

THE UNITED REPUBLIC OF TANZANIA



No. I OF 1965

I ASSENT,

Julius K. Nyerere

President

18TH MARCH, 1965

An Act to enfranchise land held by Nyarubanja tenure

[19TH MARCH, 1965]

ENACTED by the Parliament of the United Republic of Tanzania.

1. This Act may be cited as the Nyarubanja Tenure (Enfranchisement) Act, 1965, and shall come into operation on such date as the Minister shall, by notice published in the *Gazette*, appoint.

2. This Act shall apply to the West Lake Region.

3. In this Act, unless the context otherwise requires-
"enfranchised land" means land enfranchised by section 4;

"landlord", in respect of any land held or formerly held under or in accordance with Nyarubanja tenure, means the person who in accordance with the rules of customary law regulating Nyarubanja tenure is the *Mtwazi*;

"local authority" means a district or town Council within the area of which any enfranchised land is situated;

"Minister" means the Minister for the time being responsible for legal affairs;

"Nyarubanja tenure" means the system of land tenure in the West Lake Region which is known by that name;

"tenant", in respect of any land held or formerly held under or in accordance with Nyarubanja tenure, means the person who in accordance with the rules of customary law regulating Nyarubanja tenure is the *Mtwarwa*.

4.-(1) On the commencement of this Act, every parcel of land held, immediately before the commencement of this Act, by any person as a tenant under or in accordance with Nyarubanja tenure shall, by virtue of this Act, be enfranchised and cease to be so held.

Short title
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(2) On and after the commencement of this Act no grant of land may be made under or in accordance with Nyarubanja tenure, and any agreement for such a grant made, but not completed, before the commencement of this Act shall be void.

Vesting of
enfranchised
land

5. (1) Subject to this section, enfranchised land shall vest in the person who, immediately before the commencement of this Act, was the tenant of the land on the terms and subject to the incidents prescribed for enfranchised land by rules made under section 7, and such land may be dealt with in accordance with such terms and incidents.

(2) Where, in accordance with subsection (1), any enfranchised land vests in any person who, immediately before the commencement of this Act, held the land-

- (a) on trust for any other person or purpose (not being a trust that was an incident of Nyarubanja tenure), the enfranchised land shall vest in such first-mentioned person on the like trust;
- (b) subject to any encumbrance, interest, right, term or condition for the benefit of another (not being an encumbrance, interest, right, term or condition for the benefit of the landlord as such or otherwise an incident of Nyarubanja tenure), the enfranchised land shall vest in such first-mentioned person subject to the like encumbrance, interest, right, term or condition in so far as the same is capable of having effect in accordance with such rules aforesaid.

(3) Where the interest of a tenant in land formerly held under or in accordance with Nyarubanja tenure has been forfeited before the commencement of this Act but the former tenant has nevertheless remained in occupation of such land continuously from the time of such forfeiture until the commencement of this Act, such former tenant shall be deemed to be a tenant for the purposes of this Act and the land shall be enfranchised under section 4.

Extinction of
rights of
landlords

6. On the commencement of this Act, all rights in any enfranchised land of any person as a landlord under or in accordance with Nyarubanja tenure shall be extinguished, and, save as may be provided by rules made under section 7, no compensation shall be paid to any such person for the loss of any enfranchised land or for the loss of any incidents owed under or in accordance with Nyarubanja tenure by any tenant or other person.

Regulation of
tenure of
enfranchised
lands

7.-(1) The local authority shall, as soon as may be after the commencement of this Act and subject to the approval of the Minister, make rules prescribing the terms and incidents of tenure of enfranchised land.

(2) In addition to any other matter which may be included therein, rules made under this section shall contain provision, either expressly or by reference to other law in force in Tanzania, for-

- (a) the interests or rights which may exist in or be created out of such land;

(b) the devaluation of any interests or rights therein on death or dissolution;

(c) the disposal of any interests or rights therein *inter vivos*.

(3) Rules may be made under this section for the payment to landlords of compensation for the unexhausted improvement effected by or on behalf of the landlord in any building or other structure on any land of which the landlord is divested by this Act.

(4) Subject to the approval of the Minister, the local authority may, from time to time, amend, revoke and replace rules made under this section and may make additional rules for any matter provided for herein.

(5) Notwithstanding section 7 of the Interpretation and General Clauses Ordinance, rules under this section shall not require to be published in the *Gazette*, but shall be published in such manner as the Minister may direct.

8. Rules made under section 7 shall be deemed to be a declaration of customary law within the meaning of section 9A of the Judicature and Application of Laws Ordinance and persons holding land in accordance with such rules shall be deemed to hold such land under customary law. Effect of rules Cap. 453

9.(1) Where, between the commencement of this Act and the coming into operation of the first rules made under section 7, any person in whom enfranchised land is vested in accordance with section 5 dies, the land shall vest in a person appointed by a court of competent jurisdiction or, in default of such appointment, in the local authority, and such person or authority shall hold the same on trust for the person or persons to whom the land shall descend in accordance with such rules.

Devaluation and disposition of enfranchised land before coming into operation of rules

(2) Subject to subsection (1) of this section, where, between the commencement of this Act and the coming into operation of the first rules made under section 7, enfranchised land vests, by operation of law, in any person other than the person in whom it is vested by section 5, such person shall hold the same as a trustee until the coming into operation of such first rules, and the beneficial interests in such land shall be disposed of on the coming into operation of such rules in accordance with the rules:

Provided that nothing in this subsection or in any law relating to trusts shall preclude such trustee from providing for the occupation or management of such lands or from enjoying or disposing of the produce or rents thereof in accordance with or in any manner permitted in accordance with the law in force prior to the coming into operation of such rules.

(3) Subject to the foregoing provisions of this section, no transfer or other disposition of enfranchised land shall have effect between the commencement of this Act and the coming into operation of the first

rules made under section 7, but, in any case of a purported transfer or disposition, the same shall have effect on the coming into operation of such rules in so far as provision is made therein for such transaction or, if it cannot have effect thereunder, shall be void.

Passed in the National Assembly on the eighteenth day of March, 1965.


Msekwa
Clerk of the National Assembly

