

Legal Notice No. 30 of 1966.

THE CONCESSIONS LAW, 1964

THE CONCESSIONS REGULATIONS, 1966

In exercise of the powers conferred upon him by section 7 of the Concessions Law, 1964, His Excellency Her Majesty's Commissioner hereby makes the following regulations —

PART I

PRELIMINARY

Title.

1. These regulations may be cited as the Concession Regulations, 1966.

Interpretation.

2. In these regulations, unless the context otherwise requires —
“applicant” means an applicant for a concession ;

“concession area” means the area of land to which a concession relates ;

“deed” means a deed of concession ;

“grantee” means a person granted a concession which has been incorporated in a deed, approved by Her Majesty's Commissioner and executed by the parties thereto ;

“grantor” means the grantor of a concession ;

“land surveyor” means a land surveyor registered as such in terms of the Land Survey Proclamation, 1959 ;

“Registrar” means the Registrar of Deeds appointed under the Deeds Registry Proclamation, 1960 ;

“sketch plan” means a document, other than a diagram, of a form and size prescribed by the Surveyor-General, containing singly or in combination geometrical, numerical, verbal, pictorial, photographic, cartographic or geographic representations of a piece of land, which has been signed by the person preparing such sketch plan and accepted by the Surveyor-General or other officer empowered by the Surveyor-General to accept on his behalf.

PART II
DIAGRAMS AND SKETCH PLANS

Description of Concession to be Submitted to Surveyor-General.

3. An applicant shall, prior to seeking the approval of Her Majesty's Commissioner or of a District Commissioner to whom Her Majesty's Commissioner has made a delegation in terms of regulation 14 to the concession, submit to the Surveyor-General a brief description of the concession sought together with four copies of —

- (a) a diagram, where the concession is 10 or less acres in extent ;
- (b) a sketch plan, where the concession area is more than 10 acres in extent or a diagram, if, in the opinion of the Surveyor-General, a diagram is necessary.

Duties of Surveyor-General in Connection with Diagrams, etc.

4. (1) The Surveyor-General shall examine the diagram or sketch plan and he may approve the diagram or accept the sketch plan or he may reject them.

(2) The Surveyor-General shall retain one copy of the diagram or sketch plan approved or accepted by him, as the case may be, and he shall return three copies of the diagram or sketch plan to the applicant, endorsed with his approval or acceptance, as the case may be.

(3) The copy of the diagram or sketch plan retained by the Surveyor-General shall be filed by him and he shall maintain a compilation in relation to the area of land referred to in the diagram or sketch plan.

(4) For the purpose of this regulation "accept", in relation to the Surveyor-General and a sketch plan, means the signing of such sketch plan in order to signify that such sketch plan contains, in the opinion of the Surveyor-General, an adequate representation of the land represented on it.

Annexation of Diagram and Sketch Plan to Deed of Concession.

5. An applicant submitting a deed in terms of section 3 of the Concessions Law, 1964, for approval by Her Majesty's Commissioner or a District Commissioner to whom Her Majesty's Commissioner has made a delegation in terms of regulation 14 shall annex thereto —

- (a) a diagram, where the concession area is 10 or less acres in extent ;
- (b) a sketch plan, where the concession area is more than 10 acres in extent or a diagram, if, in the opinion of the Surveyor-General, a diagram is necessary ;

endorsed in accordance with the provisions of regulation 4(2).

Fees.

6. (1) The fees which may be charged in respect of the services performed by a land surveyor in the preparation of any diagram or sketch plan shall be those set out in the First Schedule of the Land Survey Regulations, 1963 (G.N. No. 84 of 1963).

(2) The cost of preparation of any such diagrams or sketch plans shall be borne by the applicant.

PART III
REGISTRATION OF CONCESSION

Concessions Register.

7. The Registrar shall open and keep a concessions register in which he shall register the concessions referred to in regulation 9.

Lodgment of Deed of Concession.

8. A grantee shall, in accordance with the provisions of section 3 of the Concessions Law, 1964, lodge with the Registrar, either by appearance in person or through an agent the original and two copies of the deed to which are annexed a diagram or sketch plan endorsed in accordance with the provisions or regulation 4(2).

Registration of Deed of Concession.

9. (1) Upon receipt of the original and copies of the deed the Registrar shall assign a number to the deed and enter particulars of the concession in the concessions register.

(2) The Registrar shall then affix his signature and the date thereof to such original and copies. Whereupon the deed shall be deemed to be registered and he shall make an entry to that effect in the concessions register. He shall return the deed to the grantee and a copy to the grantor. He shall retain and file one copy thereof and notify the Surveyor-General of the number assigned to the deed and the date of registration.

(3) No deed shall be registered unless it has been approved by Her Majesty's Commissioner, been executed by the parties and has attached to it a diagram or sketch plan endorsed in accordance with the provisions of regulation 4(2) and the Registrar shall reject any deed which does not comply with the provisions of this sub-regulation.

PART IV
GENERAL

Renewal of Concession.

10. A concession shall be renewed if such renewal is signified in writing by the parties upon the deed whereupon the provisions of regulations 8 and 9 shall, *mutatis mutandis*, apply.

Termination of Concession.

11. Where a concession has been terminated the grantor shall notify the Registrar of such termination and the Registrar shall make an entry to that effect in the concessions register and land register and shall notify the Surveyor-General accordingly.

Beacons.

12. (1) A grantee shall, if so required by the Surveyor-General, erect and maintain corner beacons in respect of the concession in accordance with the following specifications —

an iron standard weighing approximately two pounds per foot, a three-quarter inch iron peg or galvanised iron pipe, 3 feet long, driven in vertically and projecting not more than six inches above the surface of the ground; over the standard, peg or pipe shall be erected a cairn of stones, or a heap of sods, 2 feet high with a base of 2 feet:

Provided that —

- (i) when the corner point falls in soft or sandy ground the length of the standard, peg or pipe shall be increased sufficiently to ensure the stability and permanence of the beacon ;
- (ii) when it is not possible to drive the standard, peg or pipe into the ground, the corner point shall be defined by a $\frac{1}{2}$ inch hole drilled 1 inch deep into the obstructing rock, pavement or structure ;
- (iii) when the corner point falls in hard or rocky ground and the standard, peg or pipe cannot be driven in to the prescribed depth, its length may be reduced if the stability and permanence of the beacon is not thereby impaired, otherwise the corner point shall be defined by a standard, peg or pipe, 1 foot long, embedded in a symmetrical block of concrete $\frac{1}{2}$ cubic foot in volume ;
- (iv) if deemed necessary, any standard, peg or pipe may be embedded in a symmetrical block of concrete $\frac{1}{2}$ cubic foot in volume.

(2) A grantee shall, in addition, if so required by the Surveyor-General erect line beacons and remove the bush between such beacons.

(3) The Surveyor-General or any officer employed in his office who is a land surveyor may enter such concession area or any land adjacent thereto for the purpose of inspecting beacons erected in terms of this section.

Form of Certain Deeds of Concession.

13. A deed of the lease of land in a Tribal Territory shall as nearly as possible be in the form set out in the Schedule.

Delegation of Powers.

14. Her Majesty's Commissioner hereby delegates to District Commissioners the power to approve concessions of the lease of land in Tribal Territories the period of which does not exceed 3 years and which do not contain a provision relating to the renewal of such lease.

SCHEDULE

(regulation 13)

**DEED OF CONCESSION OF A LEASE OF LAND IN TRIBAL
TERRITORY**

Made and entered into by and between
..... (hereinafter referred to as the grantor)
and herein represented by
in his capacity as
and (hereinafter
referred to as the grantee).

WHEREAS has applied
to the grantor for

AND WHEREAS the grantor has agreed to grant such rights
subject to the terms and conditions set out hereunder:

NOW THEREFORE IT IS RECORDED

In this concession —

“area of grant” means the area described as concession
area number as will more
fully appear from the diagram/sketch plan S.G. number
..... prepared by and
approved or accepted by the Surveyor-General in
..... and annexed hereto.

2. The grantor grants to the grantee the right to
..... within the
area of grant for the period set out in clause three.

3. This concession shall come into operation on the
.....196.... and shall remain in force for a period of
..... years from such date.

4. The rental payable in terms of this concession shall be the
sum of payable annually/monthly in advance or
before the 1st day of January in each year to the grantor at
.....

5. The grantee shall not, without the written consent of the
grantor and subject to the approval of the District Commissioner
use the area of grant for purposes other than exercise of the right
to granted
herein.

6. In the exercise of the rights hereby granted the grantee
may —

.....
.....
.....

7. This concession may be renewed for a period of
.....*

8. If either party at any time fails to comply with any of the provisions of this concession, the other party shall have the right to terminate the concession immediately without prejudice to any rights for damages which it may have.

9. Any dispute in connexion with the concession shall be determined according to the Arbitration Proclamation of Bechuanaland (Proclamation 75 of 1959).

10. The costs incidental to the concession, any stamp duties hereon and all costs incidental hereto shall be borne by the grantee.

11. The grantee chooses
and the grantor chooses as
his *domicilium citandi et executandi* for all purposes in connexion with the concession.

THUS DONE AND SIGNED for and on behalf of the grantor
at this day of
.....196... in the presence of the undersigned witnesses.

AS WITNESSES

1.
2.

.....
for the grantor

* Strike out if inapplicable under the provisions of regulation 14.

THUS DONE AND SIGNED for and on behalf of the grantee
at this day of
.....196... in the presence of the undersigned witnesses.

AS WITNESSES

1.
2.

.....
for the grantee

Approved at this
day of19...

.....
*Her Majesty's Commissioner/
District Commissioner.

* Delete whichever is inapplicable.

G. WINSTANLEY,
for Secretary to the Cabinet.

Cabinet Office,
GABERONES.
24th February, 1966.