

THE UNITED REPUBLIC OF TANZANIA



No. 13 OF 1971

I ASSENT,

Julius K. Nyerere
President

22ND APRIL, 1971

An Act to empower the President to acquire certain Buildings

[22ND APRIL, 1971]

ENACTED by the Parliament of the United Republic of Tanzania.

1. This Act may be cited as the Acquisition of Buildings Act, 1971. Short title

2. (1) In this Act unless the context otherwise requires-

Interpreta-
tion

"acquisition notice" means a notice issued under section 5;

"building" means any building, whether used for residential commercial, industrial or other purposes whatsoever and includes outhouses, sheds and other structures on the land comprised in the right of occupancy in respect of the land on which the building is situate;

"effective date" in relation to an acquisition notice, means the date upon which the acquisition notice is expressed to take effect;

"landlord" shall have the meaning assigned to that expression by the Rent Restriction Act, 1962;

Cap. 471

"Minister" means the Minister for the time being responsible for housing;

"owner" in relation to any building, means the person who is for the time being the holder of the right of occupancy in respect of the land upon which the building is situate but does not include the Registrar in respect of any right of occupancy which has passed to him by virtue of acquisition of any building under this Act;

"Registrar" means the Registrar of Buildings appointed under section 3 and includes, in relation to any building, any person to whom the Registrar has transferred or assigned the title to the land on which such building is situate, and also includes an Assistant Registrar;

"rent" includes, where the person occupying any premises occupies the premises as a licensee, any fee or other consideration given by him for such occupation;

Cap. 113

"right of occupancy" in relation to any building, means the right of occupancy granted or deemed by any written law to have been granted under the Land Ordinance in respect of the land upon which the building is situate;

"standard rent" in relation to any premises means the standard rent assessed and determined under the provisions of the Rent Restriction Act, 1962 and where such premises are situate in an area to which that Act does not apply, standard rent in relation to such premises shall be the rent which in the opinion of the Registrar is the reasonable rent for such premises;

"tenant" shall have the meaning assigned to that expression by the Rent Restriction Act, 1962 and shall include a licensee.

(2) A person shall, for the purposes of this Act, be deemed to be in occupation of any building or a portion of a building only if he is in actual occupation thereof, and a person shall be deemed to be in actual occupation of a building notwithstanding that some other person also enjoys occupation of such building or portion as his guest, dependant or domestic servant.

Registrar

3. (1) There shall be a Registrar of Buildings who, shall be appointed by the President.

(2) The Minister may appoint such number of Assistant Registrars as he may think fit.

(3) The Registrar (but not an Assistant Registrar) shall be a corporation sole and shall-

- (a) have perpetual succession and a common seal;
- (b) in his corporate name be capable of suing and being sued;
- (c) subject to the provisions of this Act, be capable of acquiring and disposing of immovable or movable property and of entering into agreements, contracts and other obligations, whatsoever.

(4) The Registrar shall, in addition to, his functions under this Act, perform such other functions as the President may direct.

President
may
acquire
building

4.(1) Where in the opinion of the President it is in the public interest so to do, he may, subject to the provisions of this Act, acquire any building.

(2) Where any building is acquired under this Act, the building and the right of occupancy in respect of the land upon which the building is situate and all other buildings, houses, outhouses, and other structures upon such land shall, with effect from the effective date, and by virtue of such acquisition notice and without further assurance, vest in the Registrar free of any mortgage, charge, trust; or other incumbrance whatsoever, save to the extent hereinafter provided, and the Registrar shall hold the same subject to the directions of the President.

5.-(1) Where the President resolves to acquire any building under the Act, the Minister shall give notice of acquisition of the building and revocation of the right of occupancy in respect of the land upon which such building is situate to the persons interested or claiming to be interested in such building or land (other than the persons interested in the building as tenants of the owner) or to the persons entitled to sell or convey the right of occupancy in respect of the land upon which the building is situate, or to such of them as shall, after reasonable inquiry, be known to him.

Acquisitions
notice

(2) Every notice under subsection (1) shall-

- (a) describe the building;
- (b) specify the right of occupancy under which the land upon which the building is situate is held or deemed to be held;
- (c) specify the date upon, which the notice shall take effect.

6.-(1) No building shall be acquired under this Act-

Certain
buildings
not to be
acquired

- (a) if the cost of the construction of the building and the rental value of, the building on the date of the intended acquisition, is each less than one hundred thousand shillings; or
- (b) if the whole of the, building is occupied either for residential, commercial or industrial purposes
 - (i) in, the case where the owner is a natural person, by the owner or his dependant;
 - (ii) where the owner is a body corporate. by the body corporate or by any member or shareholder of such body corporate, or any dependant of such member or shareholder.

(2) For the purposes of this section-

- (a) "dependant" means the wife or husband of the owner, any child of the owner who has not attained the age of 18 years, the father or mother or the grandfather or grandmother of the owner, who is wholly or substantially dependant upon the owner for his or her livelihood and who pays no rent or other valuable consideration in respect of the occupation by him or her of the building;
- (b) where the owner in relation to any building is a body corporate and the building is occupied by another body corporate for commercial or industrial purposes, the building shall be deemed to be -occupied by the owner if-
 - (i), all the shares of either of such bodies corporate are held by the same person or persons who holds or hold all the shares in the other body corporate; or
 - (ii) not less than; ninety per centum, of the issued share capital of either of such bodies corporate is owned by the other body corporate;

- (iii) both such bodies corporate are subsidiaries of another body corporate (hereinafter referred to as the "parent company") and such parent company holds not less than ninety per centum of the issued share capital in each of such bodies corporate;
- (c) the rental value shall be calculated by multiplying the total gross monthly rental income of the building by one hundred and twenty, and where the building is partly occupied by the owner or where the owner is a body corporate, by a member or a shareholder of such body corporate, or where the building is wholly or partly occupied by an employee of the owner, and such owner, member, shareholder or employee pays no rent in respect of his occupation or pays a nominal rent only, the rental income of the building or portion of a building so occupied shall be deemed to be the standard rent as assessed under the Rent Restriction Act, 1962, or where no standard rent has been assessed in respect of such portion, such income as the Minister may consider to be the reasonable income which would accrue in respect of the building or, as the case may be, the portion of the building, if such building or portion were let to a tenant;
- (d) the cost of construction or, as the case may be, the rental value of a building shall be deemed to be shillings one hundred thousand or more if the owner owns two or more buildings and the aggregate cost of construction or, as the case may be, the aggregate rental value of all the buildings owned by him is shillings one hundred thousand or more, and in any such case all such buildings may, subject to the provisions of paragraph (b) of subsection (1), be acquired under this Act.

Buildings
partly
occupied
by owner

7.-(1) Where any building acquired under the provisions of this Act is on the effective date partly occupied by the owner, the owner shall be entitled to continue to occupy the portion of the building so occupied by him as a tenant of the Registrar and where the owner elects to continue to so occupy the building, there shall be deemed to exist between the owner and the Registrar a tenancy agreement whereby the owner shall occupy the premises as from the effective date as a monthly tenant of the Registrar and shall pay therefor the standard rent.

(2) Where an owner elects to occupy a portion of the building as a tenant of the Registrar, the provisions of the Rent Restriction Act, 1962, shall apply to the parties in the same manner as they apply to a tenant and a landlord:

Provided that the Registrar may, by notice in writing and subject to the provisions of the Rent Restriction Act, 1962, add to, vary or modify the terms of the agreements which shall be deemed to exist between the owner and the Registrar.

(3) Where any building owned by a body corporate is acquired under the provisions of this Act and a portion of such building is occupied by any member or shareholder of such body corporate, the provisions of subsection (1) and subsection (2) shall apply to such member or shareholder in the same manner and to the same extent as they apply to an owner.

(4) For the avoidance of doubts, it is hereby declared that the rights conferred upon an owner of a building by this section shall not extend to his dependents but the Registrar may in any case permit, subject to such terms and conditions as the Registrar may direct and subject to the provisions of the Rent Restriction Act, 1962, any such dependent to continue to occupy the premises as the tenant of the Registrar.

8.-(1) Where a building is acquired under this Act, the owner shall be entitled to compensation of an amount equal to the difference between-

- (a) the cost of construction of the building; and
- (b) the amount arrived at by multiplying the amount equal to $\frac{1}{120}$ th (one hundred and twentieth) of the cost of construction and the number of whole months between the date on which the construction was completed and the effective date or, where the owner acquired, by way of purchase, the right of occupancy in respect of such building at any time within ten years immediately preceding the commencement of this Act, the number of whole months between the date upon which the owner acquired the right of occupancy and the effective date, whichever is the lesser number of months.

(2) The cost of construction of a building for the purposes of this section shall be the actual cost of construction, or where the actual cost of construction cannot for any reason be ascertained, such amount as a Government valuer may determine to be the cost of construction having regard to the market cost of construction prevailing on the date on which the building was constructed in the area in which the building is situate.

(3) Where a building was constructed more than ten years prior to the effective date but was substantially reconstructed by structural alterations, but not otherwise, within ten years immediately preceding the effective date, and the Minister is satisfied that the cost of such reconstruction was not less than fifty thousand shillings, he may direct that for the purposes of this section the date upon which such reconstruction was completed shall be deemed to be the date of construction of the building, and where the Minister so directs, compensation shall be payable accordingly.

(4) Compensation payable under this section shall be paid in such manner and by such instalments as the Minister may, after consultation with the Minister for the time being responsible for finance, direct.

(5) Compensation under this section shall be a charge on, and be paid out of, the Consolidated Fund.

9.-(1) Notwithstanding any provision of this Act to the Contrary, where a building or a right of occupancy in relation to any building acquired under this Act is subject to a mortgage, whether legal or equitable, or any other charge created by way of security for the payment of any sum of money, the property shall upon acquisition vest in the Registrar subject to such mortgage or, as the case may be charge:

Provided that the provisions of this subsection shall not apply to any mortgage or charge-

- (a) created after the coming into operation of this Act, unless such mortgage or charge was created with the consent in writing of the Registrar;
- (b) in respect of which the President has, upon being satisfied that it is in the public interest so to do, by an order under his hand directed that the provisions of this section shall not, or shall cease to, apply.

(2) Where any building or right of occupancy passes to the Registrar by virtue of an acquisition notice subject to a mortgage or charge, and any compensation is payable under section, 8 in respect of such building or right of occupancy the amount of the compensation payable to the owner shall be reduced by the amount remaining, due to the mortgagee on the effective date in respect of the mortgage or, as the case may be, the charge.

Appeals
Tribunal

10.-M The President shall establish an Appeals Tribunal for the purposes of this Act.

(2) The Appeals Tribunal shall consist of a chairman and not less than two other members appointed by the President.

(3) Any person aggrieved by any acquisition notice or the terms of any acquisition notice or the acquisition of any building or the refusal to pay compensation in respect of any building acquired under this Act, or the amount of compensation or the manner in which the compensation is to be paid, may appeal to the Appeals Tribunal within such time and in such manner as may be to prescribed

(4) The decision of the Appeals Tribunal shall be final and conclusive and shall not be subject to review by any court.

(5) No court shall have jurisdiction to inquire into or determine any matter or issue which the Appeals Tribunal has jurisdiction to inquire into or determine.

Construe-
tion of
instruments

11. (1) The instruments to which this section applies are instruments including contracts, right of occupancy leases, sub-leases, tenancy agreements, mortgages, charges and other securities, the rights or, as the case may be, the obligations, under which pass from the owner to the Registrar by virtue of the provisions of this Act. and to which the owner was a party immediately prior to the effective date.

(2) An instrument, to which this section applies, shall by virtue of this section continue in full force and effect, and the Registrar shall by this Act-

- (a) be substituted for the owner, as a party. thereto;
- (b) be entitled to receive, and to enforce payment of, any rent, fee, interest, or other moneys payable thereunder;

- (c) be entitled to obtain a transfer, conveyance or assignment of, and to enforce possession of any property which is to be transferred, conveyed or assigned thereunder or which the Registrar by virtue of the operation of the provisions of this Act is entitled to recover possession of;
- (d) be liable to make payment of any money payable thereunder;
- (e) be liable to transfer, convey or assign, any property which is to be transferred, conveyed or assigned thereunder,

as the case may be.

(3) Nothing in this section shall be construed as validating any agreement, contract or other instrument which was immediately preceding the effective date inoperative, ineffective, unlawful or invalid by virtue of the operation of any provision of the Land Ordinance or of any Regulations made thereunder or by virtue of the operation of the provisions of any other written law, and any sum of money paid to the owner or any previous owner under any such contract, agreement or instrument, shall not be recoverable from the Registrar save where in any particular case the President otherwise directs.

(4) Notwithstanding the provisions of this section of any other provision of this Act, where any person is in occupation of any building or a portion of a building for which, at the effective date, he pays no rent or pays a rent of an amount less than the standard rent, by virtue of any agreement entered into with, or any consideration (including payment of rent in advance) given to the owner or any previous owner, such agreement shall, as from the effective date, cease to be effective, and such person shall as from the effective date, be required to pay the Registrar a monthly rent of an amount not less than the standard rent notwithstanding that he may have given the owner or any previous owner any consideration (including payment of rent in advance) or additional consideration in respect of occupation by him of such building) or, as the case may be such portion of the building and for the avoidance of doubts it is hereby declared that any such consideration shall be irrecoverable from the Registrar.

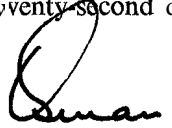
(5) Where by virtue of the operation of the provisions of subsection (3) or subsection (4) any contract, agreement or other instrument, is unenforceable as against, the Registrar or any consideration is irrecoverable from the Registrar, the person in whose favour the agreement was entered or, as the case may be, the person by whom such consideration might have been recoverable, shall be entitled, notwithstanding the provisions of any other law to the contrary, to recover from the owner or, as the case may be, the previous owner, compensation for any actual loss suffered by him by reason of the agreement ceasing to take effect or, as the case may be, to recover the consideration:

Provided that in making an order for payment of compensation or for the recovery of any consideration, the court shall take into account the rent which such person might have had to pay to the owner or, as the case may be, the previous owner, in respect of occupation by him of the building or the portion of the building had the agreement not been entered into or the consideration not been given,

- Exemption from certain provisions of Rent Restriction Act, 1962
- 12.** All premises in respect of which the Registrar is the landlord within the meaning assigned to that term by the Rent Restriction Act, 1962, shall be exempt from all provisions of that Act which operate so as to confer upon a tenant a statutory tenancy upon the determination of his contractual tenancy where the contractual tenancy is determined by reason of non-payment of rent on the due date or non-compliance of any other term of the tenancy.
- Offences
- 13.**-(1) Any person who being the owner or an agent of the owner or otherwise having any interest in a building in respect of which an acquisition notice has been issued or having any interest in the land on which such building is situate-
- (a) does any act or thing prejudicial to any right or interest which the Registrar has acquired or may acquire pursuant to such acquisition notice;
 - (b) on or after the effective date, holds himself out as the landlord or, unless he has been so appointed by the Registrar, as an agent of the landlord of any tenant occupying the building or any portion thereof,
 - (c) refuses or fails to surrender to the registrar the certificate of title and other deeds in respect of the right of occupancy within thirty days of the effective, or, where an appeal against the acquisition is pending before the Appeals Tribunal within fourteen days from the date of the determination of the appeal,
- shall be guilty of an offence and shall be liable on conviction to imprisonment for a term not exceeding five years.
- (2) Where any building has been acquired under the provisions of this Act, any person who being a tenant in respect of the building or any portion thereof, fails to pay to the Registrar the rent within fourteen days of the date upon which such rent became due under the lease, sub-lease or the tenancy agreement, he shall be guilty of an offence and shall be liable on conviction to imprisonment for a term not exceeding twelve months.
- Regulations
- 14.** The Minister may make regulations for the better carrying out of the provisions of this Act and in particular but without prejudice to the generality of the foregoing, may—
- (a) prescribe the manner in which acquisition notice may be given;
 - (b) prescribe the practice and procedure of the Appeals Tribunal;
 - (c) prescribe the fee and deposits payable in respect of any appeal to the Appeals Tribunal.
- Provisions of this Act to prevail over any other written law
- 15.**-(1) The provisions of this Act shall take effect notwithstanding any provision to the contrary in the Lands Ordinance, the Rent Restriction Act, 1962 or any other written law.
- (2) For the avoidance of doubts it is hereby declared that where a building is acquired under this Act, compensation, if any, shall be paid

in accordance with the provisions of this Act only and no compensation shall, unless the President otherwise directs, be payable in respect of the acquisition of the building or the right of occupancy whether or not any other written law provides for the payment of such compensation.

Passed in the National Assembly on the ~~twenty-second~~ day of April, 1971.



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Clerk of the National Assembly