

THE COURTS (LAND DISPUTES SETTLEMENTS) ACT, 2002

ARRANGEMENT OF SECTIONS

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SCHEDULE

THE UNITED REPUBLIC OF TANZANIA



No. 2 OF 2002

I, ASSENT

President

 28th March, 2002

An Act to provide for the establishment of Land dispute settlement machinery and for matters incidental thereto.

ENACTED by the Parliament of the United Republic of Tanzania.

PART I
PRELIMINARY PROVISIONS

- | | |
|--|------------------------------|
| 1. This Act may be cited as the Land Disputes Courts Act, 2002 and shall come into operation on such date as the Minister may by Notice published in the <i>Gazette</i> appoint. | Short title and commencement |
| 2. In this Act unless the context otherwise requires- | Interpretation |
| "assessor" means a person appointed to serve as an assessor under section 26 (2); | |
| "Chairman" means the chairman of a Village Land Council, a Ward Tribunal, District Land and Housing Tribunal or person who presides at Proceedings of the Village Land Council, the Ward Tribunal or District Land and Housing Tribunal; | Act No. of 1999 |
| "Court" has the meaning ascribed to it by the Land Act, 1999; | |
| "Court of Resident Magistrate" has the meaning ascribed to it by the Magistrates' Courts Act, 1984; | Act No. 2. of 1984 |
| "Customary Law" has the meaning ascribed to it by the Interpretation of Laws and General Clauses Act, 1972; | Act No. 30 of 1972 |
| "decision" includes a judgement, finding or ruling; | |

- Act No. 7 of 1982 "dispute" includes any case where a person complains of and is aggrieved by the actions of another person, or any case in which a complaint is made in an official capacity or is a complaint against an official. act; "district council" means a district council established under the Local Government (District Authorities) Act, 1982;
- Act No. 4 of 1999 "District Court" has the meaning ascribed to it by the Magistrates 'Courts' Act, 1984;
- Act No. 2 of 1984 "District Land and Housing Tribunal" has the meaning ascribed to it by the Land Act, 1999;
- Act No. 2 of 1984 "High Court (Land Division)" means the Land Division of the High Court established in accordance with law for the time being in force for establishing courts divisions.
- Act No. 2 of 1984 "land" includes the surface of the earth and the earth below the surface and all substances other than minerals and petroleum forming part of or below the surface, things naturally growing on the land, buildings and other structures permanently affixed to land."
- Act No. 2 of 1984 "Magistrates' Court" has the meaning ascribed, to it by the Magistrates Courts Act, 1984;
- Act No. 2 of 1984 "Member" means a member of a Village Land Council or Ward Tribunal;
- Act No. 2 of 1984 "Minister" means the Minister responsible for land;
- Act No. 2 of 1984 "Order" includes warrant, summons or other process, and a decree, revisional or confirmatory Order and any other formal expression of the division of a Court or tribunal.
- Act No. 2 of 1984 "Primary Court" and "Primary Court Magistrate" have the meaning ascribed to them by the Magistrates' Courts Act, 1984;
- Act No. 2 of 1984 "Principal Judge" has the meaning ascribed to it by the Constitution of the United Republic of Tanzania;
- Act No. 2 of 1984 "proceedings" includes any application reference, cause, matter, Suit, trial appeal or revision, whether final or interlocutory, and whether or not between parties;
- Act No. 2 of 1984 "registrar" means the Registrar or Deputy Registrar, of the High Court (Land Division), and includes the Registrar or Assistant Registrar appointed under section 28 and the Registrar of Villages appointed under the Local Government (District Authorities) Act, 1982;
- Act No. 7 of 1982 "Ward Committee" means a ward committee established under the Local (Urban Authorities) Act, 1982;
- Act No. 8 of 1982 "Village" "village Council", "village land council", "villager" have the meaning ascribed to them by the Village Land Act, 1999.
- Act No. 5 of 1999

PART II

ESTABLISHMENT AND JURISDICTION OF LAND COURTS

3.-(1) Subject, to section 167 of the Land Act, 1999, and section 62 of the Village Land Act, 1999, every dispute or complaint concerning land shall be instituted in the Court having, jurisdiction, to determine land disputes in a given area.

Institution of land disputes Act Nos. 4 and 5 of 1999

(2) The Court of jurisdiction under subsection (1) include:

- (a) The Village Land Council,-
- (b) The Ward Tribunal;
- (c) The District Land and Housing Tribunal;
- (d) The High Court (Land Division);
- (e) The Court of Appeal of Tanzania.

4.--(I) Unless otherwise provided by the Land Act, 999, no magistrates' court established by the Magistrates' Courts Act, 1984. shall have civil jurisdiction in any matter under the Land Act, 1999 and the Village Land Act, 1999.

Jurisdiction of the Magistrates Courts

(2) Magistrates' courts established under the Magistrates' Courts Act, 1984 shall have and exercise jurisdiction in all proceedings of a criminal nature under the Land Act, 1999 and the Village Land Act, 1999.

PART III

THE VILLAGE LAND COUNCIL

FUNCTIONS AND POWERS OF THE VILLAGE LAND COUNCIL

5.-(1) The Village Land Council shall consist of seven members of whom three shall be women, and each member shall be nominated by the village council and approved by the Village Assembly.

composition of Village Land, Council

(2) Qualification for nomination and appointment of members to the, Village Land Council shall be as stipulated under section 60 of the Village Land Act, 1999.

6. The Registrar of village appointed under section 23 of the Local Government (District Authorities) Act, 1982 shall be responsible for the total administrative functions of all, Village Land Councils and Ward Tribunals and shall:

The Registrar

- (a) be the Chief Executive of all Village Land Councils and Ward Tribunals;

(b) be responsible for estimates and expenditure; and

(c) advise Local Authorities on any matter regarding the functions of Village Land Councils and Ward Tribunals in their respective areas of jurisdiction.

Functions
of the Vill-
lage Land
Council

7. Subject to section 61 of the Village Land Act, 1999, the functions of the Village Land Council shall include:

(a) to receive complaints from parties in respect of land;

(b) to convene meetings for hearing of disputes from parties; and

(c) to mediate between and assist parties to arrive at a mutually acceptable settlement of the disputes on any matter concerning land within its area of jurisdiction.

Procedure
for Media-
tion

8. Procedures for Mediation by the Village Land Council shall, be as stipulated under section 61 of the Village Land Act, 1999.

Reference
of dispute
to the Ward
Tribunal

9. Where the parties to the dispute before the Village Land Council are not satisfied with the decision of the Council, the dispute in question shall be referred to the Ward Tribunal in accordance with section 62 of the Village Land Act, 1999.

PART IV

THE WARD TRIBUNAL

JURISDICTION, POWERS AND PROCEDURE OF THE WARD TRIBUNAL

The Ward
Tribunal
Act No. 4
of 1999

10.-(1) Each Ward Tribunal established under the Ward Tribunals Act, 1985 shall be a Court for the purpose of this Act, the Land Act, 1999 and the Village Land Act, 1999 and shall have jurisdiction and powers in relation to the area of a District Council in which it is established.

Act No. 7
of 1985

(2) The provisions of the Ward Tribunals Act, 1985 shall apply as appropriately modified by this Act, and in the event of conflict between this: Act, and the Ward Tribunals Act, 1985 in relation to Ward Tribunals, the provisions of this Act shall apply.

11. Each Tribunal shall consist of not less than four nor more than eight members of whom three shall be women who shall be elected by a Ward Committee as provided for under section 4 of the Ward Tribunals Act, 1985.

Composition of the Ward Tribunal Act No. 7 of 1985

12. Qualification of members to the Tribunal, tenure of membership, and appointment of Secretary shall be as provided for under the provisions of section 5 and 6 of the Ward Tribunals Act, 1985.

Qualification of members Act No. 5 of 1985

13.-(1) Subject to the provisions of subsection (1) of section 8 of the Ward Tribunals Act, 1985, the primary function of each Tribunal shall be to secure peace and harmony, in the area for which it is established, by mediating between and assisting parties to arrive at a mutually acceptable solution on any matter concerning land within its jurisdiction.

General jurisdiction

(2) Without prejudice to the generality of subsection (1), the Tribunal shall have jurisdiction to enquire into and determine disputes arising under the Land Act, 1999 and the Village Land Act, 1999.

(3) The Tribunal shall, in performing its function of mediation, have regard to-

- (a) any customary principles of mediation;
- (b) natural justice in so far as any Customary principles of mediation do not apply;
- (c) any principals and practices of mediation in which members have received any training.

(4) The Tribunal shall, in all matters attempt to reach a settlement by mediation and may adjourn any proceedings relating to dispute in which it is exercising jurisdiction if it thinks that by so doing a just and amicable settlement of the dispute may be reached,

14.(1) The Tribunal shall in all matters of mediation consists of three members at least one of whom shall be a woman.

Proccure for mediation

(2) The Chairman to the Tribunal shall select all three members including a convenor who shall preside at the meeting of the Tribunal.

(3) In the event of the equality of votes, the member presiding shall have a casting vote in addition to his deliberative vote.

(4) The Ward Tribunal shall, immediately after settlement of a dispute record the order of mediation.

Pecuniary
jurisdiction

15. Notwithstanding the provisions of section 10 of the Ward Tribunals Act, 1985, the Jurisdiction of the Tribunal shall in all proceedings of a civil nature relating to land be limited to the disputed land or property valued at three million shillings.

Powers of
the
Tribunal
Act No. 7
of 1985

16.-(1) Notwithstanding the provisions of section 23 of the Ward Tribunals Act, 1985, the Tribunal in proceedings of civil nature relating to land may: -

- (a) order the recovery of possession of land;
- (b) order the specific performance of any contract;
- (c) make orders in the nature of an injunction both mandatory and prohibitive;
- (d) award any amount claimed;
- (e) award compensation;
- (f) order the payment of any costs and expenses incurred by a successful party or his witnesses; or
- (g) make any other order, which the justice of the case may require.

(2) Any amount including compensation or costs awarded by the Tribunal under this section may be ordered to be paid at such time or times or in such installments or in kind or otherwise as the Tribunal may determine.

(3) Where a party to, the dispute fails to comply with the order of the Ward Tribunal under subsection (1), the Ward Tribunal shall refer the matter to the District Land and Housing Tribunal for enforcement.

Reference
of disputes
to the Tri-
bunal

17.-(1) Any person may, subject to section 61 of the Village Land Act, 1999, and sections 11, 12 and 13 of the Ward Tribunals Act, 1985 make a complaint to the Secretary of the Tribunal -

(2) When a complaint is made to the Secretary under subsection (1), that Secretary shall cause it to be submitted to the Chairman of the Tribunal who shall immediately select three members of the Tribunal to mediate.

(3) Where the complaint is received orally from the Complainant, the Secretary shall immediately put it in writing and produce a copy for a Complainant.

18.-(1) No advocate as such may appear and act for any party in a Ward Tribunal.

Appear-
ance by ad-
vocate pro-
hibited

(2) Subject to the provisions of subsections (1) and (3) of this section, a Ward Tribunal may permit any relative or any member of the household of any party to any proceeding, upon request of such party to appear and act for such party.

(3) In any proceeding in a Ward Tribunal to which a body corporate is a party, its director, secretary, member or a person in the employment of the body corporate and duly authorized in that behalf, other than an advocate, may appear and act on behalf of that party.

19. A person aggrieved by an order or decision of the Ward Tribunal may appeal to the District Land and Housing Tribunal.

Appeals
from Ward
Tribunal

20.-(1) Every appeal to a District Land and Housing Tribunal shall be filed in the District Land and Housing Tribunal within forty five days after the date of the decision or order against which the appeal is brought.

Time for
Appeal

(2) Notwithstanding the provisions of subsection (1), the District Land and Housing Tribunal may for good and sufficient cause extend the time for filing an appeal either before or after the expiration of forty five days.

(3) Where an appeal is made to the District Land and Housing Tribunal within the said period of forty five days, or any extension of time granted, the District Land and Housing Tribunal shall hear and determine the appeal.

Appeal
Rules 21. The Minister may make rules prescribing procedure for appeals from Ward Tribunals to the District Land and Housing Tribunal.

PART V
THE DISTRICT LAND AND HOUSING TRIBUNAL

A ESTABLISHMENT OF THE DISTRICT LAND AND HOUSING TRIBUNAL

Establish-
ment of
the Dis-
trict Land
and Hous-
ing Tribu-
nal 22.(1), The Minister shall subject to section 167 of the Land Act, 1999 and section 62 of the Village Land Act, 1999, establish in each district, region or zone, as the case may be, a court to be **known as the District Land and Housing Tribunal.**

(2) The Court established under subsection (1) shall exercise jurisdiction within the district, region or zone in which it is established.

Composi-
tion 23.(1) The District Land and Housing Tribunal established under section 22 shall be composed of one Chairman and not less than two assessors.

(2) The District Land and Housing Tribunal shall be duly constituted when held by a Chairman and two assessors who shall be required to give out their opinion before the Chairman reaches the judgement.

(3) Notwithstanding the provisions of sub-section (2), if in the course of any proceedings before the Tribunal either or both members of the Tribunal who were present at the commencement of proceedings is or are absent, the Chairman and the remaining member (if any) may continue and conclude the proceedings notwithstanding such absence.

Opinion of
Assessors 24. In reaching decisions the Chairman shall take into account the opinion of the assessors but shall not be bound by it, except that the Chairman shall in the judgement give reasons for differing with such opinion.

Appoint-
ment of
Chairman 25.-41) Every Chairman to a District Land and Housing Tribunal shall be appointed by the Minister from amongst legally qualified persons and shall hold office for a term of three years and may be eligible for re-appointment.

(2) The Chairman of the Tribunal shall before holding his office take an oath to be administered by the Regional Commissioner in the region where the court is established

26.(1) The Minister shall after consultation with the Regional Commissioner appoint not more than 7 assessors three of whom shall be women for each established District Land and Housing Tribunal.

**Appoint-
ment of
Assessors**

(2) Subject to exemptions of section 27 any persons above the age of twenty one shall be eligible to serve as assessors.

(3) An Assessor appointed under subsection (1) shall hold office for a term of three years and may be eligible for re-appointment.

(4) The Minister shall from time to time make rules-

- ka) regulating the area within which a person may be summoned to serve as assessors;
- (b) prescribing the Constitution and composition of panels of assessors;
- (c) prescribing forms for the purposes of summoning assessors;
- (d) prescribing the conditions and other matters in respect of the service of assessors.

27.-(1) No person shall be eligible to be nominated as an assessor or continue as an assessor if he is-

**Qualifica-
tion of As-
sessor**

- (a) not ordinarily resident in the district;
- (b) a member of the National Assembly, district council, village council, village land council or ward tribunal;
- (c) a mentally unfit person;
- (d) a person who has been convicted of a criminal offence involving violence dishonesty or moral turpitude;
- (e) a person who is not a citizen of the United Republic of Tanzania

28.-(1) There shall be a Registrar who shall be appointed by the President.

**Appoint-
ment of
Registrar**

(2) The Registrar appointed under subsection (1)-

- (a) shall be responsible for the total administrative functions of both the District Land and Housing Tribunal;

- (b) shall be the Chief Executive of the District Land and Housing Tribunal.
- (c) shall be responsible for estimates and expenditure;
- (d) shall advise the Minister on the fees payable for the services of the District Land and Housing Tribunal."
- (e) shall perform any other duties as may from time to time be determined by the Minister.

(3) There shall be Assistant Registrar appointed, by the Minister who shall perform all such duties as may be determined by the Registrar.

(4) The Minister shall have the power to appoint such other staff of the Tribunal to perform functions as may be required.

Places and
times of
meetings

29. A District Land and Housing Tribunal-

- (a) may be held at any place within its local limits of jurisdiction; and
- (b) shall sit at such times as may be necessary for the convenient and speedy discharge of the business of the Tribunal.

Proceed-
ings and
representa-
tion of an
advocate
parties

30. Proceeding of the District Land and Housing Tribunal shall be held in public and a party to the proceedings may appear in person or by an advocate or any relative or any member of the household or - authorised officer of a body corporate.

Registers
and re-
turns

31. Every District Land and Housing Tribunal shall-

- (a) keep such register or registers of all the proceedings filed, heard and determined in the Tribunal as the Minister may, by regulations published in the *Gazette*, prescribe.
- (b) submit to the Minister annual returns of all proceedings and
- (c) shall use seals or stamp of such nature and pattern as the Minister may direct.

Language
of the Tri-
bunal

32. The language of the District Land and Housing Tribunal shall be either English or Kiswahili as the Chairman holding such tribunal may direct except that the record and judgement of the Tribunal shall be in English.

B. JURISDICTION AND POWERS OF THE TRIBUNAL

33.-- 1) The District Land and Housing Tribunal shall have and exercise original jurisdiction-

(a) in all proceedings under the Land Act, 1999 and Village Land Act, 1999. Customary Leaseholds (Enfranchisement) Act, 1968 and Rent Restriction Act, 1984, the Regulation of Land Tenure (Established Village) Act, 1992; and

(b) in all such other proceedings relating to land under any written law in respect of which jurisdiction is conferred on a District Land and Housing Tribunal by any such law.

(2) The jurisdiction conferred under subsection (1) shall be limited-

(a) in proceedings for the recovery of possession of immovable property; to proceedings in which the value of the property does not exceed fifty million shillings; and

(b) in other proceedings where the subject matter is capable of being estimated at a money value, to proceedings in which the value of the subject matter does not exceed forty million shillings:

(3) The District Land and Housing Tribunal shall have powers to execute its own orders and decrees.

Provided that the pecuniary jurisdiction of the Tribunal shall be unlimited in proceedings under the Customary Leaseholds (Enfranchisement) Act, 1968 and the Regulation of Land Tenure, (Established Village) Act, 1992.

34.-(I) The District Land and Housing Tribunal shall, in hearing an appeal against any decision of the Ward Tribunal sit with not less than two assessors; and shall-

(a) consider the records relevant to the decision; and

(b) receive such additional evidence if any, and

(c) make such inquiries, as it may deem necessary.

General
Jurisdiction
Act
No. 4 of
1999
Act No. 5
of 1999
Act No
17 of 1994
Act No.
22 of 1992

Act No.
47 of 1968
Act No.
17 of 1984
Act No. 22
of 1992

Hearing of
appeals

(2) A party to any proceeding appealed against may appear-

(a) personally; or

(b) by an advocate or any relative or any member of the household or authorised officer of a body corporate.

Powers of
District
Land and
Housing
Tribunal

35-(1) A District Land and Housing Tribunal hearing an appeal may-

(a) confirm the decision, or

(b) reverse, or vary in any manner the decision; or

(c) quash any proceedings; or

(d) order the matter to be dealt with again by the Ward Tribunal, and may, if it deems appropriate, give an order or direction as to how any defect in the earlier decision may be rectified,

(2) The District Land and Housing Tribunal shall immediately after making the decision on appeal, record the decision and the reasons thereof

Revision

36-(1) A District Land and Housing Tribunal may call for and examine the record of any proceedings of the Ward Tribunal for the purpose of satisfying itself as to whether in such proceedings the Tribunal's decision has-

(a) not contravened any Act of Parliament, or subsidiary legislation;

(b) not conflicted with the rules of natural justice; and whether the Tribunal has been properly constituted or has exceeded its jurisdiction, and may revise any such proceedings.

(2) In the exercise of its revisional jurisdiction, a District Land and Housing Tribunal shall have all the powers conferred upon it in the exercise of its appellate jurisdiction.

PART VI

HIGH COURT (LAND DIVISION)

Original jurisdiction of the High Court (Land Division)

37. Subject to the provisions of this Act the High Court (Land Division) established shall have and exercise original jurisdiction-

- (a) in proceedings for the recovery of possession of immovable property in which the value of the property exceeds fifty million shillings;
- (b) in other proceedings where the subject matter capable of being estimated at a money value in which the value of the subject matter exceeds forty million shillings;
- (c) in all proceedings under the Tanzania Investment Centre Act, 1997, the Land Act, 1999 and the Land Acquisition Act, 1967 in respect of proceedings involving the Government;
- (d) in all proceedings involving Public Corporations specified in the Rent Restriction (Exemption) (Specified Parastatals) Order, 1992; and in such other disputes of National interests which the Minister may by notice published in the *Gazette* specify; and
- (e) in all such other proceedings relating to land under any written law in respect of which jurisdiction is not limited to any particular court or tribunal.

Act No. 26
of 1997
Act No. 4 of
1999
Act No. 47
of 1967
Act No. 17
of 1984
Act No. 22
of 1992
G.N. No.
41 of 1992

38.-(1) Any party who is aggrieved by a decision or order of the District Land and Housing Tribunal in the exercise of its appellate or revisional jurisdiction, may within sixty days after the date of the decision or order, appeal to the High Court (Land Division).

Appeals of
m a t t e r s
originating
from the
Ward Tri-
bunal

Provided that the High Court (Land Division) may for good and sufficient cause extend the time for filing an appeal either before or after such period of sixty days has expired.

(2) Every appeal to the High Court (Land Division) shall be by way of petition and shall be filed in the District Land and Housing Tribunal from the decision, or order of which the appeal is brought.

(3) Upon receipt of a petition under this section, the District Land and Housing Tribunal shall within fourteen days dispatch the petition together with the record of the proceedings in the Ward Tribunal and the District Land and Housing Tribunal to the High Court (Land Division).

39.-4 1 Appeals to the High Court (Land Division) under section 3 8 shall be heard by one Judge-sitting with two assessors

Procedure
for Appeal

Act No. 2 of
1984

(2) In any appeal, to the High Court (Land Division) under this section in which any rule of Customary Law is an issue or relevant, the High Court (Land Division) may refer any question of Customary Law to an expert or panel of experts constituted in accordance with rules under the Magistrates' Court Act, 1984, but the High Court (Land Division) shall not be bound by the opinion of such expert or experts in determining the appeal.

Powers of
the Regis-
trar on ap-
peal

40. Where an appeal is received in the High Court (Land Division) a Registrar of the Court may exercise the powers as conferred upon him under the Civil Procedure Code.

Appeals
and revi-
sion

41. Subject to the provisions of any law for the time being in force, all appeals, revisions and similar proceeding from or in respect of any proceeding in a District Land and Housing Tribunal in the exercise of its original jurisdiction shall be heard by the High Court (Land Division).

Powers of
the High
C o u r t
(Land Divi-
sion) on
appeals

42. The High Court (Land Division) shall in the exercise of its appellate jurisdiction have power to take or to order the District Land and Housing Tribunal to take and certify additional evidence and whether additional evidence is taken or not, to confirm, reverse, amend or vary in any manner the decision or order appealed against.

Supervi-
sory and
revisional
powers
Powers of

43-(1) In addition to any other powers in that behalf conferred upon the High Court, the High Court (Land Division)-

- (a) shall exercise general powers of supervision over all District Land and Housing Tribunals and may, at any time, call for and inspect the records of such tribunal and give directions as it considers necessary in the interests of justice, and all such tribunals shall comply with such direction without undue delay;
- (b) may in any proceedings determined in the District Land and Housing Tribunal in the exercise of its original, appellate or revisional jurisdiction, on application being made in that behalf by any party or of its own motion, if it appears that there has been an error material to the merits of the case involving injustice, revise the proceedings and make such decision or order therein as it may think fit.

(2) In the exercise of its revisional jurisdiction, the High Court (Land Division) shall have all the powers in the exercise of its appellate jurisdiction.

44.-(1) A Registrar of the High Court (Land Division) may, for the purpose of satisfying himself as to the correctness, legality or propriety of any decision or order and as to the regularity of the proceeding, call for and inspect the record of any proceedings in a District Land and Housing Tribunal and examine the records or registers thereof

the Registrar on revision

(2) Where the Registrar in any case after making the inspection and examination of the records under subsection (1), is of the opinion that, any decision or order is illegal or improper or any proceedings are irregular, may forward the record together with the report to the High Court (Land Division) so that it may consider whether or not to exercise its powers of revision.

45. No decision or order of a Ward Tribunal or District Land and Housing Tribunal shall be reversed or altered on appeal or revision on account of any error, omission or irregularity in the proceedings before or during the hearing or in such decision or order or on account of the improper admission or, rejection of any evidence unless such error, omission or irregularity or improper admission or rejection of evidence has in fact occasioned a failure of justice.

Substantial justice

46. In any proceeding in the High Court (Land Division) parties may appear in person or by an advocate or other representatives in accordance with the Civil Procedure Code.

Representation of parties

47.-(1) Any person who is aggrieved by the decision of the High Court (Land Division) in the exercise of its original, revisional or appellate jurisdiction, may with the leave from the High Court (Land Division) appeal to the Court of Appeal in accordance with the Appellate Jurisdiction Act, 1979.

Appeal from the High Court (Land Division)

(2) Where an appeal to the Court of **Appeal originates from the Ward Tribunal** the appellant shall be required to seek for the Certificate from the High Court (Land Division) certifying that there is point of law involved in the appeal.

(3). The procedure for appeal to the Court of Appeal under this section shall be governed by the Court of Appeal Rules, 1979.

GN. No. 102 of 1979

PART VII
APPEALS TO THE COURT OF APPEAL OF TANZANIA

Appeals
Act No. 4
of 1999
Act No. 5
of 1979

48.-(1) Subject to the provisions of the Land Act, 1999 and Village land Act, 1999 the Court of Appeal shall have jurisdiction to hear and determine appeals from the High Court (Land Division).

Act No. 15
of 1979

(2) The Appellate Jurisdiction Act, 1979 shall apply to proceedings in the Court of Appeal under this section.

Laws to be
applied Act
No. 4
1999

49. In the exercise of their respective jurisdictions, the Village Land of Council, Ward Tribunal, District Land and Housing Tribunal, High Court (Land Division) and the Court of Appeal shall apply the laws set out in section 180 of the Land Act, 1999.

Application
of Custom-
ary Law

50.-(1) In the exercise of its Customary Law jurisdiction, a Ward Tribunal shall apply the Customary Law prevailing within its local jurisdiction, or if there is more than one such law, the law applicable in the area in which the act, transaction or matter occurred or arose, unless it is satisfied that some other Customary Law is applicable but it shall apply the Customary Law prevailing within the area of its local jurisdiction in matter of practice and procedure to the exclusion of any **other Customary Law**.

Practice
and proce-
dure

(2) In the exercise of their respective jurisdictions, the High Court and the District Land and Housing Tribunals shall not refuse to recognize any rule of Customary Law on the grounds that it has not been established by evidence but may accept any statement thereof which appears to it to be worth of belief which is contained in the record of proceedings or from any other source which appears to be credible or may take judicial notice thereof

(3)) Where there is any dispute or uncertainty as to any customary law whether by reason of anything contained in the record of the proceedings, the grounds of appeal or otherwise, the High Court (Land Division) or the District Land and Housing Tribunal shall not be required to accept as conclusive or binding any evidence contained in the record but shall-

(a) in any case of dispute, determine the Customary Law applicable, and give judgement thereon, in accordance with what it conceives to be the best- and most credible opinion or statement which is

consistent with the provisions of such Customary Law as are undisputed; and

- (b) in any case of uncertainty, determine the appeal and give judgment thereon, in such manner as accords as near as may be to the provisions of such Customary Law as are established and certain.

51.-(1) In the exercise of the respective jurisdictions, the High Court and District Land and Housing Tribunals shall apply the Civil Procedure Code, 1966 and the Evidence Act, 1967.-

- (a) subject to regulations made under section 49 may, accept such evidence as is pertinent, and such proof as appears to be worthy of belief, according to the value thereof and notwithstanding any other law relating to the adduction and reception of evidence;
- (b) shall not be required to comply or conform with the provisions of any rule of practice or procedure otherwise generally applicable in proceedings in the appellate or revisional court, but may apply any such rule where it considers the application thereof would be advantageous to the exercise of such jurisdiction;
- (2) Notwithstanding subsection (1), the Minister may, where inadequacy to the laws cited under subsection (1), circumstances allow, make regulations prescribing the rules of evidence and procedure to be applied.

52.-4 1) The Customary Law (Limitation of Proceedings) Rules 1964 shall apply to proceedings in the Ward Tribunal in the exercise of its compulsive jurisdiction.

Limitation
G. N. N o.
311 of
1964

(2) The Law of Limitation, Act; 1971 shall apply to proceedings in the District Land and Housing Tribunal and the High Court (Land Division) in the exercise of their respective original jurisdiction.

53. The following Tribunals are hereby disestablished-

Disestab-
lishment of
Tribunals

- (a) The Customary Land Tribunal established under section 8 of the Customary Leaseholds (Enfranchisement) Act, 1968.

Act No. 47
of 1968

Act No. 17
of 1984

(b) The Regional Housing Tribunal and Housing Appeals Tribunal established under section 9 and 6 respectively of the Rent Restriction Act, 1984.

Act No. 47
of 1968

(c) The Customary Land Appeals Tribunal established under section 13 of the Customary Leasehold (Enfranchisement) Act, 1968.

Savings

54.-(1) Notwithstanding the provisions of section 55, proceedings or appeals commenced in the High Court, the Magistrates' Courts, Regional Housing Tribunal, Housing Appeals Tribunal, Customary Land Tribunal and the Customary Land Appeals Tribunal which are pending on the date of commencement of this Act shall be continued, concluded and decisions and orders made thereon shall be executed accordingly as if this Act had not been passed.

(2) Every decision or order of the High Court, the Magistrates' Court, Regional Housing Tribunal, Housing Appeals Tribunal, or Customary Land Tribunal or Customary Land Appeal Tribunal, which shall not have been fully executed or enforced before the date of commencement of this Act, may be executed and enforced after that day as if this Act had not been passed.

(3) All proceedings or appeals under this section shall be concluded within the period of two years from the date of commencement of this Act.

(4) Where the High Court or the Magistrates' Court fails to hear and conclude the proceedings or appeals within the period specified in subsection (3), the Chief Justice may, upon application by the Registrar extend the time to such other time as he may determine.

(5) Where the tribunal fails to hear and conclude the proceedings or appeals within the period specified in subsection (3), the Minister may upon application by the relevant Registrar, extend the time to such other time as he may determine.

Protection
of me-
mbers

55. No matter or thing done by a Chairman, member, officer, servant or agent of a Land Village Council or Tribunal shall, if done in good faith in the execution or purported execution of the provisions of this Act or of regulations made thereunder, subject any such person to any action, liability or demand whatsoever.

56.-(1) The Minister may make regulations for the better carrying out of the provisions of this Act.

Power to
make Re-
gulations

(2) Without prejudice to the generality of subsection (1), the Minister may make in respect of the District Land and Housing Tribunal regulations prescribing-

- (a) the practice and procedure of the District Land and Housing Tribunals the execution of decisions and orders thereof,
- (b) the practice and procedure for hearing and determining appeals;
- (c) the manner in which appeals may be presented or filed;
- (d) the manner in which revisional jurisdiction may be exercised;
- (e) costs and fees;
- (f) forms to be used in the proceedings;
- (g) allowances for Chairman presiding at the District Land and Housing Tribunal, assessors and witnesses to the disputes;
- (h) procedures for removal of the Chairman and assessors from the office;
- (i) the conduct of assessors;
- (j) any other matter or thing, Which requires to be prescribed under this Act.

(3) Regulations. made under this section shall be published in the *Gazette*.

57. For the purpose of bringing the laws into conformity with this Act, the laws as specified in the Schedule to this Act are hereby amended in the manner indicated in the Schedule.

Amend-
ment of
other writ-
ten related
laws

SCHEDULE

(Under Section 57)

The laws set forth are hereby amended in the manner specified herein below.

- Amendment of Act No. 47 of 1968
1. The Customary Leaseholds (Enfranchisement) Act, of 1968 is amended-
- (a) in section 3 by deleting the definition of the word "Tribunal" and substituting for it the following new definition:
- Act No. 4 of 1999 "Tribunal" means a District Land and Housing Tribunal established under the Land Act of 1999;
- (b) by repealing sections 8, 9, 11, 12 and 13;
- (c) by repealing the Schedule to the Act;
- (d) by renumbering section 10 as 8, and sections 14, 15 and 16 as sections 9, 10 and 11 respectively.
- Amendment of Act No. 47 of 1967
2. The Land Acquisition Act, 1967 is amended-
- (a) ,, in section 2 by deleting the definition of the word "Court" and substituting for it the following new definition:
- "Court" means the High Court (Land Division).
- (b) in section 13 by repealing the whole of subsection (2);
- (c) by deleting figure (1) appearing beside section 13.
- (d) in section 16 by, repealing the whole of subsection (1) and substituting for it the following new subsection (1):
- Act No. 2 of 2002 "1 Appeals from decisions of the Court shall be governed by the provisions of the Courts Land Disputes Settlements) Act 2002."
- Amend-
- (e) in section 19 by repealing the whole of subsection 3 and substituting for it the following new subsection (3):
- "(3) Every suit under sub-section (2) shall be governed by the Court and the decree of the Court may be appealed against in the same manner and to the same extent in all respects as other decrees of the Court."
- (f) in section 21 by deleting the phrase "The Court of Resident Magistrate" and substituting for it the phrase "the District Land and Housing Tribunal;
- (g) in paragraph (b) of subsection (1) of section 28 by deleting the phrase "the Court of Appeal for East Africa" and substituting for it the phrase "The Court of Appeal of Tanzania."
- Amendment of Act No. 8 of 1966
3. The Rural Farmlands (Acquisition and Regrant) Act, 1966 is amended-
- In section 11 by deleting the phrase "the Court of the Resident Magistrate and substituting for it the phrase "the District Land and Housing Tribunal."
- Amendment of Cap, 378
4. The Town and Country Planning Ordinance is amended:
- (a) in subsection (1) of section 2 by deleting the definition of the word "Court" and substituting for it the following new definition: