

CHAPTER 87

THE EXPROPRIATED PROPERTIES ACT.

Arrangement of Sections.

Section

1. Interpretation.
2. Revesting of properties in the Government, etc.
3. Power to transfer property or business.
4. Application for repossession.
5. Property in which the Government wishes to participate.
6. Property in which the Government does not wish to participate.
7. Transfer of title.
8. Restriction on sale, etc.
9. Failure to claim, etc.
10. Present tenants.
11. Proceeds of sale, etc.
12. Compensation and settlements.
13. Valuation of properties.
14. Legal proceedings.
15. Appeal.
16. Regulations.
17. Applicability of section 1 to Assets of Departed Asians Act.

CHAPTER 87

THE EXPROPRIATED PROPERTIES ACT.

Commencement: 21 February, 1983.

An Act to provide for the transfer of the properties and businesses acquired or otherwise expropriated during the military regime to the Ministry of Finance, to provide for the return to former owners or disposal of the property by the Government and to provide for other matters connected therewith or incidental thereto.

1. Interpretation.

In this Act, unless the context otherwise requires—

- (a) “board” means the Departed Asians’ Property Custodian Board established by section 4 of the Assets of Departed Asians Act;
- (b) “departed Asians” means any Asian who left Uganda on or after the 9th day of August, 1972, in such manner as necessitated the taking over in the public interest of any property or business he or she left in Uganda;
- (c) “former owner” means and includes any person who was either the registered owner or proprietor of any real or movable property in Uganda or was a shareholder in a business or enterprise registered in Uganda and who was either expelled or forced to flee from Uganda during the period of the military regime or was in any other way dispossessed of the property or business; and anybody who is the legal heir or successor of that person;
- (d) “joint venture company” means a company in which the Government and a former owner invest and participate together;
- (e) “military regime” means the Government in power during the period from the 25th January, 1971, to the 3rd June, 1979;
- (f) “Minister” means the Minister responsible for finance;
- (g) “property or business” means movable and immovable property and includes stocks, shares, assets and liabilities of whatever description;
- (h) “scheduled article” has the same meaning as in the Industrial Licensing Act.

2. Revesting of properties in the Government, etc.

- (1) Any property or business which was—
 - (a) vested in the Government and transferred to the Departed Asians Property Custodian Board under the Assets of Departed Asians Act;
 - (b) acquired by the Government under the Properties and Businesses (Acquisition) Decree, 1973;
 - (c) in any other way appropriated or taken over by the military regime except property which had been affected by the provisions of the repealed National Trust Decree, 1971,

shall, from the commencement of this Act, remain vested in the Government and be managed by the Ministry responsible for finance.

(2) For the avoidance of doubt, and notwithstanding the provisions of any written law governing the conferring of title to land, property or business and the passing or transfer of that title, it is declared that—

- (a) any purchases, transfers and grants of, or any dealings of whatever kind in, such property or business are nullified; and
- (b) where any property affected by this section was at the time of its expropriation held under a lease or an agreement for a lease, or any other specified tenancy of whatever description, and where the lease, agreement for a lease or tenancy had expired or was terminated, the same shall be deemed to have continued, and to continue in force until the property has been dealt with in accordance with this Act, and for such further period as the Minister may by regulations made under this Act prescribe.

(3) The Minister may, by statutory order, appoint any person or body to manage any property or business vested in the Government under subsection (1).

(4) Until such a time as the Minister has exercised his or her powers under subsection (3), the Departed Asians Property Custodian Board established under section 4 of the Assets of Departed Asians Act shall continue to manage such properties and businesses.

3. Power to transfer property or business.

(1) Subject to this Act, the Minister shall have the power to transfer to the former owner of any property or business vested in the Government

under this Act that property or business.

(2) Nothing in this Act shall be construed as empowering the Minister to transfer property or business to a former owner unless the Minister is satisfied that the former owner shall physically return to Uganda, repossess and effectively manage the property or business.

(3) Subsection (2) shall not apply to a former owner who jointly participates with the Government in the ownership and management of any property or business pursuant to section 5.

4. Application for repossession.

Any former owner of property or business vested in the Government under section 2 may, within ninety days of the commencement of this Act, apply to the Minister in writing, and in such form as may be prescribed, for repossession of the property or business.

5. Property in which the Government wishes to participate.

(1) Where an application made under section 4 relates to property or business in which the Government wishes to participate, the Minister shall notify the applicant accordingly and invite him or her to enter into negotiations for that purpose.

(2) Where the negotiations under subsection (1) are successfully concluded, a joint venture company shall be incorporated and the Minister shall issue a certificate transferring the property or business to that company.

(3) Where the Minister is satisfied that any property or business affected by this Act is being occupied, managed or rehabilitated under a joint venture agreement with a former owner which is in the best interest of Uganda, the Minister may without recourse to subsections (1) and (2) issue a certificate validating the transfer of any property or business made pursuant to the joint venture agreement.

6. Property in which the Government does not wish to participate.

(1) On receipt of an application made under section 4 relating to property or business in which the Government does not wish to participate, the Minister shall, subject to subsections (2) and (3), after satisfying himself

or herself with the merits of the application, issue a certificate authorising the former owner to repossess the property or business.

(2) Notwithstanding sections 2(2) and 3, where the property or business affected by this Act is applied for by a former owner, and the property or business is the subject of a caveat, lien, loan, charge, mortgage or any other registered encumbrance in favour of a bank, financial institution or any other lender, the Minister shall first hold consultations with the former owner and the bank, financial institution or other lender, as the case may be, with a view to securing mutually acceptable arrangements for the discharge of any such liabilities or encumbrances.

(3) Where no agreement is reached following any consultations held in accordance with subsection (2), the Minister shall direct such arrangements as he or she considers fit in any particular case.

(4) Subject to section 9(1), in the case of a registered business or enterprise, nothing in subsections (1), (2) and (3) shall be construed as obliging the Minister to return the registered business or enterprise to a former owner unless the Minister is satisfied that the former owner held a reasonable percentage of shares in it.

7. Transfer of title.

A certificate issued under section 5 or 6 shall be sufficient authority for—

- (a) the chief registrar of titles to transfer title to the new joint venture company or the former owner, as the case may be;
- (b) the bank or financial institution to reactivate any frozen account or repay any transferred monies;
- (c) the registrar of companies to reinstate on the register a company that had been struck off.

8. Restriction on sale, etc.

Any property or business transferred to a joint venture company or to a former owner under this Act shall not be sold or otherwise disposed of without the written consent of the Minister until after five years from the date of the transfer.

9. Failure to claim, etc.

- (1) Where—
 - (a) a former owner of any property or business does not apply for repossession within the period specified under section 4;
 - (b) the Minister is not satisfied with the application made under section 4;
 - (c) negotiations under section 5(1) fail; or
 - (d) having been authorised to repossess the property or business under section 6, the former owner fails to physically return and reside in Uganda within one hundred and twenty days from the date of the authorisation,

the Minister may make an order that the property or business be retained by Government, or be sold or disposed of in such manner as may be stipulated in the regulations made under this Act; except that in the case of a registered business or enterprise, the Minister may, on being satisfied that the minority interests in the business or enterprise may be unduly prejudiced by an order made under this section, give such other directions as he or she deems fit.

(2) Where an order made under subsection (1) concerns property or a business which is the subject of a caveat, lien, loan, charge, mortgage or any other registered incumbrance in favour of a bank, financial institution or any other lender, the Minister shall direct such arrangements as he or she considers fit for the discharge of any such liability or encumbrance.

(3) The Minister shall issue a certificate to the purchaser or recipient of any property or business sold or otherwise disposed of under this section, and the certificate shall have the same effect as a certificate issued under sections 5 and 6.

10. Present tenants.

(1) Any person who, at the commencement of this Act, is legitimately occupying or managing property or a business affected by section 2 shall continue to so occupy or manage the property or business until the property or business is returned to the former owner or is sold or otherwise disposed of under this Act.

(2) An officer or employee of the Government, a Government institution or parastatal body or any other legitimate tenant shall be entitled to not less than ninety days notice to vacate any residential property he or she

is legitimately occupying where that property is returned to a former owner, sold or otherwise disposed of in accordance with this Act.

(3) Any person who is entitled by this section to continue occupying or managing any property or business shall, for the period he or she continues to so occupy or manage, pay such rents as may be determined by the Minister.

11. Proceeds of sale, etc.

All monies realised from the sale or other disposal of any property or business under this Act shall be paid into such account of the Government or Government body as the Minister may direct.

12. Compensation and settlements.

(1) The Government shall pay compensation to any former owner, not being a citizen of Uganda, whose property or business is affected by section 9.

(2) Where property or business is returned to a former owner or transferred to a joint venture company or retained by the Government in accordance with this Act, the former owner or the company or the Government, as the case may be, shall be liable to pay for the value of any improvements in the property or business to the person or body that effected the improvement.

(3) Where property or business had been transferred to any person or body for value and the property or business is returned to a former owner or is otherwise dealt with in accordance with this Act, the Government shall be liable to pay compensation to that person or body.

(4) The compensation payable under subsection (3) shall be the purchase price less the income derived or which ought to have been derived from the property or business from the date of the transfer.

(5) Any person whose title to or ownership of any property or business is nullified by section 2 and who reacquires the property or business in accordance with section 9 shall not be entitled to any compensation otherwise payable under this section.

(6) Any compensation, unless already paid before the commencement of this Act, shall be paid over such period and in such manner as the Minister may determine or negotiate with the person or body to be compensated.

13. Valuation of properties.

In the implementation of this Act, the Minister shall, in matters of valuations, be guided by the board of valuers established under section 2 of the Properties and Businesses (Acquisition) Decree, 1975.

14. Legal proceedings.

(1) Notwithstanding the Government Proceedings Act, and except as provided herein, nothing in this Act shall be construed as conferring a right on any person or body to sue the Government for damages arising from any loss, damage, waste or deterioration of any property or business covered under this Act where the loss, damage, waste or deterioration occurred before the commencement of this Act.

(2) Where at the commencement of this Act any suit is pending in any court by or against the Departed Asians' Property Custodian Board, the suit shall be continued by or against the Departed Asians' Property Custodian Board as if certain provisions of the Assets of Departed Asians Act and the Properties and Businesses (Acquisition) Decree, 1975, had not been repealed, so, however, that where any Act is passed against the board resulting from any such suit, the Act shall not automatically be enforceable against the Government, but the court passing it shall address the same to the Minister for settlement in such manner as the Minister may deem appropriate in the implementation of this Act.

15. Appeal.

(1) Any person who is aggrieved by any decision made by the Minister under this Act, may, within thirty days from the date of communication of the decision to him or her person, appeal to the High Court against the decision.

(2) Where the Minister's decision is made in writing, the decision shall be deemed to have been communicated—

- (a) fourteen days after the date of posting, where it is sent to an address in Uganda; and

- (b) twenty-one days after the date of posting, where it is sent to an address outside Uganda.

16. Regulations.

The Minister may, by statutory instrument, make regulations—

- (a) prescribing forms of application; and
- (b) generally for better carrying out the provisions of this Act.

17. Applicability of section 1 to Assets of Departed Asians Act.

Section 1 shall apply to the Assets of Departed Asians Act.

History: Act 9/1982; S.I. 5/1983.

Cross References

Assets of Departed Asians Act, Cap. 83.

Government Proceedings Act, Cap. 77.

Industrial Licensing Act, Cap. 91.

National Trust Decree, Decree 30/1971.

Properties and Businesses (Acquisition) Decree, Decree 11/1975.