

GOVERNMENT NOTICE NO. 75 published on 4/5/2001

THE LAND ACT  
(No. 4 of 1999)

THE LAND (SMALL MORTGAGES) REGULATIONS,  
2001

*(Made under sections 114 and 179)*

**Citation** 1. These Regulations shall be cited as the Land (Small Mortgages) Regulations 2001.

**Interpretation** 2. In these regulations, unless the context otherwise requires -

“Act” means the Land Act 1999;

“authorized officer” has the meaning ascribed to it by the Act;

“Commissioner” means the Commissioner for Lands;

“Minister” means the Minister responsible for lands;

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"small mortgage" means a mortgage for a term not exceeding three years and for a sum not greater than five hundred thousand shillings.

3. No small mortgage shall have a term exceeding three years. Term

4. No small mortgage shall secure a sum of money greater than five hundred thousand Shillings, unless there is an order by the Minister to change that sum. Maximum sum

5.-(1) The Commissioner shall have a duty to advise the Minister on the possibility to change the maximum sum under a small mortgage. Consultation:

(2) A body or organization which represent interests of bankers or lenders on security of mortgage shall have duty to advise the Minister on the possibility to change the maximum sum under a small mortgage

6.-(1) Every instrument for a small mortgage shall provide for the following matters - Instrument of a small mortgage

- (a) name of the borrower;
- (b) name of the lender;
- (c) description of the land which is the subject of the mortgage;
- (d) description of developments on the land, if any, and if non so to state;
- (e) nature of interest in the land -
  - (i) Right of occupancy; or
  - (ii) Lease;

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- (f) whether the interest is registered or not, if registered, reference number(s) of registration;
  - (g) the sum secured under the small mortgage including an overdraft, existing or a future or contingent debt;
  - (h) the need for a memorandum in case of reducing or increasing secured amount under the small mortgage;
  - (i) payable interest rate under the small mortgage and the requirement for not less than thirty days notice upon revision.
- (2) Other conditions include -
- (a) the lender to give a copy of the small mortgage instrument to the borrower's spouse(s) where the borrower is married and any other person with an obligation under the mortgage;
  - (b) a statement that the small mortgage does not operate as a transfer of the right of occupancy or lease, as the case may be, but takes effect as security only;
  - (c) priority or ranking according to order of registration;
  - (d) tacking or further advances or credit on a current or continuing account;
  - (e) the need for the lender's consent to any disposition affecting the security;
  - (f) the duty for the borrower to pay the principal sum and interest on the agreed day;
  - (g) default notices;
  - (h) remedies available to the lender upon borrower's default;
  - (i) manner of calculating interest on the principal sum and time or dates when interest shall be deemed due or to have accrued;
  - (j) the borrower's duty to maintain the security in good condition and repair;

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- (k) the borrower's duty to pay all outgoings such as rent, rates, taxes duties and levies;
- (l) the lender's right to inspect the mortgaged land or property;
- (m) the borrower's equitable right of redemption.

7. Every borrower shall have a duty to notify the Commissioner or authorised officer the intention to carry out a small mortgage. Notification:

8. For avoidance of doubt, the following are the only remedies for which the lender is required to obtain an order of the court if exercised - Protections

- (a) appointment of a receiver of income of the mortgaged land;
- (b) leasing the mortgaged land or subleasing of the mortgaged lease;
- (c) entering into possession of mortgaged land.

9. Unless otherwise expressly declared, customary mortgages shall be governed by customary law. Customary mortgages

Dar es Salaam,  
3<sup>rd</sup> May, 2001

G. CHEYO,  
*Minister for Lands and  
Human Settlement Development*