

Land (Acquisition) Act

Principal Act

Act. No. 1973-22

Commencement 13.7.1973
Assent 12.7.1973

Amending enactments	Relevant current provisions	Commencement date
LN. 1983/046 Act. 1983-48 1990-32	Sch. s. 28(2) s. 2	1.11.1990

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SCHEDULE.

AN ACT TO REGULATE THE ACQUISITION OF LANDS BY THE CROWN FOR PUBLIC PURPOSES.

Short title.

1. This Act may be cited as the Land (Acquisition) Act,

Interpretation.

2. In this Act, unless the context otherwise requires–

“court” means the Supreme Court;

“Director” means Town Planner or such other person as the Government may appoint for this purpose;

“Form” means a form set out in the Schedule;

“land” means land held by freehold, leasehold or other deed evidencing title, and includes buildings and other things attached to the earth or permanently fastened to things attached to the earth, and also every interest in land and benefits to arise therefrom, including the right to occupy land in expectation of title;

“person interested” means and includes every person who is known or reasonably believed to have a legal or equitable interest in the land to be acquired;

“public purpose” means any purpose–

- (a) of defence or national security;
- (b) for or in connection with any scheme of town planning;
- (c) for or in connection with public health;
- (d) for the development or utilization of any property for the public benefit; and
- (e) in the interests of public safety, public morality or public order;

Power of Governor to acquire land.

3. The Governor may acquire any lands required for any public purpose for an estate in fee simple or for a term of years as he may think proper, paying such compensation as may be agreed upon or determined under the provisions of this Act.

Service of notice.

4.(1) Every notice required to be served under this Act on a person interested shall either be served personally on the person to be served or left at his last usual place of abode or business, if any such place can after reasonable inquiry be found, and in case any such person shall be absent from Gibraltar or if such person or his last usual place of abode or business after reasonable inquiry cannot be found, such notice shall be left with the occupier of the land or his agent, or, if there be no such occupier or agent, shall be affixed upon some conspicuous part of such land.

(2) If any such person be a body corporate, such notice shall be left at the registered office of such body in Gibraltar, or, if no such office can after reasonable inquiry be found, shall be served upon an officer or agent in Gibraltar of such body corporate.

Preliminary notice.

5.(1) Whenever it appears to the Governor that any land in Gibraltar is likely to be needed for a public purpose a notice in Form A shall be published in the Gazette and in one or more local newspapers circulating in Gibraltar.

(2) On the publication of a notice under subsection (1), the Director shall—

(a) serve on every person interested in the land specified in the notice a copy of the notice with an endorsement stating the effect of the notice and that it is about to be submitted for confirmation and specifying the time (not being less than twenty-one days from the service of the notice) within which and the manner in which objections thereto can be made; and

(b) affix to some conspicuous object or objects on the land a copy of the notice together with the endorsement addressed to “all persons interested.”

(3) If no objection is duly made by any person interested, or if all objections so made are withdrawn, the Governor, upon being satisfied that the proper notices have been published and served, may, if he thinks fit, confirm the notice with or without modifications.

(4) If any objection duly made under subsection (2) is not withdrawn the Governor shall, before confirming the notice, afford to any person by whom any objection has been duly made and not withdrawn an opportunity of appearing before and being heard by a person appointed in accordance with the provisions of rules made under this Act, and, after considering the objection and the report of the person appointed may confirm the notice either with or without modifications.

(5) Notwithstanding anything in subsection (2), the Governor may require any person who has made an objection to state in writing the grounds thereof, and may disregard the objection for the purposes of this subsection if he is satisfied that the objection relates exclusively to matters which can be dealt with by the Director or the court under the provisions of this Act.

Preliminary investigation.

6.(1) Upon the publication of the notice in the Gazette under the provisions of section 5, it shall be lawful for the Director and for any person either generally or specially authorized by him and for his servants and agents to do all or any of the following things—

- (a) to enter upon and survey and take levels of the land and any land contiguous thereto;
- (b) to dig or bore under the subsoil;
- (c) to do all other acts necessary to ascertain whether the land is suitable for the proposed purpose;
- (d) to clear, set out and mark the boundaries of the land proposed to be taken and the intended line of the work, if any, proposed to be made thereon:

Provided that no person shall enter into any building or upon any enclosed land attached to a dwelling-house (except with the consent of the occupier thereof) without previously giving such occupier at least seven days notice in writing of his intention to do so.

(2) As soon as conveniently may be after any entry made under this section the Director shall pay compensation for all damages done, and in case of dispute as to the amount to be paid either the Director or the person claiming compensation may refer such dispute to the Governor who shall appoint a person, not being a member of the public service, in accordance with the provisions of rules made under this Act to decide the amount of compensation. The decision of a person so appointed, shall be subject to an appeal to the court.

(3) Any appeal against the amount of compensation awarded under subsection (2) shall be referred to the court by the Director either on his own motion or at the request of the person claiming compensation for damage, in Form J.

Notice of intended acquisition.

7. Whenever the Governor is satisfied that any lands are required for a public purpose a notice in Form B shall be published in the Gazette and the Director shall serve a copy of such notice on every person interested. Any land specified in such notice is hereinafter referred to as schedule land.

Land to be marked out.

8. Upon publication of a notice in the Gazette in accordance with the provisions of section 7 that any scheduled land is required for the public purpose specified in such notice, the Director

shall cause the land affected by the acquisition to be marked out unless this has already been done to his satisfaction .

Director to commence proceedings.

9.(1) Upon compliance with the provisions of section 8, the Director shall give notice in Form C fixing the date of an enquiry for the hearing of claims to compensation for all interests in the scheduled land.

(2) The Director shall not hold such enquiry earlier than twenty-one days after the date of publication of the notice referred to in subsection (1).

Statements regarding scheduled land.

10. The Director may, if he thinks fit, by service of notice in Form D require any person whom he has reason to believe to have knowledge of the facts referred to therein relating to the scheduled land, within such period as may be prescribed in such notice, to furnish a statement in writing of the information required by such Form.

Enquiry by the Director.

11.(1) On the date appointed for the enquiry, the Director shall make full enquiry into the value of the scheduled land and shall, as soon as possible thereafter, assess the amount of compensation which in his opinion is appropriate in each case, in accordance with the provisions of section 25.

(2) The Director shall also enquire into the respective interests of all persons claiming compensation of who, in his opinion, are entitled to compensation in respect of the scheduled land.

(3) The Director may, for sufficient cause, postpone any enquiry or adjourn any hearing of an enquiry from time to time.

Power to summon witnesses, etc.

12.(1) The Director on making an enquiry under section 11 shall have all powers of a court for the summoning and examination of witnesses, including the persons interested in the land which is the subject of the enquiry, the administration of oaths or affirmations, and for compelling the production and delivery to him of documents, including documents evidencing title.

(2) Every person required to appear before or to make or deliver a written statement to the Director by notice in Form D shall, without prejudice to the generality of the powers conferred by subsection (1), be subject to the provisions of section 244 of the Criminal Offences Act¹.

Award of the Surveyor.

13.(1) Upon the conclusion of an enquiry, the Director shall prepare a written award under his hand in Form E, which he shall make a separate award in respect of each person whose interest in the scheduled land has been established.

(2) Every award prepared under subsection (1) shall be filed in the office of the Director and shall, subject to any appeal that may be made under this Act, be final and conclusive evidence of the area of any scheduled land, of its value in the opinion of the Director and of the apportionment of the compensation awarded by the Director, whether the persons interested therein have or have not appeared at the enquiry.

Service of award.

14. On making any award under section 13(1), the Director shall prepare and serve on each person interested in such land a notice in Form F. Every such notice shall include an extract from the written award of the Director in Form E, relating to the land in which the person to whom such notice is addressed has an interest.

General power to take possession.

15. The Director may take possession—

- (a) of any land in respect of which an award has been made under section 13, at the time of the service upon the occupier of such land of a notice in Form F or at any time thereafter;
- (b) of any land specified in a certificate of urgency issued under section 16 upon the issue of such certificate whether or not any award has been made in respect of such land:

Provided that the Director shall not take possession of any part of any land under paragraph (b) which is occupied by any building, except in accordance with the provisions of section 17.

Land urgently required.

16. Subject to the provisions of section 17, where any land described in any notice in Form C given under section 9 is, in the opinion of the Governor, urgently required for use for a public

¹ 1960-17

purpose, the Surveyor may, on or after the expiration of fifteen days from the date of the giving of such notice, issue a certificate of urgency to take possession of such land.

Special provisions relating to buildings.

17. Where on any scheduled land in respect of which a certificate of urgency has been issued there is any building, the Director shall serve notices in Form G upon—

- (a) the occupier of the building requiring that he shall vacate the building within such period, not exceeding sixty days from the date of the notice, as may be specified therein;
- (b) the owner of the building making an offer of compensation in respect of the building—
 - (i) where the building is a permanent structure, of the value of the building as it stands;
 - (ii) where the building is of temporary construction, or is otherwise capable of removal and re-erection, of the value of the building or the cost of its removal and re-erection.

Grounds of objections.

18. Any person interested in any scheduled land who, does not accept the Director's award thereon, may make objections to—

- (a) the determination of his interest or right in such land;
- (b) the measurement of the land;
- (c) the amount of the compensation;
- (d) the persons to whom it is payable;
- (e) the apportionment of the compensation;
- (f) the legality of the acquisition.

Application for reference.

19.(1) Any objection made under section 18 shall be made by a written application in Form H to the Director requiring that he shall refer the matter to the court for its determination.

(2) Every application under subsection (1) shall state fully the grounds on which objection to the award is taken, and at any hearing in court no other grounds shall be given in argument without leave of the court.

(3) Every application under subsection (1) shall be made—

- (a) if the person making it was present or represented before the Director at the time when the Director made his award within six weeks from the date of the Director's award under section 13;
- (b) in other cases, within six weeks of the receipt of the notice from the Director under section 14.

(4) On receiving any application under subsection (1), the Director shall refer the matter to the court by a reference in Form J.

Deposit.

20.(1) Upon application by the Director, the Registrar of the Supreme Court may, in his discretion; require each person making application for a reference to the court to deposit with him such sum not exceeding £100 as he may consider reasonable as security for the costs of the reference.

(2) In the event of any deposit required under subsection (1), not being made within fourteen days of its being required by the Registrar, the application for reference shall be deemed to have been withdrawn and the Director's award shall thereupon become final.

Court.

21. The court shall consist of a judge sitting alone:

Provided that the court may, if it thinks fit, appoint one or more assessors for the purpose of assisting the judge in determining the matter.

Assessors.

22.(1) Every person appointed as an assessor under section 21 shall be legally bound to attend and serve as an assessor, unless excused for some reason to be approved by the judge.

(2) If an assessor dies, or becomes incapable of acting, or is excused by the judge, some other suitably qualified person may be appointed in his stead.

(3) Every assessor shall receive such fee for his services as the judge shall direct provided that such fee shall not exceed £10 a day, or such higher figure as the Governor may by order prescribe.

(4) The fee of each assessor shall be deemed to be costs in the proceedings.

Opinion of assessors.

23. The opinion of each assessor shall be given orally, and shall be recorded in writing by the judge but shall not be binding upon the judge.

Notice relating to reference.

24. On receiving a reference from the Director pursuant to the provisions of section 19(4), the court shall cause a notice in Form K, specifying the day on which the court will proceed to hear and determine the objection contained in such reference, to be served on the following persons, and directing their appearance before the court at that hearing—

- (a) the applicant;
- (b) all persons interested in the objection, except such, if any, as have consented without protest to receive payment of the compensation awarded unless the objection is in regard to the apportionment of compensation; and
- (c) if the objection is in regard to the area of the land or to the amount of the compensation, the Director.

Matters to be considered in determining compensation.

25. In determining the amount of compensation to be awarded for land acquired under this Act—

- (a) there shall be taken into consideration—
 - (i) the market value of the land at the date of the preliminary notice under section 5;
 - (ii) the damage, if any, sustained by the person interested at the time of taking possession of the land, by reason of severing such land from his other land;
 - (iii) the damage, if any, sustained by the person interested at the time of taking possession of the land, by reason of the acquisition injuriously affecting his other property, real or personal, in any other manner, or his earnings;
 - (iv) if, in consequence of the acquisition of the land, the person interested is compelled to change his residence or place of business, the reasonable expenses, if any, incidental to such change;

- (b) there shall not be taken into consideration—
- (i) the degree of urgency which has led to the acquisition;
 - (ii) any disinclination of the person interested to part with the land acquired;
 - (iii) any damage sustained by him which, if caused by a private person, would not render such person liable to a suit;
 - (iv) any increase to the value of the land acquired likely to accrue from the use to which it will be put when acquired;
 - (v) any increase to the value of the other land of the person interested likely to accrue from the use to which the land acquired will be put; or
 - (vi) any outlay or improvements on or disposal of the land acquired, commenced, made or effected after the date of the notice of the intention to take such land.

Reports of Government officers to be evidence.

26. The written report of any officer of Government as to the value of any lands or of any buildings thereon may be received as evidence thereof. Such officer may, on giving three days notice in writing to the occupier, enter upon any such lands or into any buildings thereon for the purpose of ascertaining the value of such land and buildings thereon. Any person having an interest in such lands may call such officer as a witness and may also adduce any other evidence as to value. The report of such officer may be proved by a copy thereof under his hand. If any party so desires, the officer shall be called as a witness for cross-examination.

Withdrawal from acquisition.

27. Nothing in this Act shall be taken to compel the Governor to complete the acquisition of any land unless he shall have entered into possession of the land or has failed, within thirty days of the judgment of the court determining compensation, to intimate to the court that he does not intend to proceed with the acquisition:

Provided, however, that the owner of the land and all persons entitled to any estate or interest in the land shall be entitled to receive from the Government all such costs as may have been incurred by them by reason or in consequence of the notice of intended acquisition. The amount of such costs and compensation, if not agreed upon, shall be determined by the court.

Compensation.

28.(1) Compensation shall be payable—

- (a) if no objection is made to the Director's award, upon the expiry of the latest period within which objection may be made; or
- (b) thirty days after the judgment of the court unless the Governor shall have within that period indicated to the court that he does not propose to proceed with the acquisition.

(2) Interest shall be payable at the Gibraltar base lending rate on any compensation due from the date that it became payable until the date that it has been paid.

(3) Compensation paid under this Act may be remitted, free from any deduction, charge or tax imposed in respect of the remission, to any country outside Gibraltar of the choice of the person to whom such compensation has been paid provided that it is so remitted within six months after payment.

Right of entry.

29. The Director and any officer or person authorized under section 6 shall have the right, at all reasonable times, to enter upon any land for any of the purposes of this Act.

Further term of years.

30.(1) Where any land has been acquired for a term of years and before the expiry of such term it appears to the Governor that the land will be required for a public purpose for a further term of years, a notice in Form B shall be published in the Gazette and the provisions of this Act relating to the procedure to be followed consequent upon the publication of such notice on an original acquisition shall apply to the acquisition of such land for a further term of years.

(2) Where any notice has been published under subsection (1), the Director may retain possession of such land notwithstanding the expiry of the term of years unless and until an application to the court on objection to the legality of the further acquisition has been upheld.

Taking of possession.

31.(1) If the Director is opposed or impeded in taking possession of any land, he may apply to the court.

- (2) The court may, upon being satisfied that—
 - (a) the provisions of this Act relating to the acquisition have been complied with;
 - (b) compensation has been paid to the persons entitled thereto or, if tendered and refused, has been paid into court; and
 - (c) possession is impeded or refused,

may issue a writ of possession in respect of such land as upon a judgment or order giving possession of such land.

Penalty for obstruction, etc.

32. A person who—

- (a) wilfully obstructs any officer or person referred to in section 30 or 31 in doing any of the acts authorized or required by any provisions of this Act; or
- (b) wilfully fills up, destroys, damages or displaces any trench or mark made or put on any land under any provision of this Act,

is guilty of an offence and is liable, on summary conviction, to imprisonment for one month and to a fine of £100.

Conflict of laws.

33. In the case of any conflict between the provisions of this Act and the Landlord and Tenant (Miscellaneous Provisions) Act², or any other law for the time being in force relating to landlord and tenant, the provisions of this Act shall prevail.

Rules.

34. The Governor may make rules generally for carrying out the provisions of this Act and, without prejudice to the generality of such power, may—

- (a) provide for the guidance of and procedure to be followed by officers and others in relation to enquiries and hearings; and
- (b) add to, amend or revoke all or any of the forms in the Schedule.

Repeal.

35. *Omitted.*

² 1959-03

SCHEDULE

FORM A.

LAND (ACQUISITION) ACT.

(Section 5).

NOTICE THAT LAND IS LIKELY TO BE ACQUIRED.

It is hereby notified that the lands described in the Schedule hereto, are likely to be needed for the following purpose:

.....
.....

2. It is further notified that any person authorized by the Director in that behalf may enter upon any land in order to examine it and undertake survey operations. If any damage is done in the course of such work compensation therefor will be paid. Any dispute as to the amount of such compensation will be referred to the Director at

.....
.....

Dated this. ; day of 20.

Director

SCHEDULE.

ENDORSEMENT: The above notification is designed to provide for the compulsory acquisition of the lands specified therein. It has no effect until confirmed. Any person wishing to object to the proposed acquisition should on or before the

day of 20 file with me, the Director, Government Secretariat, Gibraltar, an objection, setting out the grounds thereof as concisely as possible.

Dated this., day of 20.

Director ».....«.

FORM B.

LAND (ACQUISITION) ACT.

(Section 7).

DECLARATION OF INTENDED ACQUISITION.

It is hereby declared that the lands specified in the Schedule hereto are needed for the following purpose :

.....

.....

2. A plan of the lands so specified may be inspected during the normal hours of business in the Government Secretariat.

Dated this day of 20.

Director

SCHEDULE.

FORM C.

**LAND (ACQUISITION) ACT.
(Section 9).**

INTENDED ACQUISITION: NOTICE OF ENQUIRY.

In accordance with the declaration of intended acquisition of the lands described in the schedule hereunder, notice is hereby given that an enquiry to hear all claims to compensation for all interests in such land will be held on.day
of.at., hours at.

2. All persons having an interest in the said land, whether legal or equitable, are hereby required to appear before the undersigned at the above time either personally or by agent and there to state—

- (a) the nature of their respective interests in the land;
- (b) the amount and particulars of their claims to compensation for such interests;
- (c) their objections, if any, to the measurements of approximate area given in the Schedule below;
- (d) the name of any other person known to the party or his agent to possess any interest in the land or any part thereof, and to produce all documents and deeds relating to their claims.

3. Notice is further given that the undersigned may require—

- (a) that in any particular case any such statement or statements should be reduced to writing and signed by the party or his agent.
- (b) that any person in possession of any document or deed evidencing title in respect of any land scheduled below deliver up such document, deed or deeds at the time of the enquiry.

Dated this., day of, 20. . .

Director

SCHEDULE.

FORM D.

LAND (ACQUISITION) ACT.
(Section 10).

NOTICE TO REQUIRE EVIDENCE IN WRITING.

TO.....
.....

Whereas the undersigned has reason to believe that you have particular knowledge of the land referred to in the attached notice (*Copy of Form C to be attached*) :

Take notice that you are hereby required to furnish, within.....,days of this date, a statement in writing declaring the following-

- (a) separate valuations of the land and of the improvements, if any, thereon, showing the basis upon which such valuations are made;
- (b) the name of every person possessing any interest legal or equitable in the land or any part thereof; and
- (c) the nature of any such interests and the amount of the rent and profits, if any, received or receivable on account thereof for the three years immediately preceding the date of this notice.

Dated this..... day of.....,20.....

Director

I, the undersigned..... hereby acknowledge receipt of the above notice.

Dated this.....,day of.....,20... .

(Signature).

FORM E.

LAND (ACQUISITION) ACT.
(Section 13).

WRITTEN AWARD OF COMPENSATION.

Acquisition Hearing No.in respect of Lands scheduled in Government
Notice No., of.

The awards set out in the Schedule hereto are hereby made in respect of the areas of land
specified therein, to the persons interested therein, as specified below.

SCHEDULE.

Description of land including area	Persons interested	Nature of interest	Apportionment of award

Dated this day of. . . . ,20. . .

Director

FORM F.

LAND (ACQUISITION) ACT.

(Section 14).

NOTICE OF AWARD AND OFFER OF COMPENSATION.

Acquisition Proceedings No Government Notice No.

of

To

.

You are hereby informed that at the hearing before the undersigned on the
.. day of an award as in the Schedule hereto was made in respect of
the lands specified therein in which you have an interest.

2. In accordance with this award I hereby offer you the sum of
£., being the amount specified below as full compensation for your
interest in this land.

Dated this day of, 20.

Director

SCHEDULE.

(Relevant extract from Form E including all awards, if any, to other persons interested in the
land).

I, the undersigned hereby acknowledge receipt of the above
offer.

2. I am prepared to attend the Government Secretariat on any appointed day to receive payment
in cash *.

I request that the amount due be sent to me by cheque at the above address *.

I do not accept the above offer *.

Dated this day of, 20.

.

*Delete as appropriate.

FORM FA.

LAND (ACQUISITION) ACT.
(Section 16).

CERTIFICATE OF URGENCY.

Acquisition Proceedings No. Government Notice No. of
.

Whereas the land described in a notice given on the day of 20
, under section 9 of the Land (Acquisition) Act (a copy of which notice is attached) is in the
opinion of the Governor urgently required for use for a public purpose :

And whereas not less than fifteen days have elapsed from the date of the giving of such
notice :

Now therefore I hereby issue this Certificate of Urgency under section 16 of the Act.

Dated this. day of. 20.

Director.

FORM H.

LAND (ACQUISITION) ACT.
(Section 19).

APPLICATION THAT AN OBJECTION BE REFERRED TO COURT.

To:

The Director

Acquisition Proceedings No.

I.....of.....
hereby make an objection to the award of the Director dated.....
..... in respect of the following land.....

2. My interest in the said land is as follows–

.....
.....

3. My objection is to:

(Here specify the nature of objection, as set out in section 18).

4. The grounds of my objection are as follows–

(Here set out fully the grounds on which objection to the award is taken).

5. In accordance with the provisions of section 19(1) of the Land (Acquisition) Act, I hereby require you to refer the matter to the court for its determination.

Dated this..... day of.....,20....

Signature of Applicant.

FORM J.

LAND (ACQUISITION) ACT.
(Sections 6(3), 19(4).)

Acquisition Proceedings No. Government Notice No. . . .
of.

REFERENCE TO COURT.

To the Registrar,
Supreme Court.

Whereas I have received an application under section 6 / section 19 of the Land (Acquisition) Act, requiring me to refer to the court the following matter for its determination :

* And whereas a due deposit of £. has been deposited with the Registrar as security for the costs of the reference and appeal:

** (Delete if inapplicable).*

Now therefore pursuant to the provisions of section 6/section 19 of the said Act I hereby refer the following objection to the court:

(Here summarize objection/s).

2. The following is the situation and extent of the land, and particulars of any buildings thereon:

(Here set out details).

3. The following are the names and addresses of all the persons whom I have reason to believe are interested in such land:

<i>(Name)</i>	<i>(Address)</i>	<i>(Interest)</i>
---------------	------------------	-------------------

4. The following notices have been served upon the parties interested:

<i>(Name of Party)</i>	<i>(Particulars of statement)</i>
------------------------	-----------------------------------

5. The follow statements in writing have been made or delivered by the following interested parties:

<i>(Name of Party)</i>	<i>(Particulars of statement)</i>
------------------------	-----------------------------------

† 6. The amount awarded for damages under section 6 of the said Act was £

7. The amount of compensation awarded under section 14 was

£.

† 8. The following are the grounds on which the amount of compensation was determined–

(Here set out grounds).

† *To be completed where the objection is to amount of compensation.*

9. I attach hereto copies of the following documents–

(Here list documents).

Dated this. ,day of. ,20. . . .

Director

(The above paragraphs may be completed by appropriate references to the documents to be annexed thereto).

FORM K.

LAND (ACQUISITION) ACT.
(Section 24).

NOTICE.

To

.....

LAND REFERENCE NO of

Notice is hereby given that on the

day of at the hour of

in the noon, the Supreme Court sitting at

..... will proceed to hear and determine the objections contained in the above reference,
and relating to the following land :

(Here insert details of land).

2. You are hereby directed to appear before the court at such hearing.

Dated this day of, 20...

Registrar.