

Assessment of the extent to which Lesotho's Land Act 1979 (Act #17) had
and impact on urban morphology and patterns of Land development in
Maseru and its peri-urban areas: The case of Mapeleng and Sekamaneng.

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Abbreviations

LHLDC	Lesotho Housing and Land Development Corporation
LSPP	Department of Lands, Survey and Physical Planning
MCC	Maseru City Council
SAA	Selected Agricultural Area
SDA	Selected Development Area

CHAPTER ONE

RESEARCH QUESTIONS AND METHODOLOGY

1.1 Introduction

The study aims to assess if the 1979 Land Act had any land use consequences in Maseru and its peri-urban areas. Therefore, the objective is to find out if the Land Act 1979 influenced patterns of land development and urban morphology.

The pattern of land development in Maseru is characterised by several factors. Firstly, there is a high rate of private individual developers. Building agencies that exist [such as the Lesotho Housing and Land Development Corporation (LHLDC)] have had a limited impact. This is because land provided by these agencies is made available through site and service schemes. These serviced sites cost more than land that has not been serviced. Therefore, most people opt for the cheaper option and buy the land that has not been serviced from private individual sellers. There is also lack of efficient mechanisms put in place to assist people in securing housing finance. People have to individually source mortgage finance from financial institutions.

Secondly, Lesotho does not have a national housing policy. A housing policy was formulated in 1987, but was never adopted. Lack of housing policy results in no

clear line and mechanisms to facilitate housing development. A housing policy would help to identify and set target groups in most need of land, and then proper and relevant mechanisms would be put in place to help the target groups access housing. Within a housing policy, the most important aspect that would need to be addressed is finance. Therefore, a housing policy would put in place mechanisms to ensure that people had access to finance. Currently, people access housing finance through financial institutions, employment based housing schemes or informal money saving schemes. Financial institutions mainly cater for the high to middle income groups. The low-income group relies mainly on informal saving schemes in order to access housing finance.

Lack of a housing policy leads to less control over land development process and hinders proper land management by the government. This has led to unplanned settlements with sub-standard housing. Approximately 80% of Maseru's urban settlements are unplanned (MCC planning office: 1998).

Thirdly, the local authority does not have adequate capacity (manpower and capital) to effectively oversee proper enforcement of planning regulations and controls. Those who ignore regulations are not penalised. Lack of capital limits MCC's potential to bank land. This land could then later be sold to the public.

Land banking also helps the municipality to acquire appropriate land for public development projects.

Finally, it should be noted that land development in Maseru is characterised by low residential densities. Plot sizes are very large. Inability by government to control land development processes (such as setting standard plot sizes) has led to these low densities. These low densities are not desirable because residential land in Maseru is very scarce, while population numbers continue to increase. There is need to encourage sub-divisions (there is little vacant land within the urban boundaries), and to also establish more planned developments, especially in the peri-urban areas. For an illustration of the major land uses found within Maseru urban area, (refer to map 1 page 10).

1.2 Research questions

It is within the principles of the Land Act of 1979 that this study is based. The research problem is derived from the argument that the above objectives were not adequately met. This has led to the Act having minimal impact on development in Maseru's peri-urban areas. The central issue of this study is: In what ways has the Land Act 1979 had an impact on Maseru's urban morphology and patterns of land development? The following questions will also inform the study:

- Has the Land Act 1979 been implemented adequately? If not, what are the shortcomings or problems experienced?
- Have the objectives of the Act been met? If not, what obstacles were there?
- Has the existence of the Act had any impact in the development and spatial form in Maseru?
- Has the impact on land and spatial form been positive, negative or both?
- Has the change in land tenure system (that is, change from communal to leasehold) produced notable changes in the pattern of land development in Maseru's peri-urban areas?
- In what way, has the spatial form of Maseru changed in the period before 1979 and period after 1979 to the present?

It is hypothesized that the Land Act of 1979 has not been able to curb rapid urban sprawl and has not changed the pattern of urban morphology and land development in Maseru's peri-urban areas.

1.3 Research methodology

1.3.1 The study area:

The study areas (Mapeleng and Sekamaneng) are located north of the greater Maseru urban area (refer to map.2). Mapeleng is in the Ha-Mabote area, within

Maseru urban boundaries and is under the administration of the Maseru City Council. The village is a mixture of old (some residents go back to the 1940's) and new residences. Sekamaneng has part of its area within the Maseru urban boundaries and another portion is at the boundary's periphery in the Berea plateau. For Sekamaneng, this means that land allocation rights are the responsibility of the urban land committee for areas within the city boundaries, and the Village District Council (VDC) for those 'rural' areas outside the Maseru urban boundaries.

1.3.2 Private Developers

There was no household list for either village in order to carry out random sampling as it had initially been proposed. The most current aerial photos of the areas are more than ten years old making it difficult to sample through use of geographic or aerial sampling which would have been ideal for the areas, since they are partially rural in nature and houses are scattered randomly. Since most of the existing households will not show on the aerial photos, the geographic sampling method was not used.

The sampling method which was then used in this study was systematic sampling method in its simplest form. At the Bureau of Statistics, census data for the study areas is in the number of people living in the area and not

the number of households. In this study, households and not individuals were used as samples.

It is estimated that there are approximately 550 households in Mapeleng area of Ha-Mabote with a total of 2,189 people for Mapeleng and 4,861 for the greater Mabote area (Bureau of Statistics Census Data: 1996). Thirty sample surveys were carried out in Mapeleng using a 1-in-18 systematic sample. This was determined from the following formula determining the value of k in a *one-in-k* systematic sample.

$$k \leq N/n$$

$$\text{therefore: } k \leq 550 \text{ (estimated \# of households) / } 30 \text{ (sample size)}$$

$$= 550/30$$

$$= 18.33$$

$$k=18$$

Thus, a *one-in-k* systematic sampling become 1-in-18 systematic sampling for use in the Mapeleng area. This means that one in every eighteenth household was used as a sample through use of a questionnaire. The first eighteenth house was selected and every eighteenth household thereafter was selected as part of the sample.

Sekamaneng has a population of 662 persons (Bureau of Statistics Census Data: 1996). Thus, it was estimated that there are roughly 160 households

within the area, where average household size is 4 persons. A 1-in-5 systematic sample was used in Sekamaneng. The first fifth house in the area was chosen and the next fifth house thereafter. The sample was derived from the following:

$$k \leq 160/30$$

$$k = 5.33$$

$$k = 5$$

1.3.3 Traditional Leaders

Traditional leaders were interviewed. The chiefs which were interviewed were those who have jurisdiction over the study areas. The interviews were in-depth in nature. Prompts were also used in the interview.

1.3.4 Public Officials

Questionnaires were used for public officials. The respondents were from the Maseru City Council's (MCC) Planning Department and the Department of Lands, Survey, and Physical Planning's (LSPP) Planning and Lands Departments. MCC has jurisdiction over all areas within Maseru's urban boundaries, which includes Mapeleng and part of Sekamaneng. MCC is responsible for enforcing planning regulations within its jurisdiction. Land development committees are also administered by the municipality. LSPP is

responsible for granting leases, planning permission and overseeing overall land development.

1.4 Definition of terms

1. Peri-urban areas- Areas that are found about or around the urban area. In this study, peri-urban areas are therefore, those areas that are found immediately outside the city of Maseru's boundaries.
2. Spatial form- The spatial arrangement of the city. That is, the physical form that the city takes.
3. Urban morphology- the systematic study of the form, shape and plan of an urban area. This is in terms of the origin, growth and function of the urban area (Goodall: 1987).

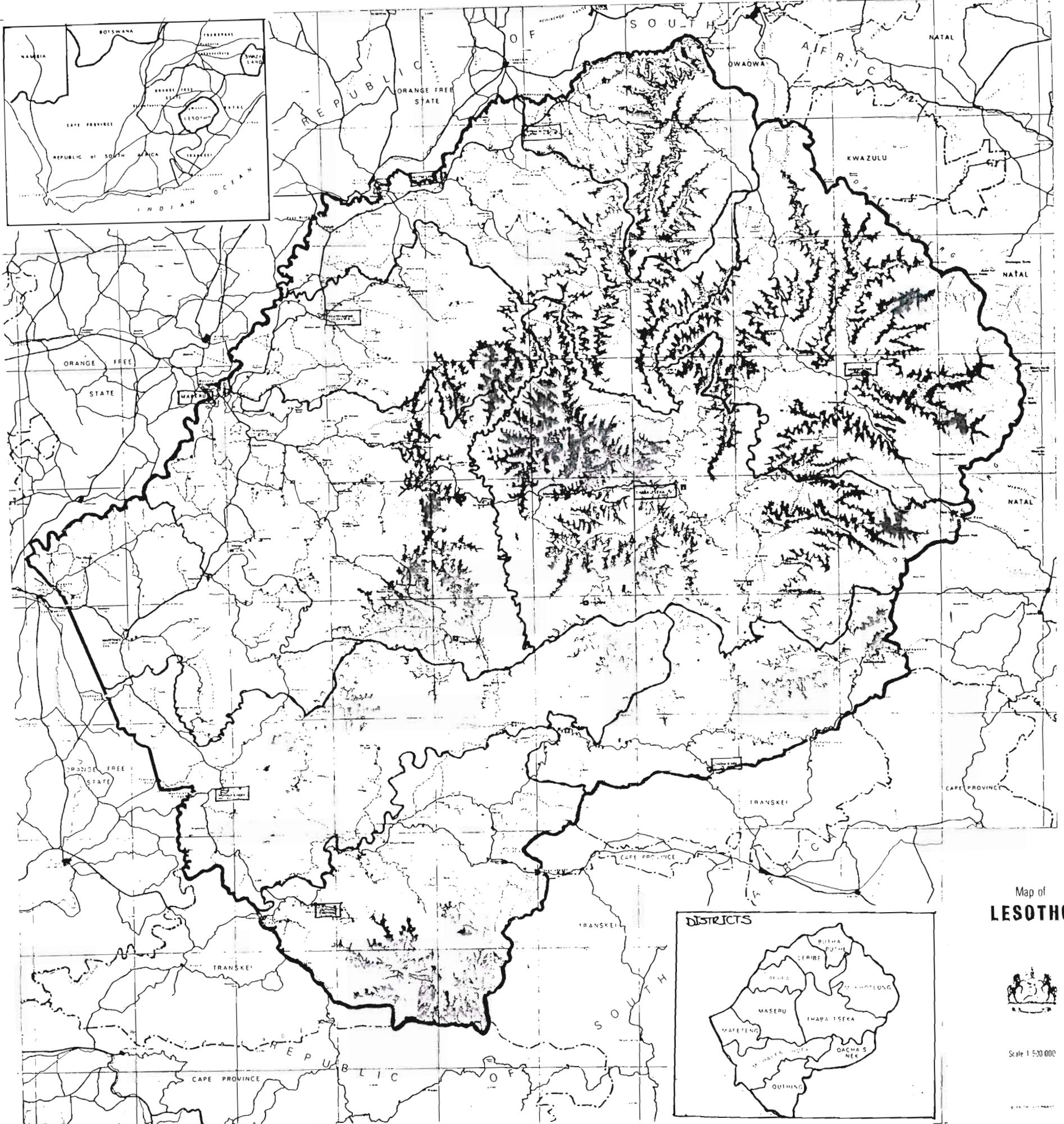
1.5 Chapter outline

Chapter one introduces the study. This introduction deals with specific land development in Maseru. Thus, it attempts to present what is Maseru's spatial form and discusses factors that have influenced land development patterns. Research questions and methodology are also dealt with in this chapter.

In chapter two, land policy issues are discussed as well as land tenure systems. Firstly, land tenure systems are presented with particular emphasis on the communal tenure system and its application to Lesotho and specifically Maseru. Secondly, the 1979 Land Act is discussed with particular emphasis on how it introduced leasehold in Lesotho. Historical patterns of urban development in Lesotho and Maseru are then presented.

Chapter three will deal with a brief outline contextualising the study areas. Then research findings will be presented and analysed. In the analysis of findings, aerial photos are also used. These show the development of Mapeleng and Sekamaneng in the 1970's and 1980's. In some cases, the maps were rotated in order to have the same orientation. The approximate boundaries of the areas on the aerial photos are demarcated with a black line. It was not possible to get maps of the same scales. Therefore, the detail varies from map to map.

In chapter four, there will be discussions and conclusions.



Map of
LESOTHO



Scale 1:500 000

Source: Department of Lands, Survey and Physical Planning

CHAPTER TWO

LAND POLICY, TENURE SYSTEMS AND URBAN DEVELOPMENT IN LESOTHO.

2.1 Introduction

In chapter two, the pattern of land development in Lesotho is provided from a historical perspective. Then land development issues specific to Maseru are discussed.

Land development and land policy issues are also addressed drawing on international literature. The process of land acquisition will also be discussed. The process of land development is then discussed within the context of land tenure systems. This chapter also introduces the 1979 Land Act.

2.2 Historical patterns of urban development in Lesotho

Phororo and Letuka (1993) point out that initially in Lesotho, there were no urban and rural areas. Traditional Basotho villages were sparsely populated. Villages were placed on the edges of rocky hills. Makhanya (1979) and Sheddick (1954) argue that the villages were placed on the hill to allow the more arable land to be used for cultivation. This was due to the subsistence nature of the economy and the society. Fair (1981) attributes this placing to the need to settle in out of the way areas to make it difficult for enemies to attack. All these reasons are sound and the placing was probably due to both aspects.

There were two types of settlement patterns. These were the cluster and circular settlement patterns (Sheddick: 1954). The cluster settlement consisted of households on the hillside. Circular pattern of settlement was found mainly in the low lands. In this type of settlement pattern, households made a circle around open space. Usually this space was used as a meeting place for men to discuss community issues. Sheddick (1954) argues that the circular settlement pattern is of older communities when land was abundant.

Migration was a major force that influenced urban development in Lesotho. Population movement in Lesotho was mainly focused toward the urban areas or 'government reserves' as they were often referred to. These urban areas housed government administration offices and had concentration of infrastructure and services. Internal migration originated mainly from the central and southern lowlands of the country as well as the highland areas. This migration was usually of a permanent nature. Sambatje and Makatsjane (1992) and Wellings (1983) assert that migration at times was used as 'spring-board' to launch migrants into South Africa.

The opening of the first diamond mines in South Africa in 1868 produced an exodus of male workers from Lesotho to South Africa. Labour migration of Basotho has been more intense in comparison to Lesotho's regional neighbours

such as Botswana, Swaziland and Zimbabwe. Ambrogetti (1995) argues that 'turning of farmers into miners' was necessary for levy of taxes and diminishing quantity of land allocated to individual. Also as Thabane and Guy (1984) point out, South African mines relied on cheap labour, which was in plentiful supply in Lesotho.

The migrant labour system is circular in nature. Thus, Basotho migrants went to South Africa for work and ultimately returned home. They came to Maseru and while there, they held down odd jobs to acquire money to live on while waiting to be recruited (Thabane and Guy: 1984). According to Sembatje and Makatsjane (1992), migrant labour from Lesotho reached its peak in 1977. Since then, there has been a decline due to decrease in the price of gold (Sixth National Development Plan: 1997 and EIU report: 1997). The price of gold affects Basotho migrants because most are employed in the gold mines. Sembatje and Makatsjane (1992: 128) also attribute the decline in employment due to "...unemployment in South Africa, technological developments, capitalization of product sector which all necessitate a reduction in the demand for foreign labour in South Africa".

Lesotho's urban areas have had to increasingly absorb not only the retrenched, but also the unemployed from surrounding and highland areas. Migration (especially internal) has increasingly included that of women. This is because the

migrant labour system left a legacy of female-headed households especially in the rural areas.

The woman's role in decision making thus increased. This decision making included aspects that pertain to land. In Lesotho, women are indirectly excluded from owning land (Keith: 1994). This is because women can not, in law register land in their own names. In the Deeds Registry Act 1967, it is argued that a woman married in community of property and those women whose affairs are governed by customary law are excluded from matters pertaining to land. Franklin (1995) asserts that the 1979 Land Act might change the position of women in land related matters. This has not happened. This is because the Deeds Registry Act has not been amended in line with the Act.

Women often had to hire out their land because they could not cultivate it themselves, or lacked resources. If the land was left fallow for more than two years, it could be taken away and re-allocated. It is often argued that women in Lesotho depend on migrant remittances for their livelihood. There has been some studies carried out that show that this is not the case. It has always been assumed that most rural women depend on migrant remittances because most Basotho male are employed in the South African mines. Another reason is that remittances have always accounted for a very large percentage of Lesotho's GNP.

Katona (1993) undertook a study that showed that Basotho women do not necessarily depend on migrant remittances. Katona (1993) found out that few women depend on migrant remittances for income.

Katona's study sample did not receive any kind of migrant remittance. The above issues as well as persistent crop failure (there has been problems of low rainfall and drought) have led to female migration to the urban areas, especially Maseru. As Bardill and Cobbe (1985) point out, with the inability of South Africa and domestic agriculture to absorb growth, increasingly people moved to and settled in the urban areas.

2.3 Patterns of urban development in Maseru's peri-urban areas

In 1869, Maseru was established as the administrative capital of Lesotho. In the 1870's, there was already a lot of commercial activity going on in the town. As Ambrose (1993) points out, Maseru also functioned as a market town. People from the surrounding rural areas daily sold their goods in Maseru. As early as 1872, Maseru already had a postal service, a hospital and two general stores. In 1880, the first town plan was drawn up (Ambrose: 1993), it showed the existing town as well as 'proposed future formation' of the town. The plan used gridiron layout for the town. The plan was also used for recording allocation of sites.

In the early part of the twentieth century, Maseru began to experience both spatial and population growth. An industrial school was built, as well as a government dispensary. Extensions were made to the hospital, several churches

and an English-medium school were built (Ambrose: 1993). In spite of the population growth, it was still contained within the town's boundaries in the early 1960's. According to Ambrose (1993), the only paved roads were within the city centre and no industrial development had yet occurred.

At independence in 1966, the urban areas had less than five percent of Lesotho's population, with half of the urban population in Maseru (Bardill and Cobbe: 1985). According to Wellings (1983), settlement occurred on the peri-urban areas within Maseru because these were the only areas closest to Maseru town. The government did not have adequate resources (or much desire due to failure to recognise the nature and extend of the problem, as Wellings points out) to administer the rapid expansion of population.

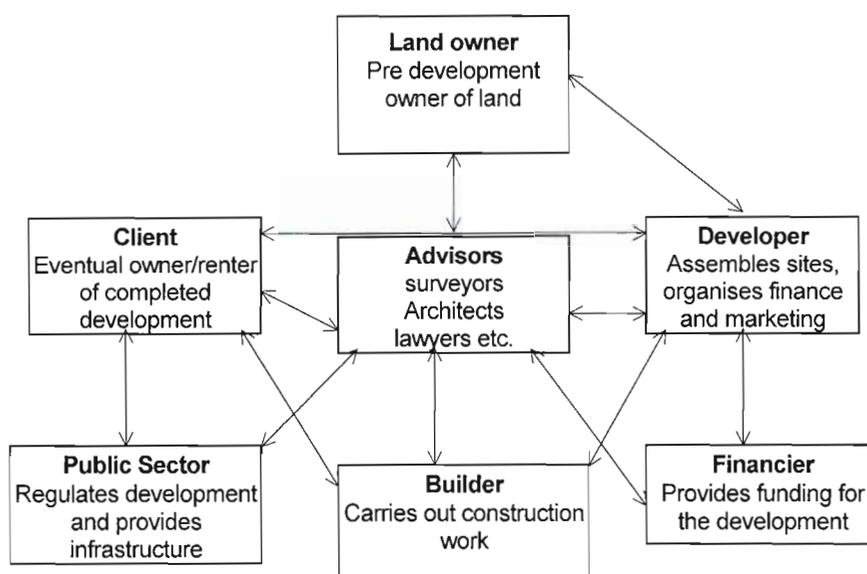
Wellings (1983) fails to point out that before 1980, when Maseru's boundaries were extended, peri-urban areas fell outside the jurisdiction of Maseru and the town council. There had never been much planning or development control exercised in Maseru let alone areas outside the town council's jurisdiction. Therefore, much of precious agricultural land was encroached on. These unplanned areas have no infrastructures and services. They were mainly scattered all over and as the areas filled up, the footpaths and field boundaries influenced the patterns of layout.

A few areas have been planned in Maseru. These include areas such as Ha Thetsane. Housing in Maseru mainly consists of single detached housing, resulting in low densities. The residential areas mainly do not cater for a specific class. Therefore, there are diverse developments within a residential area. A low income individual lives in the same residential area as a higher income individual. Site and service housing scheme such as the one in Khubetsoana have led to specific class groups being located within the same area.

2.4 Land policy issues

Land development process entails efforts on land (directly or indirectly) by the landowner or developer, the builder, the financier and the public sector. The landowner initiates development on the land. The builder constructs the house, the financier provides funding to ensure that the house is built, while the public sector's job is to regulate development on that land and to provide necessary services and infrastructures. The relationship between the role-players in land development can further be illustrated in figure 2.1:

Figure 2.1 Relationship between role-players in development



Source: Kivell (1993:125) *Land and the city*

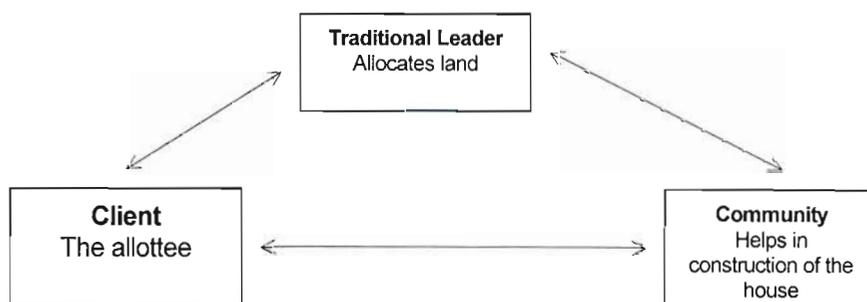
Kivell (1993) argues that the above process of land development occurs in market governed land development. Thus, it is not characteristic of all countries. For example, under a communal tenure system land is not sold on the market and figure 2.1 would not apply.

Once land has been acquired, it then has to be registered. Ownership of immovable property passes only on registration of property in the name of the buyer in the Deeds Registry. Registration of property in the Deeds Registry helps to ensure that the government has control on land holdings. It makes it easier to know the amount of land under development, thus making it easier to control such land.

In Lesotho, role-players involved in land development processes were the client, community and traditional leaders under the communal system. The community acted as the builder (helped the developer in the construction of the house), while the traditional leaders held the land in trust for the Basotho nation.

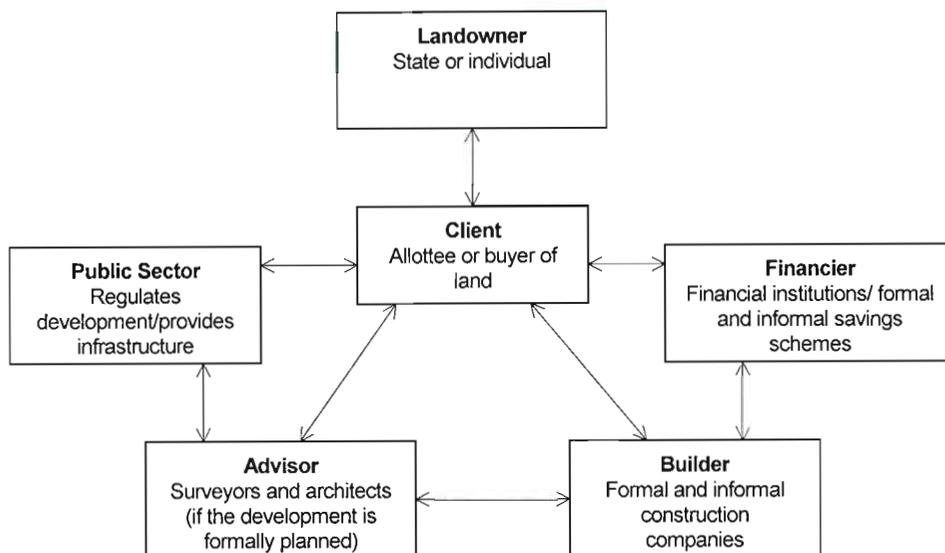
Indigenous material was used for construction of the house and did not need to be bought. Houses were built of mud ‘bricks’ with thatched roofs. The relationship between role players in development took the following form as illustrated in figure 2.2.

Figure 2.2 Role players in development (under Lesotho’s communal tenure)



The post-1979 land development process is different from the above. It involves the landowner, the client, the financier, advisor, the builder, and the public sector. The process can further be illustrated by figure 2.3.

Figure 2.3 Role players in development (under leasehold)



The process outlined in Figure 2.3 is very similar to the one suggested by Kivell (1993) in Figure 2.1. The only difference is that land developers are not part of the process.

2.5 Land tenure systems

Several land tenure systems exist internationally. Kivell argues that "...land tenure involves complicated collection of rights to own, occupy, use or improve space and to lease or sell or pass it on to one's heirs". Land tenure systems to be considered in this study are freehold, leasehold and communal tenure systems. Land tenure systems are considered in this study because land tenure systems

changed from communal to leasehold. Therefore, there will be differences in how land development is carried out as it has been illustrated in Figures 2.2 and 2.3. Change in tenure system will evidently affect land development processes and the ultimate spatial form of the city.

2.5.1 Freehold

According to Torres (1994), freehold involves individual title to land. In this system, land can be bought and disposed of at will. Freehold system has been criticised for allowing land speculation to occur. Also, there are problems of land being disposed of at high prices, making it difficult for the poor to acquire land.

2.5.2 Leasehold

In leasehold, an individual has a right to occupy land through possession of a lease. The period of a lease grant differs from one country to another and on the intended use of the land. Bruce (1987:5) argues that leasehold system "...involves nationalization without radical redistribution or collectivization objectives, simply to assert a public interest in the land to control its allocation to individuals under leases or similar title, such as certificate of occupancy". In Lesotho, provisions for leasehold were made in the 1979 Land Act.

2.5.3 Communal tenure system

In Africa, the communal tenure system is regarded as customary or traditional. This is because the communal tenure system was the most common tenure

system in Africa (Franklin: 1995). Christodoulou (1990) points out that the communal tenure system mainly occurred in Sub-Saharan Africa, which includes Lesotho. Writers such as Makhanya (1979), Matlosa (1991) and Poulter (1976) argue that in customary land tenure system, ownership of land is vested in the community.

2.6 Lesotho's land tenure system

Lesotho is a small (30,355 sq. km.) land locked country in Southern Africa. Lesotho has ten administrative districts, namely: Maseru, Berea, Leribe, Butha-Buthe, Mokhotlong, Thaba-Tseka, Qacha's Nek, Quthing, Mohale's Hoek and Mafeteng (refer to Map 2, page 11). The country has rough topography with approximately two-thirds of the area being mountainous (Fair: 1990) and currently, only 9% of the land is arable (Sixth National Development Plan: 1997). The lowland regions are highly populated and most of the towns including Maseru are within this region.

From 1858 to 1868, Lesotho (then Basotuland) was at war with the Boers, who later won a large piece of Basotho land. Due to further threat from the Boers, Basotuland's king Moshoeshoe sought help from the British. Basotuland then became a British Protectorate in 1868. It was a British High Commission territory from 1884 to 1959. Basotuland later gained its independence in October of 1966.

Lesotho's system of state is a parliamentary monarchy. Therefore, apart from the government, there also exists the king and a hierarchy of chiefs. These chiefs act as administrators at the village level. The land is vested in the King, the chiefs in turn allocate the land to people. Ambrogetti (1995:1) points out that "The fundamental principle of the relationship between the population and the land is that 'the land belongs to the nation'. The right to all land is communal...".

According to Franklin (1995), the communal tenure system has five characteristic features:

- Land is for the whole community and does not belong to any one individual.
- Chiefs on the behalf of the community hold land in trust.
- Land is allocated for use of the allottee and his family, subject to continued use of the land and political allegiance. Torres (1994) points out that the allottee was always the head of the household or male.
- Land can not be sold, bought, transferred or exchanged.
- Only members of the community have the right to be allocated land within the community

Traditionally, land was granted for subsistence of the family group (Makhanya: 1979). Land allocated included a residential site. Three pieces of land were allocated to each individual. According to Williams (1972), one piece of land was for cultivation of maize, another for cultivation of wheat and the third was for cultivation of sorghum. An individual was allocated land in different locations to

distribute fair allocation of good and inferior land (Fair: 1981). This led to fragmentation of land. Makhanya (1979) argues that, the way in which land could be used was determined by the land tenure system. That is, there was no security of tenure and individual ownership of land.

A person could not dispose of land at will. For instance, Makhanya (1979: 31) points out that, the traditional leaders would discourage planting of trees on arable land without prior consent.

2.6.1 Land allocation process

The following was a prerequisite for eligibility to land:

- The person had to be a bona fide Mosotho
- Male and married
- The person had to acknowledge the supreme power of the king
- The person had to be a subject of one of the principle or ward chiefs and had to be accepted by the chief as his loyal subject
- The person had to agree to perform and observe social obligations as expected of him by the community

Source: *Land tenure working paper (LSPP)*

A person had to fit the above criteria to be eligible for land. The rights given on arable land could be for life or for a limited period. The Land (Procedure) Act 1967 and the Deeds Registry Act provided mechanisms where land could be registered. A person was provided with a 'Form C' which provided certificate of

ownership for the allottee. The chief could take away land if he felt that the land was not being used properly or if it was left fallow for more than two years. If land was revoked, it was then re-allocated to someone else. Grounds for revocation are; overgrazing, refusal or inability to fight soil erosion (Bruce: 1984). This resulted in insecurity of tenure within the communal tenure system.

A revocation is a process whereby land is taken away from an allottee. The land thus reverts to the state. This land can then be re-allocated to some one else.

2.7 Reasons for change in Lesotho's land tenure system

Lesotho's communal tenure system had been blamed for the country's poor agricultural outputs and lack of development as early as the 1960s. According to the Department of Lands, Surveys and Physical Planning (LSPP) report (1984), foreign donors put pressure on Lesotho to change its land tenure system from communal to leasehold. The East African Royal Commission (EARC) also had interest in Africa's communal tenure system (Franklin: 1995). The EARC encouraged 'prioritization of land over land needs' and individualization of land holdings.

Several reasons were put forth which argued for necessity to change the tenure system. It was often argued that the tenure system needed to be changed to adjust to the changing economic environment (Makhanya: 1979). It was asserted that change from communal to leasehold would help commercialise land

because it would enable selling and buying of land. It would also provide security of tenure and incentive for farmers to invest in the land and in turn produce higher yields through use of fertilisers.

Other reasons cited were lack of expertise of traditional leaders to administer land (Tsepe: 1984), need to secure control over land by government, in order to be able to provide infrastructure. Matlosa (1991) asserts that population pressure led to inadequacies in the old tenure system due to diminishing amounts of arable land.

The following table illustrates how there has been a steady decrease in availability of arable land in Lesotho.

Table 2.1 Changes in size of land holdings

	1986	1990	% Change
Average holding size	1.4 ha	0.9 Ha	-35,7
Population	1,577,000	1,770,000	+12,2

Source: Ambrogetti (1995:2) *Communal systems of land tenure and fair access to the land: the case of Lesotho (modified)*.

Table 2.2 Landlessness and Land scarcity

Holding Size (ha)	% of Household				% Points of change
	1950	1970	1986	1990	1950-1970
Nil	7.2	13	20	27	+5.8
0-1.62	33.1	43			+9.9
1.63-3.23	36.9	30			-6.9
>3.24	22.8	14			-8.8

Source: Ambrogetti (1995:2) *Communal systems of land tenure and fair access to the land: the case of Lesotho (modified)*.

From the two tables above, it is clear that land holdings have decreased over the years. This has mainly been due to increased population pressure and soil erosion. The size of land holdings has also decreased from 1.4 ha to 0.9 ha from 1986 to 1990 respectively. Pre-1979, there was no clear system as to the exact size and standard used in land allocation in terms of determining the size of fields. In Table 2.1, the land allocation sizes are for arable land used in cultivation. Residential land holdings also changed over time. In the Land Tenure Working paper, it is pointed out that in terms of size of plots, grants to land after 1979 are usually 1,000m² or less.

After Lesotho's independence in 1966, attempts were made to try to modify the communal land tenure system. Two land laws were passed in 1967. These were the Land (Procedure) Act of 1967 and the Deeds Registry Act of 1967. It should

be noted that the legislation mentioned above did not aim at land reform. The Land (Procedure) Act 1967 introduced documents for allocation of land (referred to as 'Form C') while the Deeds Registry Act 1967 provided for registration of all land in both urban and rural areas.

In 1973, two other land laws were proposed. These were the Land Administration Act of 1973 and Land Act of 1973. The Land Administration Act 1973 introduced leaseholds and land committees who would have land allocation powers. Therefore, land allocation rights would be taken away from chiefs, who traditionally had these rights. As expected, the Act was highly opposed by traditional leaders and was never implemented. Land allocation process is a source of power for traditional leaders. For example, loyalty to a chief was sometimes used as a measure to determine eligibility for being allocated a piece of land.

The Act had also proposed that Maseru's boundaries be extended to include the peri-urban areas. The Land Administration Act of 1973 was not passed. Therefore, the peri-urban areas continued to occur spontaneously and without being formally planned. These areas continued to grow and function without basic services and infrastructures.

The Land Act of 1973 was implemented. This Act introduced development committees. These committees were to work with traditional leaders in granting or

revoking of land. This Act did not provide any land reform, since it retained all the principles of the communal tenure system. The 1973 Land Act continued to operate until 1980 when the 1979 Land Act began to operate.

The following are the main features and objectives of the 1979 Land Act:

- Granting of title to land, through leasehold
- Conversion of title to land
- Declaration of Selected Agricultural Areas (SAA's) and Selected Development Areas (SDA's) and title to land therein
- Setting aside of land for public purposes
- The establishment of a Land Tribunal
- Granting of public servitude.

Source: *Land Act 1979 (p.193)*

2.8 Land Act 1979 and allocation process

The objectives of the Act have already been outlined above. The Act introduced title to land under three categories. These being under allocation, lease or license. Allocations only exist in rural areas. Under this category, land development committees make allocations with the chief as *ex officio* member. Under this system, the certificate of allocation issued is referred to as a 'Form C2'.

The lease and license are the two tenures that exist in urban areas. Land used for residential purposes was automatically converted into leasehold titles. Application for title to new land has to be lodged to urban land committee within six months of allocation. This committee is composed of the principal chief of jurisdiction as the chairman, the district co-ordinator or Town Clerk, the Commissioner of Lands and three other members appointed by the Minister of Home Affairs. Land under leasehold can be bought, sold, sub-let, mortgaged and inherited. For a surviving spouse, a certificate of occupancy is issued notwithstanding the reversion of lease interest to the state (Land Regulations 1980).

Licenses are issued for all agricultural land within urban areas. In rural area, agricultural leases are issued and are not automatic. Licenses are not inheritable (Bruce: 1984). Any changes made on the land have to be changes expressed in the license itself. The license can not be disposed of or mortgaged. Even compensation can not be claimed for land, only improvements made on the land.

The 1979 Land Act made provisions for Selected Development Areas (SDA's) and Selected Agricultural Areas (SAA's). SDA's include development or reconstruction of existing build-up area, construction or development of a new residential, commercial or industrial area, as well as readjustment of boundaries for town planning purposes (Bruce: 1984). Compensation is provided for the land.

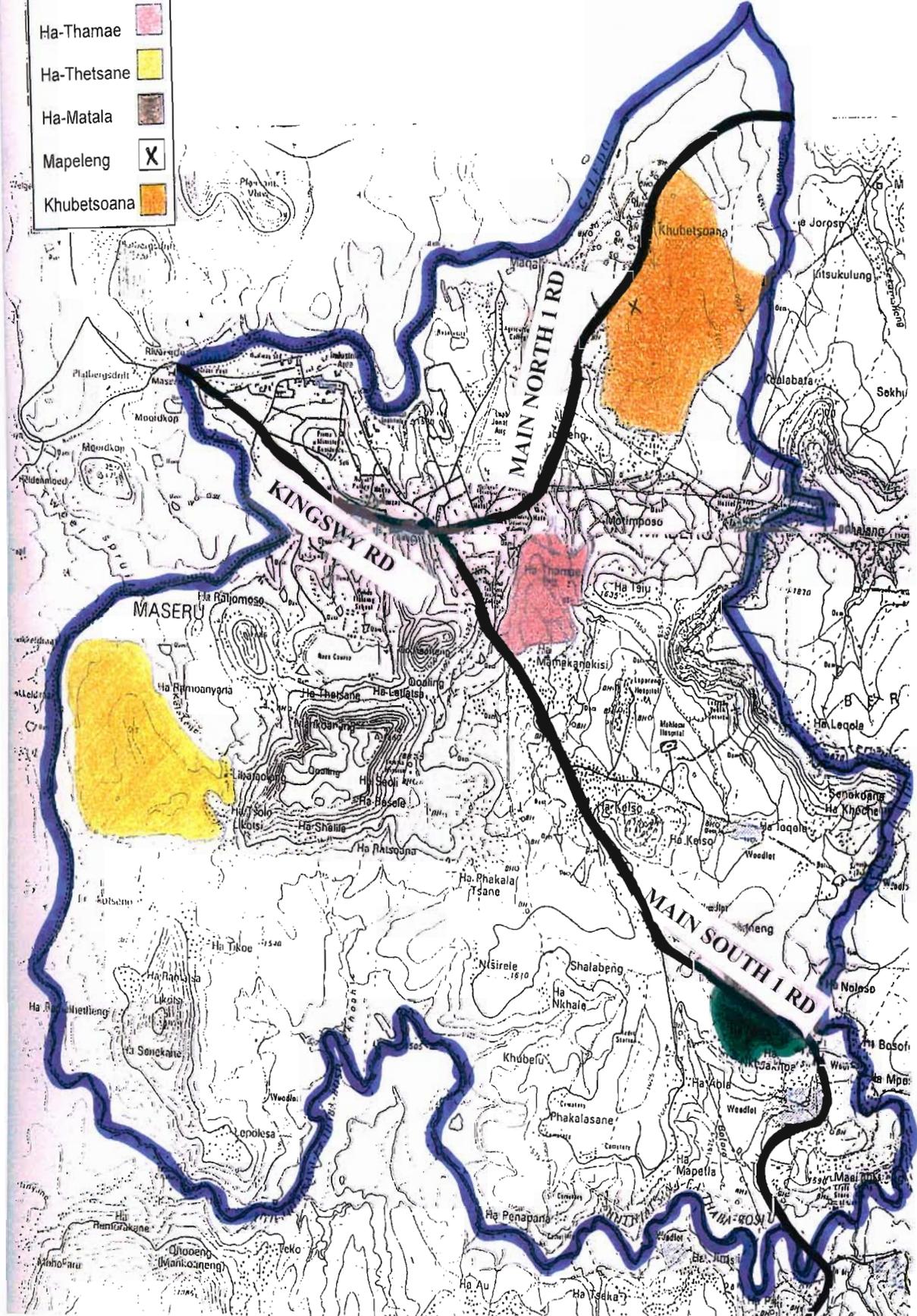
An SDA also provides mechanisms through which implementation of modern land tenure controls on a large scale can be exercised (Ntsane: 1987). SDA's are to have modern infrastructures and services, thus, encouraging development within these areas. In an SDA's rights over land are taken over by a public authority which then controls the land.

Several SDA's have been declared in Maseru (see map. 3, page 33). These include areas such as: Ha Thamae, Ha Matala, Ha Mabote (which includes Mapeleng), Ha Thetsane and Khubetsoana. At Ha-Thamae, the aim was to facilitate upgrading of the area to provide infrastructure and services. It has already been mentioned that Mapeleng became an SDA when Maseru's town boundaries were extended. At Khubetsoana, a site and service scheme was implemented. In Ha Thetsane, it was to protect agricultural land that was being encroached on and to facilitate planned development in the area.

Selected Agricultural Areas are those areas set aside for development with modern farming techniques.

The Act also makes provisions for the government to acquire land for public purposes. This includes public infrastructures, services, facilities, as well as land and water conservation (Bruce: 1984).

Key	
Ha-Thamae	
Ha-Thetsane	
Ha-Matala	
Mapeleng	
Khubetsaana	



To acquire land for public purposes, the Minister consults the principal chief of the area before declaring to set aside the land for public purposes. A notice is then sent to the landowner that is to vacate the land within six months of receiving the notice. If the landowner wants to be compensated for the land, a claim has to be lodged and any dispute for compensation is taken before the Land Tribunal.

Land acquired for public purposes before 1979 was not compensated. Major land uses include the national abattoir at Ha Foso and the Maqalika dam at Ha Mabote. Photo 3.1 shows part of Maqalika dam.

The Land Tribunal to be established under the Act should consist of three members. A chair and two assessors appointed by the minister. The chair has to be a judge of high court or resident magistrate. One member of the tribunal has to have a degree in law or economics. The tribunal hears all disputes that relate to land.

2.8.1 Implementation of the Act nationally

The Act had to be publicised before it could be implemented. The public was introduced to the Act through holding of public hearings. Land Committees then had to be formed in each village. These Land Committees consisted of seven members, with four members elected by the people living within that village and the minister appointed three.

Photo 3.1
Mapeleng in the late 1980,s



Source: Department of Lands, Survey and Physical Planning

Taken: 29/4/88
Scale: 1:11,000

Ntsane (1987) argues that in spite of the process discussed above, the Act was not publicised adequately. This then resulted in confusion that surrounds the Act. As Tsepe (1984) found out in his study, many people did not attend these public hearings. In other cases, the chiefs of the areas did not attend the meetings, but sent representatives instead. This creates problems because the chief is to become the *ex officio* member of the Land Committees that are formed, and will have to be able to administer matters that pertain to land as per the 1979 Land Act.

The government was also responsible for inadequate implementation of the Act. LSPP, which administers the Act, was short of manpower. The implementation agency also lacked funds to ensure that all relevant bodies had the copy of the Act (Tsepe: 1984), therefore, some of government officials are confused when it comes to dealings that pertain to the Act. Franklin (1995) also argues that there are many land granting authorities (the villages have their own land committees and all have to be co-ordinated by LSPP) making it difficult for the central government to control these authorities in their actions.

There are many problems that surround implementation of the Act. Chiefs continued to illegally allocate land and used backdated allocation certificates after 1979 (Ntsane: 1987). This creates increased encroachment on agricultural land and urban sprawl. Mosaase (1984) argues that illegal allocation also creates

problems in the conversion of title of land, in most cases. Title to land proves to be defective in one way or another. The procedures to be used to penalise those who ignore the Act are not fully understood.

2.9 Planning issues

The Cape Colony took responsibility of Basotuland from 1871 to 1884. This period was referred to as "Government by Proxy" (Machobane: 1990). Basotuland was to be ruled directly from the resident magistrates in districts that were created. These magistrates were responsible to the governor's agent based in Maseru and through him to the governor in Cape Town (Bardill and Cobbe: 1985). Law making powers were vested in the governor. These regulations challenged the powers of the chiefs since land allocation powers were transferred to the Cape administration. As Machobane (1990) points out, the Cape wanted to destroy the chieftaincy. There was opposition from chiefs, which led to a rebellion in 1879.

Under colonial rule (Basotuland as High Commission territory), there existed what Machobane (1990) refers to as 'parallel rule'. Administration for Basotho was through chiefs while for the colonial settlers, there existed a Resident Commissioner with assistant commissioners. Each assistant commissioner was responsible for a district, and within which there were government reserves. Therefore, within these reserves, land allocation was the responsibility of assistant commissioners assisted by the principal chief of the area.

In rural areas, chiefs allocated sites. Machobane (1990) argues that the Principal chiefs and the Resident Commissioner governed as virtual equals. While Bardill and Cobbe (1985) argue that within this system, the British intervened regularly to reorganise the chieftainship to promote colonial objectives.

After independence, the Department of Lands, Survey and Physical Planning (LSPP) initially administered planning. The department is located within the Ministry of Local Government. The Commissioner of Lands is found within LSPP. Thus, the issuing of title to land is within LSPP. In 1984, Maseru City Council (MCC) was established. It is a local authority with jurisdiction within boundaries of Maseru's urban area. LSPP delegated planning functions to MCC in July 1994. It is argued that delegating these functions to a municipality would move services closer to the people (Franklin: 1995). MCC has a physical planning department with full responsibility for designing plans for Maseru. The fragmentation of planning institutions creates confusion that surrounds planning issues in Maseru.

2.10 Conclusions

The historical pattern of urban development in Lesotho and Maseru has been discussed. It has been shown that migration into Maseru played a big role in influencing growth. Administration of land has been shown to differ under the different rule within which the country has undergone since the 1800's.

In terms of land policy and methods within which land development occurs, it has been shown that the land development process under communal tenure system and under leasehold differed. This was shown through the different role players that exist within the different systems and their relationship in land development processes. It has also been discussed as to why there was a change in the land tenure system from communal to leasehold, leading to formulation of the Land Act 1979.

In the next chapter, processes of land development and land allocation will be evaluated using two case study areas, namely Mapeleng and Sekamaneng.

CHAPTER THREE

ANALYSIS OF FINDINGS

3.1 The study area

The study assesses the pattern of land development and urban morphology in Maseru. Maseru is Lesotho's capital. The town was established in 1869 as police camp and administrative centre. Therefore, Maseru, unlike other centres in Lesotho has concentration of services and facilities.

Maseru has always been regarded as the place where job opportunities are in abundance. The government as the main employer dominates the formal sector of the economy in Maseru. There exists a very small private sector employment in the formal sector. Thus, formal employment is very limited with the majority of the population absorbed by the informal sector of the economy.

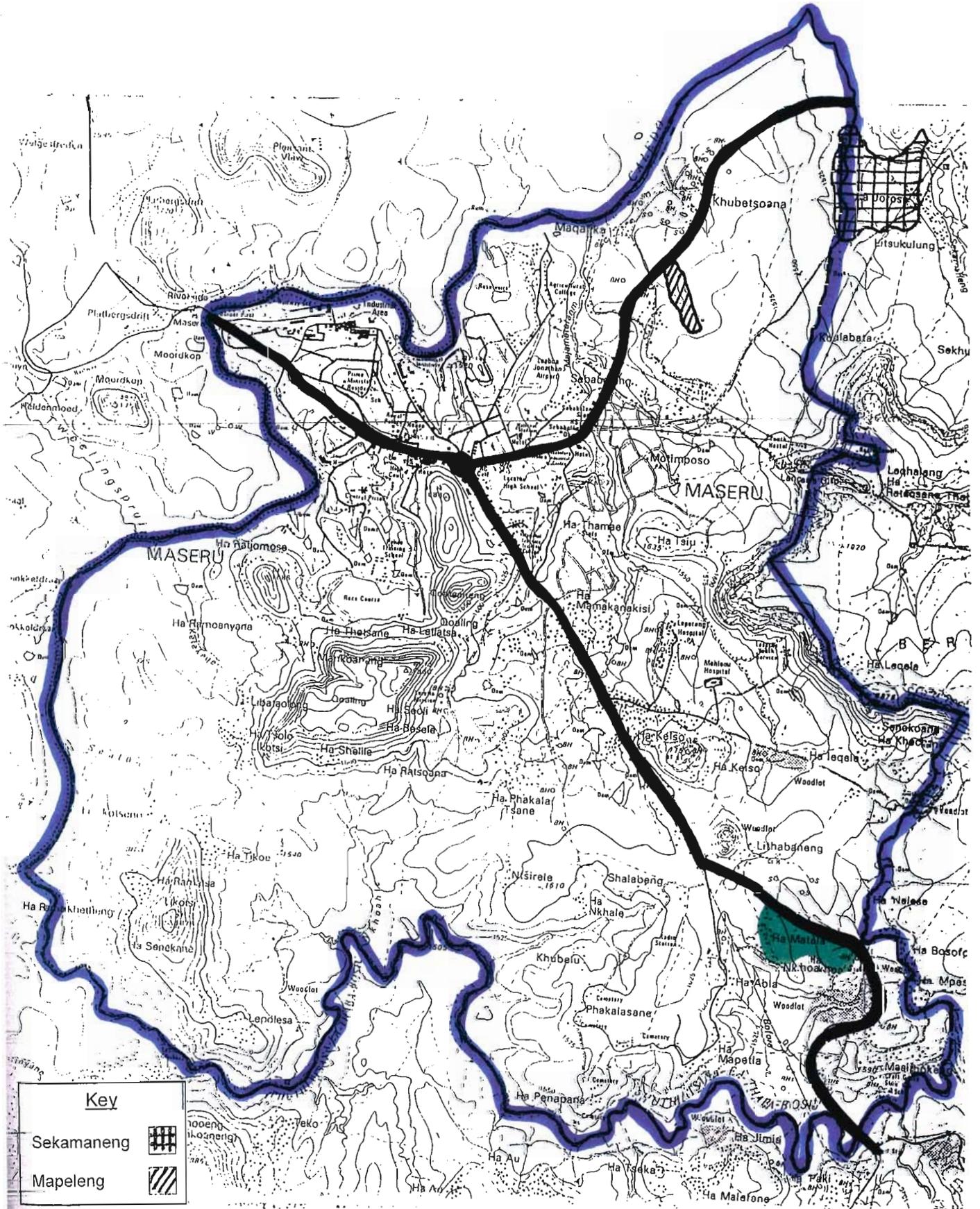
Increase in in-migration into the town and as development took place in the town, centrally located areas were quickly filled up. This left the peri-urban locations as the next suitable areas for residential development. These peri-urban areas were mainly rural in nature. Most of the land within these areas was used for agriculture, with a few sports of residential sites in the area. Pressure for residential led to encroachment of agricultural land in these peri-urban areas.

With passing of the Land Act 1979 and the Town and Country Planning Act of 1980, the government increased its capacity to influence land development within Maseru. This led to several areas within Maseru being declared SDA's to help facilitate proper land use and management within the town (SDA's will be discussed further later in the chapter).

Mapeleng and Sekamaneng are used as case study areas (see Map 3, page 42). Mapeleng was one of the areas declared an SDA in the 1980's. This area was declared an SDA for town planning purposes. The boundary of Maseru urban area was expanded to include the area of Ha-Mabote, which includes Mapeleng. Also, some of the fields were bought from farmers, the land was then surveyed and re-sold to the public with proper infrastructures put in place (such as roads). Mapeleng is located Northeast of Maseru's CBD. The area is very old even though it was not possible to establish when it had been founded.

According to the latest census statistics, the area of Mapeleng has approximately 2,189 inhabitants. The area is densely populated, this is because the land acquired by government was re-sold with smaller plot sizes, leading to densification.

Map 3. Study areas



Map 3. Study areas



The other area is Sekamaneng. Sekamaneng is located east of Mapeleng. Sekamaneng has part of its area within Maseru urban boundaries and a greater part of the area is located outside the boundaries. This makes the area interesting because it is partly administered by the local municipality (MCC) and by the District Council. Therefore, in terms of land allocation procedures, the part that is included in the urban boundary is the responsibility of urban land committees. The area outside the boundary is considered rural land and is administered by the Village Development Council.

Sekamaneng still has a lot of undeveloped land. There are many fields in the area, even though most are left fallow. Some of the fields have already been bought by individuals for residential sites and are awaiting development (refer to aerial photo 3.1).

Photo 3.2
Sekamaneng in the late 1980's



Source: Department of Lands, Survey and Physical Planning

Taken: 7/7/88
Scale: 1:11,000

ANALYSIS OF FINDINGS

3.2 Introduction

In the study, several primary sources were used. The different sources were classified into three categories. These three categories are made of: private developers, Traditional Leaders located in the study areas and public officials. Three classifications were made for several reasons. Firstly, it was necessary to widen the scope of respondents in order to get opinions and information from a diverse group of people. Secondly, these people in one way or another influence land development processes.

Private developers form part of the study. It is necessary to find out how these people influence land development processes. It should become clear as to how people acquire land and how land is used in both Mapeleng and Sekamaneng. It is also necessary to find out if people know about the 1979 Land Act, since it influences their initiatives. It should also be noted that in Lesotho, the development of land is mainly the responsibility of private land developers. The government and financial institutions only support these initiatives.

Interviews with Traditional Leaders will help to provide information on how the 1979 Land Act was implemented in their areas of jurisdiction. In addition, information will be provided on what the chiefs perceive as the Act's impact on

land development processes. Other important aspects are the present duties of traditional leaders, especially those duties that relate to land issues.

Public officials who participate in the study, consisted of officials within Maseru City Council's planning department and the Department of Lands, Survey and Physical Planning, Lands and Planning Divisions. The two (that is, MCC and LSPP) were chosen because they are the major government institutions in Maseru which deal with and intervene in land development processes. LSPP's mandate is to 'develop human settlements and other land related services' (Sixth National Development Plan: 1997). Thus, LSPP is responsible for management of land within Maseru.

The Department of Housing and the former Urban Development Services were brought under the umbrella of LSPP in 1995. Therefore, direct estate development and purchasing of land is carried out through the Lesotho Housing and Land Development Corporation (LHLDC). Through LHLDC, serviced sites are provided as well as upgrading of 'informal' settlements (that is, those settlements that have been spontaneous and unplanned.)

Maseru City Council through 'land-banking' is able to acquire land, have the land surveyed and plots demarcated to be re-sold to the public with services

in place. Land banking by MCC has been very restricted due to limited funds. MCC is also responsible for issuing of building permits and planning permission. Most developers do not apply for building permits or planning permission because it results in delays (MCC planning office). This is because it takes a very long time to have a building permit or planning permission processed.

MCC and LSPP are the main government bodies that oversee land development processes in Maseru. Therefore, It is necessary to include public officials from these government bodies as part of the study. Information from public officials in these agencies should be able to shed light on patterns of development in Maseru. In addition, information on how and why government intervenes in such processes will be provided. These public officials should also be able to provide an evaluation of the implementation of the 1979 Land Act thus far.

3.3 Private developers

In both Mapeleng and Sekamaneng, questionnaires were used to gather data from private developers. First, results and analysis of data gathered in Mapeleng will be presented. Then findings that pertain to Sekamaneng will follow.

3.3.1 Findings in Mapeleng

This is an evaluation of findings found in Mapeleng. In the area, most people live on their land instead of leasing or sub-leasing the land. Where rental stock existed, it was found in minimal quantities. Only 16.67 % of respondents were in rental accommodation. Table 3.1 can further illustrate this.

Table 3.1 Land ownership in Mapeleng

Do you own the land?		Percentage
Yes	25	83.33
No	5	16.67

Source: Field survey: 1998

Table 3.1 shows that most people own the land they live on. People were informally asked if they would sell their land if an opportunity arose. The majority would not since the land they live on is the only land they own. When asked if they own any arable land elsewhere, 3 respondents or 12% claimed they did. Respondents who have arable land acquired it through an allocation. This is a very small group of more elderly residents. Some pointed out that they used to, but the land was given to their children and converted into residential use. The remaining 88% argued that they did not have any arable land, even in their places of origin.

Table 3.2 Place of origin

Place of Origin									
Maseru	Berea	Leribe	ButhaButhe	Mokhotlong	ThabaTseka	Qacha'snek	Quthing	Mohale'shoek	Mafeteng
15	0	2	0	0	1	0	0	0	3

Source: Field survey: 1998

Table 3.2 shows more than half of respondents originating from the Maseru district. Most respondents were already leaving in and renting accommodation in Maseru before acquiring land in Mapeleng. It is clear that there is substantial in-migration into Maseru, since most people were from outside the district and had been renting.

The following table shows the ways in which people of Mapeleng acquired their land.

Table 3.3 Process of land acquisition

Way land was acquired	Number of respondents	Percentage (%)
Allocated by chief	7	28
Inherited from parents	8	32
Bought from individual	10	40

Source: Field survey: 1998

Forty percent of respondents from Mapeleng bought land from an individual. The 1979 Land Act provided rights for a lessee to 'dispose of his interests' (Sect. 35), even though the disposal was to be made subject to consent of the Minister. This seems to have led to some people selling their arable land for residential purposes. In fact, public officials from MCC and LSPP identified selling of arable land for residential purposes as the major impact that the 1979 Land Act has had on land development processes.

This impact can be assessed as negative for several reasons. Firstly, it has led to emergence of unplanned and spontaneous settlements in and around Maseru's urban boundaries. These unplanned settlements mainly lack basic services and infrastructures. Secondly, people sold their arable land to be used for residential purposes. People sold the land because due factors such as drought, the land provided low yields. This also provided people with the opportunity to make money.

It has already been mentioned that in Lesotho, approximately 9% of the land is arable (see 2.6). Therefore, if this land is increasingly encroached on and used for residential purposes, it leads to less land available for cultivation. This results in lower yields and poverty (since most people cultivate for subsistence). Thirdly, the 1979 Land Act took away land allocation powers from chiefs, this has led to chiefs illegally allocating land (that is, they

allocated land outside the Urban Land Committees) and this has led to unplanned developments within Maseru.

It can be argued that some people have been allocated land illegally for several reasons. The majority of people still possess 'Form C's' which were to be phased out and replaced with leases. When the 1979 Land Act started to operate in 1980, all residential land was to be converted to leasehold title.

The Commissioner of Lands (supposedly) sent out notices to people informing them of the need to apply for conversion of documentation of title to land. If a person did not apply within three months of receiving the notice, the person lost title to that land. If a person did not apply for conversion of title, it means either that the land was allocated illegally or as people claim, the notices were not sent out. People maintain that they have not heard of the Land Act of 1979.

Table 3.4 shows proportion of people who possess a 'Form C' and those who have leases. It also illustrates the percentage of people who do not possess either a lease or a form C.

Table 3.4 Forms of title to land

Form of documentation	Number of people	Percentage
Form C	10	40
Lease	3	12
None	12	48

Source: Field survey (1998)

There is a high percentage of people who still possess Form C's (40%). This can be attributed to illegal allocations or ignorance of the 1979 Land Act. If people do not know about the Act, they will not apply for conversion of their titles to land. In addition, LSPP is sometimes able to detect when a Form C has been backdated; thus, this will discourage those who acquired their land illegally.

Sometimes, people do not apply for leases because the process is lengthy and can lead to delays when one wants to develop land. It takes approximately two months to a year to process a lease (Sixth National Development Plan: 1997). People only apply for leases to secure financing from the commercial banks.

Those who do not possess a lease or a Form C own land acquired through an allocation by a chief before 1967. The Land (Procedure) Act of 1967 is the

Act that introduced a 'certificate of allocation' referred to as Form C. For those who do not have a lease or Form C, the chief can verify ownership. The Land (Procedure) Act 1967 required written application for land (Phororo and Letuka: 1993).

Findings illustrated in Table 3.4 helps to question the implementation of the Land Act 1979. It is obvious that it was not implemented adequately since the majority of residents from Mapeleng were still in possession of Form C's nineteen years after the Act was passed. It was shows that there is lack of commitment from the government to ensure that the objectives of the Act are realised.

Discussions on the implementation of the Act and evaluation of this will further be presented in section 3.5. Table 3.5 shows the years when respondents of Mapeleng acquired their land. This will help to show why the majority of residents do not possess a lease or a Form C.

Table 3.5 Year of land acquisition

Year land acquired	Number of people	Percentage (%)
Before, to 1950's	2	8
1960's	4	16
1970's	6	24
1980's	7	28
1990's	3	12
Lived here all my life	3	12
Total	25	100

Source: Field survey (1998)

Table 3.5 shows that 60% of respondents had acquired their land before 1980. This includes people who have lived on the land they reside on all their lives, those who acquired the land before 1950's and those who acquired their land from 1950 to 1980. This can explain why there is a large percentage of people who do not possess a lease or Form C. Only 40% secured rights over the land they own after 1980.

At this point, it should also be noted that in Lesotho, a person was not allowed to privately see or buy land until in 1986. A Land Amendment Order 1986 was passed that made provisions for compensations and selling of land. This contradicts the 1979 Land Act provisions, the Act had set out mechanisms for compensation.

Table 3.6 shows land prices in Mapeleng. It should be noted that the pricing of land has been ad hoc. Price of land does not necessarily correlate to size of the site. A field owner usually sold based on how much he needed or felt a buyer would be willing to pay. Thus, people have paid the same price for different sized sites. Table 3.7 illustrates different site sizes.

Table 3.6 Land prices in Mapeleng

Land price	Number of people	%
Less than R1,000	4	40
R1,000-R2,999	4	40
R3,000-R4,999	1	10
R5,000-R6,999	1	10
Above R7,000	0	0

Source: Field survey (1998)

Eighty percent of respondents had paid R2, 999 or less for their land. None had paid more than R7, 000 for land. Table 3.7 shows the plot sizes in Mapeleng.

Table 3.7 Plot sizes in Mapeleng

Plot size	Number of people	%
< 1,000m ²	4	16
> 1,000m ²	0	0
Do not know	21	84

Source: Field survey (1998)

An overwhelming number of people claimed not to know their plot sizes. People in Lesotho are reluctant to provide information pertaining to their land. People probably provided false information and claimed not to know their plots sizes because they fear that if their plots are too large, they will be forced to sub-divide the land.

These people claim that part of their land has been taken over for public servitude so many times that they no longer know what their plot sizes are. If asked to provide the initial size, they claim that they are no longer sure and do not want to make a wrong estimate. This shows that the people had not forgotten the plot sizes, but provided excuses.

In the Land tenure report, it is argued that grants to land after 1979 have been 1,000m² or less. In the Land Regulations 1980, it is stipulated that leases will not be granted on residential sites that are more than 1,000m². The impact of this on land development and spatial form would be increased densities because the plot sizes are smaller. This has been partially achieved in Mapeleng due to its SDA status. Therefore, the Land Act of 1979 has helped to densify those residential areas that have been planned and declared Selected Development Areas.

3.3.2 Conclusions

The existence of the 1979 Land Act has had several impacts in Mapeleng. These impacts have been both positive and negative in nature. The positive impacts are change in land tenure from communal to leasehold and declaration of areas as Selected Development Areas. Change from communal tenure system to leasehold is regarded as a positive impact because it helped to facilitate commercialisation of land. It should be noted that

commercialisation has had both positive and negative impacts (negative impacts will be discussed later in the section). In section 2.7, it has been discussed that it had been anticipated that change in land tenure system from communal tenure to leasehold would help commercialise land.

Commercialisation of land in the context of Lesotho has been very important because it has led to land being used for what its mostly needed for. Demand for residential land is very high in Maseru's peri-urban areas. Land within the urban boundaries has all been allocated and revocations are rarely made (Chief of Mapeleng: 1998).

A revocation occurs when land is taken away from an allottee. The state then takes over rights on that land and it can then be re-allocated. Since revocations rarely occur, it is difficult for someone from outside the area to acquire land through an allocation. Commercialisation has opened land that had been tied up for agricultural use although most fields were left fallow (due to lack of seeds, drought etc.)

In section 2.7, it has been discussed that change in land tenure to leasehold would provide security of tenure for farmers. This would result in farmers investing on the land. This has not happened. It is true that the change in

land tenure system from communal to leasehold provided security of tenure. Farmers have not invested more in the land through mechanisation and use of fertilisers. The land is sold to people who want residential sites.

It should be noted that this commercialisation of land occurs at a very small scale but still has a major impact because landless people are now able to buy land they need. It has been discussed that people who had bought land or were renting in Mapeleng argued that they did not have land elsewhere. As Ambrogetti (1995) pointed out (see 2.7), there has been a decline in land holdings in Lesotho.

Declaration of Mapeleng as a Selected Development Area (SDA) has resulted in positive impacts. Mapeleng has been able to be planned due to this declaration. The spatial form is more orderly. Provisions for infrastructures and services were made. Planning of the area also led to smaller plots and higher densities. This has been useful because more people have been able to be accommodated.

Where large plots exist, they are usually under-utilised. There is existence of urban agriculture mainly for household consumption. As mentioned, it is for subsistence and usually covers a small part of the site. In Mapeleng use of land has been optimised (compare aerial photos 3.1 and 3.3).

Photo 3.3
Mapeleng in the early 1980's



Source: Department of Lands, Survey and Physical Planning

Taken: 27/4/80
Scale: 1:60,000

Negative impacts of the Act are commercialisation of land, illegal sales by Traditional Leaders and occupation of arable land for residential purposes. The negative impact from commercialisation of land is mainly the unplanned and spontaneous settlements that have mushroomed. Land was able to be sold.

In addition, private field owners sold their fields. Thus, on an individual basis, a person bought a land and made developments on it. Another field owner would sell and the same would happen. This led to areas being developed outside government initiative or surveying and servicing of the land.

It has already been discussed that, the Land Act took land allocation rights from chiefs. Urban Land Committees were formed to oversee land development initiatives. Therefore, a chief could no longer allocate a piece of land without working with and consulting the Urban Land Committees.

Officials from the Maseru City Council's Planning Department and those from the Lands Division of LSPP pointed out that they still come across backdated Form C's. This creates problems for local authorities and land management committees. It makes it difficult to manage land efficiently or assess extent of land development for town planning purposes. Public officials from MCC

pointed out that more than 80% of residential development in Maseru is unplanned (see map 1, page 10.)

Any government controls and regulations that relate to land and development are either not known or ignored. People develop without planning permission and building permits. This makes it difficult to a system of records that can be used to measure the extent of development in Maseru.

The 1979 Land Act influenced the spatial form of Maseru and land developments within the town. The impact seems to have been more negative in nature than positive, this is mainly due to lack of proper implementation and enforcement of the Act. This will further be discussed in section 3.5.

3.3.3 Findings in Sekamaneng

In this section, findings that pertain to the Sekamaneng area are going to be discussed. In Sekamaneng, 83% of respondents owned the land they lived on while the remaining 17% rented out the accommodation. This also illustrates that there is very little rental stock in the area of Sekamaneng. Table 3.8 shows the number of households who own and rent.

Table 3.8 Land ownership in Sekamaneng

Ownership of land	Number of people	Percentage (%)
Yes	25	83
No	5	17

Source: Field survey (1998)

Table 3.9 shows the way in which respondents acquired their land.

Table 3.9 Process of land acquisition in Sekamaneng

Way land was acquired	No. of respondents	%
Allocated by chief	13	52
Inherited from parents	6	24
Bought from an individual	6	24

Source: Field survey (1998)

In Sekamaneng, most people acquired their land through an allocation making up 52% of respondents. The remaining 48% acquired land through inheritance or the land was bought. Therefore in Sekamaneng, people have tended to hold on to the land that they have been allocated, instead of selling the land. Of the same sample, only 4% owned any other residential or arable land.

This shows that people own very little land and there is an increase in the number of landless people.

The majority of respondents (60%) argued that they did not know their plot sizes. Thirty-two percent claimed that their plot sizes were more than 1,000m². Only 8% had plot sizes under 1,000m². Therefore, the highest proportion claimed not to know their plot sizes. The people of Sekamaneng seemed freer to disclose that their plot sizes were large and were thus less concerned about sub-divisions. This does not mean that respondents would agree to have their land sub-divided, it only means that a sizeable proportion (32%) acknowledged that their sites were large. Table 3.10 further illustrates this.

Table 3.10 Plot sizes in Sekamaneng

Plot Size	Number of respondents	Percentage (%)
< 1,000m ²	2	8
> 1,000m ²	8	32
Do not know	15	60

Source: Field survey (1998)

The proportion of respondents who claim not to know their plot sizes is very large and thus tends to distort the findings. From observation, plot sizes in Sekamaneng were relatively large. This could possibly be attributed to the fact that over half (52%) of land in Sekamaneng was acquired through an allocation. Therefore, the pieces of land allocated will be larger than sites where individuals bought from a field owner. This is because a field owner will

make as many sub-divisions as possible (within reason) of the field to get as much money as possible.

The 1979 Land Act has not been able to impact on plot sizes in Sekamaneng because a large proportion of the area is outside the urban boundaries and is regarded as rural land. This will account for the high percentage of allocations of land by the chief in the area (see Table 3.9.).

Within rural areas, the mode of land allocation is through what is referred to as 'an allocation'. For an allocation, a Form C2 is issued. The Village District Council has powers to allocate land. The chief acts as the ex officio chairman of the council. Sekamaneng officially falls under the Berea district and thus is the responsibility of the district council from the area.

For part of Sekamaneng that is within the Maseru urban boundary, Urban Land Committees have been established to deal with land related matters. Within the Land Committee, the chief of Sekamaneng chairs the committee as ex officio member. Therefore, this part of Sekamaneng is under the responsibility of MCC.

It should be noted that leases do not apply for residential land in rural areas. Within Sekamaneng, those who possessed leases were people who owned land within Maseru urban boundaries. As it has already been pointed out, the Land Regulations of 1980 stipulated maximum residential plot sizes for residential land only when granting leases. It is in very rare cases that a field owner applies for change of agricultural land title to lease hold. Table 3.11 shows form of title to land.

Table 3.11 Forms of title to land in Sekamaneng

Form of title to land	Number of respondents	Percentage
Form C2	11	44
Lease	1	4
None	13	52

Source: Field survey (1998)

Table 3.11 shows that the majority (52%) of respondents from Sekamaneng did not have any form of documentation to show that they owned the land. Table 3.12 will illustrate that respondents (68%) acquired their land after 1967. Then more people should be in possession of leases or Form C2's, but this is not the case. Forty-four percent had Form C's and this included those households found within Sekamaneng's part that falls within Maseru's urban areas. Only 4% possessed a lease as title to land.

Table 3.12 Year of land acquisition

Year land acquired	Number of people	Percentage (%)
Before, to 1950	6	24
1960's	1	4
1970's	7	28
1980's	7	28
1990's	3	12
Lived here all my life	1	4
Total	25	100

Source: Field survey (1998)

In Sekamaneng, it seems as if the change in land tenure has had little impact due to the rural nature of the area. The chieftainness of the areas still has some vacant land that can be allocated (chief of Sekamaneng: 1998). Therefore, it is safe to assume that number of people who acquire land through allocations will increase. Also as already mentioned, the Act has been unable to influence the plot sizes in the area.

Change in land tenure system from communal to lease hold has led to personal possession of land and freedom to dispose. From the data, it is obvious that in Sekamaneng, commercialisation of land has not been as intense as in other areas (such as Mapeleng). Only 24% of respondents had

bought land. Table 3.13 shows the range of prices that people claim to have paid for their land.

Table 3.13 Land prices in Sekamaneng

Cost of land	No. of respondents	%
Less than R1,000	5	83
R1,000-R2,999	1	17
R3,000-R4,999	0	0
R5,000-R6,999	0	0
Above R7,000	0	0

Source: Field survey (1998)

Table 3.13 shows that most people (83%) in Sekamaneng paid R1, 000 or less for their land. As with Mapeleng as already discussed in the previous section, the prices do not correlate with the plot size. Land prices are usually set informally and in an ad hoc manner.

This system is slowly changing as field owners are now setting prices per size of land. Presently in Sekamaneng, a 30m by 30m sized piece of land sells for approximately R3, 500. Land that is more expensive is found in other areas in Maseru. This is in areas that have mainly been formally planned such as at Ha Thetsane. At Ha Thetsane, the same 30m by 30m piece of land can sell for as much as R20, 000. This is because this land is fully serviced and

comes with services and infrastructures. People opt for the 'cheaper' land and put in services, as money becomes available.

It should be noted that land that has not been serviced is regarded more desirable solely based on the price. The norm is to put in services in an incremental manner. The existence of a top structure without services is in most cases enough. A pit latrine can always be put on site cheaply and most areas have communal taps due to the village water programme that has been implemented in most areas.

The above attitude is precisely what has led to unplanned settlements in Maseru. It is recognised that the government agencies most of the times are unable to provide residential land at required rates. It should also be noted that when such land is provided, the selling agency has difficulties selling the land especially if the target group is low-income (if other factors such as lack of housing finance are not considered).

3.3.4 Conclusions

In Sekamaneng, it is more difficult to assess the impact of the 1979 Land Act. This is mainly due to the rural status of Sekamaneng. As Franklin (1995)

pointed out, the Act has not been intensely applied in rural areas due to lack of capital and manpower in LSPP.

The Act seems to have not had any major spatial impacts in Sekamaneng. The area is developing and growing as it has always been. Land 'allocations' are still granted and there has been minimal commercial activity (in relation to land) in the past. This is now on an increase, developments are occurring rapidly and land is being sold at higher rates. This increase in developments is probably due to increased demand for that land.

Selling of land was made possible by the Act, but selling has only recently occurred because there is now demand for land for residential use in Sekamaneng. People from outside the area have started to buy land for residential purposes. Therefore, as already mentioned, change in land tenure system from communal to leasehold has facilitated commercialisation of land even though at a very low scale.

In Sekamaneng, there has not been any major change in the spatial form pre and post 1979. The spatial form has remained relatively the same (refer to aerial photos 3.3 and 3.4 on pages 59 and 70 respectively). Thus, with or without the existence of the Land Act 1979, Sekamaneng would have still developed in the same manner.

3.4 Traditional Leaders

Traditional leaders of both Mapeleng and Sekamaneng were interviewed. These are Chief Makoena Majara and Chief Manapo Majara.

Discussions with Chief of Mapeleng will be presented followed by interview results with the chieftainess of Sekamaneng.

3.4.1 Mapeleng

Chief of Mapeleng is acting on behalf of her husband who is away. She argues that her main duties are conflict resolution between people of Mapeleng since she no longer allocates land. The Chief of Mapeleng did however point out that there is no longer any available land in Mapeleng. Therefore, allocations are no longer made.

Only re-allocations can occur but the need to revoke land rarely occurs. This is because procedures for revoking land are unclear. The 1979 Land Act made provisions for revocation of land, but it was pointed out that the Act is very difficult and best not to be dealt with. Generally, a revocation can occur if a person holds land for speculation. Bruce (1984) also pointed out that

Photo 3.4
Sekamaneng in the early 1980's



Source: Department of Lands, Survey and Physical Planning

Taken: 27/4/80
Scale: 1:60,000

grounds for revocation also include overgrazing and refusal or inability to fight soil erosion.

When a person wants land in Mapeleng (when land is available), the person has to consult the Traditional Leader. According to Chief of Mapeleng, a letter from the chief's office is then sent to LSPP. At LSPP, an application is then lodged. She also works with Urban Land Committees in land development matters that pertain to her area of jurisdiction.

From the discussion above, it is clear that Land Committees have been established and the chief now only acts as ex officio member of the committee. Chief of Mapeleng argues that the role and respect given to chiefs has declined. It is argued that this is a pity because, the Traditional Leader is closer to the people. Thus, a Traditional Leader would be able to administer land matters better than officials at the City Council or LSPP.

Nevertheless, she asserted that the existence of the local authority has proved beneficial for the area because Mapeleng was declared an SDA and consequently, development within the area is more orderly.

When asked about the 1979 Land Act and ways that it has made an impact on her areas, she argued that it has had a very positive effect on her area. It has led to provisions for roads thus making the area accessible.

In terms of implementation of the 1979 Land Act, It is argued that the Land Act was implemented adequately in Mapeleng. This can easily be seen in how well the area has developed. It should be noted that respondents from the area claimed that they had never heard of the Act. Some people vaguely remembered but did not know that events that had occurred were related to the 1979 Land Act. This partly shows inadequate implementation of the Act. People of Mapeleng should know about the Act.

Public officials from MCC and LSPP also claimed that the Act has not been implemented adequately. It should also be noted that it would be to the advantage of respondents to claim that they do not know about the Act so they can be exempted from not adhering to the Act.

3.4.2 Sekamaneng

Chief of Sekamaneng is acting for he son who was removed from the position. Her duties are mainly conflict resolution among residents and land allocation. She makes allocations only for residential sites. There is no longer suitable arable land available for allocations.

The 1979 Land Act has had minimal impact on Sekamaneng and thus it is not surprising that people have not heard of the Act. Chief of Sekamaneng argued that the Act has led to some commercialisation of land within her jurisdiction, but selling of land can still be controlled. Meaning that land in the area is still easily managed.

Most of the land in Sekamaneng is still undeveloped, therefore in the future, there will probably be increases in allocations but also selling of land by field owners, as there is more demand for residential land.

3.5 Public Officials

The government of Lesotho, through MCC and LSPP is able to influence land developments. Mechanisms put in place to facilitate this includes physical planning and development control. MCC designs plans, which when implemented influence how people can and how they will eventually carry out development. Development control helps to ensure that conflicting land uses do not occur. Through land banking, land is taken and managed, leading to formal developments. This helps to curb development of unplanned and spontaneous settlements.

There are several pieces of legislation that govern land management efforts by government . Appropriate legislation includes: The Town and Country

Planning Act of 1980, The Land Act of 1979 and the Land Regulations Act of 1980. There are also several other land amendment orders. The Town and Country Planning Act 1980 among other things gave provisions for preparation of development plans and guides planning initiatives.

The Land Regulations Act set regulations relating to land committees, inheritance, and development rents, fees and charges.

Obstacles to proper intervention

The public officials identified several obstacles to proper intervention in land development processes. Firstly, the planning authorities, (MCC and LSPP) have shortages of manpower and capital. This makes it difficult to ensure that proper intervention is carried out. This also relates to enforcement of the 1979 Land Act. Secondly, there is lack of adequate enforcement of laws. The courts hesitate to deal with land matters. This is because issues that relate to land have always been regarded as sensitive.

It should be noted that it was mainly respondents from LSPP that argued that intervention in land related issues rarely achieves objectives. They argued that objectives are not met due to several aspects. The elements that hinder achievement of objectives include lack of adequate manpower and capital and

In terms of manpower and capital. There is understaffing at both MCC and LSPP. Therefore, this makes it difficult for the public officials to attend to everyday duties and deal with problems that arise from outside effectively.

Maseru City council gets a very small budget (R4 Million/annum) from the central government. The money is used for administrative purposes and salaries. Thus, the City Council mainly generates revenue through collection of rates. There is a problem of people not paying rates. This is because people feel that the municipality does not provide services adequately, and thus, they refuse to pay tax levied on their properties (MCC public officials). MCC is therefore unable to generate enough revenue to be able to attend to all its responsibilities. The weak institutional capacity and lack of capital leads to difficulties in dealing with land related matters.

Lack of political commitment is evident because there is no enforcement to make sure that objectives are met, and if any obstacles arise, they are not dealt with effectively to remedy the problem.

Trend in land development

Pattern of land development in Maseru has been characterised by high levels of unplanned settlements. The public officials asserted that there has been an increase in arable land being used for residential purposes. This conversion

occurs outside planning controls and regulations. There has also been an increase in illegal allocations.

Unplanned settlement mainly emerged due to several reasons. Firstly, there has been high rural-urban migration mainly focused on Maseru. Lack of land in the city centre led to arable land being converted to residential land use. The peri-urban areas of Maseru were mostly affected because they were the areas that were closest to town and had available land.

Secondly, after the Land Act 1979 was passed in 1980, traditional leaders could no longer allocate land. Land allocation powers were vested in land committees that were established. Traditional leaders continued to allocate land outside the land committees. This led to improper management of land, the land committees were unable to keep record of the land transactions. This led to unplanned settlements.

The above trend of land development is very different from the pre-1979 years. In the past, there were no 'illegal allocations'. This is because the chief had the power to allocate land within his jurisdiction. In the early 1970's (refer to aerial photo 3.5 page 78), Mapeleng and Sekamaneng were both rural settlements. As the city expands from the city centre, these peri-urban areas

were converted to residential land. Mapeleng under went the change first since it is closer to the city centre than Sekamaneng.

Every Mosotho male citizen was eligible for land and could be allocated a piece of land after consulting with the chief of the area. Therefore, it is argued that settlements were 'planned' because the chief managed the land and through allocations was able to record land transactions. Development could then be managed and settlements planned. Therefore, the argument that chiefs lack expertise to administer land (Tsepe: 1984) is questionable. This is because under the chief's administration, land could still easily be managed. It should be noted that it is realised that present mismanagement of land is partially due to chiefs not co-operating with land management authorities.

The pre-1979 areas were mainly rural in nature with most of the land used for agricultural purposes. This is different from today's settlements that are dominated by residential land uses and less agricultural land use. In aerial photo 3.2, it is shown that in the early 1980's, Mapeleng was already highly populated. There existed a small amount of arable land. The surrounding areas are still highly undeveloped. Therefore, there is mainly agricultural land Southeast of Mapeleng.

Photo 3.5
Study areas in the 1970's



Source: Department of Lands, Survey and Physical Planning

Taken: 14/4/75
Scale: 1;60,000

The change in the pattern of land development in the pre and post 1979 years can be attributed to several factors. Firstly, the change in land tenure system from communal to leasehold influenced pattern of land development in Maseru. The change in land tenure system commercialised land and gave people provisions to dispose of their land holdings at will.

In addition, the change provided people with title to land in the form of leases. These leases could be used for acquiring housing finance from financial institutions. Thus, facilitating an increase in the number of developments that could occur. This is because people would now have necessary funds to develop their sites. Although as it has already been shown, very few people possess leases and it can be assumed that most people acquired housing finance through less formal means (such as group savings schemes).

Secondly, the change has been due to illegal allocations as it has already been discussed.

Factors that influenced land development in Maseru

Several factors influence the pattern of land development in Maseru. These are socio-economic factors (such as poverty and lack of housing finance), there is very low production of formally serviced residential land, there are

illegal land allocations by chiefs, and Lesotho does not have a National Housing Policy to guide housing development.

Socio-economic factors will inevitably influence patterns of land development. According to the Sixth National Development Plan (1997), nearly 50% of households in Lesotho are poor (the majority are found in rural areas). Poor households are defined as 'those who spend 50% of their total household budget to obtain their daily adult diet of 2,500 calories'. Although Lesotho's per capita GNP of R2206 (1995 statistics) places the country among the higher income countries in Sub-Saharan Africa.

The problem is that income in Lesotho is highly skewed. Ten percent of households in higher income groups receive 44% of gross national income while the bottom 40% receive only 8% of the income (Sixth National Development Plan: 1997).

The above has several implications in terms of land development. Since most households are defined as poor, they will not be able to afford land that is serviced. This is because even when serviced sites are targeted towards low-income households, the prices for sites are set too high. The prices are usually above what a poor household is willing and able to afford to spend on

housing. Therefore, most households opt for land sold informally. This then led to establishment of unplanned settlements within Maseru and its peri-urban areas. It helps to perpetuate selling of land illegally.

Low production of formally serviced sites has resulted in several factors. The supply of serviced land greatly lags behind the demand for such land. Formal agencies that provide such land (e.g. MCC and LHLDC) mainly lack the capacity to provide land at rates that are required.

The weak institutional capacity has already been discussed. There are also delays in acquisition of land from private landholders. This delay is mainly caused by conflicts over compensations for land.

Low production of formally serviced lands leads to people acquiring land on their own. The land acquired is usually from private field owners. The land is provided without any infrastructure, but due to the demand for land, the unserviced sites are purchased. This is because the government does not adequately provide serviced land at required rates. Introduction of the 1979 Land Act introduced mechanism that government could employ to increase control of land and production of serviced land. This has rarely occurred leading to settlements that are unplanned.

Discussions on illegal land allocation by chiefs have already been presented. It will be added that there seems to be some sort of antagonism between chiefs and civil servants. As Chieftainess of Mapeleng pointed out, capabilities of traditional leaders are undermined by government. She argued that traditional leaders should be incorporated into the civil service. One of the public officials from Maseru City Council also suggested that traditional leaders be incorporated into the civil service. The public official argued that it is the only way to curb and ultimately stop illegal land allocations by traditional leaders.

It is argued that incorporation of traditional leaders will curb illegal allocations in the following way. If they become part of the civil service, they will be made part of the body that influenced and manages land development. Traditional leaders feel that their role has diminished and is greatly undermined.

Incorporation of traditional leaders into the civil service would make traditional leaders part of local government administration. The most important element is that it will make the traditional leaders feel as part of decision making and not merely as ex officio members.

National Housing Policy

Lack of National Housing Policy results in several problems. There are no formal procedures and mechanisms put in place to help guide, control and target specific areas and income groups in matters relating to housing. Existence of a housing policy would provide a way in which government could influence development of land by identifying areas where residential developments or housing will occur.

It is realised that this also happens when structure plans are formulated and specific locations are identified as residential land. However, that does not necessarily facilitate actual development of that land into the desired land use. Development controls and regulations ensure that specifications of structure plans and planning are adhered to. When enforcement is very weak (such as in the case of Lesotho), specifications of plans are not adhered to. This would lead to more planned residential areas within Maseru.

The lack of housing policy also means that there are no mechanisms put in place that address housing finance. Housing finance is a very important component of any housing policy. Without housing finance, it becomes impossible to develop ones land.

It has already been discussed that Lesotho has a high number of poor households. A housing policy would be able to address this problem and facilitate mechanisms in which these groups could access housing finance. This could be either money coming directly from the government or coming to a certain agreement with financial institutions.

Lack of a national policy to address housing finance issues has thus led to people not affording serviced land and buying land privately from field owners or resorting to acquiring illegally allocated sites from chiefs. This is carried out to minimise costs and acquire land as cheaply as possible, so that there will still be funds available to build the house.

A housing policy would also address land issues. Thus, lack of such a policy greatly hinders proper land management and land development in the country especially in Maseru.

Spatial impact of the 1979 Land Act

The Land Act 1979 has had several spatial impacts. The most notable are the result of places being declared Selected Development Areas (SDA's). As a result, these areas were able to enjoy service that could not be found in other areas. In addition, there are now basic infrastructures in place, such as

roads which have been constructed. Thus, the major impact has been 'formalisation' of residential areas. It has also led to residential areas having higher densities.

The impact has certainly been positive because it has led to better planned areas with services and infrastructures. It has also led to densification to make (the already scarce) land available to more people.

Administration of the 1979 Land Act

Administration of the 1979 Land Act is the responsibility of the Minister of Local Government through the Commissioner of Lands. Other bodies are involved in the administration of the 1979 Land Act. These include the MCC Town Clerk's Office, the Urban Land Committees and law enforcement officers.

The Commissioner of Lands participates in all land allocation procedures. The Urban Land Committees are responsible to the Maseru City Council, the Maseru City Council has a Lands Officer who works with the Land Committees.

Obstacles to proper implementation of the Act

Most of the public officials argued that objectives of the Act have not been adequately met. Reasons cited were: Chiefs allocating land illegally, field owners allocating agricultural land for residential purposes, inadequate institutional capacities in MCC and LSPP, lack of proper enforcement of the law, lack of public awareness of the Act and lack of co-operation by Traditional Leaders.

Illegal allocations by chiefs have hampered achievement of the objectives of the Land Act 1979. Under the Act, chiefs are supposed to work with Urban Land Committees when allocating land. These Land Committees are composed of the Principal Chief of the jurisdiction as chairman, the District co-ordinator or Town Clerk, the Commissioner of Lands and three other members appointed by the Minister of Local Government. Therefore, when an allocation is made through the land committee, it helps because those government agencies that will ultimately deal with management of the land are directly involved.

When a chief makes an allocation without this committee, it means that an allocation is made without land management authorities knowing about it or approving the allocation. This leads to settlements that have not been

planned. It also makes it difficult for the municipality to manage such land because its development was anticipated. Ultimately pressure is put on any existing infrastructures and services that exist in the area. This is because the infrastructures and services were not made to carry the increased capacity. It should also be noted that existing infrastructures and services are usually not adequate for existing developments, let alone accommodate new developments.

Private allocations by field owners have the same consequences as illegal allocations from chiefs. Therefore, it is not necessary to go into the discussion of the impact of these transactions of land development and spatial form. It can only be added that there is a slight different in the allocations by chiefs and those made by field farmers.

Chiefs allocate state land. The field owners sell arable land. Therefore, field owners sell arable land, which is then used for residential purposes. This leads to a decrease in the amount of arable land. Encroachment on agricultural land is a great problem. Agricultural land is increasingly diminishing and there is need to protect this land.

Declaration of Selected Agricultural Areas (SAA's) was supposed to curb the above problem. Data collected from public officials does not clarify issues that surround establishment of SAA's or identify such areas. Therefore, it is difficult to discuss the extent to which such a declaration has had an impact on land development. It is also difficult to assess if declaration area as an SAA helps to curb encroachment on that land.

Mechanism to penalise those who ignore the Act

Mechanisms have been put in place to penalise those who ignore the Act. The Land Amendment Order of 1989 set mechanisms to penalise those who ignore the Act. A person can be taken to court. If found guilty, the person can be fined R5, 000 or five year imprisonment.

Public officials argued that the above mechanism has not proved effective because it is never enforced. They assert that there is lack of law enforcement especially on land related matters.

Land Tribunal

It also became apparent the Land Tribunal court has not been established. The 1979 Land Act gave provisions for a land tribunal to be established. This tribunal was to consist of three members. It would have a chair and two

two assessors appointed by the Minister of Local Government. The chair has to be a judge of high court or resident magistrate. One of the assessors had to be a person with a degree in law or land economics. The tribunal was to be established because it was argued that there was need for a formal body that would be responsible for hearing all disputes that relate to land.

Since a Land Tribunal was not established, land disputes have to go through the normal courts. This results in delays in hearings because of the large number of cases that are usually waiting to be heard. It is in very rare cases that a person is taken to court, by the time the case is heard, the person has developed the land and it becomes more difficult to enforce the law then.

An example of the above is a case in Ha-Thetsane. The Maseru City Council bought land from field owners to be converted into a planned residential area. The plan was not yet complete on the drafting board yet the very same sites are being developed. Field owners were compensated by MCC for their field; the field owners then resold the land to private individuals who are now developing the land. Parties involved know that they will not be penalised and there are small possibilities of MCC getting its compensation money back because these people will not be penalised. It is amazing to think that this happens even though MCC has limited funds and capital to carry out its responsibilities.

3.5.1 Conclusions

The 1979 Land Act has had both negative and positive impacts on land development in Maseru. The main positive impact is that SDA's can be established and these lead to planned settlements with basic infrastructures and services.

The negative outweighs the positive. Implementation of the Act has led to illegal allocations by both field owners and traditional leaders.

The change in land tenure system (and other factor already mentioned) has led to spontaneous and unplanned settlements. The unplanned and spontaneous settlements are cited by public officials as the most significant change in the trend of land development in Maseru between the pre and post 1979 years.

It was also pointed out that there is need for formulation and implementation of a National Housing Policy. The Housing Policy will also help to address problems of access to housing finance. Access to housing finance will help to lead to more choice and people will be able to buy serviced land.

The inadequate institutional capacity needs to be addressed in order for the Act to be adequately enforced. Above all, there is need to establish a Land

Tribunal to oversee land disputes and to ensure that the Act is enforced before objectives can be realised.

CHAPTER FOUR

DISCUSSIONS AND CONCLUSION

4.1 Conclusions

Conclusions draw on findings that have already been presented in chapter three. This section will also address research questions. The central issue of the study was to assess the extent to which the 1979 Land Act had made an impact on urban morphology and patterns of land development in Maseru and the peri-urban areas.

Evaluation of the impact of the Act on land development

In assessing implementation of the Land Act 1979, several issues need to be discussed. It can be argued that the implementation of the 1979 Land Act has been partially successful. Success can be attributed to formalisation of areas, hence providing service and infrastructures in these areas. This has been achieved when areas are declared SDA's.

The Land Act 1979 seems to not have been implemented inadequately. People from Mapeleng and Sekamaneng did not know about the 1979 Land Act. As Tsepe (1984) points out, inadequate implementation has led to confusion that surrounds the Act. Those who remember activities that relate to the Act did not know that the Land Act 1979 made provisions for such activities. The people who did not know about the Act were the majority. It is recognised that some respondents might find it to their advantage to claim to

have not heard of the Act. It is believed that if the above is the case, it amounts for a negligible proportion.

The argument it made based on the knowledge that people are not penalised for ignoring the Act. People know that law is not enforced. Thus ignoring the Act or any other regulations and development controls would not lead to indictment.

There exists lack of public awareness of the Land Act 1979. Public officials from MCC pointed out that the Act is difficult to understand. They further argued that it is necessary to educate both the larger public and public officials on what the Land Act of 1979 is and what its main objectives are. It is especially important to educate public officials and the Traditional Leaders because they are the ones that have to ensure that objectives of the Act are met.

It can also be argued that existence of illegal allocations is proof that the Act has not been implemented adequately. Public officials asserted that they often come across Form C's that have been backdated by chiefs. This shows that illegal allocation occur. The lack of cooperation by chiefs hinders achievement of the Acts objectives. If the Act had been implemented adequately, traditional leaders would not allocate land illegally because they would be penalised.

There is lack of enforcement of the Act as indicated above. There seems to be lack of interest or commitment to ensure that the Act is not ignored. Public officials did argue that there is lack of political commitment. People are never taken to court for ignoring the Act. Thus, people do not waste efforts in trying to make sure that they have adhered to the principles of the Land Act of 1979.

Inadequate enforcement of the law relating to land matters is perpetuated by non existence of a Land Tribunal. A Land Tribunal was never established to deal with land conflicts and other land related matters. The tribunal should have been established to deal with people that ignore the Act. In addition, the mechanism that is set to deal with those who ignore the Act should be used and not only exist on paper.

In section 2.8.1, it was argued that there is no clear procedure to penalise those who ignore the Act. Therefore, there is need for public officials to be educated and the courts and government to be committed. This will ensure that those mechanisms set out in the Land Amendment Order 1986 are used to facilitate enforcement of the law.

Another inadequacy in the implementation of the Act is evident in the large number of people who still possess Form C's. With passing of the Act, all title to residential land within urban areas was to be converted into leasehold. The

Commissioner of Lands sent a notice to a landowner, if a person did not apply within 3 months, the person lost their title to land. People in Mapeleng claim that they never received any notices and LSPP office was not ready to confirm that notices has indeed been sent to residents of Mapeleng.

The public officials from both MCC and LSPP argue that it has been very difficult to adequately implement the Act because there are manpower shortages and limited capital.

Problems due to inadequate implementation of the Act

Inadequate implementation of the Act has led to several problems. It has led to illegal allocations by chiefs. This makes it difficult for LSPP to effectively monitor and manage land development. These illegal allocations also resulted in emergence of unplanned settlements within Maseru.

It conclusion it can be asserted that the 1979 Land Act has led to unplanned settlements in Maseru. It should be noted that it is realised that there are other factors that have led to development of unplanned settlements (such as immigration into Maseru and people's incomes) and these have been discussed in section 3.5.

Another problem experienced is rapid conversion of land from agricultural to residential land use. This is problematic because it decreases the already limited arable land. Most field owners would argue that the arable land is put to better use when converted to residential use. This is because the land is mainly left fallow year after year due to drought and lack of money to plough the fields. There is high demand for residential land and low production of serviced land from government agencies, thus agricultural land is taken up for residential development.

Impact of change in land tenure system

Change in land tenure system from communal to leasehold has led to a few notable changes in patterns of land development in Maseru and the peri urban areas. Change in land tenure has led to commercialisation of land, which in turn resulted in spontaneous and unplanned settlements.

The spatial form of Maseru and patterns of land development have changed when comparing the pre and post 1979 years.

It should be noted that it is recognised that there are other factors that have led to this change beside the Land Act 1979. These factors include increased demand for residential land as central areas are developed and there are increases in migration into Maseru. Also decrease in agricultural productivity

has led to abandonment of agricultural activities for paid labour and the land is mainly left fallow, hence when the chance emerged to sell the land, the chance was seized. Other factors include the natural change of an area from its rural nature to urban form as pressure is put on the area to become urbanised.

The spatial form and land development patterns of pre and post 1979 years have changed in several ways. It can generally be asserted that change in land tenure from communal to leasehold has led to increases in emergence of unplanned settlements. Another change has been conversion of arable land to residential use (due to commercialisation of land).

Concluding remarks

It had been hypothesized that the 1979 Land Act has not been able to curb urban sprawl. This is true. This is evident in that land is being sold without the consent of the government (that is, not through land committees) and thus developments have been occurring and leading to urban sprawl. Most land in Mapeleng was bought from individuals, in Sekamaneng selling of land in the past was low. Recently, field owners are selling their land at increased rates (this became apparent while doing the field survey). Thus, urban sprawl has not been curbed or managed.

The second part of the hypothesis is false. I had hypothesized that the Land Act 1979 had not led to any changes in patterns of land development and patterns of urban morphology in Lesotho. The hypothesis is false because it has been discussed that there has been change in patterns of land development and urban morphology in Maseru and peri-urban areas partly due to the existence of the Land Act of 1979.

Recommendations

Several recommendations can be made. Firstly, there is need to declare more areas as SDA's that are outside Maseru's urban boundaries. The City Council focuses on areas within its jurisdiction and district councils do not have the capacity to make such declarations in their areas of jurisdiction.

There is need to decentralise planning functions so that areas outside Maseru's urban boundaries can also be adequately planned. Therefore, if there is a local council within each major town in each district, it will become easier to plan at a local level. This will ensure that the area in question can be planned more sufficiently. It is realised that the above can only happen if external funding can be secured to carry out the activity. Nevertheless, it is argued that it is very important for planning functions to be decentralised.

It is also recommended that a land tribunal should be established. Those who ignore the Act should be penalised. The existing law should be enforced.

There is also need to ensure that chiefs cooperate with the local authority. Incorporating chiefs into the civil service would not necessarily result in cooperation. Cooperation can be achieved through making traditional leaders essential decision-makers in certain matters.

Cooperation could be achieved through the following way. A chief could be allowed to initially make an allocation without consulting Land Committees. The Urban Land Committee, local authority or LSPP would be consulted after the decision to allocate has been made, but before the applicant is allocated the site. The allocation would only be approved when all parties agree on the allocation. This would give the Traditional Leaders the power they crave whilst ensuring that land allocations occur with involvement of land management agencies.

In conclusion, it is asserted that most problems that the government of Lesotho has experienced with the implementation of the Land Act 1979 is a result of the weak institutional capacity and lack of adequate capital. This has led to problems which have had negative consequences on land development in Maseru.

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If no, what obstacles and problems are encountered? _____

6. What has been the trend for land development in Maseru (within city boundaries and peri-urban areas) in the past ten years? _____

7. Has the trend been significantly different from the early pre-1978 years?

Yes.....

No.....

I do not know.....

If yes, in what ways? _____

If no, go to question 9.

8. Would you attribute this change to the change in land tenure from communal to leasehold system?

Yes.....

No.....

If yes, to what extent and in what ways did the change in land tenure system influence land development? _____

9. What are the main factors that tend to influence pattern of land development in Maseru? _____

10. What do you know about the 1979 Land Act? _____

11. Who oversees implementation and workings of the Act? _____

12. How does this agency carry out its coordination function? _____

11. Would you say that the Acts objectives have been adequately met?
Yes.....
No.....
I do not know.....

If no, what shortcomings have been encountered? _____

13. Has the 1979 Land Act had any impacts spatially?
Yes.....
No.....
Do not know.....

If yes, what are they? _____

14. Has any Selected Development Areas and Selected Agricultural Areas been declared in Maseru?
Yes.....
No.....
I do not know.....

If yes, where? _____

Why were these specific areas chosen? _____

15. The 1979 Land Act gave provisions for government to acquire land for public purposes, do you know what the procedure for this had been before the Act?
Yes.....
No.....

If yes, elaborate _____

Which places in Maseru were declared for public purpose as per provisions of the Act? _____

16. What are mechanisms that have been put in place to penalise those who ignore the Act? _____

Have the above mechanisms proved effective?
Yes.....
No.....

If no, what would you recommend? _____

Please feel free to provide any additional information that might further help this study.
Thank You.

Appendix 2

Questionnaire for private developers

This survey is for academic purposes only
Your cooperation is highly appreciated
Please place an x on the appropriate answer

Name of Village _____
Questionnaire # _____

Name: _____
Gender: _____
Occupation _____

1. Do you own the land the house you live in is on?

Yes.....
No.....

If no, is the house:

rented out to you
Are you using it while the owner is away
It belongs to family/ friend/ relative
Other _____

If possible, please further elaborate on circumstances that have led to the above situation. _____

If no, go to question 11.

2. How large is the site? _____

3. How did you get this land?

a. Allocated by the chief
b. Inherited from parents
c. Bought from individual
d. Other _____
e. Given to me by _____

4. When did you acquire the land? _____

5. Where did you live before moving here? _____

6. Did you have to pay for the land?

Yes

No.....

If no, go to question 8.

7. How much did you pay for the site

Less than R1,000

R1,000 - R2,999

R3,000 - R4,999

R5,000 - R6,999

Above R7,000

8. Did you possess a lease or 'Form C' for the site?

Yes.....

No.....

If no, what documentation do you have to show that the land belongs to you?

9. In what ways do you use the land? _____

10. Did you own this land before it was developed?

Yes.....

No.....

If yes, what was it used for before it became a residential site? _____

11. Do you have any other land some where else

Yes.....

No.....

If yes, where is this piece of land located and how is the land used? _____

12. Have you ever heard about the 1979 Land Act?

Yes.....

No.....

If yes, how do you understand the Act? _____

13. Has the existence of the Act had any bearing on how you have developed your land?

Yes.....

No.....

If yes, please elaborate _____

Thank you.

Survey results

MIBPELENG

Quest. No.	Do you own the land your house is built on?		How large is the site?			How did you get this land?			If you bought the land, how much did you pay?					When did you acquire the land?						Where did you live before?					
	Yes	No	1	2	3	1	2	3	1	2	3	4	5	1	2	3	4	5	6	1	2	3	4	5	
		1	2																						
1	I	---	---	---	---	I	---	---	I	I	---	---	---	---	---	---	---	I	---	---	I	---	---	---	
2	I	---	---	---	---	I	---	---	I	---	I	---	---	---	---	---	---	I	---	---	---	I	---	---	
3	I	---	---	I	---	---	---	---	I	I	---	---	---	---	---	---	---	I	---	---	---	I	---	---	
4	I	---	---	I	---	---	---	---	I	---	I	---	---	---	---	---	---	I	---	---	---	I	---	---	
5	I	---	---	---	---	I	---	---	I	I	---	---	---	---	---	---	---	I	---	---	---	---	I	---	
6	I	---	---	---	---	I	I	---	---	---	---	---	---	---	---	---	I	---	---	---	---	---	I	---	
7	I	---	---	---	---	I	---	I	---	---	---	---	---	---	I	---	---	---	---	---	---	---	---	---	
8	I	---	---	I	---	---	---	---	I	I	---	---	---	---	---	---	I	---	---	---	---	I	---	---	
9	I	---	---	---	---	I	---	I	---	---	---	---	---	---	---	I	---	---	---	---	---	---	---	---	
10	I	---	---	---	---	I	I	---	---	---	---	---	---	---	---	---	---	---	I	---	---	---	---	---	
11	---	---	I	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	
12	I	---	---	---	---	I	---	I	---	---	---	---	---	---	---	I	---	---	---	---	---	I	---	---	
13	I	---	---	I	---	---	---	---	I	---	I	---	---	---	---	---	---	I	---	---	---	I	---	---	
14	---	I	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	
15	I	---	---	---	---	I	I	---	---	---	---	---	---	---	---	---	---	---	I	---	---	---	---	---	
16	---	I	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	
17	I	---	---	---	---	I	---	I	---	---	---	---	---	---	---	I	---	---	---	---	---	I	---	---	
18	I	---	---	---	---	I	---	I	---	---	---	---	---	---	I	---	---	---	---	---	---	I	---	---	
19	I	---	---	---	---	I	---	I	---	---	---	---	---	---	---	---	---	I	---	---	---	I	---	---	
20	I	---	---	---	---	I	---	I	---	---	---	---	---	---	---	---	---	---	I	---	---	I	---	---	
21	I	---	---	---	---	I	I	---	---	---	---	---	---	I	---	---	---	---	---	---	---	I	---	---	
22	---	I	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	
Sub Total	18	3	1	4	0	14	4	7	7	4	3	0	0	0	1	2	4	5	3	3	1	1	10	2	0

Mapeleng

Ques. No.	Do you own the land Your house is built on?			How large is The site?			How did you get this land?			If you bought the land, How much did you pay?					When did you Acquire the land?						Where did you live before?					
	Yes	No		1	2	3	1	2	3	1	2	3	4	5	1	2	3	4	5	6	1	2	3	4	5	
		1	2																							
23	I	---	---	---	---	I	I	---	---	---	---	---	---	---	---	I	---	---	---	---	---	---	---	I	---	---
24	I	---	---	---	---	I	I	---	---	---	---	---	---	---	I	---	---	---	---	---	---	---	---	I	---	---
25	I	---	---	---	---	I	---	I	---	---	---	---	---	---	---	---	I	---	---	---	---	---	---	I	---	---
26	I	---	---	---	---	I	---	---	I	---	I	---	---	---	---	---	---	I	---	---	I	---	---	---	---	---
27	I	---	---	---	---	I	---	---	I	---	---	I	---	---	---	---	I	---	---	---	---	---	I	---	---	---
28	I	---	---	---	---	I	---	---	I	---	---	---	I	---	---	---	---	I	---	---	---	---	---	I	---	---
29	I	---	---	---	---	I	I	---	---	---	---	---	---	---	---	I	---	---	---	---	---	---	---	I	---	---
30	---	I	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---
TOTAL	25	4	1	4	0	21	7	8	10	4	4	1	1	0	2	4	6	7	3	3	2	1	15	3	0	

Sekamaneng

Ques No.	Do you own the land Your house is built on?			How large is The site?			How did you Get this land?					If you bought the land, How much did you pay?					When did you Acquire this land?						Where did you live Before ?				
	Yes	No		1	2	3	1	2	3	4	5	1	2	3	4	5	1	2	3	4	5	6	1	2	3	4	5
		1	2																								
1	---	I	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---
2	I	---	---	---	I	---	---	---	I	---	---	---	I	---	---	---	---	---	---	I	---	---	---	---	---	---	I
3	I	---	---	---	I	---	---	I	---	---	---	---	---	---	---	---	---	---	---	---	I	---	---	---	---	---	---
4	I	---	---	---	I	---	---	---	I	---	---	I	---	---	---	---	---	---	---	I	---	---	---	---	I	---	---
5	I	---	---	---	I	---	---	I	---	---	---	---	---	---	---	---	---	---	---	I	---	---	---	---	I	---	---
6	I	---	---	---	---	I	I	---	---	---	---	---	---	---	---	---	---	---	I	---	---	---	---	---	I	---	---
7	I	---	---	---	---	I	I	---	---	---	---	---	---	---	---	---	---	---	---	I	---	---	---	---	I	---	---
8	I	---	---	---	---	I	---	I	---	---	---	---	---	---	---	---	---	---	---	---	I	---	---	---	---	---	---
9	I	---	---	---	---	I	I	---	---	---	---	---	---	---	---	---	---	---	I	---	---	---	---	---	I	---	---
10	I	---	---	I	---	---	I	---	---	---	---	---	---	---	---	I	---	---	---	---	---	I	---	---	---	---	---
11	I	---	---	---	---	I	I	---	---	---	---	---	---	---	---	---	---	---	---	---	I	---	---	---	---	---	---
12	---	I	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---
13	---	I	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---
14	---	I	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---
15	I	---	---	---	---	I	I	---	---	---	---	---	---	---	---	---	---	---	---	---	I	---	---	---	---	---	---
Sub-Total	11	4	0	1	4	6	6	3	2	0	0	1	1	0	0	0	1	0	2	3	1	5	0	1	4	0	1

Sekamaneng

Ques No.	Do you own the land Your house is built on?		How large is The site?			How did you Get this land?					If you bought the land, How much did you pay?					When did you Acquire this land?						Where did you live Before ?					
	Yes	No	1	2	3	1	2	3	4	5	1	2	3	4	5	1	2	3	4	5	6	1	2	3	4	5	
		1	2																								
16	I	---	---	---	I	---	---	I	---	---	---	---	---	---	---	---	I	---	---	---	---	---	---	I	---	---	
17	I	---	---	---	---	I	---	---	I	---	---	---	---	---	I	---	---	---	---	I	---	---	---	I	---	---	
18	I	---	---	---	---	I	I	---	---	---	---	---	---	---	---	---	I	---	---	---	---	---	---	I	---	---	
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20	I	---	---	---	I	---	I	---	---	---	---	---	---	---	I	---	---	---	---	---	---	---	---	I	---	---	
21	I	---	---	---	I	---	I	---	---	---	---	---	---	---	I	---	---	---	---	---	---	---	---	I	---	---	
22	I	---	---	---	---	I	I	---	---	---	---	---	---	---	---	---	I	---	---	---	---	---	---	I	---	---	
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29	I	---	---	---	---	I	---	I	---	---	---	---	---	---	---	---	I	---	---	---	---	---	---	I	---	---	
30	---	I	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	
Total	25	5	0	2	8	15	13	6	6	0	0	5	1	0	0	0	3	1	6	6	3	7	1	1	15	1	1

Appendix 4

Coding system

- Do you own the land your house is built on?
 - No: Rented 1
 - Using for free 2

- How large is your site?
 - Less than 1,000 m² 1
 - More than 1,000 m² 2
 - Do not know 3

- How did you acquire this site?
 - Allocated by chief 1
 - Inherited 2
 - Bought from individual 3
 - Given to me 4
 - Other 5

- If the land was bought, how much did it cost?
 - Less than R1,000 1
 - R1,000-R2,999 2
 - R3,000-R4,999 3
 - R5,000-R6,999 4
 - Over R7,000 5

- What year did you acquire the land?
 - Before- to 1950's 1
 - 1960's 2
 - 1970's 3
 - 1980's 4
 - 1990's 5
 - Lived here all my life 6

- Where did you live before moving here?
(Area by district)
 - Leribe 1
 - Thaba-Tseka 2
 - Maseru 3
 - Mafeteng 4
 - Butha-Buthe 5

Appendix 5
Land Act 1979



Supplement No.1
to Gazette No. 41 of 14th December, 1979

The Land Act 1979

Act No. 17 of 1979

Published by Authority of the Prime Minister

Price: M2.80

All amendments as per [The Land Order (Amendment), 1992 Order # 16 of 1992.]

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THE LAND ACT 1979

ACT NO. 17 OF 1979

Arrangement of Sections

1. Short title and commencement
2. Interpretation

Part I

Inalienability of land and power to grant titles to land

3. Land vested in Basotho Nation
4. Power to grant titles to land vested in the King
5. Application for grants under parts II and III
6. Persons capable of holding title to land

Part II

Land held under allocation

7. Application of Part II
8. Certain titles-non-registrable
9. Certain titles-registrable
10. Conversion of allocations
11. Other rural land held under a lease or licence
12. Allocating authority
13. Revocation of allocation
14. Revocation on grounds of public interest
15. Compensation in case of revocation under section 14
16. Appeals
17. Certificate of allocation and register
18. Regulations

Part III

1. Grant of title in urban areas

19. Application of Part III
20. Lease or licence
21. Advertising of plots
22. Invitation to tender
23. Adverse claims
24. Authority to grant title

25. Land for commercial or industrial purposes

26. Competition between applicants

27. Notice of decisions

2. Conversion of certain titles to land in urban and rural areas

28. Conversion of existing titles

29. Issue of lease document before transaction

30. Issue of lease document in any area

31. Issue of lease document in particular cases

32. Consequence of failure to apply

33. Publication of applications and adverse claims

Part IV

Lease and licences

34. Application

35. Rights of lessee

36. Consent

37. Creation of servitudes

38. Rights of licensee

39. Terms of leases

40. Statutory conditions First Schedule

41. Variation of leases

42. Termination of leases

43. Termination of licences

Part V

Selected development and selected agricultural areas

44. Selected development area

45. Development of land formerly used for agriculture

46. Development of land formerly used for purposes other than agriculture

47. Development by private developer

48. Payment by lessee given substitute rights

49. Titles to be by lease or licence

50. Selected agricultural area

51. Titles within a selected agricultural area

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- 98. Repeals
- 99. Savings

[Date of Assent :].

[Date of Commencement : See Sec. 1].

ACT

To consolidate and amend the law relating to land thus providing for—

- (a) the grant of title to land;
- (b) the conversion of titles to land;
- (c) the declaration of selected development areas and selected agricultural areas and titles to land therein;
- (d) the setting aside of land for use for public purposes;
- (e) the establishment of a Land Tribunal;
- (f) the grant of public servitudes,

and for connected purposes.

Enacted by the Assembly —

1. This Act may be cited as the Land Act 1979 and shall come into operation on a date to be appointed by the Minister by notice in the Gazette.

Short title and commencement

2. In this Act —

“agriculture” means the use of land exclusively or mainly for agriculture, whether as arable, pasture, grazing, orchard or seed growing, or for fish farming, forestry (including afforestation), or for the breeding or keeping of livestock including any creature kept for the production of food, wool, silk, skins or fur;

Interpretation

“allottee” means a person other than the holder of a lease or licence to whom an allocation of land is made under this Act;

“Chief” has the meaning assigned to it in the Chieftainship Act 1968;

A. 22 of 1968

“Commissioner” means the Commissioner of Lands;

“Jurisdiction” means jurisdiction over the area in which the land, the subject of a grant of title made under this Act, is situated;

“Land Committee” means a land committee in a rural area established by regulations under section 18 and until such regulations are made means a Development Committee established for a Chief or Principal Chief under the Land Regulations 1974;

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the instrument evidencing the same;
"licence" means a licence granted or issued under this Act and the instrument evidencing the same;

"parastatal organisation" means any statutory corporation wholly or partly funded by the State or where control and management is subject to general directions of policy from the State or a Minister;

"Principal Chief" includes a Ward Chief;

"proper authority" in relation to allocations of land made prior to the commencement of this Act means any authority empowered under any law prior to this Act to make allocations or consent to the transfer thereof;

"public purposes" in relation to land, includes its use by the government, a local authority or a statutory corporation, for the purpose of —

- (a) providing roads, aerodromes, railways, canals, water supply, drainage, sewerage;
- (b) providing social services such as schools, hospitals, hostels, cemeteries, playing fields, parks, swimming baths, nature reserves, low income housing;
- (c) water conservation by means of watersheds, water catchment areas, reservoirs;
- (d) land conservation through afforestation and erosion prevention;
- (e) providing offices, official housing, stores, research and agricultural stations, defence and security requirements;
- (f) furthering sport, culture, industry and tourism (including the provision of hotels);
- (g) providing any public utility service;
- (h) providing any service which is in the public interest or would enhance or promote national resources and prosperity;

"public servitude" means a servitude granted by the Minister under section 72;

"public utility services" includes services for the purpose of transport and communications, for the supply of electricity, gas, water and the provision of sewerage;

"registrable title" means title to land in a rural area which has been allocated for use —

- (a) for commercial or industrial purposes;
- (b) for purposes of an ecclesiastical, benevolent, charitable or educational institution of a public character;
- (c) for purposes of a hospital, clinic or dispensary;
- (d) ~~for residential purposes;~~
- (e) for such other purpose as the Minister may, by order, declare.

"registration" means registration in the Deeds Registry;
"revocation" means the revocation of, or derogation from, an allocation made under Part II;

"rural area" means an area which is not an urban area, a selected development area or a selected agricultural area;

"selected agricultural area" means an area set aside under section 50 for the development of agriculture by modern farming techniques;

"selected development area" means an area set aside under section 44 for —

- (a) development or reconstruction of existing built-up areas;
- (b) construction or development of new residential, commercial or industrial areas;
- (c) readjustment of boundaries for the purposes of town planning;

"servitude" means a right attached to a parcel of land which is the subject of a lease either to use other land in a particular manner or to restrict its use to a particular extent;

"statutory conditions" in relation to a lease means the statutory conditions listed in the First Schedule;

"title" means an allocation of land under this Act or, where a lease or licence is granted or issued under this Act, such lease or licence, and in relation to rights in land existing at the commencement of this Act, means an allocation made by the proper authority or the transfer of an allocation consented to by the proper authority;

"Tribunal" means the Land Tribunal established under section 64;

"urban area" means an area specified in the Second Schedule as defined by the Minister under section 19;

"Urban Land Committee" in relation to land in an urban area means the committee established for that urban area in accordance with section 24.

VDC — Village Development Council

PART I

Inalienability of land and power to grant titles to land

3. (1) Land in Lesotho is vested absolutely and irrevocably in the Basotho Nation and is held by the State, as representative of the Nation.

Land vested in Basotho Nation

(2) As a corollary to the principle stated in subsection (1) no person, other than the State, shall hold any title to land except as provided for under customary law or under this Act.

(3) Where the customary law is inconsistent with this Act, this Act shall prevail.

4. The power to grant titles to land, to grant or create servitudes, to revoke or derogate from an allocation made under Part II, to terminate or revoke a lease, licence or servitude is vested in the King, as head of State, in trust for the Basotho Nation and shall be exercised as provided for under this Act.

5. (1) Application for grants of title shall —

(a) in respect of land to which Part II applies, be made to the chairman of the ^{VDC} Land Committee having jurisdiction in Form "A" in the Third Schedule.

(b) in respect of land to which Part III applies, be made to the Secretary of the Urban Land Committee having jurisdiction in Form "B" in the Third Schedule.

(2) The chairman of the ^{VDC} Land Committee or, as the case may be, the secretary of the Urban Land Committee shall notify the applicant of the date, time and place of hearing of his application and the applicant shall be entitled to appear and make representations or submissions in support of his application.

(3) The decision on any application shall be in writing setting forth adequately the grounds upon which it is given.

(4) Where a decision in respect of land —

(a) which is the subject of a registrable title; or

(b) to which Part III applies,

^{VDC} is favourable, the chairman of the Land Committee, where paragraph (a) applies, or the secretary of the Urban Land Committee having jurisdiction, in the case of paragraph (b), shall forward to the Commissioner a certificate in Form "C2" or "C3" in the Third Schedule as appropriate.

6. (1) No person shall be capable of holding a title to land except —

(a) a citizen of Lesotho;

(b) the holder of a permit for indefinite sojourn granted under section 6 of the Aliens Control Act 1966;

(c) a company incorporated or registered under the Companies Act 1967 and carrying on business in Lesotho and of which a majority share-holding of at least 51% is, and remains, at all times in the hands of citizens of Lesotho;

(d) a company incorporated or registered under the Companies Act 1967 and carrying on business in

Lesotho of which a majority share holding is held by non-citizens of Lesotho, but only in relation to land held by such company at the commencement of this Act;

(e) a corporation established under Lesotho law;

(f) a partnership of which the majority of the partners are citizens of Lesotho;

(g) cooperative societies, friendly societies and any society or body of persons, other than a company or partnership, registered under the Societies Act 1966;

(h) subject to the approval of the Minister, commonwealth or foreign governments or public international organisations for purposes relevant to activities approved by the Government of Lesotho or to their missions in Lesotho.

(2) Subsection (1) shall not be construed as prohibiting any person disqualified under it from holding any right subsidiary to a lease, including a sub-lease or mortgage, subject to the consent of the Minister being obtained where so required under this Act.

PART II

Land held under allocation

7. This Part applies only to land in rural areas.

Application Part II

8. (1) Subject to subsection (2) and section 11, a grant of title under this Part, if made in respect of land which is not the subject of a registrable title, shall not be transferable and shall, subject to the conditions laid down in the allocation and to the power of revocation, entitle the allottee to use or to use and occupy the land for the purpose stated in the allocation for a period which

Certain titles non-registrable

(a) in the case of a body corporate or unincorporate may be a limited or indefinite period;

(b) in the case of an individual, may be a limited period or his lifetime but shall not endure beyond his lifetime.

(2) Notwithstanding subsection (1) where an allottee of land referred therein dies, the chairman of the Land Committee having jurisdiction shall record in his register the passing of the interest in the land of the deceased allottee to —

(a) the first male issue of the deceased allottee (who shall share with his junior brothers in accordance with the advice of the family) unless the deceased allottee had designated otherwise;

(b) where paragraph (a) does not apply, the person nominated as the heir of the deceased allottee by the surviving members of the deceased allottee's

A. 20 of 1966

~~(c) where paragraphs (a) and (b) do not apply within twelve months from the date of the death of the allottee, the State.~~

(3) Notwithstanding subsection (2) ~~a surviving spouse or a minor child of the deceased allottee shall be entitled to remain in occupation of the land allocated to the deceased allottee until his own decease.~~ *Whether such title is registrable or not.*

9. (1) Where a grant of title under this Part related to land which is the subject of a registrable title, the allottee shall, within six months after the date of the allocation, apply to the Commissioner for a lease and such lease shall, in all respects have effect as if it had been granted under Part III.

(2) Where the allottee fails to apply to the Commissioner in accordance with subsection (1), the Commissioner shall serve notice upon him so to apply and if he fails to do so within three months of the Commissioner's notice, the grant shall be of no effect and the chairman of the Land Committee having jurisdiction, on being advised by the Commissioner of the allottee's default, shall erase from the register specified in section 17 (2) the entry relating to the grant.

10. (1) Allocations of land made prior to the commencement of this Act shall be deemed to have been made under this Part.

(2) A registrable title held at the commencement of this Act shall be converted into a lease and sections 29 and 31 shall apply to the holder of such title, as they apply to a person holding title under section 28 (1).

11. (1) Whenever an allottee of land used for agricultural purposes is desirous of holding his land under a lease or licence under the conditions relating to land held under a lease or licence, he may apply to the Commissioner for the issue of a lease or licence in respect of that land.

(2) The Commissioner shall not issue a lease or licence on the application of an allottee unless the allottee's land satisfies the conditions which the Minister may by notice in the Gazette determine in respect of the use to which the land is put and the level of development which the land has attained or is intended to attain.

(3) Any allottee aggrieved by the decision of the Commissioner under this section may appeal within three months of the date of the decision to the Tribunal whose decision shall be final.

12. (1) Subject to subsection (2) the power to grant title to land shall be exercised by majority decision of the Land Committee established for the area of jurisdiction, of which the Chief having jurisdiction shall be chairman "ex officio" or of such other Land Committee as the Minister may establish under section 18.

(2) Notwithstanding subsection (1), whenever, in pursuance of regulations made under section 18 directions are given to the

accordance with the directions.

(3) A Land Committee shall not exercise its power of granting title to land for commercial or industrial purposes unless it shall have first referred the application to the Minister who shall forthwith seek the advice of the Minister for Commerce and Industry.

(4) The Minister for Commerce and Industry shall forward his advice to the Minister with the minimum delay and, in any case, not later than six weeks after the date on which his advice was sought by the Minister.

(5) A grant made in contravention of subsection (2) or (3) shall be of no effect.

13. (1) The power to revoke an allocation shall apply only in respect of land which is not the subject of a registrable title and shall be exercised by the ~~Land Committee~~ *Land Committee* for the area of jurisdiction, under the chairmanship of the Chief having jurisdiction or such other ~~Land Committee~~ *Land Committee* as the Minister may establish under section 18. *ALLOCATING AUTHORITY*

(2) Before exercising its power under subsection (1) the Committee shall, through its chairman, give at least 30 days' written notice to the person affected thereby of its intention to do so.

(3) The notice referred to under subsection (2) shall set out clearly the grounds upon which the allocation is to be revoked.

(4) The notice shall be deemed to have been given if served in accordance with section 86.

14. (1) Where it is necessary in the public interest to set aside for public purposes allocated land which is not the subject of a registrable title, the Minister, after consultation with the Principal Chief having jurisdiction and upon obtaining the King's assent, shall by notice in the Gazette, declare the land to be so required.

(2) The Commissioner shall, upon publication of a declaration notice issued under subsection (1), forthwith send a copy thereof to the chairman of the Land Committee having jurisdiction, and the chairman shall thereupon cancel the allocation made in respect of the land subject to the notice and shall serve a revocation notice upon the allottee in the manner prescribed in section 86 requesting him to vacate the land by a date not later than six months from the date of publication of the declaration notice.

(3) Notwithstanding any default on the part of the chairman in complying with subsection (2) or any irregularity in the service of the revocation notice any allocation made in respect of the land subject to the declaration notice issued under subsection (1) shall be deemed to have been revoked as from the date of the declaration notice, and the allottee shall vacate the land by a date not later than

Revocation of allocation

Revocation on ground of public interest

certain titles registrable

conversion of allocations

land held under a lease or licence

exercising authority

Compensation in case of revocation under section 14

15. Where an allocation has been revoked pursuant to a declaration notice issued under section 14 (1) and where the allottee has made lawful improvements on the land subject to the revocation, the allottee shall be entitled to compensation in the amount of the value of the improvements and such compensation shall be assessed in accordance with section 56.

Appeals

16. (1) A person aggrieved by a decision of a Land Committee refusing to grant a title to land or revoking an allocation otherwise than under section 14, may appeal to the next senior Land Committee. *an allocating authority*

(2) No appeal shall lie under this section where —

- (a) the refusal to grant is in accordance with the directions issued by the Minister under section 12(2); or
- (b) the ground of appeal does not involve a question of law.

Form "D" Third Schedule

(3) Notice of an appeal shall be given in Form "D" in the Third Schedule and shall be lodged, ~~through the chairman, with the Land Committee against which decision the appeal is made,~~ *with clerk of land tribunal* within 30 days of the decision or, in the case of a revocation, of the notice thereof issued under section 13(2).

(4) Within seven days of receipt of the notice of appeal, the chairman shall cause a record of the proceedings, if any, together with a statement of the grounds for the refusal to grant title to land or for the revocation to be forwarded to the chairman of the Land Committee to which the appeal lies.

(5) At the hearing of an appeal, the appellant shall be entitled to appear and argue his appeal.

Certificate of allocation and register Form "C1" "C2" Third Schedule

17. (1) The chairman of the Land Committee which grants a title to land shall issue or cause to be issued to the allottee a certificate which shall be either in Form "C1" or "C2" in the Third Schedule as appropriate. *allocating authority*

Form "E" Third Schedule

(2) Every chairman shall keep or cause to be kept a register of all allocations made by his Land Committee which register shall be in Form "E" in the Third Schedule, and shall endorse thereon —

- (a) any cancellation resulting from the application of section 9(2);
- (b) any revocation made under section 13 or made pursuant to a declaration notice issued under section 14(1) or resulting from the loss of title by virtue of section 44 or 50.
- (c) any derogation resulting from the grant by the Minister of a public servitude under section 72.

18. The Minister may make regulations under this Part for

- (a) prescribing the allocation which may be made and the persons to whom they may be made, the grounds on which and the circumstances in which they may or shall be made or revoked and generally regulating the principles according to which and the manner in which the Land Committee shall exercise its powers under this Part; *allocating authority*
- (b) specifying the grounds on which and the circumstances in which the Minister shall give direction under section 12 (2); *allocating authority*
- (c) establishing Land Committees and providing for their composition, seniority, meetings, procedure and quorum;
- (d) regulating the conduct of meetings in the event of a chief as chairman ex officio failing, for no good cause, to attend a properly convened meeting of a Land Committee; *an allocating authority*
- (e) generally carrying into effect the purposes of this Part.

PART III

1. Grant of title to land in urban areas

19. (1) This Part applies to the grant of title to land in an urban area. *Application of Part I*

(2) The Minister shall, by notice in the Gazette, define the boundaries of each of the urban areas listed in the Second Schedule.

20. A grant of title to land under this Part shall entitle the grantee to hold a lease or licence. *Lease or licence*

21. (1) Subject to section 22, where land is available for a grant of title, the Commissioner shall publicize the fact by notice in the Gazette and in a national newspaper. *Advertisement of plots*

(2) The advertisement notice shall —

- (a) state whether the land is available for lease or licence;
- (b) contain a sufficient description of the land to enable its identification;
- (c) give particulars of the permitted land use, the ground rent or fee payable, where appropriate, and of the amount to be paid for the improvements (if any) made to the land;
- (d) invite members of the public to lodge applications with the secretary of the Urban Land Committee by a specified date.

22. (1) Notwithstanding section 21 where the land is

regulations

purposes or where land which has been held under title or where land which has been held under title or is no longer required for public purposes becomes available for a new grant, the Commissioner may issue an invitation to tender notice in the Gazette and in a national newspaper which notice shall contain the particulars specified in section 21(2) and, where appropriate, the amount of the lowest premium acceptable as consideration for the grant.

(2) Where the Commissioner acts in accordance with subsection (1) subsections (3) (4) and (5) of section 26 shall apply.

23. (1) Any person claiming title to land affected by a notice issued under section 21 (1) or 22(1) may, within one month from the date of publication of the notice in the Gazette, lodge a claim to such land before the Tribunal.

(2) The clerk of the Tribunal shall notify the Commissioner forthwith of any claim lodged under subsection (1).

(3) Until determination of the claim by the Tribunal or by the High Court on appeal from the Tribunal, applications in respect of the land subject to the claim shall remain in abeyance.

(4) Where no claim has been lodged within the period specified in subsection (1), any grant made under this Part conveys the legal right to use and occupy the land subject to any rights an adverse claimant may have to payment of compensation for lawful improvements made by him to the land.

24. (1) The power to grant title to land under this Part shall be exercised by majority decision of the Urban Land Committee having jurisdiction until such time as any other land authority may be established.

(2) There shall be an Urban Land Committee for each urban area which Committee shall consist of —

- (a) the Principal Chief having jurisdiction, as chairman;
- (b) the Commissioner or his authorised representative;
- (c) the District Administrator, or where a Town Clerk has been appointed, the Town Clerk for the relevant urban area, who shall be the secretary of the Committee;
- (d) three other persons appointed by the Minister.

(3) The Commissioner shall cause to be published in the Gazette notification of the composition of Urban Land Committees.

(4) A meeting of an Urban Land Committee concerned with any application relating to land within its jurisdiction, shall be convened by the secretary as soon as practicable after the specified date for the lodging of applications, referred to in the advertisement notice issued under section 21 or in the invitation to tender

~~25. (1) Where in response to an advertisement notice issued under section 21(1) an application is lodged for a grant of title to land for commercial or industrial purposes, the Urban Land Committee shall not exercise its powers under section 24(1) unless it first refers the application to the Minister who shall forthwith seek the advice of the Minister responsible for Commerce and Industry.~~

~~(2) The Minister for Commerce and Industry shall forward his advice to the Minister with the minimum delay and, in any case, not later than six weeks after the date on which his advice was sought by the Minister.~~

~~(3) Where the Minister objects to the application, the tender procedure laid down in section 26 shall be followed.~~

26. (1) Where, in response to an advertisement notice issued under section 21, there is more than one application in respect of any available land and there are no grounds or considerations for deciding in favour of any one applicant, the Urban Land Committee shall call for tenders.

(2) The secretary of the Committee shall cause tender notices to be published in the Gazette and in a national newspaper inviting tenders to be lodged with him.

(3) As soon as practicable after the specified date referred to in an invitation to tender notice, the Urban Land Committee shall consider the tenders.

(4) Where tenders relate to the grant of title to land for commercial or industrial purposes no decision shall be taken except after referral of the application to the Minister in accordance with section 25.

(5) Subject to any regulation relating thereto the Urban Land Committee shall not be bound to accept the highest or any tender.

27. (1) Whenever a decision to grant title to land under this Part has been taken, the secretary of the Urban Land Committee shall forward to the Commissioner a certificate to that effect in Form "C3" in the Third Schedule and shall at the same time issue a copy of the certificate to the applicant.

(2) The Commissioner shall cause notice of all grants made by an Urban Land Committee to be published in the Gazette and in a national newspaper, and such notice shall, whether by reference to the advertisement notice issued under section 21 or to the invitation to tender notice issued under section 22 or otherwise, contain a description of the land in respect of which the grants were made.

(3) The Commissioner shall upon receiving the certificate

Land for commercial or industrial purposes

Competition between applicants

Notice of decisions

Form "C3" Third Schedule

Adverse claims

Authority to grant title

TITLES TO LAND IN
URBAN AND RURAL AREAS

Conversion of
existing titles

28. Titles to land in urban areas, other than land predominantly used for agricultural purposes, lawfully held by any person on the date of commencement of this Act shall be deemed to be converted into leases.

(2) Titles to land in urban areas predominately used for agricultural purposes lawfully held by any person at the date of commencement of this Act shall be deemed to be converted into licences.

(3) Titles to land in rural areas used solely for residential purposes lawfully held by any person at the date of commencement of this Act shall be deemed to be converted into leases.

Issue of
lease
document
before
transaction

29. (1) Whenever a person to whom section 28(1) or (3) applies is desirous of granting or creating any interest in the land held by him or whenever section 30 or 31 applies to that person, he shall apply to the Commissioner for the issue of a lease and shall produce with his application:—

(a) evidence that he is qualified to hold land under section 6;

(b) a description of the boundaries of the land in question (by reference to a plan or otherwise); and

(c) any one of the following documents:—

(i) a registered certificate of title issued by the Registrar of Deeds under the Deeds Registry Act 1967;

(ii) a registered deed of transfer or a certified copy thereof if the registered deed is lost;

(iii) ~~the original (or a certified copy thereof if the original is lost) of a valid certificate of allocation of land or any document (including a certified copy of a Chief's register kept under the Land Act 1973) evidencing any allocation lawfully made;~~

(iv) an affidavit by the Chief or other proper authority that the applicant lawfully uses or occupies the land;

(v) an affidavit by three persons resident for over 30 years in the locality in which the land is situated to the effect that it is to their personal knowledge that the applicant and his predecessors have been occupying and using the land for a period of at least 30 years.

(vi) any other official document evidencing that the applicant is in lawful occupation of the land.

(2) Where, upon examination of the documents produced under subsection (1), the Commissioner is satisfied of the bona fides of the applicant, he shall so inform the Minister and, shall cause a lease to be prepared for issue to the applicant.

A. 12 of 1987

A. 20 of 1973

(3) Leases issued under this section shall take effect from the date of issue except as regard the period of duration of the lease which shall be deemed to have commenced on the commencement of this Act.

30. (1) Whenever facilities exist in any area for the issue of leases or licences created under section 28, the Commissioner shall cause a notice to that effect to be published in the Gazette and thereupon every person in that area to whom section 28 applies shall, within six months from the date of publication of the notice, apply for the issue of a lease or licence.

(2) The Commissioner may, of his own motion, or for good cause shown by an applicant, extend the period of time during which an application is to be made under subsection (1).

31. The Commissioner may, by notice in writing, invite any person to whom section 28 applies to apply for the issue of a lease or licence within a time specified in the notice.

32. (1) Where a person to whom sections 30 or 31 applies, fails without reasonable cause to comply with the section within the time allowed therein, he shall forfeit his title to the land.

(2) For the purposes of subsection (1) absence from Lesotho during the period of time allowed for an application shall be deemed to be reasonable cause.

(3) A person to whom section 28(1) applies whose title is forfeited pursuant to subsection (1) shall be entitled to receive the value, as assessed by a Government valuer, of improvements lawfully made by him on the land subject to forfeiture.

33. (1) The Commissioner shall cause to be published in a national newspaper notice of applications for leases and licences under sections 29, 30 and 31 which notice shall give the names of the applicants and an adequate description of the land to which the applications relate.

(2) Section 23 shall apply to an adverse claim of title to land affected by notice under subsection (1).

PART IV

Leases and licences

34. Save as otherwise provided, this Part applies to all leases and licences.

35. (1) A lessee shall be entitled —

(a) subject to any statutory conditions or other conditions attaching to the lease, to the exclusive possession of the land leased;

(b) subject to obtaining the consent of the Minister —

(i) to dispose of his interest;

(ii) to encumber the land leased by mortgage;

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(2) Notwithstanding subsection (1) (b) no consent shall be required to the lessee's disposal of his interest by valid will or surrender if the lease is in respect of land held for residential or commercial or industrial purposes only.

(3) In the event of a lessee dying intestate —

(a) where the lessee qualifies thereunder the disposition of his estate shall be governed by the written law relating to succession; or

(b) where the lessee does not qualify under paragraph (a), section 8(2) and (3) shall apply as if he were an allottee and the Commissioner shall thereupon request the Registrar of Deeds to endorse any registered lease or other registered document of title accordingly.

(4) Nothing in this section shall be construed as affecting section 42 or the compulsory sale under any law or by a mortgagee of land held under a lease.

36. (1) Where the consent of the Minister is required under section 35, such consent shall not be unreasonably withheld.

(2) Consent may be given specifically in writing or generally.

(3) Where consent is given —

(a) specifically, it may be given subject to terms and conditions if in the Minister's opinion undue speculation in any transaction in land will occur; and

(b) generally, the Commissioner shall, by notice in the *Gazette*, publish the terms and conditions under which the general consent is given.

(4) No consent shall be given to any transaction by a parastatal organisation upon which a notice in writing has been served by the Commissioner under section 77 in respect of the land involved in that transaction.

(5) Any transaction conducted by a lessee without the consent of the Minister or contrary to the terms and conditions of a general consent shall be of no effect.

37. (1) Where a lessee wishes to enjoy the benefit of a servitude —

(a) over land which is not the subject of a lease;

(b) over land subject to a lease;

the lessee, in the first case and the lessees in the second case, shall apply to the Minister for the creation of a servitude.

(2) Where the Minister allows the creation of a servitude, and he shall not refuse unreasonably, he may attach such conditions to it as he may think fit.

(3) A servitude created under this section shall attach to the land leased for the duration of the interest of the lessee in whose favour the servitude is created, unless earlier terminated by the Minister at his discretion.

(4) The instrument creating the servitude shall be prepared at the instance of the lessee in whose favour the servitude is created but shall be executed by the Commissioner on behalf of the Minister and a copy thereof shall be retained by the Commissioner.

38. (1) A licence shall entitle the licensee to use or to use and occupy land for the purpose and under conditions specified in the licence and shall be subject to termination on three months' notice.

Rights of licensee

(2) A licensee shall not be entitled to —

(a) dispose of his interest;

(b) create lesser interests in or over, or burden, the land subject to the licence;

(c) make alterations and improvements on the land subject to the licence except where otherwise expressly specified in the licence;

(d) claim any compensation for any alterations and improvements made or for any expenses incurred by him on the land.

(3) Licences shall not require registration under the Deeds Registry Act 1967. A. 12. 196

39. (1) A lease shall not be granted for a term exceeding— Terms of leases

(a) 90 years, where the lease is —

(i) for residential purposes;

(ii) for purposes of exercising a profession or calling;

(iii) for any devotional, religious, benevolent, educational, recreational, charitable and medical purposes;

(b) 60 years, where the lease is —

(i) for heavy industrial purposes;

(ii) for commercial or light industrial purposes (other than the sale of petroleum by retail);

(iii) for hotel purposes;

(c) 30 years, where the lease is

(i) for purposes of sales of petroleum or oil;

(ii) for purposes of wholesale storage of petroleum or oil;

(2) No lease shall be granted for a term of less than 10 years.

40. (1) Subject to subsection (2) every lease other than an agricultural lease and a lease issued under section 61(1) shall be Statutory conditions

(2) Where the lessee is a Commonwealth or Foreign Government or an international organisation and a statutory condition is inconsistent or incompatible with any agreement with such Government or organisation, that condition shall not apply.

(3) A lease may include such other conditions as the Minister may direct.

41. (1) Where a lease has been granted or issued for a specific purpose and the lessee wishes to convert the purpose to another which is consistent with physical or town and country planning in relation to the area in which the land subject to the lease is situated, he may apply to the Minister for a variation of the lease accordingly.

(2) The Minister may agree to the variation on such terms and conditions as he thinks fit, but no lease so varied shall extend for a term exceeding in aggregate that appropriate to the purpose to which it is converted.

(3) Any variation of a lease under this section shall be evidenced by a document which may be an annexure to the original lease or a new lease as the Commissioner may deem appropriate and shall be subject to such stamp duty as may be payable on the lease as varied and to registration in the Deeds Registry.

42. (1) A lease may be terminated by the Minister by giving at least one month's written notice to the lessee who the lessee is in breach of any conditions of the lease and has failed to comply with a written notice from the Commissioner calling upon him to remedy the breach within a reasonable specified period of time.

(2) Notice of termination of the lease shall be served by the Commissioner upon the lessee, the sub-lessee (where the whole of the lessee's interest has been sublet to one sub-lessee) and to any mortgagee.

(3) The mortgagee of a lease subject to termination under this section shall have the right to demand the sale of the lessee's interest and, if he wishes to exercise this right shall, upon receipt of the notice of termination, so inform the Minister in writing before the termination date specified in the notice.

(4) Subject to any mortgagee exercising his right of sale under sub-section (3), the sub-lessee, who has not condoned or been a party to the breach of conditions referred to in subsection (1) and who is willing to acquire the lessee's interest at the value assessed under subsection (7) shall, before the date specified for termination of the lease apply to the Minister for the transfer of the lessee's interest to him.

(5) Where a lease is sold pursuant to subsection (3) or where a sub-lessee's application for the transfer of a lease under subsection (4) has been approved by the Minister, the purchaser or sub-lessee, as the case may be, shall forthwith succeed to the lease without any conveyance, assignment or transfer save that the Commissioner shall prepare and execute a deed evidencing the transmission of the lease to the purchaser or sub-lessee and

shall cause the same to be registered and the original lease to be endorsed as "transmitted by operation of law" by the Registrar.

(6) Where no purchaser or sublessee succeeds to the lease and the lease is accordingly terminated, the lessee's interest in the land shall revert to the State.

(7) Subject to any claim by a mortgagee, the lessee whose lease is terminated under this section shall be entitled to receive the value, as assessed by a Government valuer, of improvements lawfully made by him on the land leased.

(8) Where there is a dispute regarding the value of improvements made, such dispute shall be determined by the Tribunal whose decision shall be final.

43. A licence may be terminated by the Commissioner serving upon the licensee at least three month's notice of termination.

Termination of licences

PART V

Selected development and selected agricultural areas

44. Where it appears to the Minister in the public interest so to do for purposes of selected development, the Minister may, by notice in the Gazette declare any area of land to be a selected development area and, thereupon, all titles to land within the area shall be extinguished but substitute rights may be granted as provided under this Part. *after consultation with relevant authorities*

Selected development areas

45. (1) Where the selected development area consists wholly or partly of agricultural land other than land within a selected agricultural area, licensees or allottees of such agricultural land shall be deemed to have received three months' notice of termination of their licences or of revocation of their allocations, as the case may be, beginning from the date of publication in the Gazette of the notice referred to in section 44.

Development of land formerly used for agriculture

(2) Where the selected development area consists wholly or partly of agricultural land within a selected agricultural area, lessees of such land shall be deemed to have received three months' notice of termination of their leases as in subsection (1) and shall be entitled to compensation for any loss incurred through being deprived of their land.

46. (1) Subject to subsection (2) and to section 47, where the selected development area consists wholly or partly of land used for purposes other than agriculture, lessees and allottees of such land shall be entitled to be offered in exchange by the Minister leases within the selected development area, for the same purposes as those for which they previously held the land, of the same plot with or without amendment of the original boundaries thereof, if this is consistent with the development scheme, or of any other plot.

Development of land formerly used for purposes other than agriculture

(2) Where the development scheme is such as not to permit the grant of a lease for the purpose for which the lessee or allottee formerly held the land, the lessee or allottee shall have the option either of accepting a plot for any one of purposes...

Development by private developer

47. Where a development scheme within a selected development area described in section 46(1) is to be sponsored and operated wholly or partly by a person other than the State or a parastatal organisation, the Minister may grant to that person a lease of the whole or part of the area, as the case may be, subject to the condition that —

- (a) the developer shall, where specifically directed by the Minister, make provision under the scheme for —
 - (i) subdivision of the land;
 - (ii) the transfer to a former lessee or allottee, on terms to be approved by the Minister, of his interest in any sub-division previously held by such former lessee or allottee; and
 - (iii) subject to the prior rights of former lessees and allottees, subleases or transfers of his interest in other subdivisions to other persons;
- (b) If the developer fails to provide substitute rights to a former lessee or allottee, he shall pay compensation to such former lessee or allottee.

Payment by lessee given substitute rights

48. (1) Where the value of the development plot offered in exchange to a former lessee or former allottee is higher than the value of the plot previously held by him, he shall be entitled to a reduction in payment for the plot offered in exchange, of a sum equivalent to the value of the plot which he had held.

(2) A lessee or allottee shall not be bound to accept in exchange a plot the developed value of which is less than the value of the plot formerly held by him, and may claim compensation in lieu but where he does so accept, he shall be entitled to receive payment of the difference in value between the plots.

Titles to be by lease or licence

49. Titles to land within a selected development area shall be granted by the Minister and shall be evidenced by a lease or licence which shall be prepared by the Commissioner and executed in the manner prescribed.

Selected agricultural area

50. Where it appears necessary for the development of agricultural so to do, the Minister, ~~acting upon the recommendation of the Minister responsible for Agriculture~~, may, by notice in the Gazette declare any area of agricultural land to be a selected agricultural area and, thereupon, any allocation or licence in respect of such agricultural land shall be deemed to have been revoked or terminated on three months' notice beginning from the date of publication in the Gazette of the declaration notice.

to Consult with the relevant authority and Minister ref. r Ministry of Agric.

Titles within a selected agricultural area

51. (1) Title to land within a selected agricultural area shall be granted by the Minister after consultation with the ~~Minister responsible for Agriculture~~ and shall be evidenced by a lease which shall be subject to such conditions and for such pe-

After Consult with relevant authority

to be prepared by the Commissioner for execution in the manner prescribed.

(2) In considering applications for leases of land within a selected agricultural area, the Minister shall pay the foremost consideration to applications by previous allottees or licensees of land within the area and where any such application is refused, shall state his reasons for refusal.

52. (1) Sections 21 and 22 shall apply to land (other than land to which title is granted in substitution of existing rights) available for grants of title within a selected development area or a selected agricultural area, unless, in the latter case, the Minister decides otherwise.

(2) Subject to subsection (3), section 26, which related to the tender procedure, shall also apply *mutatis mutandis*, the decision to call for, and the consideration of, tenders being made by the Minister in the case of land within a selected development area or by the Minister after consultation with the Minister responsible for Agriculture in the case of land within a selected agricultural area, and the invitation for, and the lodging of tenders, being by and with the Commissioner.

(3) Notwithstanding subsection (2), the Minister or the Minister after consultation with the Minister responsible for Agriculture, as the case may be, may grant leases to any person without adopting the tender procedure.

53. (1) No compensation for loss of title to land shall be payable under this Part except where so expressly provided.

(2) Compensation, where payable, shall be calculated in accordance with section 56.

PART VI

Land required for public purposes

54. (1) Whenever it is necessary in the public interest to set aside for public purposes land held under a lease, the Minister, after consultation with the Principal Chief having jurisdiction and upon obtaining the King's assent, shall declare the land to be so required.

(2) Notice of a declaration by the Minister under subsection (1) (in this Part referred to as a declaration notice) shall be given by the Minister in the Gazette and shall contain the following particulars —

- (a) the name of the lessee or lessees, in whose name the lease of the required land is registered;
- (b) a description of the land and its location specifying (by reference to a plan or otherwise) its boundaries and extent;
- (c) the general nature of the purpose for which the land is required;

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the person in occupation;

- (e) an assessment of the amount of compensation offered and the method used for assessing such amount,

and shall invite any person having any claim in the land to submit his claim to the Minister.

(3) On publication in the Gazette of the declaration notice, interests in or affecting the land to which the notice relates shall cease to subsist, the lessee's interest in the land shall revert to the State, and the Registrar shall cancel the registration of all deeds evidencing those interests.

(4) Notwithstanding subsection (3) the lessee, or lawful occupier, of the land subject to a declaration notice may remain in occupation of the land for a period not exceeding six months from the date of publication in the Gazette of the declaration notice.

55. Prior to the publication in the Gazette of the declaration notice the Minister shall cause a copy of the notice to be served upon any person known to be in occupation of, or to have an interest in, the land, in the manner indicated in section 86.

56. (1) Any person who claims to have an interest which, by reason of section 54(3) ceases to subsist may, within three months from the date of publication of the declaration notice, claim compensation from the Minister.

(2) In assessing compensation, regard shall be had only —

- (a) to the value which the property might have been expected to realise if it had been sold on the open market by a willing seller at the time of publication of the declaration notice;
- (b) to the expenses incidental to any necessary change of residence or of place of business.

(3) Where the Minister and the claimant fail to agree on the amount of compensation, or where the Minister has failed to make any award within six months after the submission of the claim, the claimant may pursue his claim before the Tribunal.

(4) The Minister may extend the time within which a claim is to be made under subsection (1).

57. Where upon submission of a claim under section 56(1) the Minister has made an offer, and no appeal is made by the claimant to the Tribunal within three months from the date of the offer, the offer shall be deemed to have been accepted.

58. Where conflicting claims are submitted to the Minister pursuant to section 56(1) the Minister shall, within one month from the last day of the period prescribed in section 56(1) refer the case to the Tribunal.

59. (1) Where the land required to be set aside for public purposes is part of greater land held by the lessee and the part remaining to the lessee is less than 500 square metres, he may, within a month from the date of publication in the Gazette of the declaration notice serve notice upon the Minister requiring the Minister to set aside the whole of the land leased by him and upon so being served, the Minister shall set aside the whole of the land and shall amend the declaration notice accordingly.

(2) Notwithstanding any amendment under subsection (1) the notice of declaration shall have effect as from the date of its original publication.

60. The former lessee of land set aside for public purposes shall be entitled to foremost consideration upon any application he may make for a grant of title in replacement of that formerly held.

61. (1) Where the purposes for which land is set aside under this Part are those of a local authority or of a statutory corporation the Minister may issue a lease or licence to that authority or corporation and a lease so issued shall be —

- (a) for a term not exceeding 90 years;
- (b) subject to such terms and conditions as the Minister may think fit which conditions shall not include statutory conditions unless these are expressly included in the lease.

(2) Where land is, at the commencement of this Act, being used for public purposes by a statutory corporation, subsection (1) shall apply.

62. All land, other than land to which title is held by a person other than the State, used and occupied by the State on the commencement of this Act shall be deemed to have been set aside for public purposes under this Act, and an endorsement to that effect shall be made by the Registrar on any deed relating to such land which may have been registered in the name of the government, or of a Ministry, department or agency of the government, or of any person acting for and on behalf of the government.

63. Where land which has been declared to be required for public purposes under this Part ceases to be so required, the Minister, may, by notice in the Gazette, revoke the declaration and, upon such revocation, any lease or licence granted under section 61 shall cease to subsist and the Registrar shall, in the case of a lease, cancel its registration.

PART VII Land Tribunal

64. (1) There is hereby established for the purposes referred to in this Act a Land Tribunal consisting of a chairman and two assessors.

Where la part of greater la whole may set aside

Preference deprived lessee

Granting o leases over land set aside under this Part

Land used t State deemed to have been set aside for public purposes

Termination of use of land for public purposes

Establishment and composition of Tribunal

Posting and service of notice

Claim for compensation

The date of publication of the notice is referred to in Section (1).

Offer made deemed to be accepted

Conflicting claims

(2) The Minister shall by notice in the Gazette appoint —

- (a) after consultation with the Chief Justice, a chairman who shall be a judge of the High Court or a resident magistrate;
- (b) an assessor, who shall be a Principal Chief or an alternate Principal Chief nominated by the Minister so that when the Principal Chief has an interest in the matter before the Tribunal, the alternate shall act in his place;
- (c) an assessor who shall be a person holding a degree or professional qualification in law or land economics.

65. There shall be a clerk of the Tribunal who shall be the Registrar, or Assistant Registrar, of the High Court who ordinarily assists the judge appointed as chairman, or where the chairman is a resident magistrate the clerk to that magistrate.

66. The Chief Justice may make rules governing the procedure of the Tribunal.

67. (1) Except where otherwise expressly provided any party aggrieved by a decision of the Tribunal may appeal to the High Court.

(2) The rules governing appeals to the High Court from a Subordinate Court apply to appeals from the Tribunal.

(3) Nothing in subsection (1) shall preclude a party from applying to the High Court for relief where a decision of the Tribunal, though expressed as final, has been reached in breach of the principles of natural justice.

68. Nothing in this Act shall be construed as ousting the jurisdiction of the High Court with regard to any matter or dispute which does not fall within the competence of the Tribunal.

PART VIII

Land revenue

69. (1) There shall be payable in respect of leases, unless the lessee is exempted under subsection (2), such ground rent as the Minister may prescribe.

(2) A citizen of Lesotho who is a Mosotho (and the decision on racial qualification shall, subject to any regulations under section 89, rest with the Minister) and who has attained the age of majority, shall be entitled to the lease free of ground rent of the land which he leases and occupies for his own residential use.

(3) The Minister, in consultation with the Minister responsible for Works, may prescribe development charges (being charges for the construction and the provision of services including roads, foot-paths, main drainage, street lighting and any other charges which are not prescribed under any other law) which shall be calculated in relation to the area of land held by the lessee.

(4) The Minister in consultation with the Minister of Finance may waive or reduce any prescribed development charges where he considers it to be in the public interest to do so.

70. Any person holding a licence from the State shall pay a prescribed annual fee in respect of the licence. Fees for licences

71. (1) There shall be payable in respect of a grant of title made through the tender procedure a premium being the sum offered by the tenderer in consideration of the grant and in consideration of the value of the property the subject of the grant. Tender premiums

(2) The premium shall be payable in one lump sum upon execution of the lease or licence to which the grant relates unless the Minister sees fit to allow payment by instalments on such interest terms as the Minister may decide.

PART IX

Public servitudes and compensation therefor

72. (1) Whenever the government, a local authority, a statutory corporation or undertaker requires a wayleave or right in the nature of a wayleave over any land the subject of a title under this Act for the construction of public utility works or the supply of public utility services, the Minister may grant to the body so requiring a public servitude over the land and the body to whom the servitude is granted shall, subject to section 73, be liable to compensate the grantee of the title for any damage to the land in the exercise of the servitude. Public servitude

(2) Where the Minister has granted a public servitude over land allocated under Part II which is not the subject of a registrable title, the Commissioner shall so inform the chairman of the Land Committee having jurisdiction who shall make the appropriate derogation entry in the register but failure on the part of the chairman to make the entry shall not affect the validity of the grant of the servitude.

73. (1) No compensation shall be payable under section 72(1) where — Compensation

- (a) the land which suffers damage has been either replaced or restored;
- (b) movable property damaged has been either replaced or restored;
- (c) the works constructed do not interfere substantially with the enjoyment of the land;
- (d) the loss arises out of the construction of a road which does not deprive the allottee of more than one-tenth of the area of the land and the remainder continues to be suitable for use for the purpose for which the land was granted.

(2) Nothing in subsection (1) shall be deemed to preclude the payment of compensation for damage to crops on the land affected by the exercise of the servitude.

Clerk of Tribunal

Procedure of Tribunal

Appeals

High Court to retain jurisdiction

Ground rent and development charges

(3) Where the exercise of a public servitude over land subject to a lease interferes substantially with the enjoyment of the land, the lessee shall have the right, in lieu of any compensation which he may claim under subsection (1), to request the Minister that the whole of the land leased be set aside for public purposes pursuant to section 54.

PART X

Duties of Commissioner of Lands

Application
of Part X

74. Save as otherwise provided, this Part applies to land under Part II which is the subject of a registrable title and to all land within urban area, selected development areas and selected agricultural areas.

Duties of
Commissioner

75. (1) The Commissioner shall keep comprehensive records of all land to which this Part applies.

(2) The Commissioner shall cause to be prepared —

- (a) all leases and licences;
- (b) written consents required of the Minister under section 36;
- (c) deeds of transmission where a sub-lessee or mortgagee succeeds to a lease in accordance with section 42;
- (d) annexures or deeds of variation of leases pursuant to section 41;
- (e) public servitudes,

and shall retain in his custody copies of the documents listed in paragraphs (a) to (e) and of servitudes executed by him under section 37(4).

(3) All documents prepared by the Commissioner under subsection (2) shall, unless otherwise prescribed, be executed by him.

(4) The Commissioner shall cause all documents referred to in paragraphs (a) to (e) of subsection (2) and requiring registration to be registered.

(5) Upon execution of any document referred to in paragraphs (a) to (e) of subsection (2) the Commissioner shall collect from the grantee or transferee all duties which may be payable under the Stamp Duties Order 1972, the Transfer Duty Act 1966 (in the case of a deed of transmission referred to in subsection (1) (c)), and any registration fees.

(6) Notwithstanding sections 13 and 48 of the Deeds Registry Act 1967, all documents prepared by the Commissioner and in respect of which all duties and fees have been collected by him pursuant to subsection (5) shall, upon being submitted by the Commissioner for registration, be registered by the Registrar.

(7) All dealings in interests in land by or on behalf of the State shall be transacted through the Commissioner, and all documents relating to such dealings shall, subject to any directions from the Minister, be executed by him.

76. (1) In conformity with section 62, the Commissioner shall request the Registrar to endorse all deeds of title to land held by, or in the name of, or in trust for, government to be endorsed with the mention "set aside for public purposes."

Endorsement
of Govern-
ment title

(2) Subsection (1) shall not apply to land in which at the commencement of this Act a person holds a subsidiary right or interest derived from the government nor shall it apply to land in which government holds a subsidiary right or interest.

77. (1) The Commissioner may, by notice in writing, call upon the executive authority of any parastatal organisation holding title to unutilised or undeveloped land to show cause why such title shall not revert to the State.

Reversion
State of
rights to
parastatal
land

(2) Upon failure of the parastatal organisation to show cause within six weeks of being called upon to do so, title to the land shall revert to the State and, if a deed of title to such land has been registered, the registration shall be cancelled by the Registrar at the request of the Commissioner.

(3) Cause shall be deemed to be shown under subsection (1) where the parastatal organisation produces satisfactory evidence—

- (a) of its intention to itself use and develop the land within a period of one year; and
- (b) that the use and development intended is not inconsistent with any planning in respect of the area where the land is situated.

(4) For the purpose of this section, land is deemed to be unutilised or undeveloped notwithstanding that it has been hedged, fenced, cleared or levelled or that it is used as a place of deposit for refuse, waste or scrap or as a standing or parking place for vehicles.

78. The Commissioner shall, whenever practicable —

Assistance
to chairman

- (a) give such advice and assistance to chairmen of land Committees performing their duties under Part II as will ensure due compliance with the procedures laid down in that Part;
- (b) ascertain that the registers referred to in section 17(2) are properly kept.

PART XI

Grants of titles to land

79. (1) If a member of the Land Committee or Urban Land Committee, or his spouse directly or indirectly has any personal interest in any matter considered or to be considered by the committee, he shall immediately disclose that interest and shall not be present at the meeting while that matter is being discussed and shall not take part in any discussion or vote on any question arising therefrom.

Grants of
titles to
committee
members

(2) Whenever the affected member under subsection (1) is the chairman, the members present thereat shall elect one of their number to be chairman.

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PART XII

Miscellaneous Provisions

Application of other laws

80. Notwithstanding the provisions of any other law and for the avoidance of doubt sections 14 and 15 and Parts VI and IX shall apply to the exclusion of any other law.

No registration except at instance of Commissioner

81. Notwithstanding any other law the Registrar shall not register any title granted under this Act except upon the application of the Commissioner.

Priority of dual allocations

82. Where at the commencement of this Act any land or part thereof has, whether by error or otherwise, been the subject of two or more allocations, the allottee who has used the land and made improvements thereon shall hold title to the land in preference to any allottee who left the land unused and undeveloped.

Subsidiary rights in State land

83. (1) Where, at the commencement of this Act, a person holds the right to use or occupy State land in any area and this right is derived from the State otherwise than by title, such right may be converted into a lease or licence at the discretion of the Minister.

(2) In exercising his discretion under subsection (1) the Minister shall have regard to the remaining duration of the person's right, the predominant use of the land and the nature of that use.

Transitional provisions for disqualified holders of land rights

84. (1) Any person who:

- (a) at the commencement of this Act held a title to land but is by reason of section 6 disqualified from so doing;
- (b) by reason of loss of citizenship or otherwise ceases to be qualified to hold title to land,

shall continue to hold the same for a period of 12 months, and may during that period and with the consent of Minister cede his rights to a person qualified under section 6.

(2) A person who fails to become qualified or to cede his rights within the period of 12 months mentioned in subsection (1) shall, unless his title has been earlier terminated, be entitled to receive the value of all improvements lawfully made on the land upon the expiry of the 12 months' period and the then consequent reversion of his interest in the land to the State.

old titles

85. (1) Any grant of title of land under Part II made contrary to the provisions of that Part shall be of no effect.

(2) Any disposal of property contrary to the provisions of this Act shall be of no effect.

(3) Any transaction requiring the consent of the Minister shall, where such consent has been given contrary to the provisions of this Act, be of no effect.

(4) Save as under section 41, where land granted for a specific purpose is converted by the allottee or grantee to another purpose, the allottee or grantee shall forfeit his title to the land.

Service of notices

86. (1) Notice under section 9(2), 13(4), 14(2), or 55, shall be served either personally on the persons to be served or by leaving it at their last usual place of residence or business; but if any such person is absent from Lesotho the notice shall be left with the occupier of the land the subject of the notice or, if there is no occupier, shall be affixed upon some conspicuous part of the property.

(2) If the person upon whom notice is to be served in pursuance of subsection (1) is a body corporate, the notice shall be deemed to have been duly served if left at, or addressed by post to, its registered or principal offices in Lesotho.

Unlawful occupation of land

87. (1) Any person who occupies land and any person who causes, aids or abets any person to occupy land without proper authority shall be guilty of an offence and liable to a fine of 500 rand and to six months' imprisonment, and the court convicting the offender may order the person to vacate the land forthwith or within a specified period of time.

(2) Any person who remains in occupation of land in defiance of a court order under subsection (1) is guilty of an offence and liable to the penalties prescribed under subsection (1) and, in addition, to a fine of five rand a day for every day during which the unlawful occupation continues.

(3) Where a person has been convicted under subsection (1) and no order has been made for vacating the land or where such order has been made and the period specified has expired, the proper authority or the person holding rights in or over the land may seek the assistance of the Police in evicting the convicted trespasser from the land.

(4) For the purpose of this section occupying land without proper authority includes remaining in occupation thereof after the date on which the land should have been vacated as a consequence of a termination notice, a revocation notice or any other notice to vacate given under this Act.

Other offences

88. (1) Any person who corruptly accepts or obtains or agrees to accept or attempts to obtain from any person, either for himself or any other person, any gift or consideration as an inducement or reward for doing or omitting to do or for having done or omitted to do any act which it is or was his duty to do or refrain from doing under this Act or for showing or refraining from showing favour or disfavour to any person in relation to any matter referred to in this Act is guilty of an offence and liable to a fine of 500 rand and to one year's imprisonment.

(2) Any person who corruptly gives or agrees to give or offers any gift or consideration to any person as an inducement or reward for doing or forbearing to do or for having done for-

... of the licence and liable to the penalties prescribed under subsection (1)

Regulations

89. The Minister may make regulations for any one or more of the following purposes —

- (a) prescribing the manner in which leases and licences are to be executed by or on behalf of the State;
- (b) providing for the conditions under which agricultural leases may be granted;
- (c) prescribing the size of plots which may be held by any person or for any specific purpose, the number of plots which may be held by any one person;
- (d) prescribing the circumstances and conditions under which the Minister may withhold consent to transactions requiring his consent under section 36;
- (e) providing for the conditions under which the Minister for Commerce and Industry shall make recommendations when so required under this Act;
- (f) prescribing the conditions and circumstances under which the disqualifications imposed upon companies and partnerships under section 6 may be waived;
- (g) defining the use purposes of land;
- (h) providing for the procedure and quorum at meetings of Urban Land Committees and expenses and allowances payable to its members;
- (i) in respect of ground rents and licence fees and the calculation thereof, and the circumstances under which personal levies may be attached to ground rents payable by particular lessees;
- (j) the terms and conditions under which rent-free leases under section 69(2) shall be enjoyed;
- (k) prescribing the method of assessing the value of improvements made for purposes of payment of compensation;
- (l) laying down the considerations which would justify waiving the tender procedure in the case of multiple applications;
- (m) laying down the circumstances and conditions under which tenders, whether the highest or otherwise, may be rejected;
- (n) the prevention of speculative dealings in land;
- (o) generally for the better carrying into effect of this Act.

90. The Minister may, by order, amend the Schedules.

Amendment of Schedules

PART XIII

Amendments, Repeals and Savings

91. (1) Subsection (1) of section 2 of the Deeds Registry Act 1967 is hereby amended by —

Amendment of section of Act 12 of 1967

- (a) deleting paragraph (c) of the definition of "immovable property" and substituting the following therefor —
“(c) any lease granted under the Land Act 1979; or
(d) any right to minerals (including any right to mine for minerals) and a lease or sublease of such right;”
- (b) deleting from the definition of "proper authority" the words "the Constitution of Lesotho and any other" and substituting therefor the word "any".

(2) Subsection (3) of section 2 of the Deeds Registry Act 1967 is hereby amended by —

- (a) inserting the word "benevolent" immediately before the word "charitable" in paragraph (b);
- (b) substituting the words "hospital, clinic or dispensary" for the words "public hospital" in paragraph (c), and
- (c) adding the following new paragraph —
“(d) any purposes specified in leases granted or issued under the Land Act 1979.”

92. Section 9 of the Deeds Registry Act 1967 is hereby amended by deleting the word "may" in the first line thereof and substituting therefor the words "may, subject to the provisions of any other law,".

Amendment of section 9 of Act 12 of 1967

93. Subsection (2) of section 15 of the Deeds Registry Act 1967 is hereby amended by deleting the word "Every" and by substituting therefor the words "Save as is otherwise provided in the Land Act 1979 or any other law, every"

Amendment of section 15 of Act 12 of 1967

94. Section 24 of the Deeds Registry Act 1967 is hereby amended by —

Amendment of section 24 of Act 12 of 1967

- (a) deleting in subsection (1) the word "Every" and substituting therefor the words "Save as is otherwise provided in the Land Act 1979 or any other law, every";
- (b) deleting in subsection (3) the word "Every" and substituting therefor the words "Save as is otherwise provided in the Land Act 1979 or any other law, every";
- (c) deleting in subsection (4) the word "Every" and substituting therefor the words "Save as is otherwise provided in the Land Act 1979 or any other law, every;" and

... in subsection (c) the word "any and substituting therefor the words "Save as is otherwise provided in the Land Act 1979 or any other law, every";

Amendment of section 2 of Proclamation 51 of 1957

95. Section 2 of the Insolvency Proclamation 1957 is hereby amended by deleting the definition of "immovable property" and substituting the following therefor —

"immovable property" shall have the meaning ascribed thereto in the Deeds Registry Act 1967.

Amendment of section 2 of Proclamation 19 of 1935

96. Section 2 of the Administration of Estates Proclamation 1935 is hereby amended by deleting the definition of "immovable property" and substituting the following therefor —

"immovable property" shall have the meaning ascribed thereto in the Deeds Registry Act 1967.

Construal of Existing By-Laws and Regulations

97. Any existing regulation or by-law shall, from the coming into operation of this Act, be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring it into conformity with the provisions of this Act and any regulation made hereunder.

Repeals A. 20 of 1973 A. 16 of 1973

98. The Land Act 1973 and the Administration of Lands Act 1973 are repealed.

Savings

99. (1) The Land Regulations 1974, excepting regulation 4 which is repealed, shall continue to have effect until revoked or superseded by regulations under this Act.

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(2) Development Committees established under the Land Regulations 1974 shall, notwithstanding that the period for which the members thereof have been appointed may have expired, continue to function until such time as the Minister revokes the members' appointments.

FIRST SCHEDULE
(SECTION 2)

Statutory Conditions for Leases other than
Agricultural Leases

Fencing

1 Unless the Minister directs otherwise, the lessee shall, within six months of the date of the grant, fence the boundaries of the land and the lessee shall maintain the fence to the satisfaction of the Minister.

Site plan

2 Until enactment of a town and country planning law and its application to the land under lease, the lessee prior to the development of the land, shall submit to the Minister for his approval a site plan together with the plans of any proposed buildings, structures and other forms of land development.

3 Unless special written authority is given by the Minister, the lessee shall commence development of the land within twelve months of the date of the grant and shall complete the development to the satisfaction of the Minister within a period of twenty-four months of the date of the grant.

Developer to be completed

4 Condition No. 2 shall apply where applicable to further development of the land under lease during the term of the lease.

Further development

5 Within a period of time to be fixed by the Minister, the lessee shall at his own expense provide main drainage or main sewerage connections from the building erected on the land as the Minister may require.

Drainage and sewer connections

6 In the event of any main building erected on the land being dismantled, destroyed, demolished or removed, the lessee shall replace the building within a period specified by the Minister and Conditions Nos. 2 and 3 shall apply where applicable.

Demolition

7 The lessee shall use the land comprised in the lease only for the purpose specified in the grant or in any variation made to the original grant of lease.

Land use

8 The lessee shall permit entry on the land at any reasonable period of the day by any duly empowered:—

Entry

(i) officer, employee, servant or agent of the Government of Lesotho.

(ii) employee, servant or agent of any statutory corporation or parastatal organisation established to provide and maintain public utility services.

9 Save with the written authority of the Minister, no electrical power or telephone pole or line or water, drainage or sewer pipe being upon or passing through, over or under the land and no replacement thereof, shall be moved or in any way be interfered with and reasonable access thereto shall be preserved to allow for inspection, maintenance, repair, renewal and replacement thereof.

Existing services

10 Full right and liberty is reserved unto the Government of Lesotho freely to exercise or have, or unto the Minister to grant to a statutory corporation or parastatal organisation, the right freely to exercise or have a public servitude over the land for the purpose of providing and maintaining public utility services and more particularly for the purpose of erecting telephone or electric power poles, installing electric or telephone wires and cables, laying down drains, sewers or water pipes and maintaining the same.

Public servitude

11 The interior and exterior of any building erected on the land and all building additions thereto and all other buildings at any time erected or standing on the land and walls, drains and other appurtenances, shall be kept by the lessee in good repair and tenantable condition to the satisfaction of the Minister.

Good repair etc.

to be done upon the land or any part of such land which may cause or lead to pollution of the environment or result in the creation of any hazard to the health of other persons, or become a nuisance or annoyance to or damage or in any way interfere with the peace and comfort of adjoining lessees or the occupiers of adjoining or other lands in the neighbourhood.

- Subdivide** 13 The lessee shall not subdivide, sublease or otherwise part with the possession of the land comprised in the lease or any part thereof without the written approval of the Minister first had and obtained.
- Rent** 14 A lessee shall unless exempted therefrom under section 69(2), pay a prescribed annual ground rent in advance not later than the thirty first day of March in each year provided that on execution of the lease, the lessee shall pay any ground rent due for the period ending thirty first day of March which shall be calculated as follows —
 - (i) where the lease begins to subsist on any day in the month of April in any calendar year, one whole year's rent;
 - (ii) in any other case, one whole year's rent less one-twelfth thereof for each complete month of that rental year that has elapsed prior to the date of the grant.
- Rent revision** 15 Annual ground rent reserved in the lease shall be subject to revision every ten years of the term of the lease and consequent upon any revision, the amount shall be fair and reasonable having regard to general values and no account shall be taken of any improvements made by the lessee to or on the land subsequent to the date of such revision.
- Renewal** 16 Upon application by the lessee made not later than six months before expiry of the term of the lease, the lessee shall be entitled to the grant of a new lease of the land on terms set by the Minister provided the land or part thereof is not required for any public purpose.

SECOND SCHEDULE
(Section 2)

The urban areas of —

- 1 Maseru
- 2 Maseru International Airport
- 3 Butha-Buthe
- 4 Leribe (Hlotse)
- 5 Maputsoe
- 6 Peka
- 7 Teyateyaneng
- 8 Roma
- 9 Morija
- 10 Mafeteng

- 11 Monare's Hoek
- 12 Quthing
- 13 Qacha's Nek
- 14 Mokhotlong
- 15 Thaba-Tseka
- 16 Mapoteng

THIRD SCHEDULE
(Section 5)

FORM "A"

Application for an allocation of Land in a Rural Area

(* delete where necessary)

TO: THE CHAIRMAN OF

Name of applicant:

Address:

Sex Age

1 I apply for an allocation of land situated at

Describe the place where allocation is required

for the purpose of

Describe the purpose or use of land needed

* for my lifetime/for years only.

2 My reasons for making this application are

Give reason why you think the allocation should be granted

3 * I do not hold/hold other allocations of land as follows:—

- (i)
- (ii)
- (iii)
- (iv)
- (v)

4 I understand that if the allocation is granted to me for traditional or agricultural purposes, it allows me and my immediate family i.e. * husband/wife/children/dependents to use and occupy the land which is allocated and that on my death my * husband/wife receives the right to continue to use and occupy the land until *he/she dies and after *his/her death the interest in the land will pass to my surviving heirs.

5 I further understand I cannot transfer or sell this allocation to any person and that the ~~Land Committee~~ who granted this allocation retains the traditional right to revoke all or part of this allocation including the right to derogate or lessen my rights of use and occupation.

Date

Signature of applicant or
Thumb print of applicant

Note:— If the applicant cannot write his name or fill in this form, some other person may do so making sure that the applicant's right or left thumb print is affixed to this application.

6 **Certificate**

I hereby certify that the applicant appears to
* understand the contents of Form A and he/she as named on this
* application has affixed his/her left/right thumb print as required.

Date:

Signature of person who witnessed the
affixing of the thumb print.

THIRD SCHEDULE
(Section 5)

FORM "B"

Application for a grant of a lease or licence

(Delete any part of this form which does not apply)

Note:— If this application refers to land in:—

- (i) **an urban area**, it should be addressed to the Secretary, Urban Land Committee, c/o — The Town Clerk/The District Administrator of the urban area of town concerned;
- (ii) **a selected development area**, it should be addressed to the Commissioner of Lands, P.O. Box 876, Maseru 100.
- (iii) **a selected agricultural area**, it should be addressed to the Minister of Interior, P.O. Box 174 Maseru 100

1 TO:— See note above

2 Name of applicant Complete details
address of applicant:

Telephone No:—

3 I am a /we are/citizen/s of Lesotho.
OR
I/We hold a permit for indefinite sojourn/residence granted under section 6 of the Aliens Control Act 1966 as follows:—

Permit No. Dated

Permit No. Dated

OR

The applicant company/corporation is incorporated/ registered under Lesotho law and details enclosed are as follows—

(i) a certified copy of the Certificate of Incorporation/ Registration and also a certified copy of the Memorandum and Articles of Association;

(ii) Add a list of certified copies of documents evidencing the applicant's right to hold land in Lesotho if (i) does not apply

4 If the applicant is a body corporate established or registered in Lesotho, please provide the following information —

(i) Names, citizenship and addresses of the officers of the company empowered to affix the company's seal and execute documents/deeds on its' behalf.

(ii) Whether any share holding is held by Lesotho citizens or companies wholly owned or operated by Lesotho citizens and the extent of this share holding:—

(iii) The name and address of the duly appointed agent together with a certified copy of his registered

power of attorney if the company's officers are not Lesotho citizens or do not hold permits of indefinite sojourn in Lesotho —

5 If the applicant is a Commonwealth or Foreign Government, or is an international Organisation empowered to hold land, kindly supply the name, address and title or office of the person or representative empowered to execute deeds or documents:—

6 Purpose for which land is required and give a description of the plot as advertised with reference to the Advertisement Notice:—

- (i) Land use proposed:
- (ii) Plot No: Town of:
- (iii) Advertisement Notice No:
- (iv) Lease or licence required:

7 Whether the applicant already holds rights to other urban land in Lesotho providing details to identify the land and the land use purposes already granted:

8 (i) Banker's reference is to be provided if the proposed development of the land is for commercial, industrial or housing estate purposes and the names of the applicant's bankers both in and outside Lesotho are to be given:

(ii) Particulars of any recommendation which may have been obtained from any Government Ministry if the land required is for commercial or industrial purposes:

(iii) Particulars of appropriate permits (copies to be enclosed) if land is required for a petrol station:—

(iv) Proposed investment amount and details if expenditure of this amount is to be phased with information about nominal capital and paid-up capital to be invested in Lesotho:—

(v) Are employment opportunities to be made available to Lesotho citizens and if so details of these with regard to any commercial or industrial undertaking:

(vi) Whether the applicant or other companies associated with the applicant has/have held rights to land at any time for similar land use purposes in Lesotho or elsewhere providing details where necessary:—

(vii) If the answer to (vi) is in the affirmative whether the operations of the undertaking have ceased and, if so, why:—

Date: Signature or Seal of Applicant

THIRD SCHEDULE
(Section 17)

FORM "C1"

Certificate of allocation

(Non-registrable title-Rural Area)

* delete where appropriate

1 This is to certify that

Name of allottee

Purpose to which the applicant will put the land

Address of allottee of
 has been granted an allocation of land which allows the allottee with effect from the date of this certificate to use or to use and occupy for years. The land known as
 Enter period of years if applicable
 Describe the land and situated at
 Enter situation of land
 Approximate area with an area of about
 Enter purpose i.e. the approved use for the purpose of
 2 A sketch plan or map of the boundaries of this * land is/is not attached and the land's dimensions measure as follows:—
 Attempt to measure the boundaries
 3 This allocation of land cannot be transferred, sold, given away or leased to any other person and on the death of the allottee, * his/her lawful spouse may continue to use and occupy this land until * his/her own death.

Date Stamp

Signature of Chairman

Insert name of witness

Witnessed by

Signature of member of

~~Land Committee~~

allocating Authority

THIRD SCHEDULE
 (Sections 5(4) & 17(1))

FORM "C2"

Certificate of allocation

(Registrable title-Rural Area)

* delete where appropriate

Name of allottee

1 This is to certify that

of

has been granted an allocation of land which allows the allottee for a period only of six months from the date of this certificate to use and to use and occupy the land known as

and situated at

with an area of about

- for the purpose of
- 2 A sketch plan or map of the boundaries of this land * is/is not attached and the land's dimensions measure as follows:—

 - 3 By operation of law, this allocation of land shall convert to a lease of land upon the allottee applying within a period of six months of the date of allocation i.e. the date of this certificate, to the Commissioner of Lands for a lease and upon failure to apply for the lease within this period of six months or any extended period this allocation of land shall be of no effect.
 - 4 Conversion of this allocation to a lease occurs where the land use of the allocation of land is —
 (a) for commercial or industrial purposes;
 (b) for purposes of an ecclesiastical, benevolent, charitable or educational institution of public character;
 (c) for purposes of a hospital, clinic or dispensary;
~~(d) for residential purposes.~~
 (e) for such other purposes as the Minister of Interior may, by order, declare.
 - 5 This allocation of land cannot be transferred, sold, given away or leased to any other person unless a substitute lease of the land has been registered and on the death of the allottee before the lease issues, this grant determines.
 - 6 A copy of this Form "C2" has been sent to the Commissioner of Lands.

Date Stamp

Signature of Chairman

Witnessed by

Insert 1 of with

Signature of a member of
~~the Land Committee~~

Allocating &

THIRD SCHEDULE
 (Sections 5 (4) & (27))

FORM "C3"

Certificate relating to a grant of title in an Urban Area

* delete where appropriate

1 This is to certify that

has been granted *a lease/a licence and evidence of this title will be issued by the Commissioner of Lands in the near future.

GRANTEE
Entry plot No. and other details

2 * This lease/licence will be of land known as plot No. _____ situated in the Registration District of _____ in the Town or Urban Area _____

*3 (1) The lease will be subject to the Statutory Conditions provided in the Land Act 1979 as well as the other conditions specified in either the Notice advertising the plot or the Notice of Invitation to tender and before execution of the lease document the intended lessee will be required to pay the Commissioner of Lands the first year's ground rent (if any), any premium assessed, stamp duty and registration fees.

(2) The purpose of the lease will be _____ and the term of the lease will be _____ years.
OR

*3 The licence will be subject to the undermentioned conditions and is determinable on three months' written notice.
(i) _____
(ii) _____
(iii) _____

4 A copy of this certificate has been sent to the grantee.

Date stamp

Signature of Urban Land Committee

THIRD SCHEDULE
(Section 16)

FORM "D"

Notice of appeal against a decision by ~~Land Committee~~

(* delete where applicable)

TO:— The Chairman of the Land Committee
I The Clerk of the Lands Tribunal

do HEREBY APPEAL in terms of section 16 of the Land Act 1979 against the decision of the ~~Land Committee~~
Allocation Authority

* (a) in refusing me the grant of title being an allocation of land for which I applied in writing in respect of land known as _____ situated at _____

OR

* (b) to revoke * part or all of any allocation of land held by me either under Certificate of Allocation No. _____ dated _____ or lawfully but without evidence of a written Certificate of Allocation.

2 My reasons for this appeal are as follows: —

Dated:--

Signature of Appellant or Thumb print of Appellant

FORM "E"

THIRD SCHEDULE

(Section 17 (2))

PART I OF CHAIRMAN'S REGISTER OF RURAL LAND ALLOCATION

Entry No.	Date of Grant	Name of Allottee	Cert. of Alloc. No.	Descrip. of Land use	Date of entry	Sig. of Chairman	Date of Revoc.	Date of Derog.	Descrip of Derogat and cross ref.	Date of death of Allott or expiry Alloc.	is deceased spouse in occup of land	Date of death of spouse	Date of Re-Alloc. and cross ref.

PART II OF CHAIRMAN'S REGISTER OF RURAL LAND ALLOCATIONS

PART II comprises signed copies of all the Certificates of Allocations which are granted by the ~~Land Committee~~ *Allocating Authority* together with signed copies of written statements regarding revocations or derogations made by it. Written evidence of each revocation or derogation of title should be filed behind the copy of the Certificate of Allocation to which it refers.