

Bill No. 27

Land (Amendment) Bill

2007

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THE LAND (AMENDMENT) BILL, 2007

MEMORANDUM.....

CALL No:.....

The object of this Bill is to amend the Land Act, Cap. 227 to enhance the security of occupancy of the lawful and bona fide occupants on registered land. Upon the coming into force of the Constitution of Uganda 1995, article 237 (8) of the Constitution provided for the security of occupancy of the lawful and bona fide occupants.

In accordance with article 237 (8) and (9) of the Constitution, Parliament in 1998 enacted the Land Act, which is now Cap. 227 of the Laws of Uganda to further regulate and define the relationship between the lawful and bona fide occupants and the registered owners of the land. Whereas section 31 of the Land Act provides that the lawful and bona fide occupants enjoy security of occupancy on the land, there have been wide spread evictions of these categories of tenants in utter disregard of their interest in the land as provided by article 237 of the Constitution and section 31 of the Land Act.

The purpose of the amendment is to further enhance the protection of lawful and bona fide occupants and occupants on customary land from wide spread evictions from land without due regard to their land rights as conferred by the Constitution and the Land Act.

DANIEL OMARA ATUBO, MP
Minister of Lands, Housing and Urban Development.

THE LAND (AMENDMENT) BILL, 2007.

ARRANGEMENT OF CLAUSES.

Clause

1. Amendment of section 31 of the Land Act.
2. Insertion of new sections 32A and 32B.
3. Amendment of section 35 of principal Act.
4. Amendment of section 92 of principal Act.



A Bill for an Act

ENTITLED

THE LAND (AMENDMENT) ACT, 2007

An Act to amend the Land Act to enhance the security of occupancy of lawful and bona fide occupants on registered land in accordance with article 237 of the Constitution, and for related matters.

BE IT ENACTED by Parliament as follows:

1. Amendment of section 31 of the Land Act.

Section 31 of the Land Act, in this Act referred to as the principal Act, is amended—

(a) by inserting immediately after subsection (3c) the following—

“(3d) Where the board has not determined the annual nominal ground rent payable by a tenant by occupancy within thirty days after the commencement of this Act, the rent may be determined by the Minister.

(3e) The rent payable under this section shall be paid within one year after the Minister has approved the rent payable under subsection (3) or determined the rent payable under subsection (3d).”;

(b) in subsection (6), by substituting for the words “two years” the words “one year”.

2. Insertion of new sections 32A and 32B

The principal Act is amended by inserting immediately after section 32, the following—

“32A. Lawful or bona fide occupants to be evicted only for non payment of ground rent.

(1) A lawful or bona fide occupant shall not be evicted from registered land except upon an order of eviction issued by a court and only for non payment of the annual nominal ground rent.

(2) A court shall, before making an order of eviction under this section, take into consideration the matters specified in section 32(1).

(3) When making an order for eviction, the court shall state in the order, the date, being not less than six months after the date of the order, by which the person to be evicted shall vacate the land and may grant any other order as to expenses, damages, compensation or any other matter as the court thinks fit.

(4) A person who attempts to evict, evicts or participates in the eviction of a lawful or bona fide occupant from registered land without an order of eviction commits an offence and is liable on conviction to imprisonment not exceeding seven years.

(5) Where a person is convicted under subsection (4), the court may—

- (a) order that person to pay compensation or damages to the person who was evicted; or
- (b) make an order for restitution in favour of the person who was evicted.

32B. Person claiming interest in land under customary tenure to be evicted only by court.

(1) A person claiming an interest in land under customary tenure shall not be evicted except upon an order of eviction issued by the court.

(2) A court shall not issue an order of eviction under subsection (1) unless—

- (a) the court has heard the person claiming the interest in the land on the matter;
- (b) adequate compensation has been paid to the person claiming the interest in the land, except where the person has abandoned the occupancy;
- (c) the court has visited the locus in quo and conducted a hearing; and
- (d) the court has received a report from the land committee of the area on the status of the occupants on the land.

(3) For the avoidance of doubt, subsection (1) shall not apply to a person who has been allowed to temporarily occupy or use land under customary tenure.

(4) A person who attempts to evict, evicts or participates in the eviction of a person claiming an interest in land under customary tenure, without an order of eviction under this section commits an offence and is liable on conviction to imprisonment not exceeding seven years.

(5) Where a person is convicted under subsection (4), the court may—

- (a) order that person to pay compensation or damages to the person who was evicted; or
- (b) make an order for restitution in favour of the person who was evicted.”

3. Amendment of section 35 of principal Act.

Section 35 of the principal Act is amended—

(a) by inserting immediately after subsection (1) the following—

“(1a) Subject to subsection (7), a tenant by occupancy who purports to assign the tenancy by occupancy without giving the first option of taking the assignment of the tenancy to the owner of the land commits an offence and is liable on conviction to a fine not exceeding ninety six currency points or imprisonment not exceeding four years or both.”;

(b) by inserting immediately after subsection (7) the following—

“(8) Subject to subsection (7), a transaction for the sale of the interest in land by the owner made without giving the first option of buying the interest to the tenant by occupancy is invalid and the Commissioner shall not make any entry on the certificate of title in respect of that transaction.”

4. Amendment of section 92 of principal Act.

Section 92 of the principal Act is amended by substituting for subsection (4) the following—

“(4) A person convicted of an offence specified in subsection (1) (c) is liable to a fine not exceeding ninety six currency points or imprisonment not exceeding four years or both.”