

CONSOLIDATED TO 30 JUNE 2014

LAWS OF SEYCHELLES

CHAPTER 1A

ACQUISITION OF LAND IN THE PUBLIC INTEREST ACT

[3rd June 1996]

Act 9 of 1996

ARRANGEMENT OF SECTIONS

PART I – PRELIMINARY

Short title

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

Interpretation

2. In this Act –

“acquire in the public interest”, in relation to land, means the acquisition or taking possession of land for its development or utilization to promote the public welfare or benefit or for public defence, safety, order, morality or health or for town and country planning;

“Court” means the Supreme Court;

“Curator” means the Curator of Vacant Estates;

“date of acquisition”, in relation to land acquired under section 6, means the date on which the notice in respect of the land is published in the Gazette under that section;

“date of vesting”, in relation to land acquired under section 6, means the date on which the land is vested in the Republic under section 9;

“dealing” includes a lease or a mortgage;

“interest”, in relation to land, means a right, power, privilege, mortgage or a beneficial interest, in over or in connection with the land;

“land” includes an interest in land and building on land;

“mortgage”, includes a charge and a privilege and mortgagee and mortgagor shall be construed accordingly;

“mortgagee”, means in relation to a mortgage, means the person (including the Republic) for the time being entitled to the moneys secured by the mortgage;

“notice of acquisition” in relation to land acquired under section 6, means the notice in respect of the land published in the Gazette under that section;

“notice of intended acquisition”, in relation to land acquired under this Act, means the notice in respect of the land published in the Gazette under section 4(1)(a);

“owner” includes a person having an interest in land.

PART II – ACQUISITION OF LAND

Acquisition of land in the public interest

3. (1) Where the Minister is of the opinion that it is necessary to acquire any land in the public interest and that there is reasonable justification for causing any hardship to any person who has an interest in land, the Minister may, subject to subsection (2), acquire that land in accordance with this Act.

(2) Nothing in subsection (1) shall be construed as preventing the Republic from acquiring land by agreement otherwise than in accordance with this Act.

Notice of intended acquisition

4. (1) Where it is necessary to acquire any land under this Act, the Minister shall –

(a) publish in the Gazette a notice of intended acquisition of the land;

(b) cause to be published in a local newspaper on three consecutive days a copy of such notice; and

(c) cause to be served on any person who, on information available to the Minister, has an interest in the land a copy of the notice of intended acquisition published under paragraph (a).

(2) A notice under subsection (1) shall state –

(a) the description of the land intended to be acquired;

(b) the purpose for which it is necessary to acquire the land; and

(c) that it is intended to acquire the land within such period not exceeding 180 days as may be specified in the notice.

(3) Where a notice of intended acquisition has been published under subsection (1) and the land to which it related has not been acquired under this Act within the period specified in the notice, the notice shall cease to have effect and the intended acquisition is deemed to have been abandoned.

(4) The Minister may by a notice published in the Gazette withdraw a notice of intended acquisition published under subsection (1) and from the date of publication of the notice under this subsection, the notice of intended acquisition published under subsection (1) shall cease to have any effect and the intended acquisition is deemed to have been abandoned.

(5) Any transfer of or dealing with a land referred to in a notice of intended acquisition under subsection (1) during the period such notice has effect shall not affect the validity of the notice and

any person who is a party to such transfer or dealing during that period is deemed to have had notice of the intended acquisition of the land.

(6) Where any person, being a person who has an interest in the land in respect of which a notice of intended acquisition has been published under subsection (1), suffers any loss by reason of the notice of intended acquisition ceasing to have effect under subsection (3) or (4), the Republic is liable to pay the person such compensation as is determined by agreement between that person and the Minister or, in the absence of agreement, by action by that person against the Republic, in a court of competent jurisdiction.

Notice to treat

5. (1) Subject to subsection (8) the Minister shall, after the publication of a notice of intended acquisition under section 4 –

(a) cause to be served on every person served with the notice of intended acquisition under section 4 a notice inviting the person to treat with the Minister for the sale of the land to the Republic hereafter in this Act referred to as the “notice to treat”;

(b) publish in the Gazette the notice to treat; and

(c) cause to be published in a local newspaper on three consecutive days a copy of the notice to treat.

(2) The notice to treat shall state a description of the land intended to be acquired.

(3) A person served with a notice to treat under subsection (1) shall not later than 30 days after the service of the notice furnish to the Minister in the prescribed form particulars of –

(a) the interest claimed by the person in the land;

(b) the amount for which the person is agreeable to sell to the Republic the interest of the person in the land;

(c) the name and address of any other person who to the knowledge of the person mentioned in paragraph (a), has an interest in the land and the nature of that interest.

(4) Any person, other than a person served with a notice to treat, who claims any interest in the land referred to in the notice may not later than 30 days after the publication of the notice to treat in the Gazette under subsection (1) furnish to the Minister in the prescribed form the particulars specified in paragraphs (a) to (c) of subsection (3).

(5) Upon receipt of the particulars under subsection (3) and (4), as the case may be, the Minister shall treat with the person furnishing particulars for the acquisition of the interest of the person in the land by the Republic by agreement and may enter into an agreement with that person for the acquisition of that interest.

(6) An agreement entered into pursuant to subsection (5), for the acquisition of an interest in land may be made conditional on the acquisition by the Republic of any other interest in the land and may stipulate that if the other interest is not so acquired within a specified time the agreement shall be of no force or effect and, in such a case, if the other interest is not so acquired the agreement shall be of no force or effect.

(7) An agreement entered into pursuant to subsection (5) shall specify the compensation payable for the acquisition of the interest and such compensation may take the form of land given in exchange for the land acquired.

(8) Where the Minister certifies that there is an urgent need for the acquisition of any land in the public interest and that it is not expedient to comply with subsection (1), the Minister may acquire the land under section 6 and, where the Minister so certifies, the failure to comply with subsection (1) in relation to that land shall not affect the legality of any acquisition of the land under section 6.

Compulsory acquisition of land

6. (1) Where the Minister fails to enter into an agreement for the acquisition of any land under section 5 not less than 10 days before the expiration of the period specified in the notice of intended acquisition in relation to that land or where the Minister has granted a certificate under section 5(8) in relation to that land, the minister may, before the expiration of that period, by notice in the Gazette declare that the land is acquired for the purpose specified in the notice of intended acquisition in relation to that land.

(2) The land, being an interest in land, acquired under subsection (1) may be an interest in land which previously did not exist as such.

(3) The notice under subsection (1) shall state a description of the land or interest in the land acquired under subsection (1).

(4) The Minister shall as soon as practicable after the publication of a notice in the Gazette under subsection (1) –

(a) cause a copy of the notice to be served on every person, who on information available to the Minister, had an interest in the land immediately before the publication of the notice;

(b) cause to be published in a local newspaper on three consecutive days a copy of the notice.

Contravention of article 26 of the Constitution

7. (1) Any person who has an interest in the land specified in a notice of acquisition may, where the person claims that article 26 of the Constitution has been or is likely to be contravened by the notice of intended acquisition, apply to the Constitutional Court for redress under article 46 of the Constitution.

(2) Where on an application under subsection (10), the Constitutional Court declares that the notice of intended acquisition, the subject matter of the application, is a contravention of article 26 of the Constitution, the notice of intended acquisition shall cease to have effect in relation to that land and any further action taken in relation to that land under this Act shall be of no force or effect and the intended acquisition of that land shall be deemed to have been abandoned.

Legality of acquisition

8. (1) Any person who had an interest in a land acquired under section 6 immediately prior to the notice of acquisition published under that section may, within 30 days after the publication in the Gazette of that notice, apply to the Court for the determination of the legality of the acquisition.

(2) The Republic shall be made a party to an application under subsection (1).

(3) For the purpose of determining the legality of the acquisition of a land pursuant to an application under subsection (1), the Court shall have regard only to sections 5 and 6.

(4) In an application made under subsection (1) in relation to a land, a person shall not plead or raise any matter which had been pleaded or raised in an application under section 7 in respect of that land or which could have been pleaded or raised in an application under section 7 in respect of that land or which could have been pleaded or raised if an application had been made under that section.

(5) Where the Court determines on an application made under subsection (1) that the acquisition of land relating to that application is not legal –

(a) the notice under section 6 relating to that land shall be void and of no effect and the land shall be deemed not to have been acquired by the Republic;

(b) the Republic is liable to pay to a person, being a person entitled to compensation under section 10 in respect of that land who suffers any loss or damage as a result of the acquisition, such compensation as is determined by agreement between the person and the Minister or, in the absence of agreement, by action by the person against the Republic in a court of competent jurisdiction.

(6) No appeal shall lie from a determination of the Court in an application under subsection (1).

Effect of notice of acquisition

9. (1) Upon the publication in the Gazette of a notice of acquisition under section 6, the land to which the notice applies is subject to section 8(5), vested in the Republic free and discharged from all interest (including any public right of way, restrictions, reservations, covenants, obligations, contracts, licenses, charges and rates).

(2) Where a land vested under subsection (1) results in the vesting of part only of a building, any person, being the owner of the land on which the remaining part of the building stands, may, by a notice in the prescribed form served on the Minister not later than 30 days after the publication of the notice under section 6 in relation to the land vested, require the Minister to acquire such additional land of which the person is the owner to secure the vesting in the Republic of the whole of that building and, with effect from the date on which such notice is so served that additional land shall, for the purpose of this Act, be treated as part of the land vested under subsection (1).

(3) A survey made pursuant to section 23 may be amended by the Director of Surveys or a further survey may be made pursuant to that section, in order to show the boundaries of the area of land vested as altered by reason of the operation of subsection (2).

PART III – COMPENSATION

Conversion of interest into compensation

10. (1) Subject to subsection (2), where a land is vested in the Republic under section 9(1), the interest of every person in that land immediately before the date of vesting is, on the date of vesting, converted into a right compensation under this Act.

(2) Where a land, being an interest in land referred to in section 6(2), is vested in the Republic under section 9(1), the interest of every person in that land immediately before the date of vesting is, on the date of vesting, and to the extent to which that interest is affected by the vesting, converted into a right to compensation under this Act.

(3) Where any person has, on good faith, made any payment in anticipation of the purchase of any land before the date of publication of a notice of intended acquisition under section 4 in relation to that land and the land was not transferred to that person before that date, that person shall, for the purpose of this Act, be treated as if the person had an interest in the land being an interest which is, at the date of vesting of this land under section 9(1), converted into a right of compensation under this Act.

Court may adjust rights

11. (1) Notwithstanding anything in this Act, where land is acquired under section 6, the court may, upon the application of the Republic or any person interested, make such order as it thinks proper for declaring or adjusting rights and liabilities in connection with the land or with transaction in relation to the land or otherwise affected by the acquisition.

(2) Without limiting the generality of the powers conferred by subsection (1), the orders which may be made under that subsection shall include –

- (a) an order for the payment or repayment of money;
- (b) an order discharging a person from an obligation to pay money;
- (c) where there was a subsisting contract of sale of the land, an order with respect to the rights and liabilities of the parties to the contract;
- (d) where a part of a land that is subject to lease is acquired –
 - (i) an order altering the rent payable in respect of that part of the land which is not acquired, or apportioning rent between the part acquired and the part not acquired; or
 - (ii) an order cancelling the lease in respect of that part of the land which is not acquired, if the Court considers that the remainder of the land is unsuitable for the purpose for which the land was leased;
- (e) where there was a charge or encumbrance over the land –
 - (i) an order releasing a person in whole or in part from a personal covenant or obligation in relation to the charge or encumbrance; and
 - (ii) an order apportioning the charge or encumbrances between the land acquired and other land subject to the charge or encumbrance.

(3) Where the Court has made an order under subsection (1) in relation to any land, compensation in relation to that land, shall, notwithstanding any other provision of this Act, be determined having regard to the effect of that order.

(4) Where the Republic is not a party to proceedings under this section, the Court thinks it desirable to do so either in relation to the making of an order as to costs or otherwise.

Claims for compensation

12. (1) Subject to subsection (2), a person who has a right of compensation under section 10 in respect of a land vested in the Republic under section 9 (1) may, within 90 days after the publication of the notice in respect of that land under section 6, make to the Minister a claim for compensation in the prescribed form stating therein the amount of compensation claimed by the person and, where the person is a mortgagee referred to in section 13, the amount of principal due under the mortgage at the date of vesting and the interest, cost and charges due under the mortgage at that date.

(2) A person who has made an application under section 8 for the determination of the legality of an acquisition of land under section 6 may, where the Court determined that the acquisition is legal, make a claim for compensation in the manner specified in subsection (1) within 30 days after the determination by the Court.

(3) Compensation under this Act shall not be payable to any person in respect of a land acquired under section 6 if that person has not made a claim under subsection (1) or (2) as the case may be.

(4) Where the Minister is satisfied that a person who has made a claim under subsection (1) or (2) has produced prima facie evidence that the person had immediately before the vesting of the land under section 9(1) the interest claimed in the land, the Minister shall accept the claim for determination but, if not so satisfied, the Minister shall reject the claim.

(5) The Minister shall notify each claimant under subsection (1) or (2) the acceptance or rejection of the claim under subsection (4) within 90 days after the claim is made to the Minister and where the Minister fails to so notify within that period, the Minister shall be deemed to have accepted the claim for determination.

(6) The acceptance of a claim for determination by the Minister under this order does not entitle the claimant to payment of compensation otherwise than in accordance with section 20.

Land subject to mortgage

13. Where a land acquired under section 6 was subject to a mortgage immediately before the date of vesting of that land in the Republic –

(a) claim to compensation made by the mortgagee under section 12 shall, to the extent to which the compensation payable to the mortgagee under the Act is sufficient to satisfy the mortgage debt and interest, cost and charges due to the mortgagee as at the date of vesting, be deemed to have had the effect of extinguishing the liability of the mortgagor under the mortgage as from the date of vesting;

(b) failure of the mortgagee to make a claim for compensation under section 12 shall not affect the rights and remedies the mortgagee has against the mortgagor in respect of the mortgage debt (other than rights and remedies in relation to the land acquired) or in respect of land included in the mortgage other than the land acquired;

(c) the mortgage retains, where the whole or a part of the mortgage debt is not discharged by the compensation payable to the mortgagee under the Act, the rights and remedies against the mortgagor in respect of the whole or that part of the mortgage debt, as the case may be, (other than rights and remedies in relation to the land acquired) and in relation to any other land which is subject to the mortgage;

(d) the mortgagor is entitled to, when the mortgagee does not claim compensation under section 12, the same compensation as if the mortgage did not exist;

(e) the Court may on application of the mortgagor order the stay of any proceedings by the mortgagee for the recovery of the mortgage debt in respect of the land pending on the date of vesting whether in court or not or enjoin the mortgagee against commencing or continuing any proceedings in relation to the mortgage;

(f) the amount of compensation payable to the mortgagee under the Act is an amount equal to the sum of –

(i) the principal secured by the mortgage at the date of vesting;

(ii) any interest, costs, or charges due to the mortgagee under the mortgage at that date,

but not exceeding the amount of compensation payable to the mortgagor if there had been no mortgage over the land;

(g) the amount of compensation payable to the mortgagee under paragraph (f) shall be deducted from the amount of compensation which would have been payable to the mortgagor if the mortgage did not exist.

Rejected claims

14. (1) Where a claim for compensation under section 12 has been rejected by the Minister, the claimant may, within 60 days after the rejection of the claim by the Minister, apply to the Court for a declaration that the claimant was, immediately before the vesting of the land in the Republic under section 9(1), entitled to the interest specified in the claim made to the Minister.

(2) The Republic shall be made a party to an application under subsection (1).

(3) The Court, after notice to such persons as it directs, shall hear the application and may declare that the claimant was entitled to the interest specified in the claim made to the Minister or to some other interest or may dismiss the application.

(4) For the purposes of this Act, an order of the Court under subsection (3) in an application made under subsection (1) is binding on the claimant, the Republic and on all persons who have an interest in the land immediately before the vesting of the land under section 9(1) whether or not those persons were parties to the application.

(5) When the Court declares under subsection (3) that the claimant had an interest in the land, compensation in respect of the interest shall be determined in accordance with the Act as if the claim had been accepted by the Minister under section 12 and if the interest declared by the Court differs from the interest specified in the claim to the Minister, the claim shall be deemed to be amended accordingly and the claimant may, within 30 days after the date of declaration by the Court, by notice served on the Minister, amend the amount of compensation claimed under section 12(1) or (2).

(6) Where a claimant whose claim had been rejected by the Minister under section 12 –

(a) does not within 60 days after the rejection of the claim make an application under subsection (1) to the Court; or

(b) has made an application under subsection (1) and the Court has dismissed the application,

the Republic may pay compensation in respect of the land on the basis that the claimant was not, at the date of vesting, entitled to the interest the subject of the claim.

(7) Where an application has been made under subsection (1), the Court may, on application made by the claimant, or the Republic or any other person appearing to the Court to have sufficient interest in the land, order at any time before or after the making of a declaration under subsection (3) that the proceedings in the application made under subsection (1) shall be treated as proceedings instituted under section 17 for the determination of the amount of compensation under this Act in respect of the interest (if any) which the Court declares the claimant to have had.

(8) Section 17 (other than subsections (1) and (2) of that section) shall apply to and in relation to proceedings consequent upon the making of an order under subsection (7).

Principles of determination

15. In the determination of the amount of compensation payable in respect of land acquired under section 6 effect shall be given to the principles set out in the Schedule.

Determination of claims under section 12 by agreement

16. (1) Where the Minister accepts for determination a claim for compensation by a claimant under section 12, the amount of compensation to be paid may be determined by agreement between the Minister and the claimant.

(2) Compensation determined by agreement under subsection (1) may take the form of land given in exchange for the land acquired.

Proceed by claim in court

17. (1) Where the Minister has accepted for determination a claim for compensation made by a claimant under section 12 and –

(a) the amount of compensation has not been determined by agreement under section 16(1), within a period of 90 days after the claim; or

(b) the Minister has made an offer of the amount of compensation in writing to the claimant within the period of 90 days referred to in paragraph (a) and the claimant has not accepted the amount or any other amount offered by the Minister within a period of 60 days after the offer has been made,

the claimant may institute proceedings against the Republic in the Court for the determination of the amount of compensation under this Act in respect of the claim.

(2) Proceedings under subsection (1) may be instituted within a period of 360 days –

(a) after the expiration of the period of 90 days specified in paragraph (a) of that subsection; or

(b) after the expiration of the period of 60 days specified in paragraph (b) of that subsection,

as the case may be, and notwithstanding anything in any other written law, the Court shall not entertain any such proceedings unless the proceedings are instituted within the aforesaid period of 360 days.

(3) The claimant shall state in the proceedings instituted under subsection (1) the amount of compensation the claimant claims and the interest in respect of which it is claimed.

(4) The Court may, on the application of the Republic, direct any other person who made a claim for compensation in respect of the acquisition of the land for which compensation is claimed in proceeding instituted under subsection (1), or any person who appears or claims to have had immediately before the date of the vesting an interest in the land to join as a party in the proceedings within a time specified in the order.

(5) Where a person who has been directed under subsection (4) fails to join as a party in the proceedings within the time specified in the direction, the person shall have no right to institute proceedings thereafter against the Republic under subsection (1) in respect of the acquisition for which compensation is to be determined in proceedings in which the direction was made.

(6) The determination of the amount of compensation by the Court in proceedings under this section is, subject to any order made by the Court of Appeal on an appeal against the determination, binding on the parties to the proceedings.

Compensation deemed to be payable

18. (1) Where the Minister has made an offer in writing of the amount of compensation to a claimant under section 12 and –

(a) the amount of compensation has not been accepted within 60 days after making the offer; and

(b) proceedings have not been instituted by the claimant under section 17(1) within the period specified in section 17(2),

the amount of compensation offered to the claimant by the Minister shall be deemed to be the amount of compensation determined under this Act as the amount of compensation to which the claimant is entitled to under section 10.

Rules of Court

19. The Chief Justice may make rules with respect to the practice and procedure of the Court in relation to proceedings under sections 8, 11, 13, 14 and 17 and till such rules are made the provisions of the Seychelles Code of Civil Procedure relating to actions before the Supreme Court shall apply.

Payment of compensation

20. (1) Where the amount of compensation to which a person is entitled to under section 10 has been determined under the Act that amount shall, subject to subsection (2), be paid promptly to that person unless the time and manner of payment are otherwise agreed to between that person and the Minister.

(2) Before payment of compensation under subsection (1), the person entitled to compensation shall –

(a) make out, to the satisfaction of the Minister a title, as at the date of vesting, to the interest in respect of which the compensation is payable;

(b) produce or surrender all deeds and documents relating to, or evidencing that title which the Minister reasonably required to be produced or surrendered, as the case may be; and

(c) execute such documents as the Minister requires.

(3) Subsection (2)(a) shall not apply where the Court has in proceedings under section 14 declared that the person entitled to compensation had, immediately before the date of vesting of the land, the interest in respect of which the compensation is payable.

(4) The Minister may consult the Land Registrar on any title, deed or document required to be made out, produced, surrendered or executed under subsection (2).

(5) The Minister may delegate any of the functions under subsection (2) and (4) to any officer of the Ministry.

Deposit of compensation in the Treasury

21. (1) Where the person entitled to compensation under section 10 has not, by reasons of some default or delay on the part of that person, received the compensation within 90 days after the determination of the compensation under the Act, the Minister may deposit the amount of compensation in the Treasury.

(2) If before the amount of compensation is deposited the Treasury under subsection (1), the Minister has notice of any rates, taxes or assessments charged upon the land and due at the date of acquisition, the Minister may deduct the amount of those rates, taxes and assessments out of the amount of compensation, and deposit the balance in the Treasury.

(3) An amount of compensation deposited in the Treasury under this section may be paid to a person who complies with section 20(2).

Interests on compensation

22. (1) An amount of compensation payable to a claimant under section 12 in respect of an acquisition under section 6 bears, subject to this Act, interest from the date of vesting of the land to the date on which payment is made to the claimant or where the amount is deposited in the Treasury under section 21, to the date of deposit.

(2) When the amount of compensation determined by the Court does not exceed an amount offered by the Minister, interest is payable only up to the date on which the offer of the Minister was received by the claimant.

(3) Interest is payable under this section at the rate of 4 per centum or at such lesser or greater rate as the Minister may prescribe.

(4) Where the Minister prescribes a rate of interest under subsection (3) that rate of interest shall not apply in relation to an amount of compensation payable in respect of land acquired before the date on which the rate is prescribed.

PART IV - MISCELLANEOUS

Power to examine land or to take possession of land

23. (1) A person authorised by the Minister to act under this section may, for the purpose of ascertaining whether land is suitable for the purpose it is intended to be acquired in the public interest or of surveying or obtaining information in relation thereto, on giving 24 hours notice in writing to the occupier (if any) of the land –

(a) enter upon the land or upon adjoining land with such persons, vehicles and things the person thinks fit;

(b) make surveys, take levels, sink pits and do other things in relation to the land

(2) Where any land has vested in the Republic under section 9(1), the Minister may, by notice in writing, require any person in occupation of the land to vacate and deliver possession of the land on such day as may be specified in the notice, to a person authorised under subsection (1), such day, except where the Minister has granted a certificate under section 5(8) in relation to that, land being not earlier than 30 days after the land has vested in the Republic under section 9(1).

(3) Notice under subsection (2) shall contain a description of the land vested in the Republic, shall be served on any person in occupation of the land, if such person can reasonably be ascertained, and shall be posted in a conspicuous part of the land.

(4) Any person on whom a notice under subsection (3) has been served shall, on the date specified in the notice, vacate and deliver vacant possession of the land to a person authorized under subsection (1).

(5) Where any land in respect of which a notice has been given under subsection (2) is not in the occupation of any person or the person in occupation of the land cannot reasonably be ascertained or does not vacate and deliver vacant possession on being required by the notice to do so, the person authorised under subsection (1) shall on the day specified in the notice enter and take possession of the land on behalf of the Republic and take such steps as may reasonably be necessary to prevent any unlawful entry or unlawful occupation of the land.

(6) Where any person authorized under subsection (1) apprehends any resistance to taking possession of land specified in a notice under subsection (2), the person may call for and obtain the assistance of a police officer and may use such force as may be reasonably necessary to take possession on behalf of the Republic.

(7) Any person who resists or obstructs a person authorised under subsection (1) in the exercise of the powers under this section or who fails to comply with a notice under subsection (2) is guilty of an offence and is liable on conviction to a fine of R 500 and to imprisonment for one month.

(8) Subsections (2) to (6) shall be without prejudice to any other method, the Minister may avail of in taking possession of land vested in the Republic under section 9(1).

Survey signed by Director of Surveys conclusive evidence

24. A survey purporting to be signed by the Director of Surveys showing the boundaries of an area of land which has been or is acquired under this Act shall be received as conclusive evidence of the boundaries of that area.

Persons in possession of land

25. Where a person was in possession of land acquired under section 6 immediately before the date of vesting in that land, the Minister may enter into an agreement with that person under which that person is permitted to remain in possession of the land on such terms and conditions as are specified in the agreement.

Withdrawal from acquisition

26. (1) The Minister may, at any time before payment of compensation under this Act for any land acquired under section 6, by notice in the Gazette, withdraw from the acquisition of the land on the publication of that notice, the notice published under section 6(1) in respect of that land shall be void and of no effect and any liability to pay compensation in respect of the acquisition, except as provided in subsection (2), shall cease.

(2) Where the owner of an interest in land, being person entitled to compensation under section 10, suffers any loss by reason of the withdrawal from acquisition of the land, the Republic is liable to pay to the owner such compensation as is determined by agreement between the owner and the Minister or, in the absence of agreement, by action by the owner against the Republic in a court of competent jurisdiction.

Payment to be a good discharge

27. All payments and deposits made on behalf of the Republic by virtue of this Act are good and valid discharges to the Republic and the Republic is not bound to see to the application of the money paid or deposited.

Compliance with the Civil Code

28. Where land is acquired under section 6, the provisions of article 545 of the Civil Code shall be deemed to have been complied with for all purposes.

Registration of interest

29. (1) Where land is acquired under section 6, the Minister shall –

(a) where the land is registered under the Land Registration Act, cause a copy of the notice under subsection (1) of that section to be given to the Land Registrar who shall register under the Land Registration Act the acquisition by the Republic and, where the Republic has acquired ownership of the land, the Land Registrar shall register the Republic as absolute owner;

(b) where the land is not registered under the Land Registration Act, cause a transcription of the notice to be lodged with the Registrar of Deeds which shall register and file the same.

(2) Where the Court has determined under section 8 that the acquisition of a land was not legal or the Minister withdraws under section 26 from the acquisition of land, the Minister shall –

(a) where the land is registered under the land Registration Act, cause notice of that fact to be given to the Land Registrar who shall, and is hereby empowered to, cancel the registration made pursuant to subsection (1) in respect of that acquisition;

(b) where the land is not registered under the Land Registration Act, cause a transcription of the determination of the Court under section 8 or of the notice under section 26, as the case may be, to be lodged with the Registrar of deeds who shall register and file the same.

Registration where only one part of land is acquired

30. Where land is acquired under this Act, being land which forms part, but not all, of a parcel of land which is registered under the Land Registration Act, the Land Registrar on being notified that the land had been so acquired and when satisfied that the land has been surveyed in accordance with the Land Survey Act shall –

(a) close the register in respect of the parcel so registered; and

(b) open a new register in respect of –

(i) the land acquired, showing the Republic to be the absolute owner of the land free from all encumbrances; and

(ii) the remainder of the parcel, showing all entries recorded in respect of the parcel at the close of the original register referred to in paragraph (a).

Where owner of land is not known

31. Where the Minister is unable to ascertain, on information available to the Minister, the owner of any land intended to be acquired under this Act, the Curator shall be deemed to be owner of the land for the purpose of this Act.

Service of notice

32. (1) A claim, notice or other document required under this Act to be given to or served on –

(a) the Minister, shall be served at or sent by registered post to such address as may be prescribed;

(b) an owner of any land shall –

(i) in the case of the Curator, be served at or sent by registered post to the office of the Curator;

(ii) in the case of a corporation be served at or sent by registered post to the registered office or principal place of business, in Seychelles, of the corporation;

(iii) in the case of any other person, be served at or given by delivering it to that person personally or sending it to that person by registered post at the address last known to the Minister.

(2) Where a claim, notice or other document is sent by registered post to subsection (1), service shall be deemed to have been effected or given, unless the contrary is proved, at the time at which the claim, notice or document would be delivered in the ordinary course of post.

Ranking of application

33. Where more than one person is entitled to compensation in respect of different interests in the land vested under section 9 or on different grounds under this Act, payment of compensation shall rank in the following order –

(a) in case where there is a mortgage over the land, the mortgagee; and where there is more than one mortgagee, preference shall be given to the mortgagee who, but for this Act, would rank first;

(b) where a person is entitled to compensation by virtue of section 10(3), that person; and

(c) the owner;

but nothing in this section shall require the payment of compensation which in the aggregate exceeds the amount of compensation payable to the owner has the person referred to in paragraphs (a) and (b) not been entitled to compensation.

Option to purchase or lease

34. (1) Where land acquired under section 6 no longer required for the purpose for which it was acquired or is not used for that purpose within reasonable time after the acquisition, the Minister shall give an option to buy the land at the price equivalent to the amount of compensation determined for that land under the Act to the following person in the following order –

(a) a person who was the owner of the land immediately prior to the date of vesting;

(b) a person referred to in section 10(3) in relation to that land.

(2) Where an option to buy the land is not exercised by the person to whom it was given within a period of 30 days after the date it was given, the option shall lapse.

(3) Where an option to buy the land given under subsection (1) has not been exercised within the period specified in subsection (2), and the land was the subject of a lease immediately before the date of vesting the Minister may give the person who was the lessee an option to lease the land on the terms of the lease to which the land was subject to immediately before the date of vesting.

(4) Where an option to lease the land given under subsection (3) is not exercised within a period of 30 days after the date it was given, the option shall lapse.

(5) For the purposes of subsection (1) a land shall be deemed as not used for the purpose for which it has been acquired where the use or the development of it was not significant enough to reasonably justify the purpose for which it was acquired.

Domaine Public not affected

35. The powers under this Act shall not be exercised in relation to land within the boundaries of a domaine public as defined under the Delineation and Classification of Domaine Public Act.

Regulations

36. The Minister may make regulations prescribing all matters which in this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Savings

37. Any reference in any other law to the Lands Acquisition Act shall be construed and have effect as if it was a reference to the Acquisition of Lands in the Public Interest Act, 1995.

SCHEDULE – ASSESSMENT OF COMPENSATION

(Section 15)

1. (1) The amount of compensation payable in respect of any land acquired under section 6 shall be the amount which the land might be expected to realise, on the date of the notice of intended acquisition, if sold in the open market and taking into account any value due to any license, wayleave, easement, royalty, privilege or concession attached to the land and also taking into account any easement to which the land is subject and any restriction imposed by or under any law in respect of the land or the use of the land.

(2) The amount of compensation shall be assessed on the assumption that a willing purchaser would have been responsible for the payment of all fees and duties under the Mortgage and Registration Act, the Stamp Duty Act and the Land Registration Act.

(3) Where any interest in the land acquired is extinguished by virtue of section 9(2), in assessing the compensation payable in respect of that interest regard shall be had to any diminution in the value of the interest of the claimant (if any) in other land by reason of the interest in land acquired being extinguished.

2. Where the value of the land is increased by reason of the use thereof or of any premises thereon in a manner which could be restrained by any court, or which is contrary to law or detrimental to the health of the occupants of the land or premises or to the public health, or which is of an immoral nature, the amount of that increase shall not be taken into account.

3. Where land is, and but for the acquisition under section 6 would continue to be, devoted to a purpose of such nature that there is no general demand for land for the purpose the compensation may, if re-instatement in some other places is bona fide intended, be assessed on the basis of the reasonable cost of equivalent re-instatement.

4. The following matters shall be taken into consideration in assessing compensation, namely –

(a) any diminution in value of the remainder of the land belonging to the claimant, by reason of the severing of the land to be acquired, or by reason of the acquisition otherwise injuriously affecting the remainder of the land;

(b) where business premises are acquired, any loss of goodwill; a(c) fees payable to a legal practitioner or reasonable fees paid to a valuer employed to act on behalf of the claimant in respect of the claim for compensation, provided that such fees shall not, in the case of a legal practitioner, exceed the scales

prescribed by the Court Fees (Supreme Court) and Costs Act, and provided further that the fees (whether payable to a legal practitioner or a valuer) are not disallowed by the Court.

5. The amount of compensation shall be reduced by an increase in the value of land belonging to the same owner that is contiguous or adjacent to the land acquired, which is likely to accrue from or by reason of the purpose for which the land acquired will be used.

6. The following matters shall not be taken into consideration in assessing compensation, namely—

(a) the acquisition being under section 6 or the degree of urgency or necessary which has led to the acquisition.

(b) any disinclination of the owner to part with the land;

(c) any damage sustained by the owner which, if caused by a private person, would not render the private person liable to an action;

(d) any increase in the value of the land acquired likely to accrue from the purpose for which the land will be used;

(e) the special suitability or adaptability of the land for use for the purpose for which the land is acquired; or

(f) any planning consent obtained, outlay on or improvement of the land made, commenced or effected, after the giving of a notice of intended acquisition in respect of the land with the intention of enhancing the compensation payable.

7. (1) If any of the land acquired under section 6 is in the possession of a person having no greater interest in the land than as tenant for a year or from year to year, and if that person is required to give possession of any land so occupied by the person before the expiration of the term of interest in the land the person shall be entitled to compensation equal to the damages to which the person would be entitled as an evicted lessee under article 1745 of the Civil Code, or, in the case of agricultural land, to the indemnity to which the person would be entitled under article 1746 of that Code.

(2) If a part only of such land is acquired, such person shall also be entitled to compensation for the damages done to the person in the tenancy by severing the land held by the person or otherwise injuriously affecting it.

LAWS OF SEYCHELLES

CHAPTER 1A

ACQUISITION OF LAND IN THE PUBLIC INTEREST ACT