

CHAPTER 338

THE PUBLIC LAND (PRESERVED AREAS) ACT

[PRINCIPAL LEGISLATION]

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CHAPTER 338

THE PUBLIC LAND (PRESERVED AREAS) ACT

An Act to provide for the preservation of public land for the purpose of its better utilisation and development and for the conservation of the natural resources.

[1st July, 1954]

Ord. No.

12 of 1954

[R.L. Cap. 338]

Acts Nos.

28 of 1965

17 of 1966

[PCh338s1]1. Short title

This Act may be cited as the Public Land (Preserved Areas) Act.

[PCh338s2]2. Interpretation Act No. 28 of 1965 ss. 2 and 3

(1) In this Act unless the context otherwise requires—

"effective date" in relation to any preserved area means the date specified in an order made under section 3 of this Act to be the date on which that area becomes a preserved area;

"Government lease" has the meaning ascribed to the expression in the Freehold Titles (Conversion) and Government Leases Act *;

"Minister" means the Minister responsible for lands;

"preserved area" means an area of public land declared by the Minister to be a preserved area under the provisions of section 3 of this Act.

(2) Save in respect of the expressions defined in subsection (1) of this section, the expressions contained in this Act shall have the meanings assigned to them in the Land Act *.

[PCh338s3]3. Declaration of preserved areas Act No. 28 of 1965 s. 2

(1) The Minister may by order published in the Gazette declare any area of public land to be a preserved area as from a date specified in the order and may at any time vary or revoke such order.

(2) Before declaring any area of public land to be a preserved area the Minister shall cause such enquiries to be made as he thinks fit.

[PCh338s4]4. Effect of declaration of public land to be preserved area Act No. 28 of 1965 s. 4

Notwithstanding the provisions of any other law and in particular, but without prejudice to the generality of the foregoing, the provisions of the Land Act, on the effective date and thereafter the following provisions shall, subject to the provisions of section 5 of this Act, apply to all land within a preserved area—

(a) no right of occupancy of any such land shall be capable of being created or existing except by or under a grant under section 6 or the Land Act *; and

(b) it shall not be lawful for any person to use or occupy any such land except under—

(i) a Government lease; or

(ii) a right of occupancy granted under section 6 or the Land Act; or

(iii) a sub-lease or other grant created out of a Government lease or any such right of occupancy; or

(iv) any other written authority to use or occupy land granted by or on behalf of the President or any other person holding office in the service of the United Republic under an Act in force in Tanzania (other than the Land Act).

[PCh338s5]5. Saving as to existing rights of occupancy acquired under customary law and customs Acts Nos. 28 of 1965 s. 5; 17 of 1966 s. 21

(1) Nothing in section 4 of this Act shall prejudice or affect—

(a) the title of any native or native community to the use and occupation of any land within preserved area which such native or native community was lawfully using or occupying in accordance with customary law immediately before the effective date; or

(b) the title of any native or native community who or which lawfully succeeds under customary law to the use and occupation of land to which paragraph (a) of this section applies:

Provided that such title shall be extinguished if—

(i) at any time after the effective date such person or community, or his or its successor in title, as the case may be, abandons the land concerned for a period of three months or more; or

(ii) such person or community fails to apply for the recording of the title within the time prescribed therefor under section 6 or any extension of such time granted by or under regulations made under section 9; or

(iii) the title is merged in a right of occupancy granted in respect of the land concerned under the Land Act; or

(iv) a right or occupancy is granted to the Commissioner for Village Settlement over the land concerned:

And provided further that such title shall extend only to the area of use or occupation which such native or native community was lawfully using or occupying immediately before the effective date.

(2) Where any title is extinguished in the circumstances described in paragraph (ii) or paragraph (iv) of the first proviso to subsection (1), the person whose title is so extinguished shall, during the period of twelve months immediately succeeding such extinguishment, have the same right to enter upon the land subject thereto for the purpose of harvesting any crop planted or growing thereon before such extinguishment as he would have enjoyed had such title not been extinguished.

An order made under section 3 declaring a preserved area shall prescribe a date (not being earlier than three months after the effective date) before which every person or community to whom section 5 refers shall apply to the District Commissioner, or some other person holding office in the service of the United Republic who is notified therein, for the recording of any title in land in the areas to which that section refers:

Provided that where the declaration is made for the purpose of preserving land for future development by the Commissioner for Village Settlement, the Commissioner may be authorised and required to record such titles.

[PCh338s7]7. Demarcation

The Commissioner for Surveys shall cause—

- (a) the boundaries of every preserved area to be beacons; and
 - (b) notices to be exhibited on such boundaries, both in the English and appropriate vernacular languages,
- in such manner as may be sufficient for such boundaries to be known in the neighbourhood.

[PCh338s8]8. Compensation for extinguishment of certain titles Acts Nos. 28 of 1965 s. 7; 17 of 1966 s. 23

(1) Where the Minister proposes to grant to the Commissioner for Village Settlement a right of occupancy over any part of a preserved area in which any such title as is referred to in paragraph (a) or (b) of section 5 subsists, he may require the Commissioner for Village

Settlement to compensate the persons or communities having such titles therein in accordance with the provisions of this section.

(2) Compensation under this section shall be—

(a) the value of the unexhausted improvement in the land effected by the occupier other than any crops which he may harvest in accordance with subsection (2) of section 5; and

(b) if the occupier is not nominated by or on behalf of the Commissioner for Village Settlement as a settler in an approved scheme or if, having been so nominated, he becomes entitled to compensation in cash in accordance with subsection (3), reasonable compensation for disturbance.

(3) Notwithstanding paragraph (a) of subsection (2), where any occupier is nominated by or on behalf of the Commissioner for Village Settlement as a settler in an approved scheme he shall not be entitled to be paid any compensation in cash for the value of the unexhausted improvement in the land unless—

(a) he is not granted a licence to occupy land in accordance with the scheme; or

(b) he is not granted a lease in accordance with the scheme within five years of the date on which a right of occupancy over the land was granted to the Commissioner for Village Settlement; or

(c) if he has been granted such licence or lease, the same is revoked or forfeited within such period of five years,

but the value of such unexhausted improvement shall be credited to such person's account with the Commissioner for Village Settlement or any village settlement co-operative society of which he may become a member and utilised to reduce any sums owing by him to the Government in respect of its recoverable expenditure on an approved scheme or to the Commissioner for Village Settlement or such society.

(4) If there is being any dispute as to the amount of compensation or as to the person to whom it is payable it shall be determined by a district court whose decision shall be final.

(5) A scheme shall be an authorised scheme for the purposes of this section if it is made by the Commissioner for Village Settlement, is approved by the Minister, and contains provisions whereby persons included as settlers therein shall be entitled to a licence to cultivate some part of the land in the area to which the scheme relates and, subject to their compliance with the provisions of the scheme and to the rules made for the administration and development of the settlement to which it relates, to a lease of some part of such land.

(6) Any compensation paid under this section shall be paid out of moneys provided by Parliament.

[PCh338s9]9. Regulations Act No. 28 of 1965 s. 8

The Minister may make regulations prescribing the manner in which titles to which section 5 refers shall be recorded, as to the adjudication of such titles, and the reporting thereof to the Land Office, and generally for the better carrying into effect of the provisions of this Act.