

**THE LOCAL IMPROVEMENTS (COMMUNITY
AMENITIES) ACT**

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THE LOCAL IMPROVEMENTS (COMMUNITY AMENITIES) ACT

Act
21 of 1977.

[5th August, 1977.]

1. This Act may be cited as the Local Improvements (Community Amenities) Act. Short title.

2. In this Act—

Interpreta-
tion.

“Commissioner” means the Commissioner of Lands;
“landlord”, in relation to any land, means the person
who grants a tenancy in respect of such land;

“Local Authority” means—

(a) a Parish Council constituted under the
Parish Councils Act; or

(b) the Council of the Kingston and St.
Andrew Corporation constituted under
the Kingston and St. Andrew Corpora-
tion Act;

“scheme”, in relation to any land, means a special
improvements (infrastructure) scheme prepared
under section 12 in respect of such land;

“tenant”, in relation to land, means the person who
is in occupation of such land whether as lessee,
licensee or otherwise and “tenancy” shall be
construed accordingly.

3.—(1) The Minister may by order declare any area
defined in the order and comprising lands specified in sub-
section (2) to be a special improvements (infrastructure)
area for the purposes of this Act.

Declaration
of certain
areas as
special
improve-
ments
(infrastructure)
areas.

LOCAL IMPROVEMENTS (COMMUNITY AMENITIES)

(2) The lands referred to in subsection (1) are lands—

(a) on which a community of persons is established primarily for residential purposes on a basis whereby their occupation is in the majority of cases of limited duration (whether by way of lease, licence or otherwise); and

(b) which either—

(i) have been laid out or subdivided for the purpose of building thereon or for sale without the relevant sanction or approval under the Local Improvements Act, or have been developed without complying with the requirements of the Town and Country Planning Act or any development order made thereunder; or

(ii) have been laid out or sub-divided or developed as aforesaid at a time when no such sanction, approval or compliance, as the case may be, was required by law; and

(c) as to which the Minister is satisfied that there is no provision, or no sufficient provision, for any one or more of the following facilities—

(i) roadways;

(ii) water supply;

(iii) sewage disposal;

(iv) electricity supply.

(3) The order shall specify the facilities referred to in paragraph (c) of subsection (2) for which the Minister is satisfied there is no provision or no sufficient provision.

(4) So soon as may be after the order is made, the Minister shall cause to be published in the *Gazette* and

in a daily newspaper published and circulating in Jamaica a notice specifying the place where the plan defining the area covered by the order may be inspected during such period as may be stated in such notice and specifying the period within which and the persons by whom objections to and representations against such order may be made.

(5) For the purposes of this Act—

- (a) a person shall be deemed to lay out or sub-divide land for the purposes of building thereon or of sale, if he sells or offers for sale any part of such land whereon a house or other building may be erected, or if he shall form the foundations of a house or other building thereon in such manner and in such position so that such house or other building will or may become one of two or more houses or other buildings erected on such land;
- (b) “sale” has the meaning assigned thereto by section 5(5) of the Local Improvements Act; and
- (c) “develop” has the meaning assigned thereto by section 2 of the Town and Country Planning Act.

4. Upon the publication of an order under section 3 in the *Gazette*—

- (a) no person shall evict any tenant who is in occupation of any land within the area covered by the order or terminate any existing tenancy of such land without obtaining prior approval of the Minister for proceeding with such eviction or termination;
- (b) no person shall create any new tenancies over such land or admit any new tenants into such land without the prior approval of the Minister; and
- (c) the Minister or any person authorized by him may enter upon such land for any purpose connected

The effect
of an order
under
section 3.

with or incidental to the carrying out of the provision of this Act.

Order under section 3 to be provisional in the first instance.

5. An order made under section 3 shall be provisional in the first instance and, subject to section 6, may be confirmed by the Minister, by notice in the *Gazette*, with or without modifications after a period of six weeks from the date of publication of the order in the *Gazette* and shall come into force on such confirmation.

Objections to the provisional order.

6.—(1) Within a period of six weeks from the date of publication of an order under section 3 in the *Gazette*, the owner of any land affected by the order or any person having an estate or interest in such land may object to, or make representations in respect of, such order.

(2) The Minister shall afford the persons objecting or making representations an opportunity to be heard if so requested by them and after considering such objections or representations he may confirm the order with or without modifications or rescind the same.

Registrar of Titles to be notified of any title affected by the order.

7.—(1) Upon the publication of an order under section 3 in the *Gazette*, the Minister shall notify the Registrar of Titles of any registered titles to land known to the Minister to be affected by the order and shall cause a copy of the order to be served on the Registrar who shall forthwith note the fact of the order having been made on any registered title so known to be affected by the order and of which he has been notified.

(2) Where an order under section 3 is confirmed with modifications or is rescinded, the Minister shall notify the Registrar of Titles of any registered titles to land known to the Minister to be affected by such modifications or rescission and the Registrar shall forthwith remove or make an appropriate change in any note made pursuant to sub-

section (1) on any registered title so known to be affected by such modifications or rescission.

8. The Minister shall cause to be kept in such form and place as he may from time to time determine a register in which shall be entered prescribed particulars in relation to every order made pursuant to this Act and the register shall be open to inspection by any member of the public at all reasonable times.

Register of orders.

9.—(1) Upon the confirmation of an order under section 3, the Minister may direct the compulsory acquisition by the Government of a leasehold interest in the land or any part of the land within the area covered by the order for such period not exceeding ten years or for any other period exceeding ten years as may be agreed between the Minister and the owner of such land.

Compulsory acquisition of a leasehold interest in land affected by the order.

(2) The leasehold interest acquired under subsection (1) shall vest in the Commissioner and shall be for the purpose of the carrying out by the Minister of the provisions of any scheme in respect of the land or part of the land in which such interest is acquired.

(3) Where a leasehold interest in land is compulsorily acquired under subsection (1), the lease shall, subject to section 10, contain such terms and conditions as may be determined by the Minister and may with the agreement of the owner of the land be renewed from time to time, and, subject to subsection (6), in default of such agreement the Minister shall have power—

- (a) to renew the lease for a further period not exceeding ten years; or
- (b) if he considers such renewal inexpedient or if the owner requires him to elect between the option of restoring the land to the person entitled thereto

- and of purchasing it outright, to cause the land to be restored to the person entitled thereto; or
- (c) to acquire the land under the Land Acquisition Act as land needed for a public purpose, so, however, that where the land is compulsorily acquired pursuant to this section the compensation payable in respect thereof shall be—
- (i) determined on the assumption that land will continue to be used in the manner in which it was being used at the time of the order and is not available for use for any other purpose;
 - (ii) reduced by the value of any improvements effected thereon by the Government or by any person occupying such land other than the landlord.

(4) Any such requirement to elect as mentioned in paragraph (b) of subsection (3) shall be notified in writing to the Minister, and any such notice shall be given to him before commencement of the period of six months, or any lesser prescribed period, ending with the date of expiry of the lease upon determination of which he shall elect as aforesaid:

Provided that where the Minister is satisfied that the owner, on account of illness or for any other cause, is denied reasonable opportunity for giving notice of such a requirement before commencement of the said period, the Minister shall comply with the requirement if notice thereof is given within such time (whether during, or after the expiry of, that period) as, in the special circumstances of the case, the Minister considers reasonable.

(5) For the purposes of sub-paragraph (ii) of paragraph (c) of subsection (3) of this section and of sub-paragraph (ii) of paragraph (c) of subsection (3) of section

10 “improvements” includes any amelioration enuring to the benefit of the land from its reclamation, clearance, excavation, filling, grading, levelling, protection against erosion or flood, or any other works, additions or alteration; and any improvements made at any expense defrayed, or defrayable, directly or indirectly out of public funds shall, for the purposes of the sub-paragraphs aforesaid, be deemed to be improvements effected by the Government.

(6) In relation to the termination of any lease pursuant to this section, the provisions of subsections (2) and (3) of section 38 of the Land Acquisition Act shall apply *mutatis mutandis* as they apply on the expiration of a term under that Act without prejudice to the provisions of sub-paragraphs (i) and (ii) of paragraph (c) of subsection (3) of this section.

10.—(1) The procedure in relation to the compulsory acquisition of a leasehold interest in land under section 9 shall, subject to this section, be the same, *mutatis mutandis*, as the procedure under the Land Acquisition Act in respect of land needed for a public purpose.

Procedure
and com-
pensation.

(2) The compensation payable in respect of land so leased shall, in the absence of agreement, be determined in accordance with the following principles—

- (a) annual rental shall be payable for the land on the basis that each year’s rent shall be the equivalent of one *per centum* of the site value of the land at the time of commencement of the lease or any renewal thereof, as the case may be;
- (b) it shall be a condition of the lease of the land—
 - (i) that all land tax, as defined in section 24 (5) (b) of the Land Valuation Act, shall, during the continuance of the lease, be paid by the Commissioner; and

- (ii) that if there is in force an approved mortgage of the land, payments of interest and repayments of capital in conformity with the terms of the approved mortgage, during the continuance of the lease, shall be made by the Commissioner :

Provided that for the purposes of section 9(3) (c) (ii), payments so made towards capital shall be deemed to be moneys expended on improvements effected on the land.

(3) Subject to the provisions of subsection (4), for the purposes of this section—

- (a) “approved mortgage” means a mortgage which the Minister is satisfied, after affording the parties thereto an opportunity of making representations to the Minister (whether in writing or on being heard by a person appointed by the Minister)—
 - (i) was not entered into in contemplation of the application of this section; and
 - (ii) gave rise to proceeds which, in so far as they have been received from the mortgagee, are included in expenditure incurred for the purpose of the purchase, development or improvement of the land so mortgaged, so, however, that whenever a part only of the proceeds is so included the mortgage shall be treated as an approved mortgage in relation only to that part;
- (b) where this section applies to a part only of the land to which an approved mortgage relates, the Minister after affording the parties thereto like oppor-

tunity as mentioned in paragraph (a), may make such apportionment of the interest and capital to that part as the Minister deems meet;

(c) "site value", in relation to land leased under section 9, means the capital sum which the fee simple of the land together with any licence or other right or privilege (if any) for the time being affecting the land, might be expected to realize if offered for sale on such reasonable terms and conditions as a *bona fide* seller would require, so, however, that such value shall be determined subject to the following conditions and in the following manner—

(i) such value shall be determined with reference to the time of commencement of such lease as aforesaid or any renewal thereof, as the case may be, by such authority as may exercise the functions conferred in that behalf pursuant to the Land Acquisition Act;

(ii) any improvements effected on the land by the Government or any tenant of such land and existing at the time with reference to which such value is determined shall not be taken into account; and

(iii) it shall be assumed that the land will continue to be used in the manner in which it was being used at the time with reference to which such value is determined and is not available for use for any other purpose.

(4) Nothing in subsection (3) shall be construed to prevent the Minister's decision, in so far as it forms a basis for the determination of compensation in conformity with subsection (2), from being subject to reference to the

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Supreme Court and appeal therefrom in pursuance of subsection (1).

(5) Notwithstanding anything to the contrary, the Minister shall, at any time, during the subsistence of any leasehold interest in land pursuant to this Act have power to acquire the land compulsorily under the Land Acquisition Act, subject to like terms as specified in paragraph (c) of subsection (3), and subsection (5), of section 9 in relation to compensation.

Principles
applicable
to leasehold
interest
compul-
sorily
acquired.

11.—(1) The following principles shall apply to leasehold interests in land compulsorily acquired under section 9 and any renewal thereof—

- (a) where there is in force a mortgage of the land, the lease shall be valid and effectual notwithstanding a covenant to the contrary in such mortgage and notwithstanding that the mortgagee has not consented to the lease;
- (b) the lease or a sub-lease of the land under paragraph (d) shall be valid and effectual notwithstanding that the land has been laid out or sub-divided for the purpose of building thereon or for sale without the relevant sanction or approval under the Local Improvements Act or has been developed without complying with the requirements of the Town and Country Planning Act or any development order made thereunder;
- (c) the Commissioner shall, as regards any person who at the time of the acquisition was a tenant of the land under any subsisting agreement, be in the position of the landlord under such agreement, so, however, that the Minister may, subject to subsection (2), vary the terms and conditions of such agreement;

- (d) the Minister may, without prejudice to the rights of any existing tenants, sub-lease such land to any person on such terms and conditions as he may determine;
- (e) the lease shall be deemed, for the purposes of the Registration of Titles Act, to be an incumbrance noted on the certificate of title in respect of such land.

(2) Where during the existence of any agreement the terms and conditions thereof are varied pursuant to paragraph (c) of subsection (1), any person aggrieved by such variation may apply to the Resident Magistrate's Court of the parish in which the land is located to determine what (if any) compensation is payable consequent on such variation.

12.—(1) Upon the coming into force of an order declaring any area to be a special improvements (infrastructure) area, the Minister may cause to be prepared a special improvements (infrastructure) scheme in respect of the land or any part of the land within such area.

Special
improvements
(infrastructure)
scheme.

(2) The scheme shall—

- (a) contain a plan defining the area affected by it;
- (b) state the nature of the improvements to be effected in the area, that is to say whether it is the provision of any one or more of the following facilities—
 - (i) roadways;
 - (ii) facilities for sewage disposal;
 - (iii) water supply;
 - (iv) electricity supply;
- (c) be accompanied by plans, specifications and estimates of the improvements to be effected;

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- (d) indicate any land or part of the land within the area covered by the scheme in respect of which the Government has acquired or proposes to acquire a leasehold interest under section 9.

Scheme to be provisional in the first instance.

13.—(1) Every scheme shall be provisional in the first instance and shall be subject to approval by the Minister.

(2) Forthwith upon the preparation of a scheme and before approving it the Minister shall—

- (a) cause to be published in the *Gazette* and in a daily newspaper published and circulating in Jamaica a notice stating the intended approval of the scheme, naming a place where the plan and particulars of the scheme may be inspected and specifying the time within which and the manner in which objections to or representations in respect of the scheme or any provisions thereof may be made;
- (b) cause a notice to the like effect to be served on every owner and on every other person who to the knowledge of the Minister has an estate or interest in any land in the area covered by the scheme:
 Provided that failure to serve any such notice shall not in any manner invalidate such scheme; and
- (c) consider any objections or representations made to him in pursuance of any such notice and if any person making such objections or representations so requires, afford to that person an opportunity to be heard.

Local Authority, etc., to be consulted before approving the scheme.

14. The Minister shall, before approving a scheme, consult the Local Authority within whose area the scheme is to be operative, the National Water Commission established under the National Water Commission Act and the Minister in charge of the subject of health.

15. The Minister may, after complying with the requirements of sections 13 and 14, approve a scheme either without modification or with such modifications as he thinks fit or refuse to approve the scheme.

Approval of scheme by Minister.

16. Upon the approval of a scheme by the Minister, he may cause to be carried out, in respect of any land affected thereby, any of the provisions of the Scheme.

Power to carry scheme into effect.

17. For the purpose of carrying into effect the provisions of any scheme in respect of any land, the Minister may, where he deems it necessary, cause to be acquired any other land adjoining or adjacent to the first mentioned land under the Land Acquisition Act as land needed for a public purpose.

Acquisition of other land for the purpose of carrying scheme into effect.

18. The provisions of the Local Improvements Act or the Town and Country Planning Act shall not apply to the carrying into effect of the provisions of any scheme.

Local Improvements Act and Town and Country Planning Act not to apply.

19. Any person who contravenes the provisions of this Act or obstructs or hinders any other person carrying out or acting under the provisions of this Act shall be guilty of an offence and, on summary conviction thereof before a Resident Magistrate, be liable to a fine not exceeding two hundred dollars or to imprisonment with or without hard labour for a term not exceeding three months or to both such fine and imprisonment.

Offences.

20.—(1) The Minister may make regulations generally for giving effect to the provisions of this Act.

Regulations.

(2) In particular and without prejudice to the generality of the foregoing provisions any such regulations may prescribe anything required or authorized to be prescribed under this Act.