

Land Use

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TABLE OF AMENDMENTS

Land Use Act 2010 (No 36 of 2010)¹ commenced on 12 July 2010, as amended by:

Amending Legislation	Date of Commencement
Native Lands (Amendment) Decree 2011 (No 7 of 2011)	1 March 2011

¹ This was promulgated as Decree 36 of 2010. In accordance with section 3 of the Interpretation Act 1967, the word "Decree" used with reference to any such "Decree" in the title or provisions of any written law or in any document or legal proceeding may be replaced with the word "Act".

PART 1 — PRELIMINARY

[LU 1] Short title and commencement

- 1 (1) This Act may be cited as the Land Use Act 2010.
(2) This Act comes into force on the date appointed by the Minister by notice in the Gazette.

[LU 2] Interpretation

- 2 In this Act, unless the context otherwise requires—

Director of Lands means the person holding all State Lands on behalf of the State under section 4(1) of State Lands Act 1945;

Land means State land as defined in the State Lands Act 1945 and iTaukei land as defined in the iTaukei Lands Act 1905;

[def am Decree 7 of 2011 s 4, opn 1 Mar 2011]

lessee means a natural person or a legal entity to whom a lease has been issued by the Director of Lands under this Act; and

Minister means the Minister who has the responsibility for the administration of this Act and the **Ministry** means the Ministry of Lands and Mineral Resources.

[LU 3] Object of the Act

- 3 (1) The objects of this Act are—
(a) to utilise designated iTaukei land in a manner that is in the best interest of iTaukei land owners; and
(b) to utilise designated state land with a view to achieving optimal return to the State.

[subs (1) am Decree 7 of 2011 s 4, opn 1 Mar 2011]

- (2) The Act achieves these objects by—
(a) providing for the establishment of a Land Use Unit within the Ministry;
(b) providing longer tenure of leases for a sustainable and progressive development of the agricultural and commercial sector; and
(c) providing that all land available are leased with the purpose of providing a livelihood for all parties concerned.

PART 2 — DESIGNATION OF LAND TO THE LAND USE UNIT

[LU 4] Land designated to be free of all encumbrances

4 All land designated under the Act shall be free of all encumbrances, and shall not be the subject of any dispute in any court, tribunal, commission or before any other person or body exercising a judicial function.

[LU 5] Non-extinguishment of title for land designated

5 The ownership of all land designated under the Act shall remain with the State or iTaukei land owners until the expiration of the lease or until such time the land is no longer required under the Act.

[s 5 am Decree 7 of 2011 s 4, opn 1 Mar 2011]

[LU 6] Prime Minister to designate land

6 (1) All land designated for utilisation under this Act will be referred to the Prime Minister.

(2) The Prime Minister shall then use his or her discretion to designate land for utilisation under this Act.

[LU 7] Establishment of Land Use Bank

7 There shall be a register known as the Land Use Bank keeping a record of all land utilised under the Act.

PART 3 — ESTABLISHMENT OF THE LAND USE UNIT

[LU 8] Establishment and responsibility of the Land Use Unit

- 8 This section establishes a Land Use Unit within the Ministry responsible for—
- (a) the valuation of the land;
 - (b) issuance and renewal of lease;
 - (c) collection of rental; and
 - (d) any other matter that may arise from time to time for land designated under this Act by the Prime Minister.

PART 4 — APPLICATION OF THE ACT

[LU 9] Application to other Laws

9 (1) This Act has effect notwithstanding any provision of the iTaukei Land Trust Act 1940, Agricultural Landlord and Tenant Act 1966 and any other law and accordingly, to the extent that there is any inconsistency between this Act and the iTaukei Land Trust Act 1940, Agricultural Landlord and Tenant Act 1966 or any other law, this Act prevails.

[subs (1) am Decree 7 of 2011 s 4, opn 1 Mar 2011]

(2) Any direction given by the Land Use Unit under this Act to any agency of Government or any other institution to release information pertaining to land shall release such information.

PART 5 — LEASES

[LU 10] Tenure of lease

10 All leases issued under this Act shall be for a period of not more than 99 years and shall be in the prescribed form.

[LU 11] Best interest of the iTaukei land owners

11 All leases issued or renewed under this Act shall take into consideration at all times the best interest of the land owners and the overall wellbeing of the economy.

[s 11 am Decree 7 of 2011 s 4, opn 1 Mar 2011]

[LU 12] Protected lease

12 (1) All leases issued under this Act are protected leases. Therefore it shall not be lawful for the lessee thereof to alienate or deal with the land comprised in the lease or any part thereof, whether by sale, transfer or sublease or in any other manner whatsoever, nor to mortgage, charge or pledge the same, without the written consent of the Director of Lands first had and obtained, nor, except at the suit or with the written consent of the Director of Lands, shall any such lease be dealt with by any court of law or under the process of any court of law, nor, without such consent as aforesaid, shall the Registrar of Titles register any caveat affecting such lease.

(2) Any sale, transfer, sublease, assignment, mortgage or other alienation or dealing effected without such consent shall be null and void.

(3) Any consent required by this section may be given in writing by any officer or officers, either solely or jointly, authorised on behalf of the Director of Lands within 30 days of the request. The lessee shall be given 90 days thereafter to act on the consent, failure to do so, the consent shall lapse.

[LU 13] Premium for fresh lease

13 (1) Subject to the valuation of the Director of Lands a premium shall be paid by the lessee prior to the issuance of a fresh lease.

(2) Notwithstanding subsection (1) the Director of Lands may use his or her discretion to allow for part payments of premium on individual case basis.

PART 6 — REGULATIONS

[LU 14] Regulations by Minister

14 (1) The Minister may make regulations under this Act with respect to all leases which may be issued by the Land Use Unit in the prescribed form.

(2) The Minister may make regulations under this Act with respect to any provisions or matters relating thereunder.

PART 7 — MISCELLANEOUS

[LU 15] Certain decisions not to be challenged

15 (1) No court, tribunal, commission or any other adjudicating body shall have the jurisdiction to accept, hear, determine or in any other way entertain any proceeding, claim, challenge or dispute by any person or body which seeks or purports to challenge or question—

- (a) the validity, legality or propriety of this Act;
- (b) any decision of any Minister or any State official or body, made under this Act;
- (c) the terms and condition of lease issued by the Director of Lands under this Act;
- or
- (d) the validity of the cancellation of any leases, licenses or other instruments.

(2) Any proceeding, claim, challenge or dispute of any nature whatsoever in any court, tribunal, commission or before any other person or body exercising a judicial function, in respect of any of the subject matters in subsection (1) that had been instituted before the commencement date of this Act but had not been determined at that date or is pending on appeal, shall wholly terminate immediately upon the commencement of this Act, and all orders whether preliminary or substantive made therein shall be wholly vacated, and a certificate to that effect shall be issued by the Chief Registrar.

(3) Where any proceeding, claim, challenge, application or dispute of any form whatsoever, is brought before any court, tribunal, commission or any other adjudicating body, in respect of any of the subject matters in subsection (1), then the presiding judicial officer, without hearing or in any way determining the proceedings or the application, shall immediately transfer the proceeding or the application to the Chief Registrar, for termination of the proceeding or the application for the issuance of a Certificate under subsection (2).

(4) A certificate under subsection (2) is, for the purposes of any proceeding in a court, tribunal, commission or any other person exercising a judicial function, conclusive of the matters stated in the certificate.

(5) A decision of the Chief Registrar to issue a certificate under subsection (2) is not subject to challenge in any court, tribunal, commission or any other adjudicating body.