least fourteen days before the scheduled trial date, the Clerk, in the District where the petition was filed, shall notify the parties of the time and place of the trial.

(3) At the trial, whether or not there is a lawyer who represents either party, each party shall have the right to put questions to the other party or witnesses.

(4) An opportunity shall be provided for non-parties to present oral or written statements concerning the dispute. The parties then must be given a chance to question the non-party, if it is possible.

(5) The members of the Tribunal, in their discretion, may participate freely in the examination of the parties

Evidence. and witnesses.

(6) The tribunal may receive properly attested written or recorded statement of witnesses or parties who are not present at the trial.

36.(1) There shall be no rules applicable to the hearing which limit the presentation of evidence the parties feel is relevant to the case at hand.

(2) The Chairman, may, however, limit the presentation of evidence which is deemed irrelevant, immaterial, unduly repetitious or in any other way delays the normal progress of the hearing.

(3) Any part of the evidence may be received in writing if doing so will expedite the hearing without prejudicing the interest of any party.

Judgments.

(4) Any documentary evidence can be presented in the form of a copy, but if any party requests, an opportunity shall be given to compare the copy with the original, if the original is available.

Exparte judgment.

37. All decisions of the tribunal, whether the final judgment or interim matter, shall be made by majority vote of the three members of the panel, the Chairman and two Assessors.

However, the Chairman shall have a deciding vote in all questions of law.

38.(1) When a respondent does not file a statement of defence within the required time or fails to appear when the case is set for trial, after a seven (7) day wait following the last notice issued under section 31(2), present evidence in support of his claim, if the panel find the evidence supports the petition was filed, shall enter a judgment against the respondent.

Enforcement of judgments.

(2) If an exparte judgment has been entered the person against whom such a judgment has been entered does not have the right to petition for reconsideration of the judgment.

(3) If the respondent does not appear when judgment is found against him, he loses the right to petition to a High Court for judicial review in accordance

Instalment
payment of
judgment.

with the provisions of section 42 of this Act.

39. Enforcement of any final judgment may proceed through any means available under the law, relations or rules and deemed appropriate and in force under the laws of Zanzibar.

40.(1) The Tribunal may order that any final judgment, When the payment of money is involved, shall be paid in instalments by setting a schedule of payment over a stated period of time.

Judicial Review.

(2) The Tribunal may change the schedule of payment, if the person concerned presents before the Tribunal evidence which shows that he cannot effect payment in that particular time and the panel is satisfied that the change is necessary.

(3) Nothing in this section shall allow the period of payment by instalments be extended for more than three years.

41.(1) Judicial review may be sought after a judgment has been rendered by filing a notice for judicial review in the Office of the Clerk, in the District where the original petition was filed.

Records.

(2) Judicial review shall only be available for cases involving matter of law. The decision of the Land Tribunal shall be final for any case that does not include an issue of law.

(3) Judicial review shall not be available for disputes where the sole issue is the determination of compensation.

42.(1) The Tribunal shall maintain an official record of each proceeding that has taken place under this Act.

(2) The record shall consist of:-

(a) all notices issued by the Chairman;

(b) any pre-hearing order;

(c) any request made by any of the parties;

(d) any petitions for intervention;

- (e) any written evidence submitted or received;
 - (f) any judgment issued; and
 - (g) anything else that has transpired since the initial petition was filed that has any hearing on the matter that has been before the tribunal.
- Fees.

PART V MISCELLANEOUS

Regulations.

43. There shall be fees payable to the Land Tribunal, to be periodically determined by the Minister in the Regulations to this Act, for the filing of a case and the costs which are necessary for the dissemination of any materials necessary for the clarification of the issues which are part of the dispute before the court and for the time spent.

The right of Government.

44. The Minister may make Regulations in general to give effect to the purposes and provisions of this Act, and in particular without prejudice to the generality of the foregoing, for prescribing the manner in which the procedure relevant to this Tribunal shall be carried out and for prescribing anything under this Act which may be allowed.

Other Laws.

Repeals.

45. Nothing in this Act shall prejudice any interest, right, power or privilege conferred on the Government by any other law.

46. Any matter not provided for in this Act or in this Act or in any other law in relation to the transfer or long term lease of land shall be decided in accordance with the principle of justice, equity and good conscience.

47.(1) All laws or portions of laws in conflict with the provisions of this Act, shall be deemed to be repealed and anything done under a repealed law shall be deemed to have been performed under the provisions of this Act.

(2) All pending cases prior to the commencement of this Act, shall be dealt with in accordance with the provisions of the repealed laws.

PASSED in the House of Representatives on the 27th day of September, 1994.

KHAMIS JUMA CHANDE
CLERK OF THE HOUSE OF REPRESENTATIVES

Land Transfer Act No. 8 of 1994

THE LAND TRANSFER ACT NO.8 OF 1994

ARRANGEMENT OF SECTIONS

SECTION

TITLE

PART I PRELIMINARY

1. Short title and commencement.
2. Interpretation.

PART II TRANSFER OF LAND

3. Transfer of land.
4. Approval of a transaction by the Board.
5. Referral process for transfers and leases.
6. Application for transfer or lease.
7. Reason for withholding consent for transfer.
8. Resources for withholding consent for lease.

PART III LAND TRANSFER BOARD

9. Composition of the Board.
10. Term of membership.
11. Meetings of the Board.
12. Quorum.
13. Dismissed from Board.
14. Duration for which approval remains valid.

PART IV OFFENCES AND APPEALS

15. Violating of provisions of transfer restriction process.
16. Offences.
17. Appeals from decision of the Board.

PART V MISCELLANEOUS

18. Regulations.
19. The right of Government.
20. Other law.
21. Repeals.

ACT NO.8 OF 1994

I ASSENT

**SALMIN AMOUR
PRESIDENT OF ZANZIBAR AND
CHAIRMAN OF THE REVOLUTIONARY COUNCIL**

1st March, 1995

**AN ACT TO PROVIDE FOR THE REGULATION OF THE PERMANENT
TRANSFER OF LAND AND THE LEASING OF LAND**

ENACTED by the House of Representatives of Zanzibar.

**PART I
PRELIMINARY**

- Short title and commencement. 1. This Act may be cited as the Land Transfer Act of 1994, and shall come into operation immediately upon being assented to by the President.
- Interpretation. 2. In this Act, unless the context otherwise requires:-
- “application” means the process of requesting permission to transfer or lease of land: for i more than three years;
- “Board” means the Land Transfer Board established under this Act;
- “Court” means the Land Tribunal and the regular courts unless provided otherwise;
- “Land” includes land by itself, land covered by water, all things growing on land, and buildings and other things permanently affixed to land except trees when specifically classified and owned separately;
- “Land Tribunal” means the land tribunal which shall hear land disputes;

“lease” means a long term transfer of the interest in land for three years or more including any possible period of renewal, but limited to not more than fifteen years as set out in section 50 of the Land Tenure Act of 1992, with the transferor holding the residual interest;

“Minister” means the Minister responsible for lands in Zanzibar;

“President” means the President of Zanzibar and Chairman of the Revolutionary Council.

PART II TRANSFER OF LAND

Transfer of land. 3. No permanent transfer of land or long term lease shall take place until the transaction is reviewed and approved by the Land Transfer Board set up under the provisions of this Act.

Approval of a transaction by the Board. 4. No permanent transfer of land, with special emphasis on the former three acre plots, leases or agreements for a lease which exceed three years made by an instrument executed after the date on which this Act comes into force shall have any effect unless consent is given to that transaction by the Land Transfer Board established for the area in Which the land is situated and the approval for the transfer of the land in question is endorsed on the instrument which creates the transaction in question or the endorsement is on the appropriate form requesting approval for the transaction in question.

Referral process for transfers and leases. 5.(1) Each potential transferor of land or a lessor of land for three years or more shall present an application for permission to transfer or lease which shall include the name of the perspective transferee and other specified information to the District Commissioner in the District where the land to be transferred or leased is located together with the recommendations from the Shehia Council concerned.

(2) The District Commissioner shall forward the application to the Executive Secretary, Commission of Lands and Environment in Unguja and the Deputy Executive Secretary, Commission of Lands and Environment in Pemba after being discussed and recommended by that District Government.

(3) The Executive Secretary and Deputy Executive Secretary shall submit the applications for the transfer or lease of land to the Board for consideration.

Application for transfer or lease.

6. The application for transfer or long term lease shall provide the following information:-

- (a) name of transferor/lessor;
- (b) name of transferee/lessee;
- (c) identification numbers of transferor and transferee and/or lessor and lessee;
- (d) location of the land, including the unique parcel reference number;
- (e) reason for selling or leasing the land in question;
- (f) terms and conditions if the transfer is a lease;
- (g) nationality of the transferee or lessee;
- (h) consideration agreed upon for the transfer or lease of the land in question;
- (i) date of birth of transferor and transferee and/or lessor and lessee;
- (j) any other information considered relevant.

Reason for withholding consent for transfer.

7. In the case where a person attempts to permanently transfer of land, with special emphasis on, but not limited to, the former three acre plots, the Board may withhold its consent on any of the following grounds:-

- (a) where the Board is of the opinion that the proposed transaction would result in depriving the transferor of sufficient resources for the permanent support of himself and his dependants during his life time and of his heirs after his death; or
- (b) where the Board is of the opinion that the proposed transaction would be contrary to the best interests of the transferor; or

- (c) where the Board has reason to believe that the transaction is to take effect as a charge or mortgage; or
- (d) where the Board has reason to believe that the potential transferee intends to improperly Change the use of the land; or
- (e) where the Board is of the opinion that the transaction will result in land being acquired by persons who have been defined as inappropriate; or
- (f) where the Board is of the opinion that the transfer would give rise to a transaction that does not conform to the requirements of land registration; or
- (g) where the Board is of the opinion that the transaction would contravene the broad policies of this Act, the Land Tenure Act of 1992 or any other relevant Act.

Resources for withholding consent for lease.

8. In the case a person attempts to lease land for three years or more the Board may withhold its consent on any of the following grounds:-

- (a) where the Board is of the opinion that the proposed transaction would result in depriving the lessor of sufficient resources for the permanent support of himself and his dependants during the period of lease; or
- (b) where the Board is of the opinion that the proposed transaction would be contrary to the best interests of the lessor; or
- (c) where the Board is of the opinion that the proposed lessee intends to improperly change the use of the land; or
- (d) where the Board is of the opinion that the transaction would contravene the broad policies of this Act, the Land Tenure Act of 1992 or any other relevant Act.

PART III
LAND TRANSFER BOARD

Composition of
the Board.

9. (1) There shall be a Land Transfer Board in Zanzibar which shall consist of the following members:-

- (a) the Chairman who shall be appointed by the President;
- (b) the Executive Secretary of the Commission for Lands and Environment who shall act as Secretary of the Board;
- (c) the Deputy Executive Secretary of the Commission for Lands and Environment, who shall act as a Secretary of the sub- committee;
- (d) the Director of Lands;
- (e) the Registrar of Lands;
- (f) the Head of Department of Lands Pemba;
- (g) the Deputy Registrar of Lands, Pemba; and
- (h) five other members at least two from Pemba to be appointed by the Minister.

(2) The members coming from Pemba shall form a sub-committee and shall elect the Chairman from among its members.

(3) The sub-committee shall submit its decision to the Board for approval.

Term of
membership.

10. Members of the Land Transfer Board shall serve as follows:-

- (a) Executive Secretary, Deputy Executive Secretary, Registrar of Lands, Director of Lands, Head of Department of Lands, Pemba and Deputy Registrar of Lands, Pemba shall serve on the Board for as long as they hold their respective offices;
- (b) the Chairman and five members appointed by the Minister shall serve for a term of three years.

Meetings of the Board.

11.(1) The Board shall meet at least once in every month to consider and review the applications for transfers or leases of land that have been submitted for consideration or not completed since the prior meeting.

(2) The Board shall complete the review process of any transaction which has been properly submitted in a form which allows a decision to be made not later than three months after the application for consideration of the transfer or lease.

(3) Failure of the Board to make a decision concerning the appropriateness of the transaction in question in forty five days from the time the application has been received by the Board, shall mean that the application shall be passed for decision to the Land Tribunal where a final decision shall be made.

(4) There shall be no appeal from any decision of the Land Tribunal on the application for transfer of land.

Quorum.

12. Half of the members of the Board at least two from Pemba shall constitute a quorum.

Dismissed from Board.

13.(1) If any member of the Board misses three consecutive working sessions without adequate excuse, that person shall be dismissed from the Board by the Minister, and another person shall be appointed prior to the next regularly scheduled meeting.

(2) In the case of the Registrar of Lands, the Deputy Registrar of Lands, the Director of Lands or the Head of the Department of Lands of Pemba being dismissed from their Board responsibility, the next senior person in each of the relevant Departments shall be appointed as a replacement member to the Board.

Duration for which approval remains valid.

14. No consent for a transfer or lease given by the Board under the provisions of this Act shall be valid if the instrument providing for such a transfer is not executed within six months from the date of the approval of the transfer or lease.

**PART IV
OFFENCES AND APPEALS**

Violating of provisions of transfer restriction process.

15. The registration of any instrument or other document which contravenes these provisions relating to the permanent transfer of land or lease shall be void until the proper review process is completed.

Offences.

16. The following shall be considered offences under these provisions:-

- (a) if, in an application to the Board, any person makes a statement which is, to his knowledge, false or in any way misleading, he shall be guilty of an offence and shall be liable to a fine of not less than one hundred and fifty thousand shillings;
- (b) any person who either executes, or causes to be executed, or gives valuable consideration to any person to include them to execute a document which provides for the permanent transfer or lease of any land covered by these provisions shall be guilty of an offence and shall be liable to a fine of not less than one hundred and fifty thousand shillings unless the Board has approved the transfer or lease in question prior to the execution or other punishable activity relating to the land in question;
- (c) any person who prepares or assists in the preparation of any document which purports to transfer any land that is covered by these provisions has the duty to determine if approval for the transfer has been given by the Board and acts before or without this approval be guilty of an offence and shall be liable to a fine of not less than one hundred and fifty thousand shillings;
- (d) any Board member who receives any improper remuneration, in any form, which is provided in order to facilitate a decision involving the permanent transfer or lease of land, or acts considered inappropriate in any way, shall be guilty of an offence and shall be liable to a fine of not less than one hundred and fifty thousand

shillings and shall be dismissed by the Minister from further participation in Board deliberations.

Appeals from decision of the Board.

17. An appeal from any decision of the Land Transfer Board may be taken to the Lands Tribunal and that appeal, if it considers a factual matter shall be final.

If the Land Tribunal considers a matter of law, a further appeal to an appropriate appellate court is allowed.

PART V MISCELLANEOUS

Regulations.

18. The Minister may make Regulations in general to give effect to the purposes and provisions of this Act including the variation of fines under section 16, and in particular without prejudice to the generality of the foregoing, for prescribing the manner in which the transfers of land and the instruments to be used to complete any transactions considered under this Act and for prescribing anything under this Act which may be allowed.

The right of Government.

19. Nothing in this Act shall prejudice any interest, right, power or privilege conferred on Government by any other law.

Other law.

20. Any matter not provided for in this Act or in any other law in relation to the transfer or long term lease of land shall be decided accordance with the principle of justice, equity and good conscience.

Repeals.

21.(1) All laws or portions of laws in conflict with the provisions of this Act shall be deemed to be repealed and anything done under a repealed law shall be deemed to have been performed under the provisions of this Act.

(2) All pending cases prior to the commencement of this Act shall be dealt with in accordance with the provisions of the repealed laws.

PASSED in the House of Representatives the 28th day of September, 1994.

**KHAMIS JUMA CHANDE
CLERK OF THE HOUSE OF REPRESENTATIVES**

Land Tenure (Amendment) Act No. 15 of 2003

THE LAND TENURE (AMENDMENT)

ACT NO.15 OF 2003

ARRANGEMENT OF SECTIONS

SECTIONS:	TITLE
1.	Short title and commencement
2.	Amendment of section 2.
3.	Amendment of section 3,
4.	Amendment of section4.
5.	Addition of New sections 6A, 6B and 6C.
6.	Amendment of section 9.
7.	Amendment of section 11.
8.	Amendment of section 33.
9.	Amendment of section 39.
10.	Amendment of section 42.
11.	Addition of New section 42A.
12.	Amendment of section 48.
13.	Amendment of section 56.
14.	Repeal of Act No. 6 of 1989.

ACT NO.15 OF 2003

I ASSENT

**(AMANI ABEID KARUME)
PRESIDENT OF ZANZIBAR AND
CHAIRMAN OF THE REVOLUTIONARY COUNCIL**

13th NOVEMBER, 2003.

**AN ACT TO AMEND THE LAND TENURE
ACT NO.12 OF 1992**

ENACTED by the House of Representatives of Zanzibar.

Short title and commencement. 1.(1) This Act may be cited as the Land Tenure (Amendment) Act, 2003 and shall come into operation immediately after being assented to by the President.

(2) This Act shall be read as one with The Land Tenure Act, 1992 in this Act, referred to as the "Principal Act".

Amendment of section 2. 2. Section 2 of the principal Act is hereby amended as follows:-
(i) by the deleting the definition of the word "Commission".

(ii) by adding the following definitions:-

"Department" means the Department for Land and Registration;

"Director" means "Director for Land and Registration;

"Government" means the Revolutionary Government of Zanzibar;

"ownership" in relation to Land, apart from the Government which is the sole owner of all natural land, refers to an interest in development on the natural land, and anything connected therewith or incidental thereto, including a legal right of occupancy on that land.

Amendment of section 3.

3. Section 3 of the principal Act is hereby amended by deleting subsections (3) and (4) and substituting for the following:

“(3) Subject to the provisions of subsection (2) and any directions of the President, public land shall be administered in accordance with this Act by the Minister, who may control and make dispositions of public land and perform all powers and duties contained in this Act on behalf of the President.

(4) The Minister may, subject to the provisions of this Act, control and distribute public land which are under the control of the Government by grants of rights of occupancy as well as terminate those rights of occupancy when appropriate as prescribed by this Act.”

Amendment of section 4.

4. Section 4 of the principal Act is hereby amended by deleting the words “shall be declared as” appeared in the second line and substituting for the words “is hereby declared”.

Addition of New sections 6A, 6B and 6C.

5. The Principal Act is hereby amended by adding new sections 6A, 6B and 6C immediately after sections 6 as follows:

6A.(1) The department may require in writing any person or body of persons engaged in research or in any activity affecting or relating to land in Zanzibar, to furnish to it such information related to that research or activity as the department may specify.

(2) Every person or body of persons which is required to furnish information under subsection (1) of this section, shall comply with the requirement and any person or body of persons which refuses or fails to comply with that requirement shall be guilty of an offence and shall be liable on conviction to a fine not less than Fifty Thousand Shillings and not more than Five Hundred Thousand Shillings or to imprisonment for a term not less than three months and not more than six months or to both such fine and imprisonment.”

6B.(1) Any person who destroys or misuses land by erecting structure(s) or building(s) or dumping

or digs holes in any area not allowed or gives out all or part of the grant to other persons(s) or changes land use or uses land in such manner contrary to the direction and procedures established by this Act or any other Act concerning land matters, commits an offence and shall on conviction be liable to a fine not less than Five Hundred Thousand Shillings and not more than Two Million shillings or to imprisonment for a term not more than six months or to both such fine and imprisonment.

(2) Any person found guilty of an offence under the provisions of subsection (1) of this section, shall be required to remedy any fault caused by his misused of the land.

(3) In addition to the penalty provided for under the provisions of subsection (1) and (2) of this section, the court may issue any order which it deems fit."

6C. The Director or any officer of the department duly authorized in writing or wearing visible badge of office may, at reasonable times enter into and upon any land within Zanzibar for the purpose of exercising any power of inspection, inquiring, or execution of works which is given to the department under this Act or by any laws or regulations in force within Zanzibar."

Amendment of section 9.

6. Section 9 of the principal Act is hereby amended in subsection (2) by deleting the words "of lands" appeared after the word "Director".

Amendment of section 11.

7. Section 11 of the principal Act is hereby amended in subsections (1) and (2) by deleting the words "of land" appeared after the word "Director".

Amendment of section 33.

8. Section 33 of the principal Act if hereby amended in subsection (1) by deleting the word "three" appeared in that subsection and substituting for the word "two".

Amendment of sections 39.

9. Section 39 of the principal Act is hereby amended in subsection (2) by deleting the word "three" appeared in that subsection and substituting for the word "two".

Amendment of section 42.

10. Section 42 of the principal Act is hereby amended in subsection (2) and (3) by deleting the word "three" appeared in that subsections and substituting for the word "two".

Addition of New section 42A.

11. The principal Act is hereby amended by adding a new section 42A immediately after section 42 as follows:-

42A.(1) The grantee shall not harass, disturb or evict any person who dwells or cultivates on the allocated three acres plot and that person shall not extend his dwellings or cultivating areas without prior permission of the grantee.

(2) Where in that three acres plot there is a person who is cultivating, that person shall continue to be in that acre until the time of harvesting his crops or of expiry of the agreed period or given compensation to the crops in accordance with the agreement of official evaluation made.

(3) Where in that three acres plot there is a person who is living, that person shall continue to live in that acre but shall not be allowed to sale, lease, give or extend his dwellings or assigning any part thereof to any other person without prior permission of the grantee."

12. Section 48 of the principal Act is hereby amended by deleting that section and substituting for the following:

Amendment of section 48.

48.(1) Any violation or breach of the terms and conditions of a lease of public land restricting the sale, assignment, sub-letting, sub-diving or failure to develop the said land within thirty months from the date of commencement of the lease shall on presentation of evidence of such violation or breach, empower the Minister to terminate the said lease.

(2) Any Lessee who fails to pay a land rent after it becomes payable shall in addition to the land rent pay an additional rent amounting to 10% of the land rent for each month he was in default.

(3) Any Lessee who fails without lawful reasons to pay such a land rent and an additional rent for one

year from the date that an additional rent becomes payable, the Minister shall have the right of entry and repossession of the demised land.”

13. Section 56 of the principal Act is hereby amended by deleting the word “Government” appeared in that section and substituting for the word “Minister”.

Amendment of section 56.

14.(1) The Commission for Land and Environment Act No. 6 of 1989 is hereby repealed.

Repeal of Act No.6 of 1989.

(2) Notwithstanding the repeal under subsection (1) of this section, anything done under the said Act which is enforce shall be deemed to have been made under the provision of this Act.

PASSED in the House of Representatives of Zanzibar on the 21st day of October, 2003.

(KHAMIS JUMA CHANDE)
CLERK OF THE HOUSE OF REPRESENTATIVES

Land Transfer (Amendment) Act No. 10 of 2007

ACT NO. 10 OF 2007

I ASSENT

**{AMANI ABEID KARUME}
PRESIDENT OF ZANZIBAR AND
CHAIRMAN OF THE REVOLUTIONARY COUNCIL**

....., 2007

**AN ACT TO AMEND THE LAND TRANSFER ACT,
NO. 8 OF 1994**

ENACTED by the House of Representatives of Zanzibar.

**PART I
PRELIMINARY PROVISIONS**

Short title and commencement. 1. This Act may be cited as the Land Transfer (Amendment) Act, 2007 and shall come into operation immediately after being assented to by the President.

Construction. 2. This Act shall be read as one with the Land Transfer Act No. 8 of 1994 in this Act referred to as the Principal Act.

Amendment of Section 2. 3. Section 2 of the Principal Act is hereby amended by adding references relating to the definition of the following words:

“Department” means Department for Lands and Registration;

“Director” means Director for Lands and Registration;

“Head of Department” means Head of Department of Lands and Registration, Pemba;

“Instrument” means a grant or other transfer of Public Land, a document or plan relating to transfer, charging or otherwise dealing with or affecting land, or evidencing title to it, and includes;

- (i) a grant of probate or administration or other trust instrument; and
- (ii) an Act;

“Transfer” includes a conveyance, grant and assignment;

“Transferee” includes a grantee, assignee and personal representatives;

“Transferor” includes a grantor, assignor and their legal representatives;

PART II MISCELLANEOUS PROVISIONS

Amendment of
Section 5.

4. Section 5 of the Principal Act is hereby amended as follows:

- (i) by deleting the words “Executive Secretary” which appears in subsection (2) and other provisions of the Principal Act and substituting for them the word “Director”
- (ii) by deleting the words “Commission of Lands and Environment appearing in subsection (2) and other provisions thereof and substituting for them the words “Department of Lands and Registration”
- (iii) by deleting the words “Deputy Executive Secretary” in subsection (2) and (3) and substituting for them the words “Head of Department”.

Repeal and
replacement of
Section 9.

5. Section 9 of the Principal Act is hereby repealed and replaced as follows:

- (i) Sub-section (1) is repealed and replaced thereto by the following new sub section:

“Composition 9.(1) There shall be a Land of the Transfer Board in Zanzibar which shall Board. consist of the following members:-

- (a) Chairperson who shall be appointed by the President;
 - (b) Director who shall be a Secretary to the Board;
 - (c) Head of department;
 - (d) Two other members who shall be appointed by the Minister”.
- (ii) Sub-sections (2) and (3) are hereby repealed.

Repeal and replacement of Section 10(a).

6. Section 10 of the Principal Act is hereby repealed and replaced as follows:

- (i) by repealing paragraph (a) and replaced therefore by the following new paragraph (a) as follows:

“10(a) The Director and Head of Department shall serve on the Board for as long as they hold their respective offices.”

- (ii) by deleting the word “five” appearing in the first line in paragraph (b) and replaced thereto by the word “two”.

Amendment of Section 11.

7. Section 11 of the Principal Act is hereby amended in subsection (4) by deleting the words “shall be no” between words “there” and “appeal” and inserting the words “may be an”.

Amendment of Section 12.

8. Section 12 of The Principal Act is hereby amended by deleting the words “at least two from Pemba”.

Repeal and replacement of section 13.(2).

9. Section 13.(2) of The Principal Act is hereby repealed and replaced by the following new section 13.(2).

13.(2) In the case of Director or the Head of Department being dismissed from his Board responsibility, the next senior officer to that Department shall be a replacement member to the Board.”

Amendment
of section 16.

10. Section 16 of the Principal Act is hereby amended as follows:

(i) By deleting the words “one hundred and fifty thousand” appearing in paragraphs (a),(b),(c) and (d) and substituting thereto the words “one million shillings or imprisonment for the term not more than six months or both such fine and imprisonment.”

(ii) By deleting the word “executives” appearing in the first line in paragraph (b) and replaced thereto the word “execute”.

Repealing of
section 17.

11. Section 17 of the Principal Act is hereby repealed.

PASSED in the House of Representatives on 22nd day of October, 2007.

{ IBRAHIM MZEE IBRAHIM }
CLERK OF THE HOUSE OF REPRESENTATIVES

Land Tribunal (Amendment) Act No. 1 of 2008

THE LAND TRIBUNAL (AMENDMENT) ACT, 2008

ARRANGEMENT OF SECTIONS

SECTION

TITLE

PART I PRELIMINARY PROVISIONS

1. Short title and Commencement.
2. Construction.
3. Amendment of section 2.

PART II GENERAL PROVISIONS

4. Amendment of section 3.
5. Repeal and replacement of section 4.
6. Amendment of section 5.
7. Amendment of section 6.
8. Repeal and replacement of section 7.
9. Repeal and replacement of section 9.
10. Amendment of section 10.
11. Amendment of section 11.
12. Amendment of section 13.
13. Amendment of section 14.
14. Amendment of section 15.
15. Amendment of section 16.
16. Amendment of section 18.
17. Amendment of section 19.
18. Amendment of section 20.
19. Repeal and replacement of section 21.
20. Amendment of section 22.
21. Amendment of section 24.

22. Amendment of section 25.
23. Amendment of section 26.
24. Amendment of section 28.
25. Amendment of section 29.
26. Amendment of section 30.
27. Amendment of section 31.
28. Amendment of section 32.
29. Amendment of section 33.
30. Amendment of section 35.
31. Amendment of section 36.
32. Amendment of section 37.
33. Amendment of section 38.
34. Repeal and replacement of section 38.
35. Repeal and replacement of section 41.
36. Amendment of section 42.

THE LAND TRANSFER (AMENDMENT) ACT, 2007

ARRANGEMENT OF SECTIONS

SECTIONS

TITLE

PART I PRELIMINARY PROVISIONS

1. Short title and commencement.
2. Construction.
3. Amendment of Section 2.

PART I MISCELLANEOUS PROVISIONS

4. Amendment of Section 5.
5. Repeal and replacement of Section 9.

6. Repeal and replacement of Section 10(a).
7. Amendment of Section 11.
8. Amendment of Section 12.
9. Repeal and replacement of section 13.(2).
10. Amendment of section 16.
11. Repealing of section 17.

ACT NO. 1 OF 2008

I ASSENT

**(AMANI ABEID KARUME)
PRESIDENT OF ZANZIBAR
AND
CHAIRMAN OF THE REVOLUTIONARY COUNCIL**

12th March, 2008

AN ACT TO AMEND THE LAND TRIBUNAL ACT, NO. 7 OF 1994

ENACTED by the House of Representatives of Zanzibar

**PART I
PRELIMINARY PROVISIONS**

- | | |
|-------------------------------|---|
| Short title and commencement. | 1. This Act may be cited as the Land Tribunal (Amendment) Act, 2008 and shall come into operation immediately after being assented to by the President. |
| Construction. | 2. This Act shall be read as one with the Land Tribunal Act, No. 7 of 1994 (in this Act shall be referred to as the "Principal Act"). |
| Amendment of section 2. | 3. Section 2 of the Principal Act is hereby amended as follows: |

- (i) by repealing the definition of the words "Chief Justice" and "Land Tribunal" and replacing with the following new definitions as follow:

"Chief Justice" means the Chief Justice of the High Court of Zanzibar;

"Land Tribunal" means the Land Tribunal established under section 3 of the Principal Act to hear land disputes;

- (ii) by adding definition of the new words as follows:

"applicant" means a person who has submitted an Application to the Land Tribunal;

"Chief Clerk" means the officer in charge of the tribunal responsible to keep records of the tribunal;

"Decree holder" means any person in whose favor a decree of the tribunal has been passed or an order of the tribunal capable of execution has been made;

"High Court" means the High Court of Zanzibar;

"Judgment debtor" means any person against whom a decree has been passed or an order capable of execution has been made;

"Magistrate" means a person who holds a post of Regional Magistrate and shall include Magistrate of the Land Tribunal:

"Panel of the Land Tribunal" means a panel of the Land Tribunal presided by Chairman or Deputy Chairman or Magistrate sitting with two Assessors;

"Petition" means the Application filed by the person making a claim;

"Petitioner" means a person who filed a petition;

"Respondent" means the person who replies to the petition or other proceedings;

"Reply" means the papers filed by the respondent

replying to the petition;

"Surveyor" means an impartial person experienced and certified by the Director responsible for land matters to be a surveyor;

"valuer" means an impartial person experienced and certified by the Director responsible for land matters to be a valuer;

"Zanzibari" means as defined under section 3(1) of the Zanzibari Act, No. 5 of 1985.

PART II GENERAL PROVISIONS

Amendment
of section 3.

4. Section 3 of the Principal Act is hereby amended as follows:

- (i) in subsection (1) by adding "s" in the word Tribunal;
- (ii) in subsection (2) by deleting the words "District" and "on any island" and substituting for the words "Region" and "of Zanzibar".

Repeal and
replacement
of section 4.

5. Section 4 of the Principal Act is hereby repealed and replaced by the following new section 4 as follows:

*Appoint-
ment of
Chairman,
Deputy
Chairman,
Magistrates
and
Assessors.*

"4.(1) There shall be a Chairman of the Land Tribunal who shall be appointed by the President after consultation with the Chief Justice, and who shall serve for three years and may be reappointed for another term of three years.

(2) There shall be two Deputy Chairmen of the Land Tribunal one for Unguja and another for Pemba, appointed by the Judicial Service Commission.

(3) There shall be Magistrates of the Land Tribunals for Unguja and Pemba who shall be appointed by the Judicial Service Commission.

(4) There shall be Assessors who shall sit on the Land Tribunal and who shall be appointed by the Chief Justice in consultation with the Chairman of the Land Tribunals.

(5) The Chairman of the Land Tribunal shall be the Chief Administrative officer of the land Tribunal.

(6) The Chairman or Deputy Chairman or Magistrate or Assessor may be dismissed from service by the Authority appointed him at any time after receiving a clear evidence of any abuse of powers and before dismissal, shall be given a chance to raise his defense”.

Amendment
of section 5.

6. Section 5 of the Principal Act is hereby amended as follows:

(i) In subsection (1) by adding the words “or Deputy Chairman or Magistrate” after the word “Chairman”;

(ii) In sub section (2) by adding the words “or Deputy Chairman or Magistrate” after the word “Chairman” and deleting the words “as an ordinary employee of the Judiciary Department”.

Amendment
of section 6.

7. Section 6 of the Principal Act is hereby amended as follows:

(i) In sub section (1) by repealing the opening words and replacing with the followings:

“(1) A person shall be qualified to be appointed as Chairman or Deputy Chairman if he has the following qualifications;”

(ii) In subsection (1) paragraph (b) by deleting that paragraph thereof and substituting for the following:

“(b) holds a Degree in Law and has an experience of not less than three years of service;”

(iii) In subsection (2) paragraph (a) by deleting that paragraph thereof and substituting for the following:

“(a) a Zanzibari residing at an area where the land dispute arose.”

8. Section 7 of the Principal Act is hereby repealed and replaced by the following new section 7 as follows:

"7. Chairman, Deputy Chairman or Magistrate of the Land Tribunal shall sit in all panels as the presiding person together with two Assessors resident in the Region where the dispute is being heard.

9. Section 9 of the Principal Act is hereby repealed and replaced by the following new section 9 as follows:

Repeal and replacement of section 7.

Panel members.

"9.(1) There shall be a Chief Clerk and Deputy Chief Clerks of the Land Tribunal who shall be appointed by the Chairman in consultation with the Chief Justice.

(2) The Chief Clerk or Deputy Chief Clerks shall have the following qualifications:

Repeal and replacement of section 9.

Chief Clerk.

- (a) he should be a Zanzibari;
- (b) he holds at least a Diploma in law;
- (c) has experience of at least two years.

(3) The Chief Clerk shall work in the Tribunals Principal venue of Zanzibar Town and Deputy Chief Clerks shall sit in each Region of Unguja and Pemba.

Amendment of section 10.

10. Section 10 of the Principal Act is hereby amended in subsection (1) by deleting the word "District" and substitute for the word "Region".

Amendment of section 11.

11. Section 11 of the Principal Act is hereby amended as follows:

- (i) In paragraph (g) by deleting the word "District" and substituting for the word "Region";
- (ii) In paragraph (h) by adding the word "are" after the word "tribunals".

Amendment of section 13.

12. Section 13 of the Principal Act is hereby amended as follows:

- (i) in paragraph (a) by deleting the word "to" which appear after the word "right" and substituting for the word "of";
- (ii) by deleting paragraphs (c), (h), (m) and (r) ;
- (iii) in paragraph (d) by deleting the word "reviwed" and substituting for the word "reviewed".

Amendment of section 14.

13. Section 14 of the Principal Act is hereby amended by adding the word "re" before the word "conciliation" and by adding "or Deputy Chairman or Magistrate" after the word "Chairman".

Amendment of section 15.

14. Section 15 of the Principal Act is hereby amended in subsections (1) and (2) by adding the word "or Deputy Chairman or Magistrate" after the word "Chairman".

Amendment of section 16.

15. Section 16 of the Principal Act is hereby amended by adding the words "but in accordance with the rules of Civil Procedure Decree" after the word "informal".

Amendment of section 18.

16. Section 18 of the Principal Act is hereby amended by deleting subsections (1) and (2) and renumbering section 18 as follows:

"18. On the day fixed for the respondent to appear and answer, the parties shall be in attendance at the Tribunal in person or by their respective advocates".

Amendment of section 19.

17. Section 19 of the Principal Act is hereby amended in subsection (2) by adding the words "or Deputy Chairman or Magistrate" after the word "Chairman".

Amendment of section 20.

18. Section 20 of the Principal Act is hereby amended by deleting subsection (1) thereof and substituting for the following:

"(1) The petition shall be filed at the office of the Clerk of the Land Tribunal in the Region where the Land in question is located, a petition must show what the petitioner claims and show the reasons of such claims".

Repeal and replacement of section 21.

19. Section 21 of the Principal Act is hereby repealed and replaced by the following :

“21.(1) The respondent shall file his reply showing what he admits or denies and show the reasons of such denial.

(2) The Clerk shall cause a copy of petition and reply to be delivered to the petitioner and respondent.”

Amendment
of section 22.

20. Section 22 of the Principal Act is hereby amended by deleting the words “notice for judicial as provided in section 42” and substituting for the words” “notice of appeal as provided in section 41”.

Amendment
of section 24.

21. Section 24 of the Principal Act is hereby amended by deleting subsections (2) thereof and substituting for the following:

“(2) If the last day of the time of service is not a working day then the time shall be extended to the next following working day”.

Amendment
of section 25.

22. Section 25 of the Principal Act is hereby amended in subsections (1), (2) and (3) by deleting the words “statement of defense” and substituting for the word “reply”.

Amendment
of section 26.

23. Section 26 of the Principal Act is hereby amended in subsections (1) and (2) by adding the words “or Deputy Chairman or Magistrate” after the word “Chairman”.

Amendment
of section 28.

24. Section 28 of the Principal Act is hereby amended by adding the words “or Deputy Chairman or Magistrate” after the word “Chairman”.

Amendment
of section 29.

25. Section 29 of the Principal Act is hereby amended as follows:

- (i) in the marginal note by deleting the word “conducting” and substitute for the word “conducting”;
- (ii) by adding the words “or Deputy Chairman or Magistrate” after the word “Chairman”;
- (iii) by adding the words “or Deputy Chairman or Magistrate” after the word “Chairman” in paragraph (c).

Amendment
of section 30.

26. Section 30 of the Principal Act is hereby amended in subsection (1) and (2) by adding the words “or Deputy

Chairman or Magistrate" after the word "Chairman".

Amendment
of section 31.

27. Section 31 of the Principal Act is hereby amended as follows:

- (i) in subsection (1) by deleting the word "questionon" and substituting it for the word "question" and by adding the words "or Deputy Chairman or Magistrate" after the word "Chairman";
- (ii) in subsection (2) by adding the words "or Deputy Chairman or Magistrate" after the word "Chairman" and by adding "s" in the word "day";
- (iii) in subsections (4), (5) and (6) by adding the words "or Deputy Chairman or Magistrate" after the word "Chairman";

Amendment
of section 32.

28. Section 32 of the Principal Act is hereby amended as follows:

- (i) in subsection (1) paragraphs (a) and (c) by adding the words "or Deputy Chairman or Magistrate" after the word "Chairman";
- (ii) in subsections (2), (3) and (4) by adding the words "or Deputy Chairman or Magistrate" after the word "Chairman".

Amendment
of section 33.

29. Section 33 of the Principal Act is hereby amended as follows:

- (i) by adding the words "or Deputy Chairman or Magistrate" after the word "Chairman";
- (ii) by adding "y" in the word "part";

Amendment
of section 35.

30. Section 35 of the Principal Act is hereby amended by deleting the word "inervention" and substituting for the word "intervention".

Amendment
of section 36.

31. Section 36 of the Principal Act is hereby amended as follows:

- (i) by deleting subsection (1) thereof and substituting for the following :

“(1) Evidence shall be submitted before the Land Tribunal in accordance with the provisions under the Evidence Decree Cap.5”

(ii) in subsection (2) by adding the words “or Deputy Chairman or Magistrate” after the word “Chairman”.

32. Section 37 of the Principal Act is hereby amended by adding the words “or Deputy Chairman or Magistrate” after the word “Chairman”.

Amendment
of section 37.

33. Section 38 of the Principal Act is hereby amended by repealing subsections (2) and (3) and replaced by the following:

Amendment
of section 38.

“(2) If an ex parte judgment has been entered the respondent shall within (7) days apply to the Chairman or Deputy Chairman or Magistrate to hear the petition inter parties and shall state the reasons for such application.

(3) During the time where the respondent is applying for the petition to be heard inter parties, the Chairman or Deputy Chairman or Magistrate shall adjourn the proceedings until the application has been heard and determined”.

Repeal and
replacement
of section 39.

34. Section 39 of the Principal Act is hereby repealed and replaced by the following:

*Enforce-
ment and
execution
of a Judge
ment or
Decree.*

“39.(1) Enforcement and execution of any judgment or decree shall proceed in accordance with the provisions available under the rules of Civil Procedure Decree.

(2) A decree holder may, as soon as practicable after the pronouncement of a judgment or decree, applies before the Tribunal for the execution of a decree, such application shall be made as provided for under the rules of the Civil Procedure Decree.

(3) Where after the expiration of 14 days there is no application for stay of execution from the judgment debtor, the Chairman or Deputy Chairman or Magistrate, shall make execution order as prayed for by the decree holder.

(4) Where there is an application for stay of execution from the judgment debtor, the Chairman or Deputy Chairman or Magistrate shall require all parties to appear before the Tribunal for hearing and determination of the application for stay of execution.

(5) The Chairman or Deputy Chairman or Magistrate shall, after hearing both parties, proceed to make an order for stay of execution, except that no order for stay of execution shall be made unless:

- (a) it is established to the satisfaction of the Chairman or Deputy Chairman or Magistrate that substantial and irreparable loss will result if the order is not made; or
- (b) security has been given by the judgment debtor to the performance of such decree."

Repeal and replacement of section 41.

35. Section 41 of the Principal Act is hereby repealed and replaced by the following :

"Appeal 41. Any party who is aggrieved by the decision of the Land Tribunals shall have the right to appeal to the High Court and such appeal shall be heard by a judge of the High Court."

Amendment of section 42.

36. Section 42 of the Principal Act is hereby amended in subsection (2) paragraph (a) by adding the words "or Deputy Chairman or Magistrate" after the word "Chairman".

PASSED by the House of Representatives on 24th day of January, 2008.

{ IBRAHIM MZEE IBRAHIM }
CLERK OF THE HOUSE OF REPRESENTATIVES
ZANZIBAR

Condominium Act No. 10 of 2010

ACT NO. 10 OF 2010

I ASSENT

**{ AMANI ABEID KARUME }
PRESIDENT OF ZANZIBAR
AND
CHAIRMAN OF THE REVOLUTIONARY COUNCIL**

....., 2010

**AN ACT TO PROVIDE FOR THE ZANZIBAR CONDOMINIUM ACT
AND OTHER MATTERS RELATED THERETO**

ENACTED by the House of Representatives of Zanzibar

THE ZANZIBAR CONDOMINIUM ACT, 2010

ARRANGEMENT OF SECTIONS

_____ SECTIONS

TITLE

**PART ONE
PRELIMINARY PROVISIONS**

1. Short title and commencement.
2. Application.
3. Interpretations.

**PART TWO
REGISTRATION OF CONDOMINIUM PROPERTIES**

4. Condominium plan.
5. Appointment of Registrar.

6. Registration.
7. Condominium Registers.
8. Refusal to register.
9. Planning consent.
10. Restriction on registering condominium plan.
11. Boundaries of units.
12. Conversion premises to unit.
13. Incidental right of owners of the common properties.
14. Easement of support.
15. Ancillary rights and obligations.

PART THREE RIGHTS AND DUTIES

16. Rights of unit owner.
17. Duties of a unit owner.
18. Condominium corporation.
19. Duties of the condominium corporation.
20. Destruction or damage to the building.

PART FOUR LEASE AND DISPOSITION

21. Disposition.
22. Sale of Unit by Proprietor or developer.
23. Sale.
24. Lease.
25. Inheritance.
26. Mortgage.

PART FIVE
ESTABLISHMENT OF CONDOMINIUM BOARD

27. Establishment of the Board.
28. Composition of the Board and tenure of the Members.
29. Secretary of the Board.
30. Meetings of the Board.
31. Extra ordinary meeting.
32. Quorum and voting.
33. Minutes of the Board.
34. Functions of the Board.
35. Limitation and liability of members.
36. Confidentiality.
37. Declaration of Interest.
38. Procedure.
39. Funds of the Board.
40. Accounts and audit.
41. Remuneration.
42. Dispute resolution.
43. Failure to exercise duty.
44. Offences and Penalties.
45. Registrar's report.
46. Powers of Minister.

PART ONE PRELIMINARY PROVISIONS

1. This Act may be cited as the Zanzibar Condominium Act, 2010 and shall come into operation immediately after being assented to by the President.

2. This Act shall apply in Zanzibar to property that is expressly made subject to the provisions of this Act in the manner hereinafter provided.

3. In this Act unless the context otherwise requires:-

“Board” means the Board established under section 27 of this Act;

“Building” means a multi-unit building or buildings comprising part of the property under this Act;

“Corporation” means a body corporate constituted in the manner provided for in section 18 of this Act;

“Common property” means that part of the condominium property which does not belong to any specific unit and which is used in common by the owners of the units and includes, without prejudice to the general effect of the foregoing, the land on which the property is situated, support structures, infrastructure and services;

“Condominium” means a system of separate ownership of individual units in a multiple-unit buildings, it may be vertical or horizontal buildings, the individual units of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those units;

“Court” means the High Court of Zanzibar;

“Developer” means a person who, whether alone or in conjunction with another person or body corporate that develops, sells or offer for sale to the public, units or proposed units;

“Disposition” includes sale, mortgage, transfer, grant, gift, inheritance, partition exchange, lease, assignment, surrender, or, disclaimer, creation of an easement, a usufructuary right, or any other servitude or interest in a right of occupancy, and in each case, include the fractional share appurtenant to the unit, as well as the right to use the appurtenant restricted common areas, where applicable;

“Easement” means a right attach to a parcel of land which allows the proprietor of the parcel either to use the land of another in a

particular manner or to restrict its use to a particular extent, but does not include a profit;

“Land” means a land as defined under the Land Tenure Act No. 12 of 1992;

“Minister” means the Minister responsible for housing;

“Owner” means a person who is registered as the owner of:

- (a) a title to a unit; or
- (b) the leasehold estate in a unit where the parcel on which the unit is located is held under a lease;

“Parcel” means an area of land separately delineated on the registry map and given a number;

“President ” means the President of Zanzibar and Chairman of Revolutionary Council;

“Prescribed form” means the form prescribed in accordance with regulations made under this Act;

“Proprietor” means:

- (a) in relation to land or lease, the person or body of persons named in the register as the landowner thereof; and
- (b) in relation to any unit, the person or body of persons who is registered as owner of an estate in the unit;

“Registrar” means the Registrar of Condominium appointed under section 5 (1) of this Act;

“Unanimous resolution” means a resolution supported by majority of owners of units;

“Unit” means a space that is situated within a building and described in a condominium plan by reference to floors, walls and ceilings within the building;

“Unit owner” means any person who owns a unit according this Act.

PART TWO
REGISTRATION OF CONDOMINIUM PROPERTIES

4.(1) All application of Condominium registration shall be accompanied by a condominium plan and that plan shall:

- (a) state the full reference and description of a parcel;
- (b) delineate the boundaries of the parcel and the location of the building in relation thereto;
- (c) include such elevations, sections, plans, diagrams and other information as shall be sufficient to:
 - (i) illustrate the condominium and distinguish each condominium by a number; and
 - (ii) define the boundaries of each condominium in the building by reference to floors, walls and ceiling; and
 - (iii) specify the approximate floor area of each condominium;
- (d) have endorsed upon a schedule setting out the unit entitlement of each condominium indicating as a whole number the proportion of the common property allocated to the condominium;
- (e) have endorsed upon it the address at which documents may be served upon the condominium; and
- (f) contain such other particulars and be accompanied by such certificates and other documents as may be prescribed by regulations made under this Act.

(2) The developer in depositing a plan with the Registrar under subsection (1) of this section may indicate whether the plan will be developed at once or in successive phases.

(3) Where a plan is to be developed in phases, it shall be known as a phased condominium plan.

(4) Where the developer deposits a phased condominium plan in accordance with subsections (1) and (3) of this section the developer shall indicate a schedule for the development of the various phases.

(5) The common boundary between any two condominiums or between a condominium and common property shall, unless otherwise specified in the relevant condominium plan, be the centre line of the floor, wall or ceiling between such condominiums or between such condominium and the common property, as the case may be.

(6) The unit entitlement of each condominium shall, as respect the proprietor of such condominium, determine:

- (a) the quantum of his share in the relevant condominium; and
- (b) the proportion payable by him or contributions levied pursuant to relevant laws related to taxation.

5.(1) The Minister shall appoint a Registrar of Condominium Board who has a condominium knowledge and shall be a chief executive officer who shall vacate office in accordance with the terms of his appointment.

(2) The Registrar shall be responsible and answerable to the Board.

6.(1) All Condominium registration shall be made to the Registrar and no registration shall be made under this Act unless:

- (a) show the share values in whole numbers of each condominium and a number equal to the aggregate share value entitlement of all the condominium comprised in the parcel; and
- (b) contain such other particulars as may be prescribed in the Regulations made under this Act.

(2) The condominium plan shall be deemed to be registered under the provisions of this Act on the date that the condominium application is registered by the Registrar under subsection (1) of this section and the condominium title plan has been assigned a condominium title plan serial number as notified in the land-register.

(3) For the purposes of subsection (2) of this section, where permission for the erection of the buildings comprising the condominiums has been granted, the share values shown on the condominium title application shall be those shown in the schedule of condominiums filed with and accepted by the Registrar according to this section.

(4) No share value shall be allotted to an accessory condominium.

7. The registers opened by the Registrar in accordance with section 4 of this Act in respect of each condominium in a parcel shall record:

- (a) all the particulars recorded in the property section of the register relating to the parcel in question and including the condominium entitlement in question;
- (b) the name of proprietor of the parcel as the owner of the condominium; and
- (c) the encumbrances noted in the encumbrances section of the register relating to the parcel.

8.(1) If the Registrar is satisfied that any of such particulars or encumbrances do not apply to the condominium, he shall omit them from the register relating to the condominium and record the reasons for his decision.

(2) A condominium is deemed:

- (a) for the purposes of unit or joint to be a parcel; and
- (b) for all purposes of this Act to be land.

(3) Any person who is aggrieved by the decision of the Registrar may appeal to the Board.

9.(1) A proprietor of a unit may, in accordance with this Act, and with the approval of Housing Department, subdivide or consolidate his or her unit by registering with the Registrar a condominium plan relating to the unit intended to be subdivided or consolidated.

(2) Except as provided in this section, the provisions of this Act relating to condominium plans shall apply with all necessary modifications to a sub-division or consolidation of units.

(3) A unit comprised in a condominium plan of sub-division or consolidation shall, upon the registration of a condominium plan of sub-division or consolidation, be subject to the burden and have the benefit of any easement that affect units in the original condominium plan.

(4) There shall be indicated in the schedule accompanying a condominium plan of sub-division or consolidation, the apportionment among the units and the unit factor for the unit or units in the original condominium plan.

(5) The Registrar shall, before accepting to register a proposed condominium plan of subdivision or consolidation, amend the original condominium plan in accordance with regulations made under this Act.

(6) Upon registration of a condominium plan of subdivision or consolidation, the land comprised in it shall not be dealt with by reference to units in the original condominium plan.

10. The Registrar shall not register a plan as a condominium plan unless:

- (a) that plan, in its heading, is described as a condominium plan;
- (b) in respect of a building or structure constructed before the commencement of this Act, or for which a building permit was issued prior to the commencement of this Act, the Registrar shall refuse to issue a certificate if the building or structure does not conform with this Act; and
- (c) in respect of a building or structure for which a building permit was issued on or after the commencement of this Act, issue the certificate if it is satisfied that the building or structure conforms with any existing law.

11.(1) Unless otherwise provided in the condominium plan:

- (a) a boundary of a unit is described by reference to a floor, wall or ceiling; or
- (b) where a wall located within a unit is load bearing wall, the only portion of that floor, wall or ceiling as the case may be, that forms part of the unit, the boundary shall be the finishing material that is in the interior of that unit, including any lat and plaster, paneling gypsum board panels, flooring material or covering or any other material that is attached, laid, glued or applied to the floor, wall or ceiling, as the case may be.

(2) Notwithstanding subsection (1) of this section, all doors and windows of a unit are part of the unit unless otherwise provided in the condominium plan.

12. If a building contains premises that are:

- (a) rented to a tenant who is not party to a sale agreement; and
- (b) not included in a condominium plan;

the owner of those premises or a person acting on his behalf shall not sell the premises until the condominium plan which includes the premises is registered in accordance with this Act.

13.(1) A common property and each unit comprised in a registered condominium plan shall have as appurtenant to it, such rights of:

- (a) support, shelter and protection;

- (b) passage of provision of water, sewerage, drainage, gas, electricity, garbage and air;
- (c) passage or provision of telephone, radio and television services; and
- (d) any other service of whatever nature,

over the parcel and every structure on it as may from time to time be necessary for the reasonable use or enjoyment of the common property or unit.

(2) A common property and each unit comprise in a condominium plan shall have as appurtenant to it a right to full, free and uninterrupted access and use a light through or from any windows, doors or other apertures existing at the date of the registration of the condominium plan.

(3) The rights created by this section shall carry with them all ancillary rights necessary to make them effective as if they were easements.

(4) Nothing in this section shall affect any parcel other than the parcel to which the condominium plan relates.

14. In respect of each condominium there shall be implied:

- (a) in favor of the subsidiary proprietor of the condominium, and as appurtenant thereto, an easement for the subjacent and lateral support thereof by the common property and by every condominium capable of affording support; and
- (b) as against the subsidiary proprietor of the condominium, and to which the condominium shall be subject, an easement for the subjacent and lateral support of the common property and to every other lot capable of enjoying support.

15. Easements or restrictions to all ancillary rights and obligations as to use implied or created by this Act or by the regulations take effect and are enforceable without any memorial notification on the parts of the Register constituting titles to the dominant or servant tenements.

PART THREE RIGHTS AND DUTIES

16.(1) Subject to the provisions of this Act, each unit-owner has the right:

- (a) to use his unit and the common areas for his own needs as well as for the needs of his family and household;

- (b) without the approval of the Board or any other unit-owner, to transfer his unit to any other person by sale, lease, gift, bequest, devise, pledge or mortgage or any other manner permitted by this Act and other laws;
- (c) to have and exercise other rights that do not contradict this Act as provided by other laws of Zanzibar.

(2) Each unit-owner is obliged:

- (a) to observe all laws and Regulations pertaining to the property;
- (b) to observe any other laws and Regulations of Zanzibar; and
- (c) to contribute to costs of maintaining and operating the property, including the contingency fund, in proportion to his fractional share.

(3) Only the unit-owner who use common areas for restricted use contribute to the costs resulting from those portions.

(4) No unit-owner may interfere with the carrying out, even inside his unit, of work required for the conservation of the property approved by the Board, or of urgent work.

17. A unit-owner shall:

- (a) permit the condominium corporation and its agents, at all reasonable times on notice, except in case of emergency, to enter his unit for the purpose of inspecting, maintaining, repairing or renewing pipes, wires, cables and ducts for the time being existing in the unit and capable of being used in connection with the enjoyment of any other unit or common property;
- (b) carry out all works that may be ordered by any competent public authority in respect of his unit and for the benefit of the building in general;
- (c) pay all rates, taxes, charges, outgoings and assessments that may be payable in respect of his unit;
- (d) repair and maintain his or her unit and keep the same in a state of good repair, reasonable wear and tear;
- (e) use and enjoy the common property in such a manner as not unreasonably to interfere with the use and enjoyment thereof by other unit owners or their families, visitors or employees;

- (f) not use his or her unit or permit the same to be used in such manner or for such purpose as shall cause a nuisance or hazard to any occupier of a unit;

18.(1) Where a company has been incorporated under the Companies Decree Chapter 153 of the Laws of Zanzibar or established under any other law as a body corporate to operate a property such a body corporate is hereinafter called a "condominium corporation.

(2) A condominium corporation constituted under this Act shall have powers and duties as provided under this Act and other applicable laws of Zanzibar.

19. The duties of the condominium corporation shall include the following:

- (a) to operate the property for the benefit of all unit owners and to be responsible for the enforcement of the Regulations made under this Act;
- (b) to keep the common property in a state of good and serviceable repair;
- (c) to insure and keep insured the building to the replacement value thereof against fire, hurricane, earthquake and sea wave unless the unit owners by unanimous resolution otherwise decide;
- (d) to insure against such other risks as the unit owners may by special resolution determine;
- (e) to comply with notices or orders issued by any competent public authority requiring repairs to or work to be done in respect of the property of the building;
- (f) to carry out the directions of the unit owners expressed by unanimous resolution or otherwise as may be prescribed by this Act or Regulations made under this Act;
- (g) to carry out any other duties that may be prescribed by this Act or Regulations made under this Act.

20. Where a building is destroyed or damaged a unit owner, co-owner or corporation shall issue a notice to the Registrar in the manner prescribed in the Regulations made under this Act.

**PART FOUR
LEASE AND DISPOSITION**

21. Subject to the provisions of this Act and Regulations made hereunder, each unit of the property constitutes a distinct object of real property and may be the subject of disposition by the owner in whole or in part.

22. (1) A proprietor or developer shall not sell or agree to sell a unit or proposed unit unless he or she has delivered to the purchaser a copy of:

- (a) the sale agreement whose content shall contain the matters prescribed in the regulation;
- (b) the proposed rules;
- (c) the proposed management agreement;
- (d) the proposed sale agreement;
- (e) the copy of the lease of the parcel, if the parcel is held under a lease;
- (f) a certificate of title in respect of the unit or proposed unit;
- (g) any charge or proposed charge which may affect the title of the unit;
- (h) the condominium plan.

(2) A Proprietor or developer shall deliver to the purchaser in respect of a charge or proposed charge, a written notice indicating:

- (a) the maximum principal amount under the charge;
- (b) the maximum monthly payment, if any;
- (c) the amortization period;
- (d) the grace period if any; and
- (e) the pre-payment terms, if any.

(3) Subject to subsection (4) of this section, a purchaser of a unit from a proprietor or developer may, without carrying any liability for doing so, rescind the sale agreement within ten working days after the date of its execution.

(4) A purchaser may not rescind the sale agreement under subsection (3) of this section if all the documents required to be delivered to the purchaser under subsection (1) of this section have been delivered to the purchaser not less than ten days before the execution of the sale agreement by the parties to it.

(5) If a sale agreement is rescinded under subsection (3) of this section the proprietor or developer shall, within ten working days from receipt of written notice of the rescission, return to the purchaser all the money paid in respect of the purchase of the unit.

23.(1) A co-owner or any other person who is not a proprietor or developer prior to completion of the sale of his unit, shall:-

- (a) furnish to a purchaser copies of the declaration of his financial statement;
- (b) provide a certificate containing a statement of the amount of assessments for common expenses against the unit;
- (c) provide the amount of any unpaid common expenses currently due and payable with respect to the unit;
- (d) provide any other fees or charges payable by the co-owner of the unit.

(2) A person who acquires a unit, by whatever means, bound to pay all common expenses due in respect of that unit at the time of the acquisition. A purchaser of a unit shall not be liable for any common expenses, assessments or fees in excess of the amounts shown in the sales certificate.

24.(1) The unit-owner shall have a right to lease his unit in accordance to this Act and other laws regulating leases.

(2) The owner of a unit shall, within fourteen days after a tenant rents his or her unit, give the Board notice in writing stating the name of the tenant occupying his or her unit and such other particulars as provided in the rules.

(3) The owner of a unit shall, within fourteen days after a tenant ceases to rent his or her unit, give the Board notice in writing stating that his or her unit is no longer being rented.

25. The inheritance rights of co-owners shall be subject to the prevailing laws of succession.

26. The unit owner shall have a right to mortgage in accordance to prevailing law relating to mortgage.

PART FIVE
ESTABLISHMENT OF CONDOMINIUM BOARD

27.(1) There is hereby established a Board to be known as the Condominium Board.

(2) The Board shall:

- (a) be a body corporate with perpetual succession and common seal;
- (b) in its corporate name be capable of suing and being sued;
- (c) for and in connection with the purpose of this Act be capable of acquiring, holding and disposing of movable and immovable property in its corporate name;
- (d) do and suffer all acts and things that bodies corporate may by law do and suffer that are necessary for, incidental to, the performance of its functions.

(3) The seal of the Board shall not be affixed to any instrument except in the presence of the Chairperson in his absence the Vice-Chairperson or Secretary of the Board.

28.(1) The Board shall consist of the Chairperson appointed by the President and five other members appointed by the Minister namely:-

- (a) one person who shall have experience and knowledge of human shelter;
- (b) one member who have experience in civil engineering or architecture;
- (c) one representative from any Condominium Corporation;
- (d) one member who is legal qualified person;
- (e) One member who has business knowledge;
- (f) Director responsible for housing; and
- (g) Registrar.

(2) The Board shall elect one member among themselves to be a Vice-Chairperson.

(3) A member of the Board other than *ex-officio* member shall hold office for a period of three years and may be eligible for reappointment.

(4) A member may resign by giving one week notice in writing to the appointing authority of his intention to do so.

29. The Board shall appoint a Legal Officer to be Secretary to the Board.

30.(1) The Board shall meet quarterly in every year at a suitable time, place and date as the Board may appoint.

(2) All meetings of the Board shall be convened by the Chairperson or in his absence notified in writing by the Vice Chairperson.

(3) The Chairperson, on his absence the Vice Chairperson, shall preside the meetings of the Board and in the absence of both the Chairperson and the Vice Chairperson the members present at the meeting shall elect one of the members to be the Chairperson for that meeting.

31. The Board may conduct extra ordinary meeting if deems necessary, the Chairperson or Vice-Chairperson shall provide short notice before the meeting.

32.(1) More than half of the members of the Board shall constitute quorum at any meeting of the Board.

(2) All acts, matters and things authorized to be done by the Board shall be decided by resolution of the members present.

(3) A decision of the majority of members present and voting at a meeting of the Board shall be deemed to be a decision of the Board.

(4) Every member of the Board shall have one vote and in the event of an equality of votes the Chairperson of the meeting shall have second or casting vote in addition to his deliberative vote.

33. Minutes in proper form of each meeting of the Board shall be kept and shall be confirmed by the Board at the next meeting signed by the Chairperson or Vice-Chairperson and the Secretary to the Board, provided that nothing herein contained shall preclude the minutes to be circulated and approved (or otherwise) by electronic means.

34. Subject to the provisions of this Act and any regulations made hereunder the functions of the Board shall be:

- (a) to maintain and keep lists of register of Condominiums, Condominium plans, proprietors, developers, unit owners and tenants;
- (b) to receive, and keep the deposit paid by the tenant;
- (c) to monitor the conduct and activities of condominium owners, developer, condominium plan and proprietor;
- (d) to arrange publication and dissemination of materials produced in connection with the work and activities of the Board;
- (e) to take any action, decision or give permission, or consent or exercise any other control as may be necessary or desirable for the purpose of this Act;
- (f) to publish guidelines on the requirements of this Act and Condominium regulations;
- (g) to settle any dispute related to condominium matters in civil nature before such dispute to be referred to the court;
- (h) to arrange and collect maintenance fees to the common properties;
- (i) to allow and supervise the unit owners to establish Associations in any Condominium building if the Board thinks necessary to do so; and
- (j) to do any other thing as may be directed by the Minister from time to time in consultation of the Board.

35. Neither the Chairperson of the Board nor any member of the Board shall be personally liable for any act or default of the Board done or omitted in good faith in the course of carrying out the responsibilities and functions or exercising the powers conferred upon by this Act and the Board.

36.(1) A member who has information in his capacity as a member that would not otherwise be available to him must not disclose that information to any person, or make use of, or act on, that information, except:

- (a) for the uses of the Board; or
- (b) as required or permitted by law; or
- (c) in accordance with sub section (2) of this section.

(2) A member may disclose, make use of, or act on the information if:

- (a) the member is first authorized to do so by the Board;
- (b) the disclosure, use, or act in question will not, or will not be likely to, prejudice the Board.

Provided that any member that contravenes this section shall be liable to a fine of not less than five hundred thousand shillings or imprisonment of not more than one year or both such fine and imprisonment.

37. A member must declare himself or herself from participating in any investigation, hearing or decision concerning the matter in respect of which that member has conflict of interest.

38. Subject to the provisions of this Act and to any regulations which may be made under section 46 of this Act, the Board shall have power to regulate its own proceedings.

39. The funds and resources of the Board shall consists of:-

- (a) registration and annual subscription fee paid by registered unit owner, proprietor and developer;
- (b) such sums as the Board may receive by way of grant or loan from any person or organization;
- (c) such sums as the Board may, from time to time, borrow;
- (d) such sums as may in any manner, become payable to or vested in the Board either under the provisions of this Act or any other written law, or incidental to carry out of its functions;
- (e) such sum as the Board may receive from the government.

40.(1) The Board shall cause to keep proper accounts and shall as soon as practicable after the end of each financial year cause the accounts relating to the financial year together either:

- (a) statement of income and expenditure during that financial year;
and
- (b) a statement of the assets and liabilities of the Board on the last day of that financial year, to be submitted to and audited by duly registered and authorized auditors;

(2) Copies of the statement referred to in subsection (1) of this section and a copy of the auditor's report shall be forwarded to the Minister

41. The members of the Board shall be paid such allowances as the Board may, with prior consent of the Minister determine.

PART SIX MISCELLANEOUS PROVISIONS

42. Any condominium dispute shall be resolved in accordance to the existing laws of Zanzibar.

43. Any person who intentionally fails to exercise his duty conferred upon him under any provision of this Act for an offence upon which punishment is not provided thereof, shall be liable to a fine of not exceeding Five Hundred Thousand Shillings or imprisonment for a term of not exceeding two years or both such fine and imprisonment.

44. Any person who:

- (a) fraudulently makes, or causes or permits to make, any false or incorrect entry in the Register or any copy thereof; or
- (b) fraudulently procures or attempts to procure for him or herself or for any other person to be registered under this Act;
- (c) knowingly or willfully makes any statement which is false in a particular material, or which is misleading, with a view to gaining any advantage, concession or privilege under this Act, whether for himself or for any other person.

commits an offence and upon conviction shall be liable to a fine of not more than Five Hundred Thousand Shillings or imprisonment for a term of not more than two years.

45. The Registrar shall, at the end of each financial year submit financial report to the Minister through the Board.

46. The Minister may make regulations for better carrying out the purpose of this Act, prescribing all matters that are required or permitted to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Land Tenure (Revised) Act No. 12 of 1992

THE LAND TENURE (REVISED) ACT NO.12 OF 1992

ARRANGEMENT OF SECTIONS

SECTIONS

TITLE

PART I PRELIMINARY

- 70. Short title and commencement.
- 71. Interpretation.

PART II PUBLIC LAND

- 72. Public Land.
- 73. Confiscated Land.
- 74. Easements.
- 75. Boundaries of Public Lands.

PART III RIGHT OF OCCUPANCY TO LAND

- 76. Right of Occupancy.
- 77. Conditions of Right of Occupancy.
- 78. Execution of Right of Occupancy.
- 79. Effect of Registration.
- 80. Registration of Provisional Rights of Occupancy.
- 81. Charges.
- 82. Default of a Charge.
- 83. Charges involving Joint or Communal Interests.
- 84. Size of a Right of Occupancy.
- 85. Joint Holdings of inherited land.
- 86. Effect of creation of Jointly Held Interest.
- 87. Sale of a Right of Occupancy.

PART IV RIGHT TO OWNERSHIP OF TREES

- 88. Ownership of Trees.
- 89. Inheritance of Trees.
- 90. Sale of Trees.
- 91. Urban Trees.

PART V
GRANTS OF PUBLIC LANDS

- 92. Grants of Land.
- 93. Right of a Grant of land.
- 94. Fees Applicable.
- 95. Status of Grant to land.
- 96. Inheritance or sale of granted land.
- 97. Effect of Adjudication on the prior holding of an individual.
- 98. Refusal or failure to exercise option.
- 99. Allocation procedure for a grant.
- 100. Retention of possession.
- 101. Reallocation.
- 102. Provisional grant of a Right of Occupancy.
- 103. Appeal from the Allocation Procedure.
- 104. Rights of Joint Holders.
- 105. Sale of Granted Land.
- 106. Disagreements among joint holders.
- 107. Appeals of partition Decisions.
- 108. Urban grants.
- 109. Inheritance of urban land.
- 110. Sale of granted urban land.
- 111. Agricultural grants.
- 112. Size of grant.
- 113. Sale of granted agricultural land.
- 114. Inheritance of agricultural land.

PART VI
LEASES

- 115. Leases to Public Land under Government control.
- 116. Duration and status of leases of public land under Government control.
- 117. Violation of the restrictions in a Lease.
- 118. Appeal of decision for termination.
- 119. Leases of Right of Occupancy.
- 120. Duration and status of lease of right of occupancy.
- 121. Violation of the Restrictions in a Lease of Right of Occupancy.
- 122. Size of Lease to agricultural right of occupancy.
- 123. Effect of Lease of Right of Occupancy.

PART VII
TERMINATION OF RIGHTS OF OCCUPANCY

- 124. Termination of right of occupancy.
- 125. Right to terminate national interest.
- 126. Zanzibari requirement.
- 127. Forfeiture.
- 128. Abandoned land.

- 129. Idle land.
- 130. Termination of a jointly held Right of Occupancy.
- 131. Challenge to an Order of Termination.
- 132. Compensation upon termination.
- 133. Relinquishment of possession.
- 134. Disagreement over value of property.

**PART VIII
MISCELLANEOUS PROVISIONS**

- 135. Effective date of grants.
- 136. Regulations.
- 137. Saving the right of Government.
- 138. Repeals.

ACT NO.12 OF 1992 (Revised)

I ASSENT

**{ DR. SALMIN AMOUR }
PRESIDENT OF ZANZIBAR AND
CHAIRMAN OF THE REVOLUTIONARY COUNCIL**

29 January 1993

**AN ACT TO PROVIDE FOR LAND OWNERSHIP, USE AND
RIGHTS ATTACHED TO LAND AND MATTERS
CONNECTED OR INCIDENTAL THERETO**

ENACTED by the House of Representatives of Zanzibar.

**PART I
PRELIMINARY**

Short title and commencement. 1. This Act may be cited as the Land Tenure Act of 1992, and shall come into operation immediately upon being assented to by the President.

Interpretation.
Section 3
Act 11/2010 2. In this Act, unless the context otherwise requires:-

“abandoned lands” means land which is not in the possession by the person who has the possessory interest for a prescribed statutory period of time;

“adjudication” means the process of regularising land interest as set out under the Land Adjudication Act of 1989;

“allocation” means the process the Government uses to provide an interest in land to an individual or a group of persons;

“charge” means a mortgage or an interest in land securing payment of money or money’s worth or the fulfillment of any condition, and includes, a surcharge and the instrument creating a charge;

“charger” means the proprietor of a charge as defined by the Registered Land Act;

“chargee” means the proprietor of a charged land or of a charged lease or charge as defined by the Registered Land Act;

“communal interest” means an interest in land which is held in concert by more than one unrelated person;

“consolidation” means the reallocation of land in order to conform the size of the parcels to the provisions of this Act;

“court” shall mean the Lands Tribunal unless expressly provided otherwise;

“Department” means the Department for land and registration;

“Director” means Director for Land and registration;

“Government” means the Revolutionary Government of Zanzibar;

“ownership” in relation to Land, apart from the Government which is the sole owner of all natural land, refers to an interest in development on the natural land, and anything connected therewith or incidental thereto, including a legal right of occupancy

on that land.

“easement” means easement as defined in the Registered Land Act of 1989;

“economic trees” means those trees in urban areas that are not used for beautification or other ornamental purposes and have an economic value because of the fruit they bear or because of their value as timber or for preservation of environment;

“grant” means the provision of a parcel(s) of land from the Government to an individual or a group of individuals because of their eligibility to receive public land or because of land adjudication;

“holder” means the person who has the right to the interest of a right of occupancy;

“idle lands” means land that is not used in accordance with prior existing plans, in conformity with land capability analyses or in accordance with practices of good husbandry during a defined statutory period;

“improvement” means unexhausted improvement;
“instrument” shall assume the meaning ascribed to it by the Registered Land Act;

“interest” means the right of an individual or group of individuals to the right of occupancy defined parcel of land;

“interest holder” means the person or the body of persons named in the register as the rightful holder in relation to a parcel of land or a lease to a parcel of land or a person or persons named in the register in whose favor a charge was made;

“joint interest” means an interest in land that is held together with other persons under the requirements of this Act;

“land” includes land covered by water, all things growing on land, and buildings and other

things permanently affixed to land, except trees when specifically classified and owned separately;

“land adjudication” means adjudication as defined above;

“Land Adjudication Act” means the Land Adjudication Act, 1989;

“lease” means a grant, with or without consideration, by the Government or interest holder of land, of the right to exclusive possession of the land in question, and includes the right so granted and the instrument granting it, but it does not include an agreement to lease the land in accordance with the definition so ascribed to lease by the Registered Land Act;

“lessee” means the holder of a lease;

“lessor” means the interest holder of the leased land, and includes, in respect of a sub-lease, the proprietor of a lease;

“Minister” means the Minister for the time being responsible for land affairs;

“natural land” means any land taken in its natural state without man made improvements;

“ornamental trees” means those trees found in the urban area that are used for beautification or otherwise enhance the appearance of their sites and the conservation of environment;

“parcel” means an area of land separately delineated on a demarcation or Registry map and thereby given a number as specified in the Land Adjudication and Land Registration Act;

“person” includes a group of persons, a corporate body and any institution authority or commission empowered by law to hold land;

“President” means the President of Zanzibar;

“public land” means all land in Zanzibar which can be held by either the Government or private persons;

“Registered Land Act” means the Registered Land Act, 1989;

“residence” means the building in which a person resides;

“right of occupancy” means the exclusive right to the use and occupation of land in accordance with the provisions of this Act;

“rural lands” means any lands lying outside the area classified as urban land;

“trees” includes palms, bamboos, shrubs, bushes, stumps, seedlings, saplings and reshoots of all ages;

“unexhausted improvement” means anything permanently attached to the land resulting from the expenditure of capital or labour by a holder of a right of occupancy or a lessee, or any person authorized to act on their behalf which increases the productive capacity, utility or amenity of the land;

“urban lands” means all land lying within the boundaries of an area classified by law as a municipality or a town where residential, business and industrial activities take place in accordance with the provisions of the Town and Country Planning Act;

“Relevant Authority” means any authority empowered by law to approve investments in Zanzibar.

“Wakf” means any Wakf established by the Commission for the Administration Wakf and Trust Property Decree, 1980;

“Zanzibari” means:-

- (e) any person who is a citizen of Tanzania in accordance with the laws relating to

citizenship and that he was born or has been residing in Zanzibar before and up to the 12th of January 1964;

- (f) any person who, as from the 26th day of April, 1964 is a citizen of Tanzania and was born in Zanzibar with both of his parents being Zanzibaris or either his father or mother being Zanzibari in accordance with the Zanzibari Act, 1985;
- (g) any person who is a citizen of Tanzania and was born or has been residing in Zanzibar before the 26th day of April, 1964; and
- (h) any person who is a citizen of Tanzania with both of his parents being Zanzibaris or either his father or mother being Zanzibari in accordance with paragraph (a), (b) or (c) above.

ZIPA Act" means the Zanzibar Investment Promotion and Protection Act, No. 11 of 2004;

ZIPA means the Zanzibar Investment Promotion Authority as established by the ZIPA Act;

PART II PUBLIC LAND AND

Public Land.
Act 15/2003

3.(1) All natural land within the islands of Zanzibar occupied or unoccupied is hereby declared to be public land and shall be deemed to have been so declared from a March 1964.

(2) Public land is declared to be vested in, and at the disposition of the President, to be held by him, for the use and common benefit, direct or indirect, of the people of Zanzibar.

(3) Subject to the provisions of subsection (2) and any directions of the President, public land shall be administered in accordance with this Act by the Minister, who may control and make dispositions of public land and perform all powers and duties contained in this Act on

behalf of the President.

(4) The Minister may, subject to the provisions of this Act, control and distribute public land which are under the control of the Government by grants of rights of occupancy as well as terminate those rights of occupancy when appropriate as prescribed by this Act."

(5) The Minister may, subject to the provisions of this Act, lease public land which is under the control of the Government.

Confiscated
Land.
Act 15/2003.

4. All land taken by the Government after the revolution of 1964, no matter what procedures were used, is hereby declared as confiscated land and any irregularities shall be resolved through a land adjudication procedure as set out under the Land Adjudication Act.

Easements.

5.(1) Riparian occupiers along non-navigable waterways shall, except as otherwise provided by Law or Order of the President, that shall appear in the Gazette, be required to accord a right of passage over a strip ten (10) meters in width on each bank.

(2) Easements in respect of right of way, installation, support and clearance necessary for the establishment, maintenance and operation of telegraph and telephone lines, electric transmission lines and water mains, classified in the public interest may be imposed on any parcel of land and building by Order from the appropriate Minister where such action shall be necessary.

(3) Easements may also be imposed as limits to the height of buildings for obligations to clear trees, and in like manner in areas of protection of airports and military installations or for the safety of air navigation.

(4) As compensation for the above easements, indemnities shall be paid to the persons or communities concerned, the compensation shall be equal to the fair market value of the land and any improvements thereon.

Boundaries of
Public Lands.

6. Cases of doubt or dispute concerning the boundaries of any public lands or the extent of the easements established under the above provisions or provisions of the Registered Land Act or any other applicable law, shall be decided by the recourse to the

procedures available under the Land Adjudication Act and if the dispute is not resolved by the Land Tribunal.

Department may
Require
submission of
Research
Act 15/2003.

6A.(1) The department may require in writing any person or body of persons engaged in research or in any activity affecting or relating to land in Zanzibar, to furnish to it such information related to that research or activity as the department may specify.

(2) Every person or body of persons which is required to furnish information under subsection (1) of this section, shall comply with the requirement and any person or body of persons which refuses or fails to comply with that requirement shall be guilty of an offence and shall be liable on conviction to a fine not less than Fifty Thousand Shillings and not more than Five Hundred Thousand Shillings or to imprisonment for a term not less than three months and not more than six months or to both such fine and imprisonment."

Offence
Section 5
Of Act 15/2003.

6B.(1) Any person who destroys or misuses land by erecting structure(s) or building(s) or dumping or digs holes in any area not allowed or gives out all or part of the grant to other persons(s) or changes land use or uses land in such manner contrary to the direction and procedures established by this Act or any other Act concerning land matters, commits an offence and shall on conviction be liable to a fine not less than Five Hundred Thousand Shillings and not more than Two Million shillings or to imprisonment for a term not more than six months or to both such fine and imprisonment.

(2) Any person found guilty of an offence under the provisions of subsection (1) of this section, shall be required to remedy any fault caused by his misused of the land.

(3) In addition to the penalty provided for under the provisions of subsection (1) and (2) of this section, the court may issue any order which it deems fit."

Power of director
To enter any
Land
Section 5 of Act
15/2003.

6C. The Director or any officer of the department duly authorized in writing or wearing visible badge of office may, at reasonable times enter into and upon any land within Zanzibar for the purpose of exercising any power of inspection, inquiring, or execution of works which is given to the department under this Act or by any laws or regulations in force within Zanzibar."

Failure to
Comply with
order
Section 4
Act no.11/2010

6D. Any person who for the purpose of this Act, without lawful excuse:-

- (a) fails to comply with an order made under this Act; or
- (b) furnishes any information or produces any documents which is false or misleading in material particulars; or
- (c) obstructs any officer in the performance of his functions under this Act; or
- (d) otherwise contravenes the provisions of this Act,

commits an offence and upon conviction shall be liable to a fine of not less than one million shillings or imprisonment for a term of five years or both such fine and imprisonment.

PART III RIGHT OF OCCUPANCY TO LAND

Right of
Occupancy.

7. The right of occupancy for a Zanzibari may arise in any of the following ways:-

- (f) a grant from the Minister;
- (g) recognition of a rightful interest following an adjudication carried out under the Land Adjudication Act and subsequent registration under the Registered Land Act;
- (h) inheritance of a lawful registered interest;
- (i) purchase of a lawful registered interest; or
- (j) gift of a registered interest from a bona fide holder of a right of occupancy.

Conditions of
Right of
Occupancy.

8.(1) The right of occupancy shall exist under the following circumstances:-

- (e) that the holder of the interest be a Zanzibari over

the age of eighteen, unless special provisions have been made;

- (f) that the holder of a right of occupancy shall have an exclusive right to occupy and use the land which comprises his right;
- (g) that the holder of the right of occupancy shall have the right to make disposition of the land or other interests therein to any other Zanzibari;
- (h) that the interest be held in perpetuity without specific term and be inheritable under the appropriate provisions of the Zanzibar law of Succession.

(2) Provided that:-

- (i) no interest is valid until registered under the Registered Land Act;
- (j) all transactions affecting a right of occupancy shall be recorded in the land register within sixty days, from the date of such transaction;
- (k) no interest may be subdivided without the express authorization of the appropriate land administration officials;
- (l) no interest may be held by any individual which has an area of less than three fifths of a hectare provided that parcels which are less than three fifty of a hectare in area before they are granted and registered for the first time can be maintained at that size, but once the land is registered and entered on the cadastral index map no parcel may be subdivided so that the area is less than three fifths of a hectare;
- (m) the holder of the interest, or a person properly designated by him must be in possession of demarcated land as comprising the interest in question;
- (n) the holder of the interest or persons acting on his behalf use the land designated in the right of occupancy in conformity with the conditions specified in the instrument of grant or if the land

be urban, and classified as residential, commercial or industrial it shall be kept in good condition and any building thereon in good repair and, in the case of agricultural land, shall be farmed in accordance with the practices and rules of good husbandry if there is no special use assigned to the land in question;

(o) the interest shall not include the right to water, mineral or foreshore;

(p) upon the issuance of an Order of Termination for any right of occupancy, the Registrar shall cancel the registration of the right of occupancy and the land shall be available for distribution.

(3) Where any of the above conditions are not met, the holder of the right of occupancy shall be subject to the forfeiture procedures contained in Part VII of this Act.

Execution of
Right of
Occupancy.
Section 6 of
Act 11/2010.

9.(1) An instrument executing a right of occupancy shall be deemed to have been properly executed if signed by the Minister, and no further proof of execution is necessary for purposes of registration under the Registered Land Act or the Registration of Documents Decree.

(2) The Minister may, in his discretion, authorise in writing the Director to execute certain instruments or categories of instruments on his behalf, and no further proof of execution shall be necessary.

Effect of
Registration.

10. (1) Upon registration of a right of occupancy under the provisions of the Registered Land Act, that interest shall receive the guarantee of the Government as to its regularity and propriety in all of its aspects.

(2) Where the right of occupancy or any subsidiary right or interest is not registered under the provisions of this Act and the Registered Land Act, registration shall take effect in accordance with the Registration of Documents Decree.

Registration of
Provisional
Rights of

11.(1) Provisional rights of occupancy, provided for under section 33 of this Act, shall be registered as any other interest, but shall also be noted in a Special Register

Occupancy.
Section 7 of Act
15/2003.

maintained by the Director.

(2) Upon the expiry of the fixed term stated in each provisional right of occupancy, the Director shall cancel the notation in the Special Register and record whether it has been replaced by a permanent right of occupancy or has been cancelled for failure to comply with the conditions set out as part of the right of occupancy.

(3) Where a provisional right of occupancy is changed to a permanent one, it shall be so recorded in accordance with the provisions of this Act and the Registered Land Act.

Charges.

12.(1) The lending institution specified in the Schedule appended to this Act shall have charges over land as provided for under the provisions of the Registered Land Act.

(2) The Minister shall review and amend, where necessary, the Schedule setting out the lending institutions authorized to issue charges every three years.

Default of a
Charge.

13.(1) Any default by a charges of a charge will allow the lending institution to assume possession of the right of occupancy or other collateral used to secure a charge or a loan and utilize its productivity until the full value of the charge is repaid.

(2) Upon repayment of the value of the charge, possession to the right of occupancy or other collateral shall be redeemed to the original interest holder.

(3) Where the borrower is not willing to repossess the right of occupancy upon repayment of the loan, the sale of the right of occupancy in the open market may be permissible. Provided that under no circumstance shall the right of occupancy be passed to the lending institution.

(4) The interest holder of the right of occupancy may offer his interest for sale on the open market upon default prior to the assumption of possession by the lending institution and the amount of the loan shall then be paid forthwith in a single payment.

Charges
involving Joint or
Communal

14. Charges involving interest that are jointly or communally held shall be handled in the same manner as

Interests. those that are individually held with the added requirements that decisions may require consent of the joint interest holders.

Size of a Right of Occupancy. 15.(1) There shall be no limit to the maximum size of a right of occupancy that is acquired through any means, other than grant, under the provisions of this Act.

(2) In conformity with section 8 (2) (d) of this Act an individual parcel of agricultural land, no matter how acquired, shall not be less than three fifths (3/5) of a hectare.

(3) The size of urban residential, commercial and industrial parcels shall conform to the provisions of the law and practice in force.

Joint Holdings of inherited land. 16. Any interest to a right of occupancy which is inherited shall be jointly held if following the application of the appropriate law of succession, the interest in question would be subdivided into parcel of sizes which are less than the applicable minimum as prescribed under this Act.

Effect of creation of Jointly Held Interest. 17. Where a jointly held right of occupancy is created, the provisions of the Registered Land Act creating a statutory trust shall apply when there are ten or more joint interest holders.

Sale of a Right of Occupancy. 18.(1) Unless otherwise provided for under this Act, there shall be no restriction on the sale of a right of occupancy.

(2) Where the right of occupancy is jointly or communally held, the provisions of this Act or any other Act, calling for the approval of the other joint or communal holders prior to any activity regarding the interest shall be applicable.

PART IV RIGHT TO OWNERSHIP OF TREES

Ownership of Trees. 19.(1) Trees can be owned and held separately from a right of occupancy in land.

(2) The ownership interest in the trees shall be registered in the name of the owner of the interest and

included as part of the registration of the land on which the trees are located.

(3) If a separate tree ownership interest is not registered an irrefutable presumption shall exist that the trees are included in the right of occupancy.

(4) unless otherwise specified, the trees shall be included in any lease which is contained in the register.

Inheritance of Trees.

20. Trees shall be inherited according to the applicable law of succession as any other piece of immovable property.

Sale of Trees.

21.(1) There shall be no restriction on the sale of trees provided that a person whose trees are located on land on which the right of occupancy is held by a third party must first offer the right to purchase the said trees to the holder of the right of occupancy.

(2) Where the right of occupancy is held jointly, the joint interest holders shall determine among themselves which, if any, shall purchase the ownership rights to the trees.

(3) Upon failure to agree as to who among the joint interest holders shall purchase the trees, the ownership interest shall become part of the joint ownership interest of all joint interest holders and the cost shall be borne by each in proportion to his interest in the right of occupancy.

(4) Where the joint interest holders, or any individual among them does not wish to purchase the ownership interest in the trees, they shall be sold on the open market.

Urban Trees.

22. Unless included as a registered right of occupancy, the right to trees in the urban areas shall belong to the Municipality in question if the trees are ornamental and to the Ministry of Agriculture, or its successor ministry, if the trees are economic.

PART V GRANTS OF PUBLIC LANDS

Grants of Land.

23. The Minister shall create a right of occupancy by making a grant of land under Government control to

individuals or groups of individuals through:-

(c) an instrument of grant; or

(d) recognition of the final adjudication record, made under the Land Adjudication Act, and subsequent registration, under the Registered Land Act.

Right of a Grant of land.

24.(1) The right of occupancy shall only be granted to Zanzibaris who are above the age of eighteen.

(2) A grantee shall not be required to pay for the value of the land that is included in a grant, provided however, that, the grantee shall be responsible for any incidental costs or other fees prescribed by this Act or Regulations issued thereunder.

(3) A person shall during his lifetime be eligible to receive only one grant of agricultural land and two grants of urban land, in accordance with the provisions of this Act.

(4) Any person who has not received a grant, in accordance with the provision of subsection (3) is eligible to receive a grant of land without regard to any other urban or agricultural land that he may hold.

(5) Any person may apply for a grant, and shall so receive the grant to either urban or agricultural land, as may be available, in accordance with the discretion of the Minister.

Fees Applicable.

25. The Minister shall prescribe fees payable for the grant of a right of occupancy or for any other matters done under this Act.

Status of Grant to land.

26. Land that has been allocated through means of a grant shall have the same attributes as any land to which a right of occupancy applies once the final order of grant has been issued in accordance with Section 33 of this Act.

Inheritance or sale of granted land.

27. Land which has been granted may be inherited or sold in accordance with the applicable provisions of this and other relevant Acts which set forth the manner in which individual, joint or communally held interests in land shall be dealt with.

Effect of

28. If following the determination of an adjudication,

Adjudication on the prior holding of an individual.	<p>an individual as determined to be in rightful possession of more than:</p> <p>(c) eight hectares of granted agricultural land, he shall receive a grant for a maximum of eight hectares and receive the entitlement to lease the balance of the lands from the Government at a fair rental value which he is determined to rightfully hold;</p> <p>(d) two parcels of urban land, he shall receive a grant for two parcels in accordance with the provisions of this Act and any additional parcels will be sold on the open market unless due to hardship or other acceptable reason the Minister, in his discretion, makes an exception.</p>
Refusal or failure to exercise option.	<p>29.(1) If an individual refuses or, fails to exercise the option to lease the land constituting the excess over the eight hectare grant which he has received within sixty days of receiving the notice that the option exists, the land shall revert to the Government and be available for allocation in accordance with the normal procedures.</p> <p>(2) Upon failure to exercise the option for a lease, the Government shall provided compensation for any unexhausted improvements on the land.</p>
Allocation procedure for a grant.	<p>30. Land shall be allocated in accordance with procedures set out in the Regulations.</p>
Retention of possession.	<p>31. While an appeal is in progress following the refusal to issue a final order of grant possession of the land shall remain with the petitioner until the matter is finally resolved.</p>
Reallocation.	<p>32. All lands that are to be reallocated shall be processed in the same manner as those lands which are to receive an initial allocation.</p>
Provisional grant of a Right of Occupancy. Section 8 of Act 15/2010	<p>33.(1) Each grant shall be made provisionally for a two year period during which time no legal rights shall exist.</p> <p>(2) Where a provisional right of occupancy is in existence, no transfer of the land shall be permitted.</p>

(3) Final assignment of the grant shall be made through the issuance of an order of grant after the fulfillment of all covenants and conditions laid, down in the document of grant have been satisfied.

(4) The registration of the grant shall take place within three months from the date of delivery of the final document of grant, provided that, the Minister may under extenuating circumstances extend such period.

(5) Failure to fulfill the conditions of the grant during the provisional period shall lead to a withdrawal of the grant.

(6) Following an adjudication, a final order of grant shall be made, without the necessity of a provisional period, in favour of any person or group which has already been in possession of the interest in question.

Appeal from the allocation procedure.

34.(1) In any case where an applicant is refused a provisional or final grant of land which he feels he rightly should have received, an appeal shall lie with the Land Tribunal, within sixty days from the date of such decision. Judicial review by the High Court shall only be allowed in instance where an issue of law is involved.

Rights of joint holders.

35.(1) Each individual among a group of joint holders of an interest shall be eligible for a separate grant of land.

(2) Where the interest held by the joint holder has been received by grant, the subsequent receipt of a grant by any individual among a group of joint or communal holder shall not effect the status of the interest as a whole, but shall terminate that person's interest in the jointly held right of occupancy.

(3) The interest relinquished by one of the joint holders shall vest in the remaining members of the group.

Sale of granted land.

36.(1) Unless otherwise provided for under this Act or any other Act, there shall be no restriction on the ability to sell an interest in land.

(2) Where the granted land is held by less than ten joint holders and all the joint holders agree, any individual

among the joint holders may sell his interest to one or more of the existing joint holders.

(3) Subject to the prior approval of the joint holders, the entire interest can be sold to one of the joint holders or to a third party.

(4) Where there are more than ten joint holders, all actions related to the interest in question shall come under the provisions of the Registered Land Act which provide for a statutory trust.

Disagreements among joint holders.

37. All disagreements among members of a jointly held interest shall be resolved by an application of the partition provisions by the Registered Land Act.

Appeals of partition decisions.

38. All appeals from partition decisions shall be referred to the Land Tribunal, judicial review of decisions in the High Court shall be limited to issues of law.

Urban grants. Section 9 of Act 15/2010.

39.(1) Each eligible Zanzibari may during his lifetime receive two grants of urban land for residential purposes, one located at the site of birth and the second located at the site of residence away from the natal locale.

(2) Any grant issued under the provisions of this Act shall be made on a provisional basis for a two year period during which the recipient shall have the obligation to meet the conditions set out in the provisional instrument of grant.

(3) Grants may be awarded in urban areas to eligible persons for small business handicrafts or industrial purposes.

(4) The urban grant shall from time to time conform to the normal sized parcel utilized for residential purposes.

(5) Urban grants made for commercial or industrial purposes may be of the size necessary to conform to the needs of the land use involved in the commercial or industrial purpose without regard to any restriction as to size.

(6) In special circumstances to be determined on a case-by-case basis, it is possible for additional grants of urban land for residential purposes to be made by the

Land Allocation Committee or through recommendation to the Committee by other relevant authority.

(7) There shall be no limit to the number of urban grants a person may receive for a commercial or industrial purpose as long as the procedure utilized conforms with the law governing investments.

Inheritance of urban land.

40.(1) The law of succession shall apply to the inheritance of urban lands provided that the land shall not be subdivided if it would not conform to the normal town planning standards.

(2) Where more than one heir exists, the urban land shall be jointly held.

(3) All decisions concerning matters involving urban lands which are jointly held shall be made by all persons who have an interest.

Sale of granted urban land.

41.(1) A grant of urban land may not be sold for two (2) years, following the expiry of the period of a provisional grant during which time the land shall be developed in accordance with the conditions contained in the order of grant.

(2) Sub-section (1) of this section shall not apply if, following adjudication, the person who is awarded the interest has already been in possession of the property and made improvements thereto.

Agricultural grants.
Section 10 of Act 15/2003.

42.(1) Each eligible Zanzibari may receive one agricultural grant during his lifetime.

(2) The grant shall be made on a provisional basis for a two year period during which time the recipient shall have the obligation to meet the conditions set out in the provisional instrument of grant.

(3) At a time no sooner than two years from the date of the provisional grant, a final instrument of grant shall be issued to the interest holder if the conditions contained in the provisional instrument have been fulfilled to avoid withdrawal of the grant.

Grantee not to

42A.(1) The grantee shall not harass, disturb or evict any

harass dwellers and cultivators
Section 11 of Act 15/2003.

person who dwells or cultivates on the allocated three acres plot and that person shall not extend his dwellings or cultivating areas without prior permission of the grantee.

(2) Where in that three acres plot there is a person who is cultivating, that person shall continue to be in that acre until the time of harvesting his crops or of expiry of the agreed period or given compensation to the crops in accordance with the agreement of official evaluation made.

(3) Where in that three acres plot there is a person who is living, that person shall continue to live in that acre but shall not be allowed to sale, lease, give or extend his dwellings or assigning any part thereof to any other person without prior permission of the grantee."

Size of grant.

43.(1) In accordance with the provisions of section 15 (2) of this Act, the size of an agricultural grant shall conform to the provisions set out in section 8(2) (d).

(2) Unless the land which comprises the area granted is commonly owned or part of a Wakf, the total area of land which part of a grant may not exceed eight hectares in total area irrespective of the number of parcels included in the grant, with the understanding that under no circumstances may any individual parcel be less in area than three fifths of a hectare.

Sale of granted agricultural land.

44.(1) No land which comprises a granted agricultural land including the three acre, plots granted under the provisions of the Land (Distribution) Decree of 1966) shall, under any circumstances whatsoever, be sold.

(2) No land shall be transferred though any means during the pendency of a provisional period of grant.

Inheritance of agricultural land.

45.(1) The law of succession shall apply to the inheritance of agricultural lands provided that the land shall not be sub-divided if such sub-division shall lead to the creation of any parcel with a size less than the minimum prescribed under this Act.

Provided further that the land which comprises an agricultural grant including the three acre plots granted

under provisions of the Land (Distribution) Decree of 1966 shall not, under any circumstance whatsoever, be subdivided.

(2) Where more than one heir is entitled to the land that cannot be sub-divided, it shall be jointly held.

(3) The decisions concerning land that is jointly held shall be made in accordance, with the provisions of this Act and the Registered Land Act.

PART VI LEASES

Leases to Public Land under Government control. Section 5 of Act 11/2010.

46.(1) The Minister may lease any public land to any person, Zanzibari or non-Zanzibari, provided that the Minister shall not lease a public land which comprises a right of occupancy without the consent of the holder of such right of occupancy.

(2) Before the lease created the holder of the right of occupancy shall be entitled to be paid compensation based on a fair market value of the land and improvements on the land.

(3) Subject to the approval of the investment by ZIPA or other relevant authorities, the Minister may lease any land to any person, Zanzibari or non-Zanzibari intending to use that land for investment purposes.

Duration and status of leases of public land under Government control. Section 6 of Act 11/2010.

47. (1) A lease of public land executed under the provisions of this Part shall not exceed a maximum of ninety nine years, provided that, the Minister may in his discretion increase the term of leases of public land created before or after the enactment of this Act to the maximum term of ninety nine years.

(2) Without prejudice with other provisions of this Act and notwithstanding the provisions of sub section (1) of this section, lease of public land may be renewed and where there is no renewal after expiring of the term of the lease, a Zanzibari may have a perpetual right to the demised land to be held under right of occupancy but for a non Zanzibari the demised land and all improvements thereon shall be reverted to the government."

(3) Lease of any public land after being developed in accordance with ZIPA approved investment plan may be sold, assigned, sub-leased or sub divided, inherited or mortgaged, provided that the lessee shall not make any disposition without approval by the Land Transfer Board and the Minister, and shall meet the terms and conditions set by the Minister.

(4) A fair rental value shall be included in all leases of public land taking into consideration the value of the land in the immediate area without considering the increase in value due to the addition of improvement.

(5) The Minister may, on the basis of evidence of a clear and convincing nature, grant a reduction in rent if it will serve the public interest to do so.

(6) Rent shall be reviewed for leases of a duration of more than ten years at intervals of not more than three years taking into consideration the same criteria utilized for the assignment of the original rental value as set forth in subsection (3) of this section.

(7) Where there is an increase in rent, the lessee shall have the right to terminate the lease and be entitled to compensation for the value, as of the date of surrender, of any unexhausted improvements on the land made by him.

(8) No compensation whatsoever shall be paid to non-Zanzibari after expiring the time of the lease prescribed under subsection 2 of this section.

(9) For the purpose of this section "land" shall not include buildings and other improvements".

Violation of the restrictions in a Lease.
Section 7 of Act no.15/2010.

48.(1) It shall be unlawful to terminate any lease of public land except:

(a) for failure by the holder of such lease to complete development of the leased land within a period of thirty months from the date of being granted the lease; or

(b) for failure by the holder to develop the leased land in accordance with the investment plan approved by ZIPA or relevant authority which shall be submitted to the Minister at the time of applying for the lease and which shall form

part and parcel of the lease; or

(c) where the holder of the lease commits a fundamental breach of the term and condition of the lease; or

(d) where termination based on national interests.

(2) Any lessee who fails to pay a land rent after it becomes payable shall, in addition of the land rent, pay an additional rent amounting to 10% of the land rent for each month he was in default.

(3) Any lessee who fails without lawful reasons to pay such a land rent and additional rent for one year from the date additional rent becomes payable, the Minister may terminate such lease.

Provided that the holder of the lease shall be given three months notice to rectify the default before termination of the lease.

Compensation for termination of lease. Section 8 of Act 11/2010.

48A.(1) No compensation shall be paid to lessee if the lease terminated under section 48(1) (a), (b) or (c) of this Act.

(2) Compensation may be given if termination is made under section 48(1)(d) of this Act and the compensation shall be based on unexhausted improvements on the land without considering the market value of the land in which the value shall be determined at the time of an order of termination”.

Appeal of decision for termination.

49. An appeal for the decision to terminate a lease of public land on grounds of a violation or breach of terms and conditions restricting the sale, assignment, sub-letting, sub-lease or sub-division shall be made to the Lands Tribunal.

Leases of right of occupancy. Section 8 Act 11/2010.

50.(1) There shall be no restriction on the lease of a right of occupancy, or a part thereof, by the interest holder, provided the lease is for a maximum period of forty nine years.

(2) Where any right of occupancy is jointly or communally held, approval must be given by all joint

interest holders or in the instance where there are more than ten, in accordance with the provisions relating to statutory trust as set out in the Registered Land Act.

(3) Where the joint interest holders fail to reach an agreement concerning the possibility of creating a leasehold, and if such failure shall give rise to the possibility of the commencement of an action for termination of the right of occupancy, under the provisions of this Act, the procedure leading to termination shall be postponed until a decision concerning the leasehold is made.

(4) Any failure to reach an agreement concerning the possibility of creating a leasehold interest shall be resolved by the Land Tribunal.

Duration and status of lease of right of occupancy.

51.(1) The lease of a right to occupancy shall be inheritable.

(2) There shall be no right to lease any land for purposes that will violate any zoning provision.

(3) The lease of a right of occupancy shall not be sold, assigned, or sub-divided but inheritable.

(4) There shall be no right to sub-let a right of occupancy without the prior approval of a lessor and any person or institution that holds a registered interest on the land in question, and where prior approval is given by a lessor or any interested person under no circumstances shall a sub-lease of the said right be in excess of five years.

(5) There shall be no right to add fixtures or other unexhausted improvements to the land in question without prior permission of the lessor.

(6) Rent shall be reviewed for leases of a right of occupancy of a duration of more than five years at intervals of not more than two years taking into consideration the same criteria utilized for the setting of the original rental value.

(7) Upon an increase in rent, the lessee shall have the right to terminate the lease and claim the value, at the time or surrender of possession, of any unexhausted

improvements authorised under the covenants of the lease.

Violation of the restrictions in a lease of Right of occupancy.

52.(1) Any lessee who violates terms or conditions of a lease of a right of occupancy as set forth in this Act or in the covenants of the lease shall render the lease null and void.

(2) Any lessee who is guilty of such an offence shall pay the lessor damages of not less than one million shillings and for failure to pay such damages the lessee shall be imprisoned for a period of not less than six months.

Size of Lease to agricultural right of occupancy.

53.(1) Unless otherwise provided for under his Act, no lease of agricultural land held by right of occupancy shall be permitted when such land has an area less than the minimum allowed by the law.

(2) The Minister may, with appropriate justification, specially authorize leases of agricultural land of less than three fifths of a hectare on presentation of a petition so requesting by the interest holder.

Effect of lease of right of occupancy.

54.(1) A lease to a right of occupancy shall be registered.

(2) A lease of the right of occupancy shall not effect any separate interest to trees located thereon.

(3) Other than the conditions contained fits covenants, the provisions of this Act the relevant Laws shall apply to the lease.

PART VII TERMINATION OF RIGHTS OF OCCUPANCY

Termination of right of occupancy.

55. Except as provided in the sections of this Part it shall be unlawful for a right of occupancy to be terminated.

Right to terminate national interest.

56. The Government may terminate any right of occupancy on grounds of national interest provided that the Government shall:

(c) prove before the Lands Tribunal that clear and convincing reasons exist for the repossession of

such right of occupancy; and

- (d) pay market value compensation for the land and any unexhausted improvements thereon.

before an order of termination, subject to the right to appeal before a Court of competent jurisdiction, is issued.

Zanzibari requirement.

57. If it is determined that:

- (c) any grantee is, at any time, proved to be a non-Zanzibari; or
- (d) an interest holder-makes, or attempts to make, a transfer of his right of occupancy to a non-Zanzibari;

an order of termination shall be issued by the Minister which shall provide that the right of occupancy is terminated and the land shall be vacated forthwith.

Forfeiture.

58. Where the Minister is at any time satisfied by the evidence presented to him that the land is abandoned or being utilized not in accordance with the plans of the proper authorities a procedure shall be commenced which may lead to the issuance of an order of termination.

Abandoned land.

59.(1) The land shall be designated as abandoned if the holder of the interest or person properly designated by him is not in possession of the land described as the right of occupancy and has not been for a period of eighteen months or three growing seasons whichever is longer.

(2) The Minister shall issue a notice requiring the rightful holder or a person designated by him to prove his possession within six months from the date of such notice.

(3) Where the holder of the interest does not prove his possession or through a person designated by him within the time allotted, the Minister shall issue an order of termination and shall vest possession of the parcel in question to the proper authority for re-allocation.

Idle land.

60.(1) Where the holder or a person rightfully acting on his behalf has failed over a period of two years to use for the purpose it was allocated, maintain or keep such land or buildings in proper and productive use and repaired, the

land described as part of the right of occupancy may be declared as idle.

(2) The Minister may issue a notice requiring the holder to appear in person or by his agent to give reason why the right of occupancy should not be terminated.

(3) The Minister may, in his discretion, at the completion of the hearing, provide up to eighteen months during which time the interest holder must utilize the land in the manner for which it has been designated.

(4) At the end of the designated period the Minister shall review the findings to determine if the land has been put to appropriate use and issue an order which conforms to the findings.

(5) Where the holder fails to appear at the appointed time specified in the notice, or if the Minister is not satisfied with the reasons advanced by the holder why the right of occupancy shall not be terminated, the Minister may issue an order of termination which terminates the right of occupancy.

Termination of a jointly held right of occupancy.

61. Where the right of occupancy affected by an order of termination is jointly or communally held, provisions calling for agreement of all joint interest holders shall apply.

Challenge to an order of termination.

62.(1) The recipient of an order of termination may within forty eight hours of the receipt of the order petition to the Minister for a reconsideration which shall be made within one week of the request.

(2) The interest holder may, if not satisfied with the decision of the Minister appeal against such decision to the Land Tribunal within sixty days of the issuance of an order of termination.

(3) The Minister shall order a stay of the order, on the request of the interest holder, pending determination before the Land Tribunal.

(4) Where an issue on point of law exists, the interest holder may appeal against the decision of the Land Tribunal to the High Court.

Compensation upon termination.

63.(1) Unless specifically provided for by the Minister, no compensation for the fair market value of the land shall be payable by the Government on termination of the right of occupancy under this Part.

(2) Compensation shall be provided for unexhausted improvements on the land with the value determined at the time of the order of termination.

Relinquishment of possession.

64. Possession to the land in question shall not be relinquished until procedures set out in this section are complied with.

(f) an assessment of the value of the unexhausted improvements and, if appropriate, the land have been carried out by the Government;

(g) where the Government fails to carry out the assessment within six months of the date of the order of termination, the interest holder may within ninety days;

(i) have the assessment carried out at the Government's expense; or

(ii) sell the interest on the open market.

(h) where the property is sold the interest holder must relinquish possession within thirty days of the completion of the sale;

(i) where an assessment is carried out the Government shall pay the interest holder within sixty days and the interest holder must vacate the premises within thirty days of the receipt of the payment;

(j) where the payment has not been made by the Government within sixty days from the date of the assessment, a public auction shall take place within thirty days from the date of the default of payment the premises shall be vacated within thirty days from the date the public auction.

Disagreement over value of

65. Any conflict over the determination of the assessed value of the property at the time of an order of

property.

termination shall be resolved by the Land Tribunal.

PART VIII MISCELLANEOUS PROVISIONS

Effective date of grants.

66.(1) Grants shall be considered effective from the date this Act comes into force with the exception of grants made through a procedure which predates the allocation procedure which is set out in the Regulations of this Act.

(2) All such grants shall be subject to a regularization procedure to be implemented through the administration of the Land Adjudication Act of 1989 aimed at introducing such holdings into a Land Register.

(3) All land lawfully acquired after this Act comes into effect, but prior to any planned Adjudication, shall not be affected by the adjudication.

Regulations.

67.(1) The Minister may make Regulations generally to give effect to the purposes and provisions of this Act, and in particular and without prejudice to the generality of the foregoing, for prescribing the form of land transactions and the instruments to be used to complete any transaction allowed under this Act, and for prescribing anything under this Act which may be allowed.

(2) Regulations may be prepared to give effect to the purposes and procedures of this Act, in particular to specified matters including:-

- (j) principles and procedure of land consolidation;
- (k) procedure relating to land allocation;
- (l) fees payable for matters done under this Act;
- (m) forms of instruments to be used;
- (n) standards to be utilized for setting rents and assessing compensation;
- (o) procedures to be followed in revising rents and other payments;
- (p) conditions relating to the application of land capability to the right of occupancy;
- (q) procedures and effects of donations;

- (r) regulations concerning the environmental concerns of lands used for commercial and industrial purposes.

Saving the right of Government.

68. Nothing in this Act shall prejudice any interest, right, power or privilege conferred on the Government by any other law.

Repeals.

69. (1) The following written Laws and portion of Laws are hereby repealed:

- (i) Registration of Land Interests, as set out in the Registered Land Act of (Act 10. 1990) 1989, so far as it requires leases over two years to be registered;
- (j) Public Land Decree (Cap. 93);
- (k) Decree, 13/65 (Government Land Decree);
- (l) Land (Distribution) Decree, 5/66 and Amending Decrees 10/67, 10/68, 1/69 and 3/82 without prejudice to matters done under these Decrees;
- (m) Confiscation of Immovable Property Decree, 8/64 and amending Decree 16/64, 3/68 and 11/79, without prejudice to any matters done under these Decrees;
- (n) Provisions relating to leasehold terms under the Investment Act of 1986;
- (o) Provisions of the Registered Land Act concerning provisional rights to occupancy; and
- (p) The provisos of sections 8(1) and 8(2) of the Investment Act of 1986.

(2) Notwithstanding the repeal of the Laws and portion of Laws indicated in sub-section (1) of this section anything done under the provisions of the repealed Laws or portion of Laws shall be deemed to have been made under the provisions of this Act.

(3) All pending cases prior to the commencement of this Act shall be dealt with accordance with the provisions of the

repealed Laws.

PASSED in the House of Representatives on the 15th day of September, 1992.

(KHAMIS JUMA CHANDE)
CLERK OF THE HOUSE OF REPRESENTATIVES

Land Transfer (Revised) Act No. 8 of 1994

THE LAND TRANSFER (REVISED) ACT NO. 8 OF 1994

ARRANGEMENT OF SECTIONS

SECTION

TITLE

PART I PRELIMINARY

- 22. Short title and commencement.
- 23. Interpretation.

PART II TRANSFER OF LAND

- 24. Transfer of land.
- 25. Approval of a transaction by the Board.
- 26. Referral process for transfers and leases.
- 27. Application for transfer or lease.
- 28. Reason for withholding consent for transfer.
- 29. Resources for withholding consent for lease.

PART III LAND TRANSFER BOARD

- 30. Composition of the Board.
- 31. Term of membership.
- 32. Meetings of the Board.
- 33. Quorum.
- 34. Dismissed from Board.
- 35. Duration for which approval remains valid.

PART IV OFFENCES AND APPEALS

- 36. Violating of provisions of transfer restriction process.
- 37. Offences.
- 38. Appeals from decision of the Board.

PART V MISCELLANEOUS

- 39. Regulations.
- 40. The right of Government.
- 41. Other law.
- 42. Repeals.

**AN ACT TO PROVIDE FOR THE REGULATION OF THE PERMANENT
TRANSFER OF LAND AND THE LEASING OF LAND**

ENACTED by the House of Representatives of Zanzibar.

**PART I
PRELIMINARY**

Short title and commencement. 1. This Act may be cited as the Land Transfer Act of 1994, and shall come into operation immediately upon being assented to by the President.

Interpretation. 2. In this Act, unless the context otherwise requires:-

"application" means the process of requesting permission to transfer or lease of land: for i more than three years;

"Board" means the Land Transfer Board established under this Act;

"Court" means the Land Tribunal and the regular courts unless provided otherwise;

"Department" means Department for Lands and Registration;

"Director" means Director for Lands and Registration;

"Head of Department" means Head of Department of Lands and Registration, Pemba;

"Instrument" means a grant or other transfer of Public Land, a document or plan relating to transfer, charging or otherwise dealing with or affecting land, or evidencing title to it, and includes;

"Land" includes land by itself, land covered by water, all things growing on land, and buildings and other things permanently affixed to land except trees when specifically classified and owned separately;

“Land Tribunal” means the land tribunal which shall hear land disputes;

“lease” means a long term transfer of the interest in land for three years or more including any possible period of renewal, but limited to not more than fifteen years as set out in section 50 of the Land Tenure Act of 1992, with the transferor holding the residual interest;

“Minister” means the Minister responsible for lands in Zanzibar;

“President” means the President of Zanzibar and Chairman of the Revolutionary Council.

“Transfer” includes a conveyance, grant and assignment;

“Transferee” includes a grantee, assignee and personal representatives;

“Transferor” includes a grantor, assignor and their legal representatives;

PART II TRANSFER OF LAND

Transfer of land. 3. No permanent transfer of land or long term lease shall take place until the transaction is reviewed and approved by the Land Transfer Board set up under the provisions of this Act.

Approval of a transaction by the Board. 4. No permanent transfer of land, with special emphasis on the former three acre plots, leases or agreements for a lease which exceed three years made by an instrument executed after the date on which this Act comes into force shall have any effect unless consent is given to that transaction by the Land Transfer Board established for the area in which the land is situated and the approval for the transfer of the land in question is endorsed on the instrument which creates the transaction in question or the endorsement is on the appropriate form requesting approval for the transaction in question.

Referral process 5.(1) Each potential transferor of land or a lessor of

for transfers and leases.

land for three years or more shall present an application for permission to transfer or lease which shall include the name of the perspective transferee and other specified information to the District Commissioner in the District where the land to be transferred or leased is located together with the recommendations from the Shehia Council concerned.

(2) The District Commissioner shall forward the application to the Director, Department of Lands and Registration in Unguja and the Head of Department, Department of Lands and Registration in Pemba after being discussed and recommended by that District Government.

(3) The Director and Head of Department shall submit the applications for the transfer or lease of land to the Board for consideration.

Application for transfer or lease.

6. The application for transfer or long term lease shall provide the following information:-

- (k) name of transferor/lessor;
- (l) name of transferee/lessee;
- (m) identification numbers of transferor and transferee and/or lessor and lessee;
- (n) location of the land, including the unique parcel reference number;
- (o) reason for selling or leasing the land in question;
- (p) terms and conditions if the transfer is a lease;
- (q) nationality of the transferee or lessee;
- (r) consideration agreed upon for the transfer or lease of the land in question;
- (s) date of birth of transferor and transferee and/or lessor and lessee;
- (t) any other information considered relevant.

Reason for withholding consent for

7. In the case where a person attempts to permanently transfer of land, with special emphasis on,

transfer.

but not limited to, the former three acre plots, the Board may withhold its consent on any of the following grounds:-

- (h) where the Board is of the opinion that the proposed transaction would result in depriving the transferor of sufficient resources for the permanent support of himself and his dependants during his life time and of his heirs after his death; or
- (i) where the Board is of the opinion that the proposed transaction would be contrary to the best interests of the transferor; or
- (j) where the Board has reason to believe that the transaction is to take effect as a charge or mortgage; or
- (k) where the Board has reason to believe that the potential transferee intends to improperly Change the use of the land; or
- (l) where the Board is of the opinion that the transaction will result in land being acquired by persons who have been defined as inappropriate; or
- (m) where the Board is of the opinion that the transfer would give rise to a transaction that does not conform to the requirements of land registration; or
- (n) where the Board is of the opinion that the transaction would contravene the broad policies of this Act, the Land Tenure Act of 1992 or any other relevant Act.

Resources for withholding consent for lease.

8. In the case a person attempts to lease land for three years or more the Board may withhold its consent on any of the following grounds:-

- (e) where the Board is of the opinion that the proposed transaction would result in depriving the lessor of sufficient resources for the permanent support of himself and his dependants during the period of lease; or

- (f) where the Board is of the opinion that the proposed transaction would be contrary to the best interests of the lessor; or
- (g) where the Board is of the opinion that the proposed lessee intends to improperly change the use of the land; or
- (h) where the Board is of the opinion that the transaction would contravene the broad policies of this Act, the Land Tenure Act of 1992 or any other relevant Act.

**PART III
LAND TRANSFER BOARD**

Composition of the Board.

9. There shall be a Land of the Transfer Board in Zanzibar which shall consist of the following members:-

- (a) Chairperson who shall be appointed by the President;
- (b) Director who shall be a Secretary to the Board;
- (c) Head of department;
- (d) Two other members who shall be appointed by the Minister.

Term of membership.

10. Members of the Land Transfer Board shall serve as follows:-

- (a) The Director and Head of Department shall serve on the Board for as long as they hold their respective offices.
- (b) The Chairman and two members appointed by the Minister shall serve for a term of three years.

Meetings of the Board.

11.(1) The Board shall meet at least once in every month to consider and review the applications for transfers or leases of land that have been submitted for consideration or not completed since the prior meeting.

(2) The Board shall complete the review process of any transaction which has been properly submitted in a form which allows a decision to be made not later than three months after the application for consideration of the

transfer or lease.

(3) Failure of the Board to make a decision concerning the appropriateness of the transaction in question in forty five days from the time the application has been received by the Board, shall mean that the application shall be passed for decision to the Land Tribunal where a final decision shall be made.

(4) There may be an appeal from any decision of the Land Tribunal on the application for transfer of land.

Quorum. 12. Half of the members of the Board shall constitute a quorum.

Dismissed from Board. 13. If any member of the Board misses three consecutive working sessions without adequate excuse, that person shall be dismissed from the Board by the Minister, and another person shall be appointed prior to the next regularly scheduled meeting.

Duration for which approval remains valid. 14. No consent for a transfer or lease given by the Board under the provisions of this Act shall be valid if the instrument providing for such a transfer is not executed within six months from the date of the approval of the transfer or lease.

PART IV OFFENCES AND APPEALS

Violating of provisions of transfer restriction process. 15. The registration of any instrument or other document which contravenes these provisions relating to the permanent transfer of land or lease shall be void until the proper review process is completed.

Offences. 16. The following shall be considered offences under these provisions:-

- (e) if, in an application to the Board, any person makes a statement which is, to his knowledge, false or in any way misleading, he shall be guilty of an offence and shall be liable to a fine of not less than one million shillings or imprisonment for the term not more than six months or both such fine and imprisonment;

Appeals from
decision of the
Board.

- (f) any person who either executes, or causes to be executed, or gives valuable consideration to any person to include them to execute a document which provides for the permanent transfer or lease of any land covered by these provisions shall be guilty of an offence and shall be liable to a fine of not less than one million shillings or imprisonment for the term not more than six months or both such fine and imprisonment unless the Board has approved the transfer or lease in question prior to the execution or other punishable activity relating to the land in question;
- (g) any person who prepares or assists in the preparation of any document which purports to transfer any land that is covered by these provisions has the duty to determine if approval for the transfer has been given by the Board and acts before or without this approval be guilty of an offence and shall be liable to a fine of not less than one million shillings or imprisonment for the term not more than six months or both such fine and imprisonment;
- (h) any Board member who receives any improper remuneration, in any form, which is provided in order to facilitate a decision involving the permanent transfer or lease of land, or acts considered inappropriate in any way, shall be guilty of an offence and shall be liable to a fine of not less than one million shillings or imprisonment for the term not more than six months or both such fine and imprisonment and shall be dismissed by the Minister from further participation in Board deliberations.

PART V MISCELLANEOUS

Regulations.

17. The Minister may make Regulations in general to give effect to the purposes and provisions of this Act including the variation of fines under section 16, and in particular without prejudice to the generality of the foregoing, for prescribing the manner in which the transfers of land and the instruments to be used to complete any transactions considered under this Act and

for prescribing anything under this Act which may be allowed.

The right of Government. 18. Nothing in this Act shall prejudice any interest, right, power or privilege conferred on Government by any other law.

Other law. 19. Any matter not provided for in this Act or in any other law in relation to the transfer or long term lease of land shall be decided accordance with the principle of justice, equity and good conscience.

Repeals. 20.(1) All laws or portions of laws in conflict with the provisions of this Act shall be deemed to be repealed and anything done under a repealed law shall be deemed to have been performed under the provisions of this Act.

(2) All pending cases prior to the commencement of this Act shall be dealt with in accordance with the provisions of the repealed laws.

Land Rent Regulations, LN. 50 of 2007

LEGAL NOTICE NO. 50 OF 2007

THE LAND TENURE ACT, NO. 12 OF 1992

**THE LAND RENT REGULATIONS
[Made Under Section 67(2)(c)]**

ARRANGEMENT OF SECTIONS

<u>SECTION</u>	<u>TITLE</u>
1.	Short title and Commencement.
2.	Interpretation.
3.	Application.
4.	Impositions Land Rent.
5.	Time of payment.
6.	Payment.
7.	Rental Adjustment.
8.	Offences.
9.	Right repossession.

LEGAL NOTICE NO. 50 OF 2007

THE LAND TENURE ACT, NO. 12 OF 1992

**THE LAND RENT REGULATIONS
[Made Under Section 67(2)©]**

Short title and Commencement. 1. These Regulations may be cited as the Land Rent Regulations, 2007 and shall come into operation after being signed by the Minister and published in the Official Gazette.

Interpretation. 2. In these Regulations, unless the context otherwise requires:-

“Act” means the Land Tenure Act, No. 12 of 1992;

“Director” means the Director of Lands and Registration;

“Lessee” means the holder of a lease of public land or lease of a right of occupancy;

“lessor” means the interest holder of the leased land, and includes, in respect of sub lease, the proprietor of a lease;

“Land Rent” means a rental value payable by the lessee for a lease of public land or right of occupancy;

“Lease Agreement” means an agreement entered between the lessee and the lessor for a lease of a public land or right of occupancy.

Application.

3. These Regulations shall extend to and be binding upon the heirs, assigns, successors, executor and administrators of the parties of a lease.

Impositions Land Rent.

4. Subject to the provisions of the Act and these Regulations, there shall be included in every lease of public land and lease of a right of occupancy a rental provisions which shall provide for a rental value payable by the lessee of a public land or right of occupancy.

Time of payment.

5. Subject to the provisions of the Act and these Regulations, the payment of land rent shall be made In such term and condition as provided in the Lease Agreement entered between the Lessee and the Lessor.

Payment.

6. The land rent shall be paid to the Director of Lands and Registration or any other person appointed by the Minister.

Rental Adjustment.

7. The rental provisions shall be subject to review and adjustment by the Minister:-

(a) In case of a leases of public land which are granted for a term of more than ten years, at not more than three year interval in accordance with the provisions of the Act;

(b) In case of a leases of right of occupancy which are granted for a term of more than five years,

at not more than two year interval in accordance with the provisions of the Act.

Offences.

8. Any lessee who fails to pay land rent when it becomes payable shall in addition of the land rent, pay an additional land rent amounting to ten per centum (10%) of the land rent for each month of his default.

Right
repossession.

9. Any lessee who fails without lawful reason to pay such a land rent and additional rent for one year from the date that additional rent becomes payable, the Minister shall have the right of entry and repossession of the demised land.

SIGNED ON this 30th day of June, 2007.

(Sgd)
(MANSOOR YUSSUF HIMID)
MINISTER OF WATER, CONSTRUCTION,
ENERGY AND LAND,
ZANZIBAR

Land Surveyor's Board Regulations, LN. 58 of 2007

LEGAL NOTICE NO 58 OF 2007

THE LAND SURVEY ACT, NO. 9 OF 1990.

**THE LAND SURVEYORS BOARD REGULATIONS
(Made under section 25)**

**PART
I
PRELIMINARY PROVISSIONS**

Short Title and
commencement.

1. These Regulations may be cited as the Land Surveyors Board Regulations, 2007 and shall come into operation after being signed by the Minister and published in the Official Gazette.

Interpretation.

2. In these Regulations, unless the context requires otherwise:

“Act” means the Land Survey Act, No.9 of 1990;

“Director” means the Director responsible for surveys appointed under section 3 (1) of the Act;

“Board” means the Land Surveyors Board established under section 4 of the Act;

“Secretary” means the Secretary of the Board appointed by the Minister under section 4(5) of the Act;

“Chairman” means the Chairman of the Board who is the Director of Survey appointed under section 3(1) of the Act.

“Member” means a member of the Board appointed by the Minister under section 4(2) of the Act;

PART II MEETING OF THE BOARD

Meeting of
the Board.

3.(1) The Chairman shall convene a meeting by notice indicating the place, date and time of the meeting and sent to every member at least seven days before the meeting.

(2) The Secretary shall keep minutes of every meeting of the Board.

(3) All meetings of the Board shall be presided by the Chairman, if he is absent the members present shall elect one among them to preside that meeting.

(4) All decision of the Board shall be determined by a vote of not less than half of the members present in that meeting, provided that in case of an equal votes, the Chairman or in the absence the elected member presiding the meeting shall have the casting vote.

The Register
of Surveyors.

4. The Register of Surveyors as prescribed in section 8 of the Act, shall be kept by the Secretary of the Board, which shall contain the following information in relation to each licensed Surveyor:

(a) the name and permanent address of the Surveyor;

(b) a short statement of all professional examinations passed, together with relevant certificates of examinations, diplomas, degrees, licenses or titles; and

(c) the date of passing the examinations or exemption from the examinations of the Board;

(2) The record of any offence against the Act, committed by the Surveyor or any conduct of the Surveyor leading the Board to exercise powers under section 9 of the Act, and of the date of any relevant notification in the Gazette shall also be included in the Register.

Application
to practice
survey.

PART III
APPLICATION AND ADMISSION
FOR SURVEY.

5.(1) Any registered Surveyor who wishes to conduct a survey in Zanzibar shall apply in writing, for a licence to practice survey in Zanzibar, to the Secretary of the Board.

(2) All applications made under sub rule (1), shall contains the following documents:

- (a) the original or certified copies of:
 - (i) applicant's licence or equivalent authority to practice surveying in the United Republic of Tanzania or elsewhere,
 - (ii) relevant certificates, diplomas or degrees;
- (b) documents which show or certify that the applicant as the requisite experience in practising surveying or any other certificate of competency.
- (c) documents regarding the applicant's career as a land Surveyor and the types of work he has undertaken, the dates and his employment record.

(3) Every application shall be accompanied by a tender of the prescribed fee, which shall be refunded if the application is rejected.

(4) Every applicant who has passed or being exempted from the examinations of the Board shall, on payment of the prescribed licence fee, be entitled to a licence, unless it is provided by the Act or Regulations.

(5) A licence shall not be issued to a person guilty of an act that would have entitled the Board to exercise powers under section 9 of the Act if the applicant had been a licensed Surveyor.

PART IV
EXAMINATIONS AND RESULTS.

Application
for admission
to examination
and exemption.

6.(1) Every application for admission to examination shall be made in writing to the Secretary and shall be accompanied by documentary proof that the candidate is eligible under the Act admission to examination.

(2) Every application for exemption in examination shall

be made in writing to the Secretary and shall state the grounds upon which the application is made.

(3) Every application for examination or exemption in examination shall be accompanied by tender of prescribed fee.

Place and date
of Examination.

7.(1) Examinations for licences shall be held at such places and such a dates as shall be notified by the Secretary in the Gazette.

(2) Examinations will be divided in two parts, Part 1 and Part 2 and shall be in the English language.

Appointment
of Examiners.

8.(1) The Board shall appoint not less than two Examiners to conduct the examination on behalf of the Board.

(2) The Examiners shall report in writing to the Board, giving full particulars of the marks given to each candidate in each subject and such report shall be signed by every Examiner.

“Part I” of
Examinations.

9. The following subjects shall form Part 1 of the Examination:

(a) Survey instruments, including the principles of construction, use and adjustment of basic survey equipments;

(b) Principles and procedures of surveying and mapping, including:

(i) Triangulation, trilateration and other control surveys.

(ii) Traverse surveys;

(iii) Topographical and tacheometric surveys;

(iv) Determination of heights;

(v) Setting out surveys;

(vi) Computation of areas and volumes;

(vii) Cadastral surveys;

(viii) Photogrammetric surveys

(ix) Adjustement of surveys.

(c) Plan drawing and map projection;

(d) Astronomy and geodesy, including satellite geodesy;

(e) Knowledge of the following Land Acts and regulations in so far as they relate to survey:

- (i) the Land Survey Act;
- (ii) the Registered Land Act;
- (iii) the Land Adjudication Act;
- (iv) the Land Tenure Act;
- (v) the Town and Country Planning Decree;
- (vi) the Land Survey Regulations, and any Act or Regulations replacing the foregoing;
- (vii) any other related Act.

Examination marks.

10. Marks in Part 1 of the examination shall be allotted as follows:

- (a) Survey Instruments 50 marks;
- (b) Principles and procedures of Surveying and Mapping200 marks;
- (c) Plan Drawing and Map Projection 50 marks;
- (d) Astronomy and Geodesy100 marks;
- (e) Land Acts and Regulation 100 marks;
- Total..... 500 marks.

Percentage of marks for a pass in “Part I”.

11. The candidate shall not be deemed to have passed “Part I” of the examination unless he has obtained at least sixty percent (60%) of the total marks and shall obtain fifty percent (50%) or above in each subject.

Re-examination.

12. Any candidate who fails to obtain the required marks in any one of the subjects may be allowed, upon repayment of the prescribed fee, to be re-examined in such subject only, provided he has obtained sixty percent (60%) of the total marks for the whole examination, in such circumstance, the candidate will be required to obtain not less than sixty percent (60%) in the subject in which he is re-examined.

Conditions on eligible for “Part II”.

13. Only candidates who have passed “Part 1” of the examination shall be eligible for admission to “Part II” of the examination.

“Part II” of the Examination.

14.(1) “Part II” of the examination shall consist of the following trial surveys:-

- (a) survey of a property which may involve the use of triangulation or traverse surveys, re-establishment of missing beacons, survey of an irregular boundary, some astronomical observations or GPS surveys.

(b) survey of township area containing buildings.

(2) The original field notes, computations and plans of such surveys shall be submitted to the examiners.

Percentage
of marks for a
pass in "Part II".

15. A candidate shall not be deemed to have passed "Part II" of the examination unless he has obtained sixty percent (60%) or above the total marks obtained in each of the two tests set out in rule 15(1) (a) and (b) in these Regulations.

Invigilators
of Examination.

16.(1) The Board shall appoint one or more invigilators to be in attendance in "Part 1" of the examination.

(2) The Examiners in "Part II" of the examination shall submit for the approval of the Board, particulars of all proposed trial surveys before the examination.

SIGNED on this 7th day of September, 2007.

(Sgd)
(MANSOOR YUSSUF HIMID)
MINISTER OF WATER, CONSTRUCTION,
ENERGY AND LANDS.

Land Survey Regulations, LN. 60 of 2007

LEGAL NOTICE NO. 60 OF 2007

LAND SURVEYS ACT, NO. 9 OF 1990

LAND SURVEY REGULATIONS

ARRANGEMENT OF SECTION

SECTION

TITLE

PART I

PRELIMINARY PROVISIONS

1. Short title and Commencement.
2. Application.
3. Interpretation.

PART II

AUTHORIZATION

4. Authorisation for Surveys.
5. Evidence of Authorisation.

PART III

GENERAL

6. Measurements.
7. Co-ordinater and Projections.
8. Measuring Instruments.
9. Assistants Surveyor.
10. Survey Marks and Beacons.

PART IV

EXECUTION OF THE SURVEYS

11. Instructions and Guidelines.
12. Field Notes.
13. Content of the Field Notes.

PART V

DOCUMENTATION AND APPROVAL

14. Presentation of Surveys.
15. Approval of the Surveys.
16. Submission of the results.
17. Penalty.
18. Appeals.

**PART VI
PLOTING AND DRAWING**

19. Survey plan.

**PART IX
MISCELLANEOUS**

20. Fees.
21. Access to Maps and Plans.
22. Form of licence.

LAND SURVEYS ACT, NO. 9 OF 1990

**LAND SURVEY REGULATIONS
(Made Under S. 25)**

Short title and
Commencement.

1. These Regulations may be cited as the Land Survey Regulations, 2007 and shall come into force after being signed by the Minister and published in the Official Gazette.

Application.

2.(1) These Regulations shall apply to all surveys carried out in Zanzibar in accordance with the provisions of an Act including surveys related to:

- (a) The Systematic Adjudication under the Land Adjudication Act, NO.8 of 1990;
- (b) The First Registration under the Registered Land Act, No. 10 of 1990;
- (c) The Land Allocation under the Land Tenure Act, No. 12 of 1992;
- (d) The Subsequent Registration under the Registered Land Act, of 1990; and
- (e) Land Use Planning.

(2) These Regulations shall not restrict the powers of the Director to specify methods of particular surveys under section 13 of an Act.

Interpretation.

3. In these Regulations, unless the context requires otherwise:

"Act" means the Land Survey Act NO. 9 of 1990;

"Adjudication area" means an area as defined in the Adjudication Act, NO. 8 of 1990;

"Assistant surveyor" means a person not being a surveyor, who is engaged on survey work directly under the control of a surveyor;

"Board" means the Land Surveys Board as established under section 4 of the Act;

"Chairman" means the Chairman of the Board who shall be the Director of Survey appointed under section 3(1) of the Act;

"Director" means the Director responsible for surveys appointed under section 3(1) of the Act;

"GPS" means the Global Position System;

"Minister" means the Minister responsible for land matters;

"Secretary" means the Secretary of the Board, as appointed in accordance with section 4(5) of the Act;

"Surveyor" means the licensed land surveyor or an officer of the Survey Department authorised by the Director to carry out surveys;

"WGS84" means the World Geodetic System of 1984.

PART II AUTHORIZATION

Authorisation
for Surveys.

4.(1) All cadastral and public surveys outside the adjudication areas shall require a letter of authorisation and the application shall be submitted to the Director.

(2) An application is not required in surveys that are submitted to the Director by the Land Registrar or the Director of Land and Registration according to the relevant legislation.

Evidence of
Authorisation.

5. All licensed Surveyors and Government Surveyors shall present relevant and material evidence to the land holder to prove his authority to conduct surveys and enter to the land.

Measurements

6.(1) All linear measurements shall be in metres and decimals of metre.

(2) All angular measurements shall be in degrees, minutes and seconds of arc or in grades, centigrade and mill grades.

(3) Where it is necessary to convert for any purpose from feet to metres the following relationship shall be used:

1 metre = 3.28084558 feet
1 foot = 0.30479947 metres.

Co-ordinator
and
Projections.

7.(1) The spheroid to be used as the figure of the earth is Clarke (1880) having the following elements:

Semi-diameter major = 6378295.279m
Ellipticity = 1/293.465.

(2) Rectangular co-ordinates used for triangulation work and for all surveys connected thereto shall be derived from Universal Transverse Mercator Projection.

(3) Standard traverses in townships and local systems of rectangular co-ordinates generally shall be computed on the plane and free from spheroidal complications.

(4) Wherever possible the datum for every survey shall be the national triangulation and only in special cases, the Director may give written approval for isolated surveys to be carried out, and such approval shall also be obtained before a magnetic bearing is adopted.

(5) When isolated survey of an Estate is approved, a base line, consisting of two double - beacons shall be measured in both directions.

Measuring
Instruments.

8.(1) Every licensed Surveyor and one Surveyor in each Government Survey Office shall be responsible for maintaining measuring equipments.

(2) The Director may require any licensed Surveyor or the Government Survey Office to submit any measuring instrument for inspection or verification.

(3) To calibrate Electronic Distance Metre (EDM) the Government survey office shall make base lines on Unguja and Pemba available.

Assistants
Surveyor.

9.(1) Any Assistant Surveyor shall not make any measurements in connection with surveys unless he is authorised by the Director.

(2) Every surveyor shall be responsible for all work performed by his assistant.

(3) Every authorised assistant shall clearly indicate which field notes and computations have been made by him, the notes shall be signed by him and countersigned by the licensed Surveyor by whom he is employed.

(4) All work performed by an authorised assistant shall be carried out under the personal direction of Surveyor.

(5) If the Director discovers that an authorised assistant has performed any work which has not been supervised and checked by a Surveyor, any written authorisation relating to the authorised assistant may be revoked.

Survey Marks
and Beacons.

10.(1) Every trigonometrically station, traverse point, benchmark and boundary points shall be survey marks constructed according to the technical instruction prescribed in part III.

(2) Every trigonometric station, traverse point and benchmark should always be referred to nearby permanent features like trees, houses, road junctions, telegraph and electricity poles, etc., and station descriptions prepared.

(3) All trigonometric stations, traverse points and benchmarks shall be marked by double beacons with witness marks.

(4) If a surveyor is required to re-establish a missing survey mark, he shall after re-establishing the same, submit fully detailed field notes and computation relating thereto accompanied by a written report to the Director.

PART IV EXECUTION OF THE SURVEYS

Instructions
and
Guidelines.

11.(1) The execution of survey works shall be prescribed in details in the Technical Instructions and Guidelines.

(2) There shall be the following Technical Instructions:

Technical Instructions for CONTROL NETWORK;

Technical Instructions for CADASTRAL SURVEYS.

(3) There shall be the following Guidelines:

(a) Guidelines for TOPOGRAPHICAL SURVEYS;

- (b) Guidelines for ENGINEERING SURVEYS;
- (c) Guidelines for HYDROGRAPHIC SURVEYS;
- (d) Guidelines for PLOTTING AND DRAWING OF PLANS; and
- (e) Guidelines for AERIAL PHOTOGRAPHY.

(4) The Technical Instructions and guidelines shall be prepared by the Department of Survey and Urban Planning and approved by the Director.

Field Notes.

12.(1) Field notes shall be made during all surveys by using standard forms or automatic recording instruments as is prescribed in the Technical Instructions, and may be kept on loose leaves and should conform as nearly as possible to the prescribed forms.

(2) All original field notes shall be submitted to the Director as part of the Survey Record.

(3) All entries in the field notes shall be clearly indexed and cross referenced to the computation and all entries in the field notes which are not made in the field shall be clearly indicated.

Content of the Field Notes.

13.(1) The Surveyor shall enter in the field notes in each sheet the observers' name, booker, instrument, the date, time, weather conditions, degree of visibility and any other factor affecting the reliability of observations.

(2) All field notes and observations shall have a cover page stating the number of the survey, location of the survey, the surveyor's name and name of his team members and any other information that the Director may require and the pages of field notes shall be numbered.

(3) Explanatory notes and computations shall be made in the field when unorthodox methods of survey are used and the diagrams to illustrate and amplify the notes shall be made if necessary.

PART V DOCUMENTATION AND APPROVAL

Presentation of Surveys.

14.(1) Completed surveys shall be presented in a survey file containing a survey report, plans and all data of surveys as is prescribed in the Technical Instructions.

(2) The survey report shall clearly indicate how the work was performed, sources of data and information used, names of the persons to whom notices were served, the persons who attended the survey, any unusual conditions, occurrences or circumstances, the grounds of any objections to the survey and the decision taken and the final results achieved.

(3) The Surveyor shall sign the plans and the survey report the plan shall contain a declaration that the survey has been carried out in accordance with regulations.

(4) Survey file and its contents shall be prepared in accordance with the specimens shown in the appropriate schedules of the standard forms and Technical Instructions.

Approval of the Surveys.

15.(1) All cadastral and public surveys shall be presented to the Director for approval - Every surveyor shall be personally responsible for the accuracy, fidelity, and completeness of every survey presented by him for the approval of the Director.

(2) If the survey file or part of it has not been prepared in accordance with these Regulations, specimens and the Technical Instructions, the Director may return the file or parts of it to the Surveyor for necessary correction.

(3) The Director may refuse to approve:

- (a) any survey if he finds that it was made with defective equipments;
- (b) any plan which in his opinion has been drawn untidily or has been submitted to him in a dilapidated or damaged condition; and
- (c) any survey containing more errors of measurement than are permissible according to the Technical Instructions.

Submission of the results.

16.(1) If the surveys are related to the land registration under the Registered Land Act, the Director shall submit the results of surveys to the Land Registrar and the Director of Land and Registration to be registered in the Land Register.

(2) If the surveys are related to the land allocation under the Land Tenure Act, the Director shall submit the results of surveys to the Director of Land and Registration for further preparation of the allocation.

Penalty.

17.(1) Any person who is required to make an application for authorisation to the Director subject to the provision of rule 4 of these Regulations, and fail to comply with, shall be guilty of an offence.

Provided that, for the first offence the Board shall warn the offender and issue a notice of three months to rectify the wrong.

(2) After a period of three months failure to comply with sub rule (1) of this rule, shall be guilty of an offence and unless otherwise provided shall, on conviction be liable to a fine as provided for under section 26 of an Act.

(3) On default of paying a fine as prescribed under sub rule (2) of this rule, the Board shall have the power to cancel the license of executing surveys in Zanzibar.

(4) Any person or Institution who wilfully falsifies any survey work for the purpose to mislead or to gain profit shall be committed an offence and unless otherwise provided shall, on conviction be liable to a fine as provide for under section 26 of an Act.

Appeals.

18.(1) Any person who is not satisfied with the decision of the Director or Board may appeal to the Minister.

(2) The provision of sub rule (1) shall not apply if the Director has received incomplete results of surveys according to rule 15 of these Regulations.

PART VI PLOTTING AND DRAWING

Survey plan.

19.(1) Survey works shall be plotted on survey plans by rectangular coordinates and the scale and content shall be specified in the Guidelines.

(2) The survey plan shall be plotted on a stable material using good quality ink.

(3) The symbols used by the Department of Survey and Urban Planning shall be used in the survey plan.

(4) If appropriate, the survey plan shall show adjacent survey works.

PART IX MISCELLANEOUS

Fees.

20.(1) The Survey charges (fees) shall be prepared by

the Board of Control of Land Surveyors and approved by the Minister.

(2) At least fifty percent of the estimated Survey charges shall be paid in advance.

Access to Maps
and Plans.

21.(1) Any person shall have access to published maps and plans in the possession of the Director, and the Director may refuse access as he may deem necessary in the public interest.

(2) Any person who has an official interest of any survey has the right to get copies of after paying the necessary fee under permission of the Director.

Form of licence.

22. The form of a licence shall be as prescribed under the First Schedule of an Act.

SIGNED on this 7th day of July, 2007.

(Sgd)
(MANSOOR YUSSUF HI MID)
MINISTER OF WATER, CONSTRUCTION,
ENERGY AND LAND

Land Transfer Regulations, LN. 70 of 2011

Legal Notice No 70/2011

THE LAND TRANSFER ACT NO. 8 OF 1994

REGULATIONS **[Made under section 18]**

IN EXERCISE of the powers conferred upon me under section 18 of the Land Transfer Act No. 8 of 1994, I, **ALI JUMA SHAMUHUNA**, Minister of Lands, Housing, Water and Energy; do hereby make the following Regulations:

PART ONE

PRELIMINARY PROVISIONS

Short title and commencement.

1. These Regulations may be cited as the Land Transfer Regulations of 2011, and shall come into operation after being signed by the Minister and published in the Official Gazette.

Interpretation.

2. In these Regulations unless the context requires otherwise:

“Act” means the Land Transfer Act No. 8 of 1994;

“Board” means the Land Transfer Board as established under section 9 of the Principal Act;

“Chairperson” means the Chairperson of the Board;

“Vice-Chairperson” means the Vice-Chairperson of the Board;

“Member” means the member of the Board;

“Secretary” means the Secretary of the Board;

“Land” means and includes land covered by water, all things growing on land, and buildings and other things permanently

affixed to land, except trees when specifically classified and owned separately;

“Minister” means the Minister responsible for Lands;

“Transfer” means the passing of land, a lease or charge by act of the parties and includes the instrument by which such passing is affected.

PART TWO

PROVISIONS OF THE BOARD

*Meeting of
the Board.*

3. (1) Subject to the provisions of the Act, the meeting of the Board shall be called by an order of the Chairperson after consultation with the Secretary.

(2) Subject to sub regulation (1) of this regulation, once the Secretary receives an order of the Chairperson, shall issue a notice to all members by at least five (5) days before the day in which the meeting will be held, with the exception of an extra ordinary meeting where a notice of at least one day may be given.

(3) A notice to call a meeting shall state the proposed agenda of the meeting, time and place in which the meeting shall be held.

*Change of
agenda.*

4. (1) After opening the meeting, the Chairperson may invite and allow the members to change, amend or propose new agenda for the meeting.

(2) Once the agenda has been changed or amended, the Chairperson shall announce to adopt the agendas and proceed with the meeting accordingly.

(3) Before proceeding commences, the Chairperson may set a time for each agenda to be discussed in a meeting and unless the Chairperson decides otherwise, that time set shall not be ignored by members in discussing such agenda.

*Attendance
in a meeting.*

5.(1) Every member shall be bound to attend the meetings of the Board and in the event of being unable to attend, shall

inform the Chairperson or the Secretary in writing stating reasons why s/he will not be able to attend.

(2) When a member becomes absent for three consecutive meetings of the Board without giving reasons to the Chairperson or Secretary, the Chairperson shall report such matter to the Minister.

(3) Subject to the provisions of section 13 of the Act, the Minister may, after receiving a report from the Chairperson under sub regulation (2) of this regulation, revoke the appointment of a member who fails to attend three consecutive meetings of the Board and instead shall appoint another person to be a member of the Board.

Adoption of agenda.

6.(1) Once the agenda of the meeting is adopted, the Chairperson shall open the flow so that the members may give their opinion on each respective agenda of the meeting.

(2) All members shall be free to give opinion or argument on the agenda in motion, and every member shall respect the opinion of other members provided s/he is argued in respective agenda at motion.

(3) When it appears that, the agenda should be decided in a meeting, the Chairperson may decide the manner in which the decision should be made either by way of secret or open hand vote.

Vice Chairperson.

7. The Board shall elect one of its members to be a Vice-Chairperson.

Chairperson to preside meeting.

8.(1) The Chairperson shall preside at all meeting of the Board and in the absence of the Chairperson, the Vice Chairperson shall preside the meeting.

(2) When both Chairperson and Vice-Chairperson are absent at a meeting, the members in attendance may elect one amongst their member to preside the meeting.

(3) The Chairperson or Vice-Chairperson or a member elected to preside a meeting in the absence of the Chairperson and Vice-Chairperson, shall have a casting vote in addition to

a deliberate vote.

(4) Without prejudice to the provisions of sub regulation (1) of this regulation; the Chairperson, Vice-Chairperson or a member elected to preside the meeting in the absence of Chairperson and Vice-Chairperson shall have power to administer reasonable disciplinary action during the meeting and any member who fails to comply with such order may be ordered to step out of the meeting.

(5) Any member ordered to step out of the meeting under the provisions of sub regulation (4) of this regulation may be paid a half sitting allowance.

Extra Ordinary Meeting.

9. The Chairperson in consultation with the Secretary may call an extra ordinary meeting at any time if in his/her opinion, there is an urgent matter that needs to be discussed and decided by the Board.

Quorum.

10.(1) Majority of the members of the Board shall constitute a quorum.

(2) Any act or decision of the Board shall not be invalidated by reason of time or a defect in the appointment of any member.

Invitation.

11. The Board may invite any person to participate on its meeting but such person shall have no right to vote in any deliberation of the Board.

Powers of the Board.

12. In discharge of its functions, the Board shall have the following powers:

- (a) to call upon the transferor or transferee for any clarification relating to the transfer;
- (b) to visit the area of the transferred interest in land;
- (c) to issue certificate in transferred land as to signify the approval of the transfer; and
- (d) to conduct or cause to be conducted valuation of the land to be transferred.

Decision of the Board.

13. Subject to the provisions relating to a casting vote, all questions at the meeting of the Board shall be determined by the majority of the votes of the members present, and if any member refuses or fails to vote on any question, he shall be deemed to have cast a negative vote.

Decision by Circulation of papers.

14.(1) Notwithstanding the provisions of these Regulations, decisions may be made by the Board without a meeting by circulation of the relevant papers among the members and the expression of the view of majority thereof in writing.

(2) Any member of the Board may be entitled to require that any decision made under sub regulation (1) of this regulation be deferred and the subject matter be considered at a meeting.

Records of the Proceedings of the Board.

15.(1) The Secretary shall take and keep records all minutes of the meeting of the Board.

(2) The Board shall supervise and develop proper arrangement of Board's minutes in soft and hard copies.

(3) The minutes of the meeting of the Board shall be signed by the Chairperson and Secretary in the next meeting after being approved by the members.

(4) The minute after being signed, shall be evidence of such proceedings and until the contrary is proved, the meeting to which the minutes related shall be deemed to have been duly convened and all proceedings thereto have been duly transacted.

PART THREE

EXECUTION OF TRANSFER

Application for transfer of lands.

16. (1) Any person who intends to transfer a parcel of land shall be required to fill an application form which will be available at the Board's offices.

(2) The application form shall be issued to the applicant after payment of appropriate fees has been done as determined by the Board from time to time.

(3) The applicant shall be required to pass the application form to the Office of Shehia in which the land in issue is situated in order for Sheha to fill and put his remarks in appropriate space provided in the form and the applicant shall pay not more than twenty thousand Tanzanian shillings for each transaction.

(4) For the purpose of observation, the applicant shall submit the application form to the District Commissioner's office and the applicant shall pay not more than thirty thousand Tanzanian shillings for the transaction.

Charges as to percentage.

17. (1) The approved land transfer shall be charged according to market value of the property as follows:

(a) charges for a non-investment of a house/land shall be two percent (2%);

(b) charges for farms and plots shall be zero point five percent (0.5%);

(c) charges for investment area or business shall be three percent (3%); and

(d) charges for gift shall be zero point one percent (0.1%).

(2) Any payment made under this regulation shall be evidenced by its receipt number and then affixed in the application form.

Approval of transfer.

18. (1) The Applicant after filling the application form, immediately shall return it to the Board for consideration.

(2) When the Board certified with the requirements set, shall approve the transfer of the land issue with a certificate to the successful applicant(s) in the form prescribed in the schedule to these Regulations.

(3) When the Board becomes dissatisfied with the application, shall reject the transfer and notify in writing the applicant, stating reasons for rejection and where appropriate, the Board shall issue directives to the applicant.

(4) When the applicant becomes dissatisfied with the decision and instructions issued by the Board, may appeal to the Court.

PART FOUR

MISCELLANEOUS PROVISIONS

*Disclosure
of Interest.*

19.(1) Every member of the Board shall, prior to the commencement of the proceeding of the Board, disclose interest s/he has or is vested in him/her in connection with any matter which is before the Board in that particular meeting that may or is likely influence his/her opinion on such matter.

(2) For the purpose of this section interest or vested interest shall include personal or family interest in land or close related relative or associate but shall not be interpreted to include public or government interest in land or indirect benefit accrued in any land related in transfer.

Confidentiality.

20.(1) All proceedings of the Board shall be treated as confidential and no member or invited person to whom such matter has come to his/her knowledge shall use or disclose such information except in the furtherance of the purpose of the Board.

*Remuneration
of Members
of the Board.*

21. All Members of the Board shall be paid such allowances and other payment as proposed by the Board from time to time and approved by the Minister.

SCHEDULE 1: LAND TRANSFER CERTIFICATE

No.



THE REVOLUTIONARY GOVERNMENT OF ZANZIBAR
ZANZIBAR LAND TRANSFER BOARD

Certificate Of Land Transfer By

The Zanzibar Land Transfer Board Has Approved
The Land Transfer Application No.

From
.....

To
.....

For The Land Situated At -

On This Date Of,

Signed by:
.....
SECRETARY

.....
CHAIRMAN

SIGNED on this day of June, 2011.

(ALI JUMA SHAMUHUNA)
MINISTER OF LANDS, HOUSING, WATER AND ENERGY.

..... June, 2011;
ZANZIBAR.