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THE GOVERNMENT LANDS BILL, 2013

MEMORANDUM

**1. Object of the Bill**

The object of this Bill is to provide a legal framework for the management of Government held land; to classify Government land; to streamline the law relating to land acquired by or vested in Government or held and managed by the Uganda Land Commission, ministries and agencies of Government, district land boards, local governments and statutory corporations or companies owned by Government; to provide for the acquisition and disposal of Government land in accordance with principles of public procurement and disposal of assets; to provide for the rights of the bona fide occupants on Government land; and for related matters.

**2. Defects in the existing law**

Besides the indirect references in article 239 and 383 of the Constitution and section 49 of the Land Act, there are no other comprehensive explicit statutory provisions defining Government land or relating to management and use of Government Land.

The land vested in or acquired by Government includes land owned, held and used by government ministries, departments and agencies, statutory corporations and companies holding and managing land on behalf of Government.

In particular there is no law providing for the disposal of land held by the Uganda Land Commission, a district land board or a local government since the Public Procurement and Disposal of Public Assets Act, 2003 expressly excludes this land from the definition of public asset and therefore the operation of that Act.

While some of the land held by Uganda Land Commission is held by the Government in trust for people of Uganda, it is not clear whether this land including, lakes, rivers, wetlands, game reserves and ecological and tourist sites, can be disposed of and under what circumstances.

**3. Remedies proposed to deal with the defects**

The Bill seeks to define Government land, require the Uganda Land Commission to survey and demarcate all land belonging to Government in order to make an inventory of all land owned all held by Government.

The Bill proposes to classify Government land into alienable and alienable land in order to categorise and separate land which can be disposed of from that which is held in trust for the common good of the people of Uganda.

The Bill also applies the principles of public procurement to certain land that Government intends to dispose of while preserving the right of Government to purchase

land for public purposes like resettlement of persons without recourse to the principles of public procurement.

Finally the Bill proposes that where Government land is no longer required for public purposes, the land may be ascertained and disposed of in accordance with public procurement principles.

*Minister of Lands, Housing and Urban Development*

THE GOVERNMENT LANDS BILL, 2013

ARRANGEMENT OF CLAUSES

Clause

PART I –PRELIMINARY

1. Interpretation.
2. Application of Act

PART II – GOVERNMENT LAND

3. Land vested in or acquired by Government
4. Inventory of Government land

PART III – MANAGEMENT AND USE OF GOVERNMENT LAND

5. Classification of the land to which this Act applies
6. Government land policy
7. Use of Government land
8. Commission to cooperate with other agencies in management of land

PART IV - ACQUISITION AND DISPOSAL OF LAND

9. Application of public procurement principles to purchase and disposal of Government land
10. Acquisition or disposal with approval of Parliament
11. Disposal of land held by the Commission
12. Disposal by agreement or exchange
13. Contract for disposal of land.
14. Divestiture of land

PART V- PROTECTION OF CERTAIN RIGHTS

15. Rights of bona fide occupants on Government Land.
16. Protection of natural resources.
17. Protection of land owned by ministries, departments or agencies of Government

PART VI- MISCELLANEOUS PROVISIONS

18. Reporting and transparency requirements.

19. Regulations

PART VII-TRANSITIONAL PROVISIONS

20. Surveying and demarcation of Government land

21. Initial inventory and classification

A Bill for an Act

ENTITLED

**THE GOVERNMENT LANDS ACT, 2013**

**An Act to provide a legal framework for the management of Government land; classify Government land; to streamline the law relating to land acquired or vested in Government or held and managed by the Uganda Land Commission, ministries and agencies of Government, local governments, district land boards and statutory corporations or companies owned by Government; to provide for the acquisition and disposal of Government land in accordance with principles of public procurement and disposal of assets; to provide for the rights of the bona fide occupants on Government land; and for related matters.**

**BE IT ENACTED** by Parliament as follows:

PART I –PRELIMINARY

**1. Application of Act**

This Act applies to any land in or outside Uganda vested in or acquired by the Government in accordance with the Constitution.

**2. Interpretation.**

In this Act, unless the context otherwise requires—

“agency of Government” means the government, including, without limitation, a ministry, office, agency, board or commission of the government, a government department, a local government, a statutory authority or corporation and or a parastatal, and any government body which is part of the public service which holds, occupies or uses government land;

“Commission” means the Uganda Land Commission;

“bona fide occupant” means a person—

- (a) who before the commencement of the Constitution occupied and utilized or developed any land specified in section 2(1) (a), and who was not challenged by the Government for twelve years or more or;

(b) who was settled on the land specified in section 2 (1) (a) by the Government or an agent of Government;

“Government” means the Government of Uganda;

“local government” means a council referred to in article 180 of the Constitution;

“Minister” means the Minister responsible for lands;

“public private partnership agreement” means an agreement for a commercial transaction between the Commission and a private party where, for the purposes of executing the transaction, the private party acquires the use of the land held by the Commission for a specified period.

## PART II- GOVERNMENT LAND

### 3. Land vested in or acquired by Government

For the purposes of this Act, all land vested in or acquired by Government is Government land, and includes land—

- (a) vested in Government under the Constitution;
- (b) acquired by Government or a local government under the Constitution, the Land Acquisition Act or any law relating to acquisition of land;
- (c) vested in a local government;
- (d) held by a district land board or which is not owned by any person or authority; and
- (e) vested in or owned by a statutory corporation or a company registered under the Companies Act where the Government has a majority shareholding;
- (f) held in trust for the people of Uganda by the Government;
- (g) held and managed by the Commission for the Government or held in trust for a ministry, department or agency of Government; and
- (h) owned by, vested in, occupied or used by a ministry, department or agency of Government.

### 4. Inventory of Government land

(1) The Commission shall prepare and maintain an inventory of all Government land.

(2) The inventory of Government shall be maintained in the manner prescribed by the Minister.

(3) Without prejudice to subsection (2), the inventory shall—

- (a) indicate the location and description of the land;

- (b) indicate the designated user of the land;
  - (c) indicate the physical characteristics of the land;
  - (d) indicate the encumbrances on the land;
  - (e) indicate the policy in place for the land and whether the land is encroached upon; and
  - (f) include the present or proposed use of the land or in the case of acquired land, the purpose for which it was acquired.
- (4) The Commission shall maintain and update the records and spatial data of all Government land.

(5) For the purposes of this section the Commission may require any ministry, department or agency of Government, a local government, statutory body, public or Government institution, or company in which Government has shares to submit a list and particulars of the land owned, controlled, used, vested in or acquired by that body.

- (6) The Commission shall at least once every year—
- (a) submit a copy of the inventory to the Minister;
  - (b) submit a copy of the inventory to Parliament;
  - (c) publish the inventory on the website of the Commission and in at least two newspapers of nationwide coverage.

### PART III – MANAGEMENT AND USE OF GOVERNMENT LAND

#### **5. Classification of Government land**

##### **6.**

- (1) All Government land shall be classified as alienable or inalienable.
- (2) Government land held in trust for the people under article 237 (2) (b) of the Constitution which shall not be disposed of under this Act, shall be inalienable land.
- (3) Government land which may be disposed of under this Act shall be alienable land.

(4) Subject to this Act and the laws on environment management, inalienable land may with the approval of Parliament be used by Government or a local government.

#### **7. Government land policy**

- (1) Government land shall be managed and utilized in accordance with the land policy approved by Cabinet.
- (2) The Commission shall supervise and monitor the implementation of the land policy by the ministries, departments and agencies of Government that own, occupy or use land to which this Act applies or in which the land is vested.

(3) The Minister shall, in consultation with the Minister responsible for local governments, supervise and monitor the implementation of the land policy by local governments.

## **8. Use of Government land**

(1) The Minister shall in consultation with the Commission identify and review the purposes for which Government land may be used.

(2) In identifying suitable purposes, the Minister shall consider—

- (a) the particulars relating to the land as contained in the inventory;
- (b) the assessment of the potential or capability of the land;
- (c) the national policy on land use;
- (d) in the case of acquired land, the purpose for which the land was acquired;
- (e) the views of any government department, administrative office or public authority or any body which has expressed an interest in the land.

## **9. Commission to coordinate with other agencies in management of land**

In the management of land under this Act, the Commission shall cooperate with all ministries, agencies or organs of government that have custody, use or responsibility for Government land.

### **PART IV - ACQUISITION AND DISPOSAL OF GOVERNMENT LAND**

## **10. Application of public procurement principles to purchase and disposal of Government land**

(1) Subject to this Act, the acquisition or disposal of Government land shall be in accordance with the principles of public procurement and disposal and the methods and the procedures set out in the Public Procurement and Disposal of Public Assets Act, 2003.

(2) Where Government land is to be disposed of, a ministry, department or agencies of Government shall be given priority to utilise the land before a public offer for the sale of the land is made.

(3) The land to be disposed of shall, prior to the disposal—

- (a) be surveyed and planned in accordance with the relevant laws; and
- (b) be valued by a valuer, not employed by the Government, who shall be procured in accordance with the Public Procurement and Disposal of Public Assets Act.



## **11. Acquisition or disposal with approval of Parliament**

Section 9 shall not apply where—

- (a) Parliament by resolution authorizes a particular category of citizens of Uganda to purchase the land, on such terms as may be specified in the resolution;
- (b) the disposal is intended to enable the resettlement of landless people or the upgrading of a slum dwelling area.

## **12. Disposal of land held by the Commission**

Notwithstanding any contrary provision, in any law, the Commission shall not dispose of land belonging, vested or held in trust for a ministry, department or agency of Government without the prior written consent of that ministry, department or agency of Government.

## **13. Disposal by agreement or exchange**

(1) The Commission may—

- (a) enter into a public private partnership agreement with a private party, regarding land held and managed by the Commission; or
- (b) exchange land held by the Commission with land held by a private party.

(2) Where the Commission enters into a public private partnership agreement, the agreement shall provide for the recovery of the land at the end of the agreement or where appropriate, for the future conversion of the value of the land into equity.

(3) Where the Commission exchanges land with a private party, the land shall be of the same value and the exchange shall be conducted in a transparent manner.

(4) For the avoidance of doubt Government land shall only be disposed of under this section, where the land—

- (a) cannot be utilised by a ministry, department or agency of Government; or
- (b) is required by a private party for a strategic investment that is in the public interest.

(5) The land to which this Act applies shall not be disposed of to a private party without payment.

#### **14. Contract for disposal of land.**

A contract for disposal of Government land shall indicate—

- (a) in case of a development or redevelopment lease, the duration of the initial term of the lease and the conditions for extension of the initial term of a lease;
- (b) the rent to be paid and the terms and conditions for the revision of the rent;
- (c) the grounds for and the process of cancellation or forfeiture of a lease;
- (d) whether the lease may be renewed in case the development covenant is not complied with;
- (e) whether or not the lease may be assigned or transferred;
- (f) that the lease may be surrendered and where applicable, the restrictions on variation of the lease where the variation would compromise public interest;
- (g) how the developments on land are to be disposed of, where a lease is not renewed;
- (h) the development security or performance or delivery criteria of the lease and where required the relevant security;
- (i) the conditions and procedure for recovery and repossession of the land at the expiry of the lease; and
- (j) any other conditions that may be relevant to the lease.

#### **15. Divestiture of land**

(1) The Minister shall by regulations prescribe the criteria for the ascertainment of which is no longer required by Government, a local, government or a statutory body.

(2) Land identified under subsection (1) may be disposed of in accordance with this Act.

(3) All ministries, agencies or organs of government that have custody, use or responsibilities for land under this section shall, subject to this Act, give the first option of purchasing that land to the Commission.

### **PART V- PROTECTION OF CERTAIN RIGHTS**

#### **16. Rights of bona fide occupants on Government Land.**

A bona fide occupant on any land Government land which has been adjudicated and demarcated, shall subject to this Act, have the same rights, as a bona fide occupant under the Land Act.

**17. Protection of natural resources.**

(1) For the purposes of protecting natural resources Government may relocate and resettle a bona fide occupant from Government land.

(2) In this section ‘natural resources’ means natural lakes, rivers, wetlands, forest reserves, game reserves, national parks and any land that is used for ecological and touristic purposes.

**18. Protection of land owned by ministries, departments or agencies of Government**

(1) The Uganda Land Commission shall not dispose of any land owned by, vested in or occupied by a ministry, department or agency of Government without the approval of the ministry, department or agency.

(2) Where the land is not utilised, it shall not be disposed of where the ministry, department or agency of Government to which the land belongs, requires it for expansion or future redevelopment.

**PART VI- MISCELLANEOUS PROVISIONS****19. Reporting and transparency requirements.**

(1) The Commission shall within three months after the end of each financial year, submit to the Minister a report of the activities of the Commission under this Act.

(2) The report shall indicate the disposals of land held and managed by the Commission made during the preceding financial year and the surveys and registration of land, carried out with respect to land held and managed by the Commission.

(3) The Minister shall submit a copy of the report under this section to Parliament.

**20. Regulations**

(1) The Minister may on the recommendation of the Commission, by statutory instrument, make regulations for better carrying into effect the provisions of this Act.

(2) Without prejudice to subsection (1), the Minister may make regulations relating to—

(a) the conditions for recovery of Government land;

- (b) principles for the management of Government land according to the national land policy.

## PART VII-TRANSITIONAL PROVISIONS

### **21. Surveying and demarcation of Government land**

The Commission shall within one year after the coming into force of this Act survey and demarcate all land under this Act for the purposes of preparing the inventory and reports required by this Act.

### **22. Initial inventory and classification**

(1) The Commission shall make and present the initial inventory required under this Act within two years from the commencement of this Act.

(2) The initial classification of the land required under this Act shall be concluded within two years after the commencement of this Act.

### **Cross references**

The Constitution of the Republic of Uganda, 1995

The Land Acquisition Act, 226

The Land Act, Cap 227

The Public Procurement and Disposal of Assets Act, 2003, (Act No. 1 of 2003).