

## LAND ACQUISITION ACT, 1960

The Land Acquisition Act, 1960, of the Federation of Malaya seeks to consolidate the law relating to the acquisition of land. Prior to the Act, there were five separate laws,<sup>1</sup> and although the differences were minor, the result is often time wasting and confusing. To remedy this and to bring about uniformity of land legislation, this Act has been introduced.

Section 3 of the Act permits the State to acquire land which is needed —

- “ (a) for any public purpose, or
- (b) by any person or corporation undertaking a work which in the opinion of the State Authority is of public utility, or
- (c) for the purpose of mining or for residential or industrial purposes.”

This merely reproduces, in an abbreviated form, the existing legislation.

Although the Act is essentially a consolidating one, three changes in principle have, however, been introduced.

The first in the introduction of a summary procedure for the acquisition of small pieces of land for the purpose of roads, pipelines, etc. The summary procedure can also be invoked where the number of persons involved in the land intended to be acquired is such that it is not expedient to conduct a full scale inquiry, provided for in section 12. In no other circumstances, however, can the summary procedure be invoked.

This summary enquiry may be held by the Collector at any place and in any manner as he thinks fit. After hearing the interested parties, he may make an oral award either in money or otherwise, to every person entitled to such award. After acceptance by the persons interested, the title will be handed over to the Collector on payment of the award. Thus, it may be possible for a Collector to go into a field, obtain an agreement on the spot and pay compensation all in one operation. Where, however, such action fails, section 17(5) provides for reversion to the full scale inquiry.

The second change is to be found in section 19 which empowers the Collector to take possession of any country land or arable land or unoccupied land which in the opinion of the State Authority is urgently required for a public purpose. By the definitions of ‘country land’<sup>2</sup> and ‘arable land,’<sup>2</sup> it is possible for entry to be made on such land even where it is occupied. Under the old law, with the exception of Johore, the Collector can only enter where the land is unoccupied. In Johore, however, it has always been possible to acquire any land under a direction of urgency. In Johore, therefore, the power will now be restricted.

1. F.M.S.: cap. 140 F.M.S. Laws 1936; Johore: No. 16/1936; Kedah: No. 57; Kelantan: No. 8/1934; Penang and Malacca: cap. 128 S.S. Laws 1936; Perlis and Trengganu: F.M.S. Enactment extended to these States by No. 4/1958 and No. 9/1952 respectively.

2. S.19(2).

Buildings present a major difficulty with entry in cases of urgency. It is obvious that a building cannot be entered as summarily as cultivated or vacant land. Section 20, therefore, provides that where there is a building on any land in respect of which a Certificate of Urgency has been issued, the Collector will take possession of the land not built upon, and will then serve the occupier a notice requiring him to vacate the building within sixty days. Provision is made for compulsory entry at the end of the sixty days, whether the occupier or owner accepts compensation or not. Where a building is capable of being moved the Collector may himself remove and re-erect the building, but in other cases he may demolish the building, provided that he has first obtained a proper valuation by a competent valuer.

The third change is in section 37. This gives the Government the right of appeal against a Collector's award. Under the old law, the Government had no such right. Objections to the Collector's award can only be made on four grounds, *viz.*:

- (a) the measurement of the land;
- (b) the amount of the compensation;
- (c) the person to whom it is payable;
- (d) the apportionment of the compensation.

Where the amount claimed as compensation does not exceed \$500, the Collector's decision is final as to grounds (a) and (b) but an appeal can still be made on grounds (c) and (d).

An appeal from the Collector's award lies to a single Judge. Where the objection is as to compensation and the amount involved is not less than \$5,000, the Judge is assisted by two assessors. Provision is made for appeal to the Court of Appeal and to the Yang di-Pertuan Agong, as provided for by article 131 of the Federation Constitution. Appeal to the Court of Appeal, however, only lies where the award exceeds \$5,000.

An interesting provision is section 26(3) which is applicable only to Penang and Malacca. This provides for a document of title, which is of historic or other interest to the owner, to be returned to him after cancellation by the Collector. Application for return must be made by the owner. The provision has been made necessary as a result of the considerable difficulties which have arisen in these States from the reluctance of owners to surrender historic titles or deeds.

Two other features are worthy of note in this Act. The principles relating to the determination of compensation (which is the same as the old law) have now been conveniently placed in a Schedule, instead of in the body of the Act.

Secondly, a series of forms to be used are now set out in another Schedule. It should be pointed out that these forms may be amended from time to time by the Minister, with the approval of the National Land Council.

This consolidation of the land acquisition law in the Federation of Malaya is to be welcomed. Hitherto, the land law has been extremely complicated, with each State having its own Enactment. It is hoped that this will be the beginning of many consolidating Acts on the land legislation of the Federation of Malaya.

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