

CHAPTER 102

LAND USE LAW

Arrangement of sections

Section

1. Short title
2. Interpretation
3. Designation of urban areas
4. Powers of the Governor
5. Surrender of statutory light of occupancy or lease
6. Licenses to take building materials
7. Power of local Governments in relation to land not in urban area
8. Implied covenants
9. Covenants and conditions binding on holders of certificate of occupancy
10. Revision of rent
11. Power of Governor to grant rights of occupant free of rent
12. Penal rent
13. Rent
14. Penalty when rent in arrears
15. Recovery of rent in arrears
16. Authority to distrain for rent
17. Revocation of right if rent unpaid or for breach of covenant
18. Debt to State not extinguished by revocation
19. Acceptance of rent not to operate as a waiver of forfeiture
20. Reservation of water
21. Reservation of foreshore
22. Exclusive rights of occupiers
23. Exclusive rights of occupiers
24. Power to erect poles, etc.
25. Resumption of land for roads, railways, etc

26. Saving of public thoroughfares
27. Survey of land before right of occupancy
28. Penalty for false claims, etc, in respect of land
29. Recovery of land in unlawful occupation
30. Evidence in proceedings
31. Right of State to sue not barred by limitation
32. Suit for rent not barred by limitation
33. Right of way not to be presumed against the Governor
34. Service of notices
35. Right to enter and inspect
36. Prohibition of alienation of customary right
37. Prohibition of alienation of statutory right
38. Devolution of rights on death
39. Powers of Governor to revoke right of occupancy
40. Compensation payable on revocation
41. Transitional provisions on land not in the urban areas
42. Jurisdiction of High Court
43. Jurisdiction of customary court, etc.
44. Establishment of Land Use and Allocation Committee
45. Establishment of Land Allocation Advisory Committee
46. Delegation of power
47. Regulations

CHAPTER 102

LAND USE LAW

A Law to provide for the vesting, occupancy and use of Land in the State, and for matters connected therewith.

ANSL Cap 77

[27th August, 1991]

1. This law may be cited as the Land Use Law

Short title

2. In this Law

Interpretation

“agricultural purposes ” includes the planning of any crops of economic value;

"appropriate officer" means the Chief Lands Officer of the State;

"customary right of occupancy" means the rights of a person or community lawfully using or occupying and in accordance with customary law and includes a customary right of occupancy granted by a Local Government under this Law,

"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 purpose;

"Government" means the Governor of Enugu state of Nigeria;

"Governor" means the Governor of Enugu State;

"grazing purposes" includes only such agricultural operations as are required for 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 and includes any person to whom a right of occupancy has been sold or transferred without a valid assignment, nor a mortgagee, sub-lessee or sub- underlessee.

"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 reclamation works, but does not include the result of ordinary cultivation other than growing produce;

"interest at the bank rate" means simple interest payable at the rate percent per annum at which the Central Bank of Nigeria will rediscount bills of exchange;

"land" means all land in Enugu State of Nigeria which were vested in the Government of the State by virtue of the Land Use Act.

"Local Government" means Local Government, established by the Local Government Law;

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

"occupier " means any person law fully occupying land under customary law and a person using or occupying land in accordance with customary law and includes the sub-lessee or sub-underlessee 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 anybody corporate registered under the Companies Decree as respects which the Government rent owns shares, stocks or debentures;
- (c) for or in connection with sanitary improvements of any kind;

(d) for obtaining control over land continuous 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,

(e) for obtaining control over land required for or in connection with development of telecommunications or provision of electricity;

(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;

(i) for educational and other social services,

"State" means Enugu State of Nigeria;

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

"sub-lease" includes a sub-underlease

"urban area" means such area of the State as may be designated as such by the Governor pursuant to section 3 of this Law.

3.(1) The Governor may, from time to time, for the purposes of this Law by order published in the Enugu State Gazette designate parts of the area of the State as land in urban areas

Designation
of urban areas

(2) All land in urban areas shall be under the control and management of the Governor.

(3) All other land shall subject to this Law be under the control and management of the Local Government within the area of jurisdiction of which the land is situated

4. Subject to the regulations made under this Law, the Governor may grant—

Powers of
the Governor

(a) certificate of occupancy for any term not exceeding ninety - nine years;

(b) right of occupancy to a citizen of Nigeria for period of ninety- nine years, and

(c) licenses for the temporary use of land

5. The Governor may —

(a) accept on such terms and conditions (if any) as he may think proper the surrender of any statutory right of occupancy granted under this Law or any lease granted under the State Land Law or any other Law;

Surrender of
statutory
right of
occupancy or
lease

(b) waive wholly or partially, except as otherwise prescribed, all or any of the covenants or conditions to which a statutory right of occupancy is subject, where, owing to special circumstance, compliance therewith would be impossible or great hardships would be imposed upon the holder, and

(c) 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 condition as he may think fit, and the period so extended and the terms and conditions so imposed shall be deemed to be inserted in the certificate of occupancy and shall be binding on the holder

Licenses to
take
buildings.

6.(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 a temporary occupation licence granted under this Law, or of a mining lease, mining rights or exclusive prospecting licence granted under the Minerals Act, or any other enactment. and remove or extract there from any stone, gravel, clay, sand or other similar substance (not being a mineral within the meaning assigned to that term in the Minerals Act) that may be required for building or for the manufacture of building materials.

(2) No such license shall be granted in respect of an area exceeding 400 hectares

(3) A license may be granted for such period and subject to such conditions as the Governor thinks fit or as may be prescribed.

(4) A license shall not be transferable without the consent of the Governor first had and obtained.

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

Power of local
Governments
in relation to
land not in
urban area

7.(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 organization for the use of land in the Local Government area for residential, agricultural and other purposes.

(b) to grant customary rights of occupancy to any person or organization 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) Single customary right of occupancy shall be granted in respect of an area of land of one hundred hectares if granted for agricultural purposes or three hundred hectares if granted for grazing purposes without reference to 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;

(b) land which is the subject of a statutory right of occupancy;

(c) land within any area compulsorily acquired by the Government of the Federation or of this State;

(d) any land which is the subject of any laws relating to mineral 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 right 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 subsection (3) 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 Law was used for agricultural purposes by the holder, the Local Government shall allocate to such holder alternative land for use for the same purpose.

8. Except as otherwise prescribed in the statutory of customary right of implied covenants occupancy, there shall in every certificate of occupancy under this Law be implied by virtue of this Law—

(a) covenants by the grantor—

(i) that the grantee, paying the rent and fulfilling the conditions therein contained may, subject to this Law, quietly hold and enjoy the premises without any interruption by the grantor.

(ii) that the grantor shall, subject to this Law and the grantee paying the rent and fulfilling the covenants and conditions contained in the certificate of occupancy and this Law, renew the right of occupancy on such terms and conditions as may be prescribed.

(b) covenants by the grantee—

(i) that he will pay to the appropriate officer or to such officer as the Governor may appoint on the issue of the certificate of occupancy rent at the rate of the rent specified in the certificate of occupancy for the period from the commencement of the certificate of occupancy to the 31st day of December, next following, and that he will thereafter pay in advance without demand on the 1st day of January in each year to the appropriate officer or to such other officer as the Governor may appoint the yearly rent Specified in the certificate of occupancy, or if the yearly rent be revised or a penal rent be imposed in the lieu of the yearly rent, such revised or penal rent as may from time to time, be payable in respect of the premises,

(ii) that he will pay all taxes, rates, charges, duties, assessments or outgoings of whatever description as may be imposed, charged or assessed upon the lands comprised in such certificate or the buildings thereon or upon the grantor or grantee,

(iii) not to assign, sublet or otherwise part with the possession of the land comprised in such certificate or any part thereof, without the previous consent of the Governor in writing first had and obtained

(iv) that the grantee 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 entry into occupation.

9.(1) Every covenant or condition whether expressed or implied in a certificate of occupancy under this Law, which is binding on a holder, shall, unless otherwise expressly provided in the certificate, be binding on all persons claiming an interest in the land the subject of the certificate of occupancy and whose right of occupancy is derived through or under the grantee or holder

(2) Any minor who becomes a holder or grantee under this Law shall be in the same position with regard to his liability and obligation under or in respect of his grant as if he were of full age.

(3) The terms and conditions of the certificate of occupancy granted under this Law and which have been accepted by the holder shall be enforceable against the holder and his successors in title, notwithstanding that the acceptance of such terms and conditions is not evidenced by the signature only, or in the case of a Corporation, is evidenced by the signature of some persons purporting to accept on behalf of the Corporation.

10.(1) In every certificate of occupancy under this Law there shall, unless expressly excepted, be reserved by virtue of this Law to the Governor the right to revise and fix the rent for such period (hereinafter referred to as the revision periods) as may be specified in the certificate.

Revision of
rent

(2) As nearly as conveniently may be to the commencement of each revision period the Governor shall revise and fix the yearly rent which shall be payable for such revision period, but so that the rent fixed shall not exceed the rent obtainable at the time of revision for similar lands of similar area and amenities similarly situated:

Provided that if for any reason the Governor considers it desirable to postpone the revision of the rent reserved under certificate, the Governor may postpone such revision for such time, irrespective of any revision period, as he shall think fit; but should the right to revise be subsequently exercised the rent then fixed shall be payable for the remainder of the current revision period.

In revising the rent no improvements made on the land by the holder of a certificate of occupancy shall be taken into account.

(3) The amount at which the rent is fixed or revised by the Governor shall be notified to the holder, who if he considers that the rent fixed or revised is in excess of that which can properly be demanded under the terms of subsection (2) of this section may within one month of such notification appeal to the Governor.

(4) The Governor may in determining the rent which is the subject of an appeal refer such appeal to the Land Use and Allocation Committee which shall advise the Governor in that behalf and the decision of the Governor pursuant to such advice shall be final.

11.(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.

Power of
Governor to
grant rights of
occupancy free
of rent

(2) A Local Government may grant a customary right of occupancy free of rent or at a reduced rent in any case in which it is satisfied that it would be in the public interest to do so,

(3) Where a statutory right of occupancy has been granted free of rent the Governor may, subject to the express provisions for 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

12.(1) When in any certificate of occupancy granted under this Law the holder has covenanted to develop or effect improvement on the land which is the subject of the certificate of occupancy and has committed a breach of such covenant the Governor may at the time of such breach or at any time thereafter and at the expiration of every year therefore so long as the breach has not been remedied, fix a penal rent which shall be payable for

twelve months from the date of such breach and shall be paid by the holder in addition to and at same time and manner as the rent reserved is payable and shall be recoverable as rent.

(2) The first penal rent shall not exceed twenty per centum of the rent reserved in the certificate of occupancy and penal rent subsequently fixed shall not exceed double the penal rent payable in respect of the preceding year.

(3) Notice of such penal rent being imposed and the amount thereof and date from which it is payable shall be given in writing to the holder of the certificate of occupancy. The fact that a penal rent or a revised penal rent has been imposed shall not preclude the 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

Rent

13. The rent reserved or payable under any certificate of occupancy granted under this Law or under any law repealed by this Law shall be a debt to the State and shall be paid at the office of the appropriate office or at such office as the Governor may appoint.

14. If any such rent as aforesaid shall at any time be unpaid for a space of ninety days after the same became due and a notice shall have been served on the person in default, there shall be payable by way of penalty a sum equivalent to five per centum of the rent due. If such rent and penalty shall be unpaid for a space- exceeding one hundred and twenty days after the rent became due. and a notice shall have been served as aforesaid, there shall be payable by way of penalty a further sum equivalent to five per centum of the rent due.

Penalty
when rent
in arrears

15.(1) The appropriate officer or any person appointed by him on that behalf may, without prejudice to the right of the State to recover rent in arrears in any other way, sue the same, together with the penalty (if any) which may be payable under the Last preceding section, and such suit may be instituted in a Magistrates Court or in the High Court as the case may be.

Recovery
of rent in
arrears

(2) Proceedings for the recovery of rent payable in respect of any customary right of occupancy together with the penalty (if any) which may be payable under the last preceding section, may be taken by and in the name of the Local Government concerned in the Customary Court or Magistrate's Court or any Court of equivalent jurisdiction.

16. The appropriate officer on behalf of the State or Local Government, as the case may be, may distrain for rent due under any certificate of occupancy under this Law or under any Law repealed by this Law and may authorize any person to act for him in that behalf.

Authority
to distrain
for rent

17. If the rent reserved or payable under a certificate of occupancy under this Law is in arrears, or if there shall be any breach of the holder's covenants or of the conditions of the certificate of occupancy whether express or implied, the appropriate officer or the Local Government, as the case may be, may serve a notice upon the holder specifying the rent in arrears or the covenants or conditions of which a breach has been committed, and at any time after one month from the service of such notice the Governor may, if the holder fails or neglects to pay the arrears of rent or remedy the breach or comply with the conditions of the certificate of occupancy, revoke the right of occupancy.

Revocation
of right if
rent unpaid
or for
breach of
covenant

18. No such revocation of the right of occupancy shall operate to extinguish any debt to the State in respect of any rent or payment to be made by a holder under such statutory or customary right of occupancy.

Debt to State
not
extinguished
by revocation

Acceptance of
rent not to
operate as a
waiver of
forfeiture

19. The acceptance by or on behalf of the State of any rent shall not be held to operate as a waiver by the State of any forfeiture accruing by reason of the breach of any covenant or condition, express or implied, in any certificate of occupancy under this law.

Reservation
of water

20. A certificate of occupancy under this Law shall not unless otherwise expressly provided therein, confer any right to the water of any spring, river, lake or stream, other than such water as may be required for domestic purpose upon the land granted.

Reservation
of foreshore

21. A certificate of occupancy under this Law shall not, unless otherwise expressly provided therein, confer any right to the foreshore or to the banks of any navigable waterway

Reservation
of minerals

22.(1) A certificate of occupancy under this Law shall not confer any right to any mineral as defined in Minerals Act or to any mineral oil.

(2) There is hereby reserved to the Governor the right to enter upon any land granted under this Law and—

(a) to search for, mine and remove any mineral as aforesaid in section 6 (1) of this Law; and

(b) except in the case of lands granted for building purposes only, to remove any stone, gravel, soil or other substance required for the construction or repair of the road, government building or other public works.

(3) The right reserved to the Governor under subsection (2) may be exercised —

(a) by any person authorized by or under any Act relating to minerals or mineral oils; or

(b) by any person authorized by the Governor,

23.(1) Subject to the provisions of this Law and to any laws relating to way-leaves, prospecting for mineral or mineral oils or to mining or oil pipe-lines and subject to the terms and conditions of any contract which may be made by the Governor and the holder not being consistent with this Law, the occupier shall have exclusive rights to the land the subject of the statutory right of occupancy against all persons Other than the Governor.

Exclusive
rights of
occupiers

(2) The holder of a statutory right of occupancy---

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

(b) may, subject to the prior consent of the Governor transfer, assign, sublet 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.

24. Any person authorized by the Governor may at any time enter upon any land granted under this Law and may —

Power to
erect poles,
etc.

(a) set up poles on and carry electric lines across such land; and

(b) lay sewers, drains, water pipes or electric lines therein: without paying compensation but making good all damage done.

25.(1) When any right of occupancy granted under this Law affects lands, exceeding eighty hectares, the Governor may at the time enter and resume any portion of such lands for roads, railways, canals water channels or trigonometrical stations or any other public undertaking

Resumption of
land for roads,
railways, etc

without paying compensation for the land, but compensation shall be paid for buildings or crops destroyed or damaged

Provided that in the event of a larger portion than four per centum of such hind being resumed for any such purpose as aforesaid, there shall be paid to the owner or holder of a certificate of occupancy, as the case may be, compensation for the land taken in excess of such portion

(2) Where any right of occupancy granted under this Law does not affect lands exceeding eighty hectares, the Government may at any time enter and resume any portion of such lands for any of the purpose mentioned in subsection (1), paying compensation for the land taken

(3) Where land which has been granted is resumed under this section the holder of the right of occupancy shall be entitled to a proportionate reduction in his rent

(4) The Governor may authorize any officer of the Government, their servant and agents to exercise the powers reserved to him by this section.

(5) Compensation payable under this section shall not exceed, in the case of building or crops, the market value of such buildings or crops, and in the case of land resumed, the market value of such land.

(6) The compensation to be awarded under this section shall, if not agreed upon between the Governor and the claimant, be determined by the Land Use and Allocation Committee.

(7) Resumption of land under this section may be effected before the compensation (if any) is paid, either by actual entry on the land resumed, or by service of notice of resumption on the holder of the certificate of occupancy.

26. All public thoroughfares existing on any land under any right or certificate of occupancy granted under this Law or deemed to have been granted by this Law, shall be deemed to be and shall be reserved and shall remain free and uninterrupted unless the same be closed or altered by the order of the Governor or by other competent authority.

27. No statutory right of occupancy shall be granted under this Law until the land so affected has been surveyed and demarcated by a government or a licensed surveyor and the plan or map thereof has been approved and signed by the Surveyor-General of the State, or by an officer of the Survey Division acting on his behalf,

28.(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 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 defined and in default of his so doing the 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 Government in defining the boundaries which the occupier has neglected to define.

29.(1) No person shall in an urban area—

Penalty for false claims, etc, in respect of land

Recovery of land in unlawful occupation

Saving of public thoroughfares

Survey of land before right of occupancy

(a) erect any building, wall fence or other structure upon or 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 provision of subsection(1) shall on being required by the Governor so to do and within the period of time fixed by the Governor , remove any building, wall, fence obstruction, structure or thing which he may have caused to be placed on the land he shall put the land in the same condition as nearly as may be in which it was before such contraventions.

(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 five thousand naira.

(4) If any person fails or refuses to comply with a requirement made by the Governor under subsection (2), it shall be lawful for the appropriate officer without any further order or authority, to evict any such person from such land or structure not being the subject of a right of occupancy or licence occupied by him.

(5) For the purpose of this section it shall be lawful for the appropriate officer to enter into any premises or any land and there to use or employ such force as is reasonably necessary or sufficient to remove the squatter or to remove or demolish any unauthorized structure erected or being used by or on behalf of the squatter.

(6) Any expenses incurred in the demolition or removal of any such structures shall be charged to the owner or user thereof or both of them and shall be recovered from him or them as a civil debt.

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

31.(1) When any person whose right of occupancy or licence has expired or has been forfeited, revoked or cancelled is in occupation of the land, the Attorney-General or the appropriate officer or some person appointed by the Attorney-General or the appropriate officer may enter a suit in the High Court to recover possession thereof.

(2) If on the hearing of such suit the defendant does not appear, or appears but fails to establish an absolute right or licence to the possession of the land, the court shall order that the possession of the land sought to be recovered shall be given by the defendant to the plaintiff, either forthwith or on or before such day as the court shall think fit to name, and shall issue such process as may be necessary for carrying such order into effect.

32. In any action, suit or proceedings against any person for or in respect of any alleged unlawful occupation, use of or trespass upon any land, the proof that the occupation or use in question was authorized, shall lie on the defendant, and in every such action, suit or proceeding and in every action by or against the Governor in which right to land shall be in

Penalty for
false claims,
etc in
respect of
land

Recovery of
and in
unlawful
occupancy

Evidence in
proceedings

issue the averment that such land is vested in the Governor shall be sufficient without proof of such fact.

Right of state
to sue not
barred by
limitation

33. No action or other remedy by or on behalf of the Governor for the recovery of possession of land vested in the Governor shall be barred or affected by any law of limitation.

34. No law of limitation shall bar or affect any action or remedy for the recovery of any rent due under any right of occupancy granted under this Law,

Suit for rent
not by
limitation

35. No right of way shall be presumed or allowed to be asserted or established against the Governor by reason only of user, whether such user commenced before or after the commencement of this Law.

Right of way
not to be
presumed
against the
Governor

36. A notice required by this Law to be served on any person shall be effectively served on him —

Service of
notice

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

(b) by leaving it 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 his last known place of abode or if his address is not known, published in the Enugu State Gazette, 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 it 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 the notice should be served, by addressing it to him by the description of "holder or occupier" of the premises (name 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 can be delivered, by affixing it, or a copy of it, to some conspicuous part of the premises.

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

Right to
enter and
inspect

38. It shall not be lawful for any customary right of occupancy or any part thereof to be alienated by assignment, mortgage, transfer of possession, sub-lease or otherwise howsoever 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 in other cases without the approval of the appropriate Local Government

Prohibition of
alienation of
customary
right

39. No statutory right of occupancy granted under this Law, which contains a covenant, express or implied not to assign without the consent of the Governor, shall be assigned, transferred or sold by or under the order of a court in execution of a decree or otherwise howsoever save to a purchaser approved in writing by the Governor and under terms, as to adequacy of price or otherwise, also so approved.

Prohibition
of alienation
of statutory
right

40.(1) The devolution of the rights of an occupier upon death shall—

Devolution of
right on death

(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.

(2) 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.

41.(1) It shall be lawful for the Governor to revoke a right of occupancy for overriding public interest in case where—

(a) the alienation by the occupier by assignment, mortgage transfer of possession, sub-lease or otherwise of any right of occupancy or part thereof is made contrary to the provisions of this Law or of any regulations made thereunder.

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

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

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

(3) The title of the holder of a right of occupancy shall be extinguished on receipt by him of notice given under subsection (2) of this section or on such later date as may be stated in the notice.

42.(1) If a right of occupancy is revoked for the cause set out in section 41(1)(b), the holder and the occupier shall be entitled to compensation for the value at the date of revocation of their unexhausted improvement.

(2) If a right of occupancy is revoked for the cause set out in section 41(1)(c), the holder and the occupier shall be entitled to compensation under the appropriate provisions of the Minerals Act or the Minerals Oil Act or any legislation replacing the same.

(3) Compensation 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) buildings, installation or improvements thereon, for the amount of the replacement cost of the buildings, installation or improvement, or the market value, which is 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

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

Power of
Governor to
revoke
rights of
occupancy

Compensation
payable on
revocation

Transitional
provisions on
land not in
urban areas

43.(1) Any occupier or holder of any kind not in an urban area, whether under customary rights or otherwise howsoever. shall if that land was on the commencement of this law being used for agricultural purposes continue to be entitled to the 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 Such land being so used includes land which is in accordance with the custom of the locality concerned, .allowed to lie fallow for purposes of recuperation of the soil.

(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 Law as if the holder of the land was the holder of a customary right of occupancy issued by the Local Government. and the holder or occupier of such developed kind, at his discretion, produces a sketch or diagram or survey plan showing the area of the kind so developed the Local Government shall satisfied that the person immediately before the commencement of this Law has the land vested in his register the holder or occupier an one in respect of whom a customary right of occupancy has been granted by the Local Government

(3) No land to which this section applies shall be sub-divided or hid out in plots and no such land shall be transferred to any person by the person in whom the land was vested or deemed to have been vested as aforesaid

Jurisdiction
of High
Court

44.(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 statutory right of occupancy granted by the Governor or deemed to be granted by him under this Law; 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 .my question as to the persons entitled to compensation payable for improvements on land under this Law

(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.

Jurisdiction
of customary
court etc.

45. The customary court or other court of equivalent jurisdiction in the State shall have jurisdiction in respect of proceedings in respect of a customary right of occupancy granted by a Local Government under this law; and for the purpose of this paragraph "proceedings" includes 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.

46. There is established a body 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 subsection (2) of section 3 of this Law 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 Law; and

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

47. There is established for each Local Government Area a body known as the Land Allocation Advisory Committee which shall have the responsibility for advising the Local Government on matters connected with the management of land to which subsection (3) of section 3 of the Law relates

48. The Governor may delegate to the State Commissioner responsible for lands all or any of the powers conferred on him by this Law, subject to such restrictions, conditions and qualifications as the Governor may specify

49. The Governor may 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 Law;

(d) the forms to be used for any document or purpose;

(e) prescribing the term of years for which any class of right of occupancy may be granted;

Establishment of Land Use and Allocation Committee.

Establishment of Land Allocation Advisory Committee

Delegation of powers

Regulations

- (f) prescribing the premia and rents to be paid and providing for the revision of rent.
- (g) providing for the survey and demarcation of land which is the subject of a right of occupancy and fees to be paid for such survey and demarcation.
- (h) prescribing the period for which and the conditions under which licences for the temporary occupation of land may be issued,
- (i) providing for the care, management and protection of occupied land, and
- (j) generally for carrying out and giving effect to the purposes of this Law

SUBSIDIARY LEGISLATION

Land Use Law

LAND USE (DELEGATION OF STATUTORY POWERS) ORDER

1. This order may be cited as the Land Use (Delegation of Statutory Powers) Order. Short title
2. (1) The powers specified in the Schedule hereto, which powers are conferred on the Governor by the Land Use Act are hereby delegated to the Commissioner for Works and Transport. Interpretation

(2) The Commissioner mentioned in subparagraph (1) of this paragraph shall, in deciding whether or in what manner to exercise such powers have regard in any decisions or directions on matters of policy that may from time to time be taken or given by the Governor.
3. Nothing in this order shall prevent the Governor from exercising the powers hereby delegated. Exercise of powers by the Governor

SCHEDULE

Paragraph 2(1)

POWERS DELEGATED

The Commissioner is empowered to sign legal instrument which, by virtue of the provisions of the Land Use Act or any subsidiary legislation made thereunder ought to be made under the hand of the Governor.

A .S. L. N
No 70 of
1991.