

## Kiribati - Legislation

### LAWS OF THE GILBERT ISLANDS

#### REVISED EDITION 1977

#### CHAPTER 62

#### NEGLECTED LANDS

#### ARRANGEMENT OF SECTIONS

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#### SCHEDULE

<b>An Ordinance to provide for the purchase of neglected land and to regulate the sale thereof to indigent natives</b>	1 of 1959
	6 of 1969
	8 of 1971
	9 of 1971
	11 of 1971
<i>Commencement: 25th June 1959</i>	(Cap. 23 of 1973)
	20 of 1974

**Short title**

1. This Ordinance may be cited as the Neglected Lands Ordinance.

**Interpretation**

2. In this Ordinance unless the context otherwise requires-

"High Court" means the High Court composed or deemed to be composed under section 76 of the Magistrates' Courts Ordinance;

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"indigent native" means a native, who, in the opinion of an administrative officer in charge of a district, has insufficient land for the sufficient support of himself and his family; "native" means a native as defined by the Native Lands Ordinance;

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"native" means a native as defined by the Native Lands Ordinance;

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"native land" means land owned by a native;

"neglected land" means land suitable for agricultural use which is not being fully and efficiently utilised for agricultural purposes;

"owner" means, in relation to any land, the person who is registered in respect of such land in the register of native lands, maintained by a magistrates' court under the provisions of the Magistrates' Courts Ordinance, as being the owner thereof.

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**Purchase of neglected land by agreement**

3. The Minister may purchase by agreement with the owner any land which is, in the opinion of the Minister, neglected land. for the settlement of indigent natives thereon or for alienation by sale or gift to a local government council whether the land is within or without or partly without the area of authority of the council.

**Compulsory acquisition of neglected land in certain circumstances**

4. (1) If the Minister desires to purchase any land which is in his opinion neglected land for sale to indigent natives, or for alienation by sale or gift to a local government council whether the land is within or without or partly without the area of authority of the council, he shall cause such enquiries as appear to him to be reasonable to be made to ascertain the whereabouts of the owner of such land.

(2) If, within 6 months from the institution of inquiries made in accordance with the provisions of subsection (1), it appears to the Minister-

(a) that, although the whereabouts of the owner of the land concerned have been ascertained, it is not possible to conclude any suitable agreement with him for the purchase of such land; or

(b) that he is not within the Gilbert Islands; or

(c) that his whereabouts cannot be ascertained in spite of such inquiries,

the Minister may acquire such neglected land compulsorily in accordance with the provisions of this Ordinance.

**Owner of the land may be required to show cause why land is not neglected land****Schedule****Form A**

5. Whenever the Minister considers that circumstances exist which may justify the acquisition of any land under the provisions section 4 he shall direct the administrative officer in charge of the district within which such land is situated to serve upon the owner thereof a notice in Form A in the Schedule or to like effect requiring such owner to attend before the High Court at the time specified in such notice and to show cause why such land is not neglected land.

**Owner of land found to be neglected to be required to ensure the utilisation thereof****Form B**

6. Unless any owner served with a notice in Form A in accordance with section 5 establishes to the satisfaction of the High Court that the land specified in such notice is not in fact neglected land the High Court shall cause to be served upon him a notice in Form B

in the Schedule requiring utilisation of such land forthwith and the continued utilisation thereof for agricultural purposes for the period of 5 years next succeeding the date of service of such notice.

**Owner of land found to remain neglected to show cause why land should not be compulsorily acquired**

**Form C**

7. (1) The High Court shall cause a representative to inspect such land at the expiration of 1 year from the date of the service of the notice in Form B pursuant to the provisions of section 6 and at such other times during the aforementioned period of 5 years from such date as it may deem expedient or shall be directed by the Minister, and if upon such inspection it shall appear to such representative that compliance is not being made with the requirements contained in the aforementioned notice he shall so report to the High Court which court shall thereupon cause a notice in Form C of the Schedule to be served on the owner of such land requiring him to appear before such High Court on the day specified in such notice and to show cause why such land should not be acquired by the Minister compulsorily in accordance with the provisions of this Ordinance.

(2) The owner shall be deemed to show sufficient cause within the meaning of subsection (1) if he satisfies the High Court that he has made reasonable agricultural use of the land in question in accordance with the requirements contained in the notice in Form B issued in respect of such land or that he has failed so to do for reasons beyond his control.

**Order by Minister for acquisition of land and assessment of compensation**

8. (1) If the owner fails to show cause why the land should not be acquired by the Minister by compulsory purchase as neglected land, the administrative officer in charge of the district in which such land is situated shall report to that effect to the Minister, who shall thereupon order that the land be compulsorily acquired and that the amount of compensation due, if any, shall be determined by the High Court.

(2) Upon the making of such order and whether or not the amount of compensation due; if any, has been determined by the Minister and all persons authorised by him shall be entitled to enter and take possession of such lands accordingly.

(3) The High Court shall have jurisdiction to hear and determine all questions of compensation upon summons directed to the owner of the land so acquired.

**Matters to be considered in determining compensation**

9. In determining the amount of compensation to be awarded for land acquired under this Ordinance the High Court shall take into consideration-

- (i) the market value of the land at the date of the notice to show cause why the land is not neglected; and if a market value does not exist on any island then the court shall have regard to the value of the land as based on the fertility classification of the land as graded in the records of the High Court;
- (ii) the damage sustained by the owner by reason of the taking of any standing crops or trees which may be on the land at the time of taking possession thereof;
- (iii) if in consequence of the acquisition of the land, the owner is compelled to change his residence or place of business, the reasonable expenses, if any, incidental to such change.

**Service of notices**

10. (1) Every notice or summons required or authorised to be served upon any person by or under this Ordinance may be served by delivering the same to him personally.

(2) Whenever any notice or summons is required or authorised by or under this Ordinance to be served upon any person who is known to be resident at an address upon any island within the Gilbert Islands other than that upon which the lands the subject matter of the notice of summons are situated, such notice or summons may be served by forwarding the same by registered post to such person at such address; and, unless such notice or summons is returned to the sender as undelivered, it shall be deemed to have been served at the time when it would have been delivered to the address to which it was sent in the normal course of the post:

Provided however that whenever any such notice or summons forwarded in accordance with provisions of this subsection, copies of such notice or summons shall be served on the

occupier of any of the lands the subject thereof and upon any one adult person resident upon the island upon which such lands are situate and known to be a relative of the original addressee:

Provided further, if no such occupier or relative be known or is found, a copy of any such notice or summons shall be affixed to a conspicuous part of such lands.

(3) If it is impracticable to serve any notice or summons required or authorised to be served by or under this Ordinance in accordance with either subsection (1) or subsection (2), service thereof shall be effected in such manner as the High Court shall direct.

#### **Decision in absence of owner**

**11.** Where any person upon whom a notice or summons has been or is deemed to have been served does not appear at the time appointed, a decision may be given in his absence and such decision shall be as effectual as if given after hearing in the presence of such person.

#### **Penalty for hindering the taking possession of land**

**12.** Every person who wilfully hinders or obstructs any person duly authorised by the Minister from entering upon or taking possession of or using any land in pursuance of the provisions of this Ordinance, or who molests, hinders, or obstructs such person when in possession of such land, or molests; hinders or obstructs any officer of the High Court when making any inspection of the land or serving any notice or summons, shall be liable to imprisonment for 3 months and to a fine of \$50.

#### **Native land to remain so**

**13.** Native land acquired by the Crown under this Ordinance shall not cease to be native land for the purposes of the Native Lands Ordinance by virtue of that acquisition or of its subsequent alienation to a local government council, notwithstanding the definition thereof in that Ordinance.

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#### **Sale of land to indigent natives**

**14.** Where land has been acquired under this Ordinance for sale to indigent natives it shall be offered for sale to such persons in accordance with sections 15 and 16.

#### **Advertisement of sale**

**15.** The administrative officer in charge of the district shall, on instructions from the Minister, advertise, in such manner as the Minister may direct, that it is proposed to sell any land acquired under this Ordinance for sale to indigent natives either privately or with or without reserve by public auction which auction shall be held at a specified date and place.

#### **Method of sale**

**16.** (1) Any land acquired under this Ordinance for sale to indigent natives may be sold either privately or by public auction as the administrative officer in charge of the district may [decide, to](#) any indigent native at any price not greater than the sum for which the Minister acquired the land from the owner:

Provided that the said administrative officer may, at any time before the name of the purchaser has been registered in the High Court as the new owner, cancel any sale-

- (a) if he is satisfied that the purchaser is not an indigent native; or
- (b) if the purchaser and the said administrative officer cannot agree as to methods of payment or as to security for payment.

(2) Upon the cancellation of any sale in accordance with the provisions of the preceding subsection, the purchaser shall have no right title or interest whatsoever in the land the subject of such sale nor shall he be entitled to claim or recover any redress whatsoever other than the return of any moneys paid for or on account of purchase moneys.

(3) The said administrative officer may, either immediately upon or at any time after the cancellation of any sale as aforesaid resell the lands the subject of the cancelled sale to any indigent native (other than the purchaser under such cancelled sale), either by public auction or by private treaty, at any price not exceeding the price paid by the Minister on its acquisition.

(4) Every re-sale made upon the cancellation of any sale or re-sale under the provisions of this Ordinance shall be deemed a sale liable to cancellation under subsection (1).

(5) Where at any sale by auction held under the provisions of this section bids are made by more than one person at a price amounting to the maximum price at which the land

concerned is permitted to be sold, under the provisions of this section, the Minister acting in his discretion may determine which of the persons making such bids has the greatest need of the land concerned and may direct that the bid made by the person so determined shall be accepted.

#### **Alienation to local government council**

**17.** Where land acquired under this Ordinance for alienation to a local government council has been alienated to the council the council may-

(a) use the land for the purpose of any of its functions under the Local Government Ordinance or any other Ordinance;

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(b) with the consent of the Minister in writing first obtained alienate the land whether by sale, gift, lease or otherwise:

Provided that where by virtue of section 13 the land is native land for the purpose of the Native Lands Ordinance it shall not be alienated otherwise than in accordance with that Ordinance.

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#### **Payment**

**18.** (1) Payment for land sold shall be made either immediately at the time of the sale or by instalments payable over such a period of time and subject to such security for payment as the administrative officer in charge of the district may think fit, having regard to individual and local circumstances.

(2) As soon as may be after the date of the sale the name of the purchaser of the land sold shall be registered in the High Court as the owner thereof.

(3) In addition to the purchase price, every purchaser shall pay by way of satisfaction of the costs of administering this Ordinance a fee of 50 cents for every acre of land sold, which shall be payable either immediately or by instalments as the said administrative officer may think fit.

#### **Power to re-take possession of land sold to indigent natives**

**19.** (1) If the High Court is satisfied on application made by or on behalf of the Minister-

(a) that at any time within 25 years of a sale to an indigent native the land remains neglected or has again become neglected by the purchaser or by his successor in title; or

(b) that the purchaser or his successor in title has failed, without reasonable excuse, to pay any instalment when due;

it may by order in writing authorise the Minister or his representative to re-take possession of such land.

(2) On making any such order the High Court may direct the Minister to refund to the purchaser or to his successor in title the purchase price in whole or in part.

(3) Where possession has been taken on behalf of the Minister the title of the purchaser or of his successor in title shall immediately cease and determine and an entry to this effect shall be made in the records of the High Court.

(4) At any time after resumption of possession thereof the land may again be offered for sale as neglected land under this Ordinance.

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## **SCHEDULE**

### **FORM A**

*(Section 5)*

## **NEGLECTED LANDS ORDINANCE (CAP. 62)**

### **NOTICE TO SHOW CAUSE WHY LAND IS NOT NEGLECTED LAND**

**To:**

Notice is hereby given that the following lands (*describe lands by section, name and number and plot number or by giving measurements and showing boundaries whenever practicable*) are believed to be neglected lands and that it is proposed to acquire them for the settlement of indigent natives thereon or for transfer to a local government council. You are hereby required to attend the High Court on .....Island at .....o'clock in the.....noon on ..... the .....day of .....to show cause why neglected land is not neglected land.  
Dated at ..... this day of ..... 19....

Administrative Officer in charge of the District.

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**FORM B**

*(Section 6)*

**NEGLECTED LANDS ORDINANCE (CAP. 62)**

**NOTICE REQUIRING UTILISATION OF NEGLECTED LAND**

**To:**

Whereas you have failed to show cause why the land (*describe land giving section, name, number and plot number or by measurements and show boundaries whenever practicable*) is not neglected land.

Take notice that you are hereby required within the period of 1 year from the date hereof to commence to utilise the land in the manner described in the Schedule hereto and in default the land will be acquired by compulsory purchase by the Minister for the settlement of indigent natives thereon, or for transfer to a local government council.

This Notice will remain in force for 5 years from the date hereof and if during that time the said land is found to be neglected it may be acquired under the Ordinance without any further notice in this form being issued to you.

**SCHEDULE**

Dated at .....the .....day of ..... 19.....  
Registrar of the High Court

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**FORM C**

*(Section 7)*

**NEGLECTED LANDS ORDINANCE (CAP. 62)**

**NOTICE TO SHOW CAUSE WHY NEGLECTED LAND SHALL NOT BE COMPULSORILY ACQUIRED**

Whereas on the Island of ..... a representative of the High Court inspected the land (*describe land by section, name or number and plot or by giving measurements and showing boundaries whenever practicable*) on the ..... day of ..... 19..... and found that the requirements specified in the notice dated the .....day of .....19 .....have not been complied with.

You are hereby required to attend the High Court on ..... island at ..... o'clock in the ..... noon on the .....day of ..... to show cause why the said land shall not be acquired as neglected land under the Ordinance.

Dated at ..... the ..... day ..... of ..... 19.....

## Registrar of the High Court

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