

THE LAND ADJUDICATION ACT, 1989

ARRANGEMENT OF SECTIONS

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I ASSENT

Salmin Amour

SALMIN AMOUR
PRESIDENT OF ZANZIBAR
AND
CHAIRMAN OF THE REVOLUTIONARY
CONCIL.

1st August, 1991.

AN ACT TO PROVIDE FOR THE ADJUDICATION
AND FIRST REGISTRATION OF RIGHTS AND
INTERESTS IN LAND, AND FOR MATTERS
CONNECTED THEREWITH AND INCIDENTAL THERETO

ENECTED BY THE HOUSE OF REPRESENTATIVES OF
ZANZIBAR.

PART I
PRELIMINARY AND APPLICATION

1. This Act may be cited as the Land Adjudication Act 1989 and shall come into operation immediately upon being assented by the President.

2. In this Act except where the context otherwise requires -

"adjudication area" means an area to which this Act has been applied under section 3;

"adjudication committee" means an adjudication committee appointed under section 5 in respect of an adjudication section;

"adjudication officer" means an adjudication officer appointed under section 4;

Short
title.

Interpre-
tation.

"adjudication record" means the adjudication record prepared in accordance with the provisions of section 20 in respect of an adjudication section;

"adjudication section" means an adjudication section declared under section 6;

"charge" bears the meaning ascribed to that word by the Registered Land Act;

"Court" save as otherwise expressly provided means the High Court of Zanzibar;

"demarcation map" means a demarcation index map prepared under section 15 in respect of an adjudication section;

"demarcation officer" means a demarcation officer appointed under section 4;

"easement" bears the meaning ascribed to that word by the Registered Land Act;

"guardian" means any person responsible (whether under customary law or otherwise) for protecting the interests of any person who is under a disability, whether by reason of age, unsoundness of mind or any other cause;

"land" includes land covered with water, all that is growing on land, buildings and other things permanently affixed to land, and an undivided share in land;

"lease" bear the meaning ascribed to that word by the Registered Land Act;

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

"occupation of land" included the receipt of rents or profits from the land;

"parcel" means an area of land separately delineated on the demarcation map and thereon given a number;

"person" includes any corporate body, registered company registered association or society, and any association or community recognised by the adjudication officer or the Court as a unit for the purpose of holding land;

"President" means the President of Zanzibar and Chairman of Revolutionary Council;

"profit" bears the meaning ascribed to that word by the Registered Land Act;

"recording officer" means a recording officer appointed under section 4;

"registered" bears the meaning ascribed to that word by the Registered Land Act;

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"Registrar of Documents" means the Registrar of Documents appointed under the Registration of Documents Decree;

"survey officer" means a survey officer appointed under section 4;

"Wakf and Trust Commission" means the Wakf and Trust Commission established by the Commission for the Administration of Wakf and Trust Property Decree, 1980.

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Application.

3.(1) Whenever it appears expedient to the Minister that adjudication and first registration of rights and interest in land in any area should be effected, the Minister may by order published in the Gazette declare that this Act shall apply to that area and thereupon that area shall become an adjudication area.

(2) Any order made under subsection (1) of this section shall define the situation and limits of the adjudication area to which it relates either by means of a plan or by a description, or by both, and the Minister may at any time by order published in the Gazette vary the limits of the adjudication area.

PART II

OFFICERS AND COMMITTEES

Appointment
and general
powers of
officers.

4.(1) Whenever an order made under section 3 is published, the Minister shall appoint a named person or the holder of a named office as adjudication officers for the adjudication area to perform the duties and exercise the power imposed and conferred upon the adjudication officer by this Act.

(2) The adjudication officer may appoint such demarcation officer, recording officers and survey officers as may be necessary for performing the duties and exercising the powers imposed and conferred upon them by this Act.

(3) The adjudication officer shall, subject to the directions of the Minister, be in charge of the adjudication under this Act of rights and interests in land in the adjudication area for which he is appointed and may issue such general or special directions as he thinks necessary to the other officers appointed under subsection (2) for such area, and may himself perform and exercise all or any of the duties given under this Act to demarcation officers and recording officers.

(4) The adjudication officer shall be competent to administer oaths and take affidavits in any enquiry made by him and to issue summons, notices or orders requiring the attendance of such persons or the production of such documents as he may consider necessary for carrying out the adjudication.

(5) A demarcation officer or survey officer may at any reasonable time enter upon any land within the adjudication area for the purpose of demarcation or surveying any parcel therein and may summon any person who can give information regarding the boundaries of any such parcel to point out the boundaries.

Appointment
and functions
of adjudication
committees.

5.(1) For any adjudication section declared under section 6 the adjudication officer, after consultation with the Area Commissioner within whose area the adjudication section is situated, may appoint not less than six persons resident in the adjudication section to form an adjudication committee.

(2) The committee appointed for an adjudication section shall -

- (a) advise the adjudication officer or any officer subordinate to him upon any question of recognized customary law as to which he has sought its guidance;
- (b) safeguard the interests of absent persons and persons under disability;
- (c) bring to the attention of officers engaged in the adjudication any interests in respect of which for any reason no claim has been made;

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- (d) assist generally in the adjudication process.

PART III

CLAIMS AND DEMARCATION

adjudication
sections.

6. The adjudication officer shall divide each adjudication area into two or more adjudication sections or declare the whole area to be a single adjudication section, and shall give each section a distinctive name.

notice by
adjudication
officer.

7.(1) The adjudication officer shall prepare a separate notice in respect of each adjudication section, and in such notice shall -

- (a) specify the situation and limits of the adjudication section;
- (b) declare that all interests in land in such action will be ascertained and recorded in accordance with the provisions of this Act;
- (c) require any person who claims any interest in land within the adjudication section to make a claim thereto either in person or by agent within the period, to the person, at the place and in the manner specified in the notice;
- (d) require any person who claims to occupy land within the adjudication section to mark or indicate the boundaries of the land in such manner and before such date as shall be required by the demarcation officer.

(2) The adjudication officer shall as soon as possible after preparing a notice under subsection (1) -

- (a) cause such notice to be published at such administrative and other offices as he thinks fit;
- (b) cause the substance of such notice to be made known throughout the adjudication section and elsewhere in such manner as he considers to be most effective for the purpose of bringing it to the attention of all persons affected thereby.

aims in
spect of
kf and
ust land.

8. Claims to interests in any wakf and trust land administered by the Wakf and Trust Commission shall be presented to the adjudication officer by the Executive Secretary duly authorized on that behalf by the Commission.

aying of
nd suits.

9.(1) Except with the consent in writing of the adjudication officer, no action concerning land or an interest in land in any adjudication section in respect of which a notice has been published under section 7 shall be begun until proceedings under this Act with regard to such land or interest have been completed.

(2) Where at the time of publication of a notice under section 7 an action concerning land or an interest in land in the adjudication section referred to in such notice is pending or in progress, such action shall, where practicable, be determined before the adjudication under this Act of the land or interest therein is commenced:

Provided that it shall be lawful for the adjudication officer at any stage of such section to order that it shall be stayed and it shall be stayed accordingly.

Claims and
attendance.

10.(1) Every person claiming an interest in land within an adjudication section shall make his claim in the manner and within the period fixed by the relevant notice under section 7.

(2) Every person whose presence is required by the adjudication officer, demarcation officer, or recording officer, as the case may be, shall attend in person or by agent at the time and place specified. If any such person fails so to attend, the demarcation, recording or other proceedings may continue in his absence.

Safe guarding
of rights of
absent
persons and
minors.

11.(1) If the adjudication officer, demarcation officer or recording officer is satisfied that any person who has not made a claim has a claim to any interest in land within the adjudication section the adjudication officer, demarcation officer or recording officer may, but shall not be bound to, proceed as if a claim had been made, and may call upon the Registrar of Documents to supply him with a certified copy of any document relevant thereto and registered under the Registration of Documents Decree.

Cap. 90.

(2) If the adjudication officer, demarcation officer, or recording officer is satisfied that a claim might be established by a minor and no person has been appointed to represent the minor, he shall proceed as if a claim by, or on behalf of, such minor had been made.

Notice of
demarcation.

12.(1) Not less than seven clear days before the demarcation of land in an adjudication section is begun, the demarcation officer shall give notice of such demarcation and of the time and place at which it will begin, in such manner as the adjudication officer shall deem most likely to bring the notice of demarcation to the attention of the persons likely to be affected thereby.

(2) Such notice shall require every person who claims to occupy land to indicate the boundaries of the land affected by his claim in the manner specified in the notice.

Duties of
the
Demarcation
Officer.

13. Subject to any general or particular directions issued by the adjudication officer, the demarcation officer shall within each adjudication section -

- (a) ensure that the boundaries of each parcel of land which is the subject of a claim are indicated or demarcated in accordance with the requirements of the notice given under section 12;
- (b) indicate or cause to be indicated the boundaries of -
 - (i) any public roads, public rights of way and other public land;
 - (ii) any unclaimed land.

Special
powers of
the Demarcation
Officer.

14.(1) The demarcation officer may -

- (a) divide the adjudication section into blocks which shall be given distinctive numbers or letters or combinations of numbers and letters;
- (b) adjust the boundaries of any land in the adjudication section or reallocate the same to ensure the more beneficial occupation thereof or to effect a more suitable subdivision thereof;
- (c) make any reservations he considers necessary for the purpose of defining existing roads and paths or for the better drainage of any land;

- (d) make a declaration of such existing rights of way over any land in the adjudication section and may direct the manner in which such rights of way are to be exercised and in such cases he shall direct that such rights of way be recorded in the adjudication record in respect of the dominant land and the servient land;
- (e) demarcate a right of way necessary to give access to a public road in favour of any parcel completely surrounded by other parcels;
- (f) award such compensation as may to him appear just to any person who has suffered loss of land as a result of any adjustment of boundaries or the partition or reallocation of any land or the declaration of any rights of way and may make an order directing by whom such compensation shall be paid;

Provided that no compensation shall be awarded against the Government:

Provided also that any award may be the subject of an objection under section 22.

- (g) determine the proportion in which the expenses of any partition shall be borne by the persons interested therein and make an order accordingly.

(2) Any order for the payment of compensation or expenses made against an occupier of land shall create a debt to be charged on such land which shall have priority over all other debts whatever except debt due to the Government.

Duties of
the Survey
Officer.

15. Subject to any general or particular directions issued by the adjudication officer, the duties of the survey officer shall be -

- (a) to carry out such survey work as may be required in the execution of the adjudication process; and
- (b) to prepare or cause to be prepared a demarcation index map of the adjudication section on which shall be shown every separate parcel of land identified by a distinguishing number, except that rivers and public roads shall not be required to be identified by a number:

Cap. 105.

Provided that the foreshore as defined in the Foreshore Decree, shall not be included in any parcel.

Duties of
the Recording
Officer.

16. The recording officer shall consider all claims to any interest in land and after such investigation as he considers necessary shall prepare in accordance with the provisions of section 20 an adjudication record in respect of every parcel of land shown in the demarcation map.

Disputes.

17.(1) If in any case -

- (a) there is a dispute as to any boundary whether indicated to the demarcation officer or demarcated or readjusted by him, which the demarcation officer is unable to resolve; or
- (b) there are two or more claimants to any interest in land and the recording officer is unable to effect agreement between them, the demarcation officer or the recording officer, as the case may be, shall refer the matter to the adjudication officer.

(2) The adjudication officer shall adjudicate upon and determine any dispute referred to him under subsection (1), having due regard to any law which may be applicable, and shall make and sign a record of the proceedings.

(3) In hearing a dispute the adjudication officer shall follow the procedure in section 23.

PART IV

PRINCIPLES OF ADJUDICATION AND
PREPARATION OF ADJUDICATION RECORD

Principles
of
adjudication.

18.(1) In preparing an adjudication record -

(a) if the recording officer is satisfied that a person -

(i) is in occupation of the land and provides documentary evidence consisting of a grant, conveyance, assignment or mortgage which is more than twelve years old; or

(ii) is in occupation of the land and is a beneficiary of a disposition of land lawfully made under Presidential Decree No. 5 of 1966 or 1 of 1969, whether or not an instrument of grant or a certificate of title is produced; or

(iii) is in occupation of the land and has been in peaceful, open and uninterrupted occupation thereof, whether under recognized customary law or otherwise, for a period of more than twelve years, the recording officer shall record such person as the occupant of the land;

- (b) if the recording officer is satisfied that any land is wakf or trust land administered by the Wakf and Trust Commission under the provisions of Revolutionary Council Decree 5 of 1980, he shall record the Commission as occupant of the land;
- (c) if the recording officer is satisfied that any land referred to in an adjudication record is subject to any right which would be registerable as a lease, charge, easement, profit or restrictive agreement under the Registered Land Act, he shall record such particulars as shall enable the right and the name of the person entitled to the benefit thereof to be registered under the said Act;
- (d) if the recording officer is satisfied that any land is entirely free from any private rights or that the rights existing in it would be insufficient to entitle a person to be registered under the Registered Land Act as the occupant of the land, he shall record such land as public land.

(2) In performing his duties under this section the recording officer shall observe the rules contained in section 19.

Rules to be followed in adjudication.

19.(1) All unoccupied land shall be deemed to be public land until the contrary be proved.

(2) The exercise by any person of any rights of occupation in over one or more parcels of land shall not be taken as a presumption in his favour of any rights of occupation in or over any greater extent of land than that in or over which such rights are exercised.

(3) Occupation or receipt of rents or profits by any person through whom a claimant derives his occupancy shall be deemed to be the occupation or receipt of rents or profits of the claimant.

(4) Where from the relationship of the parties or from other cause it appears that the person in occupation of land is or was in occupation on behalf of another, his occupancy shall be deemed to be or to have been the occupancy of that other.

(5) Where two or more persons have rights in any land which will entitle them to be registered as occupants in common under the Registered Land Act, the recording officer shall record such persons as occupants in common and the share of each.

Adjudication
record.

20.(1) The adjudication record shall consist of a form in respect of each parcel of land, which form shall show -

- (a) the number and approximate area of the parcel as shown on the demarcation map;
- (b) either the name and description of the person entitled to be registered as the occupant of the parcel with particulars of the manner in which he became the occupant of it and of any restriction affecting his power of dealing with it, or the fact that the parcel is public land;
- (c) such particulars of any right registerable under the Registered Land Act as shall enable it to be registered as a lease, charge, easement, profit or restrictive agreement, as the case may be, affecting the parcel together with the name and description of the person entitled to the benefit thereof and particulars of any restriction affecting his power of dealing with it;

(d) if any person shown in the adjudication record is under a disability, whether by reason of age, unsoundness of mind or otherwise, the name of his guardian;

(e) a list of the documents, if any, produced to the recording officer and retained by him;

(f) the date on which the form is completed.

(2) When completed the form shall be signed by the recording officer and, in the case of land occupied by a private person, shall where possible include an acknowledgement signed by the occupant or his agent, and by any person recorded under the provisions of subsection (1) (c) as having an interest in the land, that such occupant and every such person accepts the record.

Notice of completion of the adjudication record.

21. When the adjudication record in respect of any adjudication section has been completed, the adjudication officer shall sign and date a certificate to that effect and shall forthwith give notice of the completion thereof and of the place at which the same can be inspected together with the demarcation map.

PART V

OBJECTION AND FINALITY

Objections to the adjudication record.

22. Any person including the Minister, named in, or claiming an interest in any land referred to in, any adjudication record or demarcation map who considers such record or map to be inaccurate or incomplete in any respect may within ninety days from the date upon which the notice of completion of the adjudication record is published, inform the adjudication officer stating the grounds of his objection.

(2) The adjudication officer, after giving reasonable notice to all persons affected by the objection, shall hear and determine the matter in such manner as he thinks fit.

Procedure
in hearing
objections.

23.(1) In hearing an objection the adjudication officer shall, so far as may be practicable, follow the procedure directed to be observed in the hearing of civil suits save that in his absolute discretion he may admit evidence which would not be admissible in a court of law, and may use evidence adduced in any other claim or contained in any official record and may call evidence on his own motion.

(2) A record of all proceedings on an objection shall be made or caused to be made by the adjudication officer.

Corrections
of adjudication
record.

24.(1) Any correction in the adjudication record required by a decision of the adjudication officer given under section 22 shall be made by the recording officer, and any alteration in the demarcation map required by such decision shall be made by the survey officer.

(2) At any time before the adjudication record becomes final the recording officer may -

- (a) correct any error or omission not materially affecting the interests of any person; and
- (b) with the consent of every person whose interest is affected, make in the adjudication record any alteration which in his opinion is necessary.

Finality of
adjudication
record.

25. After the expiry of ninety days from the date of the publication of the notice of completion of the adjudication record under section 21, or on determination of all objections in accordance with section 22, whichever shall be the later, the adjudication record shall become final and the adjudication officer shall sign a certificate to that effect and shall forthwith deliver the adjudication record and the relevant demarcation map to the Registrar, together with all documents received and retained by him in the process of adjudication.

PART VI

APPEALS

Appeals.

26.(1) Any person, including the Minister, who is aggrieved by any act or decision of the adjudication officer may within thirty days from the date of the certificate of finality made under section 25, or within such extended time as the Court in the interests of justice may allow, appeal to the Court in prescribed form.

(2) Any person, including the Minister, appealing under subsection (1) shall give notice to the Registrar of his intention to appeal and the Registrar shall enter a restriction under section 137 of the Registered Land Act in any register affected by the appeal.

(3) On any such appeal the Court may make such order or substitute for the decision of the adjudication officer such decision as it may consider just and may order rectification of the register, and the decision of the Court shall be final and conclusive and shall not be questioned in any proceedings whatsoever.

(4) A decision of the Court on an appeal under subsection (1) shall be in writing and copies of it shall be furnished by the Court to the Registrar, to the appellant and to all other parties to the appeal and, by the Registrar, to all other parties who, in his opinion, may be affected by the appeal.

PART VII

MISCELLANEOUS

Offences.

27. Any person who -

- (a) after the delivery of a summons issued under the provisions of this Act, wilfully neglects or refuses to attend in pursuance of such summons, or to produce any document which he is required to produce;
- (b) wilfully neglects or refuses to answer upon oath or otherwise any question which may lawfully be put to him under this Act by any officer;
- (c) without reasonable cause wilfully neglects or refuses to indicate his land or to assist in the demarcation of his land when required under this Act to do so by demarcation officer;

Shall be guilty of an offence and shall be liable to a fine not exceeding two thousand shillings or to imprisonment for a term not exceeding six months, or to both such fine and imprisonment.

Indemnity
of officers.

28. No officer shall be liable to any act or proceedings for or in respect of any act or matter in good faith done or omitted to be done in exercise or supposed exercise of the powers conferred by this Act.

Regulations.

29. The Minister may make regulations for better carrying out the provisions of this Act.

Passed by the House of Representatives on the
19th of December, 1989.

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KHAMIS JUMA CHANDE

CLERK TO THE HOUSE OF REPRESENTATIVES
OF ZANZIBAR.