

Eritrea: Legal Notice No. 31/1997
A Regulation to Provide for the Procedure of Land Allocation and Administration

1. Short Title

This Regulation may be cited as Legal Notice No. 31/1997 to Provide for the procedure of allocation and administration of land."

2. Scope of Application

This regulation is issued based on the Land Proclamation No. 58/1994 and shall have applicability on all types of urban and rural land.

3. General

1 To ensure growth and development in urban and other areas, working with master plan being acceptable, considering time and other factors, it may be worked with principle that conform to using of flexible modular growth planning.

2. Land shall be allocated, according to plan, for tiesa, agricultural usufruct or leasehold. To ensure these rights, right holders shall be given by the Ministry of Land, Water and Environment allocation certificate/lease agreement which form an integral part of this regulation and is attached herewith.

3. Subject to Article 45 of Land Proclamation, land allocated to right holders shall be utilized without delay. If the holders' right is terminated due to the failure to utilize the land without good cause, holders shall vacate the land at their own expense.

4. To prevent allocation of land to holders with sole aim of holding land idle, the size of land to be allocated shall be proportionate to the planned aim.

5. Constructing a dwelling house within land allocated for business shall not be permitted. Nonetheless, where the business is hotel or housing real estate, such restriction shall not be applicable. In buildings of stories, there may be stories and rooms for dwelling as well as business.

6. Tax shall be paid for agricultural usufruct. Annual rent shall be paid for leasehold until the expiry of the lease duration. Lease agreement may be renewed upon the expiry of its duration.

7. There shall be very simple and not time consuming process of screening and determination that follows clear procedure and formalities and uses nation wide application forms and certificates that are attached herewith and considered part of this regulation whereby right holders may apply for urban or rural land or tiesa land. Right holders shall observe and defend this spirit in order for the services given to them be speedy, clear, non-discriminatory, just and guarantee of holders' and Government's right.

8. Upon right holders' indication of the location where they desire to be allocated land, their request shall be taken into consideration, but the location of the land to be allocated shall be determined by the Government.

9. Land to be allocated for every right holder shall, to the extent possible, have standard size through out the nation.

10. Subject to Article 14 of Proclamation No. 58/1994, land shall be allocated to citizens who have fulfilled their national duties and applied for land.

11. Any allocated land as well as any immovable erected over land shall be caused to be registered in the land registry by the right holder.

12. Sale, exchange or mortgage of land by right holders shall be prohibited by law and punishable crime. Save for land allocated for agricultural usufruct, sub-leasing other land shall be prohibited and punishable crime.

13. Any immovable property erected over land may be sold, exchanged, transferred or mortgaged. Where the land transfers to other person, all changes shall be caused to be registered by the transferee. Nonetheless, dwelling house may be sold or exchanged after it is completely constructed and habitation certificate is given from the concerned authority through the Ministry of Land, Water and Environment.

14. Subject to the provisions of Article 53 of Proclamation 58/1994, all land allocated prior to the issuance of this legal notice shall be caused to be registered by the right holder. Seeing to it that such registration is made shall be the responsibility of the Ministry of Land, Water and Environment.

4. Land use Plan and Area Development Plan

1. The Ministry of Land, Water and Environment by assigning experts and in consultation with other Ministries shall prepare in order of priority land use plan and area development plan; it shall approve its procedure and implements through the concerned ministry.

2. Pursuant to directives, concerned ministries and regional administrations shall by observing proper national standard and according to their significance implement projects pertaining to the following: roads, water and sanitary services, energy, telephone and postal services, educational services, health services, public recreational services, sport and cultural services, green area services, unutilized areas, etc...

5. Land Allocation Agency

The Ministry of Land, Water and Environment shall establish Land Administration Body in Sub-Zones, determine land allocation and monitor its implementation.

6. Eligibility for land allocation

1. Ties a land may be allocated to every Eritrean citizen. Agricultural usufruct right shall be granted only to citizens who reside in villages and whose livelihoods depend on agriculture.

2. Leasehold shall be granted to Eritreans and aliens, as well as to businesses and associations with legal personality.

3. Leasehold shall be granted to aliens, in accordance with Article 8 of Proclamation no. 58/1994.

4. Land for Government works, offices and other services, upon application by the concerned ministry/government agency, shall be allocated and registered in their name.

7. Duration of lease

1. Duration of lease is divided into two: a) initial duration, (b) extended duration. Duration of lease may be renewed upon expiration, unless there is good cause for prohibiting renewal.

2. Initial lease shall be determined by an agreement by and between the Government and the right holder, and the duration shall, taking into account type of investment, extent of investment, location of investment, range from 10 -60 years.

3. initial lease for dwelling house, education, culture, sport, health, offices and the like shall be 50 years.

8. **Payment by right holders**

1. **Application processing fee**

This fee shall be paid at the time when applicants receive application form.

2. **Fee for expenses of land allocation preparation**

This fee shall be paid by right holders upon determination of application for land and prior to taking certificate/lease contract, to cover expenses incurred by the Government to prepare for the allocation of land.

3. **Rent**

This being payment made for the right to use land on leasehold, in accordance with lease contract, it shall be paid annually.

9. **Extent of rent**

1. Taking into account the distinction between urban and rural areas, and between areas within urban and rural areas, amount of rent shall be determined based on the following factors:

- a. Location of land
- b. use of land
- c. type and extent of investment over the land.

2. Yearly rent payment for dwelling shall range country wide from a minimum of 0.10 Birr to a maximum of 0.25 Birr per Sq.M.

3. Yearly rent payment for businesses shall range country wide from a minimum of 0.20 Birr to a maximum of 0.25 Birr per Sq. M. It shall be determined according to the provisions of land application form.

4. Payment for land allocated for commercial farming shall be fixed in the manner provided for businesses. The yearly rate of rent shall range 0.05 Birr to 0.10 Birr per Sq. M. It shall be fixed according to the provisions of land application form.

5. Tax shall be assessed on agricultural usufruct land in accordance with regulation issued by the Ministry of Finance. No yearly payment or tax shall be paid for tiesa land.

10. **Land Allocation and Registration Process**

1. Land allocated for area development shall be distinctly shown in a map indicating plots to be allocated for right holders, for roads and other purposes; and this map shall be reference for the area.

2. Land determined to be allocated for right holders shall be given unique number, in accordance with area code given by the Ministry of Land, Water and Environment. The identification number of a plot shall include unique areal number of its location and serial number.

3. Prior to allocation of land to right holders the following information that indicate the description of the land shall be documented: identification number of each plot, temporary or permanent street name, surface area in square meter, and grade of plot in land use, its position according to area plan and its rental category.
4. Subsequent to the preparation of land allocation in the above manner, right holders may buy application forms and submit them to the concerned employee of Land Administration Body after duly filling out the questions in the form. The employee who received the form shall ascertain whether the necessary information has been properly indicated, and shall give a reference number to the application form and give receipt to the applicant.
5. To process documents and decide on application according to their order of filing (submission), they shall be entertained by appointed authorities.
6. Upon decision for the allocation of land to applicants, they shall pay a fee to cover the processing of land allocation. Where an application is rejected, the reasons for rejection shall be communicated to the applicants in writing, and the applicants may reapply after fulfilling the indicated reasons by buying a new form.
7. Applicants who are allocated land shall be given certificate/lease contract lawfully registered and signed by the persons appointed to allocate land.
8. The right holder who has obtained allocation of land by virtue a certificate, shall proceed to utilize the land. To ensure that land is put to its designated use, the right holder shall inform in writing (about the status of the land) to the cadastral office three times within the first two years after allocation, that is first- six months after allocation, second time- one year after allocation and third time - two years after allocation.

11. Cancellation of land allocation and its effect

1. Where land is not put to its designated use during the prescribed period without good cause or it is utilized for a purpose other than that designated for without the approval of the Land Administration Body, allocation/lease shall be cancelled and the land shall be restored to the Government. If there is good cause, allocation/lease shall not be cancelled. Good cause shall mean reason that is beyond the volition and control of the right holder.
2. Notwithstanding that land is allocated for tiesa or leasehold, if the land is needed for governmental development projects or for national reconstruction and taken pursuant to the pertinent provisions of the Land Proclamation No. 58/1994 and this regulation or if the lease period expires and the lease can not be renewed, upon notifying timely to holder, the allocation shall be cancelled and land restored to the Government holding. The Government or the concerned regional/urban administration or other Government body shall pay compensation to the right holder. Compensation and its mode of payment for tiesa and agricultural usufruct shall be in accordance with part two of Land Proclamation No. 58/1994, but in the case of leasehold, the extent of compensation to be paid for the lessee shall be in proportionate to the market value of the property built or erected over the land. Payment is effected before the right holder relinquishes the land.
3. Compensation may be determined through assessment, discussions and agreements made by and between the Ministry of Land, Water and Environment and the right holder. Where the parties fail to agree on the extent of compensation, the case shall be submitted to the High Court. The High Court shall have exclusive jurisdiction over matters pertaining to compensation.

12. Transfer of land in leasehold

Where a lessee sells, transfers by will or donation to others the house he built or the property he erected over land allocated to him on lease basis, or where the lessee dies, all the rights and obligations of the lessee attached to the land shall transfer to the person who bought the house or business or to the person who acquires the property through will or donation and registration shall be made in his name.

13. Penalty

1. Any person who sold or disposed of land unlawfully in contravention to the provisions and spirit of Land Proclamation No. 58/1994 and this regulation shall be criminally liable for fraud.

2. Any person who gives false information on the application form or other application, or submits forged or false document to support his/her application for land, or attempts to deceive in any manner or secured land by deceit, his/her allocation shall be cancelled and he/she shall be criminally liable for fraud.

3. Any person who, failing to observe his responsibility or to procure undue benefit to himself or others, contrary to the provisions and spirit of this regulation attempts to allocate or cause to be allocated land, or allocated or caused for allocation of land, or attempted to deceive applicants in any way, or attempts to solicit or receive bribe shall be criminally liable for corruption, theft and fraud.

14. Coming into effect

This regulation shall come into effect on the date of its publication in the Gazette of Eritrean Laws.

Asmara, 19 May 1997
Government of Eritrea