

THE UNITED REPUBLIC OF TANZANIA



No. 38 OF 1966

I ASSENT,

*Julius K. Nyerere*  
President

4TH AUGUST, 1966

**An Act to repeal the Upanga Area (Planning and Development) Ordinance and to make certain consequential provisions**

[5TH AUGUST, 1966]

ENACTED by the Parliament of the United Republic of Tanzania.

1. This Act may be cited as the Upanga Area (Planning and Development) Ordinance (Repeal) Act, 1966. Short title
2. In this Act, unless the context otherwise requires, "principal Ordinance" means the Upanga Area (Planning and Development) Ordinance. Interpretation  
Cap. 283
3. The principal Ordinance is hereby repealed. Repeal of  
Cap. 283
4. The scheme approved under the provisions of section 14 of the principal Ordinance shall, from the date of coming into operation of this Act, have effect as if it were a scheme prepared and taking effect under the provisions of Part III of the Town and Country Planning Ordinance. Saving of  
the Upanga  
Area  
planning  
scheme  
cap. 378
- 5'(1) Notwithstanding the repeal of the principal Ordinance and without prejudice to the provisions of section 10 of the Interpretation and General Clauses Ordinance, it is hereby declared that: - Transitional  
Cap 1
  - (a) where at the commencement of this Act any act required to be performed or any endorsement or entry required to be made by the Registrar of Titles, the Registrar of Documents or the Commissioner for Lands under the provisions of section 18 or 19 of the principal Ordinance has not been performed or made; the same may be performed or made as if this Act had not been enacted;

(b) where after the commencement of this Act the Registrar of Titles, the Registrar of Documents or the Commissioner for Lands acting under the provisions of paragraph (a) of this subsection performs any act or makes any endorsement or entry, any person affected thereby shall have all the rights and remedies conferred upon or made available to him by the principal Ordinance as if this Act had not been enacted;

1(c), where at the commencement of this Act any notice of apportionment of expenses has been served upon any owner of any premises in accordance with the provisions of section 41 or 46 of the principal Ordinance, such owner shall have all the rights and remedies conferred upon or made available to him by the principal Ordinance as if this Act had not been enacted; and

(d) where a right or privilege accrues or is acquired after the commencement of this Act by virtue of the provisions of this subsection, such right or privilege may be enforced in the manner provided for in the principal Ordinance as if this Act had not been enacted.

(2) In this section "Registrar of Documents" and "Registrar of Titles" shall have the same meanings as are ascribed to those terms respectively in the principal Ordinance.

The Third Schedule to Cap.378 amended 6. The Town and Country Planning Ordinance is hereby amended in the Third Schedule thereof: -  
 (a) by renumbering paragraph I as paragraph IA and adding immediately above it the following new paragraph - -

"I. In this Schedule unless the context otherwise requires-

'plot or holding in private ownership, occupation or possession' includes any plot or holding held for a Government lease by virtue of the provisions of the Freehold Titles (Conversion) and Government Leases Act, 1963;

'registered' means registered under the Land Registration Ordinance or any written law amending or replacing the same and the word 'unregistered' means not so registered;

'Registrar of Documents' means the Registrar of Documents appointed under section 3 of the Registration of Documents Ordinance and includes any person authorized by law to act, in his behalf;

"Registrar of Titles' means the Registrar of Titles appointed under section 3 of the Land, Registration Ordinance and includes any person authorized under that Ordinance, to act in his behalf. and

(b) by deleting paragraph 11 and Substituting therefor the following new paragraphs: -

"11. On the approval of the scheme by the Minister under section 33 he shall as soon as may be finish-

- (a) to the Registrar of Titles particulars in writing of each registered plot or holding which immediately -prior to the publication of the notification under section 33 was in private ownership, occupation or possession, and which is pooled under the detailed scheme, together with particulars of the plot or holding to be substituted for the same under the detailed scheme;
- (b) to the Commissioner for Lands particulars in writing of each plot or holding pooled under the detailed scheme which immediately prior to the. publication of the notification under section 33 was, held —
  - (i) under a valid and subsisting right of occupancy which is registered; or
  - (ii) under a valid and subsisting right of occupancy which is unregistered; or
  - (iii) under no valid title,

stating in respect of each such plot or holding-

- (A) how the same is held;
- (B) in the case of a right of occupancy, what plot or holding is to be substituted for the same under the approved scheme;
- (C) in the case of a plot or holding of a kind mentioned in sub-paragraph (iii) of. this, paragraph, the recommendations of the Minister, if any, with regard to the granting of a right of occupancy in substitution for such plot or holding.

12.-(I) As soon as may be after receipt of the particulars mentioned in sub-paragraph (a) of paragraph 11 of this Schedule the Registrar of Titles shall, unless in any case he is precluded by any law other than this Ordinance from so doing, prepare new certificates of title for issue to each registered owner of a plot or holding which is pooled under the detailed scheme in order that such registered owner may hold the plot or holding to be substituted for the same under such detailed scheme for the same interests and subject to the same terms and conditions for and on which he held the plot or holding which was so pooled.

(2) When a new certificate 'of title has been prepared for issue to any person -under the detailed scheme the Registrar of Titles shall issue a notice in writing to such person intimating that, such new certificate of title has been prepared and is ready to be, delivered to him and calling upon him to deliver up to the Registrar of Titles for cancellation the document or documents of title in lieu of which the new

certificate of title is to be issued; and upon receipt of such document or documents of title from such person the Registrar of Titles shall deliver to him the new certificate of title:

Provided that the Registrar of Titles may in his discretion issue the certificate of title without having received the document or documents of title required by this sub-paragraph to be delivered up.

(3)-(a) When it comes to the knowledge of the Registrar of Titles that any document or documents of title required to be delivered up by any person under sub-paragraph 2 of this paragraph is or are in the possession or under the control of another person the Registrar of Titles may by notice in writing call upon such other person to deliver up to him for cancellation such document or documents of title.

(b) Upon being called upon to deliver up any document or documents of title under paragraph (a) of this sub-paragraph, the person having possession of the same shall, without prejudice to any interest, claim or right of action had by him by virtue of the possession of such document or documents of title, deliver the same to the Registrar of Titles for cancellation.

(c) Upon receipt of any document or documents of title delivered to him under this sub-paragraph the Registrar of Titles shall deliver to the person from whom such document or documents of title was or were received the certificate of title to be issued by him in lieu thereof:

Provided that if it is impracticable to deliver such new certificate of title at the moment of receiving such document or documents of title, the Registrar of Titles shall, pending delivery of such new certificate of title, issue a receipt for such document or documents of title to the person from whom the same was or were received.

(4) Every new certificate of title issued under this paragraph shall, except insofar as the detailed scheme may provide to the contrary, be subject to all mortgages, charges, leases or other encumbrances, trusts and restrictions, if any, to which the corresponding old document or documents of title was or were subject immediately prior to the extinguishment of the title, which such old document or documents of title related, and so that mortgagees, chargees, lessees and other encumbrancers or persons who, immediately prior to the extinguishment of the title to the plot or holding to which such old document or documents of title related, had interests in such hist-mentioned plot for holding, shall have, as nearly as may be, the same remedies and rights against and in the plot or holding to which such new certificate of title relate, as they severally had against and the plot or holding to which such old document or documents of title related.

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Cap. 334

(5)-(a) Every new certificate, of title shall substantially in the relevant form as provided for in the Land Registration Ordinance.

(b) The date of the issue of each new certificate of title shall be the date on which it is executed by the Registrar of Titles; and each such certificate shall be deemed to operate as a grant from the President to the person to, whom it is issued of the title therein described subject to any interests and encumbrances lawfully attaching thereto.

(6) The reference in sub-paragraph (1) of this paragraph to a registered owner of a plot or holding which is pooled under the detailed scheme shall be deemed to include reference to all persons in whom such plot or holding becomes vested by operation of law.

13.(1) As soon as may be after receipt of the particulars mentioned in paragraph (b) of paragraph 11 the Commissioner for Lands shall cause contracts to be prepared granting a right of occupancy in accordance with the detailed scheme-

(a) to each person, who held a right of occupancy over a plot or holding which was pooled under the detailed scheme and who is entitled under the, said ~ scheme to have a new right of occupancy in lieu of: that over the plot or holding which was so pooled, in order that such person may hold the new right of occupancy for the unexpired period of, and subject to the same terms and conditions which were imposed under, the right of occupancy over the plot or holding, which was so pooled;

(b) to each person to whom the grant of right of occupancy was recommended under the detailed scheme if such grant has been approved by the President in order that such person may hold such right of occupancy for such period and subject to such terms and conditions as the President may approve.

(2) Where a certificate of occupancy was issued in respect of a right of occupancy over a plot or holding, which is pooled under the detailed scheme, and in lieu of which a new right of occupancy is granted under this, paragraph, the Commissioner for Lands shall-

(a) cause to be prepared for issue to the person who held such first-mentioned right of occupancy a certificate of occupancy in respect of such new right of occupancy; and

(b) issue a notice in writing to such person intimating that a certificate of occupancy has been prepared in respect of such new right of occupancy and calling upon him to deliver up to the Commissioner for Land all documents of title in his possession or under his control which relate to the plot or holding which was pooled under the approved scheme.

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... (3) Upon receiving the document or documents of title required to be delivered up to him under sub-paragraph (2) of this paragraph the Commissioner for Lands shall submit such document or documents of title together with the certificate of occupancy issued in respect of the new right of occupancy, in duplicate, to the Registrar of Titles for registration of such new right of occupancy, and, on receiving back from the Registrar of Titles the duplicate with the memorial of registration duly entered thereon, shall deliver the same to the person from whom was received the document or documents of title required to be delivered up.

(4) (a) When it comes to the knowledge of the Commissioner for Lands that any document or documents of title required to be delivered up by any person under sub-paragraph (2) of this paragraph is or are in the possession of another person, the Commissioner for Lands may by notice in writing call upon such other person to deliver up to him such document or documents of title.

(b) Upon being called upon to deliver up any document or documents of title under sub-paragraph (a) of this sub-paragraph, the person having possession of the same shall, without prejudice to any interest, claim or right of action had by him by virtue of the possession of such document or documents of title, deliver the same to the Commissioner for Lands.

(c) Upon receiving the document or documents of title required to be delivered up to him under this sub-paragraph the Commissioner for Lands shall issue a receipt therefor to the person from whom the same was or were received and shall submit such document or documents of title together with the certificate of occupancy issued in respect of the new right of occupancy, in duplicate, to the Registrar of Titles for registration of such new right of occupancy and, on receiving back from the Registrar of Titles the duplicate with the memorial of registration duly entered thereon, shall deliver the same to the person from whom was received the document or documents of title required to be delivered up.

(5) When the Registrar of Titles receives from the Commissioner for Lands under sub-paragraph (3) or sub-paragraph (4) of this paragraph a document or documents of title and a certificate of occupancy in respect of a new right of occupancy he shall-

(a) cancel the registration of the right of occupancy over the, plot or holding, to which: the. document or documents of title relates or relate;\_

(b) register the new right of occupancy; And

(c) return the duplicate certificate of occupancy relating to the new right of occupancy with a memorial of registration duly entered thereon to the Commissioner for Lands, and retain the document or documents of title.

(6) Where a certificate of occupancy was not issued in respect of a right of occupancy over a plot or holding which is pooled under the detailed scheme, and in lieu of which a new right of occupancy is granted under this paragraph, the Commissioner for Lands shall-

(a) issue to the person who held such first-mentioned right of occupancy a notice in writing stating that a contract is being prepared for the grant to him of such new right of occupancy and if the Commissioner for Lands considers it necessary so to do, calling upon him to deliver up any document of title relating to such first-mentioned right of occupancy; and

(b) subject to the delivery up to him of any document of title so required to be delivered up, proceed under sub-paragraph (1) of this paragraph with the grant of a right of occupancy to such person in the manner contemplated by the Land Ordinance.

Cap. 113

(7) The Commissioner for Lands shall cause to be endorsed as cancelled every contract for the grant of a right of occupancy in lieu of which a new right of occupancy is granted under sub-paragraph (1) of this paragraph.

(8)-(a) Every new certificate of occupancy issued under this paragraph shall have attached thereto a plan signed by the Commissioner for Surveys.

(b) Every new right of occupancy granted under this paragraph shall, except insofar as the approved scheme may provide to the contrary, be subject to all mortgages, charges, leases or other encumbrances, trusts and restrictions, if any, to which the corresponding old right of occupancy was subject immediately prior to the extinguishment thereof, and so that mortgagees, chargees, lessees and other encumbrancers or persons who, immediately prior to the extinguishment of such old right of occupancy had interests in such old right of occupancy, shall have, as nearly as may be, the same remedies and rights against and in such new right of occupancy as they severally had against and in such old right of occupancy.

(9) The references in sub-paragraphs (1) and (2) of this paragraph to a person holding a right of occupancy over a plot or holding which is pooled under the detailed scheme shall be deemed to include reference to all persons in whom such plot or holding becomes vested by operation of law.

14. The Registrar of Titles and the Registrar of Documents shall perform all such acts, and make all such endorsements and, entries in, the books of their offices as may be necessary to give effect to the provisions of paragraphs 12 and 13.

15.(1) Every person aggrieved by any decision or action of the Registrar of Titles or of the Registrar of Documents under or in pursuance of the provisions of this Schedule, may, within two months from the date of such decision or action or within such longer period as the High Court may allow, give notice to the Registrar of Titles or the Registrar of Documents, as the case may be, in the prescribed form, of intention to appeal to the High Court against such decision or order.

(2) On receipt of a notice of appeal, the Registrar of Titles or the Registrar of Documents, as the case may be, shall prepare and send to the High Court and the appellant, and any other person appearing to him to be affected by the appeal a brief statement of the question in issue.

(3) On the hearing of the appeal, the appellant, the Registrar of Titles or the Registrar of Documents, as the case may be, and any other person who, in the opinion of the High Court, is affected by the appeal, may, subject to any rules of the High Court, appear and be heard in person or by advocate.

(4) The High Court may make such order on the appeal as the circumstances may require, and every such order shall be obeyed by the Registrar of Titles or the Registrar of Documents, as the case may be.

(5) The costs of the appeal shall be in the discretion of the High Court:

provided that neither the Registrar of Titles nor the Registrar of Documents shall be ordered to pay any costs unless, in the opinion of the High Court, the appeal was occasioned by his wilful misconduct.

16. (1) An appeal to the High Court shall not affect a dealing for value registered before delivery of notice of the appeal to the Registrar of Titles or the Registrar of Documents, as the case may be.

(2) A note that an appeal to the High Court is pending shall be registered against the entry in the register affected by the appeal.

(3) This paragraph shall apply to an appeal from an order of the High Court to the Court of Appeal for Eastern Africa where such an appeal lies, in like manner as it applies to an appeal to the High Court.



17. The Registrar of Titles or the Registrar of Documents, as the case may be, may apply to the High Court in a summary manner for the determination of any question of doubt or difficulty, whether of law or fact, arising in connection with his duties under this Schedule, and a reference in this Schedule to an appeal to the High Court shall be construed as including an application, to the High Court under this paragraph.

18. No stamp duty or fees shall be payable in respect of any act of record or registration, or the preparation or issue of any document, required under any provision of paragraphs 12, 13 and 14.

19. Any person who without reasonable excuse-

- (a) fails or neglects within three months of the issue of a notice under sub-paragraph (2) or sub-paragraph (3) of paragraph 12 to deliver up to the Registrar of Titles any document of title required by that notice to be delivered up; or
- (b) fails or neglects within three months of the issue of a notice under sub-paragraph (2), (4) or (6) (a) of paragraph 13 to deliver up to the Commissioner for Lands any document of title required by that notice to be delivered up-

shall be guilty of an offence and shall be liable on conviction therefor to a fine not exceeding three thousand shillings."

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Passed in the National Assembly on the twenty-first day of July, 1966.

 Msekwa  
Clerk to the National Assembly