

REPUBLIC OF VANUATU

BILL FOR THE LAND LEASES (AMENDMENT) ACT NO. OF 2017

Explanatory Note

This Bill amends the Land Leases Act [CAP 163].

Item 1 inserts after section 7 a new section 7A. This clause provides for the power of the Director to cancel a lease from the register relating to a land which has been acquired by the Government under the Land Acquisition Act [CAP 215].

Item 2 inserts after subsection 12(2) a new subsection 12(3). This item is necessary to reflect the new National Subdivision Policy which provides that should a proprietor of a registered lease intends to subdivide land comprised under that lease into more than 10 parcels, the proprietor of that lease must do so in accordance with the requirements under the Land Reform Act [CAP 123]. This amendment is necessary to impose an obligation on such persons to ensure that when subdividing their lease, they must comply with the requirements of the new National Subdivision Policy which are to be outlined under the Regulations made under the Land Reform Act [CAP 123].

Item 3 inserts after section 32D a new section 32E which provides for the effect of the removal of a company from the register of companies on its leasehold interests. This section provides that should a company be removed from the register of companies, the Director of Lands may cancel any lease that has been registered to a company 12 months from the date of the notice signed by the Registrar removing that company from the register of companies. This section also provides that should a company be restored to the register, the registered lease that has been cancelled cannot be claimed by the company.

Item 4 repeals subsection 43(3) and replaces it with new subsections (3) and (4). Subsection (3) provides that the right of a lessor to forfeit his or her lease can be waived if he or she intends to treat the lease as subsisting after he or she is aware of the commission of a breach by the lessee. This is a provision which already exists under the Land Leases Act [CAP 163]. Subsection (4) now provides that the right of the lessor to forfeit a lease is not in any way waived if the lessor has accepted rent associated with that lease.

Item 5 repeals subsections 48A(2) and substitutes it with new subsections (2) and (2A). Subsection (2) provides that if a proprietor of a rural registered lease sells the said lease, he or she must pay the proprietor 10% of the difference in the amount between:

- (a) unimproved market value of the land at the time it was purchased or the purchase price at the time it was purchased, whichever is lower; and
- (b) unimproved market value of the land at the time of sale or the sale price at the time of sale, whichever is lower.

Subsection (2A) provides that subsection (2) does not apply where the lessor or lessee have entered into other arrangements.

Item 6 amends subsection 48A(3). Subsection (3) now provides that if a proprietor of a registered lease sells a lease that is created by a subdivision, the proprietor must, unless otherwise agreed by the lessor and lessee, pay the lessor 5% of the unimproved market value of the land at the time of sale or the sale price of the land at the time of sale, whichever is lower.

Item 7 repeals subsection 48B(2) and replaces it with a new subsection (2) providing that if a proprietor of an urban registered lease sells the said lease, he or she must pay the proprietor 10% of the difference in the amount between:

- (a) unimproved market value of the land at the time it was purchased or the purchase price at the time it was purchased, whichever is lower; and
- (b) unimproved market value of the land at the time of sale or the sale price at the time of sale, whichever is lower.

Item 8 inserts after subsection 99(3) new subsections (4) and (5) that provide for the power of the Director to rectify a registered lease and its corresponding survey plan, where part of that lease has been acquired by the Government under the Land Acquisition Act [CAP 215].

Minister of Lands and Natural Resources



REPUBLIC OF VANUATU

**BILL FOR THE
LAND LEASES (AMENDMENT)
ACT NO. OF 2017**

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REPUBLIC OF VANUATU

BILL FOR THE LAND LEASES (AMENDMENT) ACT NO. OF 2017

An Act to amend the Land Lease Act [CAP 163].

Be it enacted by the President and Parliament as follows-

1 Amendment

The Land Leases Act [CAP 163] is amended as set out in the Schedule.

2 Commencement

This Act commences on the day on which it is published in the Gazette.

SCHEDULE

AMENDMENTS OF THE LAND LEASES ACT [CAP 163]

1 After section 7

Insert

“7A Power of Director to cancel lease relating to land acquired

- (1) Subject to subsection (2), the Director may cancel a lease from the register relating to a land which has been acquired for the purposes of the Land Acquisition Act [CAP 215].
- (2) The Director may only cancel a lease under subsection (1), on or after the date of commencement of an order made by the Minister under section 16 of the Land Acquisition Act [CAP 215].”

2 After subsection 12(2)

Insert

- “(3) A proprietor of a registered lease must not subdivide land comprised under that lease into more than 10 parcels unless it is done in accordance with the requirements under the Land Reform Act [CAP 123].”

3 After section 32D

Insert

“32E Effect of removal of a company from the register of companies

- (1) This section applies to a company that is a registered lessee and that has been removed from the register by the Registrar of companies under the Companies Act No. 25 of 2012.
- (2) The Director may cancel any lease that has been registered to a company that has been removed from the register of companies, 12 months after the date of the notice signed by the Registrar of companies under section 139 of the Companies Act No. 25 of 2012.
- (3) If a company that has been removed from the register of companies is restored under section 150 of the Companies Act No. 25 of 2012, any registered lease that has been cancelled by the Director under subsection (2) cannot be claimed by that company.”

4 Subsection 43(3)

Repeal the subsection, substitute

- “(3) Subject to subsection (4), the right of forfeiture may not be exercised if:
- (a) the lessor has shown an intention to treat the lease as subsisting;
and
 - (b) the lessor is or should by reasonable diligence have become aware of the commission of the breach of the agreement or condition which entitled the lessor to forfeit the lease.
- (4) The lessor’s right to forfeiture is not waived if the lessor accepts the rent associated with that lease.”

5 Subsections 48A(2)

Repeal the subsection, substitute

- “(2) Subject to subsection (2A), if a proprietor of a registered lease sells that lease, the proprietor must pay to the lessor 10% of the difference in amount between:
- (a) the unimproved market value of the land at the time it was purchased or the purchase price at the time it was purchased, whichever is lower; and
 - (b) the unimproved market value of the land at the time of the present sale or the sale price at the time of present sale, whichever is lower.
- (2A) Subsection (2) does not apply where the lessor and lessee have entered into other arrangements.”

6 Subsection 48A(3)

After “unimproved market value of the land at the time of the sale” insert “or the sale price of the land at the time of sale, whichever is lower,”

7 Subsection 48B(2)

Repeal the subsection, substitute

- “(2) If a proprietor of an urban lease transfers that lease, the proprietor must pay to the lessor 5% of the difference in amount between:
- (a) the unimproved market value of the land at the time it was purchased or the purchase price at the time it was purchased, whichever is lower; and

- (b) the unimproved market value of the land at the time of the present sale or the sale price at the time of present sale, whichever is lower.”

8 After subsection 99(3)

Insert

- “(4) In addition to subsection (3), where part of a registered lease has been acquired for the purpose of the Land Acquisition Act [CAP 215], the Director is to rectify that lease and its corresponding survey plan to give effect to that acquisition.
- (5) The Director must only rectify a lease under subsection (4), on or after the date of commencement of the order made by the Minister under section 16 of the Land Acquisition Act [CAP 215].”