

GOVERNMENT NOTICE NO. 75 published on 4/5/2001

THE LAND ACT
(No. 4 OF 1999)

THE LAND (SMALL MORTGAGES) REGULATIONS,
2001

(Made under sections 114 and 179)

Citation 1. These Regulations shall be cited as the Land (Small Mortgages) Regulations 2001.

Interpretation 2. In these regulations, unless the context otherwise requires -

"Act" means the Land Act 1999;

"authorized officer" has the meaning ascribed to it by the Act;

"Commissioner" means the Commissioner for Lands;

"Minister" means the Minister responsible for lands;

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"small mortgage" means a mortgage for a term not exceeding three years and for a sum not greater than five hundred thousand shillings.

3. No small mortgage shall have a term exceeding three years. Term

4. No small mortgage shall secure a sum of money greater than five hundred thousand Shillings, unless there is an order by the Minister to change that sum. Maximum sum

5-(1) The Commissioner shall have a duty to advise the Minister on the possibility to change the maximum sum under a small mortgage. Consultation:

(2) A body or organization which represent interests of bankers or lenders on security of mortgage shall have duty to advise the Minister on the possibility to change the maximum sum under a small mortgage

6-(1) Every instrument for a small mortgage shall provide for the following matters - Instrument of a small mortgage

- (a) name of the borrower;
- (b) name of the lender;
- (c) description of the land which is the subject of the mortgage;
- (d) description of developments on the land, if any, and if non so to state;
- (e) nature of interest in the land -
 - (i) Right of occupancy; or
 - (ii) Lease;

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- (f) whether the interest is registered or not, if registered, reference number(s) of registration;
 - (g) the sum secured under the small mortgage including an overdraft, existing or a future or contingent debt;
 - (h) the need for a memorandum in case of reducing or increasing secured amount under the small mortgage;
 - (i) payable interest rate under the small mortgage and the requirement for not less than thirty days notice upon revision.
- (2) Other conditions include -
- (a) the lender to give a copy of the small mortgage instrument to the borrower's spouse(s) where the borrower is married and any other person with an obligation under the mortgage;
 - (b) a statement that the small mortgage does not operate as a transfer of the right of occupancy or lease, as the case may be, but takes effect as security only;
 - (c) priority or ranking according to order of registration;
 - (d) tacking or further advances or credit on a current or continuing account;
 - (e) the need for the lender's consent to any disposition affecting the security;
 - (f) the duty for the borrower to pay the principal sum and interest on the agreed day;
 - (g) default notices;
 - (h) remedies available to the lender upon borrower's default;
 - (i) manner of calculating interest on the principal sum and time or dates when interest shall be deemed due or to have accrued;
 - (j) the borrower's duty to maintain the security in good condition and repair;

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- (k) the borrower's duty to pay all outgoings such as rent, rates, taxes, duties and levies;
- (l) the lender's right to inspect the mortgaged land or property;
- (m) the borrower's equitable right of redemption.

7. Every borrower shall have a duty to notify the Commissioner or authorised officer the intention to carry out a small mortgage. Notification:

8. For avoidance of doubt, the following are the only remedies for which the lender is required to obtain an order of the court if exercised Protections

- (a) appointment of a receiver of income of the mortgaged land;
- (b) leasing the mortgaged land or subleasing of the mortgaged lease;
- (c) entering into possession of mortgaged land.

9. Unless otherwise expressly declared, customary mortgages shall be governed by customary law. Customary mortgages

Dar es Salaam,
3rd May, 2001

G. CHEYO,
*Minister for Lands and
Human Settlement Development*