

LAWS OF KENYA

TRUST LAND ACT

CHAPTER 288

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CHAPTER 288

TRUST LAND ACT

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Trust Land

REPEALED

CHAPTER 288
TRUST LAND ACT

[Date of commencement: 1st March, 1939.]

AN ACT of Parliament to make provision for Trust land

[Act No. 28 of 1938, Cap. 100 (1948), Act No. 64 of 1950, Act No. 35 of 1958, Act No. 27 of 1959, Act No. 38 of 1959, L.N. 55/1960, L.N. 95/1960, L.N. 387/1960, L.N. 445/1960, L.N. 589/1960, Act No. 28 of 1961, L.N. 64/1961, L.N. 66/1961, L.N. 142/1961, L.N. 65/1962, L.N. 133/1962, L.N. 333/1962, L.N. 515/1962, L.N. 516/1962, L.N. 517/1962, L.N. 518/1962, L.N. 8/1963, L.N. 33/1963, L.N. 34/1963, L.N. 89/1963, L.N. 121/1963, L.N. 122/1963, L.N. 141/1963, L.N. 187/1963, L.N. 249/1963, L.N. 625/1963, L.N. 2/1964, L.N. 58/1964, Act No. 9 of 1967, Act No. 43 of 1968, L.N. 42/1973, L.N. 64/1974.]

PART I – PRELIMINARY

1. Short title

This Act may be cited as the Trust Land Act.

[L.N. 589/1960, 1st Sch.]

2. Interpretation

In this Act, except where the context otherwise requires—

“**common minerals**” means clay, country rock, gravel, lime, sand, shale, shingle, murrum, mineral water, brine, dolomite, kaolin, building dimension stone, constructional stone (for ballast and aggregate and allied uses), ornamental stone, sodium and potassium compounds (except sodium compounds forming part of the Lake Magadi saline deposit), pyrophyllite (Kisii stone), slate and surface salt;

“**council**”, in relation to Trust land, means the local authority in whom the Trust land is vested;

“**Divisional Board**” means a Divisional Land Board established under section 5 of this Act;

“**Regional Assembly**” and “**Regional Committee**” *deleted by Act No. 43 of 1968, Sch.*

“**Scheduled Areas**” means the areas of land, other than Trust land, which on 1st January, 1956, were Scheduled Areas for the purposes of the Agriculture Act, 1955 (Act No. 8 of 1955).

[Act No. 38 of 1959, s. 2, L.N. 625/1963, s. 2, Act No. 43 of 1968, Sch.]

3. Application

This Act applies to all land which for the time being is Trust land.

[Act No. 27 of 1959, Sch., L.N. 625/1963, s. 2.]

PART II – ESTABLISHMENT OF DIVISIONS AND DIVISIONAL BOARDS

4. Establishment of divisions

A council shall divide the Trust land vested in it into such divisions as appear to it to be necessary or expedient for the purposes of this Act, or may declare the whole of that land to be a division.

[L.N. 625/1963, s. 2.]

5. Divisional Boards

There shall be established in respect of each division created under this Part a Divisional Land Board, which shall consist of—

- (a) a chairman, appointed by the Minister for the time being responsible for land after consultation with the council;
- (b) not less than four and not more than fifteen persons appointed by the council;
- (c) not more than two public officers appointed by the council; and
- (d) two persons appointed by the council from amongst its members:

Provided that, where a Divisional Board established under the Kenya (Land Control) (Transitional Provisions) Regulations, 1963 (L.N. 457/1963), has jurisdiction over any division created under this Part, that Board shall be the Divisional Land Board for that division for the purposes of this Act.

[L.N. 625/1963, s. 2, Act No. 9 of 1967, Sch.]

PART III

6. Repealed by Act No. 43 of 1968, s. 6.

[Act No. 35 of 1958, s. 2.]

PART IV – SETTING APART OF LAND

7. Setting apart at instance of Government

(1) Where written notice is given to a council, under subsection (1) of section 118 of the Constitution, that an area of Trust land is required to be set apart for use and occupation for any of the purposes specified in subsection (2) of that section, the council shall give notice of the requirement and cause the notice to be published in the *Gazette*.

(2) Before publishing a notice under subsection (1) of this section, the council may require the Government, within a specified reasonable time—

- (a) to demarcate the boundaries of the land, and for this purpose to erect or plant, or to remove, such boundary marks as the council may direct; and
- (b) to clear any boundary or other line which it may be necessary to clear for the purpose of demarcating the land,

and, if the land is not demarcated within the time fixed by the council, or if the person or body on whose application the land is to be set apart so requests, the council may carry out all work necessary for the demarcation of the land and require the applicant to pay the cost of the demarcation.

(3) A notice under subsection (1) of this section shall specify the boundaries of the land required to be set apart and the purpose for which the land is required to be set apart, and shall also specify a date before which applications for compensation are to be made to the District Commissioner.

(4) Where the whole of the compensation awarded under section 9 of this Act to persons who have applied before the date specified in the notice given under

subsection (1) of this section has been deposited in accordance with section 11 of this Act the council shall make and publish in the *Gazette* a notice setting the land apart.

[L.N. 65/1962, Sch., L.N. 625/1963, s. 2, Act No. 43 of 1968, s. 2, L.N. 42/1973, Sch., L.N. 65/1974, Sch.]

8. Compensation to be paid

(1) Where land is set apart under section 7 of this Act, full compensation shall be promptly paid by the Government to any resident of the area of land set apart who—

- (a) under African customary law for the time being in force and applicable to the land has any right to occupy any part thereof; or
- (b) is, otherwise than in common with all other residents of the land, in some other way prejudicially affected by the setting apart.

(2) A notice of setting apart published under section 7 of this Act shall also be published by displaying a copy at the District Commissioner's office and at some other public or conspicuous place in the area concerned.

[L.N. 625/1963, s. 2, Act No. 43 of 1968, Sch.]

9. Assessment of compensation

(1) A person who claims to be entitled to compensation under section 8 of this Act shall apply therefor to the District Commissioner.

(2) If, after consultation with the Divisional Board, the District Commissioner is satisfied that the applicant is entitled to compensation, he shall award the applicant a sum of compensation in accordance with subsection (3) of this section; and if he is not so satisfied the District Commissioner shall reject the application.

(3) The compensation to be awarded shall be assessed by the District Commissioner after consultation with the Divisional Board, and shall be assessed in respect of the loss of the right of occupation referred to in paragraph (a), or in respect of the applicant having been otherwise prejudicially affected as referred to in paragraph (b), of section 8(1) of this Act.

(4) The District Commissioner shall give notice in writing to the applicant of the award or of the rejection of the application, as the case may be.

[L.N. 625/1963, s. 2, Act No. 43 of 1968, Sch.]

10. Appeals as to compensation

(1) Any person who is dissatisfied with the rejection of his application for compensation under section 9 of this Act, or with the amount of the award, may, within thirty days after being notified of the award or rejection, as the case may be, appeal in writing through the District Commissioner to the Provincial Agricultural Board of the province in which the land to be set apart is situate, and that Board shall hear and determine the appeal and shall notify the appellant in writing of its decision.

(2) If the Commissioner of Lands is dissatisfied with the making of an award, or with the amount of an award, he may appeal in like manner to the Provincial Agricultural Board, who shall hear and determine the matter accordingly.

(3) The Minister may make regulations to provide for the practice and procedure to be followed in respect of appeals to a Provincial Agricultural Board under this section.

(4) Any party to an appeal to a Provincial Agricultural Board who is dissatisfied with the decision of that Board may appeal to the Resident Magistrate's Court.

(5) Any party to an appeal to the Resident Magistrate Court who is dissatisfied with the decision may appeal to the High Court whose decision shall be final.

[L.N. 625/1963, s. 2, Act No. 9 of 1967, Sch., Act No. 43 of 1968, Sch.]

11. Provision and payment of compensation awarded

(1) Where the District Commissioner makes an award, he shall give notice in writing of any award to the Minister, who shall cause the amount of the award to be deposited forthwith with the District Commissioner for payment to the person entitled thereto.

(2) Where on appeal the amount of the award is reduced, the District Commissioner shall pay the amount by which the sum deposited exceeds the reduced amount of the award to the person who deposited it.

(3) Where on appeal the amount of the award is increased, the District Commissioner shall give notice thereof to the appellant, and also to the Minister, who shall cause the amount of the increase to be deposited forthwith with the District Commissioner.

(4) The District Commissioner shall be responsible for paying the compensation awarded to the persons entitled thereto, and every such payment shall be made in one single payment.

[L.N. 625/1963, s. 2, Act No. 43 of 1968, Sch.]

12. Right of access to High Court

Notwithstanding anything in this Act, any person claiming a right or interest in land set apart under this Act shall have access to the High Court for—

- (a) the determination of the legality of the setting apart; and
- (b) the purpose of obtaining prompt payment of any compensation awarded.

[L.N. 625/1963, s. 2.]

13. Setting apart by council

(1) In pursuance of section 117(1) of the Constitution, a council may set apart an area of Trust land vested in it for use and occupation—

- (a) by any public body or authority for public purposes; or
- (b) for the purpose of the extraction of minerals or mineral oils; or
- (c) by any person or persons for purposes which in the opinion of the council are likely to benefit the persons ordinarily resident in that area or any other area of Trust land vested in the council, either by reason of the use to which the area set apart is to be put or by reason of the revenue to be derived from rent therefrom.

(2) The following procedure shall be followed before land is set apart under subsection (1) of this section—

- (a) the council shall notify the chairman of the relative Divisional Board of the proposal to set apart the land, and the chairman shall fix a day, not less than one and not more than three months from the date of receipt of the notification, when the Board shall meet to consider the proposals, and the chairman shall forthwith inform the council of the day and time of the meeting;
- (b) the council shall bring the proposal to set apart the land to the notice of the people of the area concerned, and shall inform them of the day and time of the meeting of the Divisional Board at which the proposal is to be considered;
- (c) the Divisional Board shall hear and record in writing the representations of all persons concerned who are present at the meeting, and shall submit to the council its written recommendation concerning the proposal to set apart the land, together with a record of the representations made at the meeting;
- (d) the recommendation of the Divisional Board shall be considered by the council, and the proposal to set apart the land shall not be taken to have been approved by the council except by a resolution passed by a majority of all the members of the council:

Provided that where the setting apart is not recommended by the Divisional Board concerned, the resolution shall require to be passed by three-quarters of all the members of the council.

(3) Where the council approves a proposal to set apart land in accordance with subsection (2)(d) of this section, the council shall cause a notice of the setting apart to be published in the *Gazette*.

(4) Subject to this section, sections 7(3) and (4), 8(1), 9, 10 and 11 of this Act shall apply in respect of land set apart under this section, *mutatis mutandis*, and subject to the modification that the compensation shall be paid by the council (without prejudice to the council obtaining reimbursement thereof from any other person).

[Act No. 43 of 1968, s. 3.]

14. *Repealed by L.N. 625/1963, s. 2.*

15. *Repealed by L.N. 625/1963, s. 2.*

16. *Repealed by L.N. 625/1963, s. 2.*

17. *Repealed by L.N. 625/1963, s. 2.*

18. *Repealed by L.N. 625/1963, s. 2.*

19. *Repealed by L.N. 625/1963, s. 2.*

20. *Repealed by L.N. 625/1963, s. 2.*

21. *Repealed by L.N. 625/1963, s. 2.*

22. *Repealed by L.N. 625/1963, s. 2.*

23. *Repealed by L.N. 625/1963, s. 2.*

24. *Repealed by L.N. 625/1963, s. 2.*

25. *Repealed by L.N. 625/1963, s. 2.*

26. *Repealed by L.N. 625/1963, s. 2.*

[Act No. 64 of 1950, Sch., Act No. 35 of 1958, ss. 3 and 4, Act No. 38 of 1959, ss. 3, 4, 5 and 6.]

PART V – EXCLUSIONS

27. *Repealed by L.N. 625/1963, s. 8.*

28. *Repealed by L.N. 625/1963, s. 8.*

29. *Repealed by L.N. 625/1963, s. 8.*

[Act No. 35 of 1958, ss. 5 and 6, Act No. 38 of 1959, s. 8, L.N. 142/1961, Sch., L.N. 65/1962, Sch.]

PART VI – LEASES AND LICENCES

30. *Repealed by L.N. 625/1963, s. 8.*

31. *Repealed by L.N. 625/1963, s. 8.*

32. *Repealed by L.N. 625/1963, s. 8.*

33. *Repealed by L.N. 625/1963, s. 8.*

34. *Repealed by L.N. 625/1963, s. 8.*

35. *Repealed by L.N. 625/1963, s. 8.*

36. *Repealed by L.N. 625/1963, s. 8.*

[Act No. 35 of 1958, ss. 7 and 8, Act No. 38 of 1959, ss. 9, 10 and 11, Act No. 28 of 1961, Sch.]

37. Licenses

(1) Notwithstanding anything contained in this Act, licences may be granted, in such manner and subject to such conditions as may be prescribed, and subject to the payment of such fees or royalties or both as the council may with the approval of the Minister fix, to any person for the purpose of—

- (a) the grazing of livestock; or
- (b) the removal of timber or other forest produce from Trust land which is not included in a forest area within the meaning of the Forests Act (Cap. 385); or
- (c) the taking of common minerals; or
- (d) wayleaves; or
- (e) the establishment of temporary labour accommodation.

(2) The council may appoint licensing officers for the purpose of granting licences under this section.

[Act No. 35 of 1958, s. 9, L.N. 625/1963, s. 3, Act No. 43 of 1968, Sch.]

38. Wayleaves

(1) A wayleave licence may be granted to any person empowering him and his servants and agents to enter upon Trust land vested in the council and to lay pipes, make canals, aqueducts, weirs and dams and execute any other works required for the supply and use of water, to set up electric power or telephone lines, cables or aerial ropeways and erect poles and pylons therefor, and to make such excavations as may be necessary for the carrying out of any such purposes, and to maintain any such works as aforesaid:

Provided that, where the land concerned is the subject of a mining right under the Mining Act (Cap. 306), or of a subsisting lease, the council shall not grant a way leave license in respect of such land except with the consent of the lessee or the holder of the mining right, as the case may be; but if any such lessee or holder refuses his consent, the council may apply to the Minister, who may grant consent in his place.

(2) In any case where a way leave licence over any such land has been applied for and the lessee or the holder of the mining right will suffer loss by reason of disturbance or damage to his interest, he shall be entitled to compensation therefor in such sum as may be agreed upon between the licensee and the lessee or holder, as the case may be, or, in default of such agreement, such sum as may be determined by the Minister.

(3) The council may, after consultation with the Divisional Board, in addition to any award made under subsection (2) of this section, make a further award of compensation for loss of the use of land in any case where the usefulness of the land for agricultural purposes is impaired.

(4) All sums payable in respect of compensation under subsections (2) and (3) of this section shall be deposited with the District Commissioner by the applicant for the wayleave licence before the licence is granted.

[L.N. 625/1963, s. 3, Act No. 43 of 1968, Sch.]

38A. Change of user

Where a lessee of land set aside under section 117(1) of the Constitution desires a change of user of any land so set aside, he shall make application in writing to the council concerned.

[L.N. 58/1964, s. 2.]

39. Forfeiture of lease or licence

- (1) If, in respect of land which is held under a lease granted under this Act—
- (a) any rent is at any time in arrear for a period of twenty-one days after it first became due; or
 - (b) there has been any breach of any of the lessee's covenants; or
 - (c) the lessee or a person deriving title under him remains in possession of the land after the expiration or other lawful determination of the lease,

the council may serve on the lessee a notice specifying the rent in arrear, or the covenant or condition broken, or the unlawful possession, as the case may be, and the council may, at any time after thirty days from the service of the notice,

bring proceedings for the recovery of the land in the Resident Magistrate's Court, if the value of the land falls within the limits of that courts civil jurisdiction, and to the High Court if it does not.

(2) Upon proof of the facts alleged in a notice served under subsection (1) of this section, the Court shall, subject to any relief which it may consider it just to grant, declare the lease forfeited (if it is still subsisting), and make an order for the payment of the arrears of rent and the costs of the proceedings and for the delivery of possession of the land to the council either forthwith or on a specified date.

(3) The foregoing provisions of this section apply to a licence granted under this Act as they apply to a lease, and in such application—

- (a) references to rent are to be taken as references to fees;
- (b) references to lessee's covenants are to be taken as references to conditions in the licence; and
- (c) the reference to the Resident Magistrate's Court or the High Court in the alternative is to be taken as a reference to the Resident Magistrate's Court alone.

[L.N. 625/1963, First Sch., Act No. 43 of 1968, s. 4.]

40. Debt not to be extinguished by forfeiture

No forfeiture of any lease or licence under this Act or any rule made thereunder shall operate to extinguish any debt due in respect of any rent or other payment to be made by a lessee or licensee under a lease or licence forfeited.

41. Licences and permits to be subject to rules

The issue of licences and occupation permits in respect of land set apart under this Act shall, save where a contrary intention is in this Act expressed, be governed by rules made under this Act.

PART VII – MISCELLANEOUS POWERS

42. *Repealed by L.N. 625/1963, s. 8.*

43. *Repealed by L.N. 625/1963, s. 8.*

44. *Repealed by L.N. 625/1963, s. 8.*

45. *Repealed by L.N. 625/1963, s. 8.*

46. *Repealed by L.N. 625/1963, s. 8.*

[Act No. 35 of 1958, ss. 10 and 11, L.N. 142/1961, Sch.]

47. *Repealed by Act No. 43 of 1968, s. 6.*

[L.N. 625/1963, s. 4.]

48. *Repealed by L.N. 625/1963, s. 8.*

49. *Repealed by L.N. 625/1963, s. 8.*

50. *Repealed by L.N. 625/1963, s. 8.*

[Act No. 35 of 1958, s. 12.]

51. Powers of entry of President

(1) Subject to subsections (5) and (6) of this section, the President or the Community may, after giving not less than thirty days' notice to the council and to the occupier, enter upon Trust land for any purpose incidental to the setting apart of land under section 118(3) of the Constitution, or for carrying out any of the works specified in subsection (3) of this section.

(2) *Deleted by Act No. 43 of 1968, Sch.*

(3) The works referred to in subsection (1) of this section are—

- (a) the taking of stone and other materials for the making and repair of roads, railways, canals, water channels or other public works, whether of a like nature or not;
- (b) any of the works specified in section 38(1) of this Act, and any other works of a public nature;
- (c) any work which may be considered necessary for maintaining or improving the flow of water in any river, stream, spring, lake or swamp, and for that purpose constructing dams and diverting any river, stream, spring, lake or swamp.

(4) The President or the Community may in writing authorize any person to exercise any of the powers conferred upon the President or the Community, as the case may be, by this section, and any authority so granted shall be deemed to include the contractors, agents and servants of such person.

(5) Compensation, assessed in accordance with section 9 of this Act, shall be payable in respect of anything done under this section for loss or disturbance and for the fair value of buildings and crops destroyed or damaged, and, in any case where the usefulness of any land for agricultural purposes is impaired by anything so done, compensation in respect thereof shall be payable.

(6) In addition to the payment of compensation under subsection (5) of this section, any person who has, pursuant to this section, temporarily occupied any land for a camp site or has used or constructed any road of access to any land, whether such land was used as a camp site or not, shall so far as is reasonably practicable, rehabilitate the land so occupied as a camp site or used or constructed as a road of access.

[L.N. 625/1963, s. 5, Act No. 43 of 1968, Sch.]

52. Power to enter land and premises

(1) Any officer of the Government and any person authorized by any such officer shall for any purpose relating to this Act have power at all times to enter

upon any Trust land or to enter any premises or place on such lands, and there to make such inspection, examination and inquiry and to call for such information as may be necessary for carrying into effect any of the provisions of this Act or of any other law.

(2) Any person who refuses to permit any such officer or authorized person to carry out any of the powers conferred by subsection (1) of this section, or obstructs or hinders any such officer or authorized person in the execution of his duty under this Act, or fails to give any required information, or furnishes false information, to such officer or authorized person, shall be guilty of an offence and liable to a fine not exceeding one thousand shillings or to imprisonment for a term not exceeding six months, or to both such fine and such imprisonment.

[L.N. 625/1963, First Sch., Act No. 43 of 1968, Sch.]

PART VIII – GENERAL

53. Commissioner of Lands to administer Trust land

The Commissioner of Lands shall administer the Trust land of each council as agent for the council, and for that purpose may—

- (a) exercise on behalf of the council, personally or by a public officer, any of the powers conferred by this Act on the council, other than that conferred by section 13(2)(d) of this Act; and
- (b) execute on behalf of the council such grants, leases, licences and other documents relating to its Trust land as may be necessary or expedient:

Provided that—

- (i) the Commissioner of Lands shall act in compliance with such general or special directions as the council may give him; and
- (ii) the Minister may, by notice in the *Gazette*, terminate the Commissioner of Land's power to act under this section in relation to the Trust land of any particular council, where the Minister is satisfied that the council has made satisfactory arrangements to administer its Trust land itself.

[L.N. 625/1963, s. 6, Act No. 43 of 1968, s. 5.]

54. Protection of Government and officers

(1) No action shall lie against the Government or against any officer thereof, or against any person authorized by any such officer, for any act done in good faith and without negligence under this Act or for the purpose of carrying into effect any of its provisions.

(2) No compensation shall be payable to any person for any act done under this Act in good faith and without negligence, save where express provision is made in this Act for the payment of compensation.

55. *Repealed by L.N. 625/1963, s. 8.*

56. Service of documents

(1) Any application, statement, demand, instrument, notice or other document authorized or required by this Act, or any rule made thereunder, may be served

on the person to whom it is to be given either personally or by leaving it for him at his last known place of abode or by sending it through the post in a registered letter addressed to him there.

(2) Where any such document is to be served on a person by being sent through the registered post, it shall be deemed to have been served not later than the fourteenth day succeeding the day on which it was posted, and for proof of such service it shall be sufficient to prove that the letter containing the notice was properly addressed, registered and posted.

57. Publication of notices, etc.

(1) Any order, notice or other document required by this Act, or any rule made thereunder, to be published may be published by affixing a copy in the District Commissioner's office and in some other public or conspicuous place or situation in the area concerned, and, where it is deemed necessary, by publishing it in the *Regional Gazette*.

(2) Such publication or affixing shall be deemed good and sufficient publication and notice to all persons concerned.

(3) Any person who, without lawful cause or excuse, tears, defaces, alters, injures or removes any notice so affixed shall be guilty of an offence and liable to a fine not exceeding two hundred shillings.

[L.N. 625/1963, First Sch.]

58. Orders to be final

Save where provision to the contrary is expressly made in this Act, no appeal shall lie from any decision given, order made or matter or thing done under this Act.

59. Trust land subject to general law except where express provision made

Save in regard to matters wherein express provision is made in this Act, Trust land shall be subject in all respects to the general law from time to time in force.

[Act No. 43 of 1968, Sch.]

60. Penalty

Every omission or neglect to comply with, and every act done or attempted to be done contrary to, the provisions of this Act or of any rule or order made thereunder, or in breach of the conditions and restrictions subject to or upon which any licence or permit has been issued, shall be deemed to be an offence under this Act, and for every such offence for which no penalty is specially provided the offender shall be liable to a fine not exceeding one thousand shillings or to imprisonment for a term not exceeding six months, or to both such fine and such imprisonment.

61. Unauthorized occupation of land

(1) Any person who unlawfully occupies Trust land, in any manner whatsoever, shall be guilty of an offence.

(2) No person entering or being in Trust land shall be deemed to be a trespasser on or to be in unlawful occupation of such land save in so far as he

would be liable to be proceeded against for trespass or for unlawful occupation of land under this Act or any rules made thereunder or under the provisions of any other law for the time being in force.

(3) Travellers shall be allowed to encamp with their servants, transport and baggage on any uncultivated Trust land for a period not exceeding forty-eight hours, and, with the consent of the District Commissioner, for a longer period, they shall with their servants be allowed access to any spring, river, stream or lake upon the land.

(4) If, while encamping on any uncultivated Trust land or in exercise or purported exercise of the powers conferred by subsection (3) of this section, any traveller does any damage to such land or to anything growing or being thereon, he shall pay to the District Commissioner as compensation therefor such sum as the District Commissioner shall determine, and thereupon the District Commissioner shall dispose of such sum by payment either to such person as he is satisfied is a private right-holder in respect of such land, or to the council for the area in which such land is situated, or to both in such proportions as the District Commissioner may deem appropriate.

[Act No. 35 of 1958, s. 13, L.N. 625/1963, First Sch., Act No. 43 of 1968, Sch.]

62. False declarations

Any person who makes a false declaration in relation to any matter or thing required to be done by this Act, or by any rules made thereunder, or who produces any false declaration or certificate, knowing the same to be false in any material particular, shall be guilty of an offence.

63. Saving of other laws

Nothing in this Act contained shall prevent a prosecution under any other law, but so that a person shall not be punished twice for the same offence.

64. *Repealed by L.N. 625/1963, s. 8.*

65. Rules

(1) Subject to the provisions of this Act, the Minister may, with the approval of the council concerned, make rules, relating to Trust land, for the purpose of carrying this Act into effect and for prescribing the fees to be paid for any matter or thing done under this Act, and more particularly for all or any of the following purposes—

- (a) controlling the occupation and use of Trust land for grazing and pasturing stock, flocks and herds;
- (b) compulsorily reducing the numbers of stock, flocks and herds;
- (c) regulating the reconditioning of land, and for such purpose prohibiting and regulating the occupation of any areas therein;
- (d) regulating generally the use and conservation of any area;
- (e) regulating any matters relating to the tenure of land;
- (f) regulating the grant of leases in respect of land set apart and all matters relating thereto, and prescribing—
 - (i) the form of leases issued for a term of one year or less;

- (ii) the term for which any particular class of lease may be granted;
- (iii) the conditions or restrictions subject to and upon which any particular class of lease may be granted;
- (iv) the method of collecting the rents for leases and the persons to whom such rents are to be paid;
- (g) regulating the issue of licences in respect of—
 - (i) cattle-grazing rights;
 - (ii) the removal of timber, forest produce, sand, lime, stone and other common minerals (excluding surface salt);
 - (iii) wayleaves;
- (h) prescribing the form and term of licences and occupation permits and the conditions upon and subject to which such licences and permits may be issued;
- (i) for the protection of trees and forest produce on land not within a forest area within the meaning of the Forests Act, and for regulating the felling or removal of such trees or forest produce, as the case may be.

(2) In any rules made under this section, the Minister may reserve power to apply all or any of the provisions of such rules to Trust land as a whole, or to any particular area of Trust land.

(3) Any rules made under this section shall be in addition to, and not in derogation of, the provisions of any law for the time being in force relating to the matters specified in paragraphs (a), (b), (c) and (d) of subsection (1) of this section.

(4) Any rules made under this section may, with the concurrence of the Treasury, expressly provide that any fees to be paid for any matter or thing done under this Act and prescribed by such rules shall be paid to such person as shall be specified in such rules; and, in the absence of any such express provision, all such fees shall be paid into the Consolidated Fund.

[Act No. 35 of 1958, s. 14, L.N. 625/1963, First Sch., Act No. 43 of 1968, Sch.]

PART IX – SAVING-EXTINGUISHMENT OF RIGHTS

66 *Repealed by L.N. 625/1963, s. 8.*

67. *Repealed by L.N. 625/1963, s. 8.*

68. Government rights

Save as is expressly provided in this Act, nothing herein contained shall affect prejudicially any right, power, privilege or exemption of the Government.

69. Rights in Trust land

In respect of the occupation, use, control, inheritance, succession and disposal of any Trust land, every tribe, group, family and individual shall have all the rights which they enjoy or may enjoy by virtue of existing African customary law or any subsequent modifications thereof, in so far as such rights are not repugnant to any of the provisions of this Act, or to any rules made thereunder, or to the provisions of any other law for the time being in force.

[L.N. 625/1963, First Sch.]

70. *Repealed by L.N. 625/1963, s. 8.*

71. *Repealed by L.N. 625/1963, s. 8.*

[L.N. 65/1962, Sch.]

FIRST SCHEDULE

[Repealed by L.N. 625/1963, s. 8.]

[Act No. 35 of 1958, s. 15, Act No. 38 of 1959, s. 12, L.N. 55/1960, L.N. 95/1960, L.N. 387/1960, L.N. 445/1960, Sch., L.N. 64/1961, L.N. 66/1961, L.N. 133/1962, L.N. 333/1962, L.N. 515/1962, L.N. 516/1962, L.N. 517/1962, L.N. 518/1962, L.N. 8/1963, L.N. 33/1963, L.N. 34/1963, L.N. 89/1963, L.N. 121/1963, L.N. 122/1963, L.N. 141/1963, L.N. 187/1963, Sch., L.N. 249/1963.]

SECOND SCHEDULE

[Repealed by L.N. 625/1963, s. 8.]

[Act No. 35 of 1958, s. 16.]
