

GOVERNMENT NOTICE NO. 30

LANDS ACQUISITION AND COMPENSATION ACT

(CAP. 58:04)

LANDS ACQUISITION AND COMPENSATION REGULATIONS, 2020

IN EXERCISE of the powers conferred by section 18 of the Lands Acquisition and Compensation Act, I, KAMLEPO KALUA, Minister of Lands, Housing and Urban Development, make the following Regulations—

ARRANGEMENT OF REGULATIONS

REGULATIONS

PART I—PRELIMINARY

1. Citation and application

PART II—ACQUISITION

2. Notice of preliminary investigation
3. Notice of intention to acquire and claim
4. Notice to yield up possession

PART III—COMPENSATION

5. Offer of compensation
6. Acceptance of compensation

PART IV—DISPUTE SETTLEMENT

7. Commencement of proceeding in court
8. Date of hearing
9. Notice of hearing
10. Witness summons
11. Attendance of defendant
12. Dismissal for non-attendance
13. Restoration of proceeding
14. Procedure for hearing
15. Witness summons
16. Determination in writing
17. Costs
18. Open proceeding
19. Duration of hearing
20. Appeals to the High Court
21. Final determination of facts

PART I—PRELIMINARY

- 1.—(1) These Regulations may be cited as the Lands Acquisition and Compensation Regulations, 2020.

Citation and
application

(2) These Regulations shall not apply to a process of lands acquisition and compensation which was commenced before the coming into force of these Regulations.

PART II—ACQUISITION

Notice of preliminary investigation

2. A notice of preliminary investigation as provided under section 4(2) of the Act shall be in Form I in the Schedule hereto.

Notice of intention to acquire and claim

3.—(1) A notice of intention to acquire as provided under section 5(1) of the Act shall be in Form II in the Schedule hereto.

(2) A notice of a claim provided under section 5(3) of the Act shall be in Form III of the Schedule hereto.

(3) A person shall, upon completion of the form, submit the form, with evidence of proof of ownership of land, to the district lands officer and the officer shall within twenty-one days of receipt of the form, submit the forms to the Commissioner of Lands.

Notice to yield up possession

4. The notice to yield up possession of land upon expiration of a period specified in the notice as provided under section 6 of the Act shall be in Form IV in the Schedule hereto.

PART III—COMPENSATION

Offer of compensation

5. Where an assessment of compensation is made under sections 10 and 10A of the Act, an offer of compensation shall be made in Form V in the Schedule hereto.

Acceptance of possession

6. An acceptance of an offer of compensation shall be in Form VI in the Schedule hereto.

PART IV—DISPUTE SETTLEMENT

Commencement of proceedings in court

7.—(1) In this Part, "court" means the court of a resident magistrate.

(2) A person aggrieved by a determination under section 4 or section 6 of the Act, or claims a better right under section 11 of the Act, may, commence, by summons, proceedings in court within thirty days of the determination.

Date of hearing

8. —(1) On receipt of the summons under regulation 7, the court shall open a case file and shall record all the particulars in the register.

(2) The court shall fix a date of hearing within thirty days from the date of the registration of the proceeding.

(3) In fixing the date of hearing in sub-regulation (2), the court shall have due regard to the place of residence of the defendant and the time necessary for service of the notice of attendance and the hearing date shall be so fixed as to allow the defendant sufficient time to enable him to appear on such a day.

(4) Notwithstanding sub-regulation (3), where the parties are immediately available, the court may dispense with the requirement to notify and may set the date of hearing promptly.

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| 9. The court shall prepare a notice of hearing, in Form VII in the Schedule hereto, and shall serve the notice on all parties to the proceeding. | Notice of hearing |
| 10. Where a witness is required to appear before the court, the court shall prepare a witness summons in Form VIII in the Schedule hereto. | Witness summons |
| 11. Where a claimant attends the court on the date of hearing and the court is satisfied that— | Attendance of defendant |
| (a) the notice of hearing was served on the defendant and the defendant has failed to attend, the court may proceed to hear the matter in the absence of the defendant; or | |
| (b) the notice of hearing was not served in sufficient time for the defendant to attend the hearing or for other sufficient cause the defendant was unable to attend the hearing, the court shall adjourn the hearing to another date. | |
| 12. Where on the date of the hearing the claimant fails to attend, the court may dismiss the proceeding. | Dismissal for non-attendance |
| 13. Where a proceeding has been dismissed under regulation 12, a claimant may be allowed to restore the proceeding, within fourteen days from the date of the dismissal of the proceeding, upon showing good cause why he failed to attend the proceeding that had been previously set down for hearing. | Restoration of proceeding |
| 14. Where all parties to a proceeding are present on the date of hearing — | Procedure for hearing |
| (a) the claimant shall give his evidence first and may call witnesses and produce documents to support his case; and | |
| (b) a defendant shall respond to the matters under the proceeding and may call witnesses and produce documents to support his case. | |
| 15. The court shall be at liberty to summon any person to appear as a witness or to produce a document at the hearing of the proceeding. | Witness summons |
| 16. At the conclusion of the hearing of a proceeding, the court shall make a determination in writing which shall be served on all persons affected by the determination. | Determination in writing |
| 17. The court shall award costs to the witnesses and any other person who deserves to be awarded costs. | Costs |
| 18. The hearing of a proceeding of the court shall be open to the public. | Open proceeding |
| 19. The court shall hear and determine a proceeding before it within sixty days of the service of the notice of hearing. | Duration of hearing |
| 20. Any person aggrieved with the decision of the court may appeal to the High Court, on a point of law, within thirty days of the decision being made. | Appeals to the High Court |

Final
determination
on facts

21. The determination of the court shall be final on any issue of fact and an appeal shall not lie to the High Court on the basis of facts.

SCHEDULE

LANDS ACQUISITION AND COMPENSATION REGULATIONS, 2020

FORM I

reg. 2

NOTICE OF PRELIMINARY INVESTIGATION

(under s. 4(2))

To: *[name and address of person(s) whose interest(s) is/are to be acquired]*

The *[name of Authority]* intends to conduct a preliminary investigation in *[set out title particulars and a description (including, if appropriate, a sketch) sufficient to identify the interest to be acquired and the location of the land].**

The *[name of Authority]* thinks that the land is suitable for *[set out details of purpose for which land is to be acquired and reasons why the Authority thinks this is so]*.

At the present time it is expected that the *[name of Authority]* may require possession of the land on approximately *[date]*. This date may change.

The *[name of Authority]* undertakes to pay for all damage to the *[said]* land.

Signed *[signature of authorised officer of the Authority]*:

Name *[name of authorised officer of the Authority]*:

Date: *The description of the land set out above refers to a document called *[name of document]*. A copy of this document can be inspected without charge at *[address]* during the hours *[ordinary office hours]*.

FORM II

reg. 3(1)

NOTICE OF INTENTION TO ACQUIRE

(under s. 5 (1))

To: *[name and address of person(s) whose interest(s) is/are to be acquired]*

The *[name of Authority]* intends to acquire an interest in *[set out title particulars and a description (including, if appropriate, a sketch) sufficient to identify the interest to be acquired and the location of the land].**

The *[name of Authority]* thinks that the land is suitable for *[set out details of purpose for which land is to be acquired and reasons why the Authority thinks this is so]*.

At the present time it is expected that the *[name of Authority]* may require possession of the land on approximately *[date]*. This date may change.

The [name of Authority] requires you to provide it with information about the following—

- 1 The name of any other person who has, or you think may have, an interest in the land. (Such a person might be a tenant or a mortgagee or a person to whom you have agreed to sell the land.)
- 2 If you have a current building permit or approval or a planning permit concerning the land.
- 3 If you have sold or let or in any other way dealt with the land or were intending to deal with the land immediately before you received this notice.
- 4 If you know of any other person proposing to do any of those things mentioned in paragraph 3.
- 5 Any other matters of which you are aware which will help the [name of Authority] to determine the offer of appropriate compensation you should receive for the land. (This information may include details of any mortgage, lease or other arrangement affecting the land. If you claim financial loss, please provide financial documents and other records to substantiate all losses. All documents provided will be treated in confidence.)

Signed [signature of authorised officer of the Authority]:

Name [name of authorised officer of the Authority]:

Date:

*The description of the land set out above refers to a document called [name of document]. A copy of this document can be inspected without charge at [address] during the hours [ordinary office hours].

FORM III

reg. 3(2)

INVITATION TO CLAIM

(under s. 5(3))

To: All persons Any person claiming to be entitled to any interest in the land must submit the following particulars—

- (a) Name;
- (b) Address;
- (c) Particulars of the land;
- (d) Nature of interest in the land;
- (e) Improvements on the land;*
- (f) Other special assets. †

Signed:
[name of Authority]

Dated: *These may include buildings or other structures, horticultural or other trees; etc.
†These may include graves, shrines; etc.

FORM VI

reg. 6

ACCEPTANCE OF OFFER OF APPROPRIATE COMPENSATION

Person(s) accepting offer of appropriate compensation or making claim: *[name]*

Authority making offer of appropriate compensation or claimed from: *[name of Authority]*

Date offer of appropriate compensation was made:

Value of offer of appropriate compensation: *[total amount of offer of appropriate compensation]*

The interest in the land of the person(s) responding to offer of appropriate compensation *[give details of the interest you had in the land which was acquired, e.g. owner, tenant, mortgagee].*

The person's entitlement to that interest is *[give details of your entitlement, e.g. if you are a tenant, particulars of your lease].*

The following parts of this form should be read very carefully and all the parts which relate to your case must be completed. Cross out those parts which do not apply to your case. You must complete the declaration at the end of the form.

Part A—Notice of acceptance of offer of appropriate compensation

I/We accept the offer as full payment of the appropriate compensation for my/our land acquired by the *[name of Authority]*.

Part B—Rejection of offer and notice of claim for compensation

I/We dispute the amount of compensation which the *[name of Authority]* has offered and claim the sum of K. *[sum]* for compensation made up as follows—

[Complete details of claim giving particulars of calculation of the claim having regard to the following items—

- (a) market value of the interest in land;*
- (b) special value of the land to the claimant;*
- (c) loss attributable to severance;*
- (d) loss attributable to disturbance;*
- (e) the enhancement or depreciation in value of the claimant's interest in land adjoining or severed from the acquired land at the date of the acquisition;*
- (f) all legal, valuation and other professional expenses necessarily incurred by reason of the acquisition of the interest in land.]*

If you dispute the value given to the land by the *[name of Authority]*, you should attach to the Form a copy of the certificate(s) of valuation which have been provided to you by a valuer recognised as such under the Laws of Malawi in respect of his valuation of the land together with a statement advising how that valuation is calculated. If you have obtained more than one valuation, the same information should be provided in respect of each valuation.

YOU MUST COMPLETE THE FOLLOWING DECLARATION

I/We declare that—

- 1 I am/we are the person(s) to whom the above offer of appropriate compensation was made. (If you are the attorney under power of somebody else, you should state this.)
- 2 Immediately before the interest in land for which the offer of appropriate compensation was made was acquired, I was/we were able to sell/grant/release/lease the interest to the [name of Authority] free of any charges, mortgages, leases or other encumbrances or interests apart from those which I/we have told the [name of Authority].
- 3 I/we shall give the [name of Authority] all documents which prove that I/we owned the land acquired/were entitled to the interest acquired.
- 4 I/we have not misled or failed to tell the [name of Authority] about anything which might affect the assessment of appropriate compensation.
- 5 I/we have received an advance of appropriate compensation of [amount of advance] on [date]. or

I/we have not received an advance of compensation from the [name of Authority].

AND I/we acknowledge that this declaration is true and correct and I/we make it in the belief that a person making a false declaration is liable to the penalties of perjury.

DECLARED at On the day of, 20... Before me: Commissioner for Oaths

FORM VII

reg. 9

NOTICE OF HEARING

Land Compensation Dispute No. of 20....

BETWEEN

..... Claimant

AND

..... Defendant

To:

TAKE NOTICE that the proceedings has been set down for the day of, 20... at o'clock in the noon or soon thereafter as the proceedings can be heard at (place).

If no appearance is made on your behalf or by yourself, the proceedings will be heard and decided in your absence.

Given under my hand on the day of, 20...

.....
Resident Magistrate

FORM VIII

reg. 10

WITNESS SUMMONS

Land Compensation Dispute No. of 20.....

BETWEEN

..... Claimant

AND

.....Defendant

To:

.....

You are HEREBY REQUIRED PERSONALLY to appear before the court on the day of, 20... at o'clock in the noon or soon thereafter and to bring with you any documents or persons connected with this proceedings, and so from day to day until your presence is dispensed with by the court.

Given under my hand on the day of, 20...

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Resident Magistrate

Made this 8th day of June, 2020

K. KALUA
Minister of Lands,
Housing and Urban Development

(FILE NO. SUB.D. 23:01)

GOVERNMENT NOTICE NO. 31

PHYSICAL PLANNING ACT

(NO. 17 OF 2016)

PHYSICAL PLANNING REGULATIONS, 2020

IN EXERCISE of the powers conferred by section 99 of the Physical Planning Act, 2016, I, KAMLEPO KALUA, Minister of Lands, Housing and Urban Development, make the following Regulations—

ARRANGEMENT OF REGULATIONS

REGULATION

PART I—PRELIMINARY

1. Citation
2. Interpretation