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**LAWS OF THE GAMBIA**

**LAND ACQUISITION AND  
COMPENSATION ACT**

**CHAPTER 57:06**

**Act No.  
5 of 1991**

**CHAPTER 57:06****LAND ACQUISITION AND COMPENSATION ACT****ARRANGEMENT OF SECTIONS****SECTION**

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**SCHEDULE***Forms*

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## CHAPTER 57:06

## LAND ACQUISITION AND COMPENSATION ACT

**An Act to make provision for the acquisition of land for public purposes and for the payment of compensation for such land, and to make provision for connected matters.**

[Act No. 5 of 1991.]

[Date of commencement: 27th December, 1991.]

**1. Short title**

This Act may be cited as the Land Acquisition and Compensation Act, and shall come into effect on the date on which the State Lands Act comes into effect.

[Cap. 57:02.]

**2. Interpretation**

In this Act, unless the context otherwise requires—

“**approved plan**” has the meaning assigned to it under the Physical Planning and Development Control Act;

[Cap. 57:08.]

“**Department**” means the Department of Lands and Surveys;

[Act No. 10 of 2008.]

“**lands**”, “**lease**” and “**State land**” shall have the meaning assigned to them under the State Lands Act;

[Cap. 57:02.]

“**Planning Authority**” is the body established under the Physical Planning and Development Control Act;

[Cap. 57:08.]

“**planning purposes**” means the objectives to be achieved by the approved plans and it includes the pooling or subdivision, reservation or re-distribution of land in accordance with the provisions of an approved plan;

“**public purposes**” includes—

- (a) for exclusive Government use or for community use;
- (b) for or in connection with sanitary improvements of any kind, including reclamations;
- (c) for or in connection with the laying out of any new Government station or the extension or improvement of any existing Government station;
- (d) for obtaining control over land contiguous to any port or airport;

- (e) for obtaining control over land required for defence purposes;
- (f) for obtaining control over land subjected to environmental protection and conservation;
- (g) for obtaining control over land the value of which will be enhanced by the construction of any railway, road or other public works or convenience about to be undertaken or provided by the Government; and
- (h) for planning purposes.

### **3. Land acquired under this Act designated as State lands**

Any land acquired under the provisions of this Act shall be designated as State lands and shall be administered under the provisions of the State Lands Act.

### **4. Power of Minister of acquire lands**

The Minister may acquire any land for public purpose, paying therefor such consideration or compensation as may be agreed on or determined in accordance with this Act.

### **5. Preliminary investigations of land**

(1) Whenever land is required for public or planning purposes, the Department or any person generally or specially authorised by the Department in that behalf, with or without workers, may subject to subsection (2)—

- (a) enter on and survey and take levels of such land;
- (b) dig or bore under the subsoil;
- (c) do all other acts necessary to ascertain whether the land is suitable for the purpose for which it is required; and
- (d) clear, set out and mark the boundaries of the land proposed to be acquired.

(2) A person authorised under subsection (1) of this section, shall not enter into any building or on any premises except with the consent of the owner or occupier and without previously giving the owner or occupier at least seven days notice in writing of his or her intention to do so.

(3) The Department is liable to pay reasonable compensation for any damage done in the course of entry made in accordance with the provisions of subsection (1).

### **6. Power of persons under disability**

(1) It is lawful for the persons being seized of, possessed of or entitled to any land or any estate or interest therein to sell and convey the same to the Minister and particularly it is lawful for all or any of the following persons, namely,

guardians of awards, committees of persons of unsound mind, trustees for charitable or other purposes, executors or executrices and administrators or administratrices and persons for the time being entitled to the receipt of the rents and profits of any lands.

(2) The power to sell and convey as aforesaid may lawfully be exercised by such persons not only on behalf of themselves and their respective heirs, executors or executrices, administrators or administratrices and successors but also for and on behalf of every person entitled in reversion or remainder after them or in defeasance of their estates and as to such guardians on behalf of their wards and as to such committees on behalf of the persons of unsound mind of whom they are the committees and as to such trustees, executors or executrices and administrators or administratrices on behalf of their *cestui que* trusts respectively to the same extent as such wards, persons of unsound mind and *cestui que* trusts could have exercised under this Act if they had not respectively been under disability.

#### 7. Notice of intention to acquire

(1) Whenever the Minister on the advice of the Department resolves that any land is to be acquired under the provisions of this Act, the Department shall, give notice to the persons interested in such land or claiming to be interested therein or to the persons entitled to sell or convey the same or to such of them as shall after reasonable inquiry be known to the Board, which notice shall be in the Form A set out in the Schedule to this Act.

[Form A, Schedule.]

(2) The Department or a person authorised by the Department may by the notice or by any subsequent notice direct the persons referred to subsection (1) of this section to yield up possession of the land specified in the notice, after the expiration of the period specified therein which period shall not be less than six weeks from the date of service of the notice.

(3) At the expiration of the period specified in the notice, the Department or the person authorised by the Department shall be entitled to enter into and take possession of the land.

(4) A notice under this section shall—

- (a) be served personally on the person to be served;
- (b) be sent by registered post to the last address of the person, if any such address can after reasonable inquiry be ascertained; or
- (c) in case the person is absent from The Gambia or if the person or his or her last address cannot, after reasonable inquiry, be found, be left with the occupier of the land.

(5) A notice under this section shall be published at least once in the *Gazette*.

**8. Disputes on compensation or title to be settled by arbitration or by High Court**

(1) Where pursuant to a notice given under section 7—

- (a) no claim is lodged with the Department within twenty one days of the service of the notice required by that section;
- (b) the person who may have lodged any claim and the Department are unable to agree as to the amount of compensation or consideration to be paid for the estate or interest in the land in question belonging to the person, or which he or she is by this Act enabled to sell or convey;
- (c) if the person has not given satisfactory evidence in support of his or her claim; or
- (d) if separate and conflicting claims have been lodged in respect of the same land,

the amount of compensation or consideration due, if any, and every case of disputed interest or title except those held under customary occupation, may with the consent of the persons interested in the land be referred to arbitration by the Department in accordance with the provisions of the Alternative Dispute Resolution Act.

[Cap. 6:08.]

(2) All cases of disputed interests or title of land held under customary occupation shall be referred to the relevant District Tribunals.

(3) All cases of compensation or disputed interests or titles on land which are not settled under the provisions of subsection (1) and (2) of this section, shall be determined by the High Court, which shall have jurisdiction to hear and determine all cases set out in this section on a summons taken out by the Attorney-General or by any person holding or claiming any estate or interest in the lands named in such notice.

**9. Ex parte decisions**

Where a person on whom a summons has been served pursuant to subsection (3) of section 8, does not appear at the time appointed for the hearing by the High Court, a decision may be given *ex parte* upon hearing the evidence adduced and such decision shall be as effectual as if given after hearing and in the presence of all parties.

**10. Divided property**

(1) A person shall not at any time be required to sell or convey to the Minister a part only of any house or building if the person is willing and able to sell and convey the whole thereof.

(2) If any land required for a public purpose, not being situated in a town or urban area, is so divided by the land so acquired as to leave a parcel of land of less than half the original area and if the owner or occupier of the land so left

requires the Department to acquire the same together with the other part required for public or planning purpose, the Department shall acquire the same accordingly unless the owner or occupier thereof has other lands adjoining thereto into which the land can conveniently be annexed.

#### **11. Computation of compensation**

(1) Where any land has been acquired under this Act, compensation shall only be payable in addition to the value of any improvement or works constructed on the land—

- (a) for the loss of usufructuary rights over the land in the case of land under customary tenure; and
- (b) for the value of the land in the case of freehold land.

(2) In estimating the compensation to be given for any land or any estate therein or for any mesne profits thereof, the Department shall—

- (a) assess the land according to what it shall find to have been the value of the land, estate or interest or profits at the time of the service of the notice to acquire, and shall not take into account any improvements or works made or constructed thereafter on the land;
- (b) where part only of the land belonging to any person is acquired under this Act, take into consideration the enhancement of the value of the residue of the lands by reason of the proximity of any improvements or works made or constructed or to be made or constructed by the Government; and
- (c) have regard not only to the value of the land acquired for public purposes but also to the damage, if any, to be sustained by the owner by reason of the severance of such land from other lands belonging to the owner or occupier or other injurious affecting of such other lands by the exercise of the powers conferred by this Act.

(3) The Department may use the services of the Government Valuation Officer or any other competent valuer to estimate the compensation as specified in subsection (1) of this section.

(4) If the arbitral tribunal or High Court, to whom the disputed cases of compensation are referred to under section 10 of this Act, is not in agreement with the compensation estimated by the Department as under subsection (1) of this section, it shall make its own estimates of the compensation, provided the estimates take into account the matters specified in subsection (1) of this section.

#### **12. Compensation for loss of rents and profits**

When the Department has, in pursuance of a notice under section 9, entered into possession of any lands, the Department shall also pay compensation to the owner or occupant of the land and to all parties entitled to any estate or interests



therein for loss of rents and mesne profits for the period between the time the Department so entered and the time when the compensation or consideration due has been paid to the persons entitled thereto or has been paid into Court under this Act.

### **13. When the Department may withdraw from acquisition**

(1) Nothing contained in this Act shall be taken to compel the Department to complete the acquisition of any land unless it—

- (a) has entered into possession of the land; or
- (b) has failed within one month of the judgement of the Court to intimate the Court that it does not intend to proceed with the acquisition; and
- (c) has failed to proceed with the acquisition within six months after the service of the notice required under section 7 of this Act and has failed to intimate to the persons on whom the notice was served that it does not intend to proceed with the acquisition.

(2) In any such case, the owner of the land and all persons entitled to any estate or interest therein are entitled to receive from the Department all such costs as may have been incurred by them by reason or in consequence of the proceedings for acquisition and compensation for the damage, if any, which they have sustained by reason or in consequence of the notice of intended acquisition.

### **14. Cost of proceedings**

(1) In any proceedings under this Act, the parties are entitled to receive costs against each other in the same manner as if the proceedings had been between subject and subject and every sum agreed by arbitration or directed by the Court to be paid by the Department as costs shall, on production of a certified copy of the order of the Court, be paid by the Government.

(2) Where the amount agreed by the arbitration or awarded by the Court as the consideration or compensation payable to the owner or occupant of any estate or interest in any lands acquired under this Act does not exceed the sum offered by the Department to the owner or occupant as consideration or compensation for such estate or interest, he or she shall pay the costs of all proceedings taken under section 8 of this Act rendered necessary by his or her action.

### **15. Postponement of payment of compensation**

(1) Where the final judgement has been received in any proceedings in respect of any compensation or any question of disputed interest or title, a person on whom summonses have not been served, and who has not appeared or claimed or on whose behalf no claim has been made, may make a claim at any time within six months of the date of final judgement.



(2) In all cases where a compensation has been awarded, whether the same be in the form of a sum of money or an annual rent, the amount of compensation or such part of it as is payable within the said period of six months, except where a valid written title to the land is delivered, shall be paid into Court and shall not be paid out of Court until the said period of six months has elapsed from the date of the final judgement, after which on application to the Court by any person claiming to be interested therein, it may be paid to whomsoever the Court may direct.

(3) The payment of lump sum or annual rent as compensation into the Court shall operate as a complete discharge and acquittance of the Department of all claims in respect of the land or any interest therein, but shall not hinder any subsequent proceedings by any person claiming to have a better right against the person to whom the payment has been made.

#### **16. Persons in possession as owners deemed entitled to land**

(1) Where a question arises in respect of the title to any land to be acquired, the parties—

- (a) in possession as beneficial owners or occupants; or
- (b) entitled to the receipt of the rents of such lands at the time when such lands are purchased or taken,

shall be deemed to be lawfully entitled to the land, unless the contrary is proved to the satisfaction of the Court.

(2) The parties and all other parties claiming under them or consistently with their possession shall be deemed to be entitled to the consideration or compensation, but without prejudice to any subsequent proceedings against the parties by any person claiming to have a better right.

#### **17. Minister exonerated upon payment**

(1) The payment to a person to whom any consideration or compensation is to be paid by agreement or arbitration or payment into Court of any consideration or compensation on judgement of the Court, shall effectually discharge the Minister from being responsible for the application or answerable for the misapplication thereof subject to subsection (2).

(2) Where a person is in possession by virtue of any estate less than an estate of inheritance or where a person is in possession in any fiduciary or representative capacity, the Minister may pay such consideration or compensation to the person and in such proportions and in such manner as the Court may direct.

#### **18. Conveyances Forms B and C in the Schedule**

Conveyance of lands acquired under this Act may be in Form B or C set out in the Schedule or by deed in any form which the Department may deem fit and shall be executed by the Department under its own seal.

[Forms B and C, Schedule.]

**19. Certificate of title**

At any time after the expiration of six weeks from the date of the service and publication of the notice prescribed by section 7 of this Act, in relation to the land and provided no Court action is pending thereto, the land shall be deemed to have vested in the Minister who shall issue a certificate of title to the land.

**20. All conveyances to be registered**

A conveyance or certificate of title granted under this Act shall be registered in the relevant office of land registry and every such conveyance shall confer on the Minister in trust for the State the estate or interest comprised or referred to therein against all persons, free from all adverse or competing rights, titles, interests, claims and demands, whatsoever, subject always to the terms and conditions, if any, contained therein.

**21. Proceedings where possession of land is withheld**

(1) If a person hinders or obstructs any person duly authorised by the Department from entering upon and taking possession of the land as provided in subsection (3) of section 7 of this Act, the Department may apply *ex parte* at any time to the High Court for a writ of possession.

(2) The Court shall on proof of the compliance of the conditions prescribed under section 7 of this Act, issue a warrant of possession which may be in Form E set out in the Schedule thereto or to the like effect, addressed to the Sheriff, under which an officer of the Court or a police officer may forthwith eject any person withholding possession.

[Form E, Schedule.]

**22. Penalty for hindering the taking possession of land**

A person who—

- (a) hinders or obstructs any person duly authorised by the Board from entering upon or taking possession of any land in possession of any party; or
- (b) molests, hinders or obstructs such person when in possession of such lands; or
- (c) hinders or obstructs any person lawfully executing a warrant of possession over such lands,

commits an offence and is liable on summary conviction to a fine not exceeding one thousand dalasis or such other penalties which the Minister shall, by regulations, prescribe.

**23. Minister to make regulations**

The Minister may make regulations and rules for the better carrying out of the provisions of this Act.

**24. Repeal of sections 24 to 28 of Lands (Regions) Act and saving**

(1) This Act repeals sections 24 to 28 of the Lands (Regions) Act.\*

[Cap. 57:03.]

(2) Notwithstanding subsection (1), any action commenced and pending or notice served or other thing done before the coming into force of this Act shall be continued and enforced as if this Act had not been passed.

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\* Repeal effected in the Lands (Provinces) Act, Cap. 57:03.

## SCHEDULE

## FORM A

[Section 7.]

*Land Acquisition and Compensation Act, Cap. 57:06**Notice of Requirement of Land for Public or Purpose at .....*

.....  
 Notice is hereby given that the Minister responsible for the administration of this Act has resolved that the acquisition of the following land (describe land giving measurements and showing a cadastral plan where boundaries are clearly marked) which is required by the Government of The Gambia for public .....

.....  
 shall be acquired for such public purposes.

Any person claiming to have any right or interest in the said land is required within twenty-one days from the date of this notice to send to the Director, .....

..... *(Insert the name of the department)*

Department of Lands and Surveys, a statement of such claimants' right or interest and of the evidence thereof, and of any claim made by him or her in respect of the value of such land or of his or her interest therein.

Land in respect of which no statement is lodged within the period herein prescribed is liable to be treated as unoccupied land.

Notice is further given that the Department intends to enter into possession of the said land at the expiration of ..... weeks from the date of this notice

*(Signed):* .....

Director, ..... Department of Lands and Surveys

Seal of the Department

To: .....

.....

.....

\_\_\_\_\_

*Land Acquisition and Compensation Act*

## FORM B

[Section 18.]

*Conveyance of Freehold Land or Land Held under Customary Tenure at .....*

This conveyance made the ..... day of .....  
 between ..... (hereinafter called the "Vendor")  
 of the one part and ..... the

*(Name of the Department)*

Department of Lands and Surveys responsible for the administration of State Lands Act  
 in .....  
 (hereinafter called the "Purchaser", which expression shall include the Secretary or any  
 officer authorised on that behalf) of the other part.

Whereas the Vendor has agreed to sell the property .....  
*(describe premises to be conveyed and refer to plan to be endorsed on or annexed to this  
 deed)* to the Purchaser for the sum of D ..... and the Purchaser has agreed to  
 pay the same amount.

Now this Deed witnesseth that in consideration of the sum of D ..... paid to  
 the Vendor by the Purchaser.

The Vendor as Beneficial Owner hereby conveys unto the Purchaser all the said property  
 to Hold unto the Purchaser to the use of the Government of The Gambia.

In witness whereof the Vendor has here unto set his or her hand for and seal the day and  
 year above written and the purchaser has hereunto set his or her hand and seal this .....  
 day of ..... , 20.....

Signed, Sealed and delivered  
 by the above named

*(Signature of Vendor)*

.....  
 in the presence of: .....

*(Seal of Vendor)*

Signed by .....  
 the Director, .....

*(Signature of Director)*

Department of Lands and Surveys, in the presence of: .....  
*(Seal of ..... Department  
 of Lands and Surveys)*

## FORM C

[Section 18.]

Conveyance of Leasehold Land at .....

This Deed made the ..... day of ....., 20..... between  
 ..... (hereinafter called the "Lessee") of the one part and the  
 ..... Department of Lands and Surveys for the time being responsible  
 for the administration of the State Lands Act in ..... (hereinafter called  
 the "Lessor", which expression includes the Secretary or any duly authorised officer in  
 that behalf) on the other part.

Witnesseth that in consideration of the payment of D ..... as compensation  
 by the Lessor, the Lessee both hereby surrenders all rights on and convey back to the  
 Lessor all (describe premises to be conveyed and refer to plan to be endorsed on or  
 annexed to the deed).

In witness whereof the Lessee has hereunder set his or her hand and seal the day and  
 year mentioned and the Lessor has thereunto set his or her hand and seal ..... day of  
 ....., 20.....

Signed, sealed and delivered  
 by the above named

(Signature of Lessee)

.....  
 in the presence of

(Seal of Lessee)

Signed by ..... the  
 Secretary ..... Department of  
 Lands and Surveys in the presence of .....

(Signature of Director)

..... Department of  
 Lands and Surveys

(Seal of ..... Department of Lands  
 and Surveys)

*Land Acquisition and Compensation Act*

## FORM D

[Section 19.]

*Certificate of Title by the Minister*

It is hereby certified and declared that pursuant to the provisions under section 19 of the Land Acquisition and Compensation Act, all (describe premises to be acquired and refer to plan to be endorsed on or annexed to certificate) together with all ways, rights and appurtenances thereto belonging are vested in the State for the public purpose of .....

Dated the ..... day of ....., 20.....

(Signed) .....

*Minister*

## FORM E

[Section 23.]

*Warrant of Possession to the Sheriff of The Gambia*

(Seal of Court)

Whereas according to the provisions under section 23 of the Land Acquisition and Compensation Act, the ..... Department of Lands and Surveys responsible for the administration of the Act in ..... is entitled to enter and take possession on behalf of the State all (describe the lands).

These are therefore to command you to put the board or any person authorised by the Department in that behalf in possession of the said lands.

Dated the ..... day of ....., 20.....

(Signed) .....

*Judge of High Court*



**CHAPTER 57:06**

**LAND ACQUISITION AND COMPENSATION ACT**

**SUBSIDIARY LEGISLATION**

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*No Subsidiary Legislation*

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