

THE LAND TRANSFER ACT NO.8 OF 1994

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ACT NO.8 OF 1994

I ASSENT

**SALMIN AMOUR
PRESIDENT OF ZANZIBAR AND
CHAIRMAN OF THE REVOLUTIONARY COUNCIL**

1st March, 1995

**AN ACT TO PROVIDE FOR THE REGULATION OF THE PERMANENT
TRANSFER OF LAND AND THE LEASING OF LAND**

ENACTED by the House of Representatives of Zanzibar.

**PART I
PRELIMINARY**

- Short title and commencement. 1. This Act may be cited as the Land Transfer Act of 1994, and shall come into operation immediately upon being assented to by the President.
- Interpretation. 2. In this Act, unless the context otherwise requires:-
- “application” means the process of requesting permission to transfer or lease of land: for i more than three years;
- “Board” means the Land Transfer Board established under this Act;
- “Court” means the Land Tribunal and the regular courts unless provided otherwise;
- “Land” includes land by itself, land covered by water, all things growing on land, and buildings and other things permanently affixed to land except trees when specifically classified and owned separately;
- “Land Tribunal” means the land tribunal which shall hear land disputes;

“lease” means a long term transfer of the interest in land for three years or more including any possible period of renewal, but limited to not more than fifteen years as set out in section 50 of the Land Tenure Act of 1992, with the transferor holding the residual interest;

“Minister” means the Minister responsible for lands in Zanzibar;

“President” means the President of Zanzibar and Chairman of the Revolutionary Council.

PART II TRANSFER OF LAND

Transfer of land. 3. No permanent transfer of land or long term lease shall take place until the transaction is reviewed and approved by the Land Transfer Board set up under the provisions of this Act.

Approval of a transaction by the Board. 4. No permanent transfer of land, with special emphasis on the former three acre plots, leases or agreements for a lease which exceed three years made by an instrument executed after the date on which this Act comes into force shall have any effect unless consent is given to that transaction by the Land Transfer Board established for the area in which the land is situated and the approval for the transfer of the land in question is endorsed on the instrument which creates the transaction in question or the endorsement is on the appropriate form requesting approval for the transaction in question.

Referral process for transfers and leases. 5.(1) Each potential transferor of land or a lessor of land for three years or more shall present an application for permission to transfer or lease which shall include the name of the prospective transferee and other specified information to the District Commissioner in the District where the land to be transferred or leased is located together with the recommendations from the Shehia Council concerned.

(2) The District Commissioner shall forward the application to the Executive Secretary, Commission of Lands and Environment in Unguja and the Deputy Executive Secretary, Commission of Lands and Environment in Pemba after being discussed and recommended by that District Government.

(3) The Executive Secretary and Deputy Executive Secretary shall submit the applications for the transfer or lease of land to the Board for consideration.

Application for transfer or lease.

6. The application for transfer or long term lease shall provide the following information:-

- (a) name of transferor/lessor;
- (b) name of transferee/lessee;
- (c) identification numbers of transferor and transferee and/or lessor and lessee;
- (d) location of the land, including the unique parcel reference number;
- (e) reason for selling or leasing the land in question;
- (f) terms and conditions if the transfer is a lease;
- (g) nationality of the transferee or lessee;
- (h) consideration agreed upon for the transfer or lease of the land in question;
- (i) date of birth of transferor and transferee and/or lessor and lessee;
- (j) any other information considered relevant.

Reason for withholding consent for transfer.

7. In the case where a person attempts to permanently transfer of land, with special emphasis on, but not limited to, the former three acre plots, the Board may withhold its consent on any of the following grounds:-

- (a) where the Board is of the opinion that the proposed transaction would result in depriving the transferor of sufficient resources for the permanent support of himself and his dependants during his life time and of his heirs after his death; or
- (b) where the Board is of the opinion that the proposed transaction would be contrary to the best interests of the transferor; or

- (c) where the Board has reason to believe that the transaction is to take effect as a charge or mortgage; or
- (d) where the Board has reason to believe that the potential transferee intends to improperly Change the use of' the land; or
- (e) where the Board is of' the opinion that the transaction will result in land being acquired by persons who have been defined as inappropriate; or
- (f) where the Board is of the opinion that the transfer would give rise to a transaction that does not conform to the requirements of' land registration; or
- (g) where the Board is of the opinion that the transaction would contravene the broad policies of this Act, the Land Tenure Act of 1992 or any other relevant Act.

Resources for withholding consent for lease.

8. In the case a person attempts to lease land for three years or more the Board may withhold its consent on any of the following grounds:-

- (a) where the Board is of the opinion that the proposed transaction would result in depriving the lessor of sufficient resources for the permanent support of himself and his dependants during the period of lease; or
- (b) where the Board is of the opinion that the proposed transaction would be contrary to the best interests of the lessor; or
- (c) where the Board is of the opinion that the proposed lessee intends to improperly change the use of the land; or
- (d) where the Board is of the opinion that the transaction would contravene the broad policies of this Act, the Land Tenure Act of 1992 or any other relevant Act.

**PART III
LAND TRANSFER BOARD**

Composition of the Board.

9. (1) There shall be a Land Transfer Board in Zanzibar which shall consist of the following members:-

- (a) the Chairman who shall be appointed by the President;
- (b) the Executive Secretary of the Commission for Lands and Environment who shall act as Secretary of the Board;
- (c) the Deputy Executive Secretary of the Commission for Lands and Environment, who shall act as a Secretary of the sub- committee;
- (d) the Director of Lands;
- (e) the Registrar of Lands;
- (f) the Head of Department of Lands Pemba;
- (g) the Deputy Registrar of Lands, Pemba; and
- (h) five other members at least two from Pemba to be appointed by the Minister.

(2) The members coming from Pemba shall form a sub-committee and shall elect the Chairman from among its members.

(3) The sub-committee shall submit its decision to the Board for approval.

Term of membership.

10. Members of the Land Transfer Board shall serve as follows:-

- (a) Executive Secretary, Deputy Executive Secretary, Registrar of Lands, Director of Lands, Head of Department of Lands, Pemba and Deputy Registrar of Lands, Pemba shall serve on the Board for as long as they hold their respective offices;
- (b) the Chairman and five members appointed by the Minister shall serve for a term of three years.

Meetings of the Board.

11.(1) The Board shall meet at least once in every month to consider and review the applications for transfers or leases of land that have been submitted for consideration or not completed since the prior meeting.

(2) The Board shall complete the review process of any transaction which has been properly submitted in a form which allows a decision to be made not later than three months after the application for consideration of the transfer or lease.

(3) Failure of the Board to make a decision concerning the appropriateness of the transaction in question in forty five days from the time the application has been received by the Board, shall mean that the application shall be passed for decision to the Land Tribunal where a final decision shall be made.

(4) There shall be no appeal from any decision of the Land Tribunal on the application for transfer of land.

Quorum.

12. Half of the members of the Board at least two from Pemba shall constitute a quorum.

Dismissed from Board.

13.(1) If any member of the Board misses three consecutive working sessions without adequate excuse, that person shall be dismissed from the Board by the Minister, and another person shall be appointed prior to the next regularly scheduled meeting.

(2) In the case of the Registrar of Lands, the Deputy Registrar of Lands, the Director of Lands or the Head of the Department of Lands of Pemba being dismissed from their Board responsibility, the next senior person in each of the relevant Departments shall be appointed as a replacement member to the Board.

Duration for which approval remains valid.

14. No consent for a transfer or lease given by the Board under the provisions of this Act shall be valid if the instrument providing for such a transfer is not executed within six months from the date of the approval of the transfer or lease.

PART IV OFFENCES AND APPEALS

Violating of provisions of transfer restriction process.

15. The registration of any instrument or other document which contravenes these provisions relating to the permanent transfer of land or lease shall be void until the proper review process is completed.

Offences.

16. The following shall be considered offences under these provisions:-

- (a) if, in an application to the Board, any person makes a statement which is, to his knowledge, false or in any way misleading, he shall be guilty of an offence and shall be liable to a fine of not less than one hundred and fifty thousand shillings;
- (b) any person who either executes, or causes to be executed, or gives valuable consideration to any person to include them to execute a document which provides for the permanent transfer or lease of any land covered by these provisions shall be guilty of an offence and shall be liable to a fine of not less than one hundred and fifty thousand shillings unless the Board has approved the transfer or lease in question prior to the execution or other punishable activity relating to the land in question;
- (c) any person who prepares or assists in the preparation of any document which purports to transfer any land that is covered by these provisions has the duty to determine if approval for the transfer has been given by the Board and acts before or without this approval be guilty of an offence and shall be liable to a fine of not less than one hundred and fifty thousand shillings;
- (d) any Board member who receives any improper remuneration, in any form, which is provided in order to facilitate a decision involving the permanent transfer or lease of land, or acts considered inappropriate in any way, shall be guilty of an offence and shall be liable to a fine of not less than one hundred and fifty thousand shillings and shall be dismissed by the Minister from further participation in Board deliberations.

Appeals from decision of the Board.

17. An appeal from any decision of the Land Transfer Board may be taken to the Lands Tribunal and that appeal, if it considers a factual matter shall be final.

If the Land Tribunal considers a matter of law, a further appeal to an appropriate appellate court is allowed.

PART V MISCELLANEOUS

Regulations.

18. The Minister may make Regulations in general to give effect to the purposes and provisions of this Act including the variation of fines under section 16, and in particular without prejudice to the generality of the foregoing, for prescribing the manner in which the transfers of land and the instruments to be used to complete any transactions considered under this Act and for prescribing anything under this Act which may be allowed.

The right of Government.

19. Nothing in this Act shall prejudice any interest, right, power or privilege conferred on Government by any other law.

Other law.

20. Any matter not provided for in this Act or in any other law in relation to the transfer or long term lease of land shall be decided accordance with the principle of justice, equity and good conscience.

Repeals.

21.(1) All laws or portions of laws in conflict with the provisions of this Act shall be deemed to be repealed and anything done under a repealed law shall be deemed to have been performed under the provisions of this Act.

(2) All pending cases prior to the commencement of this Act shall be dealt with in accordance with the provisions of the repealed laws.

PASSED in the House of Representatives the 28th day of September, 1994.

**KHAMIS JUMA CHANDE
CLERK OF THE HOUSE OF REPRESENTATIVES**