

**CHAPTER 96**

**KOLA TENANCIES LAW**

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## CHAPTER 96

## KOLA TENANCIES LAW

**A Law to provide in certain cases for Extinction in Abakaliki and Afikpo, and in such other parts of Ebonyi State of Nigeria to which the Law may be applied, of certain Holdings of Land, commonly called Kola Tenancies.**

(1<sup>st</sup> October, 1935)

L. of N. 1948  
Cap. 98.  
N.L.N. 131 of  
1954.  
N.L.N. 47 of  
1955.  
L.E.N. Cap.  
69, 1963.

Short title  
and  
application.

1. (1) This Law may be cited as the Kola Tenancies Law.
- (2) This Law shall apply to Abakaliki and Afikpo and to such other parts of Ebonyi State of Nigeria as the Governor may by order apply it.

Interpretation.

2. In this Law:
  - "assessed compensation" means the compensation assessed under this Law;
  - "assessed purchase price" means the purchase price assessed under this Law;
  - "Commissioner" means the commissioner in charge of Lands.
  - "grantor" means a person or the head of a family who has granted a kola tenancy or his successor for the time being;
  - "improvements" means all work actually done on land or material used thereon by the expenditure of money or labour by the tenant or any predecessor in title, but in so far only as the effect of such work done or material used is to increase the value of the land and the benefit thereof is unexhausted at the time of the assessment of any purchase price or compensation under this Law;
  - "kola tenancy" and "tenancy" mean a right to the use and occupation of any land which is enjoyed by any person in virtue of a kola or other token payment made by such person or any predecessor in title or in virtue of a grant for which no payment in money or in kind was exacted;
  - "record book" means the record book required to be kept by a Local Government under section 22;
  - "Local Government" means the administrative officer in charge of a province;

"tenant" means a person having the right to the use or occupation of any land under a kola tenancy;

"the rights of the grantor" with reference to any kola tenancy means the rights in the land of the grantor or of the family of which the grantor is the head, as the case may be;

"the rights of the tenant" with reference to any kola tenancy includes the right of the tenant under such tenancy, and the rights and obligations of the tenant in respect of any interests in the land granted during the tenancy by him or any of his predecessors in title to any other persons;

"tribunal" means the tribunal constituted under section 4 for a Local Government or the Urbans of Abakaliki and Afikpo or others part of a Local Government.

3. This Law shall apply to any kola tenancy:

(a) where the tenant or any predecessor in title has granted interest in the land which is the subject of the tenancy to any person for a consideration other than a token payment, such interests being still subsisting; and

(b) where it is reasonable to suppose that the payments in money or in kind which are made to the tenant, or will be due to him, in respect of such interests constitute a benefit more substantial than the grantor at the time of the grant anticipated that the tenant would derive from the grant of any such interests in the land.

Kola tenancies to which Law applies.

4. (1) The Chairman in charge of any Local Government or any part thereof to which this Law applies sitting with any two persons appointed by the Commissioner as assessors shall constitute the tribunal for the Local Government or such part thereof for the purposes of this Law.

(2) The opinion of each assessor shall be given orally, and shall be recorded in writing by the Local Government, but the decision of the tribunal shall be vested exclusively in the Local Government. Any assessor dissenting from any decision of the tribunal may have his dissent and the grounds thereof recorded in the record book.

(3) Subject to the provisions of this Law, the tribunal may follow such procedure as it may deem expedient.

Constitution and powers of tribunal.

- (4) The tribunal shall have all such powers, rights and privileges as are vested in the High Court or in any judge thereof, on the occasion of any action, in respect of the following matters:
- (a) the enforcing of the attendance of witnesses and examining them on oath, affirmation, or otherwise;
  - (b) the compelling of the production of documents;
  - (c) the punishing of persons guilty of contempt,
- and a summons signed by the Local Government may be substituted for and shall be equivalent to any formal process capable of being issued in any action for enforcing the attendance of witnesses and compelling the production of documents.

5. (1) The grantor of any kola tenancy to which this Law applies may:
- (a) if such land is situated within the urban council of Abakaliki and Afikpo, within twelve months of the commencement of this Law; or
  - (b) if the land is situated within any Local Government or part thereof, other than the urban council of Abakaliki and Afikpo, to which this Law applies, within twelve months of the application of the Law to such Local Government or part thereof,
- apply to the Local Government Secretary for the extinction of the tenancy under the provisions of this Law.
- (2) The application shall give the following particulars:
- (a) the name and address of the grantor;
  - (b) the name and address of the tenant;
  - (c) the situation of the land;
  - (d) the area of the land;
  - (e) a description of the land;
  - (f) the date of the grant;
  - (g) the terms of the grant;
  - (h) such information as the grantor may have of the interests granted by the tenant or his predecessors in title and of the payments made or which will be due to the tenant in respect of such interests.

Application by grantor of a kola tenancy to which this Law applies for the extinction of the tenancy

(3) The application may be in writing or may be made verbally to the Local Government Secretary or to such person as the Local Government Secretary may authorize to receive it. Where the application is made verbally the Local Government Secretary shall cause it to be reduced into writing.

6. (1) The Local Government Secretary shall send a copy of the application to the tenant and shall require the tenant to furnish him within such time, not being less than two months, as the Local Government Secretary may specify with a statement of the following particulars:

Procedure on receipt of application.

- (a) the persons, if any, to whom the tenant has granted any interests in the land, the nature of such interests and the consideration for which the same were granted;
- (b) particulars of the buildings, if any, upon the land and the persons by whom the same were erected;
- (c) particulars of any other improvements effected on the land since the grant and the persons by whom the same were effected;
- (d) the amount which he is prepared to pay in respect of a transfer to him under section 14 of the rights of the grantor;
- (e) the amount of compensation which he would claim in respect of a transfer of his rights under section 15.

(2) The statement required by the preceding subsection may be in writing or may be given verbally to the Local Government Secretary or to such person as the Local Government Secretary may authorize to receive it. The Local Government Secretary shall cause any verbal statement to be reduced into writing.

7. (1) Where a tenant fails to furnish the Local Government Secretary within the time fixed under section 6 with a statement substantially complying with the requirements of the said section the rights of the tenant shall on the expiration of the said time or any extension thereof (for which extension the Local Government Secretary is hereby

Consequence of failure by tenant to furnish statement.

required to give the tenant an opportunity of applying) be deemed to be transferred to the grantor or to the family of which the grantor is the head, as the case may be.

- (2) The decision as to whether or not a statement substantially complies with the requirements of section 6 shall rest with the Local Government Secretary, but the Local Government Secretary shall not find that the statement does not substantially comply with the requirements of the said section without first giving the tenant an opportunity of being heard. The Local Government Secretary shall enter in the record book every decision given by him under this subsection. The tenant may within thirty days from the date of the decision appeal therefrom to the High Court.

Notifications to be given by Local Government Secretary on receipt of tenant's statement.

8. (1) Where a tenant has within the time fixed under section 6 furnished the Local Government Secretary with a statement in respect of his tenancy which substantially complies with the requirements of the said section, the Local Government Secretary shall supply a copy of the statement to the grantor.
- (2) The Local Government Secretary shall also notify the grantor and the tenant of the place and time at which the tribunal will hold an inquiry:
- (a) and determine whether or not the tenancy is one to which this Law applies; and
- (b) if the tribunal finds that it is, assess:
- (i) the amount which should be paid by the tenant in respect of a transfer to him under section 14 of the rights of the grantor; and
- (ii) the amount of compensation which should be paid by the grantor to the tenant in respect of a transfer under section 15 of the rights of the tenant to the grantor or the family of which the grantor is the head, as the case may be.

Holding of inquiry.

9. The tribunal shall hold such inquiry at the place and time notified under subsection (2) of the last preceding section accordingly:

Provided that the Local Government Secretary may at any time adjourn the inquiry to a future day, and to the same or another place, as he shall think fit, and shall notify the grantor and the tenant or their representatives accordingly.

Assessment of purchase price.

10. In assessing any purchase price the tribunal shall have regard to the present value of the land, including the value of any rents or other advantages which the tenant may derive from the grants made by him or his predecessors in title of interests in the land to other persons, but excluding the value of any improvements effected on the land by the tenant or his predecessor in title.

Assessment of purchase price as a series of installments.

11. Where the tribunal assesses the purchase price it may also, if it thinks fit, assess the purchase price as a series of installments and fix the periods from the date on or before which the tenant may elect under section 13 to pay such installments instead of paying the amount referred to in paragraph (b) (i) of subsection (2) of section 8.

Assessment of compensation.

12. In assessing any compensation the tribunal shall have regard to the improvements effected on the land by the tenant or his predecessors in title, and to the value of any rents or other advantages which the tenant may derive from the grants made by him or his predecessors in title of interests in the land to other persons, but shall not otherwise have regard to the value of the tenancy.

13. (1) When the tribunal has assessed the amounts referred to in subsection (2) of section 8 the Local Government Secretary shall call upon the tenant to notify him within such period as the Local Government Secretary may fix whether he desires:

Elections to be made by tenant.

(a) to pay the assessed purchase price in consideration of the transfer to him of the rights of the grantor; or

(b) to receive the assessed compensation in consideration of the transfer of the rights of the tenant to the grantor or to the family of which the grantor is the head, as the case may be.

(2) If the tribunal has assessed the purchase price both as one amount and also as a series of installments the Local Government Secretary shall also require the tenant, in the event of the tenant electing under subsection (1) to pay the assessed purchase price, to notify him within the period fixed under the said subsection whether he elects to pay the assessed purchase price in one amount or in installments. If the tenant fails to notify the Local Government Secretary within the said period he shall be deemed to have elected to pay the assessed purchase price in one amount. If the tenant elects to pay the assessed purchase price in one amount the Local Government Secretary shall fix the date on or before which the tenant shall pay the same and shall notify the tenant accordingly.

Effect of payment of assessed purchase price by tenant.

14. If within the period fixed under section 13 the tenant shall have notified the Local Government Secretary that he desires to pay the assessed purchase price, and if on or before the date fixed for the payment of the assessed purchase price the tenant shall pay such price to the grantor, or, where the tenant has elected to pay such price by installments, he shall pay all such installments on or before the several dates on which they are due, then the rights of the grantor shall, on the date fixed for the payment of the assessed purchase price or for the payment of the last of the installments thereof, as the case may be, be deemed to be transferred to the tenant.

Effect of failure by tenant to pay assessed purchase price and payment of assessed compensation by grantor.

15. If the tenant shall not within the period fixed under section 13 have notified the Local Government Secretary that he desires to pay the assessed purchase price, or if the tenant shall fail to pay the assessed purchase price on or before the date upon which the same is due or, where such price is payable by installments, shall fail to pay any installment on or before the date upon which such installment is due, and the grantor pays the assessed compensation to the tenant by such date as the Local Government Secretary may fix, the rights of the tenant shall on such date be deemed to be transferred to the grantor or to the family of which the grantor is the head, as the case may be.



16. If:
- (a) the rights of the grantor do not become transferred to the tenant under section 14; and
  - (b) the rights of the tenant do not become transferred to the grantor or to the family of which the grantor is the head, as the case may be, under subsection (1) of section 7 or under section 15,
- then the rights of the grantor shall be deemed to be transferred to the tenant on the expiration of a period of five years from the date fixed by the Local Government Secretary under section 15 for the payment by the grantor of the assessed compensation.
17. Where the tenant has paid a part of the assessed purchase price in installments but has failed to pay all the installments on or before the several dates fixed for the payment thereof, the tribunal may direct that such part of the sum so paid in installments as it may think fit shall be added to and be deemed to be a part of the assessed compensation for the purposes of sections 15 and 16.
18. The Local Government Secretary may extend the time fixed by this Law or by the Local Government Secretary or tribunal for doing any act or thing, either before or after the expiration thereof, and where the Local Government Secretary has exercised this power in respect of any time so fixed then for any reference in this Law to such time there shall be deemed to be substituted a reference to such time as extended by the Local Government Secretary.
19. (1) If the grantor or the tenant is dissatisfied with any determination or assessment of the tribunal on the conclusion of any inquiry held under section 9, he may appeal to the High Court in the same manner and subject to the same restrictions and conditions, as near as may be, as if the appeal was an appeal from a magistrate's court to the High Court in a civil cause or matter, and all the provisions of any Law relating to such appeals shall apply.
- (2) If the grantor or the tenant is dissatisfied with the decision of the High Court on any such appeal he may appeal to the Court of Appeal in the same manner and subject to the same restrictions and conditions, as near as may be, as if the decision given by the High Court was a decision given on an appeal from a magistrate's court, and all the provisions of any Law relating to such appeals shall apply.

Effect of non-payment of assessed purchase price and assessed compensation.

Power of tribunal to add to the assessed compensation part of instalments paid by defaulting tenant

Power of Local Government Secretary to extend time.

Rights of appeal.

(3) In connection with any appeal under either of the preceding subsections the High Court or the Court of appeal as the case may be, shall have all the powers with regard to extending the time fixed by this Law or by the Local Government Secretary or tribunal for doing any act or thing which are conferred upon the Local Government Secretary by section 18.

Determination  
of proceedings  
by consent.

20. Where at any time between the grantor's application and the transfer under this Law of any interest in the land which is the subject of the kola tenancy both the grantor and the tenant notify the Local Government Secretary that they do not desire that any further proceedings shall be taken under this Law, all such proceedings shall thereupon finally determine and the provisions of this Law shall be deemed to have no further effect with regard to the kola tenancy.

Payments to be  
made through  
Local  
Government  
Secretary.

21. Every payment of assessed purchase price or assessed compensation under this Law shall be made through the Local Government Secretary, and no payment made otherwise shall be deemed to be a discharge of the liability unless the party to whom the payment was due shall admit to the Local Government Secretary that the payment has in fact been made.

Record book.

22. The Local Government Secretary shall keep a book, in this Law referred to as the record book, in which he shall keep or cause to be kept a record of all proceedings by him or the tribunal, and of any decision of the High Court or the Court of Appeal under this Law, and in which he shall record the evidence taken in any proceedings for the assessment of any purchase price or compensation and any transfer of rights effected under this Law.

Supply to  
Principal Lands  
Officer of  
copies of  
records of  
proceedings.

23. The Local Government Secretary shall supply the Principal Lands Officer with a copy of the record in the record book of any proceedings under this Law, other than the record of evidence taken in connection with the assessment of any purchase price or compensation.

Head of family  
receiving assessed  
purchase price to  
distribute same.

24. Where a grantor who is the head of a family receives any sum as the assessed purchase price under this Law he shall distribute the same to the persons entitled thereto.

- 25. A certificate purporting to be under the hand of the Local Government Secretary as to any matter or thing done by the tribunal or the Local Government Secretary or by any tenant or grantor, or as to any transfer of rights effected under this Law, and of the date upon which the same was done or effected, shall be *prima facie* evidence of the matter or thing or transfer having been done or effected and of such date. Evidence of proceedings under Law.
  
- 26. The Commissioner may make regulations for the better carrying out of the provisions of this Law. Power to make regulations.