

CHAPTER 186

THE LAND (PERPETUAL SUCCESSION) ACT

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CHAPTER 186

LAND (PERPETUAL SUCCESSION)

An Act to provide for perpetual succession to land; and to provide for matters incidental thereto or connected therewith.

21 of 1926
25 of 1967
*Government
Notices*
274 of 1964
497 of 1964

[31st December, 1926]

1. This Act may be cited as the Land (Perpetual Succession) Act.

Short title

2. Trustees or a trustee may be appointed by any community of persons bound together by custom, religion, kinship or nationality or by any body or association of persons established for any religious, educational, literary, scientific, social or charitable purpose, or for any purpose which, in the opinion of the Minister, is for the benefit or welfare of the inhabitants of Zambia or any part thereof, and such trustees or trustee may apply in manner hereinafter mentioned, to the Minister for a certificate of registration of the trustees or trustee of such community, body or association of persons as a corporate body; and if the Minister, having regard to the extent, nature and objects and other circumstances of such community, body or association of persons, shall consider such incorporation expedient, he may grant such certificate accordingly, subject to such conditions or directions generally as he shall think fit to insert in such certificate, and particularly relating to the qualifications and number of the trustees, their tenure and avoidance of office, the mode of appointing new trustees, the custody and use of the common seal, the amount of land which such trustees may hold, and the purposes for which such land may be held and used; and the trustees or trustee shall thereupon become a body corporate by the name described in the certificate, and shall have perpetual succession and a common seal, and power to sue and be sued in such corporate name, and, subject to the conditions and directions contained in the said certificate, to hold and acquire, and by instruments under such common seal to convey, assign and demise, any land or any interest therein now or hereafter belonging to, or held for the benefit of, such community, body or association of persons, in such and the like manner, and subject to such restrictions and provisions as such trustees or trustee might, without such incorporation, hold or acquire, convey or assign, or demise the same for the purposes of such community, body or association of persons.

Upon application of trustees Minister may grant certificate of registration as a corporate body

(As amended by G.N. No. 274 of 1964)

3. (1) The certificate of incorporation shall be registered in the Registry of Deeds and upon registration shall vest in such body corporate all land or any interest therein, of what nature and tenure soever, belonging to or held by any person or persons in trust for such community, body or association of persons.

Estate to vest in body corporate

(2) The Minister may require the registration in the Registry of Deeds of any deed or document disclosing the trust upon which such land is held.

(As amended by G.N. No. 274 of 1964)

4. Every application to the Minister for a certificate under this Act shall be in writing, signed by the person or persons making the same, and shall contain the several particulars specified in the Schedule, or such of them as shall be applicable to the case. The Minister may require such declaration or other evidence in verification of the statements and particulars in the application, and such other particulars, information and evidence, if any, as he may think fit.

Particulars
respecting
application for
certificate of
incorporation

(As amended by G.N. No. 274 of 1964)

5. Before a certificate of incorporation shall be granted, the said trustees or trustee shall have been effectually appointed to the satisfaction of the Minister and, where a certificate of incorporation shall have been granted, vacancies in the number of the said trustees shall from time to time be filled up so far as shall be required by the constitution or settlement of the said community, body or association of persons, or by any such conditions or directions as aforesaid, by such legal means as would have been available for the appointment of new trustees of the said body or association if no certificate of incorporation had been granted, or otherwise as shall be required by such conditions or directions as aforesaid, and the appointment of every new trustee shall be certified by, or by the direction of, the trustees to the Minister upon the completion of such appointment; and within one month after the expiration of each period of five years after the grant of a certificate of incorporation, or whenever required by the Minister, a return shall be made to the Minister by the then trustees or trustee of the names of the trustees at the expiration of each such period, with their residences and additions.

Nomination of
trustees and filling
up vacancies

(As amended by G.N. No. 274 of 1964)

6. A certificate of incorporation so granted shall be conclusive evidence that all the preliminary requisitions herein contained and required in respect of such incorporation have been complied with, and the date of incorporation mentioned in such certificate shall be deemed to be the date at which incorporation has taken place.

Certificate to be
evidence of
compliance with
requisitions

7. The Minister shall, in such manner as he shall think fit, direct a record to be kept of all such applications for and certificates of incorporation, and shall in like manner direct all documents sent to him under the provisions of this Act to be preserved, and any person may

Record of
applications and
documents to be
kept and may be
inspected

require a copy or extract of any such document to be certified under the hand of such person as shall be appointed for that purpose by the Minister, and there shall be paid for such certified copy or extract such fee as may be prescribed by the Minister.

(As amended by G.N. No. 274 of 1964)

8. All conditions and directions inserted in any certificate of incorporation shall be binding upon and performed or observed by the trustees or trustee as trusts of the said community, body or association of persons.

Enforcement of conditions of certificate

9. After the incorporation of the trustees or trustee of any association or body of persons pursuant to this Act, every conveyance, demise, donation, gift and other disposition of land, or any interest therein theretofore lawfully made (but not having actually taken effect) or hereafter lawfully made, by deed, will or otherwise to or in favour of such body or association of persons, or the trustees thereof, or otherwise for the purposes thereof, shall take effect as if the same had been made to, or in favour of, the corporate body or otherwise for the like purposes.

Conveyances, gifts, etc., to vest in corporate body

10. The common seal of the corporate body shall have such device as may be approved by the Minister and, until such common seal is provided, the seal of some person may be authorised by the Minister for use as the common seal of the corporate body. Any instrument to which the common seal of the corporate body has been affixed, in apparent compliance with the regulations for the use of such common seal referred to in section *two*, shall be binding on such corporate body, notwithstanding any defect or circumstances affecting the execution of such instrument.

Common seal

(As amended by G.N. No. 274 of 1964)

11. When any question arises as to whether any person is a member of any such corporate body as aforesaid, any person interested in such question may apply by petition to the High Court for its opinion on such question. Notice of the hearing shall be given to such persons and in such manner as the Court shall think fit, and any opinion given by the Court on an application under this section shall be deemed to have the force of a declaratory decree.

Petition to decide question whether person is a member of a corporate body

12. (1) The trustee, or a majority of the trustees, incorporated as a

Change of name

corporate body under this Act may, with the sanction of the community, association or body of persons authorised to appoint new trustees, in accordance with the terms of its constitution, apply to the Minister in the prescribed form and manner for his approval of a change of name of the said corporate body, and together with such application may submit for approval under the provisions of section *ten* a specimen of a new device for the common seal thereof.

(2) If the Minister approves such change of name, he shall direct that a certificate of change of name issue in the prescribed form, and that such change of name shall be endorsed as prescribed on the certificate of incorporation granted in respect of the said corporate body under the provisions of section *two*.

(3) The said certificate of change of name shall, within the time prescribed, be registered by the trustee or trustees in the Registry of Deeds, and, upon such registration, the name of the said corporate body shall, for all purposes, be its new name as certified by the said certificate.

(4) Any change of name made pursuant to this section shall not render necessary the liquidation of the corporate body, nor affect any of its rights, titles or obligations, nor render defective any legal proceedings instituted or to be instituted by or against it, and any legal proceedings may be continued or commenced by or against it by its new name that might have been continued or commenced by or against it by its former name.

(5) The Minister may, by statutory instrument, make regulations prescribing the forms of applications, certificates and other forms to be used, the documents to be submitted with any application, and the procedure to be followed for the purposes of this section.

(No. 25 of 1967)

SCHEDULE

(Section 4)

PARTICULARS REQUIRED IN APPLICATION FOR CERTIFICATE OF INCORPORATION

The nature of the community or the objects of the body or association of persons, and the rules and regulations of the same, together with the date of, and parties to, every deed, will or other instrument, if any, creating, constituting or regulating the same.

A statement and short description of the land, or interest in land, which at the date of application is possessed by, or belonging to, or held on behalf of, such community, body or association of persons.

The names, residences and additions of the said trustees of such community, body or association of persons.

The proposed title of the corporate body, of which title the words "trustees" and "registered" shall form part.

The proposed device of the common seal.

The regulations for the custody and use of the common seal.