

CHAPTER 32:07
BAMANGWATO LAND GRANT
ARRANGEMENT OF SECTIONS

SECTION

1. Short title
2. Vesting of certain pieces of Bamangwato Tribal Land in the State

Schedule - Memorandum of Agreement

Act 42, 1969,
Act 17, 1970.

An Act to give legal effect to an agreement entered into between the President and the Bamangwato Tribe relating to the Grant of Land to the President for mining and ancillary purposes.

[Date of Commencement: 22nd August, 1969]

1. Short title

This Act may be cited as the Bamangwato Land Grant Act.

2. Vesting of certain pieces of Bamangwato Tribal Land in the State

(1) There is hereby transferred to and vested in the President, on behalf of the Republic of Botswana, all the right, title and interest of the Bamangwato Tribe and Tribal Authority to those pieces of land referred to in Clause 2 of the Agreement set out in the Schedule hereto (hereinafter referred to as "the Agreement").

(2) There shall be transferred to and vested in the President, on behalf of the Republic of Botswana, all the right, title and interest of the Bamangwato Tribe and Tribal Authority to those pieces of land referred to in Clause 3 of the Agreement on the determination of those pieces by the President.

(3) The transfer to and vesting in the President, in terms of subsections (1) and (2), shall be in accordance with the provisions of the Agreement, which provisions shall have the force of law.

SCHEDULE

MEMORANDUM OF AGREEMENT

between

HIS EXCELLENCY, SIR SERETSE KHAMA

Knight of the Most Excellent Order of the British Empire, President of the Republic of Botswana

and

LEAPEETSWE TSHEKEDI KHAMA

Tribal Authority of the Bamangwato Tribe, in his capacity as such and for and on behalf of the Bamangwato Tribe, acting with the approval of the Central District Council and after consultation with the Tribe in the customary manner in accordance with the provisions of the Bogosi Act, (hereinafter referred to as "the Tribe").

Whereas the Tribe is the owner of the Bamangwato Tribal Territory;

And Whereas the Government of the Republic of Botswana now proposes to grant mining rights to mine and process certain minerals including copper, nickel and diamonds, in defined portions of the Bamangwato Tribal Territory;

And Whereas the Tribe, realizing the benefits which will accrue to the Tribe and to all the inhabitants of Botswana as a result of large scale mining operations being undertaken in the Bamangwato Tribal Territory, wishes to grant to the President on behalf of the Republic of Botswana absolutely certain specified areas of the Bamangwato Tribal Territory for purposes essential to such mining operations;

And Whereas, in consequence, it is the desire of the parties that provision should be made by Act of Parliament for the transfer to and the vesting in the President on behalf of the Republic

of Botswana of such specified areas and for the safeguarding of the interests of any inhabitants of the Bamangwato Tribal Territory who may be affected in consequence of such grant;

And Whereas the parties wish to record their agreement as aforesaid;

Now Therefore it is agreed-

1. There shall be transferred to and vest in the President on behalf of the Republic of Botswana absolutely and without compensation except as hereinafter provided all the right, title and interest of the Tribe and Tribal Authority in those pieces of land in the Bamangwato Tribal Territory described in the first column of the first annexure hereto.

2. The President may demarcate pieces of land as described in the first column of the second annexure hereto which pieces of land shall be transferred to and vest in the President on behalf of the Republic of Botswana absolutely and without compensation, except as hereinafter provided.

3. It is recorded that the principal purpose for which each piece of land as described in the first column of the first and second annexures hereto is granted is as set out in relation to the description of each such piece of land in the second column of the said annexures.

4. The Tribe undertakes that where any person has a right under customary form of tenure to any portion of land transferred to the President on behalf of the Republic of Botswana by virtue of this Agreement it shall-

- (a) grant to such person the right to use land elsewhere in the Bamangwato Tribal Territory of equivalent value to such portion; and
- (b) upon making such grant require such person to vacate such portion; and on such vacation the provisions of clauses 5 and 6 shall have effect.

5. Any person required to vacate land in accordance with the provisions of clause 4 shall be entitled to the payment of prompt compensation from the Government for-

- (a) the value of any standing crops on the land so vacated;
- (b) the value of any improvements effected to such land the benefits of which accrue to the Republic of Botswana, including the value of any clearing or preparation of the land for agricultural or other purposes;
- (c) the value of any loss occasioned by the failure to provide an alternative right to the use of water equivalent to that held by such person under any law in respect of the land so vacated.

6. In the event of the Government and any person who alleges he is entitled to compensation under the provisions of clause 5 being unable to agree as to the amount of such compensation, such person may make an application to a court of competent jurisdiction for the purposes of ascertaining the amount of any compensation; to which he is entitled and whether or not such compensation is adequate compensation: and the court may make such order in the matter as it thinks fit.

7. The parties record it as their desire that effect should be given to the provisions of this agreement by Act of Parliament.

In Witness Whereof the parties hereto have hereunder set their hands in the presence of the undersigned witnesses at Serowe this 5th day of July, 1969.

Witnesses

1.
 2. *President*

Witnesses

1.
 2. *Tribal Authority*

FIRST ANNEXURE

FIRST COLUMN

Description of pieces of land

(Clause 1)

1. The land outlined on plan No. NQ-83 dated June, 1969, a copy of which plan is attached hereto and marked "A"

SECOND COLUMN

Principal purpose for which each piece of land is granted

(Clause 3)

To build the township of Selebi-Phikwe.

- | | |
|---|--|
| 2. The land outlined on plan No. NQ-83, dated June, 1969, a copy of which plan is attached hereto and marked "B". | To vest the existing airfield near Selebi-Phikwe in the State and to make provision for the envisaged expansion of the airfield. |
| 3. The land outlined on plan No. NQ-62D, dated June, 1969, a copy of which plan is attached hereto and marked "C" | To build a dam and ancillary works to provide water for the whole of the Shashe project. |
| 4. The land outlined on plan No. NN-10, dated June, 1969, a copy of which plan is attached hereto and marked "D". | To create an artificial lake and ancillary works near Mopipi to provide water for a mine and township at Orapa. |

SECOND ANNEXURE

| <i>FIRST COLUMN</i> | <i>SECOND COLUMN</i> |
|---|---|
| <i>Description of pieces of land (Clause 2)</i> | <i>Principal purpose for which each piece of land is granted (Clause 3)</i> |
| 1. A piece of land not exceeding 100 acres. | To build a thermal power station and ancillary works to serve the whole Shashe project. |
| 2. A strip of land 300 feet wide running from the existing railway at Serule to Selebi-Phikwe, together with such land as may be necessary for ancillary branch lines, sidings, stations and other structures required for railway purposes. | To construct a railway line to serve Selebi-Phikwe township and the mining area. |
| 3. A strip of land 300 feet wide running from the existing railway near Palapye to the prospective coal mine site at Morupule, together with such land as may be necessary for ancillary branch lines, sidings, stations and other structures required for railway purposes. | To build a railway line to serve a coal mine near Morupule. |
| 4. A strip of land 300 feet wide running from the nearest existing railway line to the thermal power station referred to in item 1, together with such land as may be necessary for ancillary branch lines, sidings, stations and other structures required for railway purposes. | To build a railway line to serve the thermal power station. |