
CHAPTER 252**ACQUISITION OF LAND**

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CHAPTER 252

ACQUISITION OF LAND

An Act to facilitate the acquisition of land for public purposes.

[Commencement 7th July, 1913]

14 of 1913
15 of 1916
1 of 1952
34 of 1964
46 of 1964
S.I. 25 of 1969
E.L.A.O., 1974
10 of 1979
5 of 1987

1. This Act may be cited as the Acquisition of Land Act.

Short title.

2. In this Act, unless the context otherwise requires —

Interpretation.

“assessment” means a valuation of the selected land made by an assessor under and in accordance with the provisions of this Act;

“assessor” means an assessor appointed and registered under this Act;

“award” means the amount of compensation awarded under this Act by a magistrate either as magistrate or acting as umpire or by the court sitting alone or with assessors;

“court” means the Supreme Court;

“magistrate” means, in the case of New Providence, a stipendiary and circuit magistrate, and in the case of the Out Islands, the commissioner of the district in which any selected land is situate;

“Minister” means the Minister responsible for the Acquisition and Disposition of Lands;

E.L.A.O., 1974.

“persons interested” includes every person claiming an interest whether on his own behalf or as trustee for other persons beneficially interested, or as guardian of a minor or committee of a lunatic or idiot, but does not include a yearly tenant or tenant by the month or at will;

“promoters” means a Minister or any statutory corporation by or on behalf of which selected land may be acquired under this Act;

34 of 1964, s. 2.;
E.L.A.O., 1974.

34 of 1964, s. 2.

“public purpose” includes, subject to the provisions of Article 27 of the Constitution —

- (a) any purpose authorised by Parliament;
- (b) any purpose for which any statutory corporation requires any land:

Provided that in the case of any land required by a statutory corporation the value thereof or compensation payable therefor by agreement between the promoters and the persons interested therein does not exceed the sum of four thousand dollars or such value or compensation has been certified in writing by an assessor not to exceed the sum of four thousand dollars;

5 of 1987, s. 2.

- (c) any public undertaking the execution of which is vested in the Governor-General or a Minister;
- (d) any purpose for which land is, in the opinion of the Governor-General, required for providing hotel accommodation, or promoting the tourist traffic of The Bahamas, or providing increased harbour and dock facilities, or the agricultural development of The Bahamas, or any other public undertaking;
- (e) for the purpose of any undertaking under the provisions of the Acquisition of Land (Special Application) Act, 1957;

*1 of 1952, s. 2;
34 of 1964, s. 2;
21 of 1957.*

10 of 1979, s. 2.

- (f) any endeavour by or undertaking of the Government to make available land by way of sale, lease or otherwise for the housing of persons of low or middle incomes;

“selected land” means any land required for a public purpose;

34 of 1964, s. 2.

“statutory corporation” means any corporate body constituted by an Act of Parliament to undertake duties or to perform functions for the benefit of the public;

“summons for assessment” means a summons issued by the Registrar of the court to initiate proceedings for an assessment by the court with or without assessors.

3. (1) It shall be lawful for the Governor-General —
- (a) to appoint assessors being persons willing to serve when required, and skilled in the valuation of property of the several descriptions of real property common in The Bahamas;
 - (b) to substitute assessors, for any assessors who may die, depart from The Bahamas, or desire to discontinue serving, and to remove any assessor for misconduct or other cause;
 - (c) to fix a scale of fees payable to assessors for serving under this Act.
- (2) A list of assessors so appointed and any scale of fees fixed shall be published annually in the *Gazette* and kept in the Registry of the court; the name of any assessor appointed or substituted shall on such appointment or substitution also be published in the *Gazette*.
- (3) An assessor shall be compellable to serve on an assessment when required so to do by the Governor-General, the court, or a magistrate unless he shall satisfy the Governor-General, the court or the magistrate, as the case may be, that he is for good cause unable to serve or ought for good cause to be excused from service, and in case of neglect or default to serve as required after having been duly required by notice from the Governor-General, the court or a magistrate so to do shall be liable to a penalty of forty dollars.
- (4) No assessor shall proceed to act in the matter of an assessment or otherwise under the provisions of this Act unless he shall have first made and signed before a judge of the Supreme Court or a magistrate a declaration in the following form —
- “I....., Registered Assessor, do solemnly and sincerely declare that in all matters submitted to me or with which I may have to deal under the provisions of the Acquisition of Land Act, I will faithfully, honestly and impartially execute my duties to the best of my judgment, skill and ability.”
- All declarations so made shall be kept in the Registry of the court and shall be transmitted to such Registry by any magistrate taking the same.
4. (1) Whenever it appears to the Minister that land in any locality is likely to be needed for any public purpose a notification to that effect shall be published in the *Gazette*,

Appointment of assessors.

Registration and fees of assessors.

Assessor compellable to serve on an assessment.

5 of 1987, s. 2.

Declaration to be signed by assessors.

Preliminary investigation.
E.L.A.O., 1974.

and the magistrate shall cause public notice of the substance of such notification to be given at convenient places in his district, and thereupon any person either generally or specially authorised by the Minister and his servants and workmen may do all or any of the following things, namely —

- (a) enter upon and survey and take levels of any land in such locality;
- (b) dig or bore into the subsoil;
- (c) do all other acts necessary to ascertain whether the land is adapted for such purpose;
- (d) set out the boundaries of the land proposed to be taken and the intended line of the work (if any) proposed to be made thereon;
- (e) mark such levels, boundaries and line by placing marks and cutting trenches;
- (f) where otherwise the survey cannot be completed, the levels taken, or the boundaries or line of work marked, cut down and clear any standing crop, fence, tree or bush;
- (g) do all such other acts as may be incidental to or necessary for any of the purposes aforesaid.

(2) No person shall enter into any building or upon any enclosed court or garden attached to a dwelling house (unless with the consent of the occupier thereof) without previously giving such occupier at least seven days' notice in writing of his intention to do so.

Payment for
damage.

5. So soon as conveniently may be after any entry made under section 4 of this Act the person entering shall pay for all damage done, and in cases of dispute as to the amount to be paid for such damage, the matter shall be referred to the magistrate whose decision shall be final, subject to an appeal to the Supreme Court.

Declaration of Intending Acquisition

Declaration that
particular land is
required for a
public purpose
and publication
thereof.
E.L.A.O., 1974.

6. (1) Whenever it appears to the Minister that any particular land is needed for a public purpose a notice to that effect signed by the promoters shall be published in the *Gazette* and posted on some conspicuous part of such land, but no such notice shall be published or posted unless

the compensation to be paid for such land is to be paid out of public revenue or out of the funds of some statutory corporation.

- (2) Such notice shall state the following particulars —
 - (a) the district in which the land is situate;
 - (b) the particular purpose for which it is required;
 - (c) its approximate area and all other particulars necessary for identifying it, and if a plan has been made of the land, the place where and time when such plan may be inspected;
 - (d) an intimation that all persons interested in the land shall, within thirty days from the publication of the notice or the posting of the same, state in writing to the promoters the nature of their respective interests in the land and the amount and particulars of their claims to compensation for such interests.

(3) Subject to a right of appeal to the Supreme Court as to the legality of the proposed acquisition which shall be filed within thirty days of the publication of the notice or the posting of the same, the notice shall be conclusive evidence that the land is needed for a public purpose, and is selected land within the meaning and for the purposes of this Act.

Conclusive evidence.
34 of 1964, s. 4.

(4) The promoters shall also cause the notice or a copy thereof to be served upon the occupier of such land and on all mortgagees and on all such other persons as may be known to them to be interested therein:

Notice to be given to occupier, etc.

Provided that, if such mortgagee or person so interested shall be absent from The Bahamas and his address be known, notice may be sent to him by registered airmail post.

Acquisition of Land

7. Selected land may be acquired in either of the following ways —

- (a) by private agreement for purchase;
- (b) by compulsory purchase.

Modes of acquisition.

8. Subject to the provisions of this Act it shall be lawful for the promoters to agree with the persons interested in any selected land for the absolute purchase

Agreement.

for a consideration in money of such land and of all estates and interests in such land of what kind soever, and any such agreement may be recorded in the same manner as an award under this Act.

Parties under disability may sell and convey.

9. It shall be lawful for all parties seised or possessed of or entitled to any selected land or any estate or interest therein to sell and convey or release the same to the promoters, and to enter into all necessary arrangements for the purpose; and particularly it shall be lawful for all or any of the following parties so seised, possessed or entitled as aforesaid to sell, convey or release (that is to say) all corporations, tenants in tail or for life, married women seised in their own right or entitled to dower, guardians, committees of lunatics or idiots, trustees or feoffees in trust for charitable or other purposes, executors and administrators, and all parties for the time being entitled to the receipt of the rents and profits of any such land in possession or subject to any estate in dower or to any lease for life or for lives and years or for years of any less interest; and the power so to sell and convey or release as aforesaid may lawfully be exercisable by all such parties other than married women entitled to dower or for lives or years or for any less interest not only on behalf of themselves and their respective heirs, executors, administrators or successors but also for and on behalf of every person entitled in reversion, remainder or expectancy after them or in defeasance of the estates of such parties; and as to such married women whether they be of full age or not as if they were sole and of full age; and as to such guardians on behalf of their wards; and as to such committees on behalf of the lunatics and idiots of whom they are the committees respectively, and that to the same extent as such wives, wards, lunatics and idiots respectively could have exercised the same power under the authority of this Act if they had respectively been under no disability; and as to such trustees, executors and administrators, on behalf of their *cestui que trustent*, whether infants, unborn issue, lunatics, *femmes couvertes* or other persons and that to the same extent as such *cestui que trustent* respectively could have exercised the same powers under the authority of this Act if they had respectively been under no disability.

10. The power to release lands from any rent, charge or incumbrance and to agree for the apportionment of any such rent, charge or incumbrance may lawfully be exercised by every party hereinbefore enabled to sell and convey or release lands.

Other powers of parties under disability.

11. If the promoters and the persons interested in any selected land are unable to agree on the purchase money, the promoters shall apply to the Governor-General to appoint an assessor to make an assessment of the selected land, and it shall be the duty of the assessor so appointed to make an assessment and to forward the same to the Treasurer for transmission to the promoters. The Treasurer shall also transmit to the promoters with the assessment any claims from persons interested received by him.

Appointment of assessor on disagreement and making of assessment.

S.I. No 25 of 1969.

12. (1) If —

- (a) the promoters and the persons interested are unable to agree for the purchase of the selected land; and
- (b) the assessment made by the assessor appointed by the Governor-General does not exceed the sum of four thousand dollars,

Procedure by compulsory purchase where value of selected land does not exceed \$4,000.
34 of 1964, s. 8.; 5 of 1987, s. 2.

the magistrate of the district in which the selected land is situate shall at the written request of the promoters to be made within two months after the first publication in the *Gazette* of the declaration prescribed by section 6 of this Act cause public notice to be given at convenient places in his district or near the selected land stating —

- (i) the particulars of the selected land and that the selected land has been appropriated for public purposes;
- (ii) that the promoters intend to take or have taken possession of the same;
- (iii) that claims for compensation for all interests should be made to him;
- (iv) that all persons interested therein are required to appear personally or by agent before the magistrate at a time and place in such notice mentioned (such time not being earlier than twenty-one days after the posting of the notices) and to state the nature of their respective interests in the selected land and the amount and particulars of their claim to compensation for such interests.

Notice to
occupier, etc.

(2) The magistrate shall also within the time aforesaid serve notices to the same effect on the occupier (if any) of such land and on all such persons known or believed to be interested therein or to be entitled to act for persons so interested as reside or have agents authorised to receive service on their behalf within the district in which the land is situate:

Provided that, if any such person resides elsewhere and has no such agent, the notice may be sent to him by post.

Service of
notices.

(3) Notices may be served by being left at the usual places of abode of the persons interested, or, if such persons be a corporation, at the principal office within The Bahamas of such corporation. If any of the persons interested is absent from The Bahamas or cannot be ascertained, notices may be served by being affixed on some conspicuous part of the selected land.

Award by
magistrate on
compulsory
purchase.

13. At the time and place mentioned in the notice or at any adjournment or postponement thereof, the magistrate shall proceed to hold an inquiry as to the amount of compensation payable to the persons interested and for that purpose shall have power to summon and examine witnesses on oath and compel the production of documents, and may inspect the selected land, and call to his assistance such expert advice as to him may seem proper, and shall make his award. In any such inquiry the parties shall have the right to appear and be represented by counsel.

Appeal from
magistrate's
award on
compulsory
purchase.
34 of 1964, s. 9.

14. (1) Any party aggrieved by the award of the magistrate may within twenty-one days of the notification of the award give notice in writing to the magistrate and to the other parties that he declines to accept the award and has filed an appeal in the Supreme Court.

Deposit of
compensation
money.

(2) Pending the hearing of any appeal the magistrate may, if he thinks fit, order the promoters to deposit with the Treasurer the amount claimed by the persons interested together with any costs payable by the promoters or where no claim has been made the amount fixed by the magistrate.

15. (1) If—

- (a) the promoters and the persons interested have been unable to agree on the acquisition of the same by private purchase;
- (b) the value of the selected land exceeds the sum of four thousand dollars,

Compulsory acquisition where no agreement and value of selected land exceeds \$4,000.

*34 of 1964, s. 10;
5 of 1987, s. 2.*

the value of the selected land and the compensation payable for all or any interests therein, shall be determined by the court according to the following provisions.

(2) On the application of the promoters or any person interested, a summons for assessment shall be issued by the Registrar of the court. Such summons shall be returnable within twenty-one days and shall be served on all persons, other than the applicant therefor, resident in The Bahamas and the attorney or agent of any such persons not resident in The Bahamas whose names shall have been mentioned by the applicant as being interested in the selected land.

Summons for assessment.

(3) On the return of the summons for assessment the court shall satisfy itself as far as may be as to the persons other than the applicant or persons served interested in the selected land and may adjourn the further hearing of the summons to allow of their being served, and shall, subject to such adjournment, if any, appoint a day for the assessment thereof by a judge with or without assessors as herein provided, and may direct the service on any person, other than the applicant, alleged to be interested in the selected land, of a notice requiring him to state on or before a day to be therein named the nature of his alleged interest, if any, and the sum which he claims as compensation in respect thereof.

(4) On the return of the summons for assessment the court shall also direct the promoters and the persons alleged to be interested, or such of them as the court shall think fit, to appoint on or before a day to be fixed by the court two assessors, one to be nominated by the promoters and the other by the persons interested, for the purpose of aiding the court in determining the amount of compensation in manner herein directed:

5 of 1987, s. 2.

Provided that assessors shall not be appointed unless the court otherwise directs in cases where it is of opinion on satisfactory evidence that the amount of compensation will not exceed two thousand dollars, but in every such case the amount of such compensation unless otherwise expressly directed by the court, shall be determined by a judge without assessors:

Provided also that, if the persons interested in any case elect that the amount of compensation shall be determined and assessed by a judge alone without assessors, it shall be lawful for a judge, irrespective of the amount claimed, to make his award alone.

Appointment of assessor in certain circumstances.

- (5) If —
- (a) the persons interested in the selected land, if more than one, fail to agree upon the assessor to represent them;
 - (b) on the summons for assessment, no person appears on behalf of the persons interested;
 - (c) it appears to the court that no person so appears on behalf of the persons interested,

the court shall in the case (a) appoint an assessor on their behalf from among those named by such parties, and in the cases (b) and (c) appoint an assessor to attend the determining of the amount of compensation on behalf of any person who may be interested in such land.

Powers of the court.

(6) For the purpose of hearing and disposing of the summons for assessment and for the purpose of the assessment and generally for all purposes of dealing with applications incidental thereto or connected therewith, the judge shall exercise all such powers as by the Supreme Court Act may be exercised by him in respect of any action or proceeding at law applicable to the trial of an action for damages.

Ch. 53.

Enquiry to be held.

(7) The judge and assessors (if any) shall, on a day, to be named in the order of the court, proceed to hold an enquiry as to the amount of compensation payable to the persons interested and to determine the compensation to be awarded. Such enquiry shall be had in such place and at such time and adjourned to such place and time as the court shall direct and shall be public; and the Registrar of the court shall attend the court in the same manner and perform the same duties with respect to such enquiry and

determining of compensation as he would perform with respect to the trial of any action, and the procedure in the trial of a civil action shall be followed as far as the same shall be applicable and the parties shall be entitled to the same right of retaining and being heard by counsel as in an action at law. The persons interested shall be deemed the plaintiff and the promoters the defendant, and the proceedings shall be deemed to be proceedings in the court.

(8) The parties shall have power to subpoena any person as a witness and to enforce the attendance of such witness, and any witness failing to attend without sufficient cause or who shall appear but refuse to be examined or to give evidence touching the subject-matter in question, shall be proceeded against in the same manner as any other person failing to attend or refusing to be examined or to give evidence as a witness before the court.

Power to compel attendance of witnesses.

(9) The opinion of each assessor shall be given orally and shall be recorded in writing by the judge.

Assessor's opinion.

(10) In the case of a difference of opinion between the judge and the assessors or either of them upon a question of law or practice or usage having the force of law the opinion of the judge shall prevail.

Law and practice to be settled by court.

(11) In the case of difference of opinion between the judge and one or both of the assessors as to the amount of compensation or as to the amount of any item thereof the decision of the judge shall prevail.

Difference of opinion between judge and assessors.

(12) The amount of costs and all questions relating thereto shall be determined by the judge alone.

Costs.

Application of Compensation

16. (1) With respect to the purchase money or compensation coming to parties having limited interests, or prevented from treating, or not making title, or being absent from The Bahamas, or who cannot be found, or neglecting or refusing to furnish particulars of their right or interest as required by this Act within two months from the period of the value of the same being arrived at under this Act, or refusing to appear before the magistrate or the court as the case may be, or refusing to execute any proper contract or conveyance for the sale thereof within the said two months the following provisions shall have effect —

Application of compensation.
15 of 1916, s. 2.

Purchase money payable to parties under disability to be paid to Treasurer.

- (a) if the purchase money or compensation which shall be payable is payable in respect of any selected land or any interest therein purchased or taken by the promoters from any corporation, tenant for life or in tail, married woman seised in her own right or entitled to dower, guardian, committee of a lunatic or idiot, trustee, executor or administrator, or person having a partial or qualified interest only in the selected land and not entitled to sell or convey the same except under the provisions of this Act;
- (b) if the persons interested or any of them in any selected land on tender of the purchase money or compensation either agreed or awarded to be paid in respect of their respective interests refuse to accept the same, or neglect or fail to make out a title to the selected land or to the interest therein claimed by them to the satisfaction of the promoters, or if they or any of them refuse to convey or release such land as directed by the promoters, or if any person interested be absent from The Bahamas, or cannot after diligent enquiry be found, or fail to appear before the magistrate or the court as the case may be,

When parties refuse to convey or do not show title or cannot be found purchase money may be paid to Treasurer.

the promoters shall pay the purchase money or compensation payable in respect of the selected land or any such interest therein to the Treasurer and the Treasurer shall carry it to the credit of the person interested in the land, estate or interest, but if the party is not known then to the credit of the promoters in a particular account to remain subject in all such cases to the order, control and disposition of the court.

Purchase money under \$200 to be paid and distributed on Attorney-General's certificate.
5 of 1987, s. 2.

(2) If any money payable under this Act shall not amount to or exceed the sum of two hundred dollars the same shall be paid to and among the persons interested in such shares and proportions as the Attorney-General shall certify in writing that the same shall be paid. Any payment made by the promoters under such certificate shall absolve the promoters from any further liability for the sum so paid but shall not prejudice the right of any party who shall prove his right or title thereto in a court of competent jurisdiction to recover the same from any person to whom such payment was made or from his legal representative:

Provided that, in the case of the coverture, infancy, idiocy, lunacy or other incapacity of any such party, then such money shall be paid for his or her use to the husband, guardian, committee or trustee of such party.

17. (1) Money deposited with the Treasurer under the provisions of this Act to remain subject to the order, control and disposition of the court shall remain so deposited until the same be applied to some one or more of the following purposes that is to say —

Modes of application of purchase money or compensation deposited with Treasurer.

- (a) in the discharge of any debt or incumbrance affecting the land in respect of which such money shall have been paid or affecting other land settled therewith, to the same or the like uses, trusts or purposes;
- (b) in the purchase of other land to be conveyed, limited and settled upon the like trusts, uses and purposes and in the same manner as the land in respect of which such sums of money shall have been paid, stood settled;
- (c) if such money shall be paid in respect of any buildings taken under the authority of this Act, in removing or replacing such buildings or substituting others in their stead in such manner as the court shall direct;
- (d) in the payment to any party becoming absolutely entitled to such money.

(2) Such money may be so applied as aforesaid upon an order of the court made in a summary way of procedure on the petition of the party who would have been entitled to the rents and profits of the lands in respect of which such money shall have been paid to the Treasurer and until the money can be so applied it may upon the like order be invested by the Treasurer if it exceeds the sum of one thousand two hundred dollars, in such manner as the court may order, and the interest, dividends and annual proceeds thereof paid to the party who would for the time being have been entitled to the rents and profits of the lands:

Procedure before court.

5 of 1987, s. 2.

Provided that, in the case of money paid to the Treasurer in respect of any lease for a life or lives or years or for a life or lives and years or any estate in lands less than the whole fee simple thereof, or of any reversion dependent on any such lease or estate, the court may on the petition of any party interested in such money in a

summary way of procedure, order that the same shall be laid out, invested, accumulated and paid in such manner as the court may consider will give to the parties interested in such money the same benefit therefrom as they might lawfully have from the lease, estate or reversion in respect of which such money shall have been paid or as near thereto as may be:

Provided also that, when money is paid to the Treasurer in the case of the owner of any selected land or of any interest therein as purchase money or compensation either agreed or awarded to be paid in respect thereof, being an owner who has refused to accept the same or neglected or failed to make out a title to such land or the interest therein claimed by him to the satisfaction of the promoters or who has refused to convey or release such land or interest as directed by the promoters or who is absent from The Bahamas, or after diligent enquiry cannot be found, or has failed to appear before the magistrate or the court as the case may be, the court may, on petition of any party making claim to the money so paid to the Treasurer or any part thereof or to the land in respect whereof it shall have been paid or any part of such land or any interest in the same, in a summary way of procedure order such money to be laid out or invested or may order distribution thereof or payment of the interest or dividends thereof according to the respective estates, titles or interests of the parties making claim to such money or land or any part thereof and may make such order in the premises as to the court shall seem fit.

Possession

When possession obtainable.

18. (1) Upon payment or tender of all the purchase money or compensation agreed or awarded to be paid and of all costs payable to the persons interested in respect of any selected land purchased or taken by the promoters; or whenever any of the respective cases shall happen wherein the money is herein authorised or directed to be paid to the Treasurer and such payment has been made to him, or, if in the opinion of the Minister it is necessary for a public purpose that possession of the selected land should be obtained by the promoters before such payment or tender, it shall be lawful for the Minister by notice in the *Gazette* to declare that the selected land has been appropriated for

E.L.A.O., 1974

34 of 1969, s. 11.

the public purpose mentioned in such notice and thereupon except as hereinafter in this section provided the selected land and the fee simple and inheritance thereof and all the estate, use, trust and interest of all parties therein shall thenceforth become vested in and become the property of the promoters for such public purpose, and the promoters may enter upon and take possession of the same, and in all cases in which delivery of possession shall be refused the magistrate may issue his warrant to any peace officer to enter upon the land the possession of which is refused or withheld and to take possession thereof and to deliver possession to such person as shall in the warrant be nominated to receive the same, being a person in that behalf appointed by the promoters, and such peace officer is hereby authorised and required to take and deliver possession accordingly:

Provided that, if possession of the selected land be taken before such payment or tender, the promoters shall pay, in addition to the purchase money or compensation agreed to be paid or awarded to be paid, interest on such purchase money or compensation at the rate of five dollars per centum per annum from the time of the publication of such notice in the *Gazette* until payment of such purchase money or compensation.

(2) Where for the purposes of this Act the promoter is a Minister who is not a corporation sole the selected land shall not vest in him by virtue of subsection (1) of this section, but shall vest in the Treasurer in his capacity as a corporation sole to be held by him in trust for Her Majesty in right of Her Government of The Bahamas for public purposes.

*34 of 1964, s. 11;
E.L.A.O., 1974.*

(3) Where the Minister responsible for housing is the promoter for the purposes of paragraph (f) of the definition of the expression “public purposes”, the selected land shall be deemed to be acquired by him pursuant to the carrying out by him of his functions under the Housing Act.

10 of 1979, s. 3

Ch. 199.

19. All land heretofore vested in the Governor in Council or Governor-General under the provisions of this Act or any other Act shall be deemed to be and is hereby vested in the Treasurer.

Land held by
Governor-
General vests in
Treasurer.
34 of 1964, s. 12.

Leaseholds

Selected land
comprised in
lease.

Apportionment.

34 of 1964, s. 13.

20. (1) If any land shall be comprised in a lease for a term of years unexpired, part only of which land is selected land, the rent payable in respect of the land comprised in such lease shall be apportioned between the selected land and the unselected land; and such apportionment may be settled by agreement between the lessor and lessee of such land on the one part and the promoters on the other part, and, if such apportionment be not so settled, it shall be settled by the magistrate subject to a right of appeal to the Supreme Court; and after such apportionment the lessee of the unselected land shall, as to all future accruing rent, be liable only to so much of the rent as shall be so apportioned in respect of the unselected land; and as to the unselected land and as against the lessee, the lessor shall have the same rights and remedies for the recovery of such portion of rent, as previously to such apportionment he has for the recovery of the whole rent reserved by such lease; and all the covenants, conditions and agreements of such lease, except as to the amount of rent to be paid, shall remain in force with regard to the unselected land, in the same manner as they would have done in case such land had been included in the lease.

Lessee entitled to
compensation.

(2) Every such lessee as aforesaid shall be entitled to receive from the promoters compensation for the damage done to him in his tenancy by reason of the severance of the selected land.

Tenant for a
year.

34 of 1964, s. 14.

21. If any such land shall be in the possession of any person having no greater interest therein than as a tenant for a year, or from year to year, and if such person be required to give up possession of any land so occupied by him before the expiration of his term or interest therein he shall be entitled to compensation for the value of his unexpired term or interest therein, and for any just allowance which ought to be made to him by the incoming tenant; or for any loss or injury he may sustain, or if a part only of such land be required, compensation for the damage done to him in his tenancy by severing the land held by him, or otherwise injuriously affecting the same; and the amount of such compensation shall subject to a right of appeal to the Supreme Court be determined by the magistrate in case the parties differ about the same; and

upon payment or tender of the amount of such compensation all such persons shall respectively deliver up to the promoters, or the person appointed by them to take possession thereof, any such selected land in their possession.

22. If any party, having a greater interest than as a tenant at will, claim compensation in respect of any unexpired term or interest under any lease or grant of any such land the magistrate may require such party to produce such lease or grant in respect of which such claim shall be made, or the best evidence thereof in his power; and if, after notice made in writing by the magistrate, such lease or grant, or such best evidence thereof be not produced within twenty-one days, the party claiming compensation shall be considered as a tenant holding only from year to year, and to be entitled to compensation accordingly.

Production of lease.

23. In all cases in which there is a wooden house standing on but not affixed to the freehold of any selected land and not being the property of the person interested in such land the owner of such house shall be entitled to receive from the promoters by way of compensation a sum to defray the expense of removing such house to any other site, and of repairing any damage caused to such house by its being removed. Any person aggrieved by the amount of compensation offered under this section may appeal to the Supreme Court whose decision shall be final.

Wooden house.

34 of 1964, s. 15.

Mortgages

24. The promoters may purchase or redeem the interest of the mortgagee of any land which may be acquired under this Act, whether they shall have previously purchased the equity of redemption of the land or not, and whether the mortgagee thereof be entitled thereto in his own right or in trust for any other party, and whether he be in possession of the land by virtue of the mortgage or not, and whether the mortgage affects the selected land solely or jointly with any other unselected land; and in order thereto the promoters may pay or tender to the mortgagee the principal and interest due on the mortgage together with his costs and charges (if any) and also six months' additional interest, and thereupon the mortgagee

Payment of mortgages.

shall immediately convey his interest in the selected land comprised in the mortgage to the promoters, or as they shall direct, or the promoters may give notice in writing to the mortgagee that they will pay off the principal and interest due on the mortgage at the end of six months computed from the day of giving the notice and if they shall have given any such notice, or if the party entitled to the equity of redemption of the land shall have given six months' notice of his intention to redeem the same, then at the expiration of either of such notices, or any intermediate period upon payment or tender by the promoters to the mortgagee of the principal money due on the mortgage, and the interest which would have become due at the end of six months from the time of giving either of such notices, together with his costs and expenses (if any), the mortgagee shall convey or release his interest in the land comprised in the mortgage to the promoters or as they shall direct.

Where part only
of mortgaged
lands taken.

25. If a part only of any such mortgaged lands be required and if the part so required be of less value than the principal money, interest and costs secured on the remaining part of such lands and the mortgagee shall not consider the remaining part of such lands a sufficient security for the money charged thereon, or be not willing to release the part so required, then the value of such part, and also the compensation (if any) to be paid in respect of the severance thereof or otherwise, shall be settled by agreement between the mortgagee and the party entitled to the equity of redemption of such land on the one part, and the promoters on the other; and, if the parties aforesaid fail to agree respecting the amount of such value or compensation, the same shall be determined as in other cases of disputed compensation and the amount of such value or compensation, being so agreed upon or determined, shall be paid by the promoters to such mortgagee in satisfaction of his mortgage debt so far as the same will extend and thereupon such mortgagee shall convey or release to them, or as they shall direct, all his interest in such mortgaged lands the value whereof shall have been so paid; and a memorandum of what shall have been so paid shall be endorsed on the deed creating such mortgage, and shall be signed by the mortgagee; and a copy, of such memorandum shall at the same time (if required) be

furnished by the promoters at their expense to the party entitled to the equity of redemption of the lands comprised in such mortgage deed.

26. If in any of the cases aforesaid upon such payment or tender the mortgagee shall fail to convey or release his interest in the mortgage as directed by the promoters or if he fail to adduce a good title thereto, then the promoters may pay into the Treasury the principal and interest, together with the costs (if any) due on the mortgage and if such payment be made before the expiration of six months' notice aforesaid such further interest as would at that time become due; and thereupon as well as upon such conveyance by the mortgagee (if any such be made), all the estate and interest of the mortgagee and of all persons in trust for him or for whom he may be a trustee in the land shall vest in the promoters absolutely, and they shall be entitled to immediate possession thereof in case the mortgagee was himself entitled to such possession.

Acquisition on default of conveyance.

Other Land Affected

27. When land other than selected land is damaged or injured in effecting the purposes for which selected land is acquired under this Act the persons interested therein shall be entitled to fair and reasonable compensation for such damage or injury and if such persons, or any of them are unable to agree with the promoters as to the amount of such compensation the amount shall be assessed by the magistrate or the court as the case may be in conformity with the provisions of this Act.

Compensation in respect of other land affected.

Compensation

28. In determining the amount of compensation to be awarded under this Act the magistrate or the court sitting with or without assessors, as the case may be, and any other assessor appointed under the provisions of this Act shall take into consideration the matters mentioned in paragraph (a) of this section and shall not take into consideration the matters mentioned in paragraph (b) of this section —

Amount of compensation.

34 of 1964, s. 16.

- (a) (i) the market value of the selected land at date of the declaration made under section 6 of this Act;

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- (ii) the damage (if any) sustained by the persons interested at the time of awarding compensation by reason of severing such land from other land of the persons interested;
 - (iii) the damage (if any) sustained by the persons interested at the time of awarding compensation by reason of the acquisition injuriously affecting other property belonging to him whether real or personal in any other manner or his actual earnings;
 - (iv) if in consequence of the acquisition he is compelled to change his residence or place of business, the reasonable expenses (if any) of such change;
 - (v) any accommodation works offered by the promoters and the execution of which is to the satisfaction of the magistrate or of the court sitting with or without assessors secured to the persons interested;
- (b)
- (i) the degree of urgency which has led to the acquisition;
 - (ii) any disinclination of the persons interested to part with the selected land;
 - (iii) any damage sustained by the persons interested which if caused by a private person would not constitute a good cause of action;
 - (iv) any damage which after the time of awarding compensation is likely to be caused by or in consequence of the use to which the selected land will be put;
 - (v) any increase in the value of the selected land likely to accrue from the use to which it will be put when acquired;
 - (vi) any increase in the value of unselected land likely to accrue from the use to which selected land will be put;
 - (vii) any outlay or improvements on selected land made, commenced or effected with the intention of enhancing the compensation to be awarded under this Act.

29. In addition to the amount of compensation awarded under this Act the magistrate or the court, as the case may be, shall further award a sum of ten per centum on the market value of the selected land mentioned in subparagraph (i) of paragraph (a) of section 28 of this Act in consideration of the compulsory nature of the acquisition, but the provisions of this section shall not apply to any compensation given for any damage or loss sustained by reason of the taking of any selected land or by reason of severance.

Addition for compulsory purchase.

30. (1) When the amount awarded does not exceed the sum offered by the promoters the costs of all proceedings shall be borne by the persons interested.

Costs.

(2) Where the amount awarded exceeds the sum so offered but the magistrate or the court, as the case may be, considers that the claims of the persons interested were extravagant or that they were negligent in putting their case to the promoters, the magistrate or the judge, as the case may be, may in his discretion make such order as to the costs as he may think fit:

Provided that any costs under this section shall not include any costs incurred in trying any question respecting the title to the land or any rights thereto or interests therein arising between or among two or more persons making conflicting claims in respect thereof.

(3) The costs (if any) may be recovered as if they were costs incurred in a suit in the court and as if the award were the decree therein.

(4) Subject to the provisions of this Act, in all cases of money paid to the Treasurer under this Act, it shall be lawful for the magistrate or the judge, as the case may be, to order all costs attending the payment of such moneys and of all proceedings relating thereto except such as are occasioned by litigation between adverse claimants to be borne by the promoters, and all such costs shall be paid by warrant out of the Consolidated Fund in the usual manner.

E.L.A.O., 1974.

(5) All reasonable costs, charges and expenses incurred by the persons interested for all conveyances and assurances of any land purchased or acquired and of any outstanding terms or interest therein and of deducing, evidencing and producing title to such land, terms of

E.L.A.O., 1974.

interest and of making out such abstracts and attested copies as the promoters may require, and all other reasonable expenses incident to the investigation, deduction and verification of titles shall be borne by the promoters, and shall be paid out of the Consolidated Fund by warrant in the usual manner.

Award

Award to be in writing.

31. Every award shall be in writing signed by the magistrate, judge and assessors or assessor (if any) concurring therein or the judge alone, as the case may be, and shall specify —

- (a) a description of the land and the date when it was gazetted as selected land;
- (b) the amount awarded under subparagraph (i) of paragraph (a) of section 28 of this Act and the amounts (if any) respectively awarded under subparagraphs (ii), (iii) and (iv) of the same paragraph, together with the grounds of awarding each of the said amounts;
- (c) the amount of costs incurred in the proceedings and by what persons and in what proportions they are to be paid.

No stamp duty or recording fees.

32. No award, agreement or conveyance under this Act shall be liable to any stamp duty and no fees shall be payable for recording the same or any other document made under the provisions of this Act.

No suit to set aside award or apportionments.

33. Subject to the provisions of this Act no suit shall be brought to set aside an award or apportionment under this Act.

Errors or mistakes.

34. Any error or mistake arising from miscalculation or from any clerical omission or slip appearing in an award may at any time be corrected by the authority finally determining the amount of compensation.

Record

Record of awards.

35. Every award made under this Act shall be registered or recorded at the Registry of Records where the selected land is situate in New Providence, and at the office of the magistrate where such land is situate in an Out

Island, and every record made under the provisions of this section shall be received as evidence in any court to the same extent as the award of which it purports to be a record would be entitled to be received, if produced, but not further.

36. When selected land vests in promoters under the provisions of section 18 of this Act, a declaration of such vesting shall be made by the promoters or by their duly constituted agent and shall be recorded at the Registry of Records.

Declaration of vesting to be recorded.

Apportionment

37. Where there are several persons interested, if such persons agree in the apportionment of the compensation, the particulars of such apportionment shall be specified in the award, and as between such persons the award shall be conclusive evidence of the correctness of the apportionment.

Stating particulars of apportionment in award.

38. Where the several persons interested are unable to agree on the apportionment of the compensation the magistrate or the court, as the case may be, shall decide the proportions in which the persons interested are entitled:

Magistrate to decide proportions on disagreement.

Provided that in the case of a decision under this section by a magistrate, there shall be a right of appeal to the Supreme Court.

34 of 1964, s. 18.

39. The cost of all proceedings for apportioning the amount of compensation shall be borne by such of the persons interested in such proportions as the magistrate or the court shall determine.

Costs of proceedings for apportionment.

Special Case

40. A magistrate may make his award in the form of a special case for the opinion of the court.

Special case.

41. In every special case the court may make such order as to it may seem proper, and may direct that such order shall become part of the award.

Order in special case.

Powers of court
in special case.

- 42.** In every special case the court may —
- (a) remit the award to the consideration of the magistrate stating the case;
 - (b) instruct the magistrate as to the principles on which he shall proceed on further consideration;
 - (c) direct the magistrate to amend the award or to substitute a fresh award for the same.

Amended or
substituted
award.

43. Where the magistrate amends an award or substitutes a fresh award for the same, such amended or substituted award shall have the force and effect of the original award and may be recorded accordingly.

Evidence and
production of
documents.

44. For the purpose of a special case the court may make such further inquiries and call such witnesses and take such further evidence and compel the production of all such documents as may be necessary.

Miscellaneous

Power of
Governor-
General to
appoint a person
other than a
magistrate for an
inquiry.

45. The Governor-General may appoint a person other than a magistrate as defined by this Act to hold any particular inquiry or other proceeding under this Act, and such person shall for the purposes of such inquiry be deemed to be a magistrate as defined by this Act.

Appointment of
agents.

34 of 1964, s.

46. The Governor-General, a Minister or a statutory corporation may appoint any person to execute and do any act or thing on behalf of such Governor-General, Minister or statutory corporation, as the case may be, for the purposes of this Act.

Unclaimed
money to go to
Consolidated
Fund after 20
years.

47. All money paid into the Treasury under this Act and unclaimed for twenty years after payment in shall be carried to the Consolidated Fund and all claims thereto shall be for ever barred.

Rules of court.
Ch. 53.

48. The Rules Committee under section 75 of the Supreme Court Act may make rules dealing with the matters following —

- (a) notices;
- (b) payment into and out of the Treasury;
- (c) procedure and practice under this Act;
- (d) special cases;

- (e) court fees and attorneys' and counsels' costs and fees; *46 of 1964, Sch.;*
- (f) prescribing forms of agreements, conveyances and other documents for use under this Act.

49. Subject to the provisions of section 48 of this Act, the Minister may make rules for generally carrying into effect the objects of this Act. *Rules by Minister. 46 of 1964, Sch.; E.L.A.O., 1974.*

50. No claim for compensation in respect of any land which may be entered upon, surveyed, set out, appropriated or taken under the authority of this Act, shall be admitted or entertained unless the same shall be made within twelve months after the day on which such land shall have been so entered upon, surveyed, set out, appropriated or taken, as the case may be. *Claim for compensation when barred.*

51. Nothing in this Act contained shall be construed or deemed to confer upon any person any right to compensation in respect of any land resumed in the name of Her Majesty as required for roads or other public works in pursuance of any condition, reservation or power of resumption contained in any grant of Crown land. *Act not to extend to Crown land resumed for roads, etc.*

52. Any person who assaults or beats or obstructs or aids or abets any person to assault or beat, or obstruct an assessor or any other person acting in the execution of any duty under this Act, shall be liable to a penalty of one hundred dollars. *Offences. 5 of 1987, s. 2.*

53. All penalties imposed by this Act shall be recovered in a summary manner before a stipendiary and circuit magistrate, or before any magistrate to whom the Attorney-General shall issue his fiat for the purpose. *Recovery of penalties.*