



Supplement No. 1
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Land (Agricultural Lease) Regulations, 1992

Legal Notice No. 100 of 1992

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Land (Agricultural Lease) Regulations, 1992

In exercise of the powers conferred upon me by sections 18 and 89 of the Land Act 1979, I,

Mphosi Matete

Minister of the Interior and Chieftainship Affairs make the following regulations:

1. These regulations may cited as the Land (Agricultural Lease) Regulations 1992 and shall come into operation on the date of publication in the Gazette.

Citation
and
Commence-
ment

2. In these regulations:

Interpreta-
tion

“administrative fee” means the fee paid to the Commissioner of Lands for the preparation of any document relating to titles;

“agricultural lease” means a lease granted or issued under the land Act 1979 for the purpose of engaging in agricultural pursuits as defined in section 2 of the Land Act 1979;

“development charge” means the pro-rata share of total construction and the annual maintenance costs of common use facilities which include, but may not be limited to, roads, dams, irrigation installations whose costs are borne by persons directly benefitting therefrom;

“minister” means the minister responsible for land;

“land use plan” means a detailed description, including maps, of a land area which identifies soil type, all prominent physical features and recommended agricultural land utilisation;

“district agricultural officer” means the officer designated by the Ministry of Agriculture to be in charge of agricultural matters in the district.

PART I

Applications for issue of agricultural leases

3. (1) Every application to the Commissioner for the issue of an agricultural lease, pursuant to Section 11 b(1) of the Act in respect of land held under an allocation of land for agricultural purposes, shall be made in the Form “AA” in the First Schedule;

Application
for issue of
a lease
Form “AA”
First
Schedule

(2) Such application shall be prepared in duplicate with the original Form "AA" sent to the Chairman of the Allocating Authority having jurisdiction over the allocated land and the duplicate sent to the District Secretary having jurisdiction;

(3) Each application shall be submitted together with a certificate of allocation or other evidence ascertaining that the applicant is qualified to hold land pursuant to Section 6 of the Act.

Duty of
Chairman

4. (1) The Chairman of the Allocating Authority shall within two months of the date of receipt of the application Form "AA":-

Act No. 17
of 1979

(a) determine whether the applicant qualifies under Section 6 of the Land Act 1979 to hold title to land;

L.N. No.
15 of 1980

(b) determine whether the allocation of the land which is the subject of the application has been abused by the allottee through:-

(i) overgrazing,

(ii) refusal or failure to combat soil erosion; or

(c) determine whether the allocation of arable land which is the subject of the application has not been cultivated for any period in excess of 3 consecutive years;

(d) adjudicate the boundaries of the land to the satisfaction of the other occupiers of land in the vicinity.

(2) If either the determination or adjudication specified in subregulation (1) above reveals that the applicant is not or will not be entitled to hold land by allocation, then the Chairman shall notify the applicant accordingly in writing accordingly.

(3) If the said determination and adjudication reveal that the applicant is entitled to hold that land by allocation, but that no documentary evidence to support that allocation is held by the applicant, the Chairman of the Allocating Authority will thereupon issue, for the benefit of the applicant, a Certificate of Application in the Form C1 in the First Schedule to the Act which shall then be attached to the application Form "AA".

(4) On compliance with the requirements of subregulations (1) and (3), the Chairman shall forthwith refer the application Form "AA" to the District Agricultural Officer having responsibility for the area in which the land is situated.

(5) Upon receipt of the recommendations of the District Agricultural Officer pursuant to regulation 5, the Chairman of the Allocating Authority shall make his decision and notify the applicant accordingly and shall send copies of such decision to the District Agricultural Officer and the District Secretary.

(6) The Chairman of the Allocating Authority may request

that the District Secretary assist in the execution of any or all of the duties ascribed to the Chairman by these regulations.

5. (1) On receipt of the original Form "AA" from the Chairman of the Allocating Authority having jurisdiction over the land, the District Agricultural Officer shall review the application provided the said Chairman has confirmed the applicant's right to use and occupy the land for agricultural purposes.

Duties of District Agricultural Officer

(2) Such review shall:-

(a) take account of applicable prior agricultural land use practices in the Land Husbandry Act 1969, and regulations incidental thereto;

Act No. 22 of 1969

(b) confirm that the land use proposed by the applicant is consistent with existing agricultural land use plans and policy; and

(c) ratify that the land and the soil capability thereof are economically of the land use proposed.

(3) If, in the opinion of the District Agricultural Officer, requirements of sub-regulation (2) hereof are not satisfied then he shall forthwith notify the Chairman of the Allocation Authority that the application cannot be supported, specifying in writing his reasons therefor and suggesting recommended alternative land use, if any.

(4) When such application is supported by the District Agricultural Officer he shall recommend, to the Chairman of the Allocating Authority, which of the standard lease conditions contained in the Third Schedule hereof are to apply, and whether special conditions are to be reserved, and these conditions shall be inscribed in Part C on the Form "AA".

Standard and special lease conditions Form "AA"

6. (1) Whenever the Chairman of the Allocating Authority or the applicant is aggrieved by the recommendations of the District Agricultural Officer, he may appeal in writing within 30 days to the Principal Secretary of the Ministry of Agriculture, who may call for a review of such recommendations.

Right of Appeal

(2) When such application is not supported by the Chairman of the Allocating Authority, or the applicant does not agree to the standard and special conditions inscribed in the Form "AA", the applicant may appeal to the Land Tribunal, provided that such an appeal is made within 30 days from receipt of notification from the Chairman of the Allocating Authority.

7. The applicant will be responsible for the cost of the land survey fees under the Land Survey Act 1980 and for administrative fees as set out in the Fifth Schedule.

Payment of fees

PART II

Declaration of selected agricultural areas

Consultation and planning prior to declaration of a selected agricultural area

8. (1) Before the Minister responsible for Agriculture makes a recommendation pursuant to section 50 of the Act, for the declaration of agricultural land as a selected agricultural area, he shall require that a feasibility study, which will include a land use plan, be prepared by the District Agricultural Officer in consultation with the Allocating Authority having jurisdiction, and which will identify:-

- (a) the current and proposed agricultural use of the land;
- (b) the extent of the land to be declared a selected agricultural area; and
- (c) the number of allottees to be affected by such declaration and general manner by which they will be affected.

(2) Land use plan required under sub-regulation 8(1) shall, *inter alia*:-

- (a) identify intended agricultural use of the land;
- (b) confirm the economic viability of the intended agricultural production or range management and livestock use; and
 - (i) recommend the size of land parcels, if the intended use is for crop production; or
 - (ii) recommend the animal carrying capacity if the land is to be used for attaining improved range management practices and expanded livestock production; and
- (c) identify resettlement issues arising from recommended land use within the selected agricultural area;
- (d) identify environmental safeguards required in the area, and where necessary, environmental rehabilitation measures required.

Recommendation of selected agricultural area

9. (1) Upon approval of the land use plan specified in sub-regulation 8(2) above by the Minister responsible for Agriculture, a recommendation to declare the land which is the subject of the plan, as a selected agricultural area will be forwarded to the Minister along with a copy of the said plan and the results of the consultations carried out under section 8(1) above.

(2) Upon receipt of the recommendation from the Minister responsible for Agriculture, the Minister may, by notice in the gazette declare the land which is the subject of the land use plan to be a selected agricultural area.

10. Upon the declaration of a selected agricultural area, the Minister shall instruct the Commissioner of Lands to cause to be prepared the demarcation and survey of the individual parcels of land within the declared area as specified in the land use plan.

Demarcation and survey within a selected agricultural area

11. (1) Whilst the survey of the land is being carried out, the District Secretary shall post notices in at least three prominent locations in the Sesotho and English languages within the boundaries of the selected agricultural area indicating:-

Application for grant of lease

- (a) (i) the number, size and location of land parcels;
- (ii) ground rents applicable; and
- (iii) intended agricultural land use for each parcel;

(b) that any person interested in receiving the grant of an agricultural lease should complete an application in the Form "A" in the First Schedule which should be returned within 30 days of receipt; and

Form "AB" First Schedule

(2) A copy of the notice referred to in subregulation 11 (1) above shall be forwarded to every person identified as having formerly held an allocation of land within the selected agricultural area and the Chairman of the Allocating Authority concerned.

(3) When the period of the application referred to in subregulation 11(1) has expired the District Secretary will compile a list of applications by name and place of residence, indicating on the list every person identified as having formerly held an allocation of land within the declared selected agricultural area, forwarding the list to the said Chairman and requesting him together with his Allocating Authority to interview the applicants.

Selection of intended lessees

(4) The Chairman of the Allocating Authority shall notify the applicants of the time, date and place of the hearing of the applications and the applicants shall be entitled to appear and make representations or submissions in support of his application.

(5) After consultations with the District Secretary and the District Agricultural Officer the Allocating Authority shall prepare a list of successful applicants which shall be forwarded to the District Secretary within 30 days.

(6) Each applicant will be notified of the Allocating Authority's decision. The decision on any applications shall be in writing setting out adequately the ground upon which it is given.

12. (1) The selection list referred to in subregulation 11 (3) above shall be prepared in the Form "AC" in the First Schedule and shall clearly specify:-

Form "AC" First Schedule

- (a) whether each intended grantee last held an allocation of land for agricultural purposes within the selected agricultural area concerned;
- (b) the residence of each person on the list;
- (c) the parcel number(s) assigned to each successful applicant; and
- (d) ground rental rates which are to be reserved under the respective leases;
- (e) standard and special lease conditions which shall apply as determined in accordance with regulation 12(2).

Standard and special lease conditions

(2) The Minister responsible for Agriculture, based on the land use plan, shall determine which of the standard lease conditions are to apply to each lease and whether special lease conditions are to be reserved in a such lease.

Titles Form "AC" First Schedule

13. When completed, the District Secretary shall forward to the Commissioner of Lands, pursuant to section 51 of the Act:-

- (a) the list, prepared in form "AC", accompanied by an annotated map;
- (b) original of the application forms "AB" lodged by the applicants.

Form "AB" First Schedule

PART III

Standard conditions applying to agricultural fees

Lease term

14. The term of an agricultural lease shall not exceed ninety years in duration.

Ground rent Second Schedule

15. (1) Where a person is required to pay ground rent for an agricultural lease, the rent shall be calculated in accordance with the Second Schedule

(2) For the purposes of the Second Schedule the grading of land held under an agricultural lease shall be determined by the Minister responsible for Agriculture.

(3) On the advice of the Minister responsible for Agriculture, the Minister may, by order, amend, vary or increase the amount of all or any of the ground rent amounts tabulated in the Second Schedule.

(4) Unless the Minister, after consultations with the Minister responsible for Agriculture, directs otherwise, no ground rent will be assessed and payable for the first five years of the term of the lease.

Size of holding

16. No person shall hold, within a selected agricultural area, either by lease or by sublease, cropland in excess of twenty hectares unless exempted by the Minister upon receiving advice from the Minister responsible for Agriculture.

17. (1) All agricultural leases shall be deemed to include the statutory conditions laid down in the Third Schedule unless the lease specifies otherwise. Statutory and other lease conditions
Third Schedule
- (2) A lease may include such other conditions as the Minister may direct after consultations with the Minister responsible for Agriculture.
18. The development charges set out in the Fourth Schedule shall be payable by lessees of agricultural land under lease. Development Charges
19. Any person who makes an application or is in receipt of any service or document specified in the Fifth Schedule shall pay the appropriate fee specified in that Schedule in respect of the application, service or document as the case may be. Administrative Fees
20. The inheritance provisions as specified in regulations 9, 10 and 11 in the Land Regulation 1980 shall apply *mutatis mutandis* to land held under a lease for agricultural purposes. Inheritance
L.N. No. 15
of 1980
21. All leases for agricultural purposes which were granted or issued prior to the commencement of these regulations shall continue in full force and effect on the terms and condition as specified in the respective leases. Savings
22. (1) Any lessee or allottee may sublease the land held under lease or allocation. Provided that if the term of such sublease is for a period of more than three years Ministerial consent will be required in terms of sections 35 and 36 of the Land Act 1979, and such sublease will be registrable as provided in the Deeds Registry Act 1967. Subleases
- (2) Any sublease must contain, *inter alia*, the following terms and conditions:-
- (a) commencement and termination dates;
 - (b) rental rate;
 - (c) obligation and rights of the sublessee;
 - (d) obligations and rights of the sublessor;
 - (e) provision for arbitration in the case of any dispute;
 - (f) provision for termination in the case of a breach of any condition;
 - (g) the written approval of the terms of sublease by the Allocating Authority having jurisdiction;
23. Subject to the provisions of sections 35 and 36 of the Land Act a lessee or sublessee may encumber the land under lease by mortgage. Mortgage

(Regulation 3)

**Application for an agricultural lease outside
a selected agricultural area**

To: The Commissioner of Lands, through the office of the Chair-
man of the
Allocating Authority and office of the District Secretary.

PART A

(To be completed by applicant(s))

Insert full name(s) 1. I/We
occupation
address (residential) of
apply for the issue of an agricultural
lease pursuant to section 11 b(1) of the
Land Act 1979 with respect to land des-
cribed as follows:
.....
.....

Correspondence 2. All communications and correspondence
Address relating to this application should be
addressed to:
.....
.....
.....

3. This application is made because the land
is used for agricultural purposes and I/
We consider that the conditions contain-
ed in the Land Husbandry Act 1969 for
the intended agricultural land use have
been or can be attained. The following
information is supplied in support there-
of:

(a) the area or extent of the allocation
is hectares.

(b) the estimated value of the agricul-
tural improvements made already to
the land is M.....

(c) the level of development attained as
at the date of this application in-
cludes hectares of annual
crops; hectares under peren-
nial crops (including trees);
hectares for pasture for

(describe animals and state numbers); other purposes

..... (specify) hectares.

(d) the proposed land use when the lease issues will be and the proposed levels of development planned for the leased land will be

4. The boundaries of the land are described as follows (provide sketch/plan if available):

.....
.....
.....
.....

(Delete if no certificate available)

and a Certificate of Allocation in my name evidencing my right to use and occupy the land.

5. *I/*We/am*/are a *Lesotho citizen(s) and can supply evidence to this effect as follows:-

Passport No.: dated

OR

*I/*We/am */are* entitled under section 6(1) of the Land Act 1979 to hold a lease of land the subject of this application as follows:-

.....
.....
.....

OR

The said is entitled under section 6(1) of the Land Act 1979 to hold a lease of land the subject of this application because

6. The persons named below declare that between themselves they hold the land in the following shares.-

7. To the best of ***my/*our** knowledge and belief, no other person has or claims any title, use right or interest in or affecting the said land other than as stated and set out below that is to say:- (set out below particulars of mortgages, encumbrances, leases or other interest to which the land is subject, including rights of way, servitude, etc. which any person is entitled to or claims):

.....
.....
.....
.....

8. No person is in possession or occupation of the said land or any part thereof adversely to ***my/our*/the said corporation's** right, title to and interest in the said land and that:-

- (i) the said land ***is/*is not** fenced;
- (ii) the said land is occupied by

.....
and the authority for such occupation is by ***sublease/tenancy/*agreement/*casual arrangement**.

9. ***I/We/The Corporation** hereby apply (ies) to the Chief Surveyor to undertake or arrange all the survey work necessary for identification of the land for which a lease is to be issued and undertake to pay the cost of any such survey work as certified by the Chief Surveyor to the Lesotho Government or private surveyor named by the Chief Surveyor who does the survey work on behalf of the Chief Surveyor.

Date:

.....
Signature(s) of
applicant(s) or thumb
print(s) of
applicant(s)

10. This application is made in exercise of the power conferred on me by a power of attorney dated and made by

**CERTIFICATE TO BE COMPLETED BY THE PERSON
WITNESSING THE AFFIXING OF THE APPLICANT'S
THUMB PRINT**

This certificate is given by

.....

.....

.....

of

.....

who certifies that the applicant named on this Form "AA" understands the contents of this form and that I have completed this form on *his/her behalf and witnessed the affixing of his/* /her*/right* thumb print as required.

Date:

.....
Signature of person who
witnessed the affixing of the
thumb print.

PART B

(To be completed by the Chairman of the Allocating Authority having jurisdiction)

I hereby certify that allocated land which is the subject of this application is lawfully held for agricultural purposes by the applicant(s) as evidenced by the attached Certificate of Allocation

Dated:.....

.....
Chairman of the
Allocating Authority

PART C

(To be completed by the District Agricultural Officer

An agricultural lease comprising standard conditions numbered

and with special condition(s):-

.....

.....

is to issue to the applicant(s) with respect to the land delineated on the attached plan No.:

Date:

.....
District Agricultural

PART D

Decision of the Allocating Authority

- 1. (a) I hereby determine that the application for the granting of an agricultural lease which is the subject of this application has been approved and that the standard and special conditions as recommended by the District Agricultural Officer and inscribed on Part C of this form have/have not been accepted.

Date:

Chairman of the
Allocating Authority

- (b) In the event that the application has been approved but the standard and/or special conditions as recommended by the District Agricultural Officer have been changed, the Chairman shall state below the reasons for such changes and shall identify such new standard and special conditions as shall apply:

.....
.....
.....
.....

Date:

Chairman of the
Allocating Authority

FIRST SCHEDULE
(Regulation 11)

Form "AB"

Application for a grant of an agricultural lease in a selected agricultural area

(Delete any part of this Form which does not apply)

- 1. To: The Commissioner of Land through the office of the District Secretary
- 2. Name of Applicant
- Correspondence Address of Applicant
- Occupation of Applicant
- Telephone number
- 3. I am /we are/citizen(s) of Lesotho.

OR

The applicant company//corporation is incorporated/re-

gistered under Lesotho law and details enclosed are as follows:-

- (a) A certified copy of the Certificate of incorporation/re-registration and also certified copy of the Memorandum and Articles of Association;
- (b) Other evidence of qualification to hold land

4. If the applicant is a body corporate or registered by company law, please provide the following information:-

- (a) Names, citizenship and addresses of the officers of the company empowered to affix the company's seal and execute documents/deeds on its behalf:

.....
.....
.....

- (b) Whether any share holding is held by Lesotho citizens or companies wholly owned or operated by Lesotho citizens and the extent of this share holding:

.....
.....

- (c) The name and address of the duly appointed agent together with a certificate of his registered power of attorney if the company's officers are not Lesotho citizens or do not hold permits of indefinite sojourn in Lesotho:

.....
.....

5. Purposes for which land is required, and give a description of the plot if advertised with reference to the advertisement notice as the case may be:

- (a) Land use proposed

.....

- (b) Plot No. District of

- (c) Advertisement No

- (d) Lease required

6. I hereby confirm that I had the following interest in the land which is the subject of the selected agricultural area to which this application refers :-

.....
.....
.....

Date:

Signature(s) of

FIRST SCHEDULE
(Regulation 12)

Form "AC"

Selection list

INTENDED GRANTEE	PREVIOUS ALLOCATION YES/NO	PLACE OF RESIDENCE	PARCEL NUMBER(S)	GROUND RENTAL	STANDARD LEASE CONDITIONS	SPECIAL LEASE CONDITIONS

SECOND SCHEDULE
(Regulation 15)

Rates of ground rents in respect of leases for agricultural purpose

Grade	Land Use Classification *			
	N	I	R/F	O
	Maloti/hectares			
A	20.00	100.00	5.00	100.00
B	15.00	75.00	4.00	80.00
C	10.00	50.00	3.00	60.00
D	7.50	30.00	2.00	30.00
E	5.00	20.00	1.00	10.00

- * N: Land used for non-irrigated agriculture
 * I: Land used for irrigated agriculture
 R/F: Land used for range grazing or forestry
 O: Other

THIRD SCHEDULE
(Regulations 17)

Statutory conditions for agricultural leases

1. Unless special written authority is given by the Minister responsible for Agriculture, the lessee shall commence operation of the leased land consistent with the land use purpose specified in this lease within twelve (12) months of the date of grant or issue of this lease and subject to the provisions of the Land Husbandry Act 1969 and subsequent regulations promulgated under that Act which apply to the agricultural land use purpose contained in the lease. Act No. 22
of 1969

2. The lessee shall use the land under this lease only for the purpose specified in the lease or any variation as to the agricultural land use which may be made under section 41 of the Act. Land Use

3. The lessee shall permit entry on the land under this lease at any reasonable period of the day by a duly empowered:- Entry
 - (a) officer, employee, servant or agent of the Government of Lesotho;

(b) employee, servant or agent of any statutory corporation or parastatal organisation established to provide and maintain public utility services.

Existing

4. Save with the written authority of the Minister no electrical power or telephone pole or line or water, drainage or sewer pipe being upon or passing through over or under the land under this lease, and no replacement thereof, shall be moved or in any way be interfered with and reasonable access thereto shall be preserved to allow for inspection, maintenance, repair, renewal and replacement thereof.

Public servitude

5. Full right and liberty is reserved unto the Government of Lesotho freely to exercise or have, or unto the Minister to grant to a statutory corporation or parastatal organisation, the right freely to exercise or have a public servitude over the land for the purpose of providing and maintaining public utility services and more particularly for the purpose of erecting telephone or electric power poles, installing electric or telephone wires and cables, laying down drains, sewers or water pipes and maintaining the same.

Overgrazing

6. The lessee shall not cause or allow the land to be overgrazed.

Land husbandry practices

7. The lessee shall combat soil erosion and adopt sound land husbandry practices to the satisfaction of the District Agricultural Officer.

Cultivation

8. The lessee shall use and cultivate arable land.

Good repair etc.

9. The interior and exterior of any building erected on the land and all building additions thereto and all other buildings at walls, drains and other appurtenances, shall be kept by the lessee in good repair and tenable condition to the satisfaction of the Minister.

Nuisance

10. No act, matter or thing, whatever, shall be done or permitted to be done upon the land or any part of such land which may cause or lead to pollution of the environment or result in the creation of any hazard to the health of other persons, or become a nuisance or annoyance to or damage or in any way interfere with the peace and comfort of adjoining lessees or the occupiers of adjoining or other lands in the neighbourhood.

Ministerial consent

11. The lessee shall not part with the possession of the leased land or part thereof in contravention of section 35 of the Act.

Payment of ground rent

12. A lessee shall, unless exempted therefrom, pay the ground rent reserved under this lease in advance not later than

the thirty first day of March in each year provided that on execution of the lease the lessee shall pay ground rent due for the period ending the thirty first day of March next which shall be calculated as follows:-

- (a) when the lease subsists on any day in the month of April, one whole year's rent;
- (b) in any other case, one whole year's rent less one-twelfth thereof for each complete month of that year that has elapsed prior to the date of the grant or issue of the lease.

13. Annual ground rent revision reserved in this lease shall be subject to revision every ten years of the lease. Ground rent revision

14. Upon application by the lessee made not later than six months before expiry of the term of this lease, the lessee shall be entitled to the grant of a new lease of the land on terms set by the Minister following consultation with the Minister responsible for Agriculture, provided the land or part thereof is not required for a public purpose. Renewal

15. The lessee shall forfeit his lease in the event of any breach of any statutory conditions in accordance with the provisions of section 42 of the Land Act 1979. Forfeiture of lease

FOURTH SCHEDULE

(Regulation 18)

Determination of development charges

Following consultation with the Minister of Works the charges prescribed under section 69 (3) of the Land Act 1979 are:-

Total cost of construction shared pro-rata as to the area of land leased, used or occupied by the persons directly benefiting therefrom which charge shall be paid to the appropriate authority by weekly, monthly, quarterly or annual instalments as decided by that authority due account being taken when capital costs for road construction are by loan carrying interest payments or if instalments payments are overdue.

Annual cost of maintenance shared pro-rata as to the area of land leased, used or occupied by the persons directly or indirectly benefiting therefrom which charge shall be paid in advance to the appropriate authority by weekly, monthly, quarterly or annual instalments as decided by that authority, due account being taken of interest sums when instalment payments are overdue.

Total costs of construction and annual costs of maintenance and use relating to the provision of services shared pro-rata as

1. Road charges (Construction)

2. Road charge (Maintenance)

3. Other charges

to the area of the land leased, used or occupied by the persons directly or indirectly benefiting therefrom which charge shall be paid in advance to the appropriate authority by weekly, monthly, quarterly or annual instalments as decided upon by that authority, due account being taken of interest when capital cost for construction are by loan carrying interest payments are overdue.

FIFTH SCHEDULE

(Regulation 19)

Administrative Fees

- | | |
|--|---------------|
| 1. For preparation of a lease | M40.00 |
| 2. For preparation of:- | |
| (a) any other document involving title to land | M40.00 |
| (b) any specific consent | M10.00 |
| 3. For any publication or planning service, actual or estimate cost | M20.00 |
| 4. A levy of 5% of amount of ground rent shall be payable each time by each lessee who is in default of payment in advance of ground rent reserved under a lease, or M10.00 or whichever is the greater. | |

M. Matete,
Minister of the Interior and Chieftainship Affairs.