

(Published 27th January, 2017)

ACT

No. 7 of 2017

I assent

PROF. ARTHUR PETER MUTHARIKA

PRESIDENT

20th January, 2017

ARRANGEMENT OF SECTIONS

SECTION

1. Short title and commencement
2. Amendment of s. 2 of Cap. 58:01
3. Repeal of s. 4 of the principal Act
4. Amendment of s. 10 of the principal Act
5. Amendment of s. 11 of the principal Act
6. Amendment of s. 12 of the principal Act
7. Amendment of s. 15 of the principal Act
8. Amendment of s. 16 of the principal Act
9. Amendment of s. 17 of the principal Act
10. Amendment of s. 19 of the principal Act
11. Amendment of s. 20 of the principal Act
12. Amendment of s. 21 of the principal Act
13. Amendment of s. 25 of the principal Act
14. Amendment of s. 27 of the principal Act
15. Amendment of s. 31 of the principal Act
16. Amendment of s. 32 of the principal Act
17. Amendment of s. 34 of the principal Act
18. Amendment of s. 66 of the principal Act
19. Amendment of s. 91 of the principal Act
20. Repeal of s. 101 of the principal Act
21. Amendment of s. 108 of the principal Act
22. Amendment of s. 119 of the principal Act
23. Repeal of s. 121 of the principal Act
24. Repeal of s. 122 of the principal Act

SECTION

25. Amendment of s.134 of the principal Act
26. Amendment of s.137 of the principal Act
27. Amendment of s.140 of the principal Act
28. Amendment of s.144 of the principal Act

An Act to amend the Registered Land Act

ENACTED by the Parliament of Malawi as follows—

Short title and commencement 1. This Act may be cited as the Registered Land (Amendment) Act, 2017, and shall come into operation on a date appointed by the Minister by notice published in the *Gazette*.

Amendment of s. 2 to Cap. 58:01 2. Section 2 of the Registered Land Act (hereinafter referred to as the “principal Act”) is amended—

(a) by deleting the definitions of the terms “Allocation Officer” and “Allocation Record”;

(b) by deleting the definition of the word “court” and substituting therefor the following definition—

““court” means any court of competent jurisdiction;”;

(c) by inserting the following new definition immediately after the definition of the word “court”—

““customary estate” has the meaning ascribed to that term in the Land Act, 2016”;

Act No. 16 of 2016

(d) by deleting the definition of the words “to file” and substituting therefor the following—

““to file” means to place in the relative file or electronic file”;

(e) by deleting the definition of the word “land” and substituting therefor the following—

Act No. 16 of 2016

““land” has the meaning ascribed to it in the Land Act, 2016”;

(f) by inserting the following new definition of the term “land clerk” immediately after the definition of the word “land”—

Act No.19 of 2016

““land clerk” has the meaning ascribed to that term in the Customary Land Act, 2016;”and

(g) by deleting the definition of the term “registration district” and substituting therefor the following—

““registration district” means the area under the jurisdiction of a local government authority;”.

3. Section 4 of the principal Act is repealed. Repeal of
s. 4 of the
principal Act
4. Section 10 of the principal Act is amended— Amendment
of s. 10 of the
principal Act
- (a) in subsection (1), by inserting, immediately after the word “lease”, the words “or customary estate”;
- (b) by deleting subsection (2) and substituting therefor the following—
- “(2) Each register shall show whether the land registered is public land or private land and shall indicate the relevant class of such land”; and
- (c) in subsection (3), by deleting paragraph A and substituting therefor the following new paragraph—
- “A—the property section, containing a brief description of the land, lease or customary estate, together with particulars of its appurtenances, and a reference to the registry map and filed plan, if any;”.
5. Section 11 of the principal Act is amended, in subsection (1), by deleting— Amendment
of s. 11 of the
principal Act
- (a) the words “under section 27 of the Customary Land (Development) Act”; and
- (b) the term “Allocation Officer” and substituting therefor the term “land clerk”.
6. Section 12 of the principal Act is amended by deleting subsection (3) and substituting therefor the following— Amendment
of s. 12 of the
principal Act
- “(3) No subsequent registration shall be made with respect to a customary estate or a lease of customary land within a Traditional Land Management Area unless the Registrar is satisfied that the dealing in such land or lease, which requires registration, has the written consent of a land committee responsible for the area, and the Traditional Authority in whose jurisdiction the land is situated and the Registrar shall file a copy of the consent given by the committee.”.
7. Section 15 of the principal Act is amended, by deleting the term “Director of Surveys” and substituting therefor the term “Surveyor General”, wherever the words appear in the section. Amendment
of s. 15 of the
principal Act
8. Section 16 of the principal Act is amended— Amendment
of s. 16 of the
principal Act
- (a) by deleting the words “Director of Surveys” and substituting therefor the term “Surveyor General” wherever the words appear in the section; and

(b) in subsection (1), in the Proviso thereto, by deleting the word “Director” and substituting therefor the term “Surveyor General”.

Amendment of s. 17 of the principal Act **9.** Section 17 of the principal Act is amended by deleting the words “Director of Surveys” and substituting therefor the term “Surveyor General” wherever the words appear in the section.

Amendment of s. 19 of the principal Act **10.** Section 19 of the principal Act is amended in subsection (3), by deleting the words “Director of Surveys” and substituting therefor the term “Surveyor General”.

Amendment of s. 20 of the principal Act **11.** Section 20 of the principal Act is amended in subsections (2) and (3), by deleting the words “£10” and substituting therefor the words “K100,000.00”.

Amendment of s. 21 of the principal Act **12.** Section 21 of the principal Act is amended in subsection (1)—

(a) by deleting the words “£100” and substituting therefor the words “K500,000.00”; and

(b) by deleting the words “two months” and substituting therefor the words “six months”.

Amendment of s. 25 of the principal Act **13.** Section 25 of the principal Act is amended, in paragraph (b) (i) by deleting the words “, or as a family representative”.

Amendment of s. 27 of the principal Act **14.** Section 27 of the principal Act is amended by deleting the word “country” appearing in the first line, and substituting therefor the word “contrary”.

Amendment of s. 31 of the principal Act Act No. ... of 2015 **15.** Section 31 of the principal Act is amended in subsection (1), by deleting the words “Local Land Board Act” and substituting therefor the words “Customary Land Act, 2016”.

Amendment of s. 32 of the principal Act **16.** Section 32 of the principal Act is amended in subsection (2), by deleting the words “or family representative”.

Amendment of s. 34 of the principal Act **17.** Section 34 of the principal Act is amended in subsection (2), by deleting the words “£25” and substituting therefor the words “K100,000.00”.

Amendment of s. 66 of the principal Act **18.** Section 66 of the principal Act is amended—

(a) in subsection (4), by inserting, at the end of the subsection, the following new proviso—

“Provided that where the subject of the charge is a customary estate, the amount payable shall be paid into the Special Fund.”;

and

(b) inserting, immediately after subsection (4), a new subsection as subsection (5) as follows—

“(5) For the purpose of this section, “Special Fund” means a fund established in accordance with section 46 (2) of the Local Government Act.”. Cap. 22:01

19. Section 91 of the principal Act is amended in subsection (1), by deleting the words “Mining Act” and substituting therefor the words “Mines and Minerals Act”. Amendment
of s. 91 of the
principal Act
Cap. 61:01

20. Section 101 of the principal Act is repealed. Repeal of s.
101 of the
principal Act

21. Section 108 of the principal Act is amended in subsection (1), by deleting the words “twenty-one” and substituting therefor the words “eighteen”. Amendment
of s. 108 of
the principal
Act

22. Section 119 of the principal Act is amended by deleting subsection (3) and substituting therefor the following— Amendment
of s. 119 of
the principal
Act

“(3) Where the proprietor of land, a lease or a charge is a trustee, he shall hold the same subject to any unregistered liabilities, rights and interests to which it is subject by virtue of the instrument creating the trust, and for the purpose of registered dealings, a person having dealings in such land shall be deemed to have notice of the trust and breach of the trust shall create a right to indemnity under this Act.”.

23. Section 121 of the principal Act is repealed. Repeal of s.
121 of the
principal Act

24. Section 122 of the principal Act is repealed. Repeal of s.
122 of the
principal Act

25. Section 134 of the principal Act is amended subsection (1), by deleting the proviso thereto and substituting therefor the following— Amendment
of s. 134 of
the principal
Act

“Provided that no person shall so acquire the ownership of public land”.

26. Section 137 of the principal Act is amended in subsection (1), by deleting the words “customary or public land” and substituting therefor the words “public land”. Amendment
of s. 137 of
the principal
Act

Amendment of s. 140 of the principal Act **27.** Section 140 of the principal Act is amended in subsection (1), by inserting, at the end of the subsection, the words “or by the local government authority in whose jurisdiction that area falls.”.

Amendment of s. 144 of the principal Act **28.** Section 144 of the principal Act is amended in subsection (1), by deleting the words “Subject to the proviso to section 28 (2) of the Customary Land (Development) Act” and substituting therefor the words “Subject to the Customary Land Act, 2016”.

Act No. 19 of 2016

Passed in Parliament this twenty eighth day of November, two thousand and sixteen.

FIONA. KALEMBA
Clerk of Parliament