

**LAND DEVELOPMENT****AN ORDINANCE TO PROVIDE FOR THE SYSTEMATIC DEVELOPMENT AND ALIENATION OF CROWN LAND IN CEYLON.**

Ordinance Nos,

19 of 1935

3 of 1946

Act Nos,

49 of 1953

22 of 1955

**[15<sup>th</sup> October , 1935 ]**

Short title.

**1.** This Ordinance may be cited as the Land Development Ordinance.

Interpretation.

**2.** In this Ordinance, unless the context otherwise requires-

" alienation" with its grammatical variations and cognate expressions means the alienation of Crown land under this Ordinance ;

" Ceylonese " means a person of either sex domiciled in Ceylon and possessing a Ceylon domicile of origin ;

" condition of ownership" means a condition contained in a grant at the time it is issued ;

" court" means any Court of Justice constituted under the Courts Ordinance, and includes a Rural Court ;

" Crown land " means all land to which the Crown is lawfully entitled together with all rights, interests and privileges attached or appertaining thereto ;

" disposition" with its grammatical variations and cognate expressions means any transaction of whatever nature affecting land or the title thereto and includes any conveyance, devise, donation, exchange, lease, mortgage or transfer of land;

" divisional revenue officer " has the same meaning as in the Village Communities Ordinance ;

" Government Agent" includes an Assistant Government Agent;

" grant " means a grant of land from the Crown under this Ordinance ;

" holding " means land alienated by grant under this Ordinance, and includes any part thereof or interest therein ;

" kachcheri" means the office of a Government Agent;

" land " includes-

(a) the bed of any waterway or of any collection of water, whether natural or artificial,

(b) things attached to the earth or permanently fastened to anything attached to the earth, and

(c) any title to land or any interest in the crops growing or to be grown thereon ;

"Land Commissioner" means the officer appointed under section 3 of this Ordinance, and includes any officer of his department authorized by him in writing in respect of any particular matter or provision of this Ordinance ;

" Land Kachcheri" means a meeting held in the prescribed manner for the purpose of alienating Crown land ;

" land officer" means an officer appointed under section 6 for the purposes of this Ordinance and the expression " the land officer " means the officer dealing with the particular land which is referred to in the context in which such expression is used ;

" local authority " includes a Municipality, an Urban Council established under the Urban Councils Ordinance, a Town Council, and a Village Committee ;

" mapping-out" with its grammatical variations and cognate expressions means the reservation of Crown land for one or more of the purposes specified in section 8 or for any purpose prescribed under that section ;

" middle-class Ceylonese" does not include a Ceylonese who is not qualified to be deemed a " middle-class Ceylonese" under the provisions of section 171;

" minimum fraction " means the smallest fraction of a holding which can lawfully be held in undivided ownership ;

" owner " means the owner of a holding whose title thereto is derived from or under a grant issued under this Ordinance;

" peace officer " means a police officer and includes any headman appointed by the Government Agent in writing to perform police duties ;

" permit" means a permit for the occupation of Crown land issued under Chapter IV ;

" permit-holder " means any person to whom a permit has been issued ;

" prescribed" means prescribed by this Ordinance or by the regulations made thereunder ;

" protected holding" means a holding alienated by grant in which is inserted a condition prohibiting the disposition of the holding except with the prior permission in writing of the Government Agent;

"regulation" means a regulation made under this Ordinance by the Minister ;[1]

" scheme" means the scheme referred to in section 9 ;

" surveyed" means surveyed by the Surveyor-General or under his authority ;

" Surveyor-General " means the Surveyor-General of Ceylon or any other officer deputed to act on his behalf for the purposes of this Ordinance to the extent to which such officer is deputed ;

" title " means right, title, or interest;

" unit of subdivision " means the minimum extent of land below which a holding cannot lawfully be subdivided ;

" unprotected holding " means a holding other than a protected holding.

## CHAPTER I

### APPOINTMENT, POWERS AND DUTIES OF OFFICERS

Appointment and  
duties of Land  
Commissioner.

**3.**

- (1) There may be appointed[8] a Land Commissioner who shall be responsible-
- (a) for the due performance of the duties and functions assigned to him as Land Commissioner under this Ordinance ;
  - (b) for the general supervision and control of all Government Agents and land officers in the administration of Crown land and in the exercise and discharge of the powers and duties conferred and imposed upon them by this Ordinance.
- (2) In the exercise of his powers and in the discharge of his duties under this Ordinance, the Land Commissioner shall be subject to the general direction and control of the Minister.<sup>1</sup>

Powers of Land  
Commissioner.

**4.**

- (1) The Land Commissioner may from time to time give general or special directions to a Government Agent or to a land officer as to the performance of his duties relating to land administration and may direct or authorize any question of doubt or difficulty in connexion with such duties to be referred to the Land Commissioner for decision.
- (2) Any direction or decision of the Land Commissioner shall be observed and given effect to by the Government Agent or by the land officer as the case may be.

Appointment of  
Assistant Land  
Commissioners  
and other officers.  
Land officers.

**5.**

There may be appointed[3] one or more Assistant Land Commissioners and such other officers as may from time to time be required for the purposes of this Ordinance.

**6.**

- (1) There may be appointed<sup>3</sup> one or more land officers for the whole of Ceylon or for any province or district.
- (2) Every such land officer may, for the purposes of this Ordinance, perform, execute and exercise in any province or district or in the particular province or district for which he shall have been appointed, all or any of the functions, duties and powers assigned to or imposed upon or vested in a Government Agent under this Ordinance.
- (3) Every person appointed[3] as a Settlement Officer or as an Assistant Settlement Officer under the Land Settlement Ordinance, shall be deemed to be appointed a land officer for the whole of Ceylon for the purposes of this Ordinance.

All officers to be  
public servants.

**7.**

All officers appointed for the purposes of this Ordinance shall be deemed to be public servants within the meaning of the Penal Code.

## CHAPTER II

### MAPPING-OUT OF CROWN LAND

Purposes for  
which Crown land  
may be mapped  
out.

**8.**

Subject to the general or special directions of the Land Commissioner, Crown land may be mapped out by the Government Agent for any one or more of the following purposes : -

- (a) village expansion ;
- (b) village forest;
- (c) village pasture ;
- (d) chena cultivation ;
- (e) village purposes not herein specified ;
- (f) colonization;
- (g) protection of the sources or courses of streams ;

- (h) prevention of the erosion of the soil;
- (i) forest reserves ;
- (j) Government purposes, including Government buildings, roads or works ;
- (k) preservation of objects of archaeological or historical interest;
- (l) the requirements of local authorities ;
- (m) the development of towns ;
- (n) alienation to middle-class Ceylonese ;
- (o) alienation to any persons whomsoever irrespective of the class or race to which they belong;
- (p) any other purpose that may be prescribed.

Scheme and diagram to be prepared by Government Agent.

**9.** When Crown land has been mapped out in accordance with the provisions of section 8, the Government Agent shall cause to be prepared-

- (a) a scheme specifying the mapped-out areas and the purposes for which the lands in such areas have been respectively reserved ;
- (b) a diagram depicting the mapped-out areas specified in the scheme.

Local Land Advisory Committees.

**10.**

(1) The Minister[1] may, by Notification published in the Gazette, establish a Local Land Advisory Committee for any administrative district of Ceylon or for any smaller area the limits of which shall be specified in the Notification by which the Local Land Advisory Committee for that area is established.

(2) It shall be the duty of a Local Land Advisory Committee to examine every scheme and diagram prepared under section 9 which affects land in the district or area for which that committee is established and to make recommendations thereon to the Government Agent.

(3) Every Local Land Advisory Committee shall consist of five members all of whom shall be appointed by the Minister.<sup>1</sup> No person who is permanently or temporarily employed in the service of Government shall be a member of a Local Land Advisory Committee.

(4) The Government Agent having jurisdiction over the district or area for which any Local Land Advisory Committee has been established under subsection (1) shall convene the meetings of that committee and shall preside at such meetings.

(5) Three members of a Local Land Advisory Committee shall form a quorum thereof and any matter or question before a committee shall be decided by a majority of the votes of the members present and voting at the meeting at which such matter or question is discussed. In the event of an equality of votes, the Government Agent shall have a casting vote ; but he shall not have an original vote on any matter or question before the committee.

(6) The decisions of the Local Land Advisory Committee shall be recorded by the Government Agent or under his direction.

(7) Regulations may be made prescribing the manner in which the meetings of a Local Land Advisory Committee shall be convened and the procedure to be followed at meetings of such a committee ; but each Local Land Advisory Committee shall determine its own procedure in any matter for which no provision is made by such regulations or in this Ordinance,

Notice that scheme and diagram are open to inspection.

**11.**

(1) When the scheme and diagram referred to in section 9 have been prepared, the Government Agent shall exhibit in a conspicuous position in the kachcheri a notice to the effect that the scheme and diagram are open to inspection. The notice shall be dated as of the date on which it is exhibited,

(2) Any person interested shall be entitled to inspect the scheme and diagram at the kachcheri during office hours for a period of thirty days reckoned from the date of the notice exhibited under subsection (1) and shall be entitled to make representations to the Government Agent on that scheme or diagram.

(3) The Government Agent shall not be bound to consider any representations which have not been received in writing at the kachcheri within a period of thirty days reckoned from the date of the notice exhibited under subsection (1).

Scheme and diagram to be laid before Local Land Advisory Committee.

**12.**

(1) Every scheme and every diagram prepared under section 9 shall be laid by the Government Agent before the Local Land Advisory Committee at a meeting of that committee which shall be convened by him for the purpose :

Provided that at any meeting convened under sub- section (1) for the purpose of examining any scheme and diagram, it shall be lawful for the Government Agent to lay before the Local Land Advisory Committee any other scheme and diagram provided that notice in writing was given to the members of that committee not less than seven clear days before the date of the meeting of the proposal to add the examination of such other scheme and diagram to the

agenda of that meeting ;

Provided further that nothing in this section contained shall preclude any Local Land Advisory Committee from examining any scheme and diagram at any meeting if all the members of the committee are present at that meeting and unanimously agree to examine that scheme and diagram.

(2) A meeting of the Local Land Advisory Committee convened under subsection (1) may be adjourned once or oftener to a date to be fixed by the Government Agent.

(3) If at the first meeting of a Local Land Advisory Committee convened by the Government Agent under subsection (1) no quorum is present, the Government Agent may proceed as though no recommendations had been made on the scheme and diagram by that committee.

(4) If a quorum of the Local Land Advisory Committee is not present on any date to which a meeting convened under subsection (1) shall have been adjourned under subsection (2) the Government Agent shall not be bound to consider any recommendations of that committee other than those, if any, which were made by that committee before that date.

Scheme and diagram to be forwarded to Land Commissioner.

**13.** After considering the representations received under section 11 and the recommendations made by the Local Land Advisory Committee under section 12, the Government Agent may modify the scheme and diagram prepared under section 9 ; and such scheme and diagram or the modified scheme and diagram, as the case may be, shall thereupon be forwarded by the Government Agent to the Land Commissioner together with all representations or recommendations so received or made. The Government Agent shall also forward to the Land Commissioner all recommendations of the Local Land Advisory Committee which he may have considered notwithstanding the fact that he was not bound to consider them under the provisions of section 12.

Power of Land Commissioner to confirm scheme or issue further instructions.

**14.** Upon receipt of a scheme and diagram forwarded to him under section 13, the Land Commissioner may confirm such scheme and diagram or may issue to the Government Agent such further directions or instructions in regard to the mapping-out or to the scheme or to the diagram as he may consider requisite ; and the Government Agent shall observe and give effect to such directions or instructions.

Notification of confirmation.

**15.** Notice of the fact that the Land Commissioner has confirmed any scheme forwarded to him under section 13 shall be published in such manner as may be prescribed.

Right of public to inspect diagram.

**16.** Upon publication of a notice under section 15, every member of the public shall be entitled to inspect free of charge at the district kachcheri or at the office of the Surveyor-General the diagram depicting the scheme of mapping-out referred to in such notice.

No modification of scheme to be made except with the approval of the Minister in certain cases and of the Land Commissioner in others.

**17.** No scheme which has been confirmed by the Land Commissioner shall, except with the approval and consent of the Minister,[1] be varied or modified so as to enable-

(1) land which has been mapped-out for any purpose mentioned in paragraphs (a) to (f) of section 8 to be mapped-out or to be utilized for any purpose mentioned in paragraphs (n) or (o) of that section ;

(2) land mapped-out for the purpose mentioned in paragraph (n) of section 8 to be mapped-out or to be utilized for the purpose mentioned in paragraph (o) of that section :

Mapping-out not essential before alienation.

**18.** Crown land may be alienated whether it has been mapped-out or not.

Unmapped-out land deemed to be mapped-out upon alienation.

**19.** Unmapped-out land, which has been alienated, shall be deemed to have been mapped-out for alienation to persons of the class to which the alienee belongs.

### CHAPTER III

#### ALIENATION OF CROWN LAND

Land not to be alienated by grant except at a Land Kachcheri.

**20.** No land shall be alienated by grant except at a Land Kachcheri.

Notification of Land Kachcheri.

**21.** The notification that a Land Kachcheri will be held shall be substantially in the prescribed form and shall be published in such manner as may be prescribed.

Applications for land ; when and how received and considered.

**22.**

(1) The Government Agent may in a notification under section 21 fix a date before which application shall be made to him for the land proposed to be alienated at the Land Kachcheri appointed to be held by such notification.

(2) Where a date has been so fixed in such notification, the Government Agent may, in his discretion, refuse at the Land Kachcheri to accept or to consider any application for land received after such date.

(3) Where no date has been so fixed, the Government Agent shall be bound to consider all applications received, whether at the Land Kachcheri or before the date fixed for the holding of such Land Kachcheri:

Provided that it shall be lawful for the Government Agent in a case where no date has been so fixed in terms of subsection (1), to receive or to call for applications before the date fixed for the holding of the Land Kachcheri.

Powers of  
Government Agent  
at Land Kachcheri. **23.**

(1) At a Land Kachcheri the Government Agent may in his discretion-

(a) select any applicant to receive a permit or a grant of Crown land either immediately, or on, or before, a future date ;

(b) postpone consideration of any application ;

(c) reject any application.

(2) In making any selection under subsection (1), the Government Agent shall have special regard to applications received from persons resident in the neighbourhood of the land proposed to be alienated at the Land Kachcheri.

Appeal to  
Land  
Commissioner. (3) An appeal in the manner prescribed shall lie to the Land Commissioner against any decision made by a Government Agent under subsection (1) in respect of any matter in which he has exercised the discretion vested in him by that subsection :

Provided that it shall be lawful for the Land Commissioner to vary any such decision of the Government Agent by way of revision if in the opinion of the Land Commissioner the justice of the case so requires.

Date of selection  
is material date for  
determination of  
qualification of  
alienee. **24.**

(1) The date on which a person is selected to receive a permit or a grant of Crown land shall be the material date for the purpose of ascertaining whether such person is duly qualified to receive such permit or grant.

(2) Where land alienated to a person on a permit is subsequently alienated to the same person on a grant, the material date for the purpose of ascertaining whether such person is duly qualified to receive such land on a grant shall be the date on which such person was selected by the Government Agent to receive the same land upon a permit.

#### CHAPTER IV

#### PERMITS AND GRANTS

Form of permit. **25.** Every permit shall be substantially in a prescribed form.

Permit to be  
personal to permit  
-holder. **26.** A permit shall for all purposes be and be construed as personal to the permit-holder and upon his death no title whatsoever to the land held under such permit shall pass or accrue to his heirs or to any person other than a successor duly nominated by such permit-holder in the manner hereinafter provided.

Form of grant. **27.** Every grant shall be substantially in a prescribed form.

Grant not to issue  
for unsurveyed  
land. **28.** Land which has not been surveyed shall not be alienated by grant.

Registration of  
grants. **29.**  
(1) Every grant, when issued, shall be registered at the instance of the Government Agent in such manner as may be prescribed.  
(2) No fees shall be paid or recovered for such registration.

Diagram to be  
attached to grant. **30.** The land alienated on any grant shall be described with reference to a plan prepared by or under the authority of the Surveyor-General and kept in his charge. There shall be attached to each grant a diagram of the land alienated on that grant. The diagram shall be prepared under the authority of the Surveyor-General but it shall not be necessary for the diagram to bear on the face thereof a certificate to the effect that it was so prepared-

Copy of plan to be  
supplied on  
payment of  
prescribed fee. **31.** The Surveyor-General shall cause to be issued to any applicant a copy of any plan or of any part thereof on payment of the prescribed fee.

Essential  
conditions of  
grant. **32.** Every grant shall contain the conditions specified in the First Schedule.

Optional  
conditions of **33.** Every grant may, in addition, contain any one or more of the conditions specified in the Second Schedule.

grant.

Conditions of grant may be amended by regulation.

**34.** Any one or more of the conditions specified in the First or Second Schedules may be amended and further conditions may be added to either Schedule by regulations made under this Ordinance :

Provided that the conditions contained in any grant shall not be varied or affected by any amendment of or addition to the conditions specified in the First and Second Schedules made on a date subsequent to that of the grant.

Land Commissioner may authorize insertion of special conditions in grants.

**35.** The Land Commissioner may authorize the Government Agent to include in a grant special conditions applicable to individual cases or to classes of cases in particular areas.

Condition imposing obligation of residence not infringed by temporary absence of owner.

**36.** Any condition included in a grant which imposes an obligation of residence on the owner shall not be deemed to have been infringed by reason only of the temporary absence from his holding of an owner who has established permanent residence therein.

Conditions in a grant to run with the land.

**37.** The conditions included in any grant shall, as from the date of such grant, run with the land and shall bind the original and all owners thereof and all persons whomsoever who acquire any title thereto.

Principle governing the determination of amount of annual payment.

**38.** The amount to be paid annually to the Crown in respect of any land alienated under a grant or a permit shall be fixed in such grant or permit with reference to the value of the land on the date of such alienation.

## CHAPTER V

### PROTECTION OF LAND HELD ON PERMITS OR GRANTS

Immunity of land alienated on permits and of protected holdings.

**39.** No land alienated on a permit or as a protected holding shall be seized or sold in execution of the decree of any court.

Seizure or sale in execution of land alienated on permit or as protected holding invalid.

**40.** The seizure or sale of any land alienated on a permit or as a protected holding shall be invalid.

Scope of protection.

**41.** The provisions of sections 39 and 40 shall apply to land alienated by grant as a protected holding not- 1 withstanding the devolution or disposition under this Ordinance of the title of the original grantee to any other person.

## CHAPTER VI

### DISPOSITIONS

Disposition of protected holding requires consent of Government Agent.

**42.** No disposition of a protected holding shall be effected except with the prior written consent of the Government Agent.

Protected holdings not to be leased or mortgaged.

**43.** No protected holding shall be leased or mortgaged.

What dispositions are invalid.

**44.** Any disposition of a protected holding executed without the prior written consent of the Government Agent and any disposition purporting to operate as a lease or mortgage of such a holding shall be invalid.

Appeal to Minister where Government Agent refuses consent to disposition.

**45.** The decision of a Government Agent refusing consent to the execution of any disposition of a protected holding shall be subject to an appeal to the Minister[1] in such manner as may be prescribed.

Permit-holder not entitled to execute disposition. **46.** No permit-holder shall execute or effect any disposition of the land held under his permit.

Disposition of land held under a permit is invalid. **47.** Any disposition of land held under a permit shall be invalid.

## CHAPTER VII SUCCESSION

Definitions of life-holder and successor. **48.** In this Chapter-

" life-holder " when used with reference to a holding means the person who, subject to the restrictions imposed by section 50, is entitled under this Chapter to succeed to a holding upon the death of the owner thereof ;

death of the owner thereof ; " successor " when used with reference to a holding means a person who is entitled under this Chapter to succeed to a holding upon the death of the owner thereof or if that owner has nominated a life-holder, upon the death of that life-holder or upon the failure of that life-holder to succeed to the holding, as the case may be;

"successor" when used with reference to land alienated on a permit means the person entitled under this Chapter to obtain a permit for that land upon the death of the permit-holder who nominated that person as his successor.

Nomination of successor. **49.** The owner of a holding may nominate a successor who shall be entitled to succeed to the holding upon the death of that owner, or upon the death of the life-holder if one has been nominated by that owner, or upon the failure of that life-holder to succeed to that holding.

Nomination of life-holder. **50.**

(1) The owner of a holding may nominate a life-holder, who shall be entitled to succeed to the holding upon the death of that owner, subject to the following restrictions : -

(a) such life-holder shall have no power to dispose of a holding ;

(b) such life-holder shall have no power to nominate a successor or another life-holder.

(2) Any disposition or nomination made by a life-holder in contravention of the provisions of subsection (1) shall be invalid.

Restriction on nomination. **51.** Except with the prior written consent of the Government Agent, no person shall be nominated by the owner of a protected holding either as successor to or as the life-holder of such holding unless that person is the spouse of that owner or belongs to one of the groups of relatives enumerated in rule 1 of the Third Schedule.

General principles applicable to nomination. **52.**

(1) More persons than one may be nominated by the owner as successors to a holding, provided that such nomination does not contravene the conditions of ownership of that holding.

(2) The owner of a holding shall not on any occasion nominate more than one person as the life-holder of that holding.

(3) No person shall be nominated as the life-holder of a part or share of a holding, whether divided or undivided.

(4) No person shall be nominated as successor to a part or share of a holding whether divided or undivided, unless in the document whereby he is so nominated a successor is duly nominated for the remaining part or share of that holding.

(5) The owner of a holding may nominate a life-holder only without nominating a successor or may nominate a life-holder together with one or more successors.

(6) The nomination of a successor or of a life-holder and the cancellation of any such nomination shall not be made subject to any condition or defeasance.

Cancellation of nominations. **53.** Any nomination of a successor or of a life-holder may at any time be cancelled by the owner who made such nomination.

Further nomination in lieu of cancelled nominations. **54.** The owner of a holding may make a further nomination in lieu of any nomination which has been duly cancelled ; and a person may be renominated as successor or as life-holder notwithstanding the previous cancellation of the nomination of that person in either such capacity.

Act of nomination is not a disposition. **55.** The act or transaction whereby a successor or a life-holder is lawfully nominated under the provisions of this Chapter shall not be or be construed as a disposition of the land for which such successor or life-holder is so nominated.

How nomination is affected. **56.**

(1) The nomination of a successor or of a life-holder and the cancellation of any such nomination shall be effected by a document substantially in the prescribed form executed and witnessed in duplicate before a Government Agent, or a Registrar of Lands, or a divisional revenue officer, or a notary, or a Justice of the Peace.

(2) The provisions of subsection (1) shall not apply to any nomination or cancellation of the nomination of a successor or of a life-holder made by last will in the manner hereinafter provided.

(3) A document by which the nomination of a successor or of a life-holder or the cancellation of any-such nomination is effected under subsection (1) shall not be deemed to be an instrument affecting land for the purposes of the Registration of Documents Ordinance, nor shall the provisions of Chapter II of that Ordinance apply to any person before whom any such document is executed.

No stamp duty for nominations or cancellation of nominations. **57.** No stamp duty shall be charged or levied on the execution of a document whereby a successor or a life-holder is nominated or whereby any such nomination is cancelled.

Documents of nomination or cancellation invalid unless registered. **58.**

(1) A document (other than a last will) whereby the nomination of a successor or of a life-holder is effected or cancelled shall not be valid unless and until it has been registered by the Registrar of Lands of the district in which the holding to which that document refers is situated.

(2) Regulations may be made prescribing the procedure for the registration of documents whereby nominations of successors or of life-holders are effected or cancelled and for all matters connected therewith or incidental thereto, including the registers which shall be kept and the fees which shall be charged for such registration.

Right of public to inspect registers. **59.** Any person shall on payment of the prescribed fee be entitled to inspect at the office of the Registrar of Lands any register kept by him under this Ordinance for the purposes of section 58-

Nomination or cancellation of nomination invalid unless registered before death of owner. **60.** No nomination or cancellation of the nomination of a successor or of a life-holder shall be valid unless the document (other than a last will) effecting such nomination or cancellation is duly registered before the date of the death of the owner of the holding in respect of which such nomination or cancellation was made.

Nomination cancelled by death of nominee. **61.** The death during the lifetime of the owner of a holding of a person who has been nominated by that owner as a successor or life-holder of that holding shall operate as a cancellation of the nomination of that person as a successor or life-holder, as the case may be.

No document of nomination to be registered until after cancellation of previous nomination. **62.**

(1) After the registration of a document whereby a person is nominated as successor to a holding, a document which purports to nominate any other person as successor to that holding shall not be registered unless the nomination effected by the registered document has been duly cancelled by the registration of a document of cancellation :

Provided that it shall be lawful in one and the same document to cancel a registered nomination and to make some other nomination in lieu thereof ; and, in that event, notwithstanding anything in this section contained, the document in which such cancellation and nomination are combined may be registered and shall upon due registration operate both as a cancellation of a previously registered nomination and as a nomination of a new nominee.

(2) The provisions of subsection (1) shall apply equally in the case of a life-holder and for that purpose the subsection shall be construed as though the word " life-holder" were substituted for the word " successor" wherever that word occurs in that subsection.

(3) Nothing in this section contained shall apply to any nomination or cancellation of a nomination made in the last will of the owner of a holding.

Nomination and cancellation may be made in last will of owner. **63.** The nomination of a person as successor to or as life-holder of a holding, or the cancellation of any nomination effected by any document duly registered under this Chapter, or both such nomination and cancellation may be made in the last will of the owner of that holding.

Registration essential to **64.** A nomination or a cancellation of a nomination made in the last will of the owner of a



validity of nomination or cancellation made in last will.  
 Probate essential to validity of nomination or cancellation made in last will.

holding shall not be valid unless it is registered in the prescribed manner within a period of three months reckoned from the date of the death of the owner of that holding.

**65.**

(1) A nomination or a cancellation of a nomination made in the last will of the owner of a holding shall not be registered unless the applicant for registration shall furnish to the registering officer a certified copy of that will together with a certificate in the prescribed form to the effect that probate of that will has been applied for, signed by the secretary of the District Court to which the application for probate was made.

(2) A nomination or a cancellation of a nomination made in the last will of the owner of a holding shall be invalid if probate of that will is refused or recalled or set aside by order of a court of competent jurisdiction ; and, in that event, the title to the holding shall devolve as though no nomination or cancellation of a nomination had been registered after the death of the owner thereof.

Conditions applicable to cancellation of registered nomination by last will.

**66.** A nomination effected by a document duly registered before the death of the owner of a holding and in force at the time of his death shall not be cancelled by the last will of that owner unless-

(a) the last will was executed on a date later than the date of the execution of the registered document by which nomination was effected before the death of the owner ; and

(b) the last will specifically refers to the nomination effected by that registered document and definitely cancels such nomination.

General principles governing nominations and cancellations by last will.  
 Failure of succession.

**67.** Save as is otherwise specially provided those provisions of this Chapter which apply to nominations or cancellations of nomination effected by documents other than a last will shall apply equally to nominations or cancellations of nomination made in a last will.

**68.**

(1) A nominated life-holder fails to succeed if he refuses to succeed or does not enter into possession of the holding within a period of six months reckoned from the date of the death of the owner of that holding.

(2) A nominated successor fails to succeed if he refuses to succeed or if he does not enter into possession of the holding within a period of six months reckoned-

(a) if no life-holder has been nominated, from the date of the death of the owner of the holding ; or

(b) if a life-holder has been nominated, from the date of the death of that life-holder, or from the date on which that life-holder fails to succeed, as the case may be.

Succession of life-holder.

**69.** Upon the death of the owner of a holding the life-holder, if any, shall succeed to the holding.

Succession of successor.

**70.** If no life-holder has been nominated or if the nominated life-holder fails to succeed, the successor, if any, shall succeed to the holding.

Succession under Third Schedule.

**71.** If no successor has been nominated or if the nominated successor fails to succeed, the title to the holding shall devolve as prescribed by the rules in the Third Schedule.

Succession upon death of life-holder.

**72.**

(1) Upon the death of the life-holder of a holding the nominated successor, if any, shall succeed to the holding-

(2) If no successor has been nominated or if the nominated successor fails to succeed, the title to the holding shall devolve as prescribed by the rules in the Third Schedule.

Date of succession.

**73.**

(1) Title to the holding shall be deemed to have devolved on any person succeeding under the provisions of sections 69, 70, and 71 as from the date of the death of the owner to whose title such person so succeeds.

(2) Title to a holding shall be deemed to have devolved on any person succeeding under the provisions of section 72 as from the date of the death of the life-holder of the holding to which such person so succeeds.

Accrual of rights in case of plurality of successors.

**74.** Where two or more persons have been duly nominated as successors of a holding, the title of any one of such successors who is dead on the date on which such successor is entitled to succeed, or who refuses so to succeed, or who fails so to succeed within a period of six months reckoned from such date, shall, as from such date, be deemed to have accrued

Nomination or cancellation of nomination is invalid if contrary to provisions of Ordinance. Curators.

to the other successors who were duly nominated with him.

**75.** Any nomination of a successor or of a life-holder and any cancellation of any registered nomination of either shall be wholly invalid if such nomination or cancellation in any way contravenes the provisions of this Ordinance.

**76.**

(1) If the Government Agent is satisfied after such inquiry as he may deem necessary that title to a holding has devolved on a minor, he may, notwithstanding anything in any other written law, appoint a fit and proper person to be the curator of that minor for the purpose of enabling the minor to exercise his right and to be responsible for his obligations in respect of that holding under this Ordinance.

(2) No stamp duty shall be payable on the instrument by which a curator is appointed under subsection (1).

(3) A curator appointed under subsection (1) shall be responsible for the performance of all duties and for the discharge of all obligations imposed on the minor as owner of the holding and may be removed from office by the Government Agent if he is satisfied after inquiry that such curator has failed to perform his obligations or has been guilty of neglect of duty or of action or conduct adverse or prejudicial to the interests of the minor, or that the curator is unfit to continue to hold office or for any other sufficient cause.

A curator aggrieved by an order of the Government Agent removing him from office may appeal against that order to the Minister<sup>[1]</sup> in such manner as may be prescribed.

(4) A person appointed under subsection (1) as the curator of a minor shall cease to hold office upon the appointment by any court of competent jurisdiction of any other person as curator of that minor-

(5) Subject to the provisions of this section, a curator appointed under subsection (1) shall, in respect of the holding of the minor whose curator he is and in respect of the management, control, occupation and protection of that holding, have and exercise all the rights and be subject to all the liabilities of a curator appointed by a court of competent jurisdiction.

Permit-holder may nominate spouse or relative as his successor.

**77.** A permit-holder may nominate as his successor his spouse or any relative of his out of the group of relatives mentioned in rule 1 of the Third Schedule.

Nomination of successor who is not spouse or relative.

**78.** A permit-holder shall not nominate as his successor any person not included in the group of relatives mentioned in rule 1 of the Third Schedule, unless the nomination of that person as successor is approved by the Government Agent:

Provided that the approval of the Government Agent shall not be necessary for the nomination of the spouse of the permit-holder.

Appeal to Minister against refusal of Government Agent to approve nomination.

**79.** A permit-holder may appeal to the Minister<sup>[1]</sup> in such manner and subject to such conditions as may be prescribed against a refusal of the Government Agent to approve the nomination of the person selected by that permit-holder as his successor.

Name of successor to be endorsed on permit.

**80.** The name of the person who has been duly nominated by a permit-holder as his successor shall be endorsed on the permit of that permit-holder and such endorsement shall be signed and dated by the Government Agent.

Not more than one person to be nominated.

**81.** Not more than one person may be nominated as successor to land held under a permit and such nomination shall not be subject to any condition or defeasance-

Cancellation of permit-holder's nomination.

**82.** The Government Agent shall, at the request of a permit-holder, cancel any nomination of a successor made by that permit-holder. Such cancellation shall be endorsed upon the permit and shall be signed and dated by the Government Agent.

Further nomination permitted upon cancellation of a nomination by permit-holder.

**83.**

(1) A permit-holder may nominate a successor in place of any successor whose nomination has been cancelled ; and those provisions of this Chapter which relate to the nomination of a successor by a permit-holder shall apply accordingly in the case of any such further nomination.

(2) The successor of a permit-holder whose nomination has been cancelled may be nominated again as the successor of that permit-holder.

Rights of

**84.** Upon the death of a permit-holder the duly nominated successor of that permit-holder

nominated successor on death of permit-holder.

Land reverts to Crown unless successor nominated by permit-holder applies for permit within specified time.

Vesting of surrendered land.

Name of successor nominated by permit-holder may be endorsed on permit before issue.

shall be entitled, on application made to the Government Agent, to receive a permit for the land which was alienated to the deceased permit-holder.

**85.** A successor duly nominated by a permit-holder, who fails to make application for a permit within a period of one year reckoned from the date of the death of that permit-holder, shall be deemed to have surrendered to the Crown his title as successor to the land.

**86.** Land deemed to have been surrendered under section 85 shall vest in the Crown free from all encumbrances.

**87.** It shall be lawful for a person to whom the Government Agent has agreed to alienate land upon a permit to nominate his successor and the name of the successor may be endorsed on the permit before it is issued to that person and the provisions of sections 77, 78, 81, 82, 83, 84 and 85 shall apply accordingly to any successor nominated or to be nominated under this section.

## CHAPTER VIII

### CANCELLATION OF GRANTS AND PERMITS

Notice to owner of holding where there has been a breach of a condition of ownership.

Period allowed for showing cause.

Notice to be posted on land and served on interested parties.

**88.** If it appears to the Government Agent that the owner of a holding has failed to observe a condition of ownership, the Government Agent may issue a notice in the prescribed form intimating to such owner that a recommendation will be made to the Governor-General[3] for the cancellation of the grant of such holding unless sufficient cause to the contrary is shown to the Government Agent on a date and at a time and place specified in such notice.

**89.** The date specified in a notice issued under section 88 shall not be less than thirty days from the date of the issue of such notice on the owner.

**90.**

(1) A copy of the notice issued by the Government Agent under section 88 shall be served on the owner of the holding and a copy shall be affixed in a conspicuous position on the holding.

(2) If an owner who has to be served under subsection (1) with a notice issued under section 88 cannot by the exercise of due diligence be found, the notice shall be deemed to be duly served on that owner if a copy thereof is left with some adult member of his family or with his servant residing with him ; and, if there is no member of the family or servant of that owner on whom the notice can be so served by way of substitution for personal service, the notice shall be deemed to be duly served on that owner if a copy thereof is affixed to some conspicuous part of the house or homestead in which he ordinarily resides.

(3) The Government Agent may also cause a copy of such notice to be served on any person who, in his opinion, is interested in the holding or may be affected by a cancellation of the grant thereof.

Procedure where no cause is shown against cancellation of grant

**91.**

(1) If the owner of the holding or other person interested therein fails to appear on the date and at the time and place specified in a notice issued under section 88, or appears and states that he has no cause to show why the grant should not be cancelled, the Government Agent may, if he is satisfied that there has been due service of such notice and that there has been a breach of any of the conditions of ownership, recommend to the Governor-General[3] the cancellation of the grant of such holding, but no such recommendation shall be made until after the expiry of a period of fourteen days reckoned from the date specified in the notice issued under section 88.

(2) If, within a period of fourteen days reckoned from the date specified in the notice issued under section 88, the owner of the holding or any other person satisfies the Government Agent that he has cause to show against the proposal to cancel the grant of the holding referred to in such notice and that he was prevented by accident, illness, misfortune or other unavoidable cause from appearing on the date and at the time and place specified in such notice, the Government Agent shall appoint another date, time and place for the purpose of enabling cause to be shown against the proposal to cancel the grant of the holding.

Procedure where  
cause is shown ;  
Government Agent  
may-after inquiry-  
recommend  
cancellation of  
grant.

**92.**

(1) If on the date and at the time and place specified in a notice issued under section 88 or appointed by the Government Agent under section 91 (2) cause is shown by any person against the proposal to cancel the grant of the holding referred to in such notice, the Government Agent may, if he is satisfied after inquiry that there has been due service of notice and that there has been a breach of any of the conditions of ownership, recommend to the Governor-General[3] the cancellation of the grant of such holding.

(2) The Government Agent may adjourn any inquiry under this section from time to time and shall hear evidence before making his recommendation. All such evidence shall be given on oath or affirmation which the Government Agent is authorized to administer for the purpose.

Date of  
recommendation.

**93.**

Every recommendation made by a Government Agent for the cancellation of the grant of a holding shall be dated as of the date on which such recommendation was so made.

Order of  
Government Agent  
to be served on  
parties showing  
cause and to be  
posted on land.

**94.**

(1) A copy of the recommendation made by the Government Agent under section 92 shall be served forthwith upon every person who showed cause against the cancellation of the grant at the inquiry held under that section and a copy shall also be affixed forthwith in a conspicuous position on the holding. Every copy so served or affixed shall contain a statement to the effect that an appeal will lie to the Minister[1] against the recommendation of the Government Agent if preferred within a period of thirty days reckoned from the date on which such recommendation was made, and such date shall be specified in such statement.

(2) If a person who has to be served under subsection (1) with a copy of the recommendation made by the Government Agent under section 92 cannot by the exercise of due diligence be found, the copy shall be deemed to be duly served if it is left with some adult member of that person's family or with his servant residing with him ; and, if there is no member of the family or servant of that person on whom the copy can be so served by way of substitution for personal service, it shall be deemed to be duly served on that person if it is affixed to some conspicuous part of the house or homestead in which he ordinarily resides.

Appeal to Minister.

**95.**

A person aggrieved by an order made by the Government Agent under section 91 (2) or by a recommendation made by the Government Agent under section 92 may appeal therefrom to the Minister. [1]

Time-limit for  
appeal.

**96.**

(1) An appeal under section 95 shall be preferred by written petition within a period of thirty days reckoned from the date on which the recommendation for cancellation of the holding or the order under section 91 (2) was made.

(2) In computing the time within which an appeal must be preferred, the date on which the recommendation or order was made shall be excluded, but all public ' holidays and Sundays shall be included.

Powers of the  
Minister in appeal.

**97.**

It shall be competent for the Minister<sup>1</sup> in appeal-

- (a) to allow the appeal and reverse the recommendation or order of the Government Agent; or
- (b) to direct further inquiry to be made or information to be furnished or evidence to be taken ; or
- (c) to modify the recommendation of the Government Agent; or
- (d) to affirm the recommendation or order of the Government Agent.

Decision of  
Minister when to  
be communicated  
to Government  
Agent.

**98.**

If the Minister[1] acts under paragraphs (a) or (b) of section 97, the decision of the Minister[1] shall be communicated to the Government Agent who shall forthwith comply with and give effect to the terms thereof.

Decision of  
Minister when to  
be submitted to  
the Governor-  
General.

**99.**

If the Minister[1] acts under paragraphs (c) or (d) of section 97, the decision of the Minister<sup>1</sup> shall be submitted to the Governor-General[3] for confirmation.

No appeal against  
recommendation  
of Government  
Agent under  
section 91.

**100.**

No appeal shall lie against a recommendation made by the Government Agent under section 91 (1), but such recommendation shall be submitted to the Governor-General[3] for confirmation through the Minister.[1]

Powers of Governor-General.	<b>101.</b> The Governor-General[3] may, when a recommendation of the Government Agent or a decision of the Minister[1] is submitted to him for confirmation, order the cancellation of the grant or make such other order as he may consider just. Any order made by the Governor-General[3] under this section shall be final and conclusive for all purposes.
Order of cancellation to be registered. Effect of such registration.	<b>102.</b> Every order made by the Governor-General[3] for the cancellation of a grant shall be registered, and, upon such registration, the grant shall be deemed to be cancelled with effect from the date of the Governor-General's [8] order and the holding shall revert to and become the exclusive and absolute property of the Crown, free from all encumbrances.
Exclusion of claims in court for compensation.	<b>103.</b> No claim against the Crown for compensation of any kind whatever by any person shall be entertained by any court in any case where the grant of a holding has been cancelled ; but nothing in this section contained shall preclude the free grant of compensation in such cases.
Powers of the Governor-General in the case of failure of succession to a holding.	<b>104.</b> The Governor-General[3] may make order cancelling the grant of a holding if he is satisfied that there has been a failure of succession thereto either because there is no person lawfully entitled to succeed or because no person so entitled is willing to succeed.
Delay or acceptance of annual payment not to be considered as condonation of breach of condition of ownership.	<b>105.</b> Delay in the issue of a notice under section 88, or the acceptance from the owner of any annual payment after a breach by him of any of the conditions of his grant shall, under no circumstances, be regarded or construed as condonation of any breach of the conditions of ownership.
Notice to permit-holder where there has been a breach of the conditions of permit.	<b>106.</b> If it appears to the Government Agent that a permit-holder has failed to observe a condition of his permit, the Government Agent may issue a notice in the prescribed form intimating to such permit-holder that his permit will be cancelled unless sufficient cause to the contrary is shown to the Government Agent on a date and at a time and place specified in such notice.
Period allowed for showing cause.	<b>107.</b> The date specified in a notice issued under section 106 shall not be less than thirty days from the date of the issue of such notice on the permit-holder.
Notice to be posted on land and served on interested parties.	<b>108.</b> <p>(1) A copy of every notice issued under section 106 shall be served on the permit-holder and a copy shall also be affixed in a conspicuous position on the land affected by such notice. The Government Agent may also cause a copy of such notice to be served on any person who, in his opinion, is interested in the land or may be affected by a cancellation of the permit.</p> <p>(2) If a permit-holder who has to be served under subsection (1) with a notice issued under section 106 cannot by the exercise of due diligence be found, the notice shall be deemed to be duly served on that permit-holder if a copy thereof is left with some adult member of his family or with his servant residing with him ; and, if there is no member of the family or servant of that permit-holder on whom the notice can be so served by way of substitution for personal service, the notice shall be deemed to be duly served on that permit-holder if a copy thereof is affixed to some conspicuous part of the house or homestead in which he ordinarily resides.</p>
Order cancelling permit if permit-holder fails to appear.	<b>109.</b> <p>(1) If the permit-holder fails to appear on the date and at the time and place specified in a notice issued under section 106, or appears and states that he has no cause to show why his permit should not be cancelled, the Government Agent may, if he is satisfied that there has been due service of such notice and that there has been a breach of any of the conditions of the permit, make order cancelling such permit but no such order shall be made until after the expiry of a period of fourteen days reckoned from the date specified in the notice issued under section 106.</p> <p>(2) If, within a period of fourteen days reckoned from the date specified in the notice issued under section 106, the permit-holder satisfies the Government Agent that he has cause to show why his permit should not be cancelled and that he was prevented by accident, illness, misfortune or other unavoidable cause from appearing on the date and at the time and place specified in such notice, the Government Agent shall appoint another date, time and place for the purpose of enabling the permit-holder to show cause why his permit should not be cancelled.</p>

Procedure where  
permit-holder  
appears and  
shows cause. **110.**

(1) If on the date and at the time and place specified in a notice issued under section 106 or appointed by the Government Agent under section 109 (2) the permit-holder appears and offers to show cause why his permit should not be cancelled, the Government Agent may, if he is satisfied after inquiry that there has been a breach of any of the conditions of the permit, make order cancelling the permit.

(2) The Government Agent may adjourn any inquiry under this section from time to time and shall hear evidence before making his order.

Date of order of  
cancellation. **111.** Every order made by the Government Agent for the cancellation of a permit shall be dated as of the date on which such order was made.

Order of  
Government Agent  
to be served on  
permit-holder and  
to be posted on  
land. **112.**

(1) A copy of an order made by a Government Agent under section 110 shall be served forthwith on the permit-holder and a copy of such order shall also be affixed forthwith in a conspicuous position on the land affected by such order. Every copy so served or affixed shall contain a statement to the effect that an appeal from such order will lie to the Land Commissioner if preferred within a period of thirty days reckoned from the date of the order and such date shall be specified in such statement.

(2) If a permit-holder who has to be served under subsection (1) with a copy of an order made by the Government Agent under section 110 cannot by the exercise of due diligence be found, the copy shall be deemed to be duly served if it is left with some adult member of the permit-holder's family or with his servant residing with him ; and, if there is no member of the family or servant of that permit-holder on whom the copy can be so served by way of substitution for personal service, it shall be deemed to be duly served on that permit-holder if it is affixed to some conspicuous part of the house or homestead in which he ordinarily resides.

Appeal to Land  
Commissioner. **113.** A permit-holder aggrieved by an order made by the Government Agent under section 110 may appeal therefrom to the Land Commissioner.

Time-limit for  
appeal. **114.**

(1) An appeal under section 113 shall be preferred by written petition within a period of thirty days reckoned from the date on which the order appealed from was made.

(2) In computing the time within which an appeal must be preferred, the date on which the order appealed from was made shall be excluded, but all public-holidays and Sundays shall be included.

Powers of Land  
Commissioner. **115.** The Land Commissioner may in appeal-

- (a) direct further inquiry to be made or information to be furnished or evidence to be given ; or
- (b) allow the appeal and set aside the order of the Government Agent; or
- (c) modify the order of the Government Agent; or
- (d) affirm the order of the Government Agent; or
- (e) make such other order as he may consider just.

Copy of Land  
Commissioner's  
decision to be  
served on permit-  
holder and to be  
final. **116.**

(1) The decision of the Land Commissioner under section 115 shall be communicated to the Government Agent who shall forthwith cause a copy thereof to be served on the permit-holder who preferred the appeal,

(2) Any decision made by the Land Commissioner under section 115 shall be final and conclusive for all purposes.

Government  
Agent's order  
under section 109  
is final. **117.** No appeal shall lie against an order of cancellation made by the Government Agent under section 109 but such order shall be final and conclusive for all purposes.

Right of party to  
be represented by  
agent. **118.** The agent or representative of any owner or permit-holder may appear before the Government Agent in any proceedings taken or inquiry held under this Chapter :

Provided that the Government Agent may at any time require any owner or permit-holder to appear in person before him if in his opinion the attendance of that owner or permit-holder is necessary for the purpose of any proceedings taken or inquiry held under this Chapter.

## CHAPTER IX

### PROCEDURE IN EJECTMENT

Notice to issue on **119.** When the grant of a holding has been cancelled, the Government Agent may issue a

party in occupation to vacate holding.	notice on any person in possession or occupation of the holding calling upon such person forthwith to vacate the holding.
Report to a Magistrate if person served with notice refuses to vacate holding.	<b>120.</b> If any person on whom a notice has been issued under section 119 fails forthwith to vacate the holding and deliver over possession thereof in terms of the notice so issued and served upon him, the Government Agent, or some other person deputed by him for the purpose, may present to the Magistrate a written report stating the fact that the grant relating to such holding has been duly cancelled and that the person named in such report is in unlawful possession or occupation of such holding and has failed to vacate such holding though served with a notice issued under section 119.
Summons to issue.	<b>121.</b> Upon receipt of a written report presented to him under section 120, the Magistrate shall forthwith issue a summons to the person named in such report to appear and show cause on a specified date why he should not be ejected from the holding.
Order of ejectment where no cause is shown.	<b>122.</b> If on the date specified in a summons issued under section 121, the person to whom such summons was issued fails to appear, or appears and informs the court that he has no cause to show against an order of ejectment, the court shall forthwith issue an order directing such person to be ejected from the holding.
Inquiry if cause is shown.	<b>123.</b> If the person to whom summons has been issued under section 121 appears on the date specified in such summons and states that he has cause to show against the issue of an order of ejectment, the Magistrate may proceed forthwith to hear and determine the matter or may set the case down for inquiry on some future date.
Scope of inquiry.	<b>124.</b> At such inquiry it shall not be open to the person whose grant has been cancelled or any other person claiming title to the holding through or under the person whose grant has been cancelled to assert or prove- <ul style="list-style-type: none"> <li>(a) that the holding does not belong to the Crown ;</li> <li>(b) that the order of cancellation of the grant should not have been made.</li> </ul>
Order of ejectment.	<b>125.</b> If, after due inquiry, the Magistrate is not satisfied that the person showing cause is entitled to the possession or occupation of the holding, he shall make order directing such person forthwith to be ejected from the holding.
Appeal to Supreme Court.	<b>126.</b> Any person aggrieved by an order made against him by the Magistrate under section 125 may appeal therefrom to the Supreme Court; and the provisions of Chapter XXX of the Criminal Procedure Code shall apply accordingly as though the appeal were preferred against a final order of a Magistrate in respect of which an appeal lies to the Supreme Court under that Chapter of that Code.
Execution of order of ejectment.	<b>127.</b> <ul style="list-style-type: none"> <li>(1) If no appeal has been preferred against an order of ejectment made by a Magistrate under section 125 within the time allowed for such an appeal, or, if an appeal has been preferred after the final decision of the Supreme Court affirming the order of ejectment shall have been duly certified to the Magistrate's Court, the Magistrate shall, on the application of the Government Agent, direct the Fiscal or a peace officer to eject from the holding any person bound by the order of ejectment and to deliver possession of the holding to the Government Agent or to his representative.</li> <li>(2) The Fiscal or the peace officer entrusted with the execution of the order of ejectment shall comply with the directions of the Magistrate and make due return of the manner in which he executes the order.</li> <li>(3) In executing an order of ejectment, the Fiscal or the peace officer or any officer authorized by either of them may use such force as may be necessary to enter the holding, to eject any person bound by the order of ejectment and to deliver possession of the holding to the Government Agent or to his representative.</li> </ul>
Ejectment from land alienated on permit.	<b>128.</b> The provisions of this Chapter shall apply, mutatis mutandis, in a case where any person is in unlawful or unauthorized possession or occupation of Crown land after the cancellation of the permit whereby such land was alienated.

## CHAPTER X

### RECOVERY OF ANNUAL PAYMENTS AND MONEYS DUE TO THE CROWN

Payment of moneys due to the Crown.	<b>129.</b> Any annual or other payment of any money due to the Crown by an owner or by a permit-holder in respect of any land alienated under this Ordinance may be made at the district kachcheri to the Government Agent or to an officer authorized by the Government Agent to receive such payments and to issue receipts therefor.
Remission, reduction and	<b>130.</b>

waiver of annual payments.

(1) It shall be lawful for the Minister[3] at any time to remit any annual payment or arrears of annual payments or any moneys due to the Crown under this Ordinance.

(2) The powers of the Minister[1] under subsection (1) may be exercised on his behalf by such persons and in such manner as may be prescribed.

(3) If the Government Agent is satisfied that there is sufficient cause for granting relief generally to any class of persons in any locality in respect of any annual payments due by such persons on account of lands alienated in such locality on grants or permits, he may either reduce the amount of any such annual payment or waive it altogether:

Provided that such reduction or waiver shall not be ' made operative for a period exceeding one year.

Specified grounds upon which a reduction or waiver of annual payments may be made

**131.** Without prejudice to the generality of the grounds upon which a Government Agent may reduce or waive any annual payment under section 130, any general failure of crops due to unfavourable weather conditions, any exceptional fall in the price of any staple commodity, any epidemic, or any outbreak of cattle disease adversely affecting the cultivation of the land, may be deemed to be a sufficient cause for granting relief under that section.

Penalties for payments overdue or in arrears.

**132.** The owner of a holding or a permit-holder shall be liable, in respect of any payments which may be overdue or in arrears, to make additional payments to the Crown according to such scale and in such manner as may be prescribed.

Money due to Crown a first charge on land.

**133.** Any amount due to the Crown by an owner or by a permit-holder in respect of any land alienated under this Ordinance shall be a first charge on the holding of such owner or on the land held by such permit-holder on his permit, as the case may be.

Seizure and sequestration of crops and movable property of defaulting owner.

**134.** If the owner of a holding makes default in the due payment of any moneys payable by him to the Crown in respect of such holding, the Government Agent or any person authorized by him in writing may seize and sequester the crops and produce of such holding together with any movable property thereon belonging to the owner who has so made default:

Provided that the following property shall not be liable to seizure or sequestration under this section : -

(a) the necessary wearing apparel, beds, and bedding of the owner who has made default, or of his wife, and children ; and,

(b) utensils used in his dwelling house for cooking or for the preparation of food, his implements of husbandry and such cattle and seed-grain as may, in the opinion of the officer effecting the seizure or sequestration, be necessary to enable him to earn his livelihood as an agriculturist.

In this Chapter a growing crop is movable property.

**135.** In this Chapter a growing crop on any land shall not be regarded as an interest in land but shall be deemed to be movable property.

Property seized to be taken charge of.

**136.** The person effecting the seizure may take charge of or place another person in charge of any crops, produce or movable property seized under section 134.

Sale of property-seized.

**137.**

(1) If the defaulter fails to pay the amount due to the Crown together with the costs of seizure within a period of thirty days reckoned from the date of such seizure the Government Agent may cause the property seized to be sold by public auction or by tender :

Provided that perishables may be sold as soon as may be deemed expedient by the person effecting the seizure.

(2) In computing the period of thirty days referred to in subsection (1), the date on which the seizure was made shall be excluded but all Sundays and public holidays shall be included.

(3) Regulations may be made prescribing the costs which may be charged or recovered for any seizure or sale effected under this Chapter.

last of property seized.

**138.**

(1) A list shall be made showing details of the property seized under section 134 and sold under section 137, the names and addresses of the purchasers, the prices realized, and the total amount recovered by the sale.

(2) Upon payment of the purchase money, a purchaser at a sale under section 137 shall receive a certificate of sale showing the property purchased and the price paid for such purchase.

Excess to be refunded to defaulter.

**139** If the amount realized by the sale of the property seized under section 134 exceeds the total amount of the debt due to the Crown together with the costs of seizure and sale, the Government Agent shall refund the excess to the defaulter.



Seizure of holding.	<b>140.</b>	If at a sale under section 137 the amount recovered is insufficient to discharge the debt due by the owner to the Crown together with the costs of seizure and sale, the Government Agent or a person authorized by him in writing may seize the holding.
Seizure, how effected.		<p>(1) A seizure of a holding shall be effected by serving upon the owner thereof a notice substantially in the prescribed form and by affixing a copy of such notice in a conspicuous position on such holding. A copy of such notice may also be served on any other person interested in the holding or affected by the seizure thereof.</p> <p>(2) If the owner of a holding who has to be served with a notice under subsection (1) cannot by the exercise of due diligence be found, the notice shall be deemed to be duly served on that owner if a copy thereof is left with some adult member of his family or with his servant residing with him ; and, if there is no member of the family or servant of that owner on whom the notice can be so served by way of substitution for personal service, the notice shall be deemed to be duly served on that owner if a copy thereof is affixed to some conspicuous part of the house or homestead in which he ordinarily resides.</p> <p>(3) No holding shall be seized if the defaulting owner thereof surrenders free and unclaimed movable property to satisfy the entirety of the amount due from him.</p>
Registration of seizure.	<b>142.</b>	<p>(1) Every seizure of a holding shall be registered.</p> <p>(2) No disposition of a holding shall be valid if it is effected or registered after the seizure of that holding has been registered.</p>
Seizure of protected holding operates as cancellation of grant thereof and vests holding in the Crown	<b>143.</b>	<p>(1) The seizure of a protected holding under this Chapter shall operate as a cancellation of the grant thereof and shall vest such holding absolutely in the Crown free from all encumbrances ; but the person who was the owner of such holding at the time of seizure shall be entitled to a reconveyance thereof upon payment within a period of one year reckoned from the date of that seizure of the total amount due in respect of such holding together with the costs of seizure.</p> <p>Where the owner dies before the expiry of the period of one year herein before specified, the right to a reconveyance of the holding may be* exercised by the successor of that owner on the same terms and within the same period.</p> <p>(2) The reconveyance referred to in subsection (1) may be effected by an endorsement substantially in the prescribed form made by the Government Agent on the grant relating to such protected holding. Every such endorsement shall be registered.</p>
Protected holding not to be sold.	<b>144.</b>	No protected holding shall be sold by the Crown under this Chapter.
Sale of unprotected holding.	<b>145.</b>	An unprotected holding, which has been seized under section 141, may be sold at the instance of the Government Agent by public auction in such manner as may be prescribed.
Moneys realized by sale to be paid to Government Agent.	<b>146.</b>	All moneys realized by the sale of an unprotected holding shall be paid to the Government Agent who shall, after deducting the amount due to the Crown including the costs of the seizure and sale of such holding, pay the balance, if any, to the person who was the owner of such holding before the sale.
Certificate of sale.	<b>147.</b>	<p>(1) A certificate substantially in the prescribed form shall, when signed by the Government Agent, be sufficient to vest in the purchaser the title of the owner against whom the unprotected holding was sold under section 145.</p> <p>(2) Such certificate shall be liable to the stamp duty payable on conveyances of immovable property and to any registration or other charges authorized by law. Such duty and all such charges shall be paid by the purchaser.</p>
Purchase of unprotected holding by the Crown.	<b>148.</b>	An unprotected holding sold under section 145 may be purchased by the Crown and the Government Agent may authorize any person in writing to bid for and purchase such holding on behalf of the Crown, but no stamp duty or other charges referred to in section 147 (2) shall be payable by any person who so purchases an unprotected holding on behalf of the Crown.
Cancellation of sale.	<b>149.</b>	<p>(1) Where the Crown purchases an unprotected holding sold under section 145, it shall be lawful for the Government Agent, at any time before such holding shall have been re-alienated, on payment by the owner against whom such holding was sold of the total amount due to the Crown in respect of such holding (including the costs of seizure and sale), together with interest thereon at the rate of nine per centum per annum, by endorsement on a certified copy</p>

of the certificate referred to in section 147, to cancel the sale; and upon the registration of such endorsement, such holding shall revert in the owner as though such sale had never been made.

(2) No stamp duty shall be payable on an endorsement made under this section, but the registration and other charges shall be payable by the owner in whom the unprotected holding is reverted.

Resale by Crown. **150.**

(1) Where the Crown purchases an unprotected holding sold under section 145, and such sale has not been cancelled under section 149, it shall be competent for the Government Agent at any time, when re-alienating the land, to transfer to the purchaser, by endorsement on a certified copy of the certificate referred to in section 147, the title which would have been acquired by such purchaser if he had purchased such holding at the original sale, and upon the registration of such endorsement such title shall vest in the purchaser accordingly.

(2) Every such endorsement shall be liable to the same duty and charges as a certificate to a purchaser at the original sale and such duty and charges shall be payable by the purchaser.

Rights of mortgagee. **151.**

(1) If an unprotected holding to be sold under section 145 is subject to a mortgage, it shall be lawful for the mortgagee, on payment to the Government Agent of the total amount due to the Crown including the costs of seizure, to add the amount so paid to his mortgage debt and the amount so added shall be secured in the same manner, and shall be subject to the same interest and be recoverable on the same conditions as the mortgage debt.

(2) The amount paid by the mortgagee under subsection (1) shall be certified by the Government Agent by an endorsement on the mortgage bond and such certificate may be registered by the mortgagee. No stamp duty shall be payable on the certificate so endorsed.

Recovery of money due to local authorities. **152.**

(1) If the owner of a protected holding fails to pay any sum due to a local authority in respect of such holding, such local authority may report the defaulter to the Government Agent, who may thereupon take action under this Chapter to recover the sum due from the defaulter as though such sum were due to the Crown and not to such local authority.

(2) Save as is herein expressly provided, a local authority shall not take proceedings for the recovery of any sum due to such local authority from the owner of a protected holding in respect of such holding.

Delivery to local authority of money received by Government Agent. **153.** The Government Agent shall deliver to a local authority any sum recovered by him in satisfaction of the debt due to such local authority and of the interest thereon, if any, and shall pay the costs of seizure, if recovered, into the Consolidated Fund of Ceylon.

All moneys due to Crown: must be recovered by procedure under this Chapter. **154.** No money, rate, tax, duty or fee due to the Crown under any other written law in respect of or on account of a protected holding, shall be recovered except in accordance with the provisions of this Chapter.

## CHAPTER XI REGULATIONS

Minister authorized to make regulations. **155.** The Minister<sup>1</sup> may make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Ordinance.

Matters which may be provided for by regulations. **156.** In particular and without prejudice to the generality of the powers conferred by section 155, regulations may be made for, and with respect to, all or any of the following matters : -

- (a) the forms, fees, documents, and matters stated in or required by this Ordinance to be prescribed ;
- (b) the mapping-out of Crown land ;
- (c) the alienation under this Ordinance of Crown land over 5,000 feet in elevation ;
- (d) the maintenance of reserves for the preservation of the sources and courses of streams and for the prevention of erosion of the soil;
- (e) the manner of paying or recovering fees, costs or other charges ;
- (f) the collection by the Government Agent of moneys due to local authorities ;
- (g) the classification of persons for the purpose of alienating Crown land under

this Ordinance ;

(h) the procedure to be observed, the fees to be paid and the forms to be used in preferring appeals to the Minister ;[1]

(i) the manner of publishing or serving notices or of serving other process;

(j) the assessment of annual payments ;

(k) any matters incidental to or connected with the matters or subjects specifically referred to in this section.

Regulations to be approved. **157.** No regulation shall have effect until it has been approved by the Senate and the House of Representatives. [1] Notification of such approval shall be published in the Gazette.

Regulations to have statutory-force. **158.** A regulation made by the Minister[1] shall, upon the publication of the notification of approval provided for in section 157, be as valid and effectual as though it were herein enacted.

## CHAPTER XII MISCELLANEOUS

Ordinance deemed to be referred to in leases or permits executed \_ prior to its introduction. **159.** Where in any Crown lease or permit executed before the date on which this Ordinance shall come into operation it is provided-

(a) that such lease or permit shall terminate when legislation is passed for its cancellation ; or

(b) that at the expiration of a stated period of time or upon the fulfilment by the lessee or by the permit-holder of stated conditions such lessee or permit-holder shall be given the right to hold the land upon a tenure to be thereafter introduced by legislation,

Government Agent to enter any holding at any time. **160.** The Government Agent or any person duly authorized by him in writing may at any time of the day between 6 a.m. and 6 p.m. enter any holding for the purpose of inspection or for any other purpose incidental to or connected with the duties of a Government Agent under this Ordinance.

No prescriptive title to be acquired to land alienated under Ordinance. **161.** No person shall, by possession of any land alienated on a permit or a grant, acquire any prescriptive title thereto against any other person or against the Crown.

Notary prohibited from attesting disposition of a holding unless consent of Government Agent is attached thereto. **162.**  
(1) A notary shall not attest any deed operating as a disposition of a protected holding unless the written consent of the Government Agent to such disposition shall have been previously obtained nor unless such deed shall have attached thereto the document by which the Government Agent granted his consent to the disposition sought to be effected by such deed. Such document of consent shall be specifically referred to by the notary in the attestation of such deed.  
(2) A deed executed or attested in contravention of the provisions of this section shall be null and void for all purposes.

Notary attesting deed in breach of section 162 guilty of offence. **163.** A notary who knowingly attests any deed in breach of the provisions of section 162 shall be guilty of an offence and shall, on conviction by a Magistrate after summary trial, be liable to a fine not exceeding five hundred rupees.

Mapped-out land may be settled. **164.** The fact that any land has been mapped-out shall be no bar to the inclusion of such land in a settlement notice under the Land Settlement Ordinance.

Action rei vindicatio may be maintained against Crown in respect of alienated land. **165.** Nothing in this Ordinance contained shall preclude any person claiming to be entitled to any land which has been alienated from instituting an action against the Crown for the vindication of his title thereto ; but nothing in this section shall enable or authorize the owner of a holding or a permit-holder to sue the Crown for the vindication of title to such holding or to the land alienated to such permit-holder, as the case may be.

Protection of public servants. **166.** No suit shall lie against any public servant for anything done by him in good faith under this Ordinance.

Provisions of particular enactments not to apply. **167.**  
(1) The provisions of the enactments enumerated in the first column of the Fourth Schedule shall, to the extent indicated in the second column of such Schedule, have no application to any land alienated under this Ordinance.  
(2) The Minister[1] may, by regulation made under section 155, add to the Fourth Schedule.

Penalty for clearing mapped-out land. **168.**  
(1) If any person-  
(a) clears or breaks up for cultivation or cultivates any Crown land which has been mapped-out; or

- (b) erects any building or structure on such land ; or
- (c) fells or otherwise destroys any trees standing on such land ; or
- (d) otherwise encroaches on such land,

he shall be guilty of an offence and shall on conviction by a Magistrate be liable to pay a fine not exceeding one hundred rupees :

Provided that no person shall be convicted under this section unless the land in question has been declared to be the property of the Crown under the Land Settlement Ordinance, or under any Ordinance repealed by Ordinance No. 20 of 1931, or has been acquired by the Crown under the Land Acquisition Ordinance, 1876,\* or under the Land Acquisition Act.

(2) A conviction under this section shall operate as an order of ejectment made under section 125 and on such conviction the Government Agent may, after the lapse of the appealable time, or, if an appeal has been preferred, after the conviction has been affirmed in appeal, apply to the Magistrate under section 127 for the enforcement of such order of ejectment.

Trusts, &c,  
affecting land not  
to be recognized.  
Succession to be  
regulated entirely  
by this Ordinance.

**169.** No trust, fideicommissum, or equitable charge shall be created, declared, recognized or enforced in respect of any land alienated under this Ordinance.

**170.**

(1) No written law (other than this Ordinance) which provides for succession to land upon an intestacy and no other law relating to succession to land upon an intestacy shall have any application in respect of any land alienated under this Ordinance.

(2) No person shall, by virtue of any appointment in any last will, have or acquire any title to succeed to any land alienated under this Ordinance save and except a life-holder or a successor duly nominated by last will under the provisions of Chapter VII.

Definition of "  
middle-class  
Ceylonese "  
[ 2, 49 of 1953.]

**171.** No person shall for the purposes of this Ordinance be deemed to be a " middle-class Ceylonese " on a particular date if the statutory income of such person computed under the provisions of the Income Tax Ordinance, for the year of assessment ending on the thirty-first day of March preceding such date exceeds a sum of twelve thousand rupees :

Provided that-

(i) in the case of spouses, the statutory income of either spouse shall be computed as though separate assessment had been claimed and made in pursuance of notice duly given under the provisions of section 25 of the Income Tax Ordinance ;

[ 2, 49 of 1953.] (ii) in the case of spouses who have not been divorced by the decree of a competent court, or who are not living apart under a duly executed deed of separation, neither spouse shall be deemed to be a middle-class Ceylonese for the purposes of this Ordinance if the joint statutory income of both spouses exceeds in the aggregate a sum of twenty-four thousand rupees.

Loans to owners  
of holdings.

**172.** Regulations may be made for lending money to owners of holdings out of funds provided for the purpose by Parliament.[1] Such regulations may prescribe the conditions upon which and the terms for which such money may be lent. Where default is made in the repayment of any money lent to the owner of a holding under this section such money together with the interest, if any, which is due thereon shall be deemed to be money due to the Crown under this Ordinance and may be recovered in the manner herein before provided in Chapter X.

#### Schedules