

CHAPTER 120.**AIRFIELDS AND DEFENCE LANDS (ACQUISITION OF CLEARANCE RIGHTS).****ARRANGEMENT OF SECTIONS.**

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CHAPTER 120.**AIRFIELDS AND DEFENCE LANDS (ACQUISITION OF CLEARANCE RIGHTS).**

An Ordinance to Enable Clearance Rights to be Acquired and Enforced over Land and Property in the Vicinity of Defence Lands and Airfields in Order to Ensure the Efficient Defence of Sierra Leone and the Safety of Aircraft in Flight, and Other Purposes Connected Therewith.

20 of 1944.
23 of 1945.

[14TH DECEMBER, 1944.]

1. This Ordinance may be cited as the Airfields and Defence Lands (Acquisition of Clearance Rights) Ordinance, and shall apply to the Colony and the Protectorate.

Short title.

2. In this Ordinance, unless the context otherwise requires—
“airfield” means any area of ground or water licensed under the Air Navigation (Colonies, Protectorates and Mandated Territories) Order, 1929, under the control of the

Interpreta-
tion.

Government of Sierra Leone or of any of Her Majesty's Air Forces for the landing and departure of aircraft;

“ aircraft ” means any type of air-supported vehicle, whether mechanically propelled or not, and includes all types of aerodynes and aerostats;

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“ authorised officer ” means an authorised officer appointed under the provisions of section 3 of the Defence Lands Acquisition Ordinance, except in case where a Clearance Order made under the provisions of section 3 of this Ordinance relates to an airfield under the control of the Government of Sierra Leone when the expression shall mean the Director of Surveys and Lands;

“ Court ” means the Supreme Court of Sierra Leone;

“ defence land ” means land in the possession or occupation of the Commissioners for executing the Office of Lord High Admiral in the United Kingdom, of the Secretary of State for War or of the Secretary of State for Air;

“ land ” includes all land, whether covered by water or not.

Power of Governor in Council to enforce restrictions on user of land near defence land or airfields.

3. Whenever in the opinion of the Governor in Council, in order to provide for or maintain the efficient defence of Sierra Leone or the efficient use of any airfield or to provide for the safety of aircraft, it is necessary so to do, he may, by Order, hereinafter called a Clearance Order, published in the *Gazette*, impose restrictions upon the use and enjoyment of any land in the vicinity of any defence land or of any airfield or of any site intended to be used for or to be acquired for use as a defence land or an airfield.

Provisions and contents of Clearance Orders.

4. (1) Every Clearance Order shall describe the land affected thereby and shall state the boundaries within which restrictions are imposed and may—

(a) specify any existing buildings, timber, vegetation or other obstructions which are to be removed either wholly or in part or which are to be altered and direct the extent to which they are to be removed or altered as the case may be;

(b) specify those areas within which no building or other obstruction may be erected, added to or altered or within which no tree or other vegetation may be planted except with the written approval of such person as may be specified in the Order and subject to such conditions as he may impose;

(c) specify those areas within which no building, tree or other thing shall be permitted to exceed a specified maximum height;

(d) specify those areas within which no building shall be used for human habitation either generally or except with the approval of such person as may be mentioned in the Order and subject to such conditions as he may impose;

(e) impose any restrictions or conditions, not inconsistent with the provisions of this Ordinance, affecting the land and property referred to in the Order.

(2) Such Order shall refer to a large scale plan on which the areas specified shall be delineated and such plan shall be deposited at some convenient place for the information of any person interested in any land affected thereby.

(3) When any Clearance Order directs that any act shall be done on the land affected by the Order, such Order shall specify the period within which such act may be done by the person or persons interested therein.

5. (1) A copy of the Clearance Order, to which shall be annexed a notice relating thereto in the form set out in the Schedule to this Ordinance, shall be served personally upon all persons who appear to be interested in the land affected by the order or if any such person cannot be found shall be served at his last usual place of abode or business upon some inmate thereof to be given to such person and in case there appears to be no person who is interested in such land shall be affixed on some conspicuous part of the land:

Service of
copies of
Clearance
Orders and
notices.

Provided that where the land affected is situated in the Protectorate, the notice shall be served on the Tribal Authority having jurisdiction over such land, unless any non-native shall also appear to be interested in the said land in which case notice shall in addition be served on such non-native.

(2) An authorised officer shall serve or cause to be served all such copies of the Clearance Order and notices in manner hereinbefore provided.

6. (1) As soon as a Clearance Order made under section 3 has been published in the *Gazette* and a copy thereof has been served in manner provided by the last preceding section an authorised officer and any person acting under the directions of an authorised officer may—

Entry upon
land.

(a) enter upon, survey and take levels of the land affected by the Clearance Order;

(b) do all other acts necessary for the completion of such survey and for the purpose of marking out the boundaries of the land so affected or any parts thereof; and

(c) enter upon the land affected by the Clearance Order and examine the land and all buildings, works, crops, timber and other property thereon for the purpose of ascertaining the value thereof and of estimating the amount of damage caused or likely to be caused to such land and property by the operation of the Order.

(2) No such authorised officer or person shall enter into any building or upon any enclosed compound or garden attached to such building unless with the consent of the occupier thereof without previously having given to such occupier at least three days' notice in writing of his intention so to do.

Power to enter and enforce Order.

7. Where a Clearance Order directs that an act may be performed within a specified period by persons interested in the land affected by the Order and such act is not performed or is not completed within the period specified, an authorised officer and any person acting under the directions of an authorised officer may enter on the land affected by the Order and do or complete such act in such manner as may be necessary to give effect to the Order.

Restriction upon action for compensation.

8. Except as provided in this Ordinance no person shall be entitled to claim or to recover any compensation in respect of any lands or interest therein which have been injuriously affected by the making of a Clearance Order under the provisions of this Ordinance.

Right to compensation.

9. Subject to the provisions of section 10, any person beneficially interested in any land the subject of a Clearance Order and any person affected by any restrictions or conditions imposed or any directions contained in any Clearance Order shall be entitled to and shall receive compensation for all damages which are or will be sustained by such person by reason of the operation of such Clearance Order; the amount of such compensation shall be ascertained and determined as hereinafter provided:

Provided that where the land affected is situated in the Protectorate, any compensation to which a Tribal Authority having jurisdiction over the said land is entitled, shall be paid

to the Chiefdom Treasury, who shall distribute the compensation in accordance with native customary law.

10. (1) Subject to the provisions of this section, no person shall be entitled to compensation under this Ordinance unless he has given notice of his claim to the authorised officer within six months from the date of the service of the copy of the Clearance Order under section 5 of this Ordinance or of the affixing of such copy to the land in manner prescribed by that section:

Notice of claim.

Provided that where the land affected is situated in the Protectorate notice of claim on behalf of a Tribal Authority or of any other native shall be given by the Tribal Authority having jurisdiction over the said land.

(2) Each such claim shall be submitted to the authorised officer who issues the notice served as provided in section 5, or to his successor in office and shall give particulars of the damage claimed to be caused, or likely to be caused and shall show, as the case may require, whether the claim is made in respect of a partial interference with or the total loss of any right.

(3) The period of six months prescribed by sub-section (1) of this section may be extended at the discretion of the Governor if it can be shown that the claimant could not have known from the inspection of the plan referred to in the Clearance Order that the injurious effects complained of would be likely to occur.

11. If the authorised officer to whom the claim is submitted and the person who has lodged the claim in accordance with the provisions of section 10 are unable to agree as to the amount of compensation to be paid or if any such person shall not have given satisfactory evidence of his interest in the land or property affected by the Clearance Order or if separate or conflicting claims are made in respect of interest in such land or property the matter in dispute shall be determined by the Court, which shall have jurisdiction to hear and determine all such cases as aforesaid, either upon the application of the authorised officer or of any claimant, and any final judgment in any such case as aforesaid shall be subject to the like appeal to which other final judgments of the 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.

Reference of disputed claims to Supreme Court.

Evidence
and pro-
cedure at
hearing.

12. (1) In every proceeding before the Court under this Ordinance—

(a) the appropriate authorised officer, and every person who has lodged a claim in accordance with the provisions of section 10 may appear before the Court, and may tender such evidence as may be relevant to the proceedings, and may cross-examine any witness produced in any adverse interest, and may produce any adverse testimony,

(b) the Court, on the application of the authorised officer or of any claimant as aforesaid, may summon any witness who may be required,

(c) when any claimant shall not appear at the time appointed for the hearing, a decision may be given *ex parte* upon hearing the evidence adduced by the authorised officer and such decision shall be as effectual as if given after hearing, and in the presence of, all parties:

Provided that in any such case the Court may reopen the proceedings on the application of the claimant at any time within twelve months of such decision.

(2) The written report of any person nominated by the appropriate authorised officer as to the value of the land or property affected by the Clearance Order and the amount of damage caused or likely to be caused thereto by the operation of the order shall be admissible as evidence thereof. Such report may be proved by a copy thereof, under the hand of such person but he may be required by the Court to attend and give evidence either upon the motion of the Court itself or upon an application on the part of the authorised officer or of any claimant. Proof of the signature of such copy shall not be required unless the Court sees reason to doubt the genuineness thereof.

Compensa-
tion not to
be awarded
in respect of
unoccupied
land.

13. Compensation shall not be awarded to any person in respect of rights in any land which is situated in the Colony and unoccupied. 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 the publication of the Clearance Order relating to such land.

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

Matters to be taken into consideration in determining compensation.

(a) the market value of the land or property affected by the Clearance Order at the time of the publication thereof, and the actual diminution of such market value occasioned by the operation of the Order:

Provided that where land is situated in the Protectorate, the market value thereof shall be deemed to be the amount of the assessed agricultural value of the land together with any amount by which that value is increased by the situation of the land and the use to which it is being put at the date of the making of the Clearance Order,

(b) the damage caused or which it is reasonably apprehended will be caused to the claimant by reason of the operation of the Clearance Order affecting his other property in any manner, and

(c) if, in consequence of the operation of the Order, a claimant is compelled to change his residence or place of business, the reasonable expenses, if any, incidental to such change.

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

(a) if the Court shall be satisfied upon evidence that the market value has been increased by means of any improvement made within two years before the publication of the Clearance Order such increase shall be disregarded if the improvement was made in contemplation of the making of a Clearance Order under this Ordinance,

(b) when the value of the land or property is increased by reason of the use thereof in any 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 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.

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

Matters to be neglected in determining compensation.

(a) the degree of urgency which has led to the making of the Clearance Order,

(b) any disinclination of any claimant to part with any right or interest, in the land or property affected by the Order, and

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

Penalty.

16. Any person who wilfully obstructs any other person in the exercise of any power conferred or the performance of any duty imposed upon such other person by this Ordinance or who contravenes any of the conditions or restrictions imposed by any Clearance Order, shall be guilty of an offence and shall be liable, on summary conviction, to imprisonment for six months or to a fine of one hundred pounds or to both such fine and imprisonment.

SCHEDULE.

Sec. 5.

FORM OF NOTICE.

THE AIRFIELDS AND DEFENCE LANDS (ACQUISITION OF CLEARANCE RIGHTS) ORDINANCE.

Notice is hereby given that the land described in the Clearance Order entitled.....a copy of which Order is hereunto annexed has been subjected to clearance rights.

Any person claiming to be possessed of, or to have any right, title or beneficial interest in the said land or to be injuriously affected by the said Order is required on or before the.....day of.....19....., to forward to me at.....a statement of the right or interest and the evidence thereof and of any claim made by him in respect of the value of the loss or diminution in value of such right or interest by reason of the operation of the said Order.

I am willing to treat for the payment of compensation in respect of any loss or diminution in value which may result from the operation of the order for and on behalf of.....

(here set out the name of the authority by whom compensation, if any, is payable, e.g.,

the Commissioners for executing the Office of Lord High Admiral in the United Kingdom, the Secretary of State for War, the Secretary of State for Air or the Government of Sierra Leone).

A copy of the plan to which reference is made in the Clearance Order has been deposited at.....and is available for your inspection on each day of the week, except Sundays and public holidays, between the hours of 9 a.m. and 1 p.m.

(Signed).....

Authorised Officer (and designation).

Date.....