

CHAPTER 187

THE AGRICULTURAL LANDS ACT

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CHAPTER 187

AGRICULTURAL LANDS

An Act to provide for the establishment of the Agricultural Lands Board; to prescribe the composition and membership thereof; to prescribe its powers and functions; to provide for tenant farming schemes; and to provide for matters incidental to or connected with the foregoing.

57 of 1960
42 of 1963
13 of 1994
Government Notice
227 of 1964
Statutory
Instrument
65 of 1965

[23rd December, 1960]

PART I

PRELIMINARY

1. This Act may be cited as the Agricultural Lands Act.

Short title

2. In this Act, unless the context otherwise requires-

Interpretation

"agricultural purposes" includes grazing and stock raising;

"Board" means the Agricultural Lands Board established under the provisions of section *four*;

"State Grant" means a grant in fee simple made under and subject to the provisions of Part III;

"State Land" means any land included within State Lands as defined in the Orders dealing with State Lands other than land which, prior to the 14th March, 1957, had been and which at that date was and thereafter has remained granted in perpetuity to any person;

App.4

"State Lease" means a lease of State Land and includes any lease granted before the 24th October, 1964, by the Crown.

(As amended by S.I. No. 65 of 1965)

3. Any lease made or State Grant issued under the provisions of the Agricultural Lands Acts, Chapter 101 of the 1958 Edition of the Laws, shall be deemed to have been made or issued under the provisions of this Act and shall have effect accordingly as if this Act had been in force at the date of such lease or grant:

Existing leases and grants

Provided that if any conditions imposed upon any such lease or grant by the provisions of this Act are more onerous than those imposed by the Agricultural Lands Act, Chapter 101 of the 1958 Edition of the Laws, the conditions imposed by the latter Act shall continue to attach to such lease or grant in place of the said conditions imposed under this Act.

PART II

AGRICULTURAL LANDS BOARD

4. (1) As from the commencement of this Act there shall be established a Board to be known as the Agricultural Lands Board.

Establishment of
Agricultural Lands
Board

(2) The members of the Board shall be-

- (a) a chairman appointed by the Minister to be other than a public officer;
- (b) three public officers appointed by the Minister;
- (c) two persons selected by the Minister from a panel of not more than four names submitted to him by the Commercial Farmers' Union;
- (d) such additional members, not exceeding five in number, appointed by the Minister as the Minister may deem desirable:
Provided that at no time shall the Board be so constituted as to have a majority of public officers.

(3) No person who is a member of the National Assembly may be appointed to be a member of the Board.

(4) The appointments made under the provisions of paragraphs (a), (c) and (d) of subsection (2) shall be made by name, but the appointments made under the provisions of paragraph (b) of subsection (2) may be made *ex officio* or by name.

(As amended by No. 42 of 1963, G.N. No. 227 of 1964 and S.I. No. 65 of 1965)

5. (1) Subject to the other provisions of this section, the chairman of the Board shall hold office for such period not exceeding three years from the date of his appointment as the Minister may fix or, if no period has been fixed, for three years from the date of his appointment but shall be eligible for reappointment, and the members of the Board appointed under the provisions of paragraphs (c) and (d) of subsection (2) of section *four* shall hold office for a period of two years from the date of their appointment but shall be eligible for reappointment.

Tenure of office of
members of Board

(2) The office of a member of the Board shall become vacant-

- (a) upon his death; or
- (b) if he shall be adjudicated a bankrupt or if he shall make a composition with his creditors; or
- (c) if he is absent from three consecutive meetings of the Board without the special leave of the Board; or
- (d) if he gives one month's notice in writing to the Minister of his intention to resign office and his resignation is accepted by the Minister; or
- (e) if the Minister is satisfied that the member has become physically or mentally incapable of performing his duties as a member; or
- (f) if his appointment is terminated by the Minister; or
- (g) if he becomes a member of the National Assembly.

(As amended by G.N. No. 227 of 1964 and S.I. No. 65 of 1965)

6. (1) The Board may meet for the despatch of business, adjourn and, subject to the provisions of this Act, regulate its meetings as it thinks fit. Procedure of Board

(2) Four members, of whom at least two are not public officers, shall constitute a quorum of any meeting of the Board, and all acts, matters or things authorised or required to be done by the Board shall be decided by resolution of any meeting at which a quorum is present.

(3) At all meetings of the Board the chairman, or, in his absence, such member as the members present shall select, shall preside.

(4) At all meetings of the Board the person presiding shall have a deliberative vote and, in the event of an equality of votes, shall also have a casting vote.

(5) If a member is directly or indirectly personally interested in any matter coming before any meeting of the Board at which he is present, he shall, at the meeting and as soon as practicable after the commencement thereof, disclose the fact and shall not be present in his capacity as a member at the meeting while such matter is being considered and shall not take part in any discussion or vote on that matter or any question arising therefrom.

7. (1) Every member of the Board, other than a public officer, shall be paid such fees and remuneration in respect of his services as such member as may be fixed by the Minister from time to time.

Remuneration of members

(2) Every such member shall, in addition, be paid travelling and subsistence expenses incurred by him while engaged on the business of the Board in accordance with a tariff framed by the Board and approved by the Minister.

8. (1) The functions of the Board, in addition to the powers and duties specifically assigned to it under this Act, shall be-

Functions of Board

- (a) to keep under review the use that is being made by the President of State Land outside urban and peri-urban areas and to make such recommendations to the Minister thereon as it may deem fit;
- (b) to carry out such other duties in relation to the alienation of State Land outside urban and peri-urban areas as the Minister may place upon the Board;
- (c) to keep under review the general operation of this Act and to make such recommendations to the Minister thereon as it may deem fit.

(2) In the exercise of its functions under this Act, the Board shall comply with any general or special directions of policy given by the Minister.

(3) In the exercise of its advisory duties, the Board shall through its chairman communicate its advice and recommendations to the Minister.

(4) In the exercise of any powers of decision conferred upon the Board by this Act or by the Minister, the Board shall communicate its decision to the Permanent Secretary, who shall cause such decisions to be carried out subject to the provisions of this Act and of any other written law.

(5) No member of the Board shall communicate any advice, recommendation or any decision whatsoever of the Board to any person who is not a member of the Board except when authorised so to do by the Minister, or the Permanent Secretary.

(As amended by G.N. No. 227 of 1964 and S.I. No. 65 of 1965)

9. (1) Subject to the provisions of this section, the decision of the Board shall be final in respect of any matter on which the Board is by or under this Act empowered to decide.

Review of
decisions of Board

(2) Any person aggrieved by a decision of the Board may at any time, but not later than twenty-eight days after the service upon him of formal notice thereof, appeal to the Minister against the decision on any of the following grounds but not otherwise:

- (a) that the decision is contrary to the provisions of this Act;
- (b) that the decision is contrary to public policy or to the public interest;
- (c) that the decision is an improper exercise of a discretion entrusted to the Board;
- (d) that the decision is against the weight of the evidence submitted to the Board.

(3) The Minister may, upon an appeal under subsection (2) or of his own instance, review any decision of the Board on any of the grounds set out in subsection (2), or on the ground that such decision is contrary to any directions of policy given by the Minister to the Board.

(4) When exercising his powers under this section, the Minister may

make such order as in the circumstances he may consider just, and such order shall be final.

PART III

ALIENATION OF AGRICULTURAL LAND

10. (1) The Minister may, by statutory notice, declare any State Land and, with the consent of the registered owner thereof, any freehold land to be subject to the provisions of this Part and may at any time, by like notice, declare that any such land that has not been alienated under the provisions of this Part shall cease to be subject thereto.

Application of Part
III

(2) The provisions of this Part shall not apply to any land other than land in respect of which a declaration under subsection (1) is for the time being in force.

(As amended by G.N. No. 227 of 1964 and S.I. No. 65 of 1965)

11. In this Part, unless the context otherwise requires-

Interpretation

"allotment plan" means a plan for the allotment of land prepared by the Board under the provisions of this Part;

"beneficial occupation" has the meaning assigned to it by subsection (2) of section *twenty-one*, and "beneficially occupy" shall be construed accordingly;

"declared land" means land in respect of which a declaration made under subsection (1) of section *ten* is for the time being in force;

"holding" means a holding into which any land has been divided in accordance with, and for the purpose of alienation under the provisions of this Part or of Part III of the Agricultural Lands Act, Chapter 101 of the 1958 Edition of the Laws;

"lessee" means the lessee of a holding;

"permanent improvements" means the improvements specified in the

First Schedule.

(As amended by S.I. No. 65 of 1965)

12. (1) Declared land may be alienated by the President in any of the following ways but not otherwise: Manner of alienation

- (a) by State Grant in accordance with the provisions of this Act;
- (b) by the lease of holdings in accordance with the provisions of the succeeding sections of this Part;
- (c) by any other State Lease or tenancy.

(2) Unless a contrary intention appears, the provisions of this Part, other than the provisions of this section, shall not apply to State Leases or tenancies, other than the lease of holdings.

(As amended by S.I. No. 65 of 1965)

13. (1) Whenever any land is, in the opinion of the Minister after consultation with the Board, suitable for alienation under the provisions of this Part, the Minister may direct the Board to prepare proposals for the alienation of the land in economic agricultural units and for matters connected therewith or incidental thereto. Preparation of schemes

(2) When so ordered under the provisions of subsection (1), the Board shall cause proposals to be prepared accordingly and shall submit them as a scheme to the Minister, and such proposals may extend to any other matters whatsoever, including the improvement of the land and the phasing of allotment and alienation, that the Board may consider should be incorporated in a scheme for the alienation of the land.

(3) There shall be annexed to any submission made by the Board under subsection (2), a financial statement giving estimates of the expenditure that will be involved in carrying out the proposals made in the submission.

(4) After considering the proposals submitted by the Board, the Minister may give such directions to the Board thereon as he may deem

fit and may then, or at any time thereafter, order the Board to prepare allotment plans for the land concerned or for any part of it.

(5) The Minister may reserve from allotment any portion of any land when he deems it desirable that such portion should be reserved for public purposes or for common pasturage.

14. (1) When so ordered by the Minister and before any declared land is alienated, the Board shall prepare allotment plans under which the land that is the subject of the Minister's order may be allotted to applicants, and subject to the terms of the order, the Board may prepare a single allotment plan for the whole area or may prepare separate allotment plans for separate portions of the area.

Preparation and
publication of
allotment plans

(2) Every allotment plan-

- (a) shall show the boundaries of the holdings into which the land concerned will be divided for the purposes of allotment and subsequent alienation;
- (b) shall have annexed thereto or recorded thereon a statement of the approximate area of each such holding; and
- (c) shall have annexed thereto a statement of any improvements that have been made or that it is proposed to make on any such holding, the estimated capital value of the various holdings, the terms and conditions of alienation and the minimum qualifications that the Board will require of applicants.

(3) When an allotment plan has been approved by the Minister, copies of it shall be made available for public inspection during the normal hours of public business at the office of the Commissioner of Lands and at such other public offices, if any, as the Board may decide, and notice that the plan has been prepared and approved and is available for public inspection shall be given by the Board by publication of such notice in the *Gazette* and in at least one newspaper published in Zambia.

(4) The notice published under subsection (3) shall invite applications for allotment of holdings and shall state-

- (a) the general location of the land that is the subject of the allotment plan and the number of holdings into which the land has been divided;
- (b) the places where the allotment plan can be inspected;
- (c) the manner of application for the allotment of holdings shown on the allotment plan; and
- (d) a date before which the Board will not proceed to allot any such holdings.

(5) Nothing in this section shall be deemed to prohibit the consideration of applications received after the date stated under paragraph (d) of subsection (4), but, subject to the provisions of subsection (6) and of section *fifteen*, no allotment of any holding shall be made unless an allotment plan in which such holding is included has been prepared and notified before the said date.

(6) Where the Minister is of the opinion that any area of land, which does not form part of a scheme prepared under the provisions of section *thirteen*, should be dealt with as a single holding, he may order the Board to prepare a plan in respect thereof, and such plan-

- (a) shall show the boundaries of such holding and the area thereof;
- (b) shall have annexed thereto a statement setting forth-
 - (i) the estimated capital value of such holding;
 - (ii) any improvements which have been made, or which it is proposed to make, on such holding;
 - (iii) the terms and conditions upon which the holding will be alienated;
 - (iv) the minimum qualifications which the Board will require of applicants for the allotment of such holding;

and when such plan has been prepared, the provisions of subsections (3), (4) and (5) shall, *mutatis mutandis*, apply thereto as they apply to allotment plans.

(As amended by S.I. No. 65 of 1965)

15. (1) The provisions of sections *thirteen* and *fourteen* shall not apply to the allotment of holdings that have previously been leased but which have reverted to the President and which the Board considers should be re-alienated without substantial alteration of the boundaries of the holding.

Re-alienation of
holdings

(2) Whenever it intends to allot a holding under the provisions of this section, the Board shall give notice of its intention so to do.

(3) A notice under subsection (2) shall be published in the *Gazette* and in at least one newspaper published in Zambia and shall state-

- (a) the general location of the holding;
- (b) a place where a plan showing the situation and area of the holding may be inspected;
- (c) the manner of application for the allotment of the holding;
- (d) a date before which the Board will not proceed to allot the holding.

(4) Nothing in this section shall be deemed to prohibit the consideration of applications received after the date stated in terms of paragraph (d) of subsection (3), but no allotment shall be made before such date.

(5) The Minister may, on the recommendation of the Board, declare in writing that any land that was leased prior to the 14th March, 1957, or prior to the date when such land was declared to be "agricultural land" under the provisions of the Agricultural Lands Act, Chapter 101 of the 1958 Edition of the Laws, shall be deemed to be a holding for the purposes of this section.

(As amended by S.I. No. 65 of 1965)

16. Every application for the allotment of a holding shall be made in writing to the Board in the prescribed form.

Application for
allotment of land

17. (1) The Board shall not be obliged to approve any application made under the provisions of section *sixteen*. Consideration of applications

(2) In the consideration of applications for holdings, the Board shall have regard to-

- (a) any direction of general policy given to it by the Minister;
- (b) the age of the applicant;
- (c) the character of the applicant;
- (d) whether the applicant is willing to make a declaration affirming his intention personally to occupy the holding and to work and develop it exclusively for the benefit of himself and the members of his family, if any;
- (e) whether the applicant possesses the capital necessary to ensure the beneficial occupation of the holding;
- (f) whether the applicant possesses the qualifications necessary for beneficial occupation of the holding;
- (g) any other facts which, in the opinion of the Board, are relevant to the individual application or to the holding.

(3) The Board shall not approve any application for a holding made on behalf of a limited company unless such company-

- (a) is incorporated under any law applicable to Zambia relating to companies; and
- (b) undertakes that it will occupy the holding through the agency of a manager to be approved by the Board under the provisions of section *twenty-one*, who will himself reside on the holding and develop and beneficially occupy it to the satisfaction of the Board; and
- (c) is legally competent to hold and farm land within Zambia; and

(d) possesses or is able to raise capital which, in the opinion of the Board, is sufficient to ensure the beneficial occupation of the holding.

(4) In making any decision approving an application for the allotment of a holding, the Board shall decide which holding or choice of holdings should be offered to the applicant or whether the applicant should be placed on a waiting list.

(5) All applicants shall be informed by written notice of the decision of the Board on their applications and informed that the Board will make allotments after the expiry of not less than twenty-eight days from the date of that notice.

(As amended by S.I. No. 65 of 1965)

18. (1) Holdings shall be allotted to applicants by the Board, and thereafter alienated by the President.

Allotment of
holdings

(2) In allotting any holding the Board shall, all other things being equal, give preference to an applicant who is not already the owner of agricultural land.

(As amended by S.I. No. 65 of 1965)

19. The term of any lease granted in respect of any holding under the provisions of this Part shall be thirty years.

Duration of lease

20. (1) The yearly rent payable in respect of a holding which when allotted is unimproved agricultural land shall be such percentage of the value of the holding as the Minister, after consultation with the Board, may prescribe and shall be payable annually in arrear.

Rent of holding

(2) The yearly rent payable in respect of a holding which when allotted is improved agricultural land shall be such percentage of the value of the holding as the Minister, after consultation with the Board, may in each case determine and shall become due and payable annually in arrear.

(3) Notwithstanding the provisions of the preceding subsections, the rent for the first year of occupation of any holding shall be payable in advance.

(4) For the purposes of this section, improved agricultural land means agricultural land upon which one or other of the improvements set out in paragraph (1) of the First Schedule has been effected.

21. (1) Every lessee shall take up effective personal residence on his holding within six months after the date of commencement of his lease, or within such longer period as may be approved by the Board, and shall beneficially occupy his holding. Occupation of holding

(2) Beneficial occupation in respect of any holding shall mean-

- (a) from the date of taking up effective personal residence as required by subsection (1)-
 - (i) in the case of an individual lessee, personal residence on the holding, and in the case of a company, personal residence on the holding by a manager who is in charge of farming operations and who is approved for that purpose by the Board;
 - (ii) the practice of sound methods of good husbandry;
 - (iii) the proper care and maintenance of all improvements effected on the holding;
- (b) before the expiration of a period of three years after the date of the lessee taking up effective personal residence as required by subsection (1)-
 - (i) the annual cultivation of such proportion of the area of the holding as may be laid down by the Board;
 - (ii) the maintenance of stock as laid down by the Board;
 - (iii) the provision for the numbers of stock maintained under the provisions of subparagraph (ii) of dipping or stock spraying facilities, paddock fencing or ring fencing and water supplies, in each case considered adequate by the Board;
 - (iv) the provision of a habitable house and such farm buildings as may be reasonably necessary for the purposes of the proper working of the holding;
 - (v) the provision of permanent improvements, whether required by

or under the preceding provisions of this section or not, valued by the Board at not less than such sum as may have been laid down by the Board.

(3) The requirements, if any, of the Board under sub-paragraphs (i), (ii) and (v) of paragraph (b) of subsection (2) shall be laid down in each case by the Board before the lease is granted, shall be incorporated in the lease and shall not thereafter be varied without the consent of the lessee.

(4) The Minister may, in special circumstances on the recommendation of the Board, permit any lessee to depart from the requirements of sub-paragraph (i) of paragraph (a) of subsection (2).

(5) A lessee shall use his holding primarily for agricultural purposes, for purposes ancillary thereto and for the personal residence of himself and his family and necessary staff and for no other purpose, save with the prior consent of the President.

(As amended by S.I. No 65 of 1965)

22. (1) On the determination of his lease by effluxion of time or otherwise, but subject to the provisions of sections *thirty-three* and *thirty-four*, no compensation shall be payable to a lessee in respect of buildings improvements effected on his holding:

Compensation, etc.

Provided that in any particular case the Minister, on the recommendation of the Board, may authorise an *ex gratia* payment to a lessee in respect of such buildings or improvements, or, if the lessee has not exercised any right granted under the provisions of subsection (3), there shall be paid to such lessee, not being a lessee who has failed substantially to comply with the provisions of this Part, or any of them, an amount equivalent to the sum received from the disposal of the said holding, less the administration expenses incurred. Nothing in this subsection shall be deemed to require the President to dispose of the said holding.

(2) In considering whether to make a recommendation to the Minister under the provisions of subsection (1), the Board shall have regard to-

(a) the value of the buildings or improvements concerned and the date of the termination of the lease;

- (b) the economic state of the agricultural industry in the area in which the holding is situate at such date;
- (c) the value of any payments made from public funds towards the cost of permanent improvements on the holding.

(3) The power to accept and receive an *ex gratia* payment under the provisions of this section, or any right given by the Minister, on the recommendation of the Board, to remove buildings and improvements at the lessee's own cost, shall be deemed to have been assigned to the holder of any mortgage or charge, whereby the holding is made the security for the payment of money, existing immediately before the date of determination of the lease:

Provided that, from any payment made under this section, there shall be deducted-

- (i) the amount of any rent due in respect of the holding;
- (ii) any amount outstanding on any loan made to the lessee by the Government, or by any other person with a guarantee of the loan by the Government, for which the holding has been made security.

(As amended by S.I. No. 65 of 1965)

23. (1) A lessee shall have the right to cut down and use such indigenous trees on his holding as he may from time to time require for his own farming and domestic purposes, but he shall not be entitled, except with the prior written approval of the President, to sell or remove any timber from the holding.

Use of timber

(2) Any lessee who sells or removes any timber in contravention of the provisions of subsection (1) shall be guilty of an offence and shall be liable to a fine not exceeding three thousand penalty units.

(As amended by S.I. No. 65 of 1965 and Act No. 13 of 1994)

24. (1) A lessee shall not-

Restraint on
alienation

- (a) assign, sublet, mortgage, charge or in any manner whatsoever encumber, or part with possession of his holding or any part thereof or interest therein or concerning the same; or
- (b) attempt so to assign, sublet, mortgage, charge, encumber or part with possession; or
- (c) enter into any partnership for the working of his holding;
without the prior written consent of the President, and every application for such consent shall be made in writing to the Board. Any contravention of the provisions of this subsection shall be deemed to be a failure to comply with a requirement of this Act.

(2) Nothing in this section shall be construed to prevent a lessee from incurring any debt or any charge upon his holding under the provisions of the Natural Resources Act or of any other written law under the provisions of which debts or charges may be imposed upon a landholder without his consent. Cap. 197

(As amended by S.I. No. 65 of 1965)

25. (1) A lessee whose lease was granted by virtue of paragraph (b) of subsection (1) of section *twelve* shall be entitled to obtain an option to purchase his holding where all the following conditions have been fulfilled: Option to purchase a holding

- (a) not less than seven years have elapsed since the date of commencement of his lease;
- (b) all the provisions of this Act which are applicable to him and all the terms and conditions of his lease have been complied with;
- (c) permanent improvements valued by the Board at not less than K20,000 have been effected on his holding:

Provided that, where the holding is less than 1,000 acres in extent, the minimum value of the permanent improvements for the purposes of this paragraph shall be K10,000 or such amount as bears the same proportion to K20,000 as the hectareage of the holding bears to 1,000, whichever is the greater.

(2) A lessee who wishes to obtain an option to purchase his holding under the provisions of this section shall make application to the Board in the prescribed form.

(3) In this section and in sections *twenty-six*, *twenty-seven* and *twenty-eight*, the expression "the date of commencement of his lease" means the date upon which the lessee or his predecessors in title entered into possession of the land comprised in the lease, whether by virtue of such lease or by virtue of an immediately earlier lease or agreement for a lease in respect of the same land.

26. A lessee who has acquired an option to purchase the land comprised in his lease under the provisions of section *twenty-five* shall be entitled to obtain a State Grant of his holding where all the following conditions have been fulfilled:

State Grant

- (a) not less than ten years have elapsed since the date of commencement of his lease;
- (b) the lessee has continued, since the grant of the option to purchase, to maintain the permanent improvements required under paragraph (c) of subsection (1) of section *twenty-five* and to comply with the provisions of this Act and the terms and conditions of his lease;
- (c) the whole of the purchase price, which shall be the value of the holding as determined for the purpose of section *fourteen*, the survey fees and the cost of preparation and registration of the title deed have been paid to the President:

Provided that a lessee who has acquired, by way of assignment, a lease of a holding shall not be entitled except with the special consent of the Minister granted on the recommendation of the Board, to obtain a State Grant of such holding unless he has beneficially occupied such holding in accordance with the provisions of this Act and to the satisfaction of the Board for a period of not less than three years.

(As amended by S.I. No. 65 of 1965)

27. (1) Subject to the provisions of subsection (4) of section *twenty-eight*, a lessee of declared land under a State Lease for a period of not less than ninety-nine years or for a lesser period when the lease confers upon the lessee a right to be granted a lease for a period of not

Option to purchase
land comprised in
other leases

less than ninety-nine years upon the survey of the land, shall be entitled to obtain an option to purchase the land comprised in such lease where all the following conditions have been fulfilled:

- (a) not less than seven years have elapsed since the date of commencement of his lease;
- (b) all the terms and conditions of his lease and the provisions of sub-paragraphs (ii) and (iii) of paragraph (a) of subsection (2) of section *twenty-one* have been complied with, notwithstanding that this Act had not been enacted at the time that the lease was granted;
- (c) such permanent improvements have been effected to the land comprised in the lease as will satisfy the requirements of paragraph (c) of subsection (1) of section *twenty-five*.

(2) In all cases where two or more parcels of declared land formerly held under separate leases have been consolidated into one parcel of land, and where the lessee has under one or more of such leases qualified in time for an option to purchase the land comprised therein, the Board may in its discretion grant an option to purchase the consolidated parcel of land, notwithstanding that the lessee may not have qualified in time under each separate lease, but provided he has qualified in all other respects in regard to the consolidated parcel of land.

(3) Subject to the provisions of subsection (4) of section *twenty-eight*, a lessee of land under a State Lease whose lease was granted with the sole purpose of combining with a contiguous freehold property, of which he is the registered owner, to create a single economic unit of agricultural land, and whose lease is for a period of not less than ninety-nine years or for a lesser period, shall be entitled, if the Board so recommends, to obtain an option to purchase the land comprised in such lease where all the following conditions have been fulfilled:

- (a) not less than seven years have elapsed since the date of commencement of his lease;
- (b) all the terms and conditions of his lease have been complied with;

- (c) such permanent improvements have been effected on the land comprised in the freehold property and the State Lease as will satisfy the requirements of paragraph (c) of subsection (1) of section *twenty-five*;
- (d) the land comprised in the freehold property and the State Lease are declared land.

(4) A lessee who wishes to obtain an option to purchase under the provisions of this section shall make application to the Board in the prescribed form.

(As amended by S.I. No. 65 of 1965)

28. (1) A lessee who has acquired an option to purchase the land comprised in his lease under the provisions of subsection (1) or (2) of section *twenty-seven* shall be entitled to obtain a State Grant of his holding where all the following conditions have been fulfilled:

State Grants of
land comprised in
other leases

- (a) not less than ten years have elapsed since the date of commencement of his lease;
- (b) the lessee has continued, since the grant of the option to purchase, to maintain the permanent improvements required under paragraph (c) of subsection (1) of section *twenty-five*, and to comply with the provisions of this Act and the terms and conditions of his lease;
- (c) the whole of the purchase price, the survey fees and the cost of preparation and registration of the title deed have been paid to the President:

Provided that a lessee who acquires a lease by way of assignment shall not be entitled, except with the special consent of the Minister granted on the recommendation of the Board, to obtain a State Grant of the land comprised in such lease unless he has beneficially occupied such land in accordance with the provisions of this Act and to the satisfaction of the Board for a period of not less than three years.

(2) A lessee who has acquired an option to purchase the land comprised in his lease under the provisions of subsection (3) of section

twenty-seven shall be entitled to obtain a State Grant of the land comprised in his lease and in his contiguous freehold property where all the following conditions have been fulfilled:

- (a) not less than ten years have elapsed since the date of commencement of his lease;
- (b) the lessee has continued, since the grant of the option to purchase, to comply with the terms and conditions of his lease and to maintain the permanent improvements required under paragraph (c) of subsection (1) of section *twenty-five*, whether such permanent improvements have been effected on the land comprised in his freehold property or on the land comprised in his lease;
- (c) he has conveyed to the President the whole extent of the declared land comprised in his freehold property and surrendered to the President the land comprised in his lease;
- (d) the whole of the purchase price of the land comprised in his lease, all survey fees and the cost of preparation and registration of all necessary documents of title have been paid to the President.

(3) When a State Grant is acquired under this section, one of the following provisions shall apply:

- (a) if the previous lease was one which was subject to the payment of premium in one or more instalments together with a rental calculated at one ngwee per hectare pre annum, all payments made by the lessee by way of instalments of premium shall be deemed to be instalments of the purchase price, and the total purchase price of the land comprised in the lease shall be the total premium payable under the lease plus a sum calculated at the rate of twenty ngwee per hectare of such land;
- (b) if the previous lease was one which was subject to the payment of only one amount by way of consideration or premium together with an annual rental calculated at a percentage of the valuation of the land, the total purchase price of the land comprised in the lease shall be a sum calculated at twenty times such annual rental of such land over and above rentals already paid under the lease;

- (c) if the previous lease was one which was not subject to the payment of any consideration or premium, the total purchase price of the land comprised in the lease shall be a sum calculated at the rate of twenty ngwee per hectare of such land.

(4) The rights conferred upon lessees of agricultural land by this section and by section *twenty-seven* shall expire on the 13th March, 1977, or upon the thirtieth anniversary of the date of commencement of the lease if that anniversary occurs after the 13th March, 1977.

(As amended by S.I. No. 65 of 1965)

29. Immediately upon the issue of a State Grant, the land comprised therein shall be subject to all encumbrances, powers, rights and easements of whatsoever kind as are registered against the lease which the State Grant replaces.

Existing
encumbrances, etc.

(As amended by S.I. No. 65 of 1965)

30. (1) Where any lease, granted in respect of any holding under the provisions of this Act, expires by effluxion of time, the President, on the recommendation of the Board, may renew such lease upon the terms and conditions generally applicable to leases of holdings at the time of such renewal.

Renewal of leases

(2) The President shall not unreasonably withhold the renewal of a lease under the provisions of subsection (1), but any failure on the part of the lessee to comply with any requirement of the provisions of this Act, or any of the terms and conditions of the original lease, shall be deemed to be sufficient reason for the withholding of such renewal.

(3) Where the lessee had obtained an option to purchase in respect of the original lease, but had not exercised such option at the date of the expiry of such lease, any renewal of such lease under the provisions of this section shall contain an option to purchase.

(As amended by S.I. No. 65 of 1965)

31. (1) If any lessee has made any false statement which was material in support of the application upon which his lease was granted, he shall, without prejudice to any other proceedings which may be taken against

Re-entry

him, be guilty of an offence and shall be liable upon conviction to a fine not exceeding three thousand penalty units, and upon such conviction the President shall have power to re-enter upon the land and the lease shall thereupon determine.

(2) If a lessee fails to comply with any provision of this Act which is applicable to him or to fulfil any of the terms or conditions of his lease, the Board may cause written notice to be served upon such lessee calling upon him to remedy any default within such period as the Board may consider just and reasonable, and if such lessee fails to remedy such default within such time, the President shall have power to re-enter upon the land and the lease shall thereupon determine.

(3) The provisions of section 14, other than subsection (1), of the Conveyancing and Law of Property Act, 1881, of the United Kingdom, shall apply to any re-entry under the provisions of subsection (2), and in such application the word "lessee" in the said section 14 shall be deemed to include any mortgage or other encumbrancer of the holding concerned.

(4) Upon the re-entry upon a holding under the provisions of this section, the Commissioner of Lands shall have the right to take possession of and occupy the holding on behalf of the President together with all improvements thereon, and no compensation shall be made for any improvements made on or materials annexed to the holding by the lessee, whether or not they were made or annexed with the knowledge of the Board.

(As amended by S.I. No. 65 of 1965 and Act No. 13 of 1994)

32. The determination of a lease under the provisions of this Act or the surrender of a lease shall not extinguish any debt due from the lessee to the President under such lease, and, upon such determination or surrender, there shall forthwith become due and payable by the lessee to the President the difference between the total amount paid by the lessee and the total rent due under the provisions of section *twenty* from the date of commencement of the lease to the date of determination or surrender:

Debts due under
determined or
surrendered lease

Provided that if the Minister is satisfied that such determination or surrender was caused by drought, flood, tempest, locusts, lack of water, failure of crops, disease of stock or other adverse farming or domestic

conditions which were not the fault of the lessee, he may, after consultation with the Board, waive the whole or any part of the amount which has or would, under the provisions of this section, become due and payable as a result of such determination or surrender.

(As amended by S.I. No. 65 of 1965)

33. (1) In the event of a lessee's being adjudged bankrupt, or any assignment by a lessee for the benefit of his creditors, or any sale by a mortgagee of a holding in the lawful exercise of any power of sale, the trustee in bankruptcy or assignee, as the case may be, of his estate or the mortgagee may assign the lease to any person who is approved in writing by the Board. In considering any application for the approval of any proposed assignee, the Board shall apply the provisions of subsections (1) to (3) of section *seventeen*.

Bankruptcy of
lessee

(2) The Board may require any such trustee or assignee as aforesaid by written notice to assign the lease within such period as the Board may fix by such notice, and the Board may, at its discretion, from time to time extend the period fixed by such notice. If such trustee or assignee, as the case may be, shall fail to assign the lease within the period specified in such notice, or any extension thereof fixed by the Board, then the said lease shall forthwith determine and such trustee or assignee shall be entitled to be paid for the permanent improvements made on the land at the lessee's own expense such compensation as the Minister, after consultation with the Board, may decide, less any rent due and any other moneys lawfully owing in respect of the holding to the President or the Organisation, whether the holding has been made security for the repayment of such other moneys or not:

Provided that no compensation shall be payable under the provisions of this section in respect of improvements-

- (a) not connected with the use of the holding for farming purposes;
or
- (b) not calculated to increase the value of the holding for farming purposes.

(3) On the determination of any lease under the provision of subsection (2), the Board shall cause to be registered in the Registry of Deeds a certificate of such determination in the prescribed form.

(4) If a lessee which is a company is wound up on the ground that it is unable to pay its debts, the provisions of this section relating to a trustee or assignee shall apply to the liquidator of the company.

(As amended by S.I. No. 65 of 1965)

34. (1) If a lessee dies or is detained as a mentally disordered or defective person under the provisions of any written law relating to mental disorders, or is declared incapable of managing his own affairs by order of a competent court, the legal representative of such lessee, including any person empowered by law to administer or give directions as to the administration of the estate of such lessee, may, subject to the provisions of this section, assign the lease to any person who is approved in writing by the Board or may continue the lease on behalf of the estate, and, in considering any application for the approval of a proposed assignee, the Board shall apply the provisions of subsections (1) to (3) of section *seventeen*.

Death, etc., of
lessee

(2) Pending the assignment of the lease or during the period the legal representative continues the lease on behalf of the estate under the provisions of subsection (1), the provisions of this Act applicable to the lease and the terms and conditions of the lease shall be fulfilled by the legal representative of the estate or on his behalf by a person nominated by him and approved in writing by the Board.

(3) If the legal representative of the estate-

- (a) notifies the Board of his intention to surrender the lease; or
- (b) fails, within six months of the date of the grant of probate of the will or of letters of administration of the estate of the deceased lessee, or of the date of the order of the court appointing a committee of the estate of a mentally disordered or defective person or of a person declared to be incapable of managing his own affairs, to notify the Board in writing that he intends to assign or continue the lease; or
- (c) having notified the Board of his intention to assign the lease, fails to assign it within such period as may be fixed by the Board; the lease shall determine and thereupon the legal representative

shall be entitled to be paid for the permanent improvements made on the land at the lessee's own expense such compensation as the Minister, after consultation with the Board, may decide, less any rent due and any other moneys lawfully owing in respect of the holding to the President or the Organisation, whether the holding has been made security for the repayment of such other moneys or not:

Provided that no compensation shall be payable in respect of improvements-

- (i) not connected with the use of the holding for farming purposes; or
- (ii) not calculated to increase the value of the holding for farming purposes.

(4) If, pending assignment of the lease or during the period the lease is continued on behalf of the estate, the legal representative or the person nominated by him and approved by the Board fails to comply with any requirement of this Act which was applicable to the lessee or fails to fulfil any term or condition of the lease, the provisions of sections *thirty-one* and *thirty-two* shall apply.

(As amended by S.I. No. 65 of 1965)

35. (1) Any person holding land under a State Grant issued under this Part shall use such land primarily for agricultural purposes, for purposes ancillary thereto and for the personal residence of himself and his family and necessary staff and for no other purpose, save with the prior written consent of the Board.

State Grant to be used for agricultural purposes

(2) If any person fails to comply with the requirements of subsection (1), the Board may, by notice in writing, require such person to cease such other use within such period as may be prescribed in such notice, and, if such person fails to comply with the requirements of such notice within the specified time, he shall be guilty of an offence, and shall be liable to a fine not exceeding three thousand penalty units, and the court by which such person is convicted may, in addition to any penalty imposed, make an order requiring such person to comply with the said notice.

(As amended by S.I. No. 65 of 1965 and Act No. 13 of 1994)

36. (1) For the purposes of this section, land comprised in a State Grant shall be deemed to have been abandoned if the owner fails- Abandonment of holding

- (a) for a period exceeding three years, to maintain occupation of the land in person or through a tenant or manager; or
- (b) for a period exceeding three years, to maintain on the land, to the satisfaction of the Board, a reasonable standard of agricultural production, having regard to the character, extent and situation of the land and the general level of agricultural production being maintained at the time on agricultural holdings of similar character in the neighbourhood.

(2) In the event of the abandonment of any land comprised in a State Grant, the Board may serve notice on the owner thereof requiring such owner within such period, not being less than twelve months from the date of the notice, as may be specified in such notice, to reoccupy or arrange for the reoccupation of such land, and such notice shall state in detail the steps which the owner is required to take in order to comply therewith.

(3) If any holder of a State Grant issued under the provisions of this Act fails, on two or more separate occasions within any one period of three years, to comply with any orders issued under the provisions of the Natural Resources Act, the Board may serve notice on such holder requiring him within such period, not being less than twelve months from the date of the notice, to comply with the orders concerned, or any of them, or, if the work specified in any such order has been carried out by the Natural Resources Board under the provisions of the said Act, requiring the holder, within such period as aforesaid, to repay to the Natural Resources Board the costs incurred by such Board in carrying out such work. Cap. 197

(4) Any owner aggrieved by a notice served upon him under the provisions of this section may lodge an appeal against such notice with the Minister within a period of three months from the receipt thereof.

(5) Upon receipt of an appeal duly lodged under the provisions of subsection (4), the Minister shall appoint three persons (hereinafter

referred to as referees), one of whom shall be a person holding legal qualifications who shall act as chairman, for the purpose of hearing such appeal.

(6) The Board shall furnish to the referees a full statement of the facts which led to the service of the notice appealed against.

(7) The referees, after hearing the appellant and considering the statement of the Board and after having obtained any other report and after hearing such further evidence as may appear to them to be necessary to enable them to make a proper determination, shall make a report to the Minister embodying their decision and the reasons therefor, and the Minister shall thereupon decide whether the notice shall stand or be withdrawn, and such decision of the Minister shall be final.

(8) If a notice served under the provisions of this section is not withdrawn and the owner of the land concerned fails within the specified period to comply with such notice, the Minister shall have power to acquire the land on behalf of the President:

Provided that, before so acquiring such land, the Minister shall have regard to the economic state at that time of the agricultural industry in the area in which such land is situated,

(9) If the Minister, after consultation with the Board, decides to proceed with the acquisition of any land, he shall make an offer in respect thereof in writing within a period of six months from the date of expiry of the notice served under the provisions of this section, and failure to make such offer within such period shall be deemed to be an abandonment of the intention to acquire the land.

(10) In default of agreement between the owner of any land which is to be acquired under the provisions of this section and the Minister as to the valuation of such land, a summons may be taken out in the High Court as if the matter were one for the determination of the amount of compensation due under the provisions of section *nine* of the Public Lands Acquisition Act, Chapter 87 of the 1958 Edition of the Laws, and thereafter the matter shall be governed, *mutatis mutandis*, by the provisions of the said Act:

Provided that, in determining the valuation of such land, the High Court shall have regard only to its value as agricultural land including the value of permanent improvements effected thereon for farming purposes.

(As amended by S.I. No. 65 of 1965)

37. (1) Any public officer thereunto either generally or specially authorised in writing by the Minister or by the Board may, at all reasonable times, enter and inspect any holding or land comprised in a lease or a State Grant issued under the provisions of this Act, and ascertain by such means as he may think fit whether or not the lessee or owner has occupied and is occupying his holding or land in accordance with the provisions of this Act.

Right to enter and inspect

(2) Before exercising the powers conferred upon him by subsection (1), the public officer concerned shall, whenever reasonably practicable, either obtain the consent of the lessee or owner of the holding or land or give the said lessee or owner not less than forty-eight hours' notice in writing of his intention to enter and inspect the holding or land, and unless such consent has been obtained or such notice given, the officer shall not, in exercise only of the powers conferred by this section, enter into any enclosed building or dwelling-house.

(3) Any person who hinders or obstructs any public officer mentioned in subsection (1) in the exercise of any of the powers conferred by subsection (1) shall be guilty of an offence and shall be liable to a fine not exceeding seven hundred and fifty penalty units.

(As amended by S.I. No. 65 of 1965 and Act No. 13 of 1994)

PART IV

TENANT FARMING SCHEMES

38. The Minister may, after consultation with the Board, make schemes for the settlement of tenant farmers on the land.

Creation of schemes

(As amended by G.N. No. 227 of 1964)

39. In this Part, unless the context otherwise requires-

Interpretation

"holding" means a holding allotted to a tenant farmer under the provisions of a scheme;

"scheme" means a scheme for the settlement of tenant farmers on the land approved under the provisions of section *thirty-eight*;

"tenant" means a person holding land under the provisions of a scheme, and "tenancy" shall be construed accordingly.

40. (1) A tenant who proposes to effect at his own expense any of the improvements set out in the Second Schedule shall seek the prior approval of the Board which shall consider whether such improvements are reasonably required for the management, improvement or development of the holding.

Improvements
qualifying for
compensation

(2) When a tenancy expires by effluxion of time or is determined under the provisions of section *forty-one*, there shall be paid by the President to the outgoing tenant such sum as represents the value, at the date of such expiry or determination, of all improvements effected by the tenant and approved by the Board under the provisions of subsection (1), including improvements effected by the President and subsequently paid for by the tenant.

(3) No compensation shall be payable for any other improvements effected by the tenant, whether or not they were effected with the knowledge of the President or the Board.

(As amended by S.I. No. 65 of 1965)

41. (1) A tenancy may be terminated immediately by the President if the tenant becomes mentally or physically incapable of carrying out the conditions of his tenancy or of continuing his operations as a farmer, and thereafter the President may, in his discretion and subject to such conditions as he thinks fit, grant a new tenancy of the holding to the spouse, father, mother or any one child of the tenant.

Termination of
tenancy

(2) If a tenancy is terminated under the provisions of this section and no new tenancy is granted to the tenant's spouse, father, mother or child,

any rent owing to the President shall immediately become due for payment, and the President shall have the right to deduct any rent from any compensation or crop proceeds due to the tenant.

(3) In this section, "child" includes a child who is an adopted child for the purposes of the Adoption Act. Cap. 54

(As amended by S.I. No. 65 of 1965)

42. (1) The Minister may, by statutory instrument, make regulations for the purposes of carrying out schemes. Regulations

(2) Without prejudice to the generality of the foregoing, such regulations may-

- (a) prescribe standard covenants, terms, conditions and other provisions that shall be deemed to be incorporated in tenancies;
- (b) provide for the enforcement of such covenants, terms, conditions and other provisions;
- (c) provide for the setting up of a fund or funds into which moneys appropriated by Parliament for the purpose and moneys received as rent from tenants may be paid and for the administration and expenditure of such fund or funds.

(3) Such regulations may be of general application to all schemes or may be restricted in application to specified schemes.

(4) If any conflict shall arise between the provisions of any regulations made under the provisions of this section and the provisions of the Agricultural Holding Act, 1908, of the United Kingdom, in its application to Zambia, the provisions of the regulations shall prevail.

(As amended by G.N. No. 227 of 1964 and S.I. No. 65 of 1965)

PART V

GENERAL

43. If any dispute shall arise relating to-

Valuations
Cap. 40

- (a) the amount of any compensation not being an *ex gratia* payment;
 - (b) any valuation for an option to purchase a holding;
 - (c) any valuation for a State Grant;
- such dispute may be referred to arbitration under the provisions of the Arbitration Act.

(As amended by S.I. No. 65 of 1965)

44. (1) The Minister may, by statutory instrument, make rules providing for any or all of the following matters:

Powers of Minister

- (a) the annual rent and other charges to be paid on leases issued under the provisions of Part III;
- (b) the percentage of the aggregate value of a holding and the improvements thereon which a tenant under the provisions of Part IV shall pay by way of rent;
- (c) the length of term, the form of lease and the detailed conditions of tenancies issued under the provisions of Part IV;
- (d) the forms to be used for the purposes of this Act.

(2) The powers conferred upon the Minister by this section shall, in relation to Part IV, be exercised subject to the provisions of any regulations made under the powers conferred by section *forty-two*.

(As amended by G.N. No. 227 of 1964)

45. The Minister may, from time to time, by statutory notice, amend, alter or add to any Schedule to this Act.

Amendment of
Schedules

(As amended by G.N. No. 227 of 1964)

46. The Minister may, by statutory instrument, make regulations to give force or effect to the provisions of this Act or to provide for its better administration.

Regulations

(As amended by G.N. No. 227 of 1964)

47. (1) State Leases, tenancies and grants shall be executed on behalf of the President by the Commissioner of Lands or any other public officer thereunto authorised by the Minister. Execution and validity of documents etc.

(2) In any matter arising from or connected with State Leases, tenancies or grants or any of the terms or conditions thereof (including terms and conditions imparted by operation of law), the signification of a decision expressed to be made on behalf of the President by the Commissioner of Lands or other authorised officer shall be deemed for all purposes to be complete and to have been taken by the proper authority, whether under the provisions of this Act or otherwise.

(As amended by G.N. No. 227 of 1964 and S.I. No. 65 of 1965)

48. (1) Any notice authorised or required to be served by this Act shall be served in writing. Serving of notices

(2) Any notice authorised or required to be served by this Act shall be sufficiently served-

- (a) by delivering it personally to the person to be served; or
- (b) by delivering it to the last known place of abode or business in Zambia of the person to be served; or
- (c) by affixing it or leaving it on the land affected by it; or
- (d) by sending it by registered letter to the person to be served addressed to his last known postal address or place of abode or business in Zambia, provided such letter is not returned through the post office undelivered, and that service shall be deemed to have been made at the time at which the registered letter would in the ordinary course be delivered.

FIRST SCHEDULE

(Sections 11 and 20)

PERMANENT IMPROVEMENTS

(1) Housing of permanent materials for the lessee and his employees.

Cap. 402

Other farm buildings of permanent materials, not being stores required to be licensed under the provisions of the Trades Licensing Act.

Dips and spray races of permanent materials.

Dams, weirs, boreholes, reservoirs and other fixed works in connection with the development and use of water on a holding.

Fencing.

Soil conservation and irrigation works.

Land developed for cultivation or improvement of pasture.

Firebreaks.

Orchards and plantations, including planted windbreaks.

Access roads.

(2) The improvements mentioned in paragraph (1) shall only be deemed to be permanent improvements-

- (a) if they are effected at the cost and expense of the lessee; or
- (b) if constructed under the provisions of a Regional Plan approved by the Natural Resources Board, to such extent as they are effected at the cost and expense of the lessee; or
- (c) if they have been effected prior to the allotment of the holding to the lessee; and
- (d) in the case of housing, to a value not exceeding twenty-five per centum of the total value of other permanent improvements.

(As amended by G.N. No. 242 of 1964)

SECOND SCHEDULE

(Section 40)

IMPROVEMENTS QUALIFYING FOR COMPENSATION

Erection, alteration and enlargement of buildings.

Cap. 190

Formation of silos, dip tanks, spray races and stock handling facilities.

Making of works of irrigation.

Making or improvement of roads or bridges.

Making or improvement of water-courses, ponds, wells, or reservoirs, windmills, bore holes or any other works for the application of water power or for supply of water for agricultural or domestic needs.

Planting of orchards or fruit bushes.

Soil or water conservation works.

Stumping and clearing of land.

Afforestation.

Drainage.

Making of permanent fences (subject to the provisions of the Fencing Act).

Making of firebreaks.