

CHAPTER 116.

PUBLIC LANDS.

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To be complete discharge.
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CHAPTER 116.

PUBLIC LANDS.

An Ordinance to repeal The Public Lands Ordinance, 1896, and to make other provisions in lieu thereof.

[12TH APRIL, 1898.]

6 of 1898.
12 of 1924.
44 of 1924.
12 of 1928.
24 of 1932.
26 of 1945.
10 of 1946.
P.N. 148
of 1959.

1. This Ordinance may be cited, for all purposes, as the Public Lands Ordinance. Short title.

2. In this Ordinance, unless the context otherwise requires— Interpreta-
tion.
“public work” means any work not coming within the provisions of the Railway Ordinance executed, maintained or repaired, and any measure or undertaking prosecuted, whether wholly or partly, at the public expense; Cap. 134.
“land” includes all land, whether covered with water or otherwise, together with all buildings and erections, if any, thereon, and, where such meaning may be inferred, any right to the same;

“Minister” means the Member of Executive Council charged for the time being with responsibility for the subject of lands; P.N.
148 of 1959.

“Chief Justice” includes any Judge of the Supreme Court of Sierra Leone in its civil jurisdiction.

PART I.—ACQUISITION OF LANDS FOR THE SERVICE
OF THE COLONY.

3. (1) Whenever the Governor in Council resolves that any land is required for any public work, the Governor may from time to time, by writing under his hand, authorise any person, together with his agents, servants or workmen, to enter as often as may be necessary upon such land, and there to survey and take levels, to make borings or trial pits, and to do such other acts as may be necessary with a view to the taking or appropriating of any such land. Power to
enter to
survey.

(2) The report of any such person, together with a plan of such land, shall be laid before the Governor and House of Representatives.



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(2) The report of any such person, together with a plan of such land, shall be laid before the Governor and House of Representatives.

Warrant for acquisition of land.

4. Whenever the Governor, with the advice and consent of the House of Representatives, shall by resolution declare that any land shall be acquired for any public work, it shall be lawful for the Governor, by warrant under his hand and the public seal of the Colony, to direct that such lands shall be acquired for the service of the Colony.

Every such warrant may be in the Form A in the schedule hereto, and shall be published in the *Gazette*.

Service of notice on owners.

5. Whenever, by any such warrant, as in the last section mentioned, it is directed that any land shall be acquired for the service of the Colony, the Director of Surveys and Lands shall cause to be served personally on the person or persons entitled to sell or interested in any lands specified in such warrant, or if he or they cannot be found, shall cause to be left at his or their last usual place or places of abode or business with some inmate thereof, to be given to such person or persons, and in case no such person can be ascertained or found, shall cause to be left with the occupier of such lands, or if there be no such occupier, shall cause to be affixed on some conspicuous part of such lands, within eight days from the date of such warrant, a notice in the Form B in the schedule hereto, or as near thereto as possible.

Power to enter and take land.

6. After the lapse of twenty-one days from the publication of any such warrant in the *Gazette* it shall be lawful for the Director of Surveys and Lands, with all necessary workmen and other servants, to enter upon such land, and also to set out, appropriate and take so much of such land as is specified in the said warrant.

Land to be marked out.

7. When the Director of Surveys and Lands shall set out, appropriate and take the land specified in any such warrant, he shall cause such land to be marked out, and a notice to be posted in some conspicuous part of such land, and such notice shall be in these words, viz.:—"Taken for the service of the Colony," and shall be signed by the Director of Surveys and Lands. All such land, when so set out, appropriated or taken, shall be vested in Her Majesty the Queen, free from all other estates and all liens, rights, charges and encumbrances whatsoever.

Plan and certificate to be registered.

8. Within eight days after any such appropriation, the Director of Surveys and Lands shall cause a plan of the land so set out, appropriated and taken as aforesaid, together with a certificate, under his hand, to the effect that the same has been taken and appropriated for the service of the Colony, to be registered in the Office of the Registrar General.

9. When any land has been taken and appropriated for the service of the Colony, whether under the provisions of this or any other Ordinance, the registration of a plan of such land, together with the certificate in the Office of the Registrar General, as in the last section mentioned, shall be conclusive evidence that such land has been set out, appropriated and taken for the service of the Colony under the provisions of this Ordinance.

Registration to be conclusive.

10. If any land be so cut through and divided by the taking and appropriation of part of such land for any public works as to leave a portion thereof practically useless to the owner for the purpose for which he had been accustomed to use the land, it shall be lawful for the owner of such land, by notice in writing to be served on the Director of Surveys and Lands, at any time, before an agreement is come to, for the purchase of the land taken as aforesaid, or before the assessment of the price to be paid for such land under the provisions of this Ordinance, to require the Governor, on behalf of her Majesty the Queen, to purchase not only the land actually taken as aforesaid, but also the land rendered useless as aforesaid by reason of the severance aforesaid, and thereupon it shall be lawful for the Governor to purchase the land rendered useless as aforesaid, or, if he refuse to do so, it shall be lawful for the Chief Justice, if he shall find as a fact that any portion of the said land has been, by the severance, rendered useless as aforesaid, to adjudge that the Governor shall purchase the same and determine the price to be paid for the same in the same way as if such land was actually taken for any public work.

Land injuriously affected.

11. It shall be lawful for the Minister to resell any land purchased under the provisions of the last preceding section, and any moneys arising from any such sale shall be carried to, and form part of, the general revenue of the Colony.

Resale of land.

12. Nothing in this Ordinance shall be deemed to authorise the Director of Surveys and Lands to take a part only of any house, building or manufactory, but where a part of the land on which any house, building or manufactory stands is required for any public work it shall be lawful for the owner of such house, building or manufactory to require the Director of Surveys and Lands to take the whole house, building or manufactory:

Part of house, etc., not to be taken.

Provided that it shall be lawful for the Minister to resell any portion of any such house, building or manufactory that may

not be required for any such public work, and any moneys arising from any such sale shall be carried to, and form part of, the general revenue of the Colony.

Power of Minister to sell, lease, etc., land when public work abandoned, or land is superfluous to requirements.

13. Whenever any land which has been acquired under the provisions of this Ordinance for a public work is not required for the purposes thereof, or the said public work has been abandoned, it shall be lawful for the Minister to sell, exchange, lease or in any other manner dispose of such land, and any moneys arising from the said sale, exchange, lease or other disposal thereof shall be carried to, and form part of, the general revenue.

Cases in which the owner, etc., refuses to give up possession, etc.

14. If in any case in which, according to the provisions of this Ordinance, the Director of Surveys and Lands is authorised to enter upon and take any land, and the owner or occupier of any such land, or any other person, refuse to give up possession thereof, or hinder the Director of Surveys and Lands, his workmen or servants from entering upon or taking possession of the same, it shall be lawful for the Governor to issue his warrant in the Form C in the schedule hereto, or as near thereto as possible, directed to the Sheriff, ordering him to deliver possession of the same to the Director of Surveys and Lands, and upon receipt of such warrant the Sheriff shall deliver possession of any such land accordingly; and the costs accruing by reason of the execution of such warrant, to be taxed by the Master of the Supreme Court, subject to review by the Chief Justice, shall be paid by the person refusing to give possession or hindering the Director of Surveys and Lands, his workmen or servants as aforesaid, and the amount of such costs shall be deducted and retained by the Governor from the compensation, if any, then payable by him to such person, and if no compensation be payable to such person, or if the same be less than the amount of such costs, then such costs or the excess thereof beyond such compensation, if not paid on demand, shall be levied by distress, and upon application to the Magistrate for that purpose, he shall issue his warrant accordingly.

PART II.—COMPENSATION.

Compensation to be allowed.

15. The owners and occupiers of, and all other persons interested in, any land which may be appropriated, and taken or entered upon as aforesaid, shall be entitled to, and shall receive, compensation for the value of the land so taken and appropriated, and for all damages sustained by such owners, occupiers and other persons, by reason of the exercise, as regards such

land, of the powers granted by this Ordinance, the amount of such compensation to be ascertained and determined as hereinafter provided.

16. It shall be lawful for the Governor, for and on behalf of Her Majesty, to contract and agree with the owner or occupier or any other person interested in any land which may be appropriated and taken for the service of the Colony, or be injuriously affected by the exercise of any of the powers as regards such land granted by this Ordinance, for the compensation to be allowed, either in respect of the actual value of the land, or in respect of damages incurred by reason of the exercise of any of the said powers, and any sum or sums so agreed on as last aforesaid, or which shall be awarded under the provisions of this Ordinance, shall be paid by the Accountant General.

Agreed compensation.

17. In all cases in which any land has been appropriated, taken or entered upon under the provisions of this Ordinance, or has been injuriously affected by the exercise of any of the powers granted by this Ordinance, if within twenty-one days after the publication of the warrant in the *Gazette* that such land shall be acquired for the service of the Colony as hereinbefore provided, no claim shall have been lodged with the Director of Surveys and Lands in respect of such lands, or if the person who may have lodged any claim and the Governor shall not have agreed as to the amount of compensation to be paid for the interest of any such person, or if any such person shall not have given satisfactory evidence of his alleged interest, or if separate and conflicting claims are made in respect of the same land, the amount of compensation due, if any, and every such disputed interest or title shall be settled in accordance with the following provisions—

Cases of disputed compensation, etc.

(a) Application may be made by motion *ex parte*—

(1) by or on behalf of the Attorney General, or

(2) in the event of the Attorney General making no such application within eight days after the registration of the plan of any land, and of the certificate of the Director of Surveys and Lands that such land has been set out, appropriated and taken for the service of the Colony in the Office of the Registrar General, either by, or on behalf of, the Attorney General, or of any person or persons claiming to be the owner, occupier, or to be otherwise interested in any such land,

to the Chief Justice, who shall have jurisdiction to hear and determine in all such cases as aforesaid.

(b) The Attorney General, or other person or persons applying to the Court as last aforesaid, shall cause the records in the Registrar General's Office to be searched in order to ascertain whether or not there are or are not any mortgages or other charges affecting any of such land, or any part thereof, and in the event of there being any mortgage or other charge affecting any such land, or any part thereof, shall produce at the hearing of any such application a report of all such mortgages or charges, the nature, the persons interested thereunder or affected thereby, and the Court shall thereupon direct that the value of the land so appropriated be ascertained, that the amount of compensation which ought to be paid to the several persons interested therein be determined, what notices shall be given or served to enable all persons interested to protect their rights, and the manner in which such notices shall be given or served, and shall further appoint the time and the place at which he will sit to hear and determine the matter, and the Master of the Court shall cause public notice of the time and place so appointed to be published in the *Gazette*.

(c) The Court shall, after hearing evidence in that behalf, assess the amount of compensation to be paid by the Government to the owner of the land the subject of the application, and to all persons having any just right, title or interest in respect of the said land or any portion thereof, and whenever it shall appear that any such land is owned, either wholly or in part by, or that the occupier or any person injuriously affected as aforesaid is an infant, lunatic, or a person who is absent from the Colony, it shall be lawful for the Court to appoint a guardian or curator to protect the interest of any such infant, lunatic, or absentee, and every such guardian or curator shall be subject to the control and direction of the Court.

(d) On the day appointed for the hearing—

(1) the Attorney General, or any person on his behalf, and every person interested in the land the subject matter of the said application, may appear before the Court and may tender such evidence as may be relevant in support of their alleged rights and the value thereof, and may cross-examine any witness produced in any adverse interest, and may produce any adverse testimony;

(2) the Attorney General, or any person on his behalf, or any person interested as aforesaid, may summon any witness who may be required.

(e) When the owner, or any person claiming to be the owner, of such land, or to possess or represent the possessor of any interest therein, shall not appear at the time appointed for the hearing, a decision may be given *ex parte* upon hearing the evidence adduced by the Attorney General, or any person on his behalf, and such decision shall be as effectual as if given after hearing and in the presence of all parties.

(f) The written report of the Director of Surveys and Lands, or any surveyor or engineer nominated by him, as to the value of such land, shall be evidence thereof, but shall not exclude any other evidence of such value. Such report may be proved by a copy thereof under the hand of the Director of Surveys and Lands, or of any such surveyor or engineer as last aforesaid, as the case may be, but any of them may be called to give evidence by any party having interest. Proof of the signature of such copy shall not be required, unless the Court sees reason to doubt the genuineness thereof.

(g) Compensation shall not be awarded to any party in respect of unoccupied land. Any land shall be deemed to be unoccupied where it is proved that beneficial use thereof for cultivation or inhabitation, or for collecting or storing water, or for any industrial purposes, has not been made for twelve years next prior to the date of which such land has been set out, appropriated and taken for the service of the Colony under the provisions of this Ordinance.

18. (1) In determining the amount of compensation to be awarded for land acquired under this Ordinance, the Court shall take into consideration the following matters and no others, namely—

Matters to be considered in determining compensation. 10 of 1946.

(a) the market value at the date of the publication of the warrant under section 4 of this Ordinance;

(b) any increase in the value of other land of the person interested likely to accrue from the use to which the land acquired will be put;

(c) the damage, if any, sustained by the person interested at the time of the taking possession of land by reason of severing such land from his other land;

(d) the damage, if any, sustained by the person interested at the time of the taking and appropriation of the land by reason of the acquisition injuriously affecting his other property whether movable or immovable in any other manner or his actual earnings;

(e) if, in consequence of the acquisition, he is compelled to change his residence or place of business, the reasonable expenses, if any, incidental to such change;

(f) the damage, if any, sustained by persons interested by reason of the imposition of any easement or exercise of any other rights of user on the basis of amount by which the value of the land shall have been diminished thereby; and

(g) where land is, and but for the compulsory acquisition would continue to be, devoted to a purpose of such a nature that there is no general demand or market for land for that purpose, the compensation may, if the Court is satisfied that reinstatement in some other place is *bona fide* intended, be assessed on the basis of the reasonable cost of equivalent reinstatement.

(2) For the purpose of paragraph (a) of sub-section (1) of this section—

(a) if the market value has been increased by means of any improvement made by the owner or his predecessor in interest within two years before the publication of the warrant under section 4, such increase shall be disregarded if the improvement was made in contemplation of proceedings for the acquisition of the land being taken under this Ordinance;

(b) when the value of the land is increased by reason of the use thereof or any premises thereon in a manner which could be restrained by any Court or is contrary to law or is detrimental to the health of the inmates of the premises or to the public health the amount of that increase shall not be taken into account;

(c) the effect of any expressed or implied condition of title restricting the use to which the land may be put shall be taken into account.

Matters to be neglected in determining compensation.

19. In determining the amount of compensation to be awarded for land acquired under this Ordinance the Court shall not take into consideration—

(a) the degree of urgency which has led to the acquisition;

(b) any disinclination of the person interested to part with the land acquired;

(c) any damage sustained by the person interested which, if caused by a private person, would not be a good cause of action;

(d) any damage which is likely to be caused to the land or buildings acquired after the date of the publication of the

warrant under section 4 by or in consequence of the use to which it will be put;

(e) any increase to the value of the land or building acquired likely to accrue from the use to which it will be put when acquired;

(f) any outlay on additions or improvements to the land acquired, which was made after the date of the publication of the warrant under section 4, unless such additions or improvements were necessary for the maintenance of any building in a proper state of repair;

(g) any increase to the value of the land by reason of any work done thereon by or at the expense of the Governor in Council prior to the acquisition;

(h) the special suitability or adaptability of the land for any purpose if that purpose is a purpose to which it could be applied only in pursuance of statutory powers, or for which there is no market apart from the special needs of a particular purchaser or the requirements of the Governor in Council.

20. (1) Any final judgment of the Court respecting compensation or in the case of disputed interest or title shall be subject to the like appeal to which other final judgments of any Court are subject, including appeal to the West African Court of Appeal and to Her Majesty's Privy Council where such appeal is allowed by law. Appeals.

(2) The party who may desire to appeal against such judgment shall proceed according to any Rules of Court or Order in Council for the time being regulating appeals, and if an appeal is not perfected within the period prescribed, the judgment of the Court or Court of Appeal, as the case may be, shall be final. Notice of Appeal. When Court's decision to be final.

(3) The decision of any Court having competent jurisdiction, whether original or appellate, where appeal has been taken in manner above mentioned, respecting compensation, or on any question of disputed interest or title, shall be final and conclusive in regard to all persons upon whom notices have been served or who have appeared and claimed or on whose behalf any person having authority to that effect has claimed any lands or any interest therein. Postponement of payment of price; parties not notified may appear and claim.

Provided that persons upon whom notices have not been served, and who have not appeared or claimed or on whose behalf no claim has been made, may do so at any time within one year after the date of the final decision. Proviso.

Payment after one year.

To be complete discharge.

Proviso.

(4) In all cases where any compensation has been awarded, except where a valid written title to the land shall be delivered, payment thereof shall be postponed until the period of one year shall have elapsed from the date of the judgment, or judgment on appeal, whereupon it may be paid over to the person who shall then appear by the judgment of the Court to have the best right thereto, and such payment shall, as concerns the Colonial Government, operate as a complete discharge and acquittance of such compensation and of all claims in respect of such lands or any interest therein:

Provided that such payment shall not hinder any subsequent proceedings at the instance of any persons having or alleging better right thereto as against the person to whom such payment may have been made.

Sec. 4.

SCHEDULE

FORM A

WARRANT THAT LAND SHALL BE ACQUIRED FOR THE SERVICE OF THE COLONY.

Sierra Leone.
(L.S.)

By His Excellency,

.....
Governor.

Whereas on the.....day of.....19....., the Governor, with the advice and consent of the House of Representatives, by Resolution, declared that the land hereinafter described, that is to say [*insert description of land*], should be acquired for a Public Work:

Now, therefore, I do hereby, under the provisions of the Public Lands Ordinance, by this my warrant under my hand and the Public Seal of the Colony, direct that the said land shall be acquired for the service of the Colony.

Dated this.....day of.....19.....

FORM B.

Sec. 5.

NOTICE.

Notice is hereby given that the following land [*described land, denoting the boundaries by physical marks wherever practicable*] is to be acquired for the service of the Colony.

Any person claiming to be possessed of, or to have any right, title or interest in, the said land, or to be injuriously affected by any such acquisition, is required, on or before the day of [*twenty-one days after the date of publication of warrant in the Gazette*], to forward to the Director of Surveys and Lands a statement of his right or interest, and the evidence thereof, and of any claim made by him in respect of the value of such land or of his interest therein.

The Governor is willing to treat for the purchase of the said land, but if no such statement is lodged with the Director of Surveys and Lands before the date hereby prescribed, the land is liable to be dealt with as unoccupied land.

Date.

.....
Director of Surveys and Lands.

FORM C.

Sec. 14.

WARRANT TO THE SHERIFF.

To the Sheriff of the Colony of Sierra Leone:

Whereas by a warrant dated the.....day of.....19....., under the hand of the Governor and the Public Seal of the Colony, it was directed that the following land [*describe land*] should be acquired for the service of the Colony:

And whereas twenty-one days have elapsed since the publication of the said warrant in the *Gazette*.

These are therefore to command you to put the Director of Surveys and Lands, or any person authorised by him in that behalf, in possession of the said land and premises.

Dated the.....day of.....19.....