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Order No. 6 of 1992

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ORDER NO. 6 OF 1992

The Land (Amendment) Order, 1992

ORDER

To amend the Land Act 1979.

Enacted by the Military Council.

1. This Order may be cited as the Land (Amendment) Order, 1992 and shall come into operation on the date of publication in the Gazette. Short title
and
commence-
ment
2. (1) Section 2 of the Principal Act is amended by inserting the following definitions, Amendment
of section 2
of A. 17 of
1979

“Allocating Authority” means in relation to allocations made after the commencement of the Land (Amendment) Order, 1992, an authority empowered to make allocations under this Act;

“District Development Council” has the same meaning as in the Development Councils Order, 1991;

“Village Development Council” has the same meaning as in the Development Councils Order, 1991;

(2) The definition of “registrable titles” in section 2 of the Principal Act is amended by deleting paragraph (d).
3. Section 3 of the Principal Act is amended, Amendment
of section 3
of A. 17 of
1979
 - (a) in subsection (1) by deleting the word “State” and substitute the words “Head of State”;
 - (b) in subsection (2) by deleting the word “State” and substituting the words “Head of State”;
4. Section 5 of the Principal Act is amended, Amendment
of section 5
of A. 17 of
1979
 - (a) by deleting the words “Land Committee” wherever they appear and substituting the words “Village Development Council”;
 - (b) by inserting the following subsection after subsection (4),

“(5) Where a decision is taken in respect of a residential allocation of land under Part II of this Act, the Allocating Authority shall issue a certificate of allocation (Form CC2 in the Third Schedule).”
5. Section 8 of the Principal Act is amended, Amendment
of section 8
of A. 17 of
1979
 - (a) in subsection (1) by inserting after the word “occupy” the following words: “or to allow another person to use”

(b) by deleting subsection (2) and substituting the following subsection:

“(2) Notwithstanding subsection (1), where an allottee of land dies, the interest of that allottee passes to,

(a) where there is a widow — the widow is given the same rights in relation to the land as her deceased husband but in the case of re-marriage the land shall not form part of any community property and, where a widow re-marries, on the widow's death, title shall pass to the person referred to in paragraph (c);

(b) where there is no widow — a person designated by the deceased allottee;

(c) where paragraphs (a) and (b) do not apply — a person nominated as the heir of the deceased allottee by the surviving members of the deceased allottee's family; or

(d) in any other case — the State, and the Chairman of the relevant Allocating Authority shall record in his register the passing of that title.”

(c) in subsection (3) by deleting “a surviving spouse or”;

(d) in subsection (3) by adding the following words after the word “decease”
“whether such title is registrable or not”

Insertion of
new section
after section
10

6. The Principal Act is amended by inserting after section 10 the following section,

“Conversion 10A. Whenever a grantee of residential land of residenti- in a rural area is desirous of holding his title al allocations to land under a lease, he may apply to the Commissioner for a lease in respect of that land.”

Amendment
of section 12
of A. 12 of
1979

7. Section 12 of the Principal Act is repealed and the following section substituted:

“Allocating 12. (1) Subject to subsection (2), the power Authority” to grant title to land shall be exercised by majority decision of the relevant Village Development Council or such other Allocating Authority as the Minister may establish under section 18.

(2) Where in pursuance of regulations made under section 18 the Minister has given directions to a Village Development Council, the Council shall act in accordance with those directions.

(3) A Village Development Council shall not exercise its power of granting title to land for commercial or industrial purposes unless it shall have first referred the application to the relevant District Development Council which shall for these purposes include a representative from the Ministry of Trade and Industry, a representative from the Department of Lands, Surveys and Physical Planning and a representative from the Chamber of Commerce.

(4) Where an application referred to in subsection (3) has been forwarded to the District Development Council that Council shall forward its advice to the Village Development Council as soon as possible but in any case no later than 6 weeks after the date the advice was sought.

(5) A grant that is not made in accordance with subsection (2) of (3) has no effect."

8. Section 13 of the Principal Act is amended,

(a) by deleting in subsection (1),

(i) the words "Land Committee" first occurring and substituting the words "Village Development Council"; and

(ii) the words "Land Committee" second occurring and substituting the words "Allocating Authority,"

Amendment
of section 13
of A. 17 of
1979

9. Section 16 of the Principal Act is amended,

(a) by deleting in subsection (1),

(i) the words "a Land Committee refusing to grant a title to land or revoking an allocation" and substituting the words "an Allocating Authority";

(ii) the words "next senior Land Committee" and substituting "Land Tribunal";

(b) in subsection (3) by deleting the words ", through the chairman, with the Land Committee against which the decision the appeal is made," and substituting the words "with the clerk of the Land Tribunal".

(c) by deleting subsection (4).

(d) by deleting subsection (5).

Amendment
of section 16
of A. 17 of
1979

10. Section 17 of the Principal Act is amended,

(a) in subsection (1),

(i) by deleting the word "Land Committee" and substituting "Allocating Authority";

(ii) by inserting the words "or CC2" after "C2";

(b) in subsection (2) by deleting the words "Land Commit-

Amendment
of section 17
of A. 17 of
1979

tee" and substituting "Allocating Authority."

Amendment
of section 18
of A. 17 of
1979

11. Section 18 of the Principal Act is amended,
- (a) in paragraph (a) by deleting the words "Land Committee" and substituting "Allocating Authority";
 - (b) in paragraph (c) by deleting the words "Land Committees" and substituting "Allocating Authority";
 - (c) in paragraph (d) by deleting the words "a Land Committee" and substituting "an Allocating Authority".

Amendment
of section 22
of A. 12 of
1979

12. Section 22 of the Principal Act is amended in subsection (1) by inserting "residential," between the words "for" and "commercial".

Amendment
of section 24
of A. 17 of
1979

13. Section 24 of the Principal Act is amended by inserting the following subsection after subsection (4),

"(5) The Urban Land Committee shall include representatives from the Ministry of Trade and Industry and the Chamber of Commerce when exercising its powers in respect of commercial or industrial grants".

Repeal of
section 25 of
of A. 17 of
1979

14. Section 25 of the Principal Act is repealed.

Amendment
of section 29
A. 17 of 1979

15. Section 29 of the Principal Act is amended in subsection (1) (c) by
- (a) deleting sub-paragraph (c) (iii); and
 - (b) inserting the following sub-paragraph immediately after sub-paragraph (c) (v);

"(Va) A certificate of verification of title issued by the Commissioner or an Allocating Authority in the form "CC2" as prescribed in the Third Schedule;"

Amendment
of section 36
of A. 17 of
1979

16. The Principal Act is amended by inserting after section 36 the following section,

"Delegation of power 36A. (1) The Minister may in writing delegate his powers under section 35 or 36 to the Commissioner.

(2) The Minister may still exercise his powers under section 35 or 36 notwithstanding that he has delegated its exercise to some other person."

Amendment
of section 44
of A. 17 of
1979

17. Section 44 of the Principal Act is amended by inserting the words "after consultation with the relevant Allocating Authority" between the words "may" and "by".

18. Section 49 of the Principal Act is amended by,

Amendment
of section 49
of A. 17 of
1979

- (a) inserting the words "after consultation with the relevant Allocating Authority" after the word "Minister";
- (b) by inserting the following subsection,

"(2) Notwithstanding the provisions of subsection (1) the Minister may, after consultation with the relevant Allocating Authority evidence title by the issue of a certificate of verification of title in the situation where the allottee is not desirous of holding land under lease at the time of the application."

19. Section 50 of the Principal Act is amended in subsection (1) by deleting the words "acting upon the recommendation of the Minister responsible for agriculture" and substituting the following words:

Amendment
of section 50
of A. 17 of
1979

"after consultation with the relevant Allocating Authority and the Minister responsible for the Ministry of Agriculture."

20. Section 51 of the Principal Act is amended,

Amendment
of section 51
of A. 17 of
1979

- (a) in subsection (1) by deleting the words "Minister responsible for Agriculture" and substituting, "after consultation with the relevant Allocating Authority and the Minister responsible for the Ministry of Agriculture";
- (b) by inserting the following subsection after subsection (2),

"(3) Notwithstanding subsection (1), the Minister may after consultation with the relevant Allocating Authority evidence title by the issue of a certificate of verification of title in the situation where an allottee is not desirous of holding land under lease at the time of application."

21. Section 56 of the Principal Act is amended,

- (a) by inserting in paragraph 2(a) the words "as at the date of publication of the notice referred to in subsection (1)" after the word "property";
- (b) by inserting at the end, the following subsections,

"(5) Where an amount of compensation has been determined by the Minister but has not been paid within a period of six months from the making of that determination, interest shall accrue on that amount at a rate of interest that is 1% above the minimum lending rate of the Central Bank of Lesotho.

Amendment
of section 56
of A. 17 of
1979

(6) Where a claimant has pursued a claim before the Tribunal under subsection (3) and the Tribunal has made a decision in relation to that claim, interest shall start to accrue one month after the making of that decision on the amount determined by the Tribunal at the rate specified in subsection (5)."

Insertion of
new section
after section
59

22. The Principal Act is amended by inserting the following section after section 59,

"Voluntary transfer 59A. (1) Notwithstanding the provisions of this Part, a lessee or allottee who wishes to transfer his land to the State may do so by written agreement.

(2) The compensation that may be payable under subsection (1) shall be determined in accordance with the provisions of section 56.

(3) The transfer referred to in subsection (1) shall,

(a) be subject to the provisions of section 35 and 36; and

(b) be evidenced by a deed of transfer which shall be registered under the Deeds Registry Act 1967."

Amendment
of section 62
of A. 17 of
1979

23. The Principal Act is amended by inserting the following section after section 62,

"Certificate of User Form 62A. Where the purposes for which land is set aside under this Part are those of the State, the Minister may issue a lease or a certificate of user Form 'F' in the Third Schedule."

Insertion of
new section
after section
85 of A. 17
of 1979

24. The Principal Act is amended by inserting the following section after section 85,

"Voidable titles A. 12 of 1967 85B. Where a person has failed to comply with the provisions of section 15(2) of the Deeds Registry Act 1967, that person may apply to the Relevant Allocating Authority for the issue of a certificate of Verification of title."

Amendment
of Second
Schedule to
A. 17 of 1979

25. The Third Schedule to the Principal Act is amended in Form 'A',

(a) by deleting the whole of clause 4(i) and substituting the following,

"(i) the allocation shall pass to a person designated by me as my heir;

- (b) by adding at the end of clause 4(vi) the following, "whether the title to the land is registrable or not."
 - (c) in clause 5 by deleting the words "Land Committee" and substituting "Allocating Authority."
26. The Third Schedule to the principal Act is amended, Amendment
of Third
Schedule to
A. 17 of 1979
- (a) in Form "C1" by deleting the words "Land Committee" appearing after the words "Signature of member" and substituting "Allocating Authority;"
 - (b) in Form "C2" by deleting "(d) for residential purposes";
 - (c) in Form "C2" by deleting the words "Land Committee" appearing after the words "signature of a member of" and substituting "an Allocating Authority;"
 - (d) in Form D by,
 - (i) deleting the words "Land Committee" appearing after the words "decision by" and substituting the following "an Allocating Authority";
 - (ii) deleting the words "The Chairman of the Land Committee" and substituting "The Clerk of the Lands Tribunal";
 - (iii) by deleting the words "Land Committee" appearing after the words "decision of the" and substituting "Allocating Authority";
 - (e) by deleting the words "Land Committee" appearing between the words "the" and "together" in Form "E" and substituting "Allocating Authority",
 - (f) by inserting the following Forms after Form "C2".

THIRD SCHEDULE FORM CC1

(Sections 29(1), 49(2), 51(3) and 85A)

CERTIFICATE OF VERIFICATION OF TITLE

1. This is to certify that Name of allottee

 of Address of allottee
 has
 provided sufficient evidence to enable his title to be verified as follows:-

2. User

3. Location

4. Plot area

5. Plot No.:

Signed:
Date:

NOTES:

1. The holder of this certificate should note that the certificate may be used as evidence of title. The holder will be required to produce it as and when title is converted into a lease.
2. If the holder is contemplating a dealing such as a mortgage, transfer or sub-lease then he will need to make application in accordance with the provisions of sections 35 and 36 of the Land Act 1979.

If such a dealing is not contemplated then no further action need be taken unless and until such a dealing is proposed or the Commissioner of Lands contacts him in connection with the conversion of his title into a lease.

THIRD SCHEDULE

FORM CC2

(Sections 5(5), 10A and 17(1))

CERTIFICATE OF ALLOCATION

(Residential land in a Rural Area)

Name of allottee

1. This is to certify that

Address of allottee

of

has been granted an allocation of land to be used for residential purposes which allows the allocatee to use and to occupy the land known as :

and situated at
with an area of about

2. A plan or map of the boundaries of this land is/is not* attached and the land dimensions measure

3. The allottee may convert this allocation into a lease pursuant to section 10A of the Land Act 1979.

4. A copy of this Form CC2 has been sent to the Commissioner of Lands.

Date Stamp

.....
Signature of Chairman

Witnessed by Insert name
..... of witness

Signature of a Member of the
Allocating Authority

(g) by adding at the end the following Form

THIRD SCHEDULE FORM F

(Section 62(2))

CERTIFICATE OF USER

1. Name of
..... user and
..... description
of of the land

is hereby authorised under section 62(2) of the Land Act 1979
to use unnumbered State land described as Plot No.
(A plan of the land is attached) for the following purposes:

2. The conditions as to "use" imposed by the Minister of the Interior are as follows:- Conditions
to use

- (i) unless this condition is deleted, the boundaries of the land shall be securely fenced;
- (ii) unless the land is to be used for national security or defence purposes, it shall not be developed WITHOUT the prior approval of the Ministry of Interior in respect of the sitting and erection of buildings pending the introduction of development control under the Town and Country Planning Act 1980.
- (iii) When the Town and Country Planning Act 1980 is brought into operation, the control on development of land as contained in that Act shall apply with respect to this State land;
- (iv) the grounds adjacent to all public buildings erected on this State land shall at all time be kept neat and tidy;
- (v) gardens including the planting of flowering shrubs should be established as follows:
- (vi) an annual occupation fee of M. has been fixed, which sum shall be payable at the office of the Commissioner of Lands on the day of each year

(vii) In the event of non-development of the land for the purposes specified herein, or non-payment of the occupation fee (if any) the Minister of the Interior may cancel or vary this Certificate of User.

Signed .

Commissioner of Lands.

Dated

Given under my hand at Maseru on this 10th day of March, 1992.

E. P. Ramaema,
Chairman of the Military Council and Council of Ministers.