

Land Use Act
Chapter L5
Laws of the Federation of Nigeria 2004

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An Act to Vest all Land compromised in the territory of each State (except land vested in the Federal government or its agencies) solely in the Governor of the State , who would hold such Land in trust for the people and would henceforth be responsible for allocation of land in all urban areas to individuals resident in the State and to organisations for residential, agriculture, commercial and other purposes while similar powers will with respect to non urban areas are conferred on Local Governments.(27th March 1978) Commencement.

29th March 1978

Part I
General

1. Subject to the provisions of this Act, all land comprised in the territory of each State in the Federation are hereby vested in the Governor of that State and such land shall be held in trust and administered for the use and common benefit of all Nigerians in accordance with the provisions of this Act.

2. (1) As from the commencement of this Act -

(a) all land in urban areas shall be under the control and management of the Governor of each State. And

(b) all other land shall, subject to this Act, be under the control and management of the Local Government, within the area of jurisdiction of which the land is situated.

(2) There shall be established in each State a body to be known as "the Land Use and Allocation Committee" which shall have responsibility for:-

(a) advising the Governor on any matter connected with the management of land to which paragraph (a) of subsection (1) above relates;

(b) Advising the Governor on any matter connected with the resettlement of persons affected by the revocation of rights of occupancy on the ground of overriding public interest under this Act; and

(c) determining disputes as to the amount of compensation payable under this Act for improvements on land.

(3) The Land Use and Allocation Committee shall consist of such number of persons as the Governor may determine and shall include in its membership:-

(a) not less than two persons possessing qualifications approved for appointment to the public service as estate surveyors or land officers ad who have had such qualification for not less than five years; and

(b) a legal practitioner.

(4) The Land Use and Allocation Committee shall be presided over by such one of its members as may be designated by the Governor and, subject to such directions as may be given in the regard by the Governor, shall have power to regulate its proceedings.

(5) There shall also be established for each Local Government a body to be known as "the Land Allocation Advisory Committee" which shall consist of such persons as may be determined by the Governor acting after consultation with the Local Government and shall have responsibility for advising the Local Government on any matter connected with the management of land to which paragraph (b) of subsection (1) above relates.

3. Subject to such general conditions as may be specified in that behalf by the National Council of States, the Governor may for the purposes of this Act by order published in the State Gazette designate the parts of the area of the territory of the State constituting land in an urban area.

4. Until other provisions are made in that behalf and, subject to the provisions of this Act, land under the control and management of the Military Governor under this Act shall be administered -

(a) in the case of any State where the Land Tenure Law of the former Northern Nigeria applies; in accordance with the provisions of that law; and

(b) in every other case, in accordance with the provisions of the State Land Law applicable in respect of State Land in the State, and the provisions of the Land Tenure Law or the State Land Law, as the case may be, shall have effect with such modification as would bring those laws into conformity with this Act or its general intendment.

Part II
Principles of Land Tenure, Powers of Governor and Local Governments, and Rights of Occupiers

5. (1) It shall be lawful for the Governor in respect of land, whether or not in an urban areas:-

(a) to grant statutory rights of occupancy to any person for all purposes;

(b) to grant easements appurtenant to statutory rights occupancy;

(c) to demand rental for any such land granted to any person.

(d) to revise the said rental -

(i) at such intervals as may be specified in the certificate of occupancy; or

(ii) where no intervals are specified in the certificate or occupancy at any time during the term of the statutory rights of occupancy;

(e) to impose a penal rent for a breach of any covenant in a certificate of occupancy requiring the holder to develop or effect improvements on the land the subject of the certificate of occupancy and to revise such penal rent as provided in section 19 of this Act

(f) to impose a penal rent for a breach of any condition, express or implied, which precludes the holder of a statutory right of occupancy from alienating the right of or any part thereof by sale, mortgage, transfer or possession, sub-lease or request or otherwise howsoever without the prior consent of the Governor;

(g) to waive. Wholly or partially, except as otherwise prescribed; all or any of the covenant or conditions of which a statutory right of occupancy is subject where, owing to special circumstances, compliance therewith would be impossible or great hardship would be imposed upon the holder;

(h) to extend except as otherwise prescribed, the time to the holder of a statutory right of occupancy for performing any of the conditions of the right of occupancy upon such terms and conditions as he may thing fit.

(2) Upon the grant of a statutory right of occupancy under the provisions of subsection (1) of this section all existing rights to the use and occupation of the land which is the subject of the statutory right of occupancy shall be extinguished.

6. (1) It shall be lawful for a Local Government in respect of land not in an urban area.

(a) to grant customary rights of occupancy to any person or organisation for the use of land in the Local Government areas for agricultural residential and other purposes.

(b) to grant customary right of occupancy to any person or organisation for the use of land for grazing purposes and such other purposes ancillary to agricultural purposes as may be customary in the Local Government area concerned.

(2) No single customary right of occupancy shall be granted in respect of an area of land in excess of 500 hectares if granted for agricultural purposes, or 5,000 hectares if granted for grazing purposes, except with the consent of the Governor.

(3) It shall be lawful for a Local Government to enter upon, use and occupy for public purposes any land within the area of its jurisdiction which is not

(a) land within an area declared to be an urban area pursuant to Section 3 of this Act;

(b) the subject of a statutory right of occupancy;

(c) within any area compulsorily acquired by the Government of the Federal or of the State concerned;

(d) the subject of any laws relating to minerals or mineral oils, and for the purpose to revoke any customary right of occupancy on any such land.

(4) The Local Government shall have exclusive rights to the lands so occupied against all persons except the Governor.

(5) The holder and the occupier according to their respective interests of any customary right of occupancy revoked under sub-section (2) shall be entitled to compensation for the value at the date of revocation of their unexhausted improvements.

(6) Where land in respect of which a customary right of occupancy is revoked under this Act was used for agricultural purposes by the holder, the Local Government shall allocate to such holder alternative land for use for the same purpose.

(7) If a Local Government refuses or neglects within a reasonable time to pay compensation to a holder and an according to their respective interests under the provisions of subsection (5), the Military Governor may proceed to the assessment of compensation under section 29 and direct the Local Government to pay the amount of such compensation to the holder and occupier according to their respective interests.

7. It shall not be lawful for the Governor to grant a statutory right of occupancy or consent to the assignment or subletting of a statutory right of occupancy to a person under the age of twenty-one years; Provided that -

(a) Where a guardian or trustee for a person under the age of 21 has been duly appointed for such purpose the Governor may grant or consent to the assignment or subletting of a statutory right of occupancy to such guardian or trustee on behalf of such person under age;

(b) a person under the age of twenty-one years upon whom a statutory right of occupancy devolves on the death of the holder shall have the same liabilities and obligations under and in respect of his right of occupancy as if he were of full age notwithstanding the fact that no guardian or trustee has been appointed for him.

8. Statutory right of occupancy granted under the provisions of section 5 (1) (a) of this Act shall be for a definite term and may be granted

subject to the terms of any contract which may made by the Governor and the holder not being inconsistent with the provisions of this Act.

9. (1) It shall be lawful for the Governor--

(a) when granting a statutory right of occupancy to any personal or

(b) when any person is in occupation of land under a customary right of occupancy and applies in the prescribed manner; or

(c) when any person is entitled to a statutory right of occupancy, to issue a certificate under his hand in evidence of such right of occupancy.

(2) Such certificate shall be termed a certificate of occupancy and there shall be paid therefore by the person in whose name it is issued, such fee (if any) as may be prescribed.

(3) If the person in whose name a certificate of occupancy is issued, without lawful excuse, refuses or neglects to accept and pay for the certificate, the Governor may cancel the certificate and recover from such person any expenses incidental thereto, and in the case of a certificate evidencing a statutory right of occupancy to be granted under paragraph (a) of subsection (1) the Governor may revoke the statutory right of occupancy.

(4) The terms and conditions of a certificate of occupancy granted under this Act and which has been accepted by the holder shall be enforceable against the holder and his successors in title, notwithstanding that the acceptance of such terms and condition is not evidenced by the signature of the holder or is evidenced by the signature only of some person purporting to accept on behalf of the corporation.

10. Every certificate of occupancy shall be deemed to contain provisions to the following effect:-

    (a) that the holder binds himself to pay to the Governor the amount found to be payable in respect of any unexhausted improvements existing on the land at the date of his entering into occupation;

    (b) that the holder binds himself to pay to the Governor the rent fixed by the Governor and any rent which may be agreed or fixed on revision in accordance with the provisions of section 16 this Act.

11. The Governor or any public officer duly authorised by the Governor in that behalf shall have the power to enter upon and inspect the land comprised in any statutory right of occupancy or any improvements effected thereon at any reasonable houses in the day time and the occupier shall permit and give free access to the Governor or any such officer so to enter and inspect.

12. (1) It shall be lawful for the Governor to grant a licence to any person to enter upon any land which is not
    the subject of a statutory right of occupancy or of a mining lease, mining right or exclusive prospecting
    licence granted under the Minerals Act or any other enactment, and remove or extract therefrom any
    stone, gravel, clay, sand or other similar substance (not being a mineral within the meaning assigned
    to that term in the Mineral Act) that may be required for building or for the manufacture of building materials.

    (2) Any such licence may be granted for such period and subject to such conditions as the Military
    Governor may thing proper of as may be prescribed.

    (3) No such licence shall be granted in respect of an area exceeding 400 hectare.

(4) It shall not be lawful for any licensee to transfer his licence in any manner whatsoever without the consent of the Governor first had and obtained, and any such transfer effected without the consent of the Governor shall be null and void.

(5) The Governor may cancel any such licence if the licensee fails to comply with any of the conditions of the licence.

13. (1) The Occupier of a statutory right of occupancy shall at all times maintain in good and substantial repair to the satisfaction of the Governor, or of such public officer as the Military Governor may appoint in that behalf, all beacons or other land marks by which the boundaries of the land comprised in the statutory right of occupancy are refined and in default of his so dong the Military Governor or such public officer as aforesaid may by notice in writing require the occupier to define the boundaries in the manner and within the time specified in such notice.

(2) If the occupier of a statutory right of occupancy fails to comply with a notice served under subsection (1)of this section he shall be liable to pay the expenses (if any) incurred by the Governor in defining the boundaries which the occupier has neglected to define.

14. Subject to the other provision of this Act and of any laws relating to way leaves, to prospecting for minerals or mineral oils or to mining or to oil pipelines and subject to the terms and conditions of any contract made under section, the occupier shall have exclusive rights to the land the subject of the statutory right of occupancy against all persons other than the Governor.

15. During the term of a statutory right of occupancy the holder -

(a) shall have the sole right to and absolute possession of all the improvements of the land;

(b) may, subject to the prior consent of the Governor, transferor, assign or mortgage any improvements on the land which have been effected pursuant to the terms and conditions of the certificate of occupancy relating to the land.

Part III
Rents

16. In determining the amount of the original rent to be fixed for any particular land and the amount of the revised rent to be fixed on any subsequent revision of rent, the Governor -

(a) Shall take into consideration rent previously fixed in respect of any other like land in the immediate neighbourhood, and shall have regard to all the circumstances of the case;

(b) shall not take into consideration any value due to capital expended upon the land by the same or any previous occupier during his term or terms of occupancy, or ay increase in the value of the land the rental of which is under consideration, due to the employment of such capital.

17. (1) The Governor may grant a statutory right of occupancy free of rent or at a reduced rent in any case in
which he is satisfied that it would be in the public interest to do so.

(2) Where a statutory right of occupancy has been granted free of rent the Governor may, subject to the express provisions of the certificate of occupancy, nevertheless impose a rent in respect of the land the subject of the right of occupancy if and when he may think fit.

18. Subject to the provisions of sections 20 and 21, the acceptance by of or behalf of the Governor of any rent shall not operate as a waiver by the Governor of any forfeiture accruing by reason of the breach of any covenant or condition, express or implied, in any certificate of occupancy granted under this Act.

19. (1) When in any certificate of occupancy the holder has covenanted to develop or effect improvements on the land the subject of the certificate of occupancy and has committed a breach of such covenant the Governor may

(a) at the time of such breach or at any time thereafter so long as the breach remains unremedied, fix a penal rent which shall be payable for twelve months from the date of such breach; and

(b) on the expiration of twelve months from the date of such breach and on the expiration of every subsequent twelve months so long as the breach continues revise the penal rent to be paid.

(2) Such penal rent or any revision thereof shall be in addition to the rent reserved by the certificate of occupancy and shall be recoverable as rent:
Provided that the first penal rent fixed shall not exceed the rent so reserved and any revised penal rent shall not exceed double the penal rent payable in respect of the twelve months preceding the date of revision.

(3) If the Governor fixes or revises a penal rent he shall cause a notice in writing to be sent to the holder informing him of the amount thereof and the rent so fixed or revised shall commence to be payable one calendar moth from the date of the receipt of such notice.

(4) If the breach for which a penal rent has been imposed is remedied before the expiration of the period for which such rent has been paid, the Governor may in his discretion refund such portion of the penal rent paid for such period as he may think fit.

(5) The fact that a penal rent or a revised penal rent has been imposed shall not preclude the Military Governor, in lieu of fixing a

subsequent penal rent, from revoking the statutory right of occupancy.

Provided that the statutory right of occupancy shall not be revoked during the period for which a penal rent has been paid.

20. (1) If there has been any breach of any of the provisions of section 22 or 23 the Governor may in lieu of revolving the statutory right of occupancy concerned demand that the holder shall pay an additional and penal rent for and in respect of each day during which the land subject of the statutory right of occupancy or any portion thereof or any building or other works erected thereon shall be or remain in the possession, control or occupation of any person whomsoever other than the holder.

(2) The acceptance by or on behalf of the Governor of any such additional and penal rent shall not operate as a waiver by the Governor of any breach of section 22 or 23 which may continue after the date up to and in respect of which such additional and penal rent has been paid or is due and owing and the Military Governor shall accordingly be entitled to exercise in respect of any such continuing breach all or any of the powers conferred upon him by this Act.

Part IV
Alienation and surrender of Rights of Occupancy

21. It shall not be lawful for any customary right of occupancy or any part thereof to be alienated by assignment, mortgage, transfer of possession, sublease or otherwise howsoever -

(a) Without the consent of the Governor in cases where the property is to be sold by or under the order of any court under the provisions of the applicable Sheriffs and Civil Process Law; or

(b) in other cases without the approval of the appropriate Local Government.

22. It shall not be lawful for the holder of a statutory right of occupancy granted by the Governor to alienate his right of occupancy or any part thereof by assignment, mortgage, transfer of possession, sublease or otherwise howsoever without the consent of the Governor first had and obtained:

(1) Provided that the consent of the Governor-

(a) shall not be required to the creation of a legal mortgage over a statutory right of occupancy in favour of a person in whose favour an equitable mortgage over the right of occupancy has already been created with the consent of the Governor:

(b) shall not be required to the reconveyance or release by a mortgage to a holder or occupier of a statutory right of occupancy which that holder or occupier has mortgaged and that mortgage with the consent of the Governor:

(c) to the renewal of a sub-lease shall not be presumed by reason only of his having consented to the grant of a sub-lease containing an option to renew the same.

(2) The Governor when giving his consent to an assignment mortgage or sub-lease may require the holder of a statutory right of occupancy to submit an instrument executed in evidence of the assignment, mortgage or sub-lease and the holder shall when so required deliver the said instrument to the Governor in order that the consent given by the Governor under subsection (1) may be signified by endorsement thereon.

23. (1) A sub-lease of a statutory right of occupancy may with the prior consent of the Governor and with the approval of the holder of the statutory right of occupancy, demise by way of sub

underlease to another person the land comprised in the sub-lease held by him or any portion of the land.

(2) The provisions of subsection (2) shall apply mutatis mutandis to any transaction effected under subsection (1) of this section as if it were a sub-lease granted under section 22.

24. The devolution of the rights of an occupier upon death shall -

(a) in the case of a customary right of occupancy, (unless non customary law or any other customary law applies) be regulated by the customary law existing in the locality in which the land is situated; and

(b) in the case of a statutory right of occupancy (unless any non customary law or other customary law applies) be regulated by the customary law of the deceased occupier at the time of his death relating to the distribution of property of like nature to a right of occupancy:

Provided that -

(a) no customary law prohibiting, restricting or regulating the devolution on death to any particular class of persons or the right to occupy and land shall operate to deprive any person of any beneficial interest in such land (other than the right to occupy the same) or in the proceeds of sale thereof to which he may be entitled under the rule of inheritance of any other customary law;

(b) a statutory right of occupancy shall not be divided into two or more parts on devolution by the death of the occupier, except with the consent of the Governor.

25. In the case of the revolution or transfer of rights to which any non customary law applies, no deed or will shall operate to create any proprietary right over land except that of a plain transfer of the whole of the rights of occupation over the whole of the land.

26. Any transaction or any instrument which purports to confer on or vest in any person any interest or right over land other than in accordance with the provisions of this Act shall be null and void.

27. The Governor may accept on such terms and conditions as he may think proper the surrender of any statutory right of occupancy granted under this Act.

Part V
Revocation of Rights of Occupancy and compensation therefor

28. (1) It shall be lawful for the Governor to revoke a right of occupancy for overriding public interest.

(2) Overriding public interest in the case of a statutory right of occupancy means--.

(a) the alienation by the occupier by assignment, mortgage, transfer of possession, sublease, or otherwise of any right of occupancy or part thereof contrary to the provisions of this Act or of any regulations made thereunder;

(b) the requirement of the land by the Government of the State or by a Local Government in the State, in either case for public purposes within the State, or the requirement of the land by the Government of the Federation for public purposes of the Federation;

(c) the requirement of the land for mining purposes or oil pipelines or for any purpose connected therewith.

(3) Overriding public interest in the case of a customary right of occupancy means -

(a) the requirement of the land by the Government of the State or by a Local Government in the State in either case for public purpose within the State, or the requirement of the land by the government of the Federation for public purposes of the Federation.

(b) the requirement of the land for mining purposes or oil pipelines or for any purpose connected therewith;

(c) the requirement of the land for the extraction of building materials;

(d) the alienation by the occupier by sale, assignment, mortgage, transfer of possession, sublease, bequest or otherwise of the right of occupancy without the requisite consent or approval.

(4) The Governor shall revoke a right of occupancy in the event of the issue of a notice by or on behalf of the (Head of the Federal Military Government) if such notice declares such land to be required by the Government for public purposes.

(5) The Military Government may revoke a statutory right of occupancy on the ground of -

(a) a breach of any of the provisions which a certificate of occupancy is by section 10 deemed to contain;

(b) a breach of any term contained in the certificate of occupancy or in any special contract made under section 8;

(c) a refusal or neglect to accept and pay for a certificate which was issued in evidence of a right of occupancy but has been cancelled by the Military Governor under subsection (3) of section 10.

(6) The revocation of a right of occupancy shall be signified under the hand of a public officer duly authorised in that behalf by the Governor and notice thereof shall be given to the holder.

(7) The title of the holder of a right of occupancy shall be extinguished on receipt by him or a notice given under subsection (5) or on such later date as may be stated in the notice.

29. (1) If a right of occupancy is revoked for the cause set out in paragraph (b) of subsection (2) of section 28 or (c) of subsection (3) of the same section, the holder and the occupier shall be entitled to compensation for the value at the date of revocation of their unexhausted improvements.

(2) If a right of occupancy is revoked for the cause set out in paragraph (c) of subsection (2) of section 28 or in paragraph (b) of subsection (3) of the same section the holder and the occupier shall be entitled to compensation under the appropriate provisions of the Minerals Act or the Mineral Oils Act or any legislation replacing the same.

(3) If the holder or the occupier entitled to compensation under this section is a community the Governor may direct that any compensation payable to it shall be paid -

(a) to the community; or

(b) to the chief or leader of the community to be disposed of by him for the benefit of the community in accordance with the applicable customary law; or

(c) into some fund specified by the Governor for the purpose of being utilised or applied for the benefit of the community.

(4) Compensation under subsection (1) of this section shall be, as respects -

(a) the land, for an amount equal to the rent, if any, paid by the occupier during the year in which the right of occupancy was revoked;

(b) building, installation or improvements thereon, for the amount of the replacement cost of the building, installation or improvement, that is to say, such cost as may be assessed on the basis of the prescribed method of assessment as determined by the appropriate officer less any depreciation, together with interest at the bank rate for delayed payment of compensation and in respect of any improvement in the nature of reclamation works, being such cost thereof as may be substantiated by documentary evidence and proof to the satisfaction of the appropriate officer;

(c) crops on land apart from any building, installation or improvement thereon, for an amount equal to the value a prescribed and determined by the appropriate officer.

(5) Where the land in respect of which a right of occupancy has been revoked forms part of a larger area the compensation payable shall be computed as in subsection (4) (a) above less a proportionate amount calculated in relation to that part of the area not affected by the revocation but of which the portion revoked forms a part and any interest payable shall be assessed and computed in like manner.

(6) Where there is any building, installation or improvement or crops on the land to which subsection (5)
applies, then compensation shall be computed as specified hereunder, that is a respects -

(a) such land, on the basis specified in that subsection;

(b) any building, installation or improvement or crops thereon (or any combination or two or all of those things) on the basis specified in that subsection and subsection (4) above, or so much of those provisions as are applicable, and any interest payable under those provisions shall be computed in like manner.

(7) For the purposes of this section, "installation" means any mechanical apparatus set up or put in position for use or materials set up in or on land or other equipment, but excludes any fixture in or on any building.

30. Where there arises any dispute as to the amount of compensation calculated in accordance with the provisions of section 29, such dispute shall be referred to the appropriate Land Use and Allocation Committee.

31. The provisions of the Public Lands Acquisition (Miscellaneous Provisions) Act 1976 shall not apply in respect of any land vested in, or taken over by, the Governor or any Local Government pursuant to this Act or the right of occupancy to which is revoked under the provisions of this Act but shall continue to apply in respect of land compulsorily acquired before the commencement of this Act.

32. The revocation of a statutory right of occupancy shall not operate to extinguish any debt due to the Government under or in respect of such right of occupancy.

33. (1) Where a right of occupancy in respect of any developed land on which a residential building has been erected is revoked under this Act the Governor or the Local Government, as the case may be, may in his or its discretion offer in lieu of compensation payable in accordance with the provisions of this Act resettlement in any other place or area by way of a reasonable alternative accommodation (if appropriate in the circumstances).

(2) Where the value of any alternative accommodation as determined by the appropriate officer of the Land Use and Allocation Committee is higher than the compensation payable under this Act the parties concerned may by agreement require that the excess in value in relation to the property concerned shall be treated as a loan which the person affected shall refund or repay to the Government in the prescribed manner.

(3) Where a person accepts a resettlement pursuant to subsection (1) of this section his right to

compensation shall be deemed to have been duly satisfied and no further compensation shall be payable to such person.

Part VI
Transitional and other related provisions

34. (1) The following provisions of this section shall have effect in respect of land in an urban area

vested in any person immediately before the commencement of this Act.

(2) Where the land is developed the land shall continue to be held by the person in whom it was vested immediately before the commencement of this Act as if the holder of the land was the holder of a statutory right of occupancy issued by the Governor under this Act.

(3) In respect of land to which subsection (2) of this section applies there shall be issued by the Governor on application to him in the prescribed form a certificate of occupancy if the Governor is satisfied that the land was, immediately before the commencement of this Act, vested in that person.

(4) Where the land to which subsection (2) of this section applies was subject to any mortgage, legal or equitable, or any encumberence or interest valid in law such land shall continue to be so subject and the certificate of occupancy issued, shall indicate that the land is so subject, unless the continued operation of the encumberance or interest would in the opinion of the Governor be inconsistent with the provisions, or general intendment of this Act.

(5) Where on the commencement of this Act the land is undeveloped, then

(a) one plot or portion of the land not exceeding half hectare in area shall subject to subsection (6) below, continue to be held

by the person in whom the land was so vested as if the holder of the land was the holder of a statutory right of occupancy granted by the Governor in respect of the plot or portion as aforesaid under this Act; and

(b) all the rights formerly vested in the holder in respect of the excess of the land shall in the commencement of this Act be extinguished and the excess of the land shall be taken over by the Governor and administered as provided in this Act.

(6) Paragraph (a) of subsection (5) above shall not apply in the case of any person who on the commencement of this Act also the holder of any undeveloped land elsewhere in any urban area in the State and in respect of such a person all his holdings of undeveloped land in any urban area in State shall be considered together -

(a) one plot or portion not exceeding 1/2 hectare in area shall continue to be held by such a person as if a right of occupancy had been granted to him by the Governor in respect of that plot or portion; and

(b) the remainder of the land (so considered together) in excess of 1/2 hectare shall be taken over by the Governor and administered in accordance with this Act and the rights formerly vested in the holder in respect of such land shall be extinguished.

(7) No land to which subsection (5) (a) or (6) above applies held by any person shall be further subdivided or laid out in plots and no such land shall be transferred to any person except with the prior consent in writing of the Governor.

(8) Any instrument purporting to transfer any undeveloped land in contravention of subsection (7) above shall be void and of no effect whatsoever in law and any party to any such instrument shall be guilty of an offence and liable on conviction to imprisonment for one year or a fine of N5,000.

(9) In relation to land to which subsection (5) (a) or (6) (a) applies there shall be issued by the Military Governor on application

therefore in the prescribed form a certificate of occupancy if the Military Governor is satisfied that the land was immediately before the commencement of this Act vested in that person.

35. (1) Section 34 of this Act shall have effect notwithstanding that the land in question was held under a leasehold, whether customary or otherwise, and formed part of an estate laid out by any person, group or family in whom the leasehold interest or reversion in respect of the land was vested immediately before the commencement of this Act so however on, group of family in whom the leasehold interest or reversion was vested that if there has been any improvements on the land effected by the person; as aforesaid the Governor shall, in respect of the improvements, pay to that person, group or family compensation computed as specified in section 29 of this Act.

(2) There shall be deducted from the compensation payable under subsection (1) of this section any levy by way of development or similar charges paid in respect of the improvements on the land by the lessee to the person, group or family in whom the leasehold interest or reversion was vested and the amount to be deducted shall be determined by the Governor taking into consideration all the circumstances of the case.

36. (1) The following provisions of this section shall have effect in respect of land not in an urban area which
was immediately before the commencement of this Act held or occupied by any person.

(2) Any occupier or holder of such land, whether under customary rights or otherwise howsoever, shall if that land was on the commencement of this Act being used for agricultural purposes continue to be entitled to possession of the land for use for agricultural purposes as if a customary right of occupancy had been granted to the occupier or holder thereof by the appropriate Local Government and the reference in this subsection to land being used for agricultural purposes includes land which is, in accordance with the custom of the locality concerned, allowed to lie fallow for purposes of recuperation of the soil.

(3) On the production to the Local Government by the occupier of such land, at his discretion, of a sketch or diagram or other sufficient description of the land in question and on application therefore in the prescribed form the Local Government shall if satisfied that the occupier or holder was entitled to the possession of such land whether under customary rights or otherwise howsoever, and that the land was being used for agricultural purposes at the commencement of this Act register the holder or occupier as one to whom a customary right of occupancy had been issued in respect of the land in question.

(4) Where the land is developed, the land shall continue to be held by the person to whom it was vested immediately before the commencement of this Act as if the holder of the land was the holder of a customary right of occupancy issued by the Local Government, and if the holder or occupier of such developed land, at his discretion, produces a sketch or diagram showing the area of the land so developed the Local Government shall if satisfied that that person immediately before the commencement of this Act has the land vested in him register the holder or occupier as one in respect of whom a customary right of occupancy has been granted by the Local Government.

(5) No land to which this section applies shall be sub-divided or laid out in plots and no such land shall be transferred to any person by the person in whom the land was vested as aforesaid.

(6) Any instrument purporting to transfer any land to which this section relates shall be void and of no effect whatsoever in law and every party to any such instrument shall be guilty of an offence and shall on conviction be liable to a fine N5,000 or to imprisonment for 1 year.

37. If any person other than one in whom any land was lawfully vested immediately before the commencement of this Act enters any land in purported exercise of any right in relation to possession of the land or makes any false claim in respect of the land to the Military Government or any Local Government for any purpose under this section, he shall be guilty of an offence and liable on conviction to any imprisonment for one year or to a fine of N5,000.

38. Nothing in this Part shall be construed as precluding the exercise by the Governor or as the case may be the Local Government concerned of the powers to revoke, in accordance with the applicable provisions of this Act, rights of occupancy, whether statutory or customary, in respect of any land to which this Part relates.

Part VII
Jurisdiction of High Courts and other Courts

39. (1) The High Court shall have exclusive original jurisdiction in respect of the following proceedings:-

(a) proceedings in respect of any land the subject of a statutory right of occupancy granted by the Governor or deemed to be granted by him under this Act; and for the purposes of this paragraph proceedings include proceedings for a declaration of title to a statutory right of occupancy.

(b) proceedings to determine any question as to the persons entitled to compensation payable for improvements on land under this Act.

(2) All laws, including rules of court, regulating the practice and procedure of the High Court shall apply in respect of proceedings to which this section relates and the laws shall have effect with such modifications as would enable effect to be given to the provisions of this section.

40. Where on the commencement of this Act proceedings had been commenced or were pending in any court or tribunal (whether at first instance or on appeal) in respect of any question concerning or pertaining to title to any land or interest therein such proceedings may be continued and be finally disposed of by the court concerned but any order or decision of the court shall only be as respects the entitlement of either of the parties to the proceedings to a right of occupancy, whether statutory or customary, in respect of such land as provide in this Act.

41. An area court or customary court or other court of equivalent jurisdiction in a State shall have jurisdiction in respect of proceedings in respect of a customary right of occupancy granted by a Local Government under this Act; and for the purposes of this paragraph proceedings include proceedings for a declaration of title to a customary right of occupancy and all laws including rules of court regulating practice and procedure of such courts shall have effect with such modification as would enable effect to be given to this section.

42. (1) Proceedings for the recovery of rent payable in respect of any certificate of occupancy may be taken before a Magistrate Court of competent jurisdiction by and in the name of the Chief Lands Officer or by and in the name of any other officer appointed by the Governor in that behalf.

(2) Proceedings for the recovery of rent payable in respect of any customary right of occupancy may be taken by and in the name of the Local Government concerned in the area court or customary court or any court of equivalent jurisdiction.

Part VIII
Supplemental

43. (1) Save as permitted under Section 34 of this Act, as from the commencement of this Act no person shall in an urban area -

(a) erect any building, wall, fence or other structure upon; or

(b) enclose, obstruct, cultivate or do any act on or in relation to, any land which is not the subject of a right of occupancy or licence lawfully held by him or in respect of which he has not received the permission of the Governor to enter and erect improvements prior to the grant to him of a right of occupancy.

(2) Any person who contravenes any of the provisions of subsection (1) shall on being requires by the Ministry Governor so to do any

within the periods of obstruction, structure or thing which he may have caused to be placed on the land and he shall put the land in the same condition as nearly as may be in which it was before such contravention.

(3) Any person who contravenes any of the provisions of subsection (1) shall be guilty of an offence and liable on conviction to imprisonment for one year or to a fine of N5,000.

(4) Any person who fails or refuses to comply with a requirement made by the Governor under subsection (2) Shall be guilty of an offence and liable on conviction to a fine of #100 for each day during which he makes default in complying with the requirement of the Governor.

44. Any notice required by this Act to be served on any person shall be effectively served on him

(a) by delivering it to the person on whom it is to be served: or

(b) by leaving at the usual or last known place of abode of that person: or

(c) by sending it in a prepaid registered letter addressed to that person at his usual or last known place of abode: or

(d) in the case of an incorporated company or body, by delivering it to the secretary or clerk of the company or body at its registered or principal office or sending to in a prepaid registered letter addressed to the secretary or clerk of the company or body at that office.

(e) if it is not practicable after reasonable inquiry to ascertain the name or address of a holder or occupier of land on whom it should be served by addressing it to him by the description of "holder" or "occupier" of the premises (naming them) to which it relates, and by delivering it to some person on the premises or, if there is no person on the premises to whom it con be delivered, by affixing it, or a copy of it, to some conspicuous part of the premises.

45. (1) The Governor may delegate to the State Commissioner all or any of the powers conferred on the

Governor by this Act, subject to such restrictions, conditions and qualifications, not being inconsistent with the provisions, or general intendment, of this Act as the Governor may specify.

(2) Where the power to grant certificates has been delegated to the State Commissioner such certificates shall be expressed to be granted on behalf of the Governor.

46. (1) The National Council of States may make regulations for the purpose of carrying this Act into effect and particularly with regard to the following matters

(a) the transfer by assignment or otherwise howsoever of any rights of occupancy, whether statutory or customary, including the conditions applicable to the transfer of such rights to persons who are not Nigerians:

(b) the terms and conditions upon which special contracts may be made under section 8:

(c) the grant of certificates of occupancy under section 9:

(d) the grant of temporary rights of occupancy;

(e) the method of assessment of compensation for the purposes of section 29 of this Act.

(2) the Governor may, subject to subsection (1) make regulations with regard to the following matters:-

(a) the method of application for any licence or permit and the terms and conditions under which licences may be granted;

(b) the procedure to be observed in revising rents;

(c) the fees to be paid for any matter or thing done under this Act.

(d) the forms to be used for any document or purposes.

47. (1) Act shall have effect notwithstanding anything to the contrary in any law or rule of law including the Constitution of the Federation or of a State and, without prejudice to the generality of the foregoing, no court shall have jurisdiction to inquire into:-

(a) any question concerning or pertaining to the vesting of all land in the Governor in accordance with the provisions of this Act: or

(b) any question concerning or pertaining to the right of the Military Governor to grant a statutory right of occupancy in accordance with the provisions of this Act; or

(c) any question concerning or pertaining to the right of a Local Government to grant a customary right of occupancy under this Act.

(2) No court shall have jurisdiction to inquire into any question concerning or pertaining to the amount or adequacy of any compensation paid or to be paid under this Act.

48. All existing laws relating to the registration of title to, or interest in, land or the transfer of title to or any interest in land shall have effect subject to such modifications (whether byway of addition, alteration or omission) as will bring those laws into conformity with this Act or ifs general intendment.

49. (1) nothing in this Act shall affect any title to land whether developed or undeveloped held by the Federal Government or any agency of the Federal Government at the commencement of this Act and, accordingly, any such land shall continue to vest in the Federal Government or the agency concerned.

(2) In this section, "agency" includes any statutory corporation or any other statutory body (whether corporate or unincorporated) or any company wholly-owned by the Federal Government.

50. (1) notwithstanding anything to the contrary in this Act or any other enactment. All laws and subsidiary

legislation made at any time between the commencement of this Act and 30th September 1979 by an Administrator (or former Governor) the Executive Council, a Commissioner or any other authority or any public officer of a State shall be deemed to have been validly made and shall have effect as if they have been under or pursuant to the Act and accordingly, shall hereafter continue have effect according to their tenor and intendment as if they were regulations made under or pursuant to section 46 of this Act.

(2) For the purposes of subsection (1) of this section

(a) all contracts and all executive and judicial acts, including acts pertaining to the establishment, membership and functions of any Land Use Allocation Committee or of any other authority or to the appointment of any person, shall be deemed to have been validly entered into or done and shall hereafter continue to have effect as provided in the said subsection; and

(b) any instrument or other evidence relating to the allocation of any land, whether or not expressed to have been made under this Act, shall be deemed to have been validly issued or given under or pursuant to this Act and shall continue to have effect according to its tenor and intendment accordingly.

51. (1) In this Act, unless the context otherwise requires:- "agricultural purposes" includes the planting of any crops of economic value:

"appropriate officer" means the Chief Lands Officer of a state and in the case of the Federal Capital Territory means the Chief Federal Lands Officer;

"customary right of occupancy" means the right of a person or community lawfully using or occupying

land in accordance with customary law and includes a customary right of occupancy granted by a

Local Government under this Act.

"developed land" means land where there exists any physical improvement in the nature of road development services, water, electricity, drainage, building, structure or such improvement that may enhance the value of the land for industrial, agricultural or residential purposes;

“easement" means a right annexed to land to utilize other land in different holding in a particular manner (not involving the taking of any part of the natural produce of that land or of any part of its soil) or to prevent the holder of the other land from utilizing his land in a particular manner;

"Government" means the Government of the Federation or the Government of a State;

"grazing purposes" includes only such agricultural operations as are required for growing fodder for livestock on the grazing area;

"High Court" means the High Court of the State concerned;

"holder" in relation to a right of occupancy, means a person entitled to a right of occupancy and includes any person to whom a right of occupancy has been validly assigned or has validly passed on the death of a holder but does not include any person to whom a right of occupancy has been sold or transferred without a valid assignment, nor a mortgagee, sub lessee or sub-under lessee;

"improvements" or "unexhausted improvements" means anything of any quality permanently attached to the land, directly resulting from the expenditure of capital or labour by an occupier or any person acting on his behalf, and increasing the productive capacity, the utility or the amenity thereof and includes buildings. plantations of long lived crops or trees, fencing, wells, roads and irrigation or reclamations works, but does not include the result of ordinary cultivation other than growing produce: "interest at the bank rate"

means a simple interest payable at the rate per cent per annum at which the Central Bank of Nigeria will rediscount bills of exchange;

"Local Government" means the appropriate Local Government or any other body having or exercising the powers of a Local Government as provided by law in respect of the area where the land in question is situated;

"Governor" means the Governor of the State concerned;

"mortgage" includes a second and subsequent mortgage and equitable mortgage;

"occupier" means any person lawfully occupying land under customary law and a person using or occupying land in accordance with customary law and includes the sub-under lessee of a holder;

"public purposes" includes:-

(a) for exclusive Government use or for general public use;

(b) for use by any body corporate directly established by law or by any body corporate registered under the Companies Act 1968 as respects which the Government owns shares, stocks or debentures;

(c) for or in connection with sanitary improvements of any king;

(d) for obtaining control over land contiguous to any part or over land the value of which will be enhanced by the construction of any railway, road or other public work or convenience about to be undertaken or provided by the Government;

(f) for obtaining control over land required for or in connection with mining purposes;

(g) for obtaining control over land required for or in connection with planned urban or rural development or settlement;

(h) for obtaining control over land required for or in connection with economic, industrial or agricultural development;

"statutory right of occupancy" means a right of occupancy granted by the Governor under this Act;

"urban area" means such area of the state as may be designated as such by the Governor pursuant to section 3 of this Act;

"sub-lease" includes sub-underlesse.

(2) The powers of a Governor under this Act shall, in respect of land comprised in the Federal Capital Territory or any land held or vested in the Federal Government in any State, be exercisable by the Head of the Federal Military Government or any Federal Commissioner designated by him in that behalf and references in this Act to Governor shall be construed accordingly.

52. This Act may be cited as the Land Use Act 1978.