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Act

No. 5 of 2022

I assent

DR. LAZARUS MCCARTHY CHAKWERA
PRESIDENT
31st March, 2022

ARRANGEMENT OF SECTIONS

SECTION

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11. Replacement of s. 39 of the principal Act
12. Insertion of ss. 44A and 44 B into the principal Act

An Act to amend the Land Act

ENACTED by the Parliament of Malawi as follows —

Short title and commencement

1. This Act may be cited as the Land (Amendment) Act, 2022, and shall come into force on a date appointed by the Minister by notice published in the *Gazette*.

Amendment of s. 2 of Cap. 57:01.

2. The Land Act (hereinafter referred to as the "principal Act") is amended, in section 2, by—

(*a*) deleting the definition of the term "customary land" and substituting therefor the following new definition—

""customary land" means land held, occupied and used in accordance with customary law";

(*b*) deleting the definition of the term "customary law" and substituting therefor the following new definition—

""customary law" means customary law and practice prevailing in the traditional land management area";

(*c*) inserting the following new definition immediately after the definition of the term "customary law" -

""freehold land" means a fee simple, fee tail or life estate";

(*d*) deleting the definition of the term "Government land" and substituting therefor the following new definition—

""Government land" means land acquired and owned by the Government, but does not include a public road";

(*e*) deleting paragraph (*c*) and paragraph (*d*) under the definition of the term "public land" and substituting therefor the following new paragraphs—

"(*c*) land *gazetted* for national parks, recreation areas, forest reserves, conservation areas, historic and cultural sites;" and

"(*d*) land vested in Government as a result of uncertain ownership, abandonment or land that cannot be used for any purposes;"

(*f*) deleting paragraph (e) under the definition of "public land";

(*g*) inserting the following new definition immediately after the definition of the term "rules of good husbandry"—

""Traditional Authority" has the meaning assigned thereto in the General Interpretation Act;" and

Cap. 1:01

(*h*) deleting the definition of the term "traditional land management area" and substituting therefor the following new definition—

""traditional land management area" means customary land demarcated and held by a Traditional Authority on trust for the residents under his jurisdiction.".

Replacement of s. 3 of the principal Act

3. Section 3 of the principal Act is repealed and replaced with the following new section 3—

"Commissioner for Lands

3.— (1) There shall be a Commissioner for Lands (in this Act otherwise referred to as the "Commissioner") who shall be a public officer.

(2) A person shall not qualify for appointment as Commissioner unless he—

(*a*) holds a minimum education qualification of a Bachelor's degree obtained from an institution recognised or accredited under the National Council for Higher Education Act; and

Cap. 30:12

(*b*) has not less than 10 years' experience in land law and policy.".

Replacement of s. 7 of the principal Act

4. Section 7 of the principal Act is repealed and replaced with the following new section 7—

"Categories of land

7. Land shall be categorized as public land, customary land or private land.".

Insertion of ss. 9A and 9B into the principal Act

5. The principal Act is amended by inserting, immediately after section 9, new sections 9A and 9B as follows—

"Access to land

9A.— (1) Subject to the availability of land and a person's means, every person shall have the right to access land for shelter and livelihood.

(2) Government shall ensure that there is no concentration of land in a few individuals to the disadvantage of other deserving persons.

(3) The Minister shall prescribe land ceilings taking into account the—

(*a*) availability of land;

(*b*) utilization of land; and

(*c*) capacity of a person to develop the land.

No sale of vacant land

9B. No person shall sell vacant leasehold or freehold land.".

Amendment of s.11 of the principal Act

6. Section 11 of the principal Act is amended by inserting, immediately after subsection (2), new subsections (3) and (4) as follows—

"(3) Land for investment allocated by the Malawi Investment and Trade Centre Limited shall be withdrawn if it is not developed within two years of the allocation.

commence development of the land, and the Minister may, upon being satisfied, grant the extension.

Insertion of ss. 44A and 44B into the principal Act

12. The principal Act is amended by inserting, immediately after section 44, new sections 44A and 44B as follows—

"Lease granted by the Minister to revert to public land

44A.— (1) Where a lease granted by the Minister in accordance with this Act expires, the land shall become public land.

(2) Where the expired lease referred to under subsection (1) was created out of customary land, the Minister may—

(*a*) convert the public land to customary land; and

(*b*) reallocate the land, giving priority to communities living in the area surrounding the land.

Surrender of land upon change of use from agricultural to residential or commercial development Cap. 23:01

44B. Where a land holder makes an application under the Physical Planning Act for change of use of the whole or any part of the land that was granted for agricultural purposes to residential or commercial development, any approval for the change of use of the land shall be granted on condition that—

(*a*) no vacant land shall be sold; and

(*b*) fifty per cent of the land intended for residential or commercial development shall, subject to payment of appropriate compensation, be surrendered to the Government.".

Passed in Parliament this twenty fifth day of March, two thousand and twenty-two.

FIONA KALEMBA
Clerk of Parliament