

The Laws of Zambia

REPUBLIC OF ZAMBIA

THE LANDS ACT

CHAPTER 184 OF THE LAWS OF ZAMBIA

CHAPTER 184 THE LANDS ACT

THE LANDS ACT

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CHAPTER 184

Act No.
29 of 1995
20 of 1996

LANDS

An Act to provide for the continuation of Leaseholds and leasehold tenure; to provide for the continued vesting of land in the President and alienation of land by the President; to provide for the statutory recognition and continuation of customary tenure; to provide for the conversion of customary tenure into leasehold tenure; to establish a Land Development Fund and a Lands Tribunal; to repeal the Land (Conversion of Titles) Act; to repeal the Zambia (State Lands and Reserves) Orders, 1928 to 1964, the Zambia (Trust Land) Orders, 1947 to 1964, the Zambia (Gwembe District) Orders, 1959 to 1964, and the Western Province (Land and Miscellaneous Provisions) Act, 1970; and to provide for matters connected with or incidental to the foregoing.

[13th September, 1995]

PART I

PRELIMINARY

1. This Act may be cited as the Lands Act. Short title

2. In this Act, unless the context otherwise requires- Interpretation
 - "Certificate of Title" means a Certificate of Title to land issued in accordance with the Lands and Deeds Registry Act; Cap. 185

 - "customary area" means, notwithstanding section *thirty-two*, the area described in the Schedules to the Zambia (State Lands and Reserves) Orders; 1928 to 1964 and the Zambia (Trust Land) Orders, 1947 to 1964; Appendix 9 of the Laws of Zambia

 - "Fund" means the Land Development Fund established by section *sixteen*;

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"improvements" means anything resulting from expenditure of capital or labour and includes carrying out of any building, engineering or other operations in, on, over, or under land, or the making of any material change in the use of any building or land and charges for services provided and other expenses incurred in the development or towards the development of land;

"land" means any interest in land whether the land is virgin, bare or has improvements, but does not include any mining right as defined in the Mines and Minerals Act in respect of any land; Cap. 213

"lease" means a lease granted by the President or a lease that was converted from a freehold title under the repealed Act and "lessee" shall be construed accordingly;

"Permanent Resident" means an established resident or a person holding an entry permit in accordance with the Immigration and Deportation Act; Cap. 123

"Provisional Certificate of Title" means a Provisional Certificate of Title to land issued in accordance with the Lands and Deeds Registry Act; Cap. 185

"Registrar" has the meaning assigned to it in the Lands and Deeds Registry Act; Cap. 185

"Repealed Act" means the Land (Conversion of Titles) Act; Cap. 289 of the 1972 Edition

"State Land" means land which is not situated in a customary area;

"Tribunal" means the Lands Tribunal established by section *nineteen*.

PART II

ADMINISTRATION OF LAND

3. (1) Notwithstanding anything to the contrary contained in any other law, instrument or document, but subject to this Act, all land in Zambia shall vest absolutely in the President and shall be held by him in perpetuity for and on behalf of the people of Zambia. All land to vest in the President

(2) Subject to subsection (4) and to any other law, the President may alienate land vested in him to any Zambian.

(3) Subject to any other provisions and procedures relating to alienation of land, the President may alienate land to a non-Zambian under the following circumstances:

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- (a) where the non-Zambian is a permanent resident in the Republic of Zambia;
- (b) where the non-Zambian is an investor within the meaning of the Investment Act or any other law relating to the promotion of investment in Zambia; Cap. 385
- (c) where the non-Zambian has obtained the President's consent in writing under his hand;
- (d) where the non-Zambian is a company registered under the Companies Act, and less than twenty-five per centum of the issued shares are owned by non-Zambians; Cap. 388
- (e) where the non-Zambian is a statutory corporation created by an Act of Parliament;
- (f) where the non-Zambian is a co-operative society registered under the Co-operative Societies Act and less than twenty-five per centum of the members are non-Zambians; Cap. 397
- (g) where the non-Zambian is a body registered under the Land (Perpetual Succession) Act and is a non-profit making, charitable, religious, educational or philanthropic organisation or institution which is registered and is approved by the Minister for the purposes of this section; Cap. 186
- (h) where the interest or right in question arises out of a lease, sub-lease, or under-lease, for a period not exceeding five years, or a tenancy agreement;
- (i) where the interest or right in land is being inherited upon death or is being transferred under a right of survivorship or by operation of law;
- (j) where the non-Zambian is a Commercial Bank registered under the Companies Act and the Banking and Financial Services Act; or Cap. 388
Cap. 387
- (k) where the non-Zambian is granted a concession or right under the National Parks and Wildlife Act. Cap. 201

(4) Notwithstanding subsection (3), the President shall not alienate any land situated in a district or an area where land is held under customary tenure-

- (a) without taking into consideration the local customary law on land tenure which is not in conflict with this Act;

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- (b) without consulting the Chief and the local authority in the area in which the land to be alienated is situated, and in the case of a game management area, and the Director of National Parks and Wildlife Service, who shall identify the piece of land to be alienated;
- (c) without consulting any other person or body whose interest might be affected by the grant; and
- (d) if an applicant for a leasehold title has not obtained the prior approval of the chief and the local authority within whose area the land is situated.

(5) All land in Zambia shall, subject to this Act, or any other law be administered and controlled by the President for the use or common benefit, direct or indirect, of the people of Zambia.

(6) The President shall not alienate any land under subsection (2) or (3) for a term exceeding ninety-nine years unless-

- (a) the President considers it necessary in the national interest or in the fulfilment of any obligations of the Republic; and
- (b) it is approved by a two-thirds majority of the members of the National Assembly.

(7) In alienating land the President shall take such measures as shall be necessary to-

- (a) control settlements, methods of cultivation and utilisation of land as may be necessary for the preservation of the natural resources on that land; and
- (b) set aside land for forest reserves and game management areas and national parks and for the development and control of such reserves, game management areas and national parks.

4. (1) The President shall not alienate any land under subsection (2) or (3) of section *three* without receiving any consideration, in money for such alienation and ground rent for such land except where the alienation is for a public purpose:

Conditions on
alienation of land

Provided that where a person has the right of use and occupation of land under customary law and wishes to convert such right into leasehold tenure, no consideration shall be paid for such conversion.

(2) In this section "public purpose" includes the following:

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- (a) for the exclusive use of Government or for the general benefit of the people of Zambia;
- (b) for or in connection with sanitary improvements of any kind including reclamations;
- (c) for or in connection with the laying out of any new township or the extention or improvement of any existing township;
- (d) for or in connection with aviation;
- (e) for the construction of any railway authorised by legislation;
- (f) for obtaining control over land contiguous to any railway, road or other public works constructed or intended at any time to be constructed by Government;
- (g) for obtaining control over land required for or in connection with hydro-electric or other electricity generation and supply purposes;
- (h) for or in connection with the preservation, conservation, development or control of forest produce, fauna, flora, soil, water and other natural resources.

5. (1) A person shall not sell, transfer or assign any land without the consent of the President and shall accordingly apply for that consent before doing so. Consent of President

(2) Where a person applies for consent under subsection (1) and the consent is not granted within forty-five days of filing the application, the consent shall be deemed to have been granted.

(3) Where the President refuses to grant consent within thirty days, he shall give reasons for the refusal.

(4) A person aggrieved with the decision of the President to refuse consent may within thirty days of such refusal appeal to the Lands Tribunal for redress.

6. (1) Subject to subsection (2), all land held by a Council on a lease including that which has been subleased, for a period of ninety-nine years or less shall, by virtue of this Act and without further assurance or conveyance, be deemed to have been surrendered to the President and the sub-lessee be deemed to hold that land, as if a direct lease had been granted by the President. Surrender of land held by a Council

(2) Subject to subsection (3) the sublessee referred to in subsection (1) shall be deemed to hold land on the conditions and covenants of the lease granted to the Council, except that the lessee shall pay such annual ground rent to the President as may be prescribed by statutory instrument.

(3) Subsection (1) shall not apply to land held by the Councils for their own use or held under the Housing (Statutory Improvement Areas) Act. Cap. 194

(4) On the commencement of this Act, and on the payment of a prescribed fee, the Registrar shall endorse on the relevant folio of the register, the effect of this section.

7. (1) Notwithstanding subsection (2) of section *thirty-two* but subject to section *nine*, every piece of land in a customary area which immediately before the commencement of this Act was vested in or held by any person under customary tenure shall continue to be so held and recognised and any provision of this Act or any other law shall not be so construed as to infringe any customary right enjoyed by that person before the commencement of this Act. Customary holdings to be recognised and to continue

(2) Notwithstanding section *thirty-two*, the rights and privileges of any person to hold land under customary tenure shall be recognised and any such holding under the customary law applicable to the area in which a person has settled or intends to settle shall not be construed as an infringement of any provision of this Act or any other law except for a right or obligation which may arise under any other law.

8. (1) Notwithstanding section *seven*, after the commencement of this Act, any person who holds land under customary tenure may convert it into a leasehold tenure not exceeding ninety-nine years on application, in the manner prescribed, by way of- Conversion of customary tenure into leasehold tenure

- (a) a grant of leasehold by the President;
- (b) any other title that the President may grant;
- (c) any other law.

(2) The conversion of rights from a customary tenure to a leasehold tenure shall have effect only after the approval of the chief and the local authorities in whose area the land to be converted is situated, and in the case of a game management area, and the Director of National Parks and Wildlife Service, the land to be converted shall have been identified by a plan showing the exact extent of the land to be converted.

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(3) Except for a right which may arise under any other law in Zambia, no title, other than a right to the use and occupation of any land under customary tenure claimed by a person, shall be valid unless it has been confirmed by the chief, and a lease granted by, the President.

9. (1) A person shall not without lawful authority occupy or continue to occupy vacant land.

Prohibition of unauthorised occupation of land

(2) Any person who occupies land in contravention of subsection (1) is liable to be evicted.

10. (1) The President shall renew a lease, upon expiry, for a further term not exceeding ninety-nine years if he is satisfied that the lessee has complied with or observed the terms, conditions or covenants of the lease and the lease is not liable to forfeiture.

Renewal of leases

(2) If the President does not renew a lease the lessee shall be entitled to compensation for the improvements made on the land in accordance with the procedure laid down in the Lands (Acquisition) Act.

Cap. 189

11. (1) Notwithstanding severance of a reversionary estate, ground rent and the benefit of every covenant or provision contained in a lease or any Act of Parliament having reference to the subject matter of the lease shall be annexed and incidental to, and shall go with, the reversionary estate in the land or in any part of the estate immediately expectant on the term granted by the lease.

Ground rent and benefit of lessee's covenants and conditions

(2) The obligation under a condition of a covenant entered into by the President or contained in any Act of Parliament having reference to the subject matter of the lease shall be annexed and incidental to and shall go with the reversionary estate, or the several parts of that estate, notwithstanding severance of that estate and may be enforced by the person in whom the term is vested by assignment, transfer, devolution in law or otherwise.

(3) Subsection (1) shall be without prejudice to any covenant, lease or Act of Parliament which imposes a duty on a lessee to observe or perform the covenant and to every condition of re-entry.

12. (1) Every condition or right of re-entry and every other condition contained in the lease except for ground rent fixed in the grant shall be apportioned, in like manner as if the land comprised in each several part, or the land as to which the term remains subsisting, as the case may be, had alone originally been comprised in the lease, notwithstanding-

Apportionment of conditions on severance

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- (a) the severance by assignment, transfer, surrender, or otherwise of the reversionary estate in any land comprised in a lease or any other grant of land; and
- (b) the avoidance or cesser in any other manner of the term granted by a lease as to part only of the land comprised in the lease.

(2) Every condition or right of re-entry referred to in subsection (1), shall remain annexed to the severed parts of the reversionary estate as the term where each several part is reversionary, or the term in part of the land as to which the term has not been surrendered or has been avoided or has not ceased in the manner as if the land comprised in each several part, or the land as to which the term remains subsisting, as the case may be, had alone originally been comprised in the lease.

(3) This section applies to leases or any other grant subsisting before or made after the commencement of this Act and whether the severance of the reversionary estate was effected before or after the commencement of this Act.

13. (1) Where a lessee breaches a term or a condition of a covenant under this Act the President shall give the lessee three months notice of his intention to cause a certificate of re-entry to be entered in the register in respect of the land held by the lessee and requesting him to make representations as to why a certificate of reentry should not be entered in the register.

Certificate of re-entry
to be entered on
register

(2) If the lessee does not within three months make the representations required under subsection (1), or if after making representations the President is not satisfied that a breach of a term or a condition of a covenant by the lessee was not intentional or was beyond the control of the lessee, he may cause the certificate of reentry to be entered in the register.

(3) A lessee aggrieved with the decision of the President to cause a certificate of re-entry to be entered in the register may within thirty days appeal to the Lands Tribunal for an order that the register be rectified.

14. (1) A lessee shall pay such ground rent as may be prescribed by the President, by statutory instrument.

Payment and penalty
for late payment of
rent

(2) Subject to subsection (3) where any amount of ground rent unpaid after the day on which it became payable under subsection (1) remains unpaid after the day on which it became payable, the lessee shall be liable to pay a penalty of twenty-five per centum of the rent due.

15. (1) Any person aggrieved with a direction or decision of a person in authority may apply to the Lands Tribunal for determination.

Application to Lands
Tribunal on land
disputes

(2) In this section "person in authority" means the President, the Minister or the Registrar.

PART III

THE LAND DEVELOPMENT FUND

16. (1) There is hereby established a Land Development Fund.

Land Development
Fund

(2) The Fund shall consist of-

- (a) all moneys appropriated by Parliament for the purposes of the Fund;
- (b) seventy-five per centum of the consideration paid under section *four*; and
- (c) fifty per centum of ground rent collected from all land.

17. The Fund shall be vested in the Minister responsible for finance and shall be managed and administered by the Minister responsible for land.

Administration of the
Fund

18. (1) The Ministers referred to in section *seventeen* shall apply the moneys of the Fund to the opening up of new areas for development of land.

Application of moneys
of the Fund

(2) A council that wishes to develop any area in its locality may apply to the Fund for money to develop the area.

19. The Ministers referred to in section *seventeen* shall cause an annual statement of the income and expenditure to be prepared and laid before the National Assembly.

Statement of income
and expenditure

PART IV

THE LANDS TRIBUNAL

20. (1) There is hereby established a Lands Tribunal.

Lands Tribunal

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(2) The Tribunal shall consist of the following members who shall be appointed by the Minister:

- (a) a Chairman who shall be qualified to be a judge of the High Court;
- (b) a Deputy Chairman who shall be qualified to be appointed as a judge of the High Court;
- (c) an advocate from the Attorney-General's Chambers;
- (d) a registered town planner;
- (e) a registered land surveyor;
- (f) a registered valuation surveyor; and
- (g) not more than three persons from the public and private sectors.

(3) The members referred to in paragraph (a) and (b) of subsection (2) shall be appointed after consultation with the Judicial Service Commission.

(4) The members of the Tribunal shall be appointed on such terms and conditions as may be specified in their letters of appointment.

21. The Tribunal may appoint persons who have ability and experience in land, agriculture, commerce or other relevant professional qualifications as assessors for purposes of assisting it in the determination of any matter under this Act.

Assessors

22. The Tribunal shall have jurisdiction to-

Jurisdiction of Tribunal

- (a) inquire into and make awards and decisions in any dispute relating to land under this Act;
- (b) to inquire into, and make awards and decisions relating to any dispute of compensation to be paid under this Act;
- (c) generally to inquire and adjudicate upon any matter affecting the land rights and obligations, under this Act, of any person or the Government; and
- (d) to perform such acts and carry out such duties as may be prescribed under this Act or any other written law.

23. (1) The Chairman or the Deputy Chairman shall preside over the sittings of the Tribunal.

Proceedings of Tribunal

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(2) The Tribunal, when hearing any matter, shall be duly constituted if it consists of five members which number shall include either the Chairman or the Deputy Chairman.

(3) The determination of any matter before the Tribunal shall be according to the opinion of the majority of the members considering the matter.

(4) A member of the Tribunal or an assessor shall not sit at a hearing of the Tribunal if he has any interest direct or indirect, personal or pecuniary, in any matter before the Tribunal.

(5) The Tribunal shall not be bound by the rules of evidence applied in civil proceedings.

24. The Chief Justice may, by statutory instrument, make rules-

Rules

- (a) regulating the procedure of the Tribunal; and
- (b) prescribing the procedure for the summoning and appearance of witnesses and the production of any document or other evidence before the Tribunal.

25. A person appearing as a party before the Tribunal may appear in person or through a legal practitioner at his own expense.

Legal representation

26. If the Tribunal is satisfied that any application to the Tribunal is frivolous or vexatious, it may order the applicant to pay his costs, that of the other party and that of the Government in connection with the proceedings.

Frivolous or vexatious proceedings

27. The expenses and costs of the Tribunal shall be paid out of funds appropriated by Parliament for the performance of the Tribunal's functions under this Act.

Expenses of Tribunal

28. The Ministry responsible for legal affairs shall provide the necessary secretarial and accounting assistance to the Tribunal to enable the Tribunal to perform its functions under this Act.

Secretarial and accounting

29. Any person aggrieved by any award, declaration or decision of the Tribunal may within thirty days appeal to the Supreme Court.

Appeals

PART V

GENERAL

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30. Subject to the other provisions of this Act, nothing in this Act shall affect any estate, right or interest legal or equitable, in or over any land which was at any time before the commencement of this Act created, granted, recognised or acknowledged. Saving of existing interests and rights

31. (1) The Minister may, by statutory instrument, make regulations for the better carrying out of the provisions of this Act. Regulations

(2) In particular, but without prejudice to the generality of subsection (1), such regulations may prescribe-

- (a) the terms, conditions and covenants of leases;
- (b) the procedure for applying for the President's consent to any transaction relating to or affecting land;
- (c) the procedure for converting customary tenure to leasehold tenure;
- (d) the procedure for applying for the renewal of a lease;
- (e) the ground rent for land;
- (f) fees for transactions in land; and
- (g) any other matter which is to be or may be prescribed under this Act.

(As amended by Act No. 20 of 1996)

32. (1) The Land (Conversion of Titles) Act is hereby repealed.

Repeal of Cap. 289 of the old Edition and Laws in the Schedule

(2) The Laws set out in the Schedule are hereby repealed.

SCHEDULE

(Section 32)

REPEALED LAWS

The Laws of Zambia

1. The Zambia (State Lands and Reserves) Orders, 1928 to 1964.
2. The Zambia (Trust Land) Orders, 1947 to 1964.
3. The Zambia (Gwembe District) Orders, 1959 to 1964.
4. The Western Province (Land and Miscellaneous Provisions) Act, 1970.

SUBSIDIARY LEGISLATION

SECTION 31-THE LANDS (LAND DEVELOPMENT FUND)
REGULATIONS

Statutory Instrument
88 of 1996

Regulations by the Minister

PART I PRELIMINARYPART I

PRELIMINARY

1. These Regulations may be cited as the Lands (Land Development Fund) Regulations. Title

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

"Chairperson" means the Chairperson of the Committee;

"Committee" means the Lands Development Fund Committee constituted by regulation 3;

"Fund" shall have the same meaning as that in the Act;

"Minister" means the Minister responsible for land; and "Ministry" shall be construed accordingly;

"Secretary" means the Secretary appointed under regulation 3.

PART II DISBURSEMENT OF FUNDS FROM THE FUNDPART II

DISBURSEMENT OF FUNDS FROM THE FUND

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3. (1) There is hereby constituted a Lands Development Fund Committee whose function shall be to consider and determine applications for disbursement of funds from the Fund. Lands Development
Fund Committee

(2) The Committee shall consist of the following members:

- (a) the Permanent Secretary to the Ministry, who shall be the Chairperson;
- (b) the Commissioner of Lands, who shall be the Vice-Chairperson;
- (c) one senior official from the ministry responsible for local government and housing;
- (d) one officer from the Local Government Association of Zambia;
- (e) one officer from the Land Use Planning Section in the ministry responsible for agriculture;
- (f) one representative from the ministry responsible for environment;
- (g) the principal accountant in the ministry; and
- (h) one accountant from the ministry responsible for finance.

(3) The Minister may, where he considers it necessary to do so, co-opt not more than two officers to sit on the Committee.

(4) The members referred to in paragraph (c), inclusive, and (g) and (h) of sub-regulation (2) shall be nominated by the minister or sections that they represent.

(5) There shall be a Secretary to the fund who shall be appointed by the Minister.

4. (1) Any Council wishing to apply for disbursement of funds from the Fund to develop any area in its locality may apply to the Secretary for money to develop that area: Application for
disbursement of funds

Provided that the funds from the Fund shall only be used to carry out development which the private sector cannot provide.

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(2) The application referred to in sub-regulation (1) shall be in writing and shall contain the following particulars:

- (a) the development proposal in detail;
- (b) the name of the town and province for which the development proposal is to be implemented;
- (c) the estimated cost of the development that the Council wishes to undertake;
- (d) a diagram or sketch plan showing the location and hectarage of the parcel of land that is the subject of the development proposal;
- (e) a plan of implentation of the development proposal; and
- (f) a plan of the future operation and maintenance of the development and how the development will be financed.

5. (1) The Chairperson shall, within thirty days of receipt of an application by the Secretary in accordance with regulation 4, call a meeting to consider the application.

Determination of applications

(2) The Committe shall decide-

- (a) whether the Council's development proposal is acceptable and feasible;
- (b) whether the development proposal requires amendment before submission to the Minister;
- (c) whether the development proposal justifies funds being requested;
- (d) whether the funds being requested may be released as a lump sum or in instalments; and
- (e) the possible time within which the development proposal will be implemented.

(3) Where the Committee finds that the development proposal is feasible and acceptable, the Committee shall recommend to the Minister for a disbursement of funds and shall include in the recommendation-

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- (a) the name of the Council requesting the disbursement;
- (b) the development proposal;
- (c) the amount of money required;
- (d) the Committee's finding.

(4) The Minister may, in considering the recommendation of the Committee-

- (a) accept the recommendation; or
- (b) reject the recommendation.

(5) Where the Minister-

- (a) accepts the Committee's recommendation under sub-regulation (4), the Minister shall immediately inform the Secretary, in writing, and shall in consultation with the Minister responsible for finance, release the money to the Council concerned; or
- (b) rejects the Committee's recommendation, the Minister shall immediately inform the Secretary, in writing.

(6) The Secretary shall, within seven days of the decision by the Minister inform, in writing, the Council concerned of that decision.

6. Disbursement of funds to the Council from the Fund shall be by way of cheque or bank transfer.

Disbursement of funds to Council

7. (1) A Council to which funds from the Fund have been disbursed in accordance with regulation 6, shall immediately open a separate bank account at a bank of its own choice, where only money transferred from the Fund shall be kept.

Banking of funds

(2) The account referred to in sub-regulation (1) shall be called a "Lands Development Fund Account" and shall bear the name of the Council that opens the account.

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8. (1) The Council to which the funds are disbursed shall, every three months, and at the end of the implementation of the proposed development, present a report to the Secretary concerning the proposed project. Accounting

(2) The report referred to in sub-section (1) shall include-

- (a) a statement showing income and expenditure;
- (b) a statement as to whether more funds are required; and
- (c) a forecast of future requirements.

9. The Fund shall be audited every year. Auditing of Fund

PART III MISCELLANEOUSPART III

MISCELLANEOUS

10. The Committee shall be responsible for the monitoring and evaluation of the use of the moneys of the Fund. Monitoring of use of the Fund

11. Where there is evidence of misuse or misappropriation of funds by the Council, the Committee may recommend to the Minister that-

- (a) the Bank Account of the Council be frozen pending investigation;
- (b) the ministry responsible for finance discontinues to release more funds to the Council until a report is submitted; and
- (c) criminal proceedings by the State be instituted against the individual identified as being responsible for the misuse or misappropriation of the funds.

Misuse or misappropriation of funds by Council

12. A person who misuses or misappropriates any funds from the Fund shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding two thousand, seven hundred and seventy-eight penalty units, or to imprisonment for a period not exceeding three months, or to both. Offences and penalties

SECTION 31-THE LANDS (CUSTOMARY TENURE) (CONVERSION) REGULATIONS

Statutory Instrument
89 of 1996

Regulations by the Minister

The Laws of Zambia

1. These Regulations may be cited as the Lands (Customary Tenure) (Conversion) Regulations. Title

2. (1) A person-

Procedure on conversion of customary tenure into leasehold tenure

(a) who has a right to the use and occupation of land under customary tenure; or

(b) using and occupying land in a customary area with the intention of settling there for a period of not less than five years;

may apply, to the Chief of the area where the land is situated in Form I as set out in the Schedule, for the conversion of such holding into a leasehold tenure.

(2) The Chief shall consider the application and shall give or refuse consent.

(3) Where the Chief refuses consent, he shall communicate such refusal to the applicant and the Commissioner of Lands stating the reasons for such refusal in Form II as set out in the Schedule.

(4) Where the Chief consents to the application, he shall confirm, in Form II as set out in the Schedule-

(a) that the applicant has a right to the use and occupation of that land;

(b) the period of time that the applicant has been holding that land under customary tenure; and

(c) that the applicant is not infringing on any other person's rights;

and shall refer the Form to the Council in whose area the land that is to be converted is situated.

3. (1) The council shall, after receiving the Form referred to in sub-regulation (4) of regulation 2, and before making a recommendation to the Commissioner of Lands, consider whether or not there is a conflict between customary law of that area and the Act.

Consideration of the application by the Council

(2) If the council is satisfied that there is no conflict between the customary law of that area and the Act, the council shall make a recommendation to the Commissioner of Lands in Form III as set out in the Schedule.

The Laws of Zambia

(3) The Commissioner of Lands shall accept or refuse to accept the recommendation, and shall inform the applicant accordingly.

4. Where a council considers that it will be in the interests of the community to convert a particular parcel of land, held under customary tenure into a leasehold tenure, the council shall, in consultation with the Chief in whose area the land to be converted is situated, apply to the Commissioner of Lands for conversion.

Conversion by council of customary tenure into leasehold tenure

(2) The Council shall, before making the application referred to in sub-regulation (1)-

- (a) ascertain any family or communal interests or rights relating to the parcel of land to be converted; and
- (b) specify any interests or rights subject to which a grant of leasehold tenure will be made.

5. A person holding land on leasehold after the conversion of such land from customary tenure shall be liable to pay such annual ground rent in respect of that land as the Commissioner of Lands may prescribe.

Requirement to pay ground rent

6. A person aggrieved by a decision of the Commissioner of Lands may appeal to the Lands Tribunal.

Appeals

SCHEDULE

(Regulations 2 and 3)

FORM I
(Regulation 2)

APPLICATION FORM FOR CONVERSION OF CUSTOMARY TENURE INTO LEASEHOLD TENURE

The Laws of Zambia

Particulars of Applicant

1. Name
2. Postal and Physical Address:
3. Location of land:
4. Size of the land and plan No.
5. *Declaration of Rights:*
 - (a) I or my family have had the right to the use and occupation of the land shown on the plan for a continuous period of years;
 - (b) I am entitled to or my family's is entitled to (delete as appropriate), the benefit to the land and I am not aware of any other person's right to the use or, occupation of the land or part of the land except:

.....
.....
.....

And granting leasehold to me will not affect these rights.

Signed: Date:

Note:

- (i) If in occupation for less than five years, describe how the use and occupation of the land began, by stating the name of the Chief or the Headman who gave you permission to occupy and use the land;
- (ii) Prove that the use and occupation of the land is exclusive, by describing the use that the land has been put to;
- (iii) Please attach six layout plans of the land in issue to this Form.

APPROVAL OF THE CHIEF OF AN APPLICATION FOR CONVERSION OF CUSTOMARY TENURE INTO LEASEHOLD
TENURE

1, Chief of (vilage)

confirm and certify that-

1. I have caused the right to the use and occupation of
(property number) by (the applicant to
be investigated and the investigation has revealed that the applicant or his family has for the last years been in occupation
of the land described in the plan to which plan I have appended my signature.

2. I am not aware of any other right(s), personal or communal, to the use and occupation of the land or any other part
of the land, except that these rights have always been enjoyed by the community and shall not affect the right of the
applicant to the use and occupation of the land.

3. I have caused the consultation to be made with members of the community.

4. As a result of the consultation and the information made available to me I hereby give/refuse my approval for the
said land to be converted into leasehold tenure.

Signed: Date:

APPROVAL OF THE LOCAL AUTHORITY FOR THE CONVERSION OF CUSTOMARY TENURE INTO LEASEHOLD TENURE

I, in my capacity as Council Secretary of District Council confirm and state that ()property number) the land to be converted from customary tenure to leasehold tenure by the applicant (name of applicant) falls within the boundaries of District Council.

AND THAT the said (property number) falls within the Jurisdiction of Chief The approval/refusal of the Chief for the land to be converted from customary tenure to leasehold tenure is herewith attached.

2. The applicant (name) has occupied and has had the right to the use and occupation of the said land for a continuous period of years.

3. I am not aware of any other rights personal or communal to the use and occupation of the land or any part of the land.

4. As a result of the information available to me, I hereby give/refuse my approval for the said land to be converted into leasehold tenure.

Signed: Date:

SECTION 24-THE LANDS (THE LANDS TRIBUNAL) RULES

Statutory Instrument
90 of 1996

Rules by the Chief Justice

PART I PRELIMINARYPART I

PRELIMINARY

1. These Rules may be cited as the Lands Tribunal Rules.

Title

2. In these Rules, unless the context otherwise requires-

Interpretation

"member" means a member of the Tribunal;

"proceedings" means proceedings before the Tribunal;

"Secretariat" means the Secretariat referred to in the Act;

"Office" means the office for the time being of the Lands Tribunal.

PART II PROCEEDINGS OF THE TRIBUNALPART II

PROCEEDINGS OF THE TRIBUNAL

3. (1) An appeal to the Tribunal against any directive or decision may be instituted by sending to the Secretariat, in duplicate, a written notice of appeal stating-

Notice of Appeal

- (a) the name and address of the appellant and the respondent;
- (b) the date, reference number and particulars of the directive or decision;
- (c) the description of the land or hereditament including, where appropriate, a plan identifying the land to which the appeal relates;
- (d) the question which the appellant requires the Tribunal to determine, including a statement of the figure representing the amount or value, where necessary, which the appellant requires the Tribunal to determine;
- (e) the grounds of appeal;
- (f) whether the appellant does not propose to call an expert witness to give evidence;
- (g) the address for service or notices and other documents upon the appellant; and
- (h) such other information as may be necessary for hearing of the appeal.

(2) A notice of appeal shall not be valid unless it is lodged with the Secretariat within thirty days from the date on which the directive or decision was served upon the appellant, or within such other time as may be prescribed by the enactment conferring the right of appeal.

4. (1) Upon receiving a notice of appeal, the Secretariat shall-

Entry and
acknowledgement of
appeal

- (a) enter particulars of the appeal in the Register of Appeals; and

The Laws of Zambia

- (b) send the duplicate notice to the respondent and inform the appellants and the respondent of the reference number of the appeal entered in the Register, which shall thereafter constitute the title of the appeal.

(2) Upon receiving the duplicate notice of appeal, the respondent shall send a copy of the decision to the Secretariat.

5. (1) Subject to any direction which may be given by the Chairperson, the Secretariat may, at any time after receiving a notice of appeal, require the person giving the notice to furnish a statement setting out further and better particulars of the grounds on which he intends to rely and any relevant facts and contentions. Power to require further particulars

(2) The statement shall be sent in duplicate to the Secretariat within such time as the Chairperson may direct, not being less than fourteen days after the date of the requirement, and copies of the statement shall be sent to such other persons who have given notice of appeal, in relation to the same proceedings, as the Secretariat may determine.

(3) Upon receiving the statement referred to in sub-rule (2), the Secretariat shall send the duplicate statement to the respondent.

6. Where the Chairperson requests the respondent to furnish particulars of any decision which appear to be requisite for deciding the appeal, the respondent shall furnish the particulars to the Secretariat and the appellants. Power to require particulars of decision

7. (1) Where the Tribunal has appointed an assessor under the provisions of section *twenty-two* of the Act, to assist it in the determination of any matter before it, the Secretariat shall notify any assessor so appointed in writing and inform him of the place and date of the hearing. Appointment of an assessor

(2) The remuneration to be paid to any assessor shall be such as the Chairperson may, with the approval of the Minister responsible for finance, determine.

8. (1) The Tribunal shall sit at such places and times as the Chairperson may determine. Sittings of Tribunal

(2) The Secretariat shall send to each party to proceedings before the Tribunal a notice informing him of the place and date of the hearing which, unless the parties otherwise agree, shall not be earlier than fourteen days after the date on which the notice is served on them.

The Laws of Zambia

(3) Any person to whom notice has been sent under sub-rule (2) may apply to the Secretariat, in accordance with the provisions of Rule 19, for an alteration of the place or date of hearing.

9. The Tribunal shall sit in public except where on application by a party to the proceedings, the Tribunal directs that the whole or part of the proceedings shall be held in Camera. Tribunal to sit in public

10. (1) Subject to the provisions of sub-rule (2), the Tribunal may inspect the land or hereditament which is the subject of the proceedings and may, if it thinks fit, enter on the land or hereditament for that purpose. Inspection of land

(2) Notwithstanding sub-rule (1) the Tribunal shall not enter any premises unless it gives seven days notice to the parties of that intention and the parties shall attend the inspection.

11. (1) Where more than one notice of appeal has been given to the Secretariat in respect of the same land or hereditament, an application to the Secretariat for an order that the appeals be consolidated may be made by any party to the appeals. Proceedings to be consolidated or heard together

(2) The Secretariat may consolidate the appeals under sub-rule (1) where it considers just to do so.

(3) The Tribunal may make an order in respect of only some of the matters to which the notice of appeal relates where it considers it fit to do so.

12. (1) Evidence before the Tribunal may be given orally or, if the parties to the proceedings consent or the Chairperson of the Tribunal so orders, by affidavit. Evidence

(2) The Tribunal may at any stage of the proceedings make an order requiring the personal attendance of any deponent for examination and cross examination.

13. A party to the proceedings shall produce to the Secretariat, on request, any document or other information which the Tribunal may require and which is in the power of that party to produce, and shall afford to every party to the proceedings an opportunity to inspect those documents or copies of them and to take copies of the documents: Production of document or information

Provided that nothing in this rule shall be deemed to require any information to be disclosed contrary to public interest.

The Laws of Zambia

- 14.** If it appears to the Tribunal that any party to the proceedings has failed to produce a copy of any document required under these Rules to be sent to any other party or to the Secretariat, the Tribunal may direct that a copy of the document be sent as may be necessary and that the further hearing of the proceedings be adjourned, and may in any such case require the party at fault to pay any additional costs occasioned by that failure.
- Failure to produce document
- 15.** On the hearing of an appeal, the appellant shall not be entitled to rely upon any grounds not stated in his notice of appeal, unless the Tribunal thinks it just, on such terms as to costs or adjournment or otherwise as it may think fit.
- Appellant limited to grounds of appeal
- 16.** In any proceedings a party may appear and be heard in person, or through an advocate, or any other person appointed for that purpose, with the consent of the Tribunal or, in the case of the person in authority by an official appointed for that purpose.
- Right of audience
- 17.** (1) Except where these Rules otherwise provide, an application for directions of an interlocutory nature in connection with any proceedings shall, unless otherwise ordered by the Chairperson, be made to the Secretariat.
- Interlocutory applications
- (2) The application referred to in sub-rule (1) shall be made in writing and shall state the title of the proceedings and the grounds upon which the application is made.
- (3) Where the application is made with the consent of all parties it shall be accompanied by consents signed by or on behalf of the parties.
- (4) Where the application is not made with the consent of every party, then before it is made, a copy shall be served on every other party and the application shall state that this has been done.
- (5) A party who objects to the application may, within 14 days after service of a copy on him, send written notice of objection to the Secretariat and a copy to the applicant.
- (6) Before making an order on the application, the Secretariat shall consider all the objections which have been received and, if any party wishes to be heard, the Secretariat shall give him and every other party an opportunity to do so.
- (7) The Secretariat may, and shall if so required by the applicant or by a party objecting to an application under this rule, refer the application to the Chairperson for decision.

(8) A party aggrieved by a decision of the Secretariat on an application under this Rule may appeal to the Chairperson by giving notice, in writing, to the Secretariat and to every other party within 14 days after service on him of the notice of the decision or within such further time as may be allowed by the Secretariat.

(9) An appeal from a decision of the Secretariat shall not act as a stay of proceedings unless so ordered by the Chairperson.

(10) The powers and duties of the Chairperson under this Rule may be exercised and discharged in relation to the application by any member of the Tribunal authorised by the Chairperson.

18. The Secretariat shall have power to administer oaths and take affirmations for the purpose of affidavits to be used in proceedings. Administration of oaths

19. The time appointed by or under these Rules for doing any act or taking any steps in connection with any proceedings may be extended, on an application to the Secretariat in accordance with these Rules, upon such terms, if any, as the justice of the case may require, and an extension may be ordered although the application may not be made until after the expiration of the time appointed. Extension of time

20. (1) The Chairperson may, on the application of any party to the proceedings, order any point of law, which appears to be in issue in the proceedings to be disposed of at a preliminary hearing of the Tribunal. Preliminary point of law opinion

(2) If, in the opinion of the Tribunal, the decision on the point of law substantially disposed of the proceedings, the Tribunal may order that the proceedings be treated as the hearing of the case or make such other order as may be just.

21. (1) An appeal may be withdrawn by sending to the Secretariat a written notice of withdrawal signed by all parties to the proceedings or by their advocates or agents. Withdrawal, or dismissal of appeal before hearing

(2) An appellant may, at any time before the hearing of the proceedings, apply to the Chairperson for an order to dismiss the proceedings and the Chairperson may thereupon make such order as may be just.

(3) Where any party has failed to comply with any of these Rules, the Chairperson, may, after giving the parties an opportunity to be heard, make an order that the proceedings be heard by the Tribunal or make such other order as may be appropriate for the purpose of expediting or disposing the proceedings.

22. (1) If on an appeal, the appellant, or any other party to the proceedings does not appear at the time and place appointed for the hearing, the Tribunal may- Default of appearance at hearing

- (a) dismiss the appeal; or
- (b) hear and determine the appeal in his absence and may make such order as to costs as it thinks fit:

Provided that, where proceedings have been dismissed or determined under this Rule in the absence of a party, the party may, on an application made by that party within fourteen days of the dismissal or determination, apply to the Tribunal to set aside the dismissal or determination, and give the reasons for his absence from the hearing.

(2) Where the Tribunal is satisfied that the reasons given by a party under the provisions to sub-rule (1) are sufficient to set aside the dismissal or determination, the Tribunal may set aside that dismissal or determination.

24. (1) The decision of the Tribunal on an appeal shall be given in writing, together with a statement of the Tribunal's reason for its decision. Decision of Tribunal

(2) The Secretariat shall send a copy of the decision to every party who has appeared before the Tribunal, within 14 days of the decision being delivered.

25. Where the parties to any proceedings have agreed upon the terms of any order to be made by the Tribunal, particulars of the terms, signed by all the parties or by their advocates or agents, shall be sent to the Secretariat, and an order may be made by the Tribunal in accordance with those terms in the absence of the parties. Consent order

PART III GENERAL PROVISIONSPART III

GENERAL PROVISIONS

26. (1) The Tribunal may award such costs as it considers necessary. Costs

(2) Where the Tribunal directs that the costs of a party to the proceedings shall be paid by any other party, the Tribunal may settle the amount of the costs by fixing a lump sum, or it may direct that the costs be taxed by the Secretariat on a scale of costs prescribed by the High Court Rules. Cap. 27

(3) Any party who is dissatisfied with the taxation of costs directed by the Tribunal may, within seven days of the taxation, serve on any other interested party and on the Secretariat an objection, in writing, specifying the items objected to and the ground of objection and apply for taxation to be reviewed in respect of those items.

(4) Where an objection is made under sub-rule (3), the Secretariat shall review the taxation of the items objected to and shall state in writing the reasons for his decision.

(5) Any party who is dissatisfied with a decision of the Secretariat under sub-rule (4) may, within fourteen days of the decision, apply to the Chairperson to review the taxation, and the Chairperson may make such order as he thinks just, including an order as to the payment of the costs of the review, but the taxation shall be final in respect of all matters to which objection has not been made.

27. (1) Any notice or other document required or authorised to be served on any person for the purposes of these Rules shall be deemed to have been duly served if sent by registered post to that person's usual address for service specified in any notice given under these Rules.

Service of notices

(2) Any application or communication to be made to the Chairperson or to any member of the Tribunal in respect of any case shall be addressed to the Secretariat.

28. (1) Where any party to any proceedings changes his address he shall by notice in writing to the Secretariat and to every other party to those proceedings inform the Secretariat and the parties of these changes.

Change of address

29. If any person to whom any notice or other documents is required to be sent for the purpose of these Rules cannot be found, or has died and has no personal representative or is out of Zambia, or if for any other reason service upon him cannot be readily effected in accordance with these Rules, the Chairperson of the Tribunal may make an order for substituted service upon such other person or in such other form as the Chairperson of the Tribunal may think fit.

Substituted service

30. Any failure on the part of any person to comply with the provisions of these Rules shall not render the proceedings or anything done in pursuance of the proceedings invalid, unless the Chairperson of the Tribunal so directs.

Compliance with Rules

SECTION 31-THE LANDS (GROUND RENT AND FEES) REGULATIONS

Regulations by the Minister

Statutory Instrument
18 of 1997
CAP. 184

1. These Regulations may be cited as the Lands (Ground Rent and Fees) Regulations.

Short title

The Laws of Zambia

2. The ground rents as set out in the First Schedule shall be payable by persons holding land specified in that Schedule. Ground rent

3. The fees set out in the Second and Third Schedule shall be payable in respect of transactions in land specified in that Schedule. Fees for transactions in land

FIRST SCHEDULE

(Regulation 2)

GROUND RENT PAYABLE IN RESPECT OF LAND
(OTHER THAN AGRICULTURAL LAND)

The Laws of Zambia

PART I

<i>Description of Land</i>	<i>Rent per annum for a hectare or part thereof</i>
1. Lusaka	
<i>Residential plots</i>	K
(a) <i>High cost</i>	50,000
Kabulonga	
Bimbe (Sunningdale)	
Woodlands	
Roma	
Kapila (Rhodes Park)	
Chudleigh	
Jesmondine	
Chiwala Mabwe (Olympia Park)	
Longacres	
Maluba (Fairview)	
Chikonkoto (Northmead)	
Kalundu	
Chelston Green	
Madras	
(b) <i>Medium cost</i>	30,000
Avondale	
Woodlands Extension	
Chakunkula (Chelston)	
Luneta (Thorn Park)	
Namununga (Villa Elizabetta)	
(c) Any other area not specified in (a) and (b) above	15,000
(d) Commercial and Industrial plots situated within five kilometres from the City Centre of Lusaka	100,000
Any other commercial and industrial plots	40,000
Churches, welfare halls, scouts and guides halls and manses	20,000
Club houses, sports-fields, stadia, public utilities, etc.	30,000
2. Ndola	
<i>Residential plots</i>	
(a) <i>High cost</i>	40,000
Northrise	
Kansenshi	
Itawa	
(b) <i>Medium cost</i>	20,000
Kanini	
Hilcrest	
	K
(c) Any other area not specified in (a) and (b) above	10,000
(d) Commercial and industrial plots situated within five kilometres from the City Centre of Ndola	75,000
Any other commercial and industrial plots	40,000
Churches, welfare halls, scouts and guides halls, and manses	20,000
Club houses, sports-fields, stadia, public utilities, etc.	30,000
3. Kitwe	
<i>Residential plots</i>	
(a) <i>High cost</i>	40,000
Riverside	
Parklands	
(b) <i>Medium cost</i>	20,000
Riverside Extension	
Buyantanshi	
Ndeke Village	

The Laws of Zambia

PART II

4. Kabwe, Mufulira, Livingstone, Luanshya, Chingola, Chililabombwe and Kalulushi.

	K
Residential plots	20,000
Commercial plots	40,000
Industrial plots	40,000
Churches, welfare halls, scouts and guides halls and manses	20,000
Club houses, sports-fields, stadia, public utilities, etc.	20,000

PART III

5. Other District Councils not specified in Part I and Part II above.

	K
Residential plots	15,000
Commercial plots	20,000
Industrial plots	15,000
Churches, welfare halls, scouts and guides halls and manses	15,000
Club houses, sports-fields, stadia, public utilities, etc.	20,000

PART IV

6. Annual ground rent for agricultural land including small holdings situated within twenty kilometres from City Centre of Lusaka, Ndola and Kitwe:

- (a) not more than fifty hectares: thirty thousand kwacha for the first hectare and thereafter five thousand kwacha for every hectare or part thereof;
- (b) over fifty hectares but not exceeding one hundred hectares: rent for fifty hectares as in (a) plus four thousand kwacha for every subsequent hectare or part thereof;
- (c) over hundred hectares but not exceeding two hundred and fifty hectares: rent for fifty hectares as in (b) plus two thousand kwacha for every subsequent hectare or part thereof;
- (d) over two hundred and fifty hectares: rent for two hundred and fifty hectares as in (c) plus one thousand five hundred kwacha for every subsequent hectare or part thereof;

PART V

7. Annual ground rent for agricultural land including small holdings not specified in Part IV.

- (a) not more than one hundred hectares: twenty thousand kwacha for the first hectare or part thereof, and thereafter two hundred and fifty kwacha for every hectare or part thereof;
- (b) over one hundred hectares but not exceeding two hundred and fifty hectares as in (a) plus five hundred kwacha for every subsequent hectare or part thereof: as in (b) plus one thousand kwacha for every subsequent hectare or part thereof.
- (c) over two hundred and fifty hectares rent for two hundred and fifty hectares as in (b) plus one thousand kwacha for every subsequent hectare or part thereof.

PART VI

8. Land situated within mining areas, the annual ground rent shall be five thousand kwacha per hectare or part thereof.

On conversion from customary holdings the ground rent and fees payable shall be one half of the ground rent and the fees.

The Laws of Zambia

SECOND SCHEDULE

(Regulation 3)

Fees and charges payable for the preparation of documents:

	<i>Fees Units</i>
1. Lease fees for land situated within Lusaka City Council	278
2. Lease fees for land situated within Ndola and Kitwe Municipal Council	166
3. Lease fees for land situated within Municipal Councils not specified in (2) above	111
4. Preparation fees for documents concerning land situated within Lusaka City Council	111
5. Preparation fees for documents concerning land situated as in 2 and 3	56
6. Surrender fees	56
7. Certificate of expiration of lease	56
8. Certificate of cancellation of re-entry	278
9. Tenancy agreement	556
10. Deed of rectification	111
11. Certificate of incorporation enabling holding of land by an association or Organisation	167
12. Inspection of land at the instance of the applicant	556
13. Drawing affidavits relating to land	
(a) for land situated within state land	111
(b) for land situated within customary land	28
14. Preparation of documents relating to any transaction in land which is not specifically mentioned	89
15. Application form for land from the Council or the Lands department	56
16. Inspection of land at the instance of the Applicant	556
17. Preparation of documents for the conversion of customary tenure into leasehold tenure	28

THIRD SCHEDULE

(Regulation 3)

1. A person shall pay three hundred and thirty-three fee units as an application fee for each application for consent under section *five* to assign, sell, transfer or such other similar application.

2. A person shall pay the fees prescribed under paragraph 1 for the renewal of each application for consent.

(As amended by Act No. 13 of 1994)

THE LANDS (FEES) REGULATIONS

Regulations by the Minister

CAP. 184
Statutory Instrument
143 of 1996

The Laws of Zambia

1. These Regulations may be cited as the Lands (Fees) Regulations. Title
2. The fees set out in the Schedule shall be payable for transactions in land specified in that Schedule. Fees for transactions in land

SCHEDULE

(Regulation 2)

FEES FOR TRANSACTIONS IN LAND

	<i>Fees Units</i>
1. Preparation of a lease in respect of land situated in a city council	111
2. Preparation of a lease in respect of land situated in a municipal council	83
3. Preparation of a lease in respect of land situated in a district council	56
4. Preparation of documents for the conversion of customary tenure into leasehold tenure	28
5. Surrender fees	56
6. Certificate of cancellation of re-entry	278
7. Certificate of expiration of lease	56
8. Inspection of land at the instance of the applicant	556
9. Deed of rectification	56
10. Tenancy agreement	556
11. Drawing affidavits relating to land:	
(a) for land situated within state land	111
(b) for land situated within customary area	28
12. Certificate of incorporation enabling holding of land by associations or organisations	278
13. For each application for consent under section <i>five</i> to sell, transfer or assign	278
14. Renewal of each application for consent to sell, transfer or assign	278
15. Application form for land from the Council or the Lands Department	56
16. Preparation of documents relating to any transaction in land which is not specifically mentioned	89