



Tuvalu

NEGLECTED LANDS ACT

2008 Revised Edition

CAP. 46.24



Tuvalu

NEGLECTED LANDS ACT

Arrangement of Sections

Section

1	Short title.....	5
2	Interpretation.....	5
3	Purchase of neglected land by agreement.....	5
4	Compulsory acquisition of neglected land in certain circumstances	6
5	Owner of the land may be required to show cause why the land is not neglected land	6
6	Owner of land found to be neglected to be required to ensure the utilisation thereof.....	6
7	Owner of land found to remain neglected to show cause why land should not be compulsorily acquired.....	7
8	Order by the Minister for acquisition of land and assessment of compensation	7
9	Constitution of the lands court when hearing proceedings under this Act	7
10	Matters to be considered in determining compensation.....	8
11	Service of notice	8
12	Decision in absence of owner	9
13	Penalty for hindering the taking possession of land	9
14	Native land to remain so	9
15	Sale of land to indigent natives.....	9
16	Advertisement of sale	9
17	Method of sale	10
18	Alienation of land to local government council.....	10
19	Payment	11
20	Power to re-take possession of land sold to indigent natives.....	11

SCHEDULE

12

FORM A - NOTICE TO SHOW CAUSE WHY LAND IS NOT
NEGLECTED LAND

12

FORM B - NOTICE REQUIRING UTILISATION OF NEGLECTED LAND	12
FORM C - NOTICE TO SHOW CAUSE WHY NEGLECTED LAND SHALL NOT BE COMPULSORILY ACQUIRED	13

Supporting Documents

ENDNOTES	13
-----------------	-----------



Tuvalu

NEGLECTED LANDS ACT

AN ACT TO PROVIDE FOR THE PURCHASE OF NEGLECTED LAND AND TO REGULATE THE SALE THEREOF TO INDIGENT NATIVES¹

Commencement [25th June 1959]

1 Short title

This Act may be cited as the Neglected Lands Act .

2 Interpretation

In this Act unless the context otherwise requires —

“**indigent native**” means a native, who, in the opinion of the Minister, has insufficient land for the sufficient support of himself and his family;

“**lands court**” means the lands court, established by the Native Lands Act,² which has jurisdiction in the area in which any land to which the provisions of this Act apply is situated;

“**native land**” means land owned by a native;

“**neglected land**” means land suitable for agricultural use which is not being fully and efficiently utilised for agricultural purposes;

“**owner**” means, in relation to any land, the person who is registered in respect of such land in the register of native lands, maintained by a lands court under the provisions of the Native Lands Act, as being the owner thereof.

3 Purchase of neglected land by agreement

The Minister may purchase by agreement with the owner any land which is, in the opinion of the Minister, neglected land, for the settlement of indigent natives thereon

or for alienation by sale or gift to a local government council whether the land is within or without or partly without the area of authority of the council.

4 Compulsory acquisition of neglected land in certain circumstances

- (1) If the Minister desires to purchase any land which is in his opinion neglected land for sale to indigent natives, or for alienation by sale or gift to a local government council whether the land is within or without or partly without the area of authority of the council, he shall cause such inquiries as appear to him to be reasonable to be made to ascertain the whereabouts of the owner of such land.
- (2) If, within 6 months from the institution of inquiries made in accordance with the provisions of subsection (1), it appears to the Minister —
 - (a) that, although the whereabouts of the owner of the land concerned have been ascertained, it is not possible to conclude any suitable agreement with him for the purchase of such land; or
 - (b) that he is not within Tuvalu; or
 - (c) that his whereabouts cannot be ascertained in spite of such inquiries,the Minister may acquire such neglected land compulsorily in accordance with the provisions of this Act .

5 Owner of the land may be required to show cause why the land is not neglected land

Whenever the Minister considers that circumstances exist which may justify the acquisition of any land under the provisions of section 4 he shall direct the Lands Officer to serve upon the owner thereof a notice in Form A in the Schedule or to like effect requiring such owner to attend before the lands court at the time specified in such notice and to show cause why such land is not neglected land.

6 Owner of land found to be neglected to be required to ensure the utilisation thereof

Unless any owner served with a notice in Form A in accordance with section 5 establishes to the satisfaction of the lands court that the land specified in such notice is not in fact neglected land the lands court shall cause to be served upon him a notice in Form B in the Schedule requiring utilisation of such land forthwith and the continued utilisation thereof for agricultural purposes for the period of 5 years next succeeding the date of service of such notice.

7 Owner of land found to remain neglected to show cause why land should not be compulsorily acquired

- (1) The lands court shall cause a representative to inspect such land at the expiration of one year from the date of the service of the notice in Form B pursuant to the provisions of section 6 and at such other times during the aforementioned period of 5 years from such date as it may deem expedient or should be directed by the Minister, and if upon such inspection it shall appear to such representative that compliance is not being made with the requirements contained in the aforementioned notice he shall so report to the lands court which court shall thereupon cause a notice in Form C of the Schedule to be served on the owner of such land requiring him to appear before such lands court on the day specified in such notice and to show cause why such land should not be acquired by the Minister compulsorily in accordance with the provisions of this Act .
- (2) The owner shall be deemed to show sufficient cause within the meaning of subsection (1) if he satisfies the lands court that he has made reasonable agricultural use of the land in question in accordance with the requirements contained in the notice in Form B issued in respect of such land or that he has failed so to do for reasons beyond his control.

8 Order by the Minister for acquisition of land and assessment of compensation

- (1) If the owner fails to show cause why the land should not be acquired by the Minister by compulsory purchase as neglected land, the Lands Officer shall report to that effect to the Minister, who shall thereupon order that the land be compulsorily acquired and that the amount of compensation due, if any, shall be determined by the lands court.
- (2) Upon the making of such order and whether or not the amount of compensation due, if any, has been determined the Minister and all persons authorised by him shall be entitled to enter and take possession of such lands accordingly.
- (3) The lands court shall have jurisdiction to hear and determine all questions of compensation upon summons directed to the owner of the land so acquired.

9 Constitution of the lands court when hearing proceedings under this Act

The constitution of and procedure in any lands court when hearing proceedings under this Act shall be as prescribed in Part IV of the Native Lands Act, save that the following provisions shall apply —

- (i) the Lands Officer or another public officer designated by him to act on his behalf shall preside;

- (ii) the vote of the officer presiding over the lands court shall be the decision of the court as to the amount of compensation to be paid; and where this vote is not in accordance with the majority vote of the members of the lands court, their dissent shall be recorded;
- (iii) the officer presiding over the lands court in reporting the decision of the court to the Minister shall, in this event, forward a true copy of the record of the proceedings including this dissent;
- (iv) after perusal of the record the Minister may set aside, confirm or modify the decision of the lands court as to compensation and shall communicate his decision to the court, which decision shall be entered on the record as the decision of the court.

10 Matters to be considered in determining compensation

In determining the amount of compensation to be awarded for land acquired under this Act, the lands court shall take into consideration —

- (i) the market value of the land at the date of the notice to show cause why the land is not neglected; and if a market value does not exist on any island then the court shall have regard to the value of the land as based on the fertility classification of the land as graded in the records of the lands court;
- (ii) the damage sustained by the owner by reason of the taking of any standing crops or trees which may be on the land at the time of taking possession thereof;
- (iii) if in consequence of the acquisition of the land, the owner is compelled to change his residence or place of business, the reasonable expenses, if any, incidental to such change.

11 Service of notice

- (1) Every notice or summons required or authorised to be served upon any person by or under this Act may be served by delivering the same to him personally.
- (2) Whenever any notice or summons is required or authorised by or under this Act to be served upon any person who is known to be resident at an address upon any island within Tuvalu other than that upon which the lands the subject matter of the notice of summons are situated, such notice or summons may be served by forwarding the same by registered post to such person at such address; and, unless such notice or summons is returned to the sender as undelivered, it shall be deemed to have been served at the time when it would have been delivered to the address to which it was sent in the normal course of the post:

Provided however that whenever any such notice or summons is forwarded in accordance with the provisions of this subsection, copies of such notice or

summons shall be served on the occupier of any of the lands the subject thereof and upon any one adult person resident upon the island upon which such lands are situate known to be a relative of the original addressee:

Provided further, if no such occupier or relative be known or is found, a copy of any such notice or summons shall be affixed to a conspicuous part of such lands.

- (3) If it is impracticable to serve any notice or summons required or authorised to be served by or under this Act in accordance with either subsection (1) or subsection (2), service thereof shall be effected in such manner as the lands court having cognisance of the matter shall direct.

12 Decision in absence of owner

Where any person upon whom a notice or summons has been or is deemed to have been served does not appear at the time appointed, a decision may be given in his absence and such decision shall be as effectual as if given after a hearing in the presence of such person.

13 Penalty for hindering the taking possession of land

Every person who wilfully hinders or obstructs any person duly authorised by the Minister from entering upon or taking possession of or using any land in pursuance of the provisions of this Act, or who molests, hinders, or obstructs such person when in possession of such land, or molests, hinders or obstructs any officer of the lands court when making any inspection of the land or serving any notice or summons, shall be liable to imprisonment for 3 months and to a fine of \$50.

14 Native land to remain so

Native land acquired by the Crown under this Act shall not cease to be native land for the purposes of the Native Lands Act by virtue of that acquisition or of its subsequent alienation to a kaupule, notwithstanding the definition thereof in that Act.

15 Sale of land to indigent natives

Where land has been acquired under this Act for sale to indigent natives it shall be offered for sale to such persons in accordance with sections 16 and 17.

16 Advertisement of sale

The Lands Officer shall, on instruction from the Minister, advertise, in such manner as the Minister may direct, that it is proposed to sell any land acquired under this

Act for sale to indigent natives either privately or with or without reserves by public auction which auction shall be held at a specified date and place.

17 Method of sale

- (1) Any land acquired under this Act for sale to indigent natives may be sold either privately or by public auction as the Lands Officer may decide, to any indigent native at any price not greater than the sum for which the Minister acquired the land from the owner:

Provided that the Lands Officer may, at any time before the name of the purchaser has been registered in the appropriate lands court as the new owner, cancel any sale —

- (a) if he is satisfied that the purchaser is not an indigent native; or
 - (b) if the purchaser and the Lands Officer cannot agree as to methods of payment or as to security for payment.
- (2) Upon the cancellation of any sale in accordance with the provisions of the preceding subsection, the purchaser shall have no right, title or interest whatsoever in the land the subject of such sale nor shall he be entitled to claim or recover any redress whatsoever other than the return of any moneys paid for or on account of purchase moneys.
- (3) The Lands Officer may, either immediately upon or at any time after the cancellation of any sale as aforesaid resell the lands the subject of the cancelled sale to any indigent native (other than the purchaser under such cancelled sale), either by public auction or by private treaty, at any price not exceeding the price paid by the Minister on its acquisition.
- (4) Every re-sale made upon the cancellation of any sale or re-sale under the provisions of this Act shall be deemed a sale liable to cancellation under subsection (1).
- (5) Where at any sale by auction held under the provisions of this section bids are made by more than one person at a price amounting to the maximum price at which the land concerned is permitted to be sold, under the provisions of this section, the Minister acting in his discretion may determine which of the persons making such bids has the greatest need of the land concerned and may direct that the bid made by the person so determined shall be accepted.

18 Alienation of land to local government council

Where land acquired under this Act for alienation to a local government council has been alienated to the council the council may —

- (a) use the land for the purpose of any of its functions under the Local Government Act or any other Act ;

- (b) with the consent of the Minister in writing first obtained alienate the land whether by sale, gift, lease or otherwise:

Provided that where by virtue of section 14 the land is native land for the purpose of the Native Lands Act, it shall not be alienated otherwise than in accordance with that Act.

19 Payment

- (1) Payment for land sold shall be made either immediately at the time of the sale or by instalments payable over such a period of time and subject to such security for payment as the Minister may think fit, having regard to individual and local circumstances.
- (2) As soon as may be after the date of the sale the name of the purchaser of the land sold shall be registered in the appropriate lands court as the owner thereof.
- (3) In addition to the purchase price, every purchaser shall pay by way of satisfaction of the costs of administering this Act, a fee of 50 cents for every acre of land sold, which shall be payable either immediately or by instalments as the Minister may think fit.

20 Power to re-take possession of land sold to indigent natives

- (1) If the lands court is satisfied on application made by or on behalf of the Minister —
 - (a) that at any time within 25 years of a sale to an indigent native the land remains neglected or has again become neglected by the purchaser or by his successor in title; or
 - (b) that the purchaser or his successor in title has failed, without reasonable excuse, to pay any instalment when due,it may by order in writing authorise the Minister or his representative to re-take possession of such land.
- (2) On making any such order the lands court may direct the Minister to refund to the purchaser or to his successor in title the purchase price in whole or in part.
- (3) Where possession has been taken on behalf of the Minister the title of the purchaser or of his successor in title shall immediately cease and determine and an entry to this effect shall be made in the records of the appropriate lands court.
- (4) At any time after resumption of possession thereof the land may again be offered for sale as neglected land under this Act.

SCHEDULE**FORM A - NOTICE TO SHOW CAUSE WHY LAND IS NOT NEGLECTED LAND***(Section 5)***NEGLECTED LANDS ACT****To**

Notice is hereby given that the following lands (describe lands by section, name and number and plot number or by giving measurements and showing boundaries whenever practicable) are believed to be neglected lands and that it is proposed to acquire them for the settlement of indigent natives thereon or for transfer to a local government council. You are hereby required to attend the Lands Court onIsland ato'clock in thenoon onthe.....day ofto show cause why the said land is not neglected land.

Dated atthisday of20.....

.....
Lands Officer

FORM B - NOTICE REQUIRING UTILISATION OF NEGLECTED LAND*(Section 6)***NEGLECTED LANDS ACT****To**

Whereas you have failed to show cause why the land (describe land giving section, name, number and plot number or by measurements and show boundaries whenever practicable) is not neglected land.

Take notice that you are hereby required within the period of one year from the date hereof to commence to utilise the land in the manner described in the Schedule hereto and in default the land will be acquired by compulsory purchase by the Minister for the settlement of indigent natives thereon, or for transfer to a local government council.

This Notice will remain in force for 5 years from the date hereof and if during that time the said land is found to be neglected it may be acquired under the Act without any further notice in this form being issued to you.

Dated at.....the.....day of20.....

.....
President of the Lands Court

FORM C - NOTICE TO SHOW CAUSE WHY NEGLECTED LAND SHALL NOT BE COMPULSORILY ACQUIRED

(Section 7)

NEGLECTED LANDS ACT

To

Whereas on the Islandof a representative of the Lands Court inspected the land (describe land by section, name or number and plot or by giving measurements and showing boundaries whenever practicable) on the..... day of.....: 20and found that the requirements specified in the notice dated theday of20have not been complied with.

You are hereby required to attend the Lands Court on..... Island ato'clock in thenoon on theday ofto show cause why the said land shall not be acquired as neglected land under the Act .

Dated at..... theday of 20.....

.....
President of the Lands Court.

ENDNOTES

¹ 1990 Revised Edition, Cap. 23 - Acts 1 of 1959, 6 of 1969, 8 of 1971, 9 of 1971, 11 of 1971, 20 of 1974

² Cap. 46.20