

The Continued Operation of the Road Appropriation (Ashanti Administration) Ordinance, 1902 in Ghana: Practice and Implications

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ABSTRACT

The Road Appropriation (Ashanti Administration) Ordinance 1902 remains operational in Ghana despite the consolidation of land legislation under the Land Act 2020 (Act 1036). This paper examines the technical challenges arising from the Ordinance's continued application in the Ashanti, Ahafo, Bono, and Bono East Regions. Analysis of current practice reveals four key issues affecting the land administration system: 1) dual disposition of land by stools and the Lands Commission within the 300-foot appropriation stretch; 2) dual payment of ground rent to the Office of the Administrator of Stool Lands and the Lands Commission; 3) elevated transaction and documentation costs for lessees; and 4) ambiguity in identifying affected parcels due to undocumented road diversions and limited institutional memory. The paper argues that these challenges undermine tenure security, increase transaction costs, and create inconsistencies in cadastral mapping and registration. It recommends a formal policy review of the Ordinance's relevance, improved public access to historical appropriation records, and targeted education for lessees, surveying and land administration practitioners. The findings are relevant to policymakers, lessees, surveyors, planners, and land administrators working in regions affected by legacy colonial legislation.

Keywords: Land Administration, Road Appropriation Ordinance 1902, Land Act 1036, Policy Analysis, Ghana

A central legal question is why several land statutes enacted in the 1960s and later were expressly repealed by section 282 of Act 1036, while the Road Appropriation (Ashanti Administration) Ordinance, 1902, appears to remain in operation?

BACKGROUND

In Ghana's land tenure system, stool lands and state lands represent two distinct but sometimes overlapping categories of land ownership and administration. Stool lands are vested in the appropriate stool in trust for the subjects of that stool, while state lands are lands acquired by the Republic for public purposes and administered through state institutions (Government of Ghana, 1992; Kwakye & Sasu, 2024; Kwakye et al., 2024; Kwakye et al., 2025). The Road Appropriation (Ashanti Administration) Ordinance, 1902, affects this distinction because the appropriated land extending 300 feet on each side from the centre line of specified roads in parts of the former Ashanti administrative area, now including portions of the Ashanti, Ahafo, Bono, and Bono East Regions (Government of Ghana, 1902). In practice, many of the stretched roads pass through areas traditionally regarded as stool lands, yet the appropriated strips are treated administratively as state lands. This overlap creates uncertainty over the lawful authority to alienate land, collect ground rent, and approve documentation, particularly where customary authorities continue to grant interests in land while the Lands Commission also processes leases or registrations in the name of the Republic. The Ordinance, therefore, affects land administration most directly along the specified provincial boundary roads, in areas of road diversion, and in transactions where lessees, stools, surveyors, and state agencies must determine whether a parcel falls within the historical appropriation domain.

The Road Appropriation (Ashanti Administration) Ordinance, 1902

The Road Appropriation (Ashanti Administration) Ordinance, 1902 was enacted during the colonial period to compulsorily acquire a stretch of 300 feet on each side from the centre of specified roads within the former Ashanti administrative area. In present-day terms, the affected areas extend into the Ashanti Region, Ahafo Region, much of Bono Region, and Bono East Region. The stated purpose of the appropriation included facilitating infrastructure development, especially roads and railways, and enhancing territorial control and security. For purposes of illustration, this paper refers to selected affected roads by route grouping.

- a. The main road from Kumasi → Ejisu → Konongo → Juaso → Obogu
- b. The main road from Kumasi → Kokobin → Obuasi → Dunkwa
- c. The main road from Kumasi → Bechem → Sunyani → Berekum → Pamu.
- d. Bechem → Tepa → Goaso
- e. The main road from Kumasi → Offinso → Techiman → Nkoranza → Prang → Yeji
- f. Techiman → Kintampo → Bamboi

It is important to note that where an original provincial boundary road has been diverted, the newly created road is not automatically subject to the Ordinance unless it falls within the originally appropriated width. Historically, the Ordinance formed part of the legal framework used in land administration in Ghana. However, the enactment of the Land Act, 2020 (Act 1036) sought to consolidate land legislation to support a more coherent and efficient land administration system.

The Land Act, 2020 (Act 1036)

The Land Act, 2020 (Act 1036) was enacted to revise and consolidate Ghana's land laws to promote efficient land administration, sustainable land use, tenure security, transparency, and accountability (Government of Ghana, 2020). In practical terms, the Act was intended to reduce fragmentation in the legal framework governing land. Under section 282(1) of Act 1036, the following enactments were expressly repealed:

(a) Land Development (Protection of Purchasers) Act, 1960 (Act 2), (b) Farm Lands (Protection) Act, 1962 (Act 107), (c) Land Registry Act, 1962 (Act 122), (d) Administration of Lands Act, 1962 (Act 123), (e) State Lands Act, 1962 (Act 125), (f) section 11 of the Survey Act, 1962 (Act 127), (g) Lands (Miscellaneous Provisions) Act, 1963 (Act 161) (h) Public Conveyancing Act, 1965 (Act 302), (i) Rent Stabilisation Act, (Repeal) Decree 1966 (N.L. CD. 49), (j) Rent Stabilisation (Amendment) Act, 1966 (N.L.C.D. 103), (k) Conveyancing Act, 1973 (N.R.C.D. 175), (l) Public Lands (Protection) Act, 1974 (N.R.C.D. 240), (m) Land Title Registration Act, 1986 (P.N.D.C.L. 152).

The immediate concern, therefore, is that while a broad range of land-related enactments from the 1960s, 1970s, and 1980s were repealed, the Road Appropriation (Ashanti Administration) Ordinance, 1902 does not appear among them. This creates a legitimate legal and policy question: was the omission intentional, justified by continuing administrative necessity, or simply an oversight?

Current Administrative Practice

Land appropriated under the Ordinance is reportedly managed by the Public and Vested Land Management Division of the Lands Commission. As a result, such lands are classified as state lands. On account of a stool land, article 267(1) of the 1992 Constitution of Ghana provides that all stool lands in Ghana shall vest in the appropriate stool in trust for the subjects of that stool in accordance with customary law and usage. In addition, dispositions of stool lands are subject to the consent and concurrence of the relevant Regional Lands Commission. The interaction of these legal positions creates uncertainty where an appropriated land overlaps with land understood locally to be stool land.

In the current land market, many of the lands affected by the Ordinance occupy strategic and commercially valuable locations. Their economic value has increased competition among customary authorities, state institutions, and holders of customary or usufructuary interests, thereby heightening the significance of any uncertainty concerning ownership, control, or disposition rights.

In practice, some transactions proceed solely through customary allocation, especially where the lessee does not seek concurrence or registration through the Lands Commission. In such cases, the allocation letter or indenture, together with the site plan, functions as the operative transaction document between the stool as lessor and the allottee as lessee. However, where the allottee seeks formal concurrence or registration, the Lands Commission may process the transaction and charge economic rent, after which the lease may be documented in the name of the Republic of Ghana, represented by the Commission, as lessor. This creates a fundamental mandate and legal question: who has the proper authority to alienate such land—the stool, the state, or both in some limited and clearly defined manner? Or merely a means of collective benefit? In the absence of clarity, the burden falls disproportionately on the lessee.

Challenges arising from the Current Practice

The coexistence of the Ordinance with customary land alienation powers by traditional authorities appears to create several practical difficulties.

- a. Dual disposition of land by the Stool and the Commission, where both parties act as lessors on the same piece of land.
- b. Dual payment of annual ground rent to the Office of the Administrator of Stool Lands and the Commission on the same piece of land. Simply because a lessee may have an indenture or allocation letter from the stool confirming the land is a stool land on one hand, and a lease granted by the commission as lessor on the other hand, confirming the land is a state land. This act exacerbates the financial burden on lessees, introduces a state of confusion, and undermines the integrity of the offices with the legal mandate.
- c. The practice results in an increase in purchase and documentation costs for lessees. Lessees end up purchasing the same piece of land from both the stool (allocation fee) and the Commission in the name of economic rent. These costs, to a large extent, are separated from the documentation fee by both the stool and the Commission. The action can be described as one of the fundamental challenges that demotivates lessees from formalizing the registration of their plots with the commission.
- d. There is a state of confusion in relation to the original provincial boundary roads and newly diverted roads. It must be emphasized that a diverted road that falls outside the width of the originally appropriated road is not affected by the Ordinance. These nuances require technical officers with institutional memory to identify the changes. Planning schemes or local maps, to a large extent, do not show these changes. As a result, both official and licensed surveyors who are not conversant with these changes in their quest to prepare cadastral plans do not indicate them on the plan. Eventually, these plans may either be amended or rejected at the entry point of the registration process. An important issue of interest is that even some provincial boundary roads are registered for clients in the name of the stool, as the lessor. If the planners, surveyors, and land administrators get confused about these nuances, how much more the customary authorities and prospective lessees. These customary authorities and prospective lessees may only know or assume that a particular area is a stool land and may be unaware of the diversion nuances, or even the existence of the Ordinance, given its year of enactment, 1902. This perhaps may explain why customary authorities alienate such lands in the name of the stool.

RECOMMENDATIONS

- i. Policymakers should undertake a formal review of the continued relevance of the Road Appropriation (Ashanti Administration) Ordinance, 1902 in light of the Land Act, 2020 (Act 1036), particularly because its apparent operation is geographically limited to a section of the country. Where appropriate, the review

should involve the Ministry of Lands and Natural Resources, the Lands Commission, the Office of the Administrator of Stool Lands, the Land Use and Spatial Planning Authority, the Ghana Bar Association, relevant civil society organisations, and the Regional Houses of Chiefs within the affected areas.

- ii. Given the age of the Ordinance and the practical difficulty of accessing authoritative copies, relevant institutions should make certified or scanned versions publicly available through official channels. Improved access would assist land administrators, surveyors, planners, customary authorities, legal practitioners, and prospective purchasers to identify affected roads more accurately and to make better-informed transaction decisions.
- iii. A targeted public education programme should be undertaken to distinguish roads originally affected by the Ordinance from later diversions that fall outside the appropriated roads. Such awareness would improve compliance, reduce avoidable disputes, and help prospective purchasers understand the legal status of land along these routes before entering into transactions.

CONCLUSION

The Road Appropriation (Ashanti Administration) Ordinance 1902 was enacted to serve the infrastructure and security objectives of the colonial administration over 120 years ago. Its continued application in the Ashanti, Ahafo, Bono, and Bono East Regions creates a technical and administrative anomaly within Ghana's current land governance framework, particularly following the consolidation and repeal of legacy statutes under the Land Act 2020 (Act 1036). The dual disposition and dual payment of ground rent that arises from the Ordinance's operation impose measurable costs on lessees, introduce ambiguity in cadastral identification, and strain the institutional mandates of both the Lands Commission and the Office of the Administrator of Stool Lands. For surveying and land administration practitioners, the lack of accessible records on the original appropriation corridors and diverted appropriated roads further complicates the preparation and approval of cadastral plans, leading to delays and rejections in the registration process. Resolving this issue requires a deliberate policy decision. A formal reassessment of the Ordinance's relevance, coupled with improved public access to appropriation records and targeted practitioner education, would clarify legal mandates, reduce transaction costs, and enhance tenure security in the affected regions. Until such action is taken, the Ordinance will remain a source of friction in an otherwise modernized land administration system. This paper, therefore, calls on the Ministry of Lands and Natural Resources and relevant stakeholders to prioritize the review of the 1902 Ordinance as part of ongoing efforts to achieve a unified, transparent, and efficient land administration system in Ghana.

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