

LESOTHO

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The Land Act 1979

Act No.17 of 1979

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THE LAND ACT 1979

ACT NO.17 OF 1979

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The Land Act 1979

[Date of Assent:]

[Date of Commencement: See Sec.1]

ACT

To consolidate and amend the law relating to land thus providing for -

- (a) the grant of title to land;
- (b) the conversion of titles to land;
- (c) the declaration of selected development areas and selected agricultural areas and titles to land therein;
- (d) the setting aside of land for use for public purposes;
- (e) the establishment of a Land Tribunal;
- (f) the grant of public servitudes;

and for connected purposes.

Enacted by the Assembly -

1. This Act may be cited as the Land Act 1979 and shall come into operation on a date to be appointed by the Minister by notice in the Gazette.

Short title
and
commencement

2. In this Act -

Interpretation

"agriculture" means the use of land exclusively or mainly for agriculture, whether as arable, pasture, grazing, orchard or seed growing, or for fish farming, forestry (including afforestation), or for the breeding or keeping of livestock including any creature kept for the production of food, wool, silk or fur;

"allottee" means a person other than the holder of a lease or licence to whom an allocation of land is made under this Act;

A. 22 of 1968

"Chief" has the meaning assigned to it in the Chieftainship Act 1968;

"Commissioner" means the Commissioner of Lands;

"Jurisdiction" means jurisdiction over the area in which the land, the subject of a grant of title made under this Act, is situated;

"Land Committee" means a land committee in a rural area established by regulations under section 18 and until such regulations are made means a Development Committee established for a Chief or Principal Chief under the Land Regulations 1974;

L.N. 9 of
1974

"lease" means a lease granted or issued under this Act and the instrument evidencing the same;

"licence" means a licence granted or issued under this Act and the instrument evidencing the same;

"parastatal organization" means any statutory corporation wholly or partly funded by the State or where control and management is subject to general directions of policy from the State or a Minister;

"Principal Chief" includes a Ward Chief;

"proper authority" in relation to allocations of land made prior to the commencement of this Act means any authority empowered under any law prior to this Act to make allocations or consent to the transfer thereof;

"public purposes" in relation to land, includes its use by the government, a local authority or a statutory corporation, for the purpose of -

- (a) providing roads, aerodromes, railways, canals, water supply, drainage, sewerage;
- (b) providing social services such as schools, hospitals, hostels, cemeteries, playing fields, parks, swimming baths, nature reserves, low income housing;
- (c) water conservation by means of watersheds, water catchment areas, reservoirs;
- (d) land conservation through afforestation and erosion prevention;
- (e) providing offices, official housing, stores, research and agricultural stations, defence and security requirements;
- (f) furthering sport, culture, industry and tourism (including the provision the provision of hotels);
- (g) providing any public utility service;
- (h) providing any service which is in the public interest or would enhance or promote national resources and prosperity;

"public servitude" means a servitude granted by the Minister under section 72;

"public utility services" includes services for the purpose of transport and communications, for the supply of electricity, gas, water and the provisions of sewerage;

"registrable title" means title to land in a rural area which has been allocated for use -

- (a) for commercial or industrial purposes;
- (b) for purposes of an ecclesiastical, benevolent, charitable or educational institution of a public character;
- (c) for purposes of a hospital, clinic or dispensary;
- (d) for residential purposes;
- (e) for such other purpose as the Minister may, by order, declare.

"Registrar" means the Registrar of Deeds and

"registration" means registration in the Deeds Registry;

"revocation" means the revocation of, or derogation from, an allocation made under Part II;

"rural area" means an area which is not an urban area, a selected development area or a selected agricultural area;

"selected agricultural area" means an area set aside under section 50 for the development of agriculture by modern farming techniques;

"selected development area" means an area set aside under section 44 for -

- (a) development or reconstruction of existing built-up areas;
- (b) construction or development of new residential, commercial or industrial areas;
- (c) readjustment of boundaries for the purposes of town planning;

"servitude" means a right attached to a parcel of land which is the subject of a lease either to use other land in a particular manner or to use to a particular extent;

"statutory conditions" in relation to a lease means the statutory conditions listed in the First Schedule;

"title" means an allocation of land under this Act or, where a lease or licence is granted or issued under this Act, such lease or licence, and in relation to rights in land existing at the commencement of this Act, means

First
Schedule

an allocation made by the proper authority or the transfer of an allocation consented to by the proper authority;

"Tribunal" means the Land Tribunal established under section 64;

"urban area" means an area specified in the Second Schedule as defined by the Minister under section 19; Second
Schedule

"Urban Land Committee" in relation to land in an urban area means the committee established for that urban area in accordance with section 24.

PART I

Inalienability of land and power to grant titles to land

3. (1) Land in Lesotho is vested absolutely and irrevocably in the Basotho Nation and is held by the State, as representative of the nation. Land vested
in Basotho
Nation
- (2) As a corollary to the principle stated in subsection (1) no person, other than the State, shall hold any title to land except as provided for under customary law or under this Act.
- (3) Where the customary law is inconsistent with this Act, this Act shall prevail.
4. The power to grant titles to land, to grant or create servitudes, to revoke or derogate from an allocation made under Part II, to terminate or revoke a lease, licence or servitude is vested in the King, as head of State, in trust for the Basotho Nation and shall be exercised as provided for under this Act. Power to
grant titles to
land vested in
the King
5. (1) Application for grants of title shall - Application
for grants
under Parts II
and III
- (a) in respect of land to which Part II applies, be made to the chairman of the Land Committee having jurisdiction in Form "A" in the Third Schedule. Form "A"
Third
Schedule
- (b) in respect of land to which Part III applies, be made to the Secretary of the Urban Land Committee having jurisdiction in Form "B" in the Third Schedule. Form "B"
Thirds
Schedule
- (2) The chairman of the Land Committee or, as the case may be, the secretary of the Urban Land Committee shall notify the applicant of the date, time and place of hearing of his application and the applicant shall be entitled to appear and make representations or submissions in support of his application.
- (3) The decision on any application shall be in writing setting forth adequately the grounds upon which it is given.
- (4) Where a decision in respect of land -

- (a) which is the subject of a registrable title; or
- (b) to which Part III applies,

is favourable, the chairman of the Land Committee, where paragraph (a) applies, or the secretary of the Urban Land Committee having jurisdiction, in the case of paragraph (b), shall forward to the Commissioner a certificate in Form "C2" or "C3" in the Third Schedule as appropriate.

Form "C2" or "c3" Third Schedule

6. (1) No person shall be capable of holding a title to land except-

Persons capable of holding title to land

- (a) a citizen of Lesotho;
- (b) the holder of a permit for indefinite sojourn granted under section 6 or the Aliens Control Act 1966;
- (c) a company incorporated or registered under the Companies Act 1967 and carrying on business in Lesotho and of which a majority share-holding of at least 51% is, and remains, at all times in the hands of citizens or Lesotho;
- (d) a company incorporated or registered under the Companies Act 1967 and carrying on business in Lesotho of which a majority share holding is held by non-citizens of Lesotho, but only in relation to land held by such company at the commencement of this Act;
- (e) a corporation established under Lesotho law;
- (f) a partnership of which the majority of the partners are citizens of Lesotho;
- (g) cooperative societies, friendly societies and any society or body of persons, other than a company or partnership, registered under the Societies Act 1966;
- (h) subject to the approval of the Minister, commonwealth or foreign governments or public international organizations for purposes relevant to activities approved by the Government of Lesotho or to their missions in Lesotho.

A.16 of 1966
A.25 of 1967

A.20 of 1966

(2) Subsection (1) shall not be construed as prohibiting any person disqualified under it from holding any right subsidiary to a lease, including a sub-lease or mortgage, subject to the consent of the Minister being obtained where so required under this Act.

PART II

Land held under allocation

7. This part applies only to land in rural areas. Application
Part II
8. (1) Subject to subsection (2) and section 11, a grant of title under this Part, if made in respect of land which is not the subject of a registrable title, shall not be transferable and shall, subject to the conditions laid down in the allocation and to the power or revocation, entitle the allottee to use or to use and occupy the land for the purpose stated in the allocation for a period which - Certain titles
non-
registrable
- (a) in the case of a body corporate or unincorporate may be a limited or indefinite period;
- (b) in the case of an individual, may be a limited period or his lifetime but shall not endure beyond his lifetime.
- (2) Notwithstanding subsection (1) where an allottee of land referred therein dies, the chairman of the Land Committee having jurisdiction shall record in his register the passing of the interest in the land of the deceased allottee to -
- (a) the first male issue of the deceased allottee (who shall share with his junior brothers in accordance with the advice of the family) unless the deceased allottee had designated otherwise;
- (b) where paragraph (a) does not apply, the person nominated as the heir of the deceased allottee by the surviving members of the deceased allottee's family; or
- (c) where paragraphs (a) and (b) do not apply within twelve months from the date of the death of the allottee, the State.
- (3) Notwithstanding subsection (2) a surviving spouse or a minor child of the deceased allottee shall be entitled to remain in occupation of the land allocated to the deceased allottee until his own decease.
9. (1) Where a grant of title under this Part related to land which is the subject of a registrable title, the allottee shall, within six months after the date of the allocation, apply to the Commissioner for a lease and such lease shall, in all respects have effect as if it had been granted under Part III. Certain titles
registrable
- (2) Where the allottee fails to apply to the Commission in accordance with subsection (1), the Commissioner shall serve notice upon him so to apply and if he fails to do so within three months of the Commissioner's notice, the grant shall be of no effect and chairman of the Land Committee having jurisdiction, on being advised by the Commissioner of the allottee's default, shall erase from the register specified in section 17 (2) the entry relating to the grant.

- | | | |
|-----|---|---|
| 10. | <p>(1) Allocations of land made prior to the commencement of this Act shall be deemed to have been made under this Part.</p> <p>(2) A registrable title held at the commencement of this Act shall be converted into a lease and sections 29 and 31 shall apply to the holder of such title as they apply to a person holding title under section 28 (1).</p> | Conversion
of allocations |
| 11. | <p>(1) Whenever an allottee of land used for agricultural purposes is desirous of holding his land under a lease or licence under the conditions relating to land held under a lease or licence, he may apply to the Commissioner for the issue of a lease or licence in respect of that land.</p> <p>(2) The Commissioner shall not issue a lease or licence the application of an allottee unless the allottee's land satisfies the conditions which the Minister may by notice in the Gazette determine in respect of the use to which the land is put and the level of development, which the land has attained or is intending to attain.</p> <p>(3) Any allottee aggrieved by the decision of the Commissioner under this section may appeal within three months of the date of the decision to the Tribunal whose decision shall be final.</p> | Other rural
land held
under a lease
or licence |
| 12. | <p>(1) Subject to subsection (2) the power to grant title to land shall be exercised by majority decision of the Land Committee established for the area of jurisdiction, or which the Chief having jurisdiction shall be chairman "ex officio" or of such other Land Committee as the Minister may establish under section 18.</p> <p>(2) Notwithstanding subsection (1), whenever, in pursuance of regulations made under section 18, directions are given to the Land Committee by the Minister, the Committee shall act in accordance with the directions.</p> <p>(3) A Land Committee shall not exercise its power to granting title to land for commercial or industrial purposes unless it shall have first referred the application to the Minister who shall forthwith seek the advice of the Minister for Commerce and Industry.</p> <p>(4) The Minister for Commerce and Industry shall forward his advice to the Minister with the minimum delay and, in any case, not later than six weeks after the date on which his advice was sought by the Minister.</p> <p>(5) A grant made in contravention of subsection (2) or (3) shall be of no effect.</p> | Allocating
authority |
| 13. | <p>(1) The power to revoke an allocation shall apply only in respect of land which is not the subject of a registrable title and shall be exercised by the Land Committee for the area of jurisdiction, under the chairmanship of the Chief having jurisdiction or such other Land Committee as the Minister</p> | Revocation of
allocation |

may establish under section 18.

(2) Before exercising its power under subsection (1) the Committee shall, through its chairman, give at least 30 days' written notice to the person affected thereby of its intention to do so.

(3) The notice referred to under subsection (2) shall set out clearly the grounds upon which the allocation is to be revoke.

(4) The notice shall be deemed to have been given if served in accordance with section 86.

14. (1) Where it is necessary in the public interest to set aside for public purposes allocated land which is not the subject of a registrable title, the Minister, after consultation with the Principal Chief having jurisdiction and upon obtaining the King's **(illegible text)**, shall by notice in the Gazette, declare the land to be so **(illegible text)**. Revocation on grounds of public interest
- (2) The Commissioner shall, upon publication of a declaration notice issued under subsection (1), forthwith send a copy thereof to the chairman of the Land Committee having jurisdiction, and the chairman shall thereupon cancel the allocation made in respect of the land subject to the notice and shall serve a revocation notice upon the allottee in the manner prescribed in section 86 requesting him to vacate the land by a date not later than six months from the date of publication of the declaration notice.
- (3) Notwithstanding any default on the part of chairman in complying with subsection (2) or any irregularity in the service of the revocation notice any allocation made in respect of the land subject to the declaration notice issued under subsection (1) shall be deemed to have been revoked as from the date of the declaration notice, and the allottee shall vacate the land by date not later than six months from the date of publication of the declaration notice.
15. Where an allocation has been revoked pursuant to a declaration notice issued under section 14(1) and where the allottee has made lawful improvements on the land subject to the revocation, the allottee shall be entitle to compensation in the amount of the value of the improvements and such compensation shall be assessed in accordance with section 56. Compensation in case or revocation under section 14
16. (1) A person aggrieved by a decision of a Land Committee refusing to grant a title to land or revoking an allocation otherwise than under section 14, may appeal to the next senior Land Committee. Appeals
- (2) No appeal shall lie under this section where -
- (a) the refusal to grant is in accordance with the directions issued by the Minister under section 12 (2);
- (b) the ground of appeal does not involve a question of law.
- (3) Notice of an appeal shall be given in Form "D" in the Third Form "D"

Schedule and shall be lodged, through the chairman, with the Land Committee against which decision the appeal is made, within 30 days of the decision or, in the case of a revocation, of the notice thereof issued under section 13 (2).

Third
Schedule

(4) Within seven days of receipt of the notice of appeal, the chairman shall cause a record of the proceedings, if any, together with a statement of the grounds for the refusal to grant title to land or for the revocation to be forwarded to the chairman of the Land Committee to which the appeal lies.

(5) At the hearing of an appeal the appellant shall be entitled to appear and argue his appeal.

17. (1) The chairman of the Land Committee which grants a title to land shall issue or cause to be issued to the allottee a certificate which shall be either in Form "C1" or "C2" in the Third Schedule as appropriate.

Certificate of
allocation and
register Form
"C1" and
"C2" Third
Schedule
Form "E"
Third
Schedule

(2) Every chairman of the Land Committee which grants a title to land shall issue or cause to be issued to the allottee a certificate which shall be either in Form "E" in the Third Schedule, and shall endorse thereon -

(a) any cancellation resulting from the application of section 9(2);

(b) any revocation made under section 13 made pursuant to a declaration notice issued under section 14(1) or resulting from the loss of title by virtue of section 44 or 50.

(c) any derogation resulting from the grant by the Minister of a public servitude under section 72.

18. The Minister may make regulations under this Part for any one or more of the following purposes -

Regulations

(a) prescribing the allocation which may be made and the persons to whom they may be made, the grounds on which and the circumstances in which they may or shall be made or revoked and generally regulating the principles according to which and the manner in which the Land Committee shall exercise its powers under this Part;

(b) specifying the grounds on which and the circumstances in which the Minister shall give direction under section 12 (2);

(c) establishing Land Committees and providing for their composition, seniority, meetings, procedure and quorum;

(d) regulating the conduct of meetings in the event of a chief as chairman ex officio failing, for no good cause, to attend a properly

convened meeting of a Land Committee;

- (e) generally carrying into effect the purposes of this Part.

PART III

1. Grant of title to land in urban areas

- | | | |
|-----|---|-------------------------|
| 19. | (1) This Part applies to the grant of title to land in an urban area. | Application of Part III |
| | (2) The Minister shall, by notice in the Gazette, define the boundaries of each of the urban areas in the Second Schedule. | |
| 20. | A grant of title to land under this Part shall entitle the grantee to hold a lease or licence. | Lease or licence |
| 21. | (1) Subject to section 22, where land is available for a grant of title, the Commissioner shall publicize the fact by notice in the Gazette and in a national newspaper. | Advertising of plots |
| | (2) The advertisement notice shall - | |
| | (a) state whether the land is available for lease or licence; | |
| | (b) contain sufficient description of the land to enable its identification; | |
| | (c) give particulars of the permitted land use, the ground rent or fee payable, where appropriate, and of the amount to be paid for the improvements (if any) made to the land; | |
| | (d) invite members of the public to lodge applications with the secretary of the Urban Land Committee by a specified date. | |
| 22. | (1) Notwithstanding section 21, where the land available for grant of title is to be used for commercial or industrial purposes or where land which has been held under title or where land which has been held under title or is no longer required for public purposes becomes available for a new grant, the Commissioner may issue an invitation to tender notice in the Gazette and in a national newspaper which notice shall contain the particulars specified in section 21 (2) and, where appropriate, the amount of the lowest premium acceptable as consideration for the grant. | Invitation to tender |
| | (2) Where the Commissioner acts in accordance with subsection (1) subsections (3), (4) and (5) of section 26 shall apply. | |
| 23. | (1) Any person claiming title to land affected by a notice issued under section 21 (1) or 22 (1) may, within one month from the date of publication of the notice in the Gazette, lodge a claim to such land before the Tribunal. | Adverse claims |

(2) The clerk of the Tribunal shall notify the Commissioner forthwith of any claim lodged under subsection (1).

(3) Until determination of the claim by the Tribunal or by the High Court on appeal from the Tribunal, applications in respect of the land subject to the claim shall remain in abeyance.

(4) Where no claim has been lodged within the period specified in subsection (1), any grant made under this Part conveys the legal right to use and occupy the land subject to any rights an adverse claimant may have to payment of compensation for lawful improvements made by him to the land.

24. (1) The power to grant title to land under this Part shall be exercised by majority decision of the Urban Land Committee having jurisdiction until such time as any other land authority may be established. Authority to grant title

(2) There shall be an Urban Land Committee for each urban area which Committee shall consist of -

(a) the Principal Chief having jurisdiction, as chairman;

(b) the Commissioner or his authorized representative;

(c) the District Administrator, or where a Town Clerk has been appointed, the Town Clerk for the relevant urban area, who shall be the secretary of the Committee;

(d) three other persons appointed by the Minister.

(3) The Commissioner shall cause to be published in the Gazette notification of the composition of Urban Land Committees.

(4) A meeting of an Urban Land Committee concerned with any application relating to land within its jurisdiction, shall be convened by the secretary as soon as practicable after the specified date for the lodging of applications, referred to in the advertisement notice issued under section 21 or in the invitation to tender notice under section 22.

25. (1) Where in response to an advertisement notice issued under section 21 (1) an application is lodged for a grant of title to land for commercial or industrial purposes, the Urban Land Committee not exercise its powers under section 24 (1) unless it first refers the application to the Minister who shall forthwith seek the advice of the Minister responsible for Commerce and Industry. Land for commercial or industrial purposes

(2) The Minister for Commerce and Industry shall forward his advice

to the Minister with the minimum delay and, in any case, not later than six weeks after the date on which his advice was sought by the Minister.

(3) Where the Minister objects to the application, the tender procedure laid down in section 26 shall be followed.

26. (1) Where, in response to an advertisement notice issued under section 21, there is more than one application in respect of any available land and there are no grounds or considerations for deciding in favour of any one applicant, the Urban Land Committee shall call for tenders. Competition between applicants
- (2) The secretary of the Committee shall cause tender notices to be published in the Gazette and in a national newspaper inviting tenders to be lodged with him.
- (3) As soon as practicable after the specified date referred to in an invitation to tender notice, the Urban Land Committee shall consider the tenders.
- (4) Where tenders relate to the grant of title to land for commercial or industrial purposes no decision shall be taken except after referral of the application to the Minister in accordance with section 25.
- (5) Subject to any regulation relating thereto the Urban Land Committee shall not be bound to accept the highest or any tender.
27. (1) Whenever a decision to grant title to land under this Part has been taken, the secretary of the Urban Land Committee shall forward to the Commissioner a certificate to that effect in Form "C3" in the Third Schedule and shall at the same time issue a copy of the certificate to the applicant. Notice of decisions
Form "C3"
Third
Schedule
- (2) The Commissioner shall cause notice of all grants made by an Urban Land Committee to be published in the Gazette and in a national newspaper, and such notice shall, whether by reference to the advertisement notice issued under section 21 or to the invitation to tender notice issued under section 22 or otherwise, contain a description of the land in respect of which the grants were made.
- (3) The Commissioner shall upon receiving the certificate referred to in subsection (1) cause a document of lease or licence, as the case may be, to be prepared for execution.

2. CONVERSION OF CERTAIN TITLES TO LAND IN URBAN AND RURAL AREAS

28. Titles to land in urban areas, other than land predominantly used for agricultural purposes, lawfully held by any person on the date of commencement of Conversion of existing

this Act shall be deemed to be converted into leases.

titles

(2) Titles to land in urban areas predominantly used for agricultural purposes lawfully held by any person at the date of commencement of this Act shall be deemed to be converted into licences.

(3) Titles to land in rural areas used solely for residential purposes lawfully held by any person at the date of commencement of this Act shall be deemed to be converted into leases.

29. (1) Whenever a person to whom section 28 (1) or (3) applies is desirous of granting or creating any interest in the land held by him or whenever section 30 or 31 applies to that person, he shall apply to the Commissioner for the issue of a lease and shall produce with his application :-
- Issue of lease document before transaction
- (a) evidence that he is qualified to hold land under section 6;
 - (b) a description of the boundaries of the land in question (by reference to a plan or otherwise); and
 - (c) any one of the following documents:-
 - (i) a registered certificate of title issued by the Registrar or Deeds under the Deeds Registry Act 1967; A. 12 of 1967
 - (ii) a registered deed of transfer or a certified copy thereof if the registered deed is lost;
 - (iii) the original (or a certified copy thereof if the original is lost) of a valid certificate of allocation of land or any document (including a certified copy of a Chief's register kept under the Land Act 1973) evidencing any allocation lawfully made;
 - (iv) an affidavit by the Chief or other proper authority that the applicant lawfully uses or occupies the land; A. 20 of 1973
 - (v) an affidavit by three persons resident for over 30 years in the locality in which the land is situated to the effect that it is to their personal knowledge that the applicant and his predecessors have been occupying and using the land for a period of at least 30 years.
 - (vi) any other official document evidencing that the applicant is in lawful occupation of the land.
- (2) Where, upon examination of the documents produced under subsection (1), the Commissioner is satisfied of the bona fides of the applicant, he shall so inform the Minister and, shall cause a lease to be prepared for issue to the applicant.

(3) Leases issued under this section shall take effect from the date of issue except as regard the period of duration of the lease which shall be deemed to have commenced on the commencement of this Act.

30. (1) Whenever facilities exist in any area for the issue of leases or licences created under section 28, the Commissioner shall cause a notice to that effect to be published in the Gazette and thereupon every person in that area to whom section 28 applies shall, within six months from the date of publication of the notice, apply for the issue of a lease or licence. Issue of a lease document in a given urban area

(2) The Commissioner may, of his own motion, or for good cause shown by an applicant, extend the period of time during which an application is to be made under subsection (1).

31. The Commissioner may, by notice in writing, invite any person to whom section 28 applies for the issue of a lease or licence withing a time specified in the notice. Issue of lease document in particular cases

32. (1) Where a person to whom sections 30 and 31 applies, fails without reasonable cause to comply with the section within the time allowed therein, he shall forfeit his title to the land. Consequence of failure to apply

(2) For the purpose of subsection (1) absence from Lesotho during the period of time allowed for an application shall be deemed to be reasonable cause.

(3) A person to whom section 28 (1) applies whose title is forfeited pursuant to subsection (1) shall be entitled to receive the value, as assessed by a Government valuer, of improvements lawfully made by him on the land subject to forfeiture.

33. (1) The Commissioner shall cause to be published in a national newspaper notice of applications for leases and licences under sections 29, 30 and 31 which notice shall give the names of the applicants and an adequate description of the land to which the applications relate. Publication of applications and adverse claims

(2) Section 23 shall apply to an adverse claim of the title to land selected by notice under subsection (1).

PART IV

Leases and licences

34. Save as otherwise provided, this Part applies to all leases and licences. Application

35. (1) A lessee shall be entitle - Rights of

- (a) subject to any statutory conditions or other conditions attaching to the lease, to the exclusive possession of the land leased;
- (b) subject to obtaining the consent of the Minister -
 - (i) to dispose of his interest;
 - (ii) to encumber the land leased by mortgage;
 - (iii) to sublet the land leased.
- (2) Notwithstanding subsection (1) (b) no consent shall be required to the lessee's disposal of his interest by valid will or surrender if the lease is in respect of land held for residential or commercial or industrial purposes only.
- (3) In the event of a lessee dying intestate -
 - (a) where the lessee qualifies thereunder the disposition of his estate shall be governed by the written law relating to succession; or
 - (b) where the lessee does not qualify under paragraph (a), section 8 (2) and (3) shall apply as if he were an allottee and the Commissioner shall thereupon request the Registrar of Deeds to endorse any registered lease or other registered document of title accordingly.
- (4) Nothing in this section shall be construed as affecting section 42 or the compulsory sale under any law or by a mortgagee of land held under a lease.

36. (1) Where the consent of the Minister is required under section 35, such consent shall not be unreasonably withheld. Consent
- (2) Consent may be given specifically in writing or generally.
 - (3) Where consent is given -
 - (a) specifically, it may be given subject to terms and conditions if in the Minister's opinion undue speculation in any transaction in land will occur; and
 - (b) generally, the Commissioner shall, by notice in the Gazette, publish the terms and conditions under which the general consent is given.
 - (4) No consent shall be given to any transaction by a parastatal

organization upon which a notice in writing has been served by the Commissioner under section 77 in respect of the land involved in that transaction.

(5) Any transaction conducted by a lessee without the consent of the Minister or contrary to the terms and conditions of a general consent shall be of no effect.

37. (1) Where a lessee wished to enjoy the benefit of a servitude - Creation of Servitudes
- (a) over land which is not the subject of a lease;
- (b) over land subject to a lease;

the lessee, in the first case and the lessees in the second case, shall apply to the Minister for the creation of a servitude.

(2) Where the Minister allows the creation of a servitude, and he shall not refuse unreasonably, he may attach such conditions to it as he may think fit.

(3) A servitude created under this section shall attach to the land leased for the duration of the interest of the lessee in whose favour the servitude is created, unless earlier terminated by the Minister at his discretion.

(4) The instrument creating the servitude shall be prepared at the instance of the lessee in whose favour the servitude is created but shall be executed by the Commissioner on behalf of the Minister and a copy thereof shall be retained by the Commissioner.

38. (1) A licence shall entitle the licensee to use or to use and occupy land for the purpose and under conditions specified in the licence and shall be subject to termination on three months' notice. Rights of licensee
- (2) A licensee shall not be entitled to -
- (a) dispose of his interest;
- (b) create lesser interests in or over, or burden, the land subject to the licence;
- (c) make alterations and improvements on the land subject to the licence except where otherwise expressly specified in the licence;
- (d) claim any compensation for any alterations and improvements made or for any expenses incurred by him on the land.
- (3) Licences shall not require registration under the Deeds Registry Act 1967. A.12 1967

39. (1) A lease shall not be granted for a term exceeding - Terms of

- (a) 90 years, where the lease is -
 - (i) for residential purposes;
 - (ii) for purposes of exercising a profession of calling;
 - (iii) for any devotional, religious, benevolent, educational, recreational, charitable and medical purposes;
- (b) 60 years, where the lease is -
 - (i) for heavy industrial purposes;
 - (ii) for commercial or light industrial purposes (other than the sale of petroleum by retail);
 - (iii) for hotel purposes;
- (c) 30 years, where the lease is -
 - (i) for purposes of sales of petroleum or oil;
 - (ii) for purposes of wholesale storage of petroleum or oil;

(2) No lease shall be granted for a term of less than 10 years.

40. (1) Subject to subsection (2) every lease other than an agricultural lease and a lease issued under section 61 (1) shall be deemed to include the statutory conditions laid down in the First Schedule. Statutory conditions First Schedule

(2) Where the lessee is a Commonwealth or Foreign Government or an international organisation and a statutory condition is inconsistent or incompatible with any agreement with such Government or organization, that condition shall not apply.

(3) A lease may include such other conditions as the Minister may direct.

41. (1) Where a lease has been granted or issued for a specific purpose and the lessee wishes to convert the purpose to another which is consistent with physical or town and country planning in relation to the area in which the land subject to the lease is situated, he may apply to the Minister for a variation of the lease accordingly. Variation of leases

(2) The Minister may agree to the variation on such terms and

conditions as he thinks fit, but no lease so varied shall extend for a term exceeding in aggregate that appropriate to the purpose to which it is converted.

(3) Any variation of a lease under this section shall be evidenced by a document which may be an annexure to the original lease or a new lease as the Commissioner may deem appropriate and shall be subject to such stamp duty as may be payable on the lease as varied and to registration in the Deeds Registry.

42. (1) A lease may be terminated by the Minister by giving at least one month's written notice to the lessee where the lessee is in breach of any conditions of the lease and has failed to comply with a written notice from the Commissioner calling upon him to remedy the breach within a reasonable specified period of time. Termination of leases
- (2) Notice of termination of the lease shall be served by the Commissioner upon the lessee, the sub-lessee (where the whole of the lessee's interest has been sublet to one sub-lessee) and to any mortgagee.
- (3) The mortgagee of a lease subject to termination under this section shall have the right to demand the sale of the lessee's interest and, if he wishes to exercise this right shall, upon receipt of the notice of termination, so inform the Minister in writing before the termination date specified in the notice.
- (4) Subject to any mortgagee exercising his right of sale under subsection (3), the sub-lessee, who has not condoned or been a party to the breach of conditions referred to in subsection (1) and who is willing to acquire the lessee's interest at the value assessed under subsection (7) shall, before the date specified for termination of the lease apply to the Minister for the transfer of the lessee's interest to him.
- (5) Where a lease is sold pursuant to subsection (3) or where a sub-lessee's application for the transfer of a lease under subsection (4) has been approved by the Minister, the purchaser or sub-lessee, as the case may be, shall forthwith succeed to the lease without any conveyance, assignment or transfer save that the Commissioner shall prepare and execute a deed evidencing the transmission of the lease to the purchaser or sub-lessee and shall cause the same to be registered and the original lease to be endorsed as "transmitted by operation of law" by the Registrar.
- (6) Where no purchaser or sublessee succeeds to the lease and is accordingly terminated, the lessee's interest in the land shall revert to the State.
- (7) Subject to any claim by a mortgage, the lessee whose lease is terminated under this section shall be entitle to receive the value, as assessed by a Government valuer, of improvements lawfully made by him on the land leased.

(8) Where there is a dispute regarding the value of improvements made, such dispute shall be determined by the Tribunal whose decision shall be final.

43. A licence may be terminated by the Commissioner serving upon the licensee at least three month's notice of termination.

Termination of licences

PART V

Selected development and selected agricultural areas

44. Where it appears to the Minister in the public interest so to do for purposes of selected development, the Minister may by notice in the Gazette declare any area of land to be a selected development area and, thereupon, all titles to land within the area shall be extinguished but substitute rights may be granted as provided under this Part.

Selected development areas

45. (1) Where the selected development area consists wholly or partly of agricultural land other than land within a selected agricultural area, licensees or allottees or such agricultural land shall be deemed to have received three months' notice or termination of their licences or of revocation of their allocations, as the case may be, beginning from the date of publication in the Gazette of the notice referred to in section 44.

Development of land formerly used for agriculture

(2) Where the selected development area consists wholly or partly of agricultural land within a selected agricultural area, lessees of such land shall be deemed to have received three months' notice of termination of their leases as in subsection (1) and shall be entitled to compensation for any loss incurred through being deprived of their land.

46. (1) Subject to subsection (2) and to section 47, where the selected development area consists wholly or partly of land used for purposes other than agriculture, lessees and allottees of such land shall be entitled to be offered in exchange by the Minister leases within the selected development area, for the same purposes as those for which they previously held the land, of the same plot with or without amendment of the original boundaries thereof, if this is consistent with the development scheme, or of any other plot.

Development of land formerly used for purposes other than agriculture

(2) Where the development scheme is such as not to permit the grant of a lease for the purpose for which the lessee or allottee formerly held the land, the lessee or allottee shall have the option either of accepting a plot for any one of purposes of the development scheme or of claiming compensation for being deprived of his lease or allocation.

47. Where a development scheme within a selected development area described in section 46 (1) is to be sponsored and operated wholly or partly by a person other than the State or a parastatal organization, the Minister may grant to that person a lease or the whole or part of the area, as the case may be, subject to the condition that -

Development by private developer

- (a) the developer shall, where specifically directed by the Minister, make provision under the scheme for -
 - (i) subdivision of the land;
 - (ii) the transfer to a former lessee or allottee, on terms to be approved by the Minister, of his interest in any sub-division previously held by such former lessee or allottee; and
 - (iii) subject to the prior rights of former lessees and allottees, subleases or transfers of his interest in other subdivisions to other persons;
- (b) If the developer fails to provide substitute rights to a former lessee or allottee, he shall pay compensation to such former lessee or allottee.

48. (1) Where the value of the development plot offered in exchange to a former lessee or former allottee is higher than the value of the plot previously held by him, he shall be entitled to a reduction in payment for the plot offered in exchange, or a sum equivalent to the value of the plot which he had held. Payment by lessee given substitute rights

(2) A lessee or allottee shall not be bound to accept in exchange a plot the developed value of which is less than the value of the plot formerly held by him, and may claim compensation in lieu but where he does so accept, he shall be entitled to receive payment of the difference in value between the plots.

49. Titles to land within a selected development area shall be granted by the Minister and shall be evidenced by a lease or licence which shall be prepared by the Commissioner and executed in the manner prescribed. Titles to be by lease or licence

50. Where it appears necessary for the development of agriculture so to do, the Minister, acting upon the recommendation of the Minister responsible for Agricultural land to be a selected agricultural area and, thereupon, any allocation or licence in respect of such agricultural land shall be deemed to have been revoked or terminated on three months' notice beginning from the date of publication in the Gazette of the declaration notice. Selected agricultural area

51. (1) Title to land within a selected agricultural area shall be granted by the Minister after consultation with the Minister responsible for Agriculture and shall be evidenced by a lease which shall be subject to such conditions and for such period (not being less than 10 years) as he may think fit, and shall be prepared by the Commissioner for execution in the manner prescribed. Titles within a selected agricultural area

(2) In considering applications for leases of land within a selected agricultural area, the Minister shall pay the foremost consideration to applications by previous allottees or licensees or land within the area and where any such application is refused, shall state his reasons for refusal.

52. (1) Sections 21 and 22 shall apply to land (other than land to which title is granted in substitution of existing rights) available for grants of title within a selected development area or a selected agricultural area, unless, in the latter case, the Minister decides otherwise. Certain sections of Part III to apply
- (2) Subject to subsection (3), section 26, which related to the tender procedure, shall also apply mutatis mutandis, the decision to call for, and the consideration of, tenders being made by the Minister in the case of land within a selected development area or by the Minister after consultation with the Minister responsible for Agriculture in the case of land within a selected agricultural area, and the invitation for, and the lodging of tenders, being by and with the Commissioner.
- (3) Notwithstanding subsection (2), the Minister or the Minister after consultation with the Minister responsible for Agriculture, as the case may be, may grant leases to any person without adopting the tender procedure.
53. (1) No compensation for loss of title to land shall be payable under this Part except where so expressly provided. Compensation
- (2) Compensation, where payable, shall be calculated in accordance with section 56.

PART VI

Land required for public purposes

54. (1) Whenever it is necessary in the public interest to set aside for public purposes land held under a lease, the Minister, after consultation with the Principal Chief having jurisdiction and upon obtaining the King's assent, shall declare the land to be so required. Setting aside land for use for public purpose
- (2) Notice of a declaration by the Minister under subsection (1) (in this Part referred to as a declaration notice) shall be given by the Minister in the Gazette and shall contain the following particulars -
- (a) the name of the lessee or lessees, in whose name the lease of the required land is registered;
 - (b) a description of the land and its location specifying (by reference to a plan or otherwise) its boundaries and extent;
 - (c) the general nature of the purpose for which the land is required;
 - (d) the date on which the land shall be surrendered by the person in occupation;

- (e) an assessment of the amount of compensation offered and the method used for assessing such amount,

and shall invite any person having any claim in the land to submit his claim to the Minister.

(3) On publication in the Gazette of the declaration notice, interests in or affecting the land to which the notice relates shall cease to subsist, the lessee's interest in the land shall revert to the State, and the Registrar shall cancel the registration of all deeds evidencing those interest.

(4) Notwithstanding subsection (3) the lessee, or lawful occupier, of the land subject to declaration notice may remain in occupation of the land for a period not exceeding six months from the date of publication in the Gazette of the declaration notice.

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| 55. | Prior to the publication in the Gazette of the declaration notice the Minister shall cause a copy of the notice to be served upon any person know to be in occupation of, or to have an interest in, the land, in the manner indicated in section 86. | Posting and service of notice |
| 56. | <ul style="list-style-type: none"> (1) Any parson who claims to have an interest which, by reason of section 54 (3) ceases to subsist may, within three months from the date of publication of the declaration notice, claim compensation from the Minister. (2) In assessing compensation, regard shall be had only - <ul style="list-style-type: none"> (a) to the value which the property might have been expected to realise if it had been sold on the open market by a willing seller at the time of publication of the declaration notice; (b) to the expenses incidental to any necessary change of residence or of place of business. (3) Where the Minister and the claimant fail to agree on the amount of compensation, or where the Minister has failed to make any award within six months after the submission of the claim, the claimant may pursue his claim before the Tribunal. (4) The Minister may extend the time within which a claim is to be made under subsection (1). | Claim for compensation |
| 57. | Where upon submission of a claim under section 56 (1). the Minister has made an offer, and no appeal is made by the claimant to the Tribunal within three months from the date of the offer, the offer shall be deemed to have been accepted. | Offer made deemed to be accepted |
| 58. | Where conflicting claims are submitted to the Minister pursuant to section 56 (1) the Minister shall, within one month from the last day of the period prescribed in section 56 (1) refer the case to the Tribunal. | Conflicting claims |
| 59. | (1) Where the land required to be set aside for public purposes is part of greater land held by the lessee and the part remaining to the lessee is less | Where land part of |

than 500 square meters, he may, within a month from the date of publication in the Gazette of the declaration notice serve notice upon the Minister requiring the Minister to set aside the whole of the land leased by him and upon so being served, the Minister shall set aside the whole of the land and shall amend the declaration notice accordingly.

greater land, whole may be set aside

(2) Notwithstanding any amendment under subsection (1) the notice of declaration shall have effect as from the date of its original publication.

60. The former lessee of land set aside for public purposes shall be entitled to foremost consideration upon any application he may make for a grant of title in replacement of that formerly held.

Preference to deprived lessee

61. (1) Where the purposes for which land is set aside under this Part are those of a local authority or of a statutory corporation the Minister may issue a lease or licence to that authority or corporation and a lease so issued shall be -

Granting of leases over land set aside under this Part

(a) for a term not exceeding 90 years;

(b) subject to such terms and conditions as the Minister may think fit which conditions shall not include statutory conditions unless these are expressly included in the lease.

(2) Where land is, at the commencement of this Act, being used for public purposes by a statutory corporation, subsection (1) shall apply.

62. All land, other than land to which title is held by a person other than the State, used and occupied by the State on the commencement of this Act shall be deemed to have been set aside for public purposes under this Act, and an endorsement to that effect shall be made by the Registrar on any deed relating to such land which may have been registered in the name of the government, or of a Ministry, department or agency of the government, or of any person acting for and on behalf of the government.

Land used by State deemed to have been set aside for public purposes

63. Where land which has been declared to be required for public purposes under this Part ceases to be so required, the Minister, may, by notice in the Gazette, revoke the declaration 61 shall cease to subsist and the Registrar shall, in the case of a lease, cancel its registration.

Termination of use of land for public purposes

PART VII

Land Tribunal

64. (1) There is hereby established for the purposes referred to in this Act a Land Tribunal consisting of a chairman and two assessors.

Establishment and composition of Tribunal

(2) The Minister shall by notice in the Gazette appoint-

- (a) after consultation with the Chief Justice, a chairman who shall be a judge of the High Court or a resident magistrate;
- (b) an assessor, who shall be a Principal Chief or an alternate Principal Chief nominated by the Minister so that when the Principal Chief has an interest in the matter before the Tribunal, the alternate shall act in his place;
- (c) an assessor who shall be a person holding a degree or professional qualification in law or land economics.

65. There shall be a clerk of the Tribunal who shall be the Registrar, or Assistant Registrar, of the High Court who ordinarily assists the judged appointed as chairman, or where the chairman is a resident magistrate the clerk to that magistrate. Clerk of Tribunal
66. The Chief Justice may make rules governing the procedure of the Tribunal. Procedure of Tribunal
67. (1) Except where otherwise expressly provided any party aggrieved by a decision of the Tribunal may appeal to the High Court. Appeals
- (2) The rules governing appeals to the High Court from a Subordinate Court apply to appeals from the Tribunal.
- (3) Nothing in subsection (1) shall preclude a party from applying to the High Court for relief where a decision of the Tribunal, though expressed as final, has been reached in breach of the principles of natural justice.
68. Nothing in this Act shall be construed as ousting the jurisdiction of the High Court with regard to any matter or dispute which does not fall within the competence of the Tribunal. High Court to retain jurisdiction

PART VIII

Land revenue

69. (1) There shall be payable in respect of leases, unless the lessee is exempted under subsection (2), such ground rent as the Minister may prescribe. Ground rent and development charges
- (2) A citizen of Lesotho who is a Mosotho (and the decision on racial qualification shall, subject to any regulations under section 89, rest with the Minister) and who has attained the aged of majority, shall be entitled to the lease free of ground rent of the land which he leases and occupies for his own residential use.

(3) The Minister, in consultation with the Minister responsible for Works, may prescribe development charges (being charges for the construction and the provision of services including roads, foot-paths, main drainage, street lighting and any other charges which are not prescribed under any other law) which shall be calculated in relation to the area of land held by the lessee.

(4) The Minister in consultation with the Minister of Finance may waive or reduce any prescribe development charges where he considers it to be in the public interest to do so.

70. Any person holding a licence from the State shall pay a prescribed annual fee in respect of the licence. Fees for licences
71. (1) There shall be payable in respect of a grant of title made through the tender procedure a premium being the sum offered by the tenderer in consideration of the grant and in consideration of the value of the property the subject of the grant. Tender premiums
- (2) The premium shall be payable in one lump sum upon execution of the lease or licence to which the grant relates unless the Minister sees fit to allow payment by instalments on such interest terms as the Minister may decide.

PART IX

Public servitudes and compensation therefor

72. (1) Whenever the government, a local authority, a statutory corporation or undertaker requires a wayleave or right in the nature of a wayleave over any land the subject of a title under this Act for the construction of public utility services, the Minister may grant to the body so requiring a public servitude over the land and the body to whom the servitude is granted shall, subject to section 73, be liable to compensate the grantee of the title for any damage to the land in the exercise of the servitude. Public servitude
- (2) Where the Minister has granted a public servitude over land allocated under Part II which is not the subject of a registrable title, the Commissioner shall so inform the chairman of the Land Committee having jurisdiction who shall make the appropriate derogation entry in the register but failure on the part of the chairman to make the entry shall not affect the validity of the grant of the servitude.
73. (1) No compensation shall be payable under section 72 (1) where - Compensation
- (a) the land which suffers damage has been either replaced or restored;
- (b) movable property damaged has been either replaced or restored;

- (c) the works constructed do not interfere substantially with the enjoyment of the land;
 - (d) the loss arises out of the construction of a road which does not deprive the allottee of more than one-tenth of the area of the land and the remainder continues to be suitable for use for the purpose for which the land was granted.
- (2) Nothing in subsection (1) shall be deemed to preclude the payment of compensation for damage to crops on the land affected by the exercise of the servitude.
- (3) Where the exercise of a public servitude over land subject to a lease interferes substantially with the enjoyment of the land, the lessee shall have the right, in lieu of any compensation which he may claim under subsection (1), to request the Minister that the whole of the land leased be set aside for public purposes pursuant to section 54.

PART X

Duties of Commissioner of lands

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| <p>74. Save as otherwise provided, this Part applies to land under Part II which is the subject of a registrable title and to all land within urban area, selected development areas and selected agricultural areas.</p> | <p>Application of Part X</p> |
| <p>75. (1) The Commissioner shall keep comprehensive records of all land to which this Part applies.</p> <p>(2) The Commissioner shall cause to be prepared -</p> <ul style="list-style-type: none"> (a) all leases and licences; (b) written consents required of the Minister under section 36; (c) deeds of transmission where a sub-lessee or mortgagee succeeds to a lease in accordance with section 42; (d) annexures or deeds of variation of leases pursuant to section 41; (e) public servitudes, <p>and shall retain in his custody copies of the documents listed in paragraphs (a) to (e) and of servitudes executed by him under section 37 (4).</p> <p>(3) All documents prepared by the Commissioner under subsection (2) shall, unless otherwise prescribed, be executed by him.</p> <p>(4) The Commissioner shall cause all documents referred to in</p> | <p>Duties of Commissioner</p> |

paragraphs (a) to (e) of subsection (2) and requiring registration to be registered.

(5) Upon execution of any document referred to in paragraphs (a) to (e) of subsection (2) the Commissioner shall collect from the grantee or transferee all duties which may be payable under the Stamp Duties Order 1972, the Transfer Duty Act 1966 (in the case of a deed of transmission referred to in subsection (1) (c)), and any registration fees.

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A.7 of 1966

(6) Notwithstanding sections 13 and 48 of the Deeds Registry Act 1967, all documents prepared by the Commissioner and in respect of which all duties and fees have been collected by him pursuant to subsection (5) shall, upon being submitted by the Commissioner for registration, be registered by the Registrar.

A.12 of 1967

(7) All dealings in interests in land by or on behalf of the State shall be transacted through the Commissioner, and all documents relating to such dealings shall, subject to any directions from the Minister, be executed by him.

76. (1) In conformity with section 62, the Commissioner shall request the Registrar to endorse all deeds of title to land held by, or in the name of, or in trust for, government to be endorsed with the mention "set aside for public purposes".

Endorsement
of
Government
titles

(2) Subsection (1) shall not apply to land in which at the commencement of this Act a person holds a subsidiary right or interest derived from the government nor shall it apply to land in which government holds a subsidiary right or interest.

77. (1) The Commissioner may, by notice in writing, call upon the executive authority of any parastatal organization holding title to unutilised or undeveloped land to show cause why such title shall not revert to the State.

Reversion to
State of rights
to parastatal
land

(2) Upon failure of the parastatal organization to show cause within six weeks of being called upon to do so, title to the land shall revert to the State and, if a deed of title to such land has been registered, the registration shall be cancelled by the Registrar at the request of the Commissioner.

(3) Cause shall be deemed to be shown under subsection (1) where the parastatal organization produces satisfactory evidence -

(a) of its intention to itself use and develop the land within a period of one year; and

(b) that the use and development intended is not inconsistent with any planning in respect of the area where the land is situated.

(4) For the purpose of this section, land is deemed to be unutilised or

undeveloped notwithstanding that it has been hedged, fenced, cleared or levelled or that it is used as a place of deposit for refuse, waste or scrap or as a standing or parking place for vehicles.

78. The Commissioner shall, whenever practicable - Assistance to chairman
- (a) give such advice and assistance to chairmen of land Committees as will ensure due compliance with the procedures laid down in that Part;
 - (b) ascertain that the registers referred to in section 17 (2) are properly kept.

PART XI

Grants of titles to land

79. (1) If a member of the Land Committee or Urban Land Committee, or his spouse directly or indirectly has any personal interest in any matter considered or to be considered by the committee, he shall immediately disclose that interest and shall not be present at the meeting while that matter is being discussed and shall not take part in any discussion or vote on any question arising therefrom. Grants of titles to committee members
- (2) Whenever the affected member under subsection (1) is the chairman, the members present thereat shall elect one other member to the chairman.

PART XII

Miscellaneous Provisions

80. Notwithstanding the provisions of any other law and for the avoidance of doubt sections 14 and 15 and Parts VI and IX shall apply to the exclusion of any other law. Application of other laws
81. Notwithstanding any other law the Registrar shall not register any title granted under this Act except upon the application of the Commissioner. No registration except at instance of Commissioner
82. Where at the commencement of this Act any land or part thereof has, whether by error or otherwise, been the subject of two or more allocations, the allottee who has used the land and made improvements thereon shall hold title to the land in preference to any allottee who left the land unused and undeveloped. Priority of dual allocations
- 83 (1) Where, at the commencement of this Act, a person holds the right to Subsidiary

use or occupy State land in any area and this right is derived from the State otherwise than by title, such right may be converted into a lease or licence at the discretion of the Minister.

rights in State land

(20) In exercising his discretion under subsection (1) the Minister shall have regard to the remaining duration of the person's right, the predominant use of the land and the nature of that use.

84. (1) Any person who:-

Transitional provisions for disqualified holders of land rights

(a) at the commencement of this Act held a title to land but is by reason of section 6 disqualified from so doing;

(b) by reason of loss of citizenship or otherwise ceases to be qualified to hold title to land,

shall continue to hold the same for a period of 12 months, and may during that period and with the consent of Minister cede his rights to a person qualified under section 6.

(2) A person who fails to become qualified or to cede his rights within the period of 12 months mentioned in subsection (1) shall, unless his title has been earlier terminated, be entitled to receive the value of all improvements lawfully made on the land upon the expiry of the 12 months' period and the then consequent reversion of his interest in the land to the State.

85. (1) Any grant of title of land under Part II made contrary to the provisions of that Part shall be of no effect.

Void titles

(2) Any disposal of property contrary to the provisions of this Act shall be of no effect.

(3) Any transaction requiring the consent of the Minister shall, where such consent has been given contrary to the provisions of this Act, be of no effect.

(4) Save as under section 41, where land granted for a specific purpose is converted by the allottee or grantee to another purpose, the allottee or grantee shall forfeit his title to the land.

86. (1) Notice under section 9 (2), 13 (4), 14 (2), or 55, shall be served either personally on the persons to be served or by leaving it at their last usual place of residence or business; but if any such person is absent from

Service of notices

Lesotho the notice shall be left with the occupier, shall be affixed upon some conspicuous part of the property.

(2) If the person upon whom notice is to be served in pursuance of subsection (1) is a body corporate, the notice shall be deemed to have been duly served if left at, or addressed by post to, its registered or principal offices in Lesotho.

87. (1) Any person who occupies land and any person who causes, aids or abets any person to occupy land without proper authority shall be guilty of an offence and liable to a fine of 500 rand and to six months' imprisonment, and the court convicting the offender may order the person to vacate the land forthwith or within a specified period of time. Unlawful occupation of land
- (2) Any person who remains in occupation of land in defiance of a court order under section (1) is guilty of an offence and liable to the penalties prescribed under subsection (1) and, in addition, to a fine of five rand a day for every day during which the unlawful occupation continues.
- (3) Where a person has been convicted under subsection (1) and no order has been made for vacating the land or where such order has been made and the period specified has expired, the proper authority or the person holding rights in or over the land may seek the assistance of the Police in evicting the convicted trespasser from the land.
- (4) For the purpose of this section occupying land without proper authority includes remaining in occupation thereof after the date on which the land should have been vacated as a consequence of a termination notice, a revocation notice or any other notice to vacate given under this Act.
88. (1) Any person who corruptly accepts or obtains or agrees to accept or attempts to obtain from any person, either for himself or any other person, any gift or consideration as an inducement or reward for doing or omitting to do or for having done or omitted to do any act which it is or was his duty to do or refrain from doing under this Act or for showing or refraining from showing favour or disfavour to any person in relation to any matter referred to in this Act is guilty of an offence and liable to a fine of 500 rand and to one year's imprisonment. Other offences
- (2) any person who corruptly gives or agrees to give or offers any gift or consideration to any person as an inducement or reward for doing or forbearing to do or for having done or forborne to do any act in relation to a duty imposed upon that person by this Act is guilty of an offence and liable to the penalties prescribed under subsection (1).
89. The Minister may make regulations for any one or more of the following purposes - Regulations
- (a) prescribed the manner in which leases and licences are to be executed by or on behalf of the State;

- (b) providing for the conditions under which agricultural leases may be granted;
 - (c) prescribing the size of plots which may be held by any person or for any specific purpose, the number of plots which may be held any one person;
 - (d) prescribing the circumstances and conditions under which the Minister may withhold consent to transactions requiring his consent under section 36;
 - (e) providing for the conditions under which the Minister for Commerce and Industry shall make recommendations when so required under this Act;
 - (f) prescribing the conditions and circumstances under which the disqualifications imposed upon companies and partnerships under section 6 may be waived;
 - (g) defining the use purposes of land;
 - (h) providing for the procedure and quorum at meetings of Urban Land Committees and expenses and allowances payable to its members;
 - (i) in respect of ground rents and licence fees and the calculation thereof, and the circumstances under which personal levies may be attached to ground rents payable to its members;
 - (j) the terms and conditions under which rent-free leases under section 69 (2) shall be enjoyed;
 - (k) prescribing the method of assessing the value of improvements made for purposes of payment of compensation;
 - (l) laying down the considerations which would justify waiving the tender procedure in the case of multiple applications;
 - (m) laying down the circumstances and conditions under which tenders, whether the highest or otherwise, may be rejected;
 - (n) the prevention of speculative dealings in land;
 - (o) generally for the better carrying into effect of this Act.
90. The Minister may, by order, amend the Schedules. Amendment of Schedules

PART XIII

Amendments, Repeals and Savings

91. (1) Subsection (1) of section 2 of the Deeds Registry Act 1967 is Amendment

hereby amended by -

of section 2
of Act 12 of
1967

- (a) deleting paragraph (c) of the definition of "immovable property" and substituting the following therefor -
"(c) any lease granted under the Land Act 1979; or (d) any right to minerals (including any right to mine for minerals) and a lease or sublease of such right,"
- (b) deleting from the definition of "proper authority" the words "the Constitution of Lesotho and any other" and substituting therefor the word "any".

(2) Subsection (3) of section 2 of the Deeds Registry Act 1967 is hereby amended by -

- (a) inserting the word "benevolent" immediately before the word "charitable" in paragraph (b);
- (b) substituting the words "hospital, clinic or dispensary" for the words "public hospital" in paragraph (c), and
- (c) adding the following new paragraph -
"(d) any purposes specified in leases granted or issued under the Land Act 1979."

92. Section 9 of the Deeds Registry Act 1967 is hereby amended by deleting the word "may" in the first line thereof and substituting therefor the words "may, subject to the provisions of any other law,".

Amendment
of section 9
of Act 12 of
1967

93. Subsection (2) of section 15 of the Deeds Registry Act 1967 is hereby amended by deleting the word "Every" and by substituting therefor the words "Save as is otherwise provided in the Land Act 1979 or any other law, every".

Amendment
of section 15
of Act 12 of
1967

94. Section 24 of the Deeds Registry Act 1967 is hereby amended by -

Amendment
of section 24
of Act 12 of
1967

- (a) deleting in subsection (1) the word "Every" and substituting therefor for words "Save as is otherwise provided in the Land Act 1979 or any other law, every";
- (b) deleting in subsection (3) the word "Every" and substituting therefor the words "Save as is otherwise provided in the Land Act 1979 or any other law, every";
- (c) deleting in subsection (4) the word "Every" and substituting therefor the words "Save as is otherwise provided in the Land Act

1979 or any other law, every"; and

- (d) deleting in subsection (6) the word "any and substituting therefor the words "Save as is otherwise provided in the Land Act 1979 or any other law, every";

95. Section 2 of the Insolvency Proclamation 1957 is hereby amended by deleting the definition of "immovable property" and substituting the following therefor -

Amendment
of section 2
of
Proclamation
51 of 1957

"immovable property" shall have the meaning ascribed thereto in the Deeds Registry Act 1967.

96. Section 2 of the Administration of Estates Proclamation 1935 is hereby is hereby amended by deleting the definition of "immovable property" and substituting the following therefor -

Amendment
of section 2
Proclamation
19 of 1935

"immovable property" shall have the meaning ascribed thereto in the Deeds Registry Act 1967.

97. Any existing regulation or by-law shall, from the coming into operation of this Act, be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring it into conformity with the provisions of this Act and any regulation made hereunder.

Construal of
Existing By-
Laws and
Regulations

98. The Land Act 1973 and the Administration of Lands Act 1973 are repealed.

Repeals A.20
of 1973 A.16
of 1973

99. (1) The Land Regulations 1974, excepting regulation 4 which is repealed, shall continue to have effect until revoked or superseded by regulations under this Act.

Savings

(2) Development Committees established under the Land Regulations 1974 shall, notwithstanding that the period for which the members thereof have been appointed may have expired, continue to function until such time as the Minister revokes the members' appointments.

L.N. 9 of 74

FIRST SCHEDULE

(Section 2)

Statutory Conditions for Leases other than

Agricultural Leases

1. Unless the Minister directs otherwise, the lessee shall, within six months of

Fencing

the date of the grant, fence the boundaries of the land and the lessee shall maintain the fence to the satisfaction of the Minister.

- | | | |
|-----|---|--------------------------------|
| 2. | Until enactment of a town and country planning law and its application to the land under lease, the lessee prior to the development of the land, shall submit to the Minister for his approval a site plan together with the plans of any proposed buildings, structures and other forms of land development. | Site plan |
| 3. | Unless special written authority is given by the Minister, the lessee shall commence development of the land within twelve months of date of the grant and shall complete the development to the satisfaction of the Minister within a period of twenty-four months of the date of the grant. | Development to be completed |
| 4. | Unless special written authority is given by the Minister, the lessee shall commence development of the land within twelve months of the date of the grant and shall complete the development to the satisfaction of the Minister within a period of twenty-four months of the date of the grant. | Further development |
| 5. | Within a period of time to be fixed by the Minister, the lessee shall at his own expense provide main drainage or main sewerage connections from the building erected on the land as the Minister may require. | Drainage and sewer connections |
| 6. | In the event of any main building erected on the land being dismantled, destroyed, demolished or removed, the lessee shall replace the building within a period specified by the Minister and Conditions Nos.2 and 3 shall apply where applicable. | Demolition |
| 7. | The lessee shall use the land comprised in the lease only for the purpose specified in the grant or in any variation made to the original grant of lease. | Land use |
| 8. | The lessee shall permit entry on the land at any reasonable period of the day by any duly empowered:- | Entry |
| | (i) officer, employee, servant or agent of the Government of Lesotho. | |
| | (ii) employee, servant or agent of any statutory corporation or parastatal organization established to provide and maintain public utility services. | |
| 9. | 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 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. | Existing services |
| 10. | 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 or parastatal organization, the right freely to exercise or have a public servitude over the land for the purpose of providing and maintaining | Public servitude |

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.

- | | | |
|-----|--|-------------------|
| 11. | The interior and exterior of any building erected on the land and all building additions thereto and all other buildings at any time erected or standing on the land and walls, drains and other appurtenances, shall be kept by the lessee in good repair and tenantable condition to the satisfaction of the Minister. | Good repair, etc. |
| 12. | 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 lesses or the occupiers of adjoining or other lands in the neighbourhood. | Nuisance |
| 13. | The lessee shall not subdivide, sublease or otherwise part with the possession of the land comprised in the lease or any part thereof without the approval of the Minister first had and obtained. | Subdivide |
| 14. | A lessee shall unless exempted therefrom under section 69 (2), pay a prescribed annual ground rent 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 any ground rent due for the period ending thirty first day of march which shall be calculated as follows -

(i) where the lease begins to subsist on any day in the month of April in any calendar year, one whole year's rent;

(ii) in any other case, one whole year's rent less one twelfth thereof for each complete month of that rental year that has elapsed prior to the date of the grant. | Rent |
| 15. | Annual ground rent reserved in the lease shall be subject to revision every ten years of the term of the lease and consequent upon any revision, the amount shall be fair and reasonable having regard to general values and no account shall be taken of any improvements made by the lessee to or on the land subsequent to the date of such revision. | Rent revision |
| 16. | Upon application by the lessee made not later than six months before expiry of the term of the lease, the lessee shall be entitled to the grant of a new lease of the land on terms set by the Minister provided the land or part thereof is not required for any public purpose. | Renewal |

SECOND SCHEDULE

(Section 2)

The urban areas of -

1. Maseru
2. Maseru International Airport
3. Butha-Buthe
4. Leribe (Hlotse)
5. Maputsoe
6. Peka
7. Teyateyaneng
8. Roma
9. Morija
10. Mafeteng
11. Mohale's Hoek
12. Quthing
13. Qacha's Nek
14. Mokhotlong
15. Thaba-Tseka
16. Mapoteng

THIRD SCHEDULE

(Section 5)

FORM "A"

Application for an allocation of Land in a Rural Area

(* delete where necessary)

TO: THE CHAIRMAN OF

Name of applicant: _____

Address: _____

Sex: _____ Age: _____

1. I apply for an allocation of land situated at _____

Describe the place where allocation is required

for the purpose of _____

Describe the purpose or use of land needed

* for my lifetime/for _____ years only.

2. My reasons for making this application are _____

Give reasons why you think the allocation should be granted

3. * I do not hold/hold other allocations of land as follows:-

- (i) _____
- (ii) _____
- (iii) _____
- (iv) _____
- (v) _____

4. I understand that if the allocation is granted to me for traditional or agricultural purposes, it allows me and my immediate family i.e. * husband/wife/children/dependants to use and occupy the land which is allocated and that on my death my *husband/wife receives the right to continue to use and occupy the land until *he/she dies and after *his/her death the interest in the land will pass to my surviving heirs.

5. I further understand I cannot transfer or sell this allocation to any person and that the Land Committee who granted this allocation retains the traditional right to revoke all or part of this allocation including the right to derogate or lessen my rights of use and occupation.

Date: _____

Signature of applicant or

Thumb print of applicant

Note:- If the applicant cannot write his name or fill in this form, some other person may do so making sure that the applicant's right or left thumb print is affixed to this application.

Certificate

I hereby certify that the applicant appears to
*understand the contents of Form A and he/she as name on this
*application has affixed his/her left/right thumb print as required.

Date: _____

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

THIRD SCHEDULE

(Section 5)

FORM "B"

Application for a grant of a lease or licence

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

Note:- If this application refers to land in: -

- (i) **an urban area**, it should be addressed to the Secretary, Urban Land Committee, c/o - The Town Clerk/The District Administrator or the urban area of town concerned;
- (ii) **a selected development area**, it should be addressed to the Commissioner of Lands, P.O. Box 876, Maseru 100.
- (iii) **a selected agricultural area**, it should be addressed to the Minister of Interior, P.O. Box 174 Maseru 100.

1. TO:-

See note
above

2. Name of applicant:

Complete
details

address of applicant:

Telephone No.: _____

3. I am a/we are/citizen/s of Lesotho.

OR

I/We hold a permit for indefinite sojourn/residence granted under section 6 of the Aliens Control Act 1966 as follows:-

Permit No. _____ Dated: _____

Permit No. _____ Dated: _____

OR

The applicant company/corporation is incorporated/registered under Lesotho law and details enclosed are as follows:-

(i) a certified copy of the Certificate of Incorporation/Registration and also a certified copy of the Memorandum and Articles of Association;

(ii) _____

Add a list of certified copies of documents evidencing the applicant's right to hold land in Lesotho if (i) does not apply

4. if the applicant is a body corporate established or registered in Lesotho, please provide the following information:-

(i) Names, citizenships and addresses of the officers of the company empowered to affix the company's seal and execute documents/deeds on its' behalf.

- (ii) 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:-

- (iii) The name and address of the duly appointed agent together with a certified copy 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. If the applicant is a Commonwealth or Foreign Government, or is an international Organization empowered to hold land, kindly supply the name, address and title or office of the person or representative empowered to execute deeds or documents:-

6. Purpose for which land is required and give a description of the plot as advertised with reference to the Advertisement Notice:-

Purpose to which the applicant will put the land

- (i) Land use proposed: _____
- (ii) Plot No: _____ Town of: _____
- (iii) Advertisement Notice No.: _____
- (iv) Lease or licence required: _____

7. Whether the applicant already holds rights to other urban land in Lesotho providing details to identify the land and the land use purposes already granted:

8. (i) Banker's reference is to be provided if the proposed development of the land is for commercial, industrial or housing estate purposes and the names of the applicant's bankers both in and outside Lesotho are to be given:

- (ii) Particulars of any recommendation which may have been obtained from any Government Ministry if the land required is for commercial or industrial purposes:

- (iii) Particulars of appropriate permits (copies to be enclosed) if land is required for a petrol station:-

- (iv) Proposed investment amount and details if expenditure of this amount is to be phased with information about nominal capital and paid-up capital to be invested in Lesotho:-

- (v) Are employment opportunities to be made available to Lesotho citizens and if so details of these with regard to any commercial or industrial undertaking:-

- (vi) Whether the applicant or other companies associated with the applicant has/have held rights to land at any time for similar land

use purposes in Lesotho or elsewhere providing details where necessary:-

(vii) If the answer to (vi) is in the affirmative whether the operations of the undertaking have ceased and, if so, why:-

Date: _____

Signature or Seal of Applicant

THIRD SCHEDULE

(Section 17)

FORM "C1"

Certificate of allocation

(Non-registrable title-Rural Area)

***delete where appropriate**

1. This is to certify that

Name of allottee

Address of allottee

of _____ has been granted an allocation of land which allows the allottee with effect from the date of this certificate to use or to use and occupy for _____ years.

Enter period of years if applicable

Describe the land
Enter situation of land
Approximate

area

The land known as _____

Approximate area

and situated at _____ with an area of about _____ for the purpose of _____

Enter purpose i.e. the approved use

- 2. A sketch plan or map of the boundaries of this land *is/is not attached and the land's dimensions measure as follows: -

Attempt to measure the boundaries

- 3. This allocation of land cannot be transferred, sold, given away or leased to any other person on the death of the allottee, *his/her lawful spouse may continue to use and occupy this land until *his/her own death.

Date Stamp

Signature of Chairman

Witnessed by _____ Signature of member of _____ Land Committee

Insert name of witness

THIRD SCHEDULE

(Sections 5(4) & 17(1))

FORM "C2"

Certificate of allocation

(Registrable title-Rural Area)

*delete where appropriate

- 1. This is to certify that _____

Name of allottee

_____ of

Address of allottee

has been granted an allocation of land which allows the allottee for a period only of six months from the date of this certificate to use and to use and occupy the land known as

_____ and situated at

_____ with an area of about for the purpose of

2. A sketch plan or map of the boundaries of this land *is/is not attached and the land's dimensions measure as follows:-

3. By operation of law, this allocation of land shall convert to a lease of land upon the allottee applying within a period of six months of the date of allocation i.e. the date of this certificate, to the Commissioner of Lands for a lease and upon failure to apply for the lease within this period of six months or any extended period this allocation of land shall be of no effect.

4. Conversion of this allocation to a lease occurs where the land use of the allocation of land is -

- (a) for commercial or industrial purposes;
- (b) for purposes of an ecclesiastical, benevolent, charitable or educational institution or public character;
- (c) for purposes of a hospital, clinic or dispensary;
- (d) for residential purposes;
- (e) for such other purposes as the Minister of Interior may, by order, declare.

5. This allocation of land cannot be transferred, sold, given away or leased to any other person unless a substitute lease of the land has been registered and on the death of the allottee before the lease issues, this grant determines.

6. A copy of this Form "C2" 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 Land
Committee

THIRD SCHEDULE

(Section 5 (4) & (27))

FORM "C3"

Certificate relating to a grant of title in an Urban Area

***delete where appropriate**

1. This is to certify that

of _____

Name of
grantee

Address of
grantee

has been granted *a lease/a licence and evidence of this title will be issued
by the Commissioner of Lands in the near future.

2. *This/licence will be of land known as

plot No. _____ situated in the
Registration District of _____ in the Town
or Urban Area _____

Entry plot
No. and other
details

*3. (1) The Lease will be subject to the Statutory Conditions provided in
the Land Act 1979 as well as the other conditions specified in either
the Notice advertising the plot or the Notice of Invitation to tender
and before execution of the lease document the intended lessee will
be required to pay the Commissioner of Lands the first year's
ground rent (if any), any premium assessed, stamp duty and
registration fees.

(2) The purpose of the lease will be

and the term of the lease will be

_____ years.

OR

*3. The licence will be subject to the undermentioned conditions and is determinable on three months' written notice.

(i) _____

(ii) _____

(iii) _____

4. A copy of this certificate has been sent to the grantee.

Date stamp

Signature of Urban Land Committee

THIRD SCHEDULE

(Section 16)

FORM "D"

Notice of appeal against a decision by land Committee

(*delete where applicable)

TO: The Chairman of the Land Committee

I

do HEREBY APPEAL in terms of section 16 of the Land Act 1979 against the decision of the Land Committee-

* (a) in refusing me the grant of title being an allocation of land for which I applied in writing in respect of land known as

_____ situated at

OR

*(b) to revoke * part or all of any allocation of land held by me either under Certificate of

Allocation No. _____

dated _____ or lawfully but without evidence of a written Certificate of Allocation.

2. My reasons for this appeal are as follows:-

Dated:- _____

Signature of Appellant or
Thumb print of Appellant

THIRD SCHEDULE

(Section 17 (2))

PART 1 OF CHAIRMAN'S REGISTER OF RURAL LAND ALLOCATION

Entry No.	D a t e o f G r a n t	N a m e o f A l l o t t e e	Cert. of Allo c. No.	Descr ipof Land use	Date of entr y	Sig. of Chairm an	Date of Rev oc	Date of Dero g	Date of Derog at and cross ref.	Date of death of Allott or expiry Alloc.	Is Decea sed spouse in occup. of land	Date of death of spous e	Date of Re- Alloc. and cross ref.

--	--	--	--	--	--	--	--	--	--	--	--	--	--

PART II OF CHAIRMAN'S REGISTER OF RURAL LAND ALLOCATIONS

PART II comprises signed copies of all the Certificates of Allocations which are granted by the Land Committee together with signed copies of written statements regarding revocations or derogations made by it. Written evidence of each revocation or derogation of title should be filed behind the copy of the Certificate of Allocation to which it refers.