

Land (Procedure for Mortgage of Land)

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THE LAND ACT
(CAP.113)

REGULATIONS

(Made under section 120E)

THE LAND (PROCEDURE FOR MORTGAGE OF LAND) REGULATIONS,
2019

ARRANGEMENT OF REGULATIONS

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SCHEDULE

THE LAND ACT
(CAP.113)

REGULATIONS

(Made under section 120E)

THE LAND (PROCEDURE FOR MORTGAGE OF LAND) REGULATIONS, 2019

PART I
PRELIMINARY PROVISIONS

- Citation 1. These Regulations may be cited as the Land (Procedure for Mortgage of Land) Regulations, 2019.
- Application 2. These Regulations shall apply to the mortgage of a right of occupancy, a lease of a right of occupancy or derivative right.
- Interpretation 3. In these Regulations unless the context otherwise requires-
- Cap. 113 "Act" means the Land Act;
- Act No. 7 of 2016 "Chief Valuer" has the meaning ascribed to it under the Valuation and Valuers Registration Act;
- "Commissioner" has the meaning ascribed to it under the Act;
- "Government Valuer" has the meaning ascribed to it under the Valuation and Valuers Registration Act;
- Cap. 334 "Registered Valuer" has the meaning ascribed to it under the Valuation and Valuers Registration Act; and
- "Registrar" has the meaning ascribed to it under the Land Registration Act.

PART II
REGISTRATION OF MORTGAGES

Undeveloped and underdeveloped land

4.-(1) Notwithstanding the generality of section 120B (3) of the Act-

- (a) land shall be considered to be undeveloped if it is-
- (i) vacant;
 - (ii) without unexhausted improvement in, on, under or over such land; or
 - (iii) without any change of substantial nature in the use of the land:

Provided that, where land is used for agricultural, pastoral or mixed agricultural and pastoral purposes, the land shall not be considered to be undeveloped unless such land has not been used for cultivation or pasturage or mixed cultivation and pasturage, as the case may be, at any time for a period of twenty four months;

(b) land shall be considered to be underdeveloped only if it is-

- (i) fenced;
- (ii) hedged;
- (iii) leveled;
- (iv) ploughed;
- (v) cleared;
- (vi) a cleared or partially cleared site of some former developments; or
- (vii) inadequately developed contrary to the conditions of relevant right of occupancy.

(2) For purposes of this regulation, land shall be considered to be inadequately developed if-

(a) where the land is for agricultural purposes, the occupier during the first year of the term of the right of occupancy has not fully cultivated one-eighth of the total area of the arable land subject to the right of occupancy to the satisfaction of the Commissioner and during each of the next four years of the term fails to fully cultivate a further one-eighth of the total area of such arable land in the like manner;

(b) where the land is for pastoral purposes, the occupier during the first year of the term of the right of occupancy has not fully stocked, with his own livestock, one-seventh of the total area of the land

subject of the right of occupancy to the satisfaction of the Commissioner and during each of the next four years of such term fails to fully stock a further one-seventh of the total area of such land, with his own livestock, in the like manner; or

- (c) where the land is for mixed agricultural and pastoral purposes, the occupier during the first year of the term of the right of occupancy has not fully cultivated one-fifth and has not fully stocked, with his own livestock, one-tenth of the total area of the land subject to the right of occupancy to the satisfaction of the Commissioner and during each of the next four years of such term fails to fully cultivate a further one-fifth and fails to fully stock, with his own livestock, a further one-tenth of the total area of such land in the like manner.

Declaration that money shall be invested in Tanzania

5.-(1) Any person who intends to obtain a loan from a local or foreign bank or local or foreign financial institution shall, where such loan is secured by a right of occupancy, a lease of right of occupancy or derivative right, submit a declaration in triplicate to the Commissioner in the Form No.54H prescribed in the Schedule form stating that the mortgage money shall be invested in Tanzania.

(2) The declaration referred to under sub regulation (1) shall contain-

- (a) description of the mortgaged property;
- (b) name and address of the mortgagor;
- (c) name and address of the mortgagee;
- (d) statement of the purpose of the loan; and
- (e) place or places where the money will be utilized.

(3) The Commissioner shall, upon satisfaction that the declaration contains all the information required, endorse it accordingly.

Documents required for registration of

6.-(1) The mortgagee shall be required to submit to the Registrar the following documents during the registration of a mortgage-

- (a) Certificate of Occupancy, Leasehold Title or Derivative

- mortgage Right;
- (b) mortgage instruments;
 - (c) valuation report;
 - (d) a copy of the declaration endorsed by the Commissioner under regulation 5;
 - (e) receipts evidencing payment of stamp duty, registration fee, land rent and any other fees which may be required; and
 - (f) any other document relevant to the application that may be required by the Registrar.
- (2) The valuation report referred to under sub regulation (1), shall be-
- (a) prepared by a Registered Valuer;
 - (b) approved by the Chief Valuer; and
 - (c) valid and acceptable only if it is submitted within twelve months from the date on which it is prepared.

PART III

REPORT ON UTILIZATION OF MORTGAGE MONEY

Mortgagor
to submit
report

7.-(1) A mortgagor shall, within six months after the registration of a mortgage of undeveloped or underdeveloped land, submit to the Commissioner a report in the Form No.55I prescribed in the Schedule stating the manner in which the money secured from the mortgage is utilized to develop the mortgaged land.

(2) Where the mortgage money is released by installments, a mortgagor shall be required to submit a further report within six months after receiving each installment.

(3) The report referred to under sub regulation (1) shall contain-

- (a) description of the mortgaged property;
- (b) name and address of the mortgagor;
- (c) name and address of the mortgagee;
- (d) statement of the purpose of the loan;
- (e) amount of money obtained from the mortgage;
- (f) number of instalments received, if any;
- (g) amount of money utilized to develop the mortgaged

property

- (h) photographs depicting the current status of development; and
- (i) balance of the money obtained from the mortgage, if any.

(3) Without prejudice to sub regulation (2), the Commissioner may require any additional information which he may consider necessary.

(4) The Commissioner may, where he considers that the report submitted contains false information as to the actual amount of the mortgage money spent, instruct a Government Valuer to establish the correct amount spent.

Means of submission of report

8. The report referred to under regulation 7 shall be considered to be received by the Commissioner if submitted-

- (a) physically to him or his representative;
- (b) through registered mail addressed to the Commissioner or his representative; or
- (c) electronically to the email address of the Commissioner or his representative.

PART IV
MISCELLANEOUS PROVISIONS

Offences and penalty

9. Any person who knowingly-

- (a) makes a false declaration; or
- (b) submits a report containing false information,

commits an offence and upon conviction is liable to a fine not exceeding one million shillings or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

Amendment of G.N No.355 of 2009

10. The Land (Mortgage Financing) Regulations are hereby amended by repealing regulation 7.

Land (Procedure for Mortgage of Land)

GN. No 345 (contd.)

SCHEDULE

Land (Procedure for Mortgage of Land)

GN. No 345 (contd.)

Land Form No. 54 H

THE UNITED REPUBLIC OF TANZANIA

THE LAND ACT

(Cap. 113)

DECLARATION THAT MORTGAGE MONEY SHALL BE INVESTED IN TANZANIA

[Under regulation 5(1)]

No.....

C. T.

No.....

L. O.

To:

of P.O. Box

I/ We

of

HEREBY DECLARE THAT the money secured under this mortgage shall be invested in Tanzania as HEREUNDER:-

1. Description of the mortgaged property
2. Name and address of the mortgagor
3. Name and address of the mortgagee
4. Statement of the purpose of the loan
5. Place or places where the money will be utilized

Declaration: Information contained in this form is true to the best of my knowledge.

Dated at this day of 20.....

Land (Procedure for Mortgage of Land)

GN. No 345 (contd.)

.....

Name and signature of the Mortgagor

Land (Procedure for Mortgage of Land)

GN. No 345 (contd.)

Land Form No. 55 I

THE UNITED REPUBLIC OF TANZANIA

THE LAND ACT

(CAP.113)

REPORT ON UTILIZATION OF MORTGAGE MONEY

[Under regulation 7(1)]

No.....

C. T.

No.....

L. O.

To:

Of P. O Box

I/ We

of

HEREBY SUBMIT a Report on the utilization of mortgage money as HEREUNDER:-

1. Description of the mortgaged property
2. Name and address of the mortgagor
3. Name and address of the mortgagee
4. Statement of the purpose of the loan
5. Amount of money obtained from the mortgage
6. Number of instalments received, if any
7. Amount of money utilized to develop the mortgaged property
8. Photographs depicting the current status of development
9. Balance of the money obtained from the mortgage

Declaration: Information contained in this form is true to the best of my knowledge.

Dated at this day of 20.....

Land (Procedure for Mortgage of Land)

GN. No 345 (contd.)

.....

Name and signature of the Mortgagor

Dodoma,
25th March, 201
and

Development

WILLIAM V. LUKUVI,
Minister for Lands, Housing

Human Settlements

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