

Lesotho

Land Act, 2010

## Land Regulations, 2011

Legal Notice 21 of 2011

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# Lesotho

## Land Act, 2010

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## Legal Notice 21 of 2011

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**Commenced on 24 February 2011**

*[This is the version of this document from 24 February 2011.]*

In exercise of the powers conferred on me by section 92 of Land Act, 2011<sup>1</sup>, I, Pontso 'Matumelo Sekatle Minister of Local Government and Chieftainship make the following Regulations:

### Part I – Preliminary

#### 1. Citation and commencement

These regulations shall be cited as the Land Regulations, 2011 and shall come into operation on the date of publication in the *Gazette*.

#### 2. Interpretation

In these regulations, unless the context otherwise requires—

"**Act**" means the Land Act 2010;

"**administrative fee**" means the fee paid for the preparation of any document relating to titles;

"**agriculture lease**" means a lease granted or issued under the Act for the purpose of engaging in agriculture pursuits as defined in section 2 of the Act;

"**selected development area**" means an area declared and set aside under section 51(2)(a) of the Act;

"**Chief Surveyor**" has the meaning ascribed to it in the Land Survey Act of 1980<sup>2</sup>;

"**development charge**" means the pro-rata share of total construction and annual maintenance costs of common use facilities which include but may not be limited to roads, dams, irrigation installation whose costs are borne by persons directly benefiting from those facilities;

"**district agricultural officer**" means the officer designated by the Ministry of Agriculture to be in charge of agricultural matters in the district;

"**general boundary**" means a boundary which has been recorded but the precise location has not been defined;

"**land use plan**" means a detailed description including maps, of a land area which identifies soil types, all prominent physical features and recommended agriculture land utilization;

1

Act [No. 8 of 2010](#)

2

Act No. 14 of 1980

"**planning authority**" has the meaning ascribed to it in the Town and Country Planning Act of 1980<sup>3</sup>;

"**premium**" means the sum of money payable as consideration for the value of land upon allocation;

"**prescribed fee**" means payment or charge payable in terms of the Act and these regulations or as may be determined by the relevant authority;

"**prescribed form**" means a form designed for a particular purpose by the relevant authority responsible for management or administration of land;

"**title**" means an allocation of land under the Act or where a lease is granted or issued under the Act, such lease and in relation to rights in land existing at the commencement of the Act, means an allocation made by the proper authority or the transfer of an allocation consented to by the proper authority.

## Part II – Vesting of land

### 3. Management and administration of land

Land matters shall be managed and administered through relevant Government agencies and departments.

### 4. Holding of land by foreign enterprise

- (1) An application for allocation of land by a foreign enterprise shall be lodged with the relevant allocating authority and an application to hold title to land held under a lease by a foreign enterprise shall be made to the Commissioner.
- (2) Upon receipt of an application referred to in subregulation (1), the allocating authority or the Commissioner, as the case may be, shall refer the application to the Minister.
- (3) The Minister shall, upon receipt of an application referred to in subregulation (2), seek a written recommendation or advice of the Minister responsible for trade or any other relevant Minister for purposes of an investment involved, in order to determine whether the nature of the investment to be undertaken by such foreign enterprise qualifies the enterprise to hold land in terms of section 6(4) of the Act.
- (4) The Minister shall, upon receipt of the recommendation or advice under subregulation (3) and where the Minister is satisfied that the foreign enterprise qualifies to hold land in terms of section 6(1)(c) of the Act for investment purposes, give a written approval for allocation or holding of land by the foreign enterprise.

### 5. Holding of title to land by minors

- (1) Where, pursuant to the Act, a minor has to hold title to land as a result of an inheritance, the nearest relative of the deceased allottee or lessee, or the administrator of the deceased's will or in default of any such relative, or administrator, the local council, the chief or the person who at, or immediately after the death has the control of the land formerly held by the deceased, shall notify the Master of the High Court of the fact.
- (2) Upon receipt of the notice referred to in subregulation (1), the Master of the High Court shall appoint a trustee or a guardian who shall assist the minor in holding title to land and shall bear the responsibilities of title holding on behalf of the minor until the minor attains the age of majority.
- (3) Where, pursuant to the Act, a minor has to hold title to land other than through inheritance, a parent of the minor or the nearest relative of the minor shall assist the Master of the High Court in

appointing a trustee or guardian who shall assist the minor in holding title to land until the minor attains the age of majority.

- (4) Where a trustee or a guardian has been appointed pursuant to subregulations (2) and (3), the allocating authority in the case of land not held under a lease, the Commissioner or the authority responsible for issuance of leases in the case of land held under a lease shall, upon presentation of documentary proof of appointment of a trustee or a guardian, proceed to arrange for the holding of title by the minor with the assistance of the guardian or trustee until the minor shall have attained the age of majority.
- (5) A trustee or guardian shall not deal with land held by a minor unless a written approval of the Master of the High Court has been obtained.
- (6) The Master of the High Court shall keep a register of land held by minors with the assistance of trustees or guardians and shall:
  - (a) where land is held under a lease, submit a copy of such register to the Commissioner and the Registrar; or
  - (b) where land is not held under a lease, submit a copy of such register to the Commissioner and the allocating authority having jurisdiction.

### Part III – Allocation of land

#### 6. Procedure for allocation

- (1) An allocating authority may allocate land subject to an approved development plan for different uses which include the following:
  - (a) residential use;
  - (b) agricultural use;
  - (c) commercial and industrial use;
  - (d) ecclesiastical, benevolent, charitable or educational purposes;
  - (e) hospital, clinic or dispensary purposes;
  - (f) grazing or cemeteries; and
  - (g) any other purpose or use as the Minister may declare.
- (2) An allocating authority in respect of land in the rural and urban area shall be the land allocating authority or the local council.
- (3) Where land is available for allocation in an urban area, the allocating authority shall not exercise its power to allocate land unless publication in terms of [section 26](#) has been made.
- (4) Where land is available for allocation in a rural area, the allocating authority shall not exercise its power to allocate land unless it shall have made a publication within its area of jurisdiction of the availability of such land and the publication shall:
  - (a) state the permitted use of land;
  - (b) contain sufficient description of the land to enable its location and identification;
  - (c) state any fees payable; and
  - (d) invite members of the public to lodge applications for allocation to the allocating authority by a specific date.

- (5) An application for allocation of land in a rural and an urban area shall be made to a secretary of a land allocating authority in a prescribed form and shall be accompanied by a declaration of all rights and interests in land which the applicant holds at the time of the application.
- (6) The chief having jurisdiction shall participate in every land allocation as a non-voting member except where the chief is an *ex-officio* member of the land allocating authority.
- (7) Land allocations shall be on a competitive and transparent basis.
- (8) The secretary of a land allocating authority shall notify the applicant in writing of the date, time, and place of hearing of the application and the applicant shall be entitled to appear and make representations or submissions in support of his application for allocation of land.
- (9) A land allocating authority shall, in exercising its decision to allocate land have regard to the following:
  - (a) whether a person qualifies to hold land in terms of the Act;
  - (b) whether a person has not exceeded the land holding ceiling in terms of the Act and these regulations;
  - (c) any advice or guidance provided by any land officer;
  - (d) An approved development plan applicable to the land which is the subject of a decision; and
  - (e) such other matters as may be prescribed.
- (10) The decision of the land allocating authority on any application shall be in writing setting forth adequately the grounds upon which it is given.
- (11) Where a decision to allocate land has been made, the allocating authority shall issue a certificate of allocation on a prescribed form after payment of a prescribed fee or a premium where necessary.
- (12) As a pre-requisite for issuance of a lease in respect of land which is a subject of a registrable title, allocation shall be deemed to be complete when all the conditions of allocation including payment of a lease fee, premium or any other prescribed fee has been made.
- (13) If the successful or the preferred applicant is unable to satisfy the conditions of allocation referred to in sub regulations (10) and (11), the allocating authority shall reverse their decision of allocation and allocate the same to the next preferred applicant.

## **7. Allocating authority to keep register of allocations**

- (1) An allocating authority shall keep the register of all allocations made which shall contain the details of the allottee and the description of the allocated land.
- (2) An allocating authority shall, every 3 months, submit reports of all the allocations made, revocations, endorsements or any other changes to the allocation register to the Commissioner which reports shall be accompanied by supporting documents.

## **8. Revocation of allocation**

- (1) An allocation shall be revoked where the allottee has failed to comply with the conditions of allocation as prescribed in the certificate of allocation provided that the allottee shall first be given a chance to rectify the breach and shall be heard.
- (2) The power to revoke an allocation shall apply only in respect of land which is not the subject of a registrable title and shall be exercised by the allocating authority within its area of jurisdiction which shall incorporate the chief having jurisdiction when exercising its powers of revocation.
- (3) Before exercising its power under subsection (2) an allocating authority shall, through its secretary, give at least 30 days written notice to the person affected by its intention to revoke an allocation.



- (4) The notice referred to under subsection (3) shall set out clearly:
  - (a) the breach which the allottee is alleged to have committed;
  - (b) that allottee has a chance to rectify the alleged breach prior to the date of hearing; and
  - (c) the place and date not less than 30 days from the date of notice when the allocating authority shall give a hearing to the allottee.
- (5) The notice shall be served either personally on the allottee or by leaving it at the allottee's last known place of residence or business or if the whereabouts of the allottee is unknown, the notice shall be left with the occupier of the land the subject of the notice or, if there is no occupier, shall be affixed upon some conspicuous part of the property.
- (6) If the allottee upon whom notice is to be served is a body corporate, the notice shall be deemed to have been duly served if left at, or addressed by post to, its registered or principal offices in Lesotho.

## **Part IV – Lease documents**

### **9. Procedure for application for a lease**

- (1) An application for a lease in respect land not held under a lease upon the commencement of the Act shall be made in accordance with section 30 of the Act and shall be—
  - (a) submitted on a prescribed form;
  - (b) accompanied by the prescribed fee, charge or payment;
  - (c) signed by the applicant or a duly authorized representative or agent of the applicant;
  - (d) accompanied by such plans as approved by the Chief Surveyor;
  - (e) accompanied by a declaration in the prescribed form of all rights and interests in land in Lesotho which the applicant has at the time of the application;
  - (f) where any law requires the consent of any public authority or other body or person before an application for a lease may be submitted, accompanied by a document of consent, signed by the duly authorized officer of that public authority or other body or that person;
  - (g) accompanied by such documentation or proof dated within the past 6 months from an allocating authority or a planning authority that the land is still being used for the purpose for which it was allocated for;
  - (h) if made by a foreign enterprise, accompanied documentation referred to in regulation 4 or by such other information as may be prescribed by these regulations or by any written law; and
  - (i) accompanied by any other relevant additional information which the Commissioner may deem necessary to support the application for a lease.
- (2) The Commissioner shall cause to be published in a national newspaper or through other appropriate means, a notice of application for a lease on land which does not have proof of allocation in terms of the Land Act 1979 or this Act.
- (3) The notice referred to in subregulation (2) shall give the names of the applicants and the adequate descriptions of the land to which the applications relate.
- (4) Any person claiming title to land affected by a notice issued under subregulation (2) may, within one month from the date of publication of the notice, lodge a claim to such land before the District Land Court having jurisdiction with a copy delivered to the Commissioner.

- (5) Until determination of the claim by District Land Court or by the Land Court on appeal from the District Land Court, or resolution of the dispute amicably by the parties, applications in respect of the land subject to the claim shall remain in abeyance.
- (6) Where no claim has been lodged within the period specified in subregulation (4), the Commissioner shall proceed to examine the documents produced under section 30(2) of the Act and subregulation (1) and where the Commissioner is satisfied that the applicant is entitled to hold the land in question under a lease, shall cause a lease to be prepared for issue to the applicant and for subsequent registration by the Registrar.

## 10. Conditions of a lease other than agricultural leases

- (1) Unless the Commissioner directs otherwise, a lessee shall, within months after the date of the grant, fence the boundaries of the land and the lessee shall maintain the fence to the satisfaction of the Commissioner.
- (2) A lessee shall, prior to the development of the land, submit to the planning authority for its approval a site plan together with the plans of any proposed building, structures and other forms of land development.
- (3) Unless special written authority is given by the Commissioner, a lessee shall develop the land within 5 years of the date of the granting of a lease.
- (4) Subregulation (2) shall apply to further development of the land held under a lease during the term of the lease.
- (5) Within a period to be determined by the planning authority, a lessee shall at his own expense provide main drainage or main sewerage connections from the building erected on the land as the planning authority may require.
- (6) In the event of any main building erected on the land being dismantled, destroyed, demolished or removed, the lessee shall replace the building within a period specified by the planning authority and subregulation (2) and (3) shall apply where applicable.
- (7) A lessee shall use the land comprised in the lease only for the purpose specified in the lease or any approved variation made to the original lease.
- (8) A lessee shall permit entry on the land at any reasonable period of the day by any duly empowered:
  - (a) officer, employee, servant or agent of the Government of Lesotho;
  - (b) employee, servant or agent of any statutory corporation or parastatal organization established to provide and maintain public utility services.
- (9) Save with the written authority of the planning authority no electrical power or telephone pole or line or water, drainage or sewer pipe being upon or passing through, over or under the land and no replacement thereof, shall be moved or in any way be interfered with and reasonable access thereto shall be preserved to allow for inspection, maintenance, repair, renewal and replacement.
- (10) Full right and liberty is reserved unto the Government of Lesotho freely to exercise or have, or unto the Minister to grant to a statutory corporation or parastatal organization, the right freely to exercise or have a public servitude over the land for the purpose of providing and maintaining public utility services and more particularly for the purpose of erecting telephone or electric power poles, installing electric or telephone wires and cables, laying down drains, sewers or water pipes and maintaining the same.
- (11) The interior and exterior of any building erected on the land and all building additions thereto and all other buildings at any time erected or standing on the land and walls, drains and other appurtenances, shall be kept by the lessee in good repair and tenantable condition to the satisfaction of the Planning authority.

- (12) No act, matter or thing, whatever, shall be done or permitted to be done upon the land or any part of such land which may cause or lead to pollution of the environment or result in the creation of any hazard to the health of other persons, or become a nuisance or annoyance to or damage or in any way interfere with the peace and comfort of adjoining lessees or the occupiers of adjoining or other lands in the neighbourhood.
- (13) A lessee shall not subdivide, sublease or otherwise part with the possession of the land comprised in the lease or any part thereof without the written approval of the planning authority first had and obtained.
- (14) A lessee shall unless exempted under section 77(1) of the Act, pay a prescribed annual ground rent in advance and not later than the thirty first day of March in each year provided that on execution of the lease, the lessee shall pay any ground rent due for the period ending thirty first day of March in any calendar year which shall be calculated as follows:
  - (a) where the lease begins to subsist on any day in the month of April in any calendar year, one whole year's rent;
  - (b) In any other case, one whole year's rent less one twelfth thereof for each complete month of that rental year that has elapsed prior to the date of the grant.
- (15) Annual ground rent reserved in the lease shall be subject to revision every 3 years of the term of the lease and consequent upon any revision, the amount shall be fair and reasonable having regard to general values and no account shall be taken of any improvements made by the lessee to or on the land subsequent to the date of such revision.
- (16) Upon application at any time by the lessee made not later than 6 months before expiry of the term of the lease, the lessee shall be entitled to the grant of a new lease of the land on terms set by the Commissioner provided the land or part thereof is not required for any public purpose.

## 11. Application for issue of agricultural leases

An application to the Commissioner for issuance of an agricultural lease, pursuant to section 18 of the Act in respect of agricultural land, shall be made in accordance with regulation 9.

## 12. Additional information for agricultural lease

- (1) Notwithstanding regulation 11, an application for an agricultural lease, shall be accompanied by a written proof of the following by the District Agricultural Officer and the allocating authority:
  - (a) determination whether the land which is the subject of the application has been abused by the allottee through:
    - (i) overgrazing;
    - (ii) refusal or failure to combat soil erosion; or
  - (b) determination whether the arable land which is the subject of application has not been cultivated for any period in at least 3 consecutive years;
  - (c) adjudication of the boundaries of the land to the satisfaction of the other occupiers of the land in the vicinity.

## 13. Duties of District Agricultural Officer

- (1) The District Agricultural Officer shall, in making the determination referred to in regulation 12:
  - (a) take account of applicable prior agricultural land use practices in the Land Husbandry Act 1969<sup>4</sup>, and regulation incidental thereto;

- (b) confirm that the land use proposed by the applicant is consistent with existing agricultural land use plans and policy; and
- (c) ratify that the land and the soil capability thereof are economically favorable for the land use proposed.

#### **14. Recommendation of selected agricultural area**

- (1) Before the Minister declares land for development of agriculture by modern farming techniques, the Minister shall first consult the Minister responsible for agriculture for recommendation for the declaration of agricultural land as a selected agricultural area.
- (2) Before giving the recommendation referred to in subregulation (1), the Minister responsible for agriculture shall require that a feasibility study which will include a land use plan, be prepared by the District Agricultural Officer in consultation with the Allocating Authority having jurisdiction, and these will identify:
  - (a) the current and proposed agricultural use of the land;
  - (b) the extent of the land to be declared a selected agricultural area; and
  - (c) the number of allottees to be affected by such declaration and general manner by which they will be affected.
- (3) A land use plan required under subregulation (1) shall, among others:
  - (a) identify the intended agricultural use of the land;
  - (b) confirm the economic viability of the intended agricultural production or range management and livestock use; and
    - (i) recommend the animal carrying capacity if the land is to be used for attaining improved range management practices and expanded livestock production; and
    - (ii) recommend the size of land parcels, if the intended use is for crops production; or
  - (c) identify resettlement issues arising from recommended land use within the selected agricultural area;
  - (d) identify environmental safeguards required in the area and necessary environmental rehabilitation measures required.

#### **15. Declaration of selected agricultural areas**

Upon receipt of the recommendation from the Minister responsible for agriculture, the Minister may, by notice in the gazette declare the land which is subject of plan to be a selected agricultural area.

#### **16. Effect of the declaration within the selected agricultural area**

Upon the declaration referred to in regulation 15, any title in respect of such selected agricultural area, shall be deemed to have been revoked or terminated and holders of titles within the area shall be deemed to have received 3 months notice beginning from the date of publication in the *Gazette* of the declaration notice.

#### **17. Demarcation and survey within a selected agricultural area**

Upon the declaration of selected agricultural area, the Minister shall instruct the Chief Surveyor to cause to be prepared the demarcation and survey of the individual parcels of land within the declared area as specified in the land use plan referred to in subregulation 14(2).

## 18. Grant of leases within a selected agricultural area

- (1) Upon completion of the survey specified in regulation 17, the Minister shall direct the Commissioner to issue leases to different applicants within a selected development area.
- (2) In determining the conditions to be attached to leases specified in subregulation (1), the Minister may consult the Minister responsible for agriculture to advise on which of the standard lease conditions are to apply to each lease and whether special lease conditions are to be reserved in such leases.
- (3) In considering applications for leases within a selected agricultural area, the Commissioner shall pay foremost consideration to applications by previous titleholders of land within the area and where any such applications is refused, shall state his reasons for refusal.

## 19. Ground rent for agricultural lease

- (1) Where a person is required to pay ground rent for an agricultural lease, the rent shall be calculated in accordance with the Fifth Schedule.
- (2) For the purposes of the Fifth Schedule the grading of land held under an agricultural lease shall be determined by the Minister responsible for agriculture.
- (3) On the advice of the Minister responsible for agriculture, the Minister may, by notice published in the *Gazette*, amend, vary or increase the amount of all or any of the ground rent amount tabulated in the Fifth Schedule.
- (4) Unless the Minister, after consultation with the Minister responsible for agriculture, directs otherwise, no ground rent will be assessed and payable for the first five years of the term of lease.

## 20. Land holding ceiling within a selected agricultural area

No person shall hold, within a selected agricultural area, either by lease or by sublease, cropland in excess of 20 hectares unless exempted by the Minister responsible for agriculture.

## 21. Statutory and other lease conditions for agricultural land

All agricultural leases shall be deemed to include the statutory conditions laid down in regulation 25 unless the lease specifies otherwise.

## 22. Development charges on agricultural leases

The development charges set out in the Second Schedule shall be payable in the same manner by the lessees of agricultural land under lease.

## 23. Administrative fees for agricultural area

A person who makes an application or is in receipt of any service or document specified in the Fourth Schedule, shall pay the appropriate fees specified in that Schedule in respect of the application, service or document as the case may be.

## 24. Inheritance of agricultural land

The inheritance provisions as specified in regulations 43, 44 and 45, shall apply in the same manner with necessary modification to land held under a lease for agricultural purposes.

## 25. Statutory condition for agricultural leases

- (1) Unless special written authority is given by the Minister responsible for agriculture, the lessee shall commence operation of the leased land consistent with the land use purpose specified in this lease within 12 months of the date of grant or issue of this lease and subject to the provisions of the Land Husbandry Act, 1969 and subsequent regulations promulgated under that Act which apply to the agricultural land use purpose contained in the lease.
- (2) A lessee shall use the land under this lease only for the purpose specified in the lease or any variation or change of use as to the agricultural land use which may be made under section 42 of the Act.
- (3) The lease shall permit entry on the land under the lease at any reasonable period of the day by a duly empowered:
  - (a) officer, employee, servant or agent of the Government of Lesotho;
  - (b) employee, servant or agent of any statutory corporation or parastatal organization established to provide and maintain public utility services.
- (4) Save with the authority of the Minister, no electrical power or telephone pole or line or water, drainage or sewer pipe being upon or passing through over or under the land under this lease, and no replacement thereof, shall be moved or in any way be interfered with and reasonable access thereto shall be preserved to allow for inspection, maintenance, repair, renewal and replacement thereof.
- (5) Full right and liberty is reserved unto the Government of Lesotho freely to exercise or have, or unto the Minister to grant to a statutory corporation or parastatal organization, the right freely to exercise or have a public servitude over the land for the purpose of providing and maintaining public utility services and more particularly for the purpose of erecting telephone or electric power poles, installing electric or telephone wires and cables, laying down drains, sewers or water pipes and maintaining the same.
- (6) The lessee shall:
  - (a) not cause or allow the land to be overgrazed;
  - (b) combat soil erosion and adopt sound land husbandry practices to the satisfaction of the District Agricultural Officer;
  - (c) use and cultivate arable land;
- (7) The interior and exterior of any building erected on the land and all building additions thereto and all other buildings at walls, drains and other appurtenances shall be kept by the lessee in good repair and tenantable conditions to the satisfaction of the Minister.
- (8) No act, matter or thing, whatsoever, shall be done or permitted to be done upon the land or any part of such land which may cause or lead to pollution of the environment or result in the creation of any hazard to the health or other persons, or become a nuisance or annoyance to or damage or in any way interfere with the peace and comfort of adjoining lessees or the occupiers of adjoining or other lands in the neighbourhood.
- (9) The lessee shall not part with the possession of the leased land or part thereof in contravention section 35 and 36 of the Act.
- (10) A lessee shall, unless exempted in terms of section 77(1), pay the ground rent reserved under his lease in advance not later than the 31 day of March in each year provided that on exemption of the lease, the lessee shall pay ground rent due for the period ending the 31 day of March next which shall be calculated as follows:
  - (a) when the lease subsists on any day in the month of April, one whole year's rent;

- (b) in any other case, one whole year's rent less one twelfth thereof for each complete month of that year that has elapsed prior to the date of the grant or issue of the lease.
- (11) Annual ground rent revision reserved in this lease shall be subject to revision every three years of the lease.
- (12) Upon application by the lessee made not later than 6 months before expiry of this lease, the lessee shall be entitled to the grant of a new lease of the land on terms set by the Minister following consultation with the Minister responsible for agriculture, provided the land or part thereof is not required for a public purpose.
- (13) The lessee shall forfeit his lease in the event of any breach of any statutory conditions in accordance with the provisions of section 37 of the Act.

## 26. Determination of development charges

Following consultation with the Minister responsible for works, the charges prescribed under section 78 of the Act are as set out in the Second Schedule.

## 27. Change of use or variation

- (1) An application for change of use or variation of a lease in terms of section 42 of the Act shall be made on a prescribed form delivered to the Local Council having jurisdiction which shall, upon receipt of the application, forward it to the Minister.
- (2) An application under this regulation shall—
  - (a) be accompanied by such maps, plans and other information as may be necessary to locate the land in question;
  - (b) be accompanied by a copy of a certificate of allocation, a lease or any proof of occupation and use of land as the case may be; and
  - (c) be accompanied by a written justification for the application to change the use of land or vary the lease.
- (3) The Minister may approve the application to vary or change use of land on such terms and conditions as may be appropriate or disapprove the application provided that the reasons for disapproval shall be given in writing.
- (4) The approval by the Minister of the variation of a lease or a change of use shall be evidenced by a document or a form as may be prescribed signed or endorsed by the Minister which shall be forwarded to the Local Council in respect of land not held under a lease or the Commissioner in the case of land held under a lease.
- (5) The Commissioner shall, on receipt of the copy of the determination referred to in subregulations (3) and (4):
  - (a) inform the lessee of the fact and the request the lessee to submit the original lease document for endorsement thereon of the change of use;
  - (b) inform the lessee of any premium or as the case may be any additional premium or ground rent that is payable as a consequence of the change of use; and
  - (c) forward the copy of the determination to the Registrar for endorsement of the change of use in the deeds register accordingly or for issuance of a new lease.

- (6) The Chairperson of the relevant Local Council shall, on receipt of the copy of the determination referred to in sub regulations (3) and (4)—
  - (a) inform the allottee of that fact and request the allottee to submit the original copy of the certificate of allocation or any proof of occupation and use of land for amendment, endorsement or issuance of a new certificate of allocation as the case may be;
  - (b) inform the allottee of any additional premiums payable as a consequence of the change of use; and
  - (c) accordingly record the change of use in the register of allocations.
- (7) An approved change of use shall not come into effect and action may not be taken by a lessee or allottee in pursuance of a proposed or approved change of use until:
  - (a) the Local Council has amended, endorsed or issued a new certificate of allocation as the case may; or
  - (b) the change of use is endorsed on the lease and deeds register;
  - (c) the Commissioner has issued a new lease which shall have been registered by the Registrar pursuant to subregulation (4)(c);
  - (d) all premiums, ground rent or any other fees have been paid by the lessee or allottee in accordance with the terms and conditions subject to which the change of use is granted.

## **28. Change of use of land not held under a lease in urban areas**

- (1) Where, at the commencement of the Act an allottee who is holding Land in the urban area other than through a lease is desirable of changing its use, such allottees shall lodge an application for a lease together with an application for change of use which shall in all respects comply with regulation 27(2) to the Commissioner with a copy to the Local Council having jurisdiction.
- (2) The Commissioner shall, upon receipt of the application forward the application for change of use to the Minister with a note that the allottee has also applied for a lease and such application shall be dealt with in accordance with regulation 27(3) and (4).
- (3) The Commissioner shall, on receipt of the copy of the determination referred to in sub regulations (3) and (4)—
  - (a) inform the allottee of that fact and request the allottee to submit the original copy of the certificate of allocation or any proof of occupation and use of land;
  - (b) inform the allottee of any additional premiums payable as a consequence of the change of use, any fees and ground rent payable; and
  - (c) proceed to issue a lease document based on the new use in accordance with the Act and these regulations and forward the same to the Deeds Registrar for registration.

## **29. Transfer and disposal of land rights in rural areas**

- (1) An allottee in rural areas who is desirous to dispose of or transfer his rights in land which is not held under a lease or is not a subject of a registrable title shall in a prescribed form notify the allocating authority and request permission of the allocating authority to proceed with the transfer.
- (2) The notice and request referred to under subregulation (1) shall include;
  - (a) the location and use of the land involved;
  - (b) the names and particulars of the allottee and the person to whom the land is being transferred or disposed off to;
  - (c) the certificate of allocation or any other documentary proof of title to land; and



- (d) any other information that may be required by the allocating authority.
- (3) Upon receipt of the notice and request referred to under subregulation (1) the allocating authority shall determine—
  - (a) that the person requesting permission to transfer land is the rightful title holder;
  - (b) that the land is still being used for the purpose for which it had been allocated;
  - (c) whether the person to whom the land is being transferred or disposed of has a right to hold title to land in terms of the Act; and
  - (d) that the person to whom land is being transferred does not hold land in excess of the land holding ceilings in terms of the Act.
- (4) The allocating authority may allow or disallow the transfer and the decision shall be communicated in writing to the person requesting the permission within 3 months of lodging the notice and request in terms of subregulation (1).
- (5) Where the allocating authority is satisfied that all requisites in terms of subregulation (2) have been complied with, it shall allow the transfer whereupon it shall notify the allottee of its decision and shall proceed to record the transfer or disposal of land in the register of allocations.
- (6) The decision of the allocating authority disallowing the transfer shall be communicated to the allottee in writing with reasons for the decision clearly stated.
- (7) Where the allocating authority has given permission for the transfer of land rights and has recorded the transfer in the register, it shall notify the Commissioner of the transfer.

### **30. Transfer and disposal of land rights in urban areas**

- (1) The Land which is subject of lease may be acquired by a transfer from one lessee to another person subject to the consent of the Commissioner or the relevant authority and the Deeds Registry Act of 1967<sup>5</sup>.
- (2) The transfer of rights to land shall be to the persons who qualify to hold title to land in terms of the Act.
- (3) Where the allottee of land not held under a lease in urban areas upon the coming into force of the Act is desirous of transferring such land or otherwise disposing it of, the allottee shall lodge an application for a lease together with an application for transfer in prescribed forms with the Commissioner.
- (4) The Commissioner may upon receipt of the application in subregulation (3) and subject to regulation 9 issue a lease to the transferee provided there is enough evidence that the transferor is the rightful title holder of the land being transferred and provided that all the fees that would otherwise be collected by the Government or relevant land authorities from such transfer would be paid before such a lease could be issued.
- (5) Transfer of land and issuance of a lease pursuant to this regulation shall be effected and concluded in at least within 3 months of lodging of an application for transfer.

## Part V – Land holding ceilings

### 31. Residential land holding ceilings

- (1) A person shall not be allocated land or hold a lease for residential purposes over land comprising an area of over 1000 square meters and no person shall hold a cumulative residential land in excess of 5000 thousand square meters.
- (2) Subregulation (1) shall not apply to a person—
  - (a) holding a lease for any purpose other than residential who require a residential lease to house his employees;
  - (b) being a private developer as specified in section 51 of the Act or a parastatal organization concerned with the development of a planned residential or a housing estate including the sale of a developed or serviced plots to members of the public;
  - (c) permitted through the consent of the Minister pursuant to section 44(2) of the Act to exceed the land holding ceiling; and
  - (d) the limitation on size of 1000 square meters referred to in subregulation (1) shall not apply to land subject to the scheme of regularization in terms of the Act.

### 32. Limitations on area of commercial or industrial lease and land

- (1) A lease for industrial or commercial purpose shall not be granted to or acquired by any person who holds—
  - (a) in the case of commercial land 5 such leases or an aggregate area of 2000 square meters or more; or
  - (b) in the case of industrial land, 3 such leases or an aggregate area of (4000 square meters) of industrial land lease.
- (2) The provisions of subregulation (1) shall not apply to—
  - (a) any parastatal organization directed as matter of policy to engage in any commercial or industrial enterprise; or
  - (b) any person permitted through the consent of the Minister pursuant to section 44(2) of the Act to exceed the land holding ceiling.

### 33. Exceptions to land holding ceilings

Limitations on land holding ceilings shall not apply to land held for purposes of ecclesiastical, benevolent, charitable, educational, hospital, clinic, dispensary or for any other public purpose.

### 34. Application to exceed land holding ceilings

- (1) An application for consent to exceed land holding ceilings in terms of the Act and these regulations shall be made to the Minister through the relevant allocating authority in the case of allocations and through the Commissioner in the case of issuance of leases.
- (2) An application referred to in subregulation (1) shall be—
  - (a) made on a prescribed form;
  - (b) signed by the applicant;
  - (c) accompanied by such plans, maps and other information as is prescribed or as may be required by the Minister;

- (d) accompanied by a declaration in the prescribed form of all rights and interests in land which the applicant has at the time of the application;
  - (e) accompanied by such fees as may be prescribed; and
  - (f) reasons or grounds to exceed land holding ceiling.
- (3) Upon receipt of the application referred to in subregulation (2) the Minister may—
- (a) grant the consent subject to such terms and conditions as may be prescribed or such other terms and conditions as may be considered appropriate; or
  - (b) refuse to grant the consent, provided reasons for such refusal are given in writing.

### **35. Inspection for land holding ceilings**

- (1) An allocating authority, the Commissioner or any relevant authority may, from time to time carry out the periodic inspections to determine land holdings by any person.
- (2) Where pursuant to subregulation (1) any person is found to have more land than is permitted, title to such land which was acquired in excess of the ceiling may be subject to revocation or cancellation after a person shall have been given a hearing.
- (3) A person aggrieved by the decision of the allocating authority under this regulation may lodge an administrative appeal with the Minister and if still not satisfied, may appeal to the District Land Court.
- (4) Where the Commissioner or the relevant authority finds in terms of subregulation (2) that a person has exceeded the land holding ceilings, the Commissioner or such authority shall, where such land is held under a lease, lodge an application for cancellation of a lease in the Land Court.

### **36. Procedure for surrender of land held under a lease**

- (1) An application for surrender of land held under a lease shall be made to the Commissioner in a prescribed form.
- (2) An application for surrender shall be accompanied by—
  - (a) an original lease document; and
  - (b) other documents as may be prescribed.
- (3) The Commissioner shall not accept a surrender of a lease or a part of a land comprised in a lease unless the following circumstances apply:
  - (a) all premium, ground rent and dues owed to the government in respect of that land are fully paid up;
  - (b) the land shall not create, cause or give rise to or transfer of any civil liability to the State;
  - (c) the land is not subject to any subsisting derivative real right or any personal right which gives rise to the occupation or use of the land or any restrictive conditions on the land which are likely to limit the beneficial use of the land;
  - (d) the land is not a subject a mortgage;
  - (e) the land is not subject to any action in connection with the insolvency of the lessee or has not been sequestrated or is not otherwise subject to a judicial attachment;
  - (f) the surrender is not designed to defeat the rights of a spouse to share in or obtain part of the land;
  - (g) every co-owner and person or body who has any interest in that land has consented in writing to the surrender; and

- (h) that it is not, in all the circumstances, generally disadvantageous to the State.
- (4) In a case where it appears to the Commissioner that one or more of the matters referred to in subregulation (3) are not satisfied or in order, the Commissioner shall refuse to accept the surrender.
- (5) Where the Commissioner has made a determination on the application for surrender, the Commissioner shall—
  - (a) notify the lessee;
  - (b) where the surrender is of a part of the land—
    - (i) notify the lessee of any revision to the ground rent for the remaining portion of the land;
    - (ii) notify the lessee of any need for subdivision if necessary; and
    - (iii) advise the Registrar to cancel the existing lease and issue a new lease.
- (6) The Registrar shall make such entries in the deeds registry as are necessary to amend the deeds registry in the light of the information forwarded to him by the Commissioner.

## Part VI – Acquisition and expropriation of land

### 37. Notification of title holders, interested person or occupiers of land which is subject to be acquired and expropriated

- (1) An area of land shall not be declared by notice published in the *Gazette* to be a development area for any public purpose, public interest or for creation of public servitudes unless and until the Minister shall have taken all necessary and appropriate actions to bring to the attention of all occupiers of land which is the subject of the declaration and all persons interested in the probable land, and all persons who are known or believed by the Commissioner to be entitled to compensation in respect of the public servitude, acquisition or expropriation of the probable land.
- (2) The substance of the public notice referred to in subregulation (1) above and without prejudice to the generality of the abovementioned duty, the Minister through the Commissioner shall use one or more of the following means of communicating with the occupiers or title holders of probable land:
  - (a) serving a notice on an occupier or title holder stating clearly the grounds of the declaration;
  - (b) delivering a notice by hand to the place where the occupier or the title holder is living or is believed to be living or if the occupier or title holder is not present, to any adult member of the family residing with him or her;
  - (c) placing advertisements in one or more newspapers circulating in the area where the probable land is situate informing all persons of the substance of the public notice;
  - (d) informing persons through announcements on radio and television of the substance of the public notice;
  - (e) informing the chief having jurisdiction and councilors of the local authority having jurisdiction within the area where the probable land is situate so that they may inform their constituents of the substance of the public notice; and
  - (f) posting the notice conspicuously in and about the probable land.
- (3) The notification referred to in sub regulations (1) and (2) shall contain the following particulars—
  - (a) a description of the land and its location specifying (by reference to a plan or otherwise) its general boundaries and extent;

- (b) the general nature of the public purpose for which the land may be required;
  - (c) the date, being not more than 12 months from the date of the notice, where and when claims and compensation will take place on;
  - (d) such other matters as may be prescribed.
- (4) A notice under subsection (1) shall lapse in so far as it relates to any probable land or any part thereof in respect of which there is not published in the *Gazette* within 12 months, or such longer period being not more than a further 12 months, as the Minister shall specify or extend with reasons in the notice.
- (5) It shall not be lawful for the Minister or the Commissioner to publish a fresh notice under subsection (1) in respect of the land or part of the land in relation to which the notice has lapsed for a period of 2 years from the date on which the notice lapsed.

### **38. Declaration of land to be acquired or expropriated for a public purpose, public interest or creation of public servitude**

- (1) Where the Minister determines, after considering the claims and after compensation has been made to the occupiers or the title holders that it is necessary for the State to acquire or expropriate the probable land or any part of it or any interests in it for a public purpose, or public interest, the Minister shall publish in the *Gazette* a declaration in the prescribed form that the land referred to in the declaration is acquired for a public purpose or public interest.
- (2) The declaration referred to in subsection (1) shall describe the land to which it refers with precision either in words or by reference to a map or plan.
- (3) The Commissioner shall give public notice of any declaration published under subregulation (1) in any manner provided for in regulation 37 (2).
- (4) A declaration to which this subregulation refers shall be—
- (a) kept at the offices of the Department;
  - (b) copied and sent to and kept at the offices of the local authority within whose jurisdiction the acquired land is situate;
  - (c) open to inspection by all members of the public during office hours; and
  - (d) copied and posted up on a public notice board or in any other conspicuous place at any community center or in a village within or as near as may be to the acquired land.
- (5) The Commissioner shall cause a notification of the declaration to which this regulation refers to be brought to the attention of all occupiers of the acquired land and all persons interested in the acquired or expropriated land and shall use all or any of the means specified in regulation 37(2) to this end.

### **39. Effect of a declaration or publication of expropriation or acquisition**

- (1) Upon publication of the notice by the Minister, all rights, interest and titles attached to the land expropriated or acquired shall be extinguished until such land is acquired by an agency, person or body for implementation of the development scheme.
- (2) Notwithstanding the provisions of subregulation (1), lessees and allottees of land within the declared area shall upon the direction of the Minister be entitled to be offered in exchange by the Commissioner leases within the development area, for the same purposes as those for which they previously held the land, of the same plot with or without amendment of the original boundaries thereof, if this is consistent with the development scheme.

- (3) In considering applications for leases within a declared area, the Commissioner shall pay foremost consideration to applications by previous titleholders of land within the area and where any such applications is refused, shall state his reasons for refusal.
- (4) Upon an area being declared to be a development area, it shall be the duty of the Minister or a delegated official or body to ensure that the agency, person or body sponsoring the development scheme or on whose behalf land has been acquired or expropriated develops the area in accordance with the development area plan.
- (5) A copy of the development plan referred to in subregulation (4) above and a copy of the notice for declaration in terms of regulation 38(1) shall be:
  - (a) kept at the office of the Minister;
  - (b) copied to and kept at the office of the Commissioner;
  - (c) copied to and kept at the offices of the allocating authority within whose jurisdiction the acquired land is situate; and
  - (d) open for inspection by all members of the public at the offices of the Commissioner and the allocating authority during working hours.
- (5) The former allottee or lessee of land acquired or expropriated for development purposes shall be entitled to foremost consideration upon any application such former allottees or lessees may make for a grant of title in replacement of that formerly held.
- (6) Where the purpose for which land has been declared for public purpose or for public interest the Minister shall cause to be issued either a lease or a certificate of use to the Government, person, body or agency for which land has been acquired.

#### **40. Acquisition or expropriation of land not part of the declaration**

- (1) Where the land which is acquired or expropriated for development purposes is part of greater land held by the allottee or lessee and the part remaining to the allottee or lessee is less than 500 square meters, the allottee or lessee may, within a month from the date of publication in the *Gazette* of the declaration notice, serve notice upon the Minister requiring the Minister to acquire or expropriate the whole of the land held by the allottee or lessee and upon so being served, the Minister may acquire the whole of the land and shall amend the declaration notice accordingly.
- (2) Notwithstanding any amendment under subsection (1) the notice of declaration shall have effect as from the date of its original publication.
- (3) An allottee or lessee whose land does not fall within the development area but which land has been or is likely to be so injuriously affected by the developments on the acquired land that it cannot any longer be put to any reasonable beneficial use, may within 3 months of publication in the *Gazette* of the declaration notice serve a notice to the Minister to have the land acquired by the state, and the Minister may upon receipt of such notice acquire such land and amend the declaration notice accordingly.

#### **41. Nature of compensation**

- (1) Compensation which accrues as a result of operation of the Act shall be either in monetary form or by way of replacement plot and in all cases shall be on the basis of a present or replacement value which shall take into consideration market forces at time of assessment of compensation.
- (2) Where the value of the plot offered as compensation to a lessee or allottee is lower than the value of the plot held by the lessee or allottee, the lessee or allottee shall, in addition to the plot offered, shall be entitled to a sum equivalent to the difference in value between the plot which the lessee or allottee previously held and the plot offered as compensation.

- (3) Where an amount of compensation has been determined by the Minister or the body responsible for compensation but has not been paid within a period of six months from the making of that determination, interest shall accrue on that amount at a rate of interest that is 1% per annum above the minimum lending rate of the Central Bank of Lesotho.

#### **42. Assessment of compensation**

- (1) In all cases where compensation accrues as a result of the operation of the Act, section 58 of the Act shall apply.
- (2) One of the two valuers other than the Government valuer referred to in section 58(2)(a) of the Act shall be appointed by an association of valuers and the other one by the person who is claiming compensation.
- (3) If such an association is not existing, one valuer shall be appointed by the acquiring authority or the authority in whose favor the land is being acquired or expropriated and the other valuer shall be appointed by the person claiming compensation.
- (4) In all cases whether the two valuers have been appointed under subregulation (2) or (3), the acquiring authority shall have an obligation to pay or sponsor the work of the two valuers on behalf of the claimant.
- (5) Where the Minister or the authority responsible for compensation and the person claiming compensation as a result of land acquisition or as a result of operation of the Act which gives rise to a claim for compensation fail to agree on the amount or nature of compensation, or where the Minister or such authority have failed to make any award for compensation within 6 months after the submission of the claim, the person claiming compensation may pursue his claim before the district land court.

#### **43. Inheritance**

- (1) Whenever an allottee dies intestate, the nearest relative or connection of the deceased or in default of any such relative, the person who at or immediately after the death has the control of the land formerly held by the deceased, shall within 6 months thereafter notify the allocating authority of the death.
- (2) Whenever a lessee dies intestate leaving land held under a lease evidenced by a deed of lease and such leased land is not governed by any written law relating to succession, a person who believes he is the lawful heir or any other interested person shall within 6 months of the death of deceased lessee cause a notice of death to be delivered or transmitted to the Commissioner.
- (3) The notice referred to in subregulation (1) shall show:
  - (a) the date of death, place of origin and the last place of residence of the deceased;
  - (b) the relationship of the informant to the deceased;
  - (c) the name and sex of the heir of the deceased;
  - (d) the names and particulars of the heir and whether the heir was nominated by the allottee or family members of the deceased allottee;
  - (e) whether the allocated land is to be occupied by the minor children of the deceased; and
  - (f) relevant particulars to identify the locality of the allocated land.

#### **44. Processing of notice and allocation procedure**

- (1) Upon receipt of the notice referred to in regulation 43(1), the Chairperson of an allocating authority having jurisdiction shall publish the notice in such manner as he may consider reasonably adequate and most effective including the posting of the notice on the allocated land affected for the purpose

of bringing it to the attention of all persons who may have claims or objections to claims and shall record the manner of such publication in records of the allocating authority.

- (2) Upon receipt of the notice referred to in regulation 43(2), the Commissioner shall refer the matters to the Chairperson of the relevant allocating authority who shall proceed as provided in subregulation (1).
- (3) The notice referred to in subregulation (1) shall in addition to the information required under regulation 43(3) contain the following:
  - (a) name the place and fix the period at and within which claims and objections to claims may be lodged and such period shall not be less than 6 weeks;
  - (b) set the time and date thereafter when the hearing and examination of the evidence relevant to the disposition of the allocation will commence at the said place or any other place so specified.
- (4) An interested person may be given a reasonable opportunity to be heard, call and adduce evidence before the allocating authority and such person may be heard either personally or through his agent deputed in writing for that purpose.
- (5) The Chairperson of the allocating authority shall within seven days of its determination publish the decision and cause the register of allocations to be endorsed accordingly, and in the case of land held under a lease, the allocating authority shall forward its determination to the Commissioner for issuance of a lease in accordance with the determination and subsequent forwarding to the Registrar.

#### **45. When lease determines but occupation continues**

If for any reason no heir is available to inherit a lease that is determined on the death of the deceased lessee but in the event of occupation of the land formerly held under lease by minor children of the deceased lessee, the occupation shall be evidenced by the issue of a certificate of occupation by the Commissioner of Lands to any adult acting as guardian to such minor children:

Provided that such certificate shall contain no terms and conditions additional to those bonding the deceased lessee.

#### **46. Consent**

- (1) An application for a consent to a transaction shall—
  - (a) be made on a prescribed form;
  - (b) contain a description of the transaction;
  - (c) be signed by the parties to the proposed disposition;
  - (d) contain particulars of the land and the parties to the transaction;
  - (e) a prescribed fee;
  - (f) value of the land; and
  - (g) any other particulars that the Commissioner may require.
- (2) An application for consent may be rejected if the applicant is in breach of any one of the statutory conditions of lease or any other or any other condition or obligation binding the lessee.
- (3) A consent granted by the Commissioner shall:
  - (a) be personal to the parties to the disposition;
  - (b) not be assignable or transferable in any way; and



- (c) be valid for one year.

#### **47. Maps and plans**

- (1) Where any map, plan or diagram is required to be prepared or used in any lease transaction or document evidencing a lease or servitude permitted by the Act, the map, plan or diagram shall be prepared according to the laws and regulations governing land surveyors and land surveys currently in effect in Lesotho.
- (2) There shall be attached to each document evidencing an allocation of land under the Act, a sketch, map, plan or diagram sufficient to locate and identify the land allocated which may include references to—
  - (a) plot number;
  - (b) registration or administrative district code;
  - (c) locality expressed in terms of the name of the local council, town, village or street; and
  - (d) other information as may be appropriate.
- (3) When the sketch, map, plan or diagram required for leases or allocations have been prepared, the identification of land in any document shall be by way of reference to the plan and the plot delineated on the plan.
- (4) All plots that are leased or intended to be leased shall be uniquely numbered by the Chief Surveyor.

#### **48. Correction of errors in plans**

- (1) If it appears to the Commissioner that there is any error in any plan referred to in this regulation, the Commissioner may after taking such steps as are necessary to bring it to the notice of the person interested, of the intention so to do and giving every such person an opportunity to be heard, require the Chief Surveyor to correct the error:

Provided that it shall not be necessary for the Commissioner to take steps to bring the correction to the attention of any person so interested or to give such person an opportunity to be heard, in case of a correction not materially affecting the interests of that person.
- (2) A person, other than the Chief Surveyor shall not make any amendment, deletion or addition to any plan, sketch or diagram prepared under this regulation or approved by the Chief Surveyor.

#### **49. Marking of boundaries**

- (1) The boundaries of all land subject to a lease or servitude granted, issued or created under the Act shall be marked on the ground in such manner as the Chief Surveyor may direct.
- (2) Where no physical feature exists to define a boundary of leased land or servitude, corner marks or beacons placed under the authority of the Chief Surveyor shall define the straight line boundary until such time as the boundary is fenced or otherwise defined by physical feature to the satisfaction of the Commissioner.
- (3) A boundary line defined by a physical feature including a suitable fence line shall be deemed to be a general boundary.

#### **50. Disputes over boundaries**

- (1) Where any uncertainty or dispute arises to the position of any boundary, the Chief Surveyor on the application of any interested party shall on such evidence as the Chief Surveyor considers relevant, determine and indicate the position of the uncertain or disputed boundary whereupon that boundary shall be referred to as a "fixed" boundary.

- (2) Any costs of and incidental to an application to fix a boundary shall be paid by the applicant and may be required to be paid in advance.
- (3) Where the Chief Surveyor exercises the powers to determine and indicate a boundary he shall make a note to that effect on any plan depicting that boundary which is used to support the title to the land affected by the uncertain or disputed boundary.

#### **51. Party walls and common boundaries**

- (1) Where any wall or structure straddles the boundary of two pieces, plots or parcels of land which are composed in separate leases, that wall or structure shall be deemed to be severed vertically in two and the land composed in each lease shall include the appropriate vertical part thereof.
- (2) Any of the 2 lessees to whom subregulation (2) applies may apply to the Chief Surveyor for an endorsement to be made on the plans supporting the respective leases recording the party wall or party structure as the common boundary and the Chief Surveyor may after giving notice of the application to the other lessee and affording such other lessee an opportunity to be heard, endorse the plans accordingly.
- (4) Where an endorsement is made in respect of a party wall or structure, each lessee shall have such rights to support and use over the party wall or party structure thereof which is not in his lease as may be.

*[Please note: numbering as in original.]*

- (5) Any costs of and incidental to an application to endorse plans supporting the respective leases recording the party wall or party structure as the common boundary shall be paid by the applicant and may be required to be paid in advance.

#### **52. Conflict resolution**

- (1) A complaint arising from a land title shall be referred to designated courts within existing court structures.
- (2) The Commissioner or the relevant authority shall prescribe the forms for referrals of land complaints to the Land Courts.

#### **53. Revenue**

- (1) Where a lessee is required to pay ground rent for a lease, the rent shall be calculated in accordance with the First Schedule or such notice as the Minister may publish in a *Gazette*.
- (2) A citizen of Lesotho shall not be exempted from payment of ground rent in terms of section 77(5) of the Act unless such person shall have made an application to the Commissioner and the Commissioner has granted such exemption.
- (3) For the purposes of the First Schedule, the grading of plots of land held under a lease shall be determined by the Commissioner.
- (4) The Minister may, in every 3 years and by notice published in a *Gazette*, amend, vary or increase the amount of all ground rent amounts tabulated in the First Schedule.
- (5) A personal levy may be levied on a lessee holding more than one lease or land for residential purposes and the rate of levy shall be determined by the Minister by notice published in the *Gazette*.

#### **54. Development charges**

The development charges set out in the Second Schedule shall be payable by lessees or users of land to the local council or the appropriate authority.

**55. Administrative fees**

A person who makes an application or is in receipt of any service or document specified in the Third Schedule shall pay the appropriate fee specified in that Schedule in respect of the application, service or document as the case may be.

**56. Ground rent revision**

If a lessee is aggrieved by the amount of any ground rent revised under the regulation, he shall have the right to appeal to the Land Court within such a time and in such manner as the relevant rules may prescribe.

**57. Savings**

All leases which were granted or issued prior to the commencement of these regulations shall continue in full force and effect on the terms and condition as specified in the respective leases.

**58. Repeal**

The Land Regulations 1980<sup>6</sup> and Land (Agricultural Lease) 1992<sup>7</sup> are repealed.

6

Act No. 15 of 1980

7

[Legal Notice No. 100 of 1992](#)

## First Schedule (Regulation 53)

### 1. Rates of ground rents in respect of leases

<b>Table 1</b>						
The rate is given in Loti per square meter						
<b>Grade</b>	Description of the land uses noted below					
	<b>R</b>	<b>C</b>	<b>I</b>	<b>W</b>	<b>P</b>	<b>H</b>
A	0.15	0.45	0.34	0.19	0.38	0.38
B	0.12	0.34	0.23	0.15	0.30	0.30
C	0.10	0.23	0.15	0.12	0.23	0.23
D	0.09	0.15	-	-	-	-
E	0.07	0.12	-	-	-	-
F	0.05	-	-	-	-	-

Note 1 R means residential user

C means commercial user including a professional office I means industrial user

W means warehouse user

means sale of petroleum products retail or wholesale

H means commercial hotel not including hotel amenity land

Note 2 In reassessing ground rent use can be made of the appropriate parts of Table 1 and 2.

Note 3 The minimum ground rent for any lease shall not be less than M15.00.

Note 4 In calculating the ground rent, no account shall be taken of the value of improvements effected on the land.

2. A Levy of 5% plus the current Central Bank of Lesotho prime lending interest rate per year shall be payable by a lessee who is in default of payment of ground rent.
3. A personal levy of an additional 25% of the applicable ground rent shall be payable by lessees on a second residential lease and 50% on each subsequent residential lease.

## Second Schedule (Regulations 22, 26 and 54)

### Development charges

Following consultation with the Minister of Works the charges prescribed under section 78 of the Act are:—

1. **Road charge (construction)**

Total cost of construction shared pro-rata as to the area of land leased, used or occupied by the persons directly or indirectly benefiting therefrom which charge shall be paid to the appropriate authority by weekly, monthly, quarterly or annual installments as decided by that authority due account being taken of interest when capital costs for road construction are by loan carrying interest payments or if installments payments are overdue.

2. **Road charge (maintenance)**

Annual costs maintenance shared pro-rata as to the area of land leased, used or occupied by the persons directly or indirectly benefiting therefrom which charge shall be paid in advance to the appropriate authority by weekly, monthly, quarterly or annual installments as decided by that authority due account being taken of interest sums when installments payments are overdue.

3. **Other charges**

Total costs of construction and annual costs of maintenance and use relating to the provision of services of any other kind including footpaths, main drainage and sewerage, street lighting shared pro-rata as to the area of the land leased, used or occupied by the persons directly or indirectly benefiting therefrom which charge shall be paid in advance to the appropriate authority by weekly, monthly, quarterly or annual installments as decided upon by that authority due account being taken of interest when capital costs for construction are by loan carrying interest payments or if installment payments are overdue.

**Third Schedule (Regulation 55)****Table of administrative fees**

1.	For Preparation of a lease for		Maloti
	(i)	residential purposes	20
	(ii)	Commercial or industrial purposes, hotel warehouse, wholesale/ retail sale of petroleum products	100
	(iii)	any other purposes	50
2.	For Preparation of—		
	(i)	any other document involving title to land	50
	(iii)	any specific consent	20
3.	For any publication or planning service, actual or estimated costs		30
4.	A Levy of 10% shall be payable each time by each lessee who is in default of payment in advance of ground rent reserved under a lease or M20 or which is the greater.		

**Fourth Schedule (Regulation 23)**  
**Administrative fees for agricultural lease**

1.	For preparation of a lease		M20.00
2.	For preparation of:		
	(a)	any other document involving title to land	M50.00
	(b)	any specific consent	M20.00
3.		For any publication or planning service, actual or estimated cost	M30.00
4.		A Levy of 10% of amount of ground rent shall be payable each time by each lessee who is in default of payment in advance of ground rent reserved under a lease, or M10 or whichever is the greater,	

### Fifth Schedule (Regulation 19)

#### Rates of ground rents in respect of leases for agricultural purpose

Land use classification				
Grade	N	I	R/F	O
	Maloti/hectares			
A	20.00	100.00	5.00	100.00
B	15.00	75.00	4.00	80.00
C	10.00	50.00	4.00	60.00
D	7.50	30.00	2.00	30.00
E	5.00	20.00	1.00	10.00