

Zambia

Housing (Statutory and Improvement Areas) Act, 1975

Chapter 194

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Housing (Statutory and Improvement Areas) Act, 1975

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Zambia

Housing (Statutory and Improvement Areas) Act, 1975

Chapter 194

Commenced on 1 June 1975

[This is the version of this document as it was at 31 December 1996 to 18 November 2010.]

[Repealed by [Urban and Regional Planning Act, 2015 \(Act 3 of 2015\)](#) on 14 August 2015]

An Act to provide for the control and improvement of housing in certain areas; and to provide for matters connected with or incidental thereto.

Part I – Preliminary

1. Short title

This Act may be cited as the Housing (Statutory and Improvement Areas) Act.

2. Application

Notwithstanding anything to the contrary contained in any written law, the provisions of any such law, in so far as they are inconsistent with the provisions of this Act, shall not apply to any land comprised in a Statutory Housing Area or in an Improvement Area.

3. Interpretation

In this Act, unless the context otherwise requires—

"**certificate of title**" or "council certificate of title" means certificate of title to land issued in accordance with the provisions of this Act;

"**charge**" means any charge created on land for the purpose of securing the payment of money and also the document by which the charge is created;

"**chargee**" means the person in whose favour the charge is created, and includes the person for the time being entitled to the benefit of such charge;

"**council**" means a municipal council, township council, rural council or any other council established under the Local Government Act;

[Cap. 281]

"**court**" means any Subordinate Court;

"**dealing**" means any transaction of whatever nature affecting land;

"**document**" means a document of lease or grant under which a council derives any leasehold interest in respect of land situated in a Statutory Housing Area or in an Improvement Area, and includes any other document referred to in this Act;

"**dwelling**" means any building or structure or part of any building or structure designed to operate or to be used as living accommodation, and includes any yard or garden appurtenant thereto or enjoyed therewith;

"**grant**" means a grant of land for a term of years certain made to a council for the purposes of this Act;

"**improvement**" includes a building or any other structure of whatever kind on land;

"Improvement Area" means any area of land declared as such in accordance with the provisions of this Act;

"land" means—

- (a) in relation to Parts II to VII inclusive, land within a Statutory Housing Area;
- (b) in relation to Part VIII, land within an Improvement Area; and
- (c) where applicable, in relation to Part IX, land within a Statutory Housing Area or in an Improvement Area, as the case may be;

and in any such cases includes anything attached to the earth or permanently fastened to anything which is attached to the earth, but does not include any mineral right in or under or in respect of any such land;

"let" includes transfer, sub-letting or parting with possession;

"memorial" means the entry signed by the council registrar on a council certificate of title embodied in the council register in respect of any document presented for registration;

"minor" means a person who has not attained the age of twenty-one years;

"mortgage" includes a charge and the document creating such charge;

"National Housing Authority" means the National Housing Authority established under the National Housing Authority Act;

[Cap. 195]

"register" or "council register" means the register of titles to land to be kept and maintained in accordance with the provisions of this Act;

"registrar" or "council registrar" means the person appointed as such by a council and includes an assistant registrar and any other person appointed to act in either of such capacities;

"registry" or "council registry" means the registry of any council where the documents required or permitted to be registered by or under this Act may be registered;

"Statutory Housing Area" means any area of land declared as such in accordance with the provisions of this Act;

"Surveyor-General" means the Surveyor-General appointed under the provisions of section four of the Land Survey Act;

[Cap. 188]

"testator" includes a person dying intestate;

"transfer", used in connection with land, means the passing of such land or any interest therein, by act of the parties rather than by operation of law;

"transferee" means a person to whom a council certificate of title has been issued under this Act, or to whom an occupancy licence has been issued in accordance with the provisions of this Act;

"transmission", used in connection with land, means the passing of such land or any interest therein by operation of law.

Part II – Statutory Housing Areas

4. Declaration of Statutory Housing Areas

- (1) The Minister may by statutory order declare any area of land within the jurisdiction of a council to be a Statutory Housing Area, and may at any time thereafter declare that the whole or part of the land comprised in the Statutory Housing Area shall cease to be part of a Statutory Housing Area:

Provided that no land shall be declared to be a Statutory Housing Area unless—

- (i) such land is held by the council in fee simple or by way of leasehold or a grant thereof has been made to the council in accordance with the provisions of the Zambia (State Lands and Reserves) Orders, 1928 to 1964; and
- (ii) a plan showing the particulars or details hereinafter mentioned and duly approved by the Surveyor-General is deposited by the council with the Surveyor-General, the Commissioner of Lands, and with the Registrar of Lands and Deeds.

[App. 9]

- (2) The plan referred to in paragraph (ii) of the proviso to subsection (1) shall be entitled "Statutory Housing Area Plan" and shall contain, *inter alia*, the following particulars or details:
- (a) the name and description by which the Statutory Housing Area is known or is to be known;
 - (b) the existing roads, if any;
 - (c) the roads proposed to be constructed;
 - (d) the existing areas for common user;
 - (e) the proposed areas for common user;
 - (f) the area and dimensions of each piece or parcel of land identified by a serial number.

5. Subdivision and letting of land in Statutory Housing Areas

- (1) Subject to the provisions of this Act, and notwithstanding anything to the contrary contained or implied in any written law or in any document, a council may, in any Statutory Housing Area—
- (a) with the approval of the Minister subdivide any land;
 - (b) in accordance with the specifications prescribed by the National Housing Authority, erect any building or effect any improvement on any piece or parcel of land;
 - (c) let to any person any piece or parcel of land for such term and on such conditions as may be approved by the Minister:

Provided that in a Statutory Housing Area the council shall not—

- (i) sell or convey any freehold estate;
 - (ii) let more than one piece or parcel of land to any one person;
 - (iii) save for use and occupation by himself or his *bona fide* dependants, let to any person engaged in the business of buying, selling, letting, developing, or in any way dealing in immovable property.
- (2) Nothing contained in subsection (1) shall be so construed as to prohibit the letting of any piece or parcel of land by the council to—
- (a) the Government;

- (b) any local authority, public corporation or other public body;
- (c) any person if the land is required and is to be used by him for the purpose of providing accommodation to the full-time employees of such person;
- (d) any religious or public organisation for social, cultural, educational, recreational or religious purposes;
- (e) any society registered under the Co-operative Societies Act.

[Cap. 397]

6. Land comprised in grants

After the commencement of this Act, and notwithstanding anything to the contrary contained in any written law, all the land which is comprised in any grant made to a council for the purposes of this Act shall be subject to the provisions of this Act, and shall not be capable of being transferred, transmitted, mortgaged, charged or otherwise dealt with except in accordance with the provisions of this Act, and any attempt to transfer, transmit, mortgage, charge or otherwise deal in the same except as aforesaid shall be null and void.

7. Council certificate of title

- (1) Whenever land comprised in a grant is transferred in the manner hereinafter prescribed, the council registrar shall, on payment of the prescribed fee, issue a council certificate of title in favour of the transferee in such form as may be prescribed, and shall thereafter—
 - (a) register the council certificate of title in the manner prescribed;
 - (b) deliver the council certificate of title to the transferee; and
 - (c) file a copy thereof in the council registry.
- (2) Subject to the provisions of this Act, the title of the transferee under each new council certificate of title shall be valid and effectual in every respect as if he had been the original grantee in the grant of the land contained in the certificate.
- (3) Where two or more persons are entitled as tenants in common to undivided shares in any land, only one council certificate of title shall be issued in respect of such land.
- (4) Notwithstanding the provisions of subsection (3), the council registrar may, in his absolute discretion and on payment of the prescribed fee, issue a separate certificate to each such person for his individual share.

8. Council certificate of title to be conclusive evidence of interest in land

- (1) The council certificate of title issued by the registrar to any transferee of land shall not be subject to challenge, except on the ground of fraud, misrepresentation or mistake.
- (2) A certified copy of any registered document, signed by the council registrar and sealed with the seal of his office, shall be received in evidence in the same manner as the original of such document.

9. Registered encumbrances to be noted on council certificate

The council registrar shall note upon every certificate of title, in such manner as to preserve their priority, the memorials of all unsatisfied mortgages, leases and other estates and interests to which the land is subject at the time of issuing such certificate, and any documents dealing with such estates or interests; and in the case of a certificate of title issued to any person under a legal disability, the council registrar shall in such certificate also state the particulars of such disability as far as he has notice or knowledge thereof.

10. Interest outstanding at time of issue of certificate

All estates and interests affecting the land of a registered transferee at the time of the issue of a council certificate of title shall, so far as the same are disclosed upon application or can otherwise be ascertained, be entered on such certificate and in the register in such manner as to preserve their priority.

Part III – Registration of titles

11. Register of titles

In every council where there is a Statutory Housing Area or Improvement Area, there shall be a registrar who shall keep and maintain a register to be called the register of titles, and shall file therein all copies of all grants and of all certificates of title issued under this Act. Each grant and the relative certificate of title shall constitute a separate folio of such register and the registrar shall record therein the particulars of all the documents, dealings and other matters by this Act required or permitted to be registered or entered in the register, affecting land contained in each grant and certificate of title.

12. Presentation book

- (1) Every registrar shall keep and maintain a book to be called the presentation book, in which shall be entered a brief description of every document which is presented for registration, with the date and time of presentation.
- (2) For the purpose of priority, the time of presentation of any document shall be deemed to be the time of registration.

13. When documents deemed to be registered

- (1) Any transfer or other document purporting to transfer or in any way to affect any land, shall be deemed to be registered as soon as a memorial thereof, as hereinafter provided, has been entered in the register.
- (2) Every document to which subsection (1) applies shall be accompanied by particulars identifying the house, building or plot in question by reference to its appropriate number on a Statutory Housing Area Plan.

14. Priority determined by registration and not by execution

- (1) Except as hereinafter otherwise provided, any document required or permitted to be registered under this Act shall be in the prescribed form and shall be registered in the order of time in which it is presented for the purpose.
- (2) Upon registration of any such document, the registrar shall deliver the original to the person entitled thereto and shall file a copy in the register.

15. Memorial of registration

Every memorial entered in the register shall be signed by the registrar and shall state the nature and number of the document to which it relates, the date and time of presentation of such document for registration, and the names of the parties thereto.

16. Unregistered document invalid

Any document which is required to be registered under the provisions of this Act and is not so registered shall be null and void:

Provided that nothing herein contained shall apply to the case of any person who has notice of any such document.

17. Registrar may refuse to register document

No registrar shall register any document purporting to transfer or affect any land unless such document is in accordance with the provisions of this Act and relates to land which is situated within the jurisdiction of the council of which he is registrar.

18. Translations

If any document presented for registration is not in the English language, it shall be accompanied by an English translation of the same duly certified by a competent person.

19. Registry open for search

Every council register may be searched and examined by anyone and certified copies of any entry therein may be obtained upon payment of such fees as may be prescribed.

20. Official certificates of search

- (1) Where any person requires search to be made at the council registry for entries of any matters or documents, whereof entries are required or allowed to be made in the council registry, he may, on payment of the prescribed fee, lodge at the council registry a requisition in that behalf.
- (2) The council registrar shall thereupon make the search required, and shall issue a certificate setting forth the result thereof.
- (3) In favour of a purchaser or an intending purchaser, as against persons interested under or in respect of matters or documents whereof entries are required or allowed as aforesaid, the certificate, according to the tenor thereof, shall be conclusive, affirmatively or negatively, as the case may be.
- (4) If any officer, clerk or person employed in the registry commits, or is party or privy to, any act of fraud or collusion, or is wilfully negligent, in the making of or otherwise in relation to any certificate under this section, he shall be liable on conviction to imprisonment for a term not exceeding two years, or on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding one thousand penalty units or to both.

[As amended by Act [No. 13 of 1994](#)]

21. Indemnity of officers of registry

The council registrar shall not be liable for any act done or omitted to be done in good faith in the exercise or purported exercise of the powers conferred upon him by or under this Act.

22. Form of transfer

Every document purporting to transfer land or any interest therein shall be in the prescribed form.

23. Form of mortgage

Every mortgage or transfer of mortgage executed in respect of any land to which this Act applies shall be in the prescribed form.

24. Mortgage by deposit of documents

- (1) A mortgage in respect of any land to which this Act applies may be created by the deposit of documents of title and such mortgage shall be evidenced by a document in the prescribed form.

- (2) In this section, "documents of title" means a grant, a certificate of title, a lease or a sub-lease.

25. Transmission

Any personal representative or guardian claiming to be entitled to any land or interest therein by virtue of any transmission may make application in writing to the registrar to have such transmission registered.

Part IV – Caveats

26. Caveat against dealing with land

Any person—

- (a) claiming to be entitled to or to be beneficially interested in any land or interest therein by virtue of any unregistered agreement or other document or transmission, or of any trust expressed or implied, or otherwise howsoever; or
- (b) transferring any land or interest therein to any other person to be held in trust; or
- (c) claiming to be a purchaser or mortgagee of any land;

may at any time lodge with the registrar a caveat in the prescribed form.

27. Particulars to be stated in caveat

- (1) Every caveat shall be signed by the caveator or by his attorney or agent appointed under a registered document in the prescribed form, and shall state with sufficient certainty the nature of the estate or interest claimed by the caveator, with such other information and evidence as may be required by any regulations made under this Act, and shall give a postal address or appoint a place within 4.8 kilometres of the registry to or at which notices and proceedings relating to such caveat may be addressed or served.
- (2) Every caveat shall be entered on the register as of the date and time of its receipt by the registrar.

28. Service of notices as to caveats

Every notice relating to a caveat and any proceedings in respect thereof if served at the place appointed in the caveat, or forwarded through the Post Office by registered post addressed as aforesaid, shall be deemed duly served.

29. Effect of caveat against dealings

So long as a caveat remains in force, the registrar shall not make any entry on the register having the effect of charging or transferring or otherwise affecting the land or interest protected by such caveat:

Provided that nothing herein shall prevent the completion of the registration of any document which has been accepted for registration before the receipt of the caveat.

30. Notice of caveat to be given to persons affected

Upon receipt of any caveat, the council registrar shall notify the same to the registered transferee or other person against whose title to deal with land or other interest such caveat has been lodged. Such notification may be sent by ordinary prepaid post addressed to the person to be notified at his address as shown in the register or, if there be no such address, by affixing the same on some conspicuous part of the registry premises for not less than seven days.

31. Removal of caveat and compensation

- (1) Such transferee or other interested person may, if he thinks fit, summon the caveator, or the person on whose behalf such caveat has been lodged, to attend before the court to show cause why such caveat should not be removed.
- (2) The court, upon proof that such person has been summoned, may make such order as seems just.
- (3) Any person lodging any caveat without reasonable cause shall be liable to pay compensation to any person who may have sustained damage thereby.

32. Caveat may be withdrawn

Any caveat may be withdrawn by the caveator or by his attorney or agent under a written authority, and either as to the whole or any part of the land affected, or the consent of the caveator may be given for the registration of any particular dealing expressed to be made subject to the rights of the caveator.

Part V – Rectification of titles: cancellation of entries and correction of documents**33. Wrongful or fraudulent entries or retention of documents**

- (1) If it appears to the registrar that any certificate of title or any other document registered under this Act contains any error or misdescription, he may order any person possessing such certificate or document to deliver up the same within the period stated in the said order for the purpose of it being rectified.
- (2) Any person who without reasonable cause fails, neglects or refuses to deliver up any such certificate or document shall be liable to a fine not exceeding one hundred penalty units for each day during which such failure, neglect or refusal continues.
- (3) Any person aggrieved by any order of the registrar may appeal to the court within thirty days of the receipt of a copy of any such order.

[As amended by Act [No. 13 of 1994](#)]

Part VI – Trusts**34. No entry of trusts to be made on register except those specially authorised**

- (1) Except as provided in subsection (2), no entry of any trust shall be made in the register or on any certificate of title, and any such entry, if made, shall have no effect.
- (2) Trusts affecting land may be declared by any deed or document, and such deed or document may be registered in the register.

35. Vesting in new trustees

Section 12 of the Trustees Act, 1893, of the United Kingdom, shall not apply to land falling under the provisions of this Act, but whenever a new trustee is appointed to perform any trust in relation to such land, the person or persons in whom the legal interest in the land or the estates or interest comprised in such trust is vested shall forthwith transfer the same jointly to the persons who are the trustees as the result of such appointment.

Part VII – Special powers and duties of Registrar

36. Powers of Registrar

In addition to any other powers conferred upon him under this Act, every registrar may exercise all or any of the powers following, that is to say:

- (a) he may require the transferee of, or any other person interested in, any land in respect of which any transfer, transmission or other dealing is about to be registered to produce any certificate of title, mortgage, lease, sub-lease, underlease, will or other document in his possession relating to such land;
- (b) he may summon any such transferee or other person as aforesaid to appear and give any information or explanation respecting such land or any document affecting the title thereto, and if any such person without reasonable cause refuses or wilfully neglects to produce any such document or to give any information or explanation, he shall be guilty of an offence and shall be liable to a fine not exceeding five hundred penalty units or to imprisonment for a term not exceeding three months, or to both;
- (c) he may administer oaths and affirmations or take declarations in lieu thereof and for the purposes aforesaid every registrar is hereby constituted a Commissioner for Oaths.

[As amended by Act [No. 13 of 1994](#)]

Part VIII – Improvement Areas

37. Declaration of Improvement Areas

- (1) The Minister may by statutory order declare any area of land within the jurisdiction of a council to be an Improvement Area, and may at any time thereafter declare that the whole or part of the land comprised in the Improvement Area shall cease to be part of an Improvement Area:

Provided that no land shall be declared to be an Improvement Area unless-

- (i) such land is held by the council in fee simple or by way of leasehold or a grant thereof has been made to the council in accordance with the provisions of the Zambia (State Lands and Reserves) Orders, 1928 to 1964; and
- (ii) a plan showing the particulars or details hereafter mentioned and duly approved by the Surveyor-General is deposited by the council with the Surveyor-General and the Registrar of Lands and Deeds.

[App. 9]

- (2) The plan referred to in paragraph (ii) of the proviso to subsection (1) may be in such form as the Minister may approve and shall be entitled "Improvement Area Plan" and shall contain, *inter alia*, the following particulars or details:
 - (a) the name and description by which the Improvement Area is known or to be known;
 - (b) the existing roads, if any;
 - (c) the roads proposed to be constructed;
 - (d) the existing areas for common user;
 - (e) the proposed areas for common user;
 - (f) the location of each building identified by a serial number.

- (3) The provisions of sections six and seven and such other sections as the Minister may prescribe shall *mutatis mutandis* apply to land comprised in this Part.

38. Subdivision and control of Improvement Areas

Subject to the provisions of this Act, and notwithstanding anything to the contrary contained or implied in any written law or any document, a council may in an Improvement Area, with the approval of the Minister—

- (a) subdivide the land;
- (b) in accordance with the specifications prescribed by the National Housing Authority erect any building or effect any improvement on any piece or parcel of land;
- (c) carry out the construction and maintenance of roads, pathways, waterworks, drainage, sewerage and other works for public amenity as it may deem necessary or desirable.

39. Occupancy licence

- (1) No person shall without a licence issued under this section and except in accordance with the conditions thereof, build, use, let, sell, create a lien or security or in any way deal with any dwelling or building erected on any piece or parcel of land.
- (2) The council may issue to any person a licence (hereinafter referred to as an occupancy licence) in respect of any piece or parcel of land in such form, subject to such conditions and on payment of such fees as may be prescribed:

Provided that not more than one occupancy licence shall be issued to any one person.

- (3) Subject to the provisions of this Act every occupancy licence shall be valid for a period of not more than thirty years.
- (4) Every occupancy licence and any other document relating to any dealing with land shall be registered in such manner as may be prescribed.
- (5) The holder of an occupancy licence shall have such rights and obligations in respect of the piece or parcel of land to which the licence relates and in respect of any dwelling or other building erected thereon as may be prescribed.
- (6) The council may, after giving not less than three months' notice in writing to the licensee, revoke an occupancy licence on any of the grounds following, that is to say:
 - (a) the licensee has committed a breach of or failed to comply with any of the conditions of the licence; or
 - (b) the licensee has failed to pay the fee prescribed for the licence.
- (7) Any fees payable under this Part may be recovered as a civil debt.

Part IX – Miscellaneous

40. Construction of buildings in Statutory Housing Areas or Improvement Areas

- (1) Every building erected and every improvement effected on any land to which this Act applies shall be in accordance with specifications approved by the National Housing Authority or by the council in whose jurisdiction such land is situated.
- (2) The National Housing Authority may with the consent of the Minister make regulations prescribing the specifications for any building or improvement referred to in subsection (1).

41. Attestation of signatures

Every signature to any document required or permitted to be registered under this Act shall be attested by the registrar.

42. No dealing with land except with the council's consent

No registrar shall register any document purporting to transfer, deal in or affect any land unless the council in whose jurisdiction such land is situated is a party to the transaction recorded therein or has signified its consent to any such transaction.

43. Loss of certificate of title

In the event of a certificate of title being lost or destroyed, the transferee of the land to which such certificate of title relates may make a declaration, stating to the best of his knowledge and belief the facts of the case and the particulars of all transactions affecting such land or the title thereto, and the registrar, if satisfied as to the truth of such declaration, may issue to the transferee a provisional certificate of title in respect of such land:

Provided that the registrar shall, before issuing such provisional certificate, give at least thirty days' notice in the *Gazette* of his intention so to do.

44. Offences

A person shall be guilty of an offence under this Act if he—

- (a) without lawful authority uses or occupies any piece or parcel of land or building in any area to which this Act applies;
- (b) demands or receives from any person in respect of a building or premises situated in any area to which this Act applies a rent, fee, purchase price or other charge in excess of the rent, fee, purchase price or other charges prescribed under this Act;
- (c) erects any building or structure in any area to which this Act applies without the prior approval of the council within whose jurisdiction the land is situated;
- (d) does or omits to do any act in contravention of any of the provisions of this Act.

45. Penalties

Unless otherwise expressly provided in this Act, any person found guilty of an offence under this Act shall be liable to a fine not exceeding five thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

[As amended by Act [No. 13 of 1994](#)]

46. Registrar may submit special case

The council registrar may submit for the decision of the court any question arising under this Act.

47. Regulations

- (1) The Minister may, by statutory instrument, make regulations for the better carrying into effect of the purposes of this Act.
- (2) Notwithstanding the generality of the foregoing provision, the Minister may make regulations—
 - (a) prescribing the form of application for search in the registry and the official certificate to be issued thereon;

- (b) prescribing the times during which any register may be searched and examined;
- (c) prescribing the fees payable upon registration of documents and in respect of searches and any other matters under this Act;
- (d) prescribing the form, the terms, and the conditions of any licence which may be issued under this Act, including the term or period for which such licence may be issued;
- (e) prescribing the name and description by which any Statutory Housing Area or Improvement Area may be known;
- (f) prescribing the area and dimensions of each piece or parcel of land in a Statutory Housing Area;
- (g) determining the rent that may be charged by any person entitled to let any building or premises;
- (h) determining the price at which any piece or parcel of land may be sold;
- (i) determining the terms and conditions under which a council or any other person may make a loan to any transferee of land;
- (j) prescribing the fees payable to a council in respect of any licence to be issued under this Act;
- (k) prescribing the terms and conditions which shall be implied in any document;
- (l) prescribing the method of identifying buildings in an Improvement Area;
- (m) prescribing anything which under this Act may or is to be prescribed.

48. Certain Acts not to apply to Statutory Housing Areas or Improvement Areas

The Acts set out in the Schedule shall not apply to any piece or parcel of land to which this Act applies.

Schedule (Section 48)

Non-application of certain enactments

1. The Lands and Deeds Registry Act ([Cap. 185](#))
2. The Land Survey Act ([Cap. 188](#))
3. The Rent Act ([Cap. 206](#))
4. The Town and Country Planning Act (Cap. 283)