

CHAPTER 106

LAND RECLAMATION ACT

[8th September, 1961]

ARRANGEMENT OF SECTIONS

SECTION

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S.I. 72 of 1976.
Act 23 of 1976.
Dec. 30 of 1978.
S.I. 55 of 1988.
S.I. 61 of 1988.
S.I. 41 of 1991.

Short title.
3/23/1976.

1. This Act may be cited as the Land Reclamation Act.

President may
authorise reclama-
tion.
S.I. 95/1975.
2nd Sch./
13/1975.
S.I. 72/1976.

*2(1) The President may authorise under such conditions and for such payment as he may think fit any owner of land bordering on the foreshore, hereinafter referred to as the grantee, to fill in the whole or any portion of the foreshore which borders on the land belonging to such owner.

(2) An authority granted under subsection (1) shall specify the boundaries and area of the foreshore to be filled in. If necessary the authority may also specify the level to which the land is to be reclaimed.

(3) Any land so reclaimed shall become the property of the grantee, anything in Article 538 of the Civil Code of Seychelles to the contrary notwithstanding.

Procedure to be
followed.
Saving.
S.I. 95/1975.
S.I. 72/1976.

3(1) Before authority is granted under subsection (1) of section 2, the procedure laid down in the rules in the First Schedule shall be followed as far as possible.

(2) Any failure to comply with the rules or any irregularity in the procedure followed shall not vitiate an authority granted under subsection (1) of section 2, and nothing in this section shall be deemed to limit or qualify the powers of the President to act under that subsection.

Reclamation to be
carried out and
completed to
satisfaction of the
Public Works
Manager
2/34/1967.
S.I. 95/1975.
S.I. 104/1975.
S.I. 72/1976.

*4(1) Any authorised reclamation shall be carried out and completed to the satisfaction of the Public Works Manager.

(2) If the Public Works Manager is dissatisfied with the manner in which the reclamation is being carried out or has been done, he may give directions with regard thereto, and the grantee shall be bound to comply with such directions subject to a right of appeal to the President.

(3) If the Public Works Manager is so dissatisfied with the manner in which the reclamation is being carried out or has been

*President's powers under sections 2(1), 4(2) and (3) and 6 delegated to the Town and Country Planning Authority. (S.I. 39/1972 Cap 241, Sub. Leg.)

done, as to be of opinion that the foreshore should be restored to its original condition he shall report the matter to the President who may, rescind the authority given under subsection (1) of section 2. The grantee shall thereupon be bound to restore the foreshore to its original condition at his own cost.

5. The provisions of sections 2 and 3 shall apply to the Republic in cases where the foreshore borders on State Land or on land which is deemed to form part of the *domaine public*. In both cases the reclaimed land shall become the property of the Republic as part of the *domaine privé*.

Sections 2 and 3
to apply to the
Republic.
S.I. 72/1976.

*6(1) The President may in accordance with the provisions of this section, authorise the reclamation of land or the performance of other works over and upon the foreshore or the seabed irrespective of the ownership of land bordering on or of whether any land borders on such foreshore or seabed.

President may
authorise
undertaking.
S.I. 95/1975.
S.I. 104/1975.
S.I. 72/1976.

(2) Notification of the proposed reclamation or other works, hereinafter referred to as an undertaking, shall be published and given in accordance with the rules in the Second Schedule.

(3) Any person having any objection to an undertaking or any claim of private right in respect thereof shall submit such objection or claim in writing to the Public Works Manager before the expiration of such period, being not less than two months, as may be specified in the notification above referred to, specifying the nature thereof and giving an estimate of any loss which it is alleged would be incurred by reason of the extinguishment of any private right.

(4) Whenever objections or claims have been submitted and the President considers it expedient so to do, he may appoint one or more persons to hold an inquiry on such matters as he may set out in the terms of reference. Such person or persons shall keep or cause to be kept a record of any evidence taken and shall report their findings to the President.

*President's powers under sections 2(1), 4(2) and (3) and 6 delegated to the Town and Country Planning Authority. (S.I. 39/1972 Cap 241, Sub. Leg.)

(5) The President may, after considering the proposed undertaking together with all objections and claims submitted, and, if an inquiry has been held under the provisions of subsection (4), the record of the proceedings and the report of the person or persons who held the inquiry, authorise such undertaking with or without modifications.

(6) A notification of such authorisation together with a description of the undertaking shall be published in the *Gazette*.

Extinguishment of rights.

7. Upon publication of the authorisation of an undertaking, all public and private rights of navigation or fishing, all public and private rights of access, user, possession or occupation, and all other public or private rights (if any) in, upon or over the foreshore or seabed occupied by the undertaking shall be extinguished and cease to exist.

Limitation of claims.
3/23/1976.

8(1) Save as provided by this Act no claim shall at any time be made, action brought or continued in respect of the extinguishment under section 7 in whole or in part of any public or private right or in respect of the injurious affection, resulting from the undertaking, of any public right.

(2) Any person who submitted a claim of private right in accordance with the provisions of subsection (3) of section 6 may, within two months of the notification under subsection (6) of that section of the authorisation of the undertaking, submit a claim for compensation in respect of the extinguishment of such private right.

The Supreme Court to hear and determine claims for compensation.
S.I. 95/1975.
S.I. 72/1976.

9(1) The Supreme Court shall hear and determine claims for compensation under section 8, in the same manner as any civil action instituted in that Court.

(2) Notwithstanding the provisions of this section the President may enter into an agreement with any claimant for the compromise or settlement of his claim.

10. Nothing in this Act shall be deemed to recognise or create any right or claim, or any greater right or claim to compensation than but for this Act would exist and be recognised and enforceable by action in court:

No new right or claim created.
S.I. 95/1975.
S.I. 72/1976.
3/23/1976.

Provided that the President may entertain and pay compensation in respect of any moral claim arising out of any damage suffered by reason of an undertaking authorised under section 6.

11(1) Any land reclaimed or works done or erected as the result of an undertaking shall vest in the Republic as part of the *domatne privé*.

Reclaimed land and works to vest in the Republic.
Agreements relating to such reclaimed land and works.
S.I. 95/1975.
S.I. 72/1976.
3/23/1976.

(2) The President may enter into an agreement with any person either before or after the completion of an undertaking for the sale, lease or the granting of any other rights to such person over the reclaimed land or other works, and such person's rights shall be determined in accordance with the terms of the agreement.

(3) An agreement entered into by the President under the provisions of subsection (2) shall be subject to such conditions as the President may think fit.

(4) The provisions of the State Land and River Reserves Act relating to the sales and leases of State Land shall not apply in the case of an agreement falling within the terms of this section.

Cap. 228.

12(1) The President may by order published in the *Gazette* give retrospective authority to any land reclamation or other works which may have been started or completed.

Power to grant retrospective authority for land reclamation and other works.
S.I. 95/1975.
S.I. 72/1976.
3/23/1976.
2/Dec 30/1978.

(2) The provisions of the Act shall apply in respect of such land reclamation or other works as it applies to a duly authorised land reclamation or undertaking, subject however to such exceptions, modifications or adaptations, as the President may specify in the order.

13. Notwithstanding any other provision of this Act, if the President is satisfied —

(a) that an extension of an undertaking authorised under

Extension of undertakings.
2/16/1970.
S.I. 95/1975.
S.I. 72/1976.
3/23/1976.

section 6(5) is or was necessary to enable the reclamation or other works to be satisfactorily completed, and

- (b) that the undertaking, as so extended, would, in kind, be substantially the same undertaking as was authorised under section 6(5),

then the President may, by order published in the *Gazette*, authorise such extension in such terms as may be specified in the order, and thereupon the undertaking, as so extended, shall be deemed, for the purposes of sections 7 and 11, to have been the undertaking which was authorised under the said section 6(5) and published under section 6(6), and no claim shall at any time be made or action brought or continued in respect of the extinguishment under the provisions of section 7 (as applied by this section) in whole or in part of any public or private right affected by the extension or in respect of the injurious affection, resulting from the extension, of any public right:

Provided that any such order may, if the President thinks fit, make provision for allowing the submission under section 9 of claims for compensation in respect of such extinguishment as aforesaid of any private right affected by the extension.

Rules.
S.I. 95/1975.
S.I. 72/1976.
3/23/1976.

14. The President may make rules for carrying out the objects and provisions of this Act and without prejudice to the generality of the foregoing power such rules may —

- (a) provide for the payment of fees, expenses and costs;
(b) prescribe forms for the various applications and notices required under this Act;
(c) add to, amend and vary the schedules to this Act.

Interpretation.

15. The term “foreshore” shall include all the portion of the foreshore adjacent to the sea, which is alternately covered and uncovered by the sea at the highest and lowest tides.

16. Nothing in this Act shall be deemed to be in derogation of any of the powers, rights and prerogatives of the Republic.

Saving of powers, rights and prerogatives of the Republic.
S.I. 72/1976.
3/23/1976.

FIRST SCHEDULE

1. Any person seeking authority to fill in any foreshore under the provisions of section 2 of this Act shall,

(Secs. 3(1) and 14).

(a) apply in writing to the Director of Physical Planning specifying the boundaries and area of the portion of the foreshore proposed to be filled in;

S.I. 3/1975.

S.I. 23/1976.

S.I. 95/1975.

S.I. 55/1988.

S.I. 61/1988.

S.I. 41/1991.

(b) establish permanent beacons or marks to the satisfaction of the Director of Physical Planning indicating the boundaries of the portion of the foreshore proposed to be filled in, such beacons or marks to be visible at all states of the tide;

(c) pay any fees that may be payable; and

(d) deposit with the Principal Secretary of the Ministry of Finance, such sum as the Director of Physical Planning may require to defray the costs incidental to or resulting from his application.

2. The application shall give particulars sufficient to identify the position of the land proposed to be reclaimed and shall, if the Director of Physical Planning considers necessary for that purpose, be accompanied by a plan.

S.I. 95/1975.

S.I. 55/1988.

3. After the foregoing rules have been complied with the Director of Physical Planning shall cause a notice to be published in two separate issues of the Gazette and of a newspaper published and circulating in Seychelles.

S.I. 55/1988.

4. The notice shall —

S.I. 95/1975.

S.I. 55/1988.

(a) give the particulars of the application as required under paragraph (a) of rule 1 above;

- (b) state the place where any plan deposited with the application may be inspected; and
- (c) call upon any person having objections to the proposed reclamation to lodge such objections in writing with the Director of Physical Planning within such time, being not less than fourteen days from the date of the first publication of the notice in the *Gazette*, as may be specified in the notice.

5. A person may object to the proposed reclamation on any of the following grounds, but not otherwise:—

- (a) that the proposed reclamation may adversely affect any property owned or occupied by him or any rights which he may have;
- (b) that the proposed reclamation may adversely and to an unreasonable extent affect public rights;
- (c) that the proposed reclamation may adversely affect the natural beauty of the coastal area where the reclamation is to be carried out.

S.I. 95/1975.
S.I. 55/1988.

6. An objection must be lodged in writing with the Director of Physical Planning. A copy of the objection shall also be supplied for transmission to the applicant.

S.I. 30/1975.
S.I. 95/1975.
S.I. 55/1988.

7. The Director of Physical Planning shall cause such enquiries, including the inspection of the site, to be made as he considers necessary. He shall thereafter transmit for submission to the Town and Country Planning Authority established by the Town and Country Planning Act —

- (a) the application;
- (b) any objections thereto;
- (c) the reply (if any) of the applicant to any such objections; and
- (d) a report and any recommendation thereon.

SECOND SCHEDULE

1. Notification of a proposed undertaking shall be published - (Secs. 6(2) and 14.)
 - (a) in three issues of the *Gazette*; and S.I. 23/1967.
 - (b) in three issues of a newspaper published and circulating in Seychelles.
 2. A notification under rule 1 shall — S.I. 95/1975.
S.I. 55/1988.
 - (a) describe the undertaking and give the approximate area to be occupied in connexion therewith; and
 - (b) call upon all persons having objections to the undertaking or any claims of private right in respect thereof to submit to the Director of Physical Planning before the expiration of such period, being not less than two months, as may be specified in such notification, such objections or claims in writing, specifying the nature thereof and giving an estimate of any loss which it is alleged would be incurred by reason of the extinguishment of any private right.
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