

CHAPTER 129

PUBLIC LANDS ACQUISITION LAW

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SCHEDULE

CHAPTER 129

PUBLIC LANDS ACQUISITION LAW

A Law to empower the acquisition of lands when required for public purposes.

[27th August, 1991]

1. This Law may be cited as the Public Lands Acquisition Law.

2. in this Law—

"Commissioner" means the State Commissioner with responsibility for land matters.

"Committee" means the State Land Use and Allocation Committee

"Land" includes any estate or interest in lands;
 "occupier" has the same meaning as in the Land Use Law;
 "public purpose" has the same meaning as in the Land Use Law;
 "recognized head chief" means a chief who is recognised by Government as holding for the time being the highest rank in a community under customary Law;
 "State" means Enugu State of Nigeria
 "Urban area" has the same meaning as in the Land Use Law.

3. (1) Where any lands in the State are required for a public purpose of the State the Commissioner may acquire such land as a State land for ever or for a term of years as he may think proper, paying such consideration or compensation as may be agreed upon or determined under the provisions of the Land Use Law.

Power of
Commissioner
to acquire
Land

(2) Where any lands are or have been acquired under the provisions of this Law such lands shall to the extent of the estate or interest acquired therein, be deemed to have been State lands for the purposes of the State Lands Law from the date of such acquisition and may be dealt with in accordance with the provisions of that Law notwithstanding that the purpose for which such lands were acquired has failed or that all or any of such lands are no longer required for the purpose for which they were acquired or are being used.

(3) Where in exercise of powers conferred by any law in that behalf any lands in the State have been acquired by or for the use of the Federal Government or the Government of any other State in Nigeria, or by or for the use of any company, corporation, agency or body established by the Federal Government or the Government of such State, and that Government, company, corporation, agency or body subsequently abandons such lands for reason either —

(a) that the purpose for which the lands were acquired has failed, or

(b) that the whole or any part of such lands is no longer required, for the purpose for which it was acquired or is being used, or

(c) for any other reason,

then such Lands shall vest in the Governor as if they had been acquired for a public purpose of the State and the provisions of this Law shall apply in all dealings with lands including, in particular, the provisions thereof relating to claims for and payment of compensation (where compensation had not either been paid), and the application for, issue and filing of the certificate of title to the lands.

4. (1) Whenever it appears to the Commissioner that land in any locality is likely to be needed for any public purpose it shall be lawful for any person either generally or specially authorized by the Commissioner in (his behalf and for his servants and workmen to do all or any of the following things—

(a) to enter upon and survey and take levels of any land in such locality;

(b) to dig or bore under the subsoil;

(c) to do all other acts necessary to ascertain whether the land is adapted for such 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 court or garden attached to a dwelling-house (except with the consent of the occupier thereof) without previously giving such occupier at least 7 days' notice of his intention to do so,

(1) As soon as conveniently may be after any entry made under subsection (1) the person so authorized as aforesaid shall pay for all damage done, and in case of dispute as to the amount to be paid, either such person or the person claiming compensation may refer such dispute to the State Land Use and Allocation Committee whose

decision shall be final.

5. Whenever the Commissioner resolves that any lands are required for a public purpose he shall give notice to the person interested or claiming to be interested in such lands, or to the persons entitled by this Law to sell or convey the same or to such of them as shall after reasonable inquiry be known to him (which notice may be as in Form A in the Schedule or to the like effect).

Notice of
intention to
take lands

6. (1) It shall be lawful for the persons being seized, possessed of or otherwise entitled to the occupation of any estate or interest therein, to sell and convey the same to the Commissioner, subject to the provisions of the Land Use Law, and particularly it shall be lawful for all or any of the following persons to sell and convey—

Power of
persons
under
disability to
sell and
convey

(a) all guardians committees of lunatics and idiots;

(b) trustees for charitable or other purposes;

(c) executors and administrators;

(d) and all persons for the time being entitled to the receipt of the rent and profits of any lands.

(2) The power so to sell and convey as aforesaid may lawfully be exercised by such persons not only on behalf of themselves and their respective heirs, executors, administrators and successors, but also for and on behalf of every person entitled in reversion or remainder after them or in defeasance of their estate and as to such guardians on behalf of their wards, as to such committees, and as to such trustees, executors and administrators on behalf of their cestui que trusts respectively to the same extent as such wards, lunatics, idiots and cestui que trusts could have exercised the same powers under this Law if they laid respectively been under no disability.

Power of head
chiefs to sell
and convey

7. Where lands required for public purposes are in the occupation of a local community, the recognized head chief of such community may sell and convey the same for ever notwithstanding any customary law to the contrary.

Notice of
intention to take
and power to
take possession

8. (1) The Commissioner may by such notice aforesaid or by any subsequent notice, direct the persons aforesaid to yield up possession of such lands after the period specified in the notice, which period shall not be less than 6 weeks from the service of such notice, unless the land is urgently required for the public purposes.

(2) At the expiration of such period the Commissioner and all persons authorized by him shall be entitled to enter into and take possession of such lands accordingly.

Service of
notices

9. (1) Every notice, under section 5 or 8, shall either be served personally on the persons to be served or left at their last usual place of abode or business. If any such place can after reasonable inquiry be found, and in case any such parties shall be absent from Nigeria or if such parties or their last usual place of abode or business after reasonable inquiry cannot be found, such notice shall be left with the occupier of such lands, or if there be no such occupier shall be affixed upon some conspicuous part of such lands.

(2) If any such person be a corporation, company or firm, such notice shall be left at the principal office of such corporation, company or firm in Nigeria, or if no such office can after reasonable inquiry be found, shall be served upon some officer (if any) or agent (if any) of such corporation, company or firm in Nigeria.

(3) All notices served under the provisions of this Law shall be published once at least in the State Gazette.

Settlement of
disputes

10. If for six weeks after the service and publication as aforesaid of such notice no claim shall be lodged with the Commissioner in respect of such lands, or if the person who may have lodged any claim and the Commissioner shall not agree as to the amount of the compensation to be paid for the estate or interest in such lands belonging to such person, or which he is by this Law enabled to sell and convey, or if such person has not given satisfactory evidence in support of his claim or if separate and conflicting claims are made in respect of the same lands, the amount of compensation due, if any, and every such case of disputed interest or title shall be dealt with as provided in the Land Use Law of the State.

Report of
Government
officers as to
value to be
evidence

11. (1) The written report of any officer attached to the Ministries responsible for Works, Lands, Survey, Agriculture, or Forestry as to the value of the lands or of any buildings or trees or crops thereon shall be evidence thereof.

(2) Such officer may, on giving three days' notice in writing to the occupier, enter upon any such kinds or into any buildings thereon for the purpose of ascertaining the value of such land and the buildings, trees crops thereon.

(3) Any party having an interest in such lands may call such officers as a witness, and may also adduce any other evidence as to value.

(4) The report of such officer may be proved by a copy hereof under his hand.

(5) Proof of the signature of such copy shall not be required unless there be some reason to doubt the genuineness thereof.

Unoccupied
land and rights
over such lands

12. (1) No compensation shall be awarded in respect of unoccupied land.

(2) Where any person or any community has during the five years immediately preceding the publication of notice of intention to acquire, exercised any rights of fishing, hunting, grazing or the collection of uncultivated produce over unoccupied land, such exercise shall not have the effect of causing such unoccupied land to be deemed to be occupied but such person or community shall be entitled to compensation in respect of the rights extinguished by the acquisition, and in default of agreement as to the amount of such compensation the committee may award such compensation as it deems reasonable and where such rights so extinguished were communal the compensation shall be paid into the revenue of the local government council concerned.

(3) for the purposes of this Law land shall be deemed to be unoccupied land where it is not proved that the beneficial use thereof for cultivation, habitation, the collection or storage of water or for any industrial purpose has been had for a continuous period of at least twelve months in the period of seven years immediately prior to the publication of notice of intention to acquire:

Provided that where any person proves that he has been settled on land otherwise unoccupied, for a period of six months prior to such date with the intention of permanently residing thereon the area occupied by such person shall be deemed to be occupied land.

Party not to be
compelled to
sell or convey
part of a house

13. No person shall at any time be required to sell or convey to the Commissioner a part only of any house or other building of such person be willing and able to sell and convey the whole thereof.

Principles of
assessment of
compensation

14. In estimating the compensation to be given for any lands or any estate or interest therein or for any means profits thereof the committee shall act on the following principles—

(a) no allowance shall be made on account of the acquisition being compulsory;

(b) the value of the land, estate, interest or profits shall, subject as hereinafter

provided, be taken to be the amount which such lands, estate, interest or profits if sold in the open market by a willing seller might be expected to realise;

(c) where part only of the lands, estate, interest or profit belonging to any person is acquired under the provisions of this Law the committee may take into account any enhancement of the value of the residue by reason of the proximity of any improvements or works made or constructed or to be made or constructed by the Government;

(d) the committee may have regard not only to the value of the lands, estate, interest or profits to be acquired but also to the damage if any, to be sustained by the owner by reason of the severance of such lands from other lands belonging to such owner or other injurious circumstances affecting such other lands by such acquisition;

Provided that the committee in estimating such compensation shall assess the same according to what it finds to have been the value of such lands, estate, interest or profit; at the time when notice of intention to acquire was served and without regard to any improvement or works made or constructed or to be made or constructed thereafter on such lands:

And provided further that where any of the Nigeria Military Forces or any Ministry or non-Ministerial department of Government has been in possession of such land by virtue of a title less than a fee simple compensation shall be estimated without regard to any increase in value on account of works constructed or other improvements on or to such lands by any of the Nigerian Military Forces or by the Ministry or non-Ministerial department of Government, and provided that no compensation shall be allowed in excess of the provisions of section 42 of the Land Use Law.

15. If any lands required for public purposes not being situate in a town shall be so divided by the land taken as to leave a piece of land of less area than half an acre, and if the occupier of the land so left requires the Commissioner to take the same together with the other land required for public purposes, the Commissioner shall take the same accordingly, unless the Occupier thereof has other land adjoining thereto into which the same can be thrown, so as to be conveniently occupied therewith.

Owner of
intersected
lands

16. When the Commissioner has in pursuance of a notice under section 8 entered into possession of any lands, the committee may award compensation to the owner of such lands and to all parties entitled to any estate or interest therein for loss of rents and mesne profits for the period between the time the Commissioner so entered into possession, and the time when the consideration due under an agreement has been paid to the person entitled thereto, or compensation has been paid into court under the provisions of this Law.

Compensation
for loss of
rents and
profits.

17. (1) Nothing in this Law shall be taken to compel the Commissioner to complete the acquisition of any land unless he shall have entered into possession of the land or has failed within one month of the decision of the committee to intimate to the committee that he does not intend to proceed with the acquisition.

Provided, however, that the occupier 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 proceedings for acquisition, and compensation for the damage (if any) which they may have sustained by reason or in consequence of the notice of intended acquisition.

When the
Commissioner
may withdraw
from the
acquisition of
land

(2) The amount of such costs and compensation, if not agreed upon, shall be determined by the committee.

18. In any proceedings under this Law, to which the Government is a party, the parties

Costs

thereto shall be entitled to receive costs against each other in the same manner as if such proceedings were conducted and had between subject and subject, and every sum directed to be paid by the Government as costs shall upon production of an office copy of the order of the committee be paid by the Accountant-General:

Provided that where the amount awarded by the committee as the consideration or compensation due to the owner of any estate or interest in any lands; taken for public purposes, does not exceed the sum offered by the Commissioner to such person as consideration or compensation for such estate or interest, such person shall pay the costs of all proceedings rendered necessary by the action of such person.

19. (1) The decision of the trial Court, or the appellate Court, where appeal has been taken, respecting any question of disputed interest or title, shall be final and conclusive as respects all parties to the proceedings 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, but it shall be lawful for persons upon whom summonses have not been served, or who have not appeared or claimed, or on whose behalf no claim has been made, to make a claim at any time within one year after the date of the final decision; and in all cases where any compensation has been awarded by the committee whether the same be in the form of a sum of money or an annual rent, the amount thereof or such part thereof as shall be payable within the said period of one year shall be paid into court (except where a valid written title to the land shall be delivered) and shall not be paid out of court until the said period of one year shall have elapsed from the date of such final decision, after which upon application to the court by any person claiming as aforesaid to be interested therein it may be paid to whomsoever the court may direct.

Postponement of compensation

(2) The payment into court as aforesaid, and where the compensation is in the form of rent the payment, after the said period of one year shall have elapsed, by the Commissioner of such rent as it accrues due to the parties who have appeared by the judgment of the court to have the best right thereto shall operate as a complete discharge and acquittance of the Commissioner of all claims in respect of such lands but shall not hinder any subsequent proceedings by any person claiming to have a better right thereto against the person to whom such payment has been made.

(3) Any person claiming to be interested in any compensation or some part thereof paid into court (such compensation or some part thereof not having been paid out of court) may within three years from the date of the final decision and not after claim that such compensation or any part thereof be paid to him.

(4) All claims for compensation to be paid out of court, made after twelve months shall have elapsed after the final decision of the court, shall be made by notice of motion served upon the Commissioner in the manner provided by the rules of court for the time being in force regulating the service of motions, and supported by an affidavit stating the grounds on which the claim is based.

(5) The Commissioner shall have the right to appear against the motion.

20. If any question arises respecting; the right of occupancy to the lands to be acquired under this Law, the parties in possession as being entitled thereto, or in receipt of the rents of such lands as being entitled therein at the time of such Lands being purchased or taken, shall be deemed to have been lawfully entitled to such rights unless the contrary be shown to the satisfaction of the Court; and they and all parties claiming under them or consistently in their possession shall be deemed entitled to the consideration or compensation money, but without prejudice to any subsequent proceedings against such parties at the instance of any person claiming to have a better right thereto.

Parties in possession as owners to be deemed entitled to lands

21. The payment to any person to whom any consideration or compensation shall be paid or the payment into court of any compensation upon a decision of the committee shall effectually discharge the Commissioner from seeing to the application or being answerable for the misapplication thereof:

Commissioner
exonerated
upon payment

Provided that when any person is in possession by virtue of any estate less than an estate of inheritance, or where any person is in possession in any fiduciary or representative character, the Commissioner may pay such consideration or compensation to such persons and in such proportions and instalments and after such notices as the committee may direct.

22. Where any consideration or compensation shall be paid to a recognized head chief in respect of any lands which are in the occupation of a local community, the consideration or compensation shall be distributed by him among the members of such community, or applied or used for their benefit in such proportions and in such manner as the Commissioner shall approve.

Application of
consideration or
compensation
where lands
belong to a local
community

23. Conveyances of lands acquired under this Law may be as in Form B or C in the Schedule, or as near thereto as the circumstances of the case will admit.

24. The Commissioner may at any time after the expiration of six weeks from the date of the service and publication of the notice mentioned in section 5. apply *ex parte* by summons to the High Court for a certificate of title to the whole or any part of the lands described in such notice and upon such application the court shall, upon proof of the service and publication of the said notice, grant a certificate of title as in Form D in the Schedule or to the like effect to the whole of the lands described in such notice or to that part thereof in respect of which the application is made, which certificate shall not be questioned or defeasible by reason of any irregularity or error or defect in the notice or want of notice, or of any other irregularity, error or defect in the proceedings previous to the obtaining of such certificate.

25. Every conveyance and certificate of title granted under this Law shall be filed in the appropriate office of the Department of Lands, and every such conveyance or certificate of title shall confer on the Governor in trust for the Government of Enugu State, the estate or interest comprised or refereed to therein against all persons, free from all adverse or competing rights, titles, interests, trusts, claims and demands whatsoever, subject to the terms and conditions, if any, therein mentioned, and to the Lands Use Act and Law.

26. If any person hinders or obstructs any person duly authorized by the Commissioner from entering upon and taking possession of any lands in which the Commissioner may lawfully enter in pursuance of this Law, the Commissioner may apply *ex parte* at any time to any court for a writ of possession and such court may thereupon upon proof of the service and publication of the notice mentioned in section 5 and 8 issue a writ of possession (which may be as in Form E in the Schedule), addressed to the sheriff under which any officer of the sheriff or police officer may forthwith eject any person so with-holding possession.

27. Every person who shall willfully hinder or obstruct any person duly authorized by the Commissioner from entering upon or taking possession of or using any land in pursuance of the provisions of this Law; or who shall molest, hinder or obstruct such person when in possession of such lands, or shall hinder or obstruct any officer of the sheriff or police officer when executing a writ of possession, shall be liable on summary conviction before any court to a fine of fifty naira or to imprisonment for three months

Service of
notice not an
admission of
interest

28. The fact that a notice has been served upon any person under section 5 or 8 shall not be taken as an admission by the Commissioner that the person on whom such notice has been served or any other person has any estate or interest in the land or any part of the land specified in the notice, or debar the Commissioner from alleging in any proceedings under this Law or otherwise that such land is State land.

SCHEDULE

PUBLIC LANDS ACQUISITION LAW

(Enugu State)

FORM A

Notice is hereby given that the following lands—
(Describe lands, giving measurements and showing boundaries whenever practicable) are required by the Commissioner for public purposes absolutely (or for a term of years, or for so long as the same may be used for public purpose).
Any person claiming to have right or interest in the said land for which compensation under the Land Use Law is payable, is required within Six weeks from the date of this notice to send to the Commissioner a statement of his right and interest and of the evidence thereof, and of any claim made by him in respect of such right or interest.
The Commissioner is willing to treat for the acquisition of the said lands. Lands in respect of which no statement is received are liable to be dealt with as unoccupied lands.
And notice is also hereby given that the Commissioner intends to enter into possession of the said lands at the expiration of.....weeks from the date of this notice.
Any person who shall willfully hinder or obstruct the Commissioner or any person employed by him from taking possession of the said lands is liable under the provisions of the Law above mentioned on conviction to a fine of fifty naira or to imprisonment for three months.
The.....day of 20.....

.....
Commissioner

PUBLIC LAND ACQUISITION LAW

(Enugu State)

FORM B

This Deed made the.....day of.....20 Between.....
hereinafter called the grantor of

the one part And..... the Governor of Enugu State (who together with his successors in office is hereinafter called the Governor) of the other part Witnesseth that in consideration of the sum of..... (the receipt whereof is hereby acknowledged) the grantor doth hereby convey to the Governor All (describe premises to be endorsed on or annexed to deed) To Hold the premises to the use of the Government of

Enugu State for ever.

In Witness whereof the said.....has hereunto set his hand and seal (or “made his mark and set his seal” as the case may be) the day and year above written and the said
.....has hereunto set his hand and caused the Seal of Enugu State to be
affixed the the of.....20.....

Signed, sealed and delivered by the above named In the presence of.....	)	Signature of Grantor)	(Seal of Grantor)
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Signed by the above named..... and the Seal of Enugu State affixed in the presence of	)	(Signature of Governor)	(Seal of Enugu State
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Section 23

PUBLIC LANDS ACQUISITION LAW

(Enugu State)

FORM C

Conveyance of Lands for a term of years

This Deed made the..... day of
.....20.....between.....
(hereinafter called the lessor) of the one part andGovernor of Enugu State
(who together with his successors in office is hereinafter called the Governor) of the other
part Witnesseth that in consideration of the annual rent of to be paid by the
Governor as hereinafter mentioned, the lessor doth hereby convey to the Governor All
(described premises to be conveyed and refer to plan to be endorsed on or annexed to deed).
To Hold the said premises in trust for the Government of Enugu State for a term
of.....years, he the Governor yielding and paying to the lessor the annual rent
of.....by (state installment if any) henceforth on (state days) clear of all taxes and
deductions.

In Witness whereof the said.....has hereunto set his hand and seal (or “made his
mark and set his seal” as the case may be) the day and the year above mentioned, and the said
lessor has hereunto set his hand and caused the Seal of Enugu State to be affixed the
..... day of.....20,.....

Signed, sealed and delivered by the above named	)	(Signature of lessor)	(Seal of lessor)
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In the presence of

.....
Signed by the above) (Signature of Seal of Enugu
named) Governor) State)
and the Seal of)
Enugu State affixed)
in the presence of)

PUBLIC LANDS ACQUISITION LAW

(Enugu State)

Section 24,
(Seal of
Court.)

FORM D

Certificate of Title

It is hereby certified that pursuant to the Public Lands Acquisition Law, all (describe the premises to be acquired and refer to plans to be endorsed on or annexed to certificate) together with all ways, rights and appurtenances thereto belonging are vested in the Governor of Enugu State in trust for the Government of Enugu State for ever (or for a term ofyear, as the case may be).

Dated theday of
20.....

.....
(Signature of Judge)

PUBLIC LANDS ACQUISITION LAW

(Enugu State)

Section 26

FORM E

Form of Writ of Possession

To the Sheriff,

Whereas according to the provisions of the Public Lands Acquisition Law, the Commissioner is entitled to enter upon and take possession of all those lands (describe lands).

These are therefore to command you to put the Commissioner or any person employed by him in that behalf in possession of the said lands.

.....
(Signature of Judge or Magistrate)