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3rd Session, 1954-55



Land Acquisition (Amendment) Act, No. 39 of 1954

Date of Assent : July 30, 1954

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1954.*

L. D.—CF. 4/52.

AN ACT TO AMEND THE LAND ACQUISITION ACT,
No. 9 OF 1950.

[Date of Assent: July 30, 1954.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Representatives of Ceylon in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Land Acquisition (Amendment) Act, No. 39 of 1954.

Short title.

2. Section 4 of the Land Acquisition Act, No. 9 of 1950 (hereinafter referred to as "the principal enactment") is hereby amended as follows:—

Amendment
of section
4 of Act
No. 9 of 1950.

(1) in sub-section (1) of that section, by the substitution, for the words "on or near that land.", of the following:—

" on or near that land:

Provided however that it shall not be necessary to give a notice under the preceding provisions of this sub-section to the owner or any owner of land whose name and address cannot be found or ascertained."

(2) In sub-section (4) of that section, by the substitution, for all the words from "The Permanent Secretary shall hold an inquiry" to the end of that sub-section, of the following:—

" The Permanent Secretary shall consider such objections or direct an officer to consider such objections on his behalf and to make recommendations to him. When such objections are considered every objector shall be given an opportunity of being heard in support thereof. After the consideration of the objections the Permanent Secretary shall make his recommendations on the objections to the Minister."

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(3) in sub-section (5), by the substitution, for the word "report", of the word "recommendations".

(4) in sub-section (6), by the substitution, for the word "detriment", of the words "serious detriment".

Amendment of section 6 of the principal enactment.

3. Section 6 of the principal enactment is hereby amended by the substitution, for all the words from "cause" to the end of that section, of the following:—

"or no such plan which is suitable for use for the purposes of proceedings under this Act, cause a survey and a plan of that land to be made by a surveyor of that Department, or by a licensed surveyor acting under the directions of the Surveyor-General."

Amendment of section 7 of the principal enactment.

4. (1) Section 7 of the principal enactment is hereby amended as follows:—

(a) in sub-section (2), by the substitution in paragraph (c), for the words "notify in writing", of the words "notify in writing under the hand of that person or any agent duly authorised as aforesaid"; and

(b) by the addition, immediately after sub-section (2), of the following new sub-sections:—

"(3) Notwithstanding anything in the preceding provisions of this section, any notice required by those provisions to be published in the newspapers may merely specify the land or servitude which is intended to be acquired and refer to any such *Gazette* as may be specified in the notice for full particulars relating to such acquisition.

(4) Where an acquiring officer who causes the publication of a notice under this section in respect of any land is satisfied that any person interested in that land is a minor or is of unsound mind and has no authorised agent to act on his behalf as provided in that notice, such officer may, either of his own motion or on application made by or on behalf of such person, authorise a fit and proper person to be such agent."

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(2) The new sub-section (3) inserted in section 7 of the principal enactment by paragraph (b) of sub-section (1) of this section shall be deemed to have come into force on the date on which the principal enactment came into operation.

5. Section 10 of the principal enactment is hereby amended in sub-section (2), by the substitution, for all the words from "Where" to "claim or dispute", of the following:—

Amendment of
section 10
of the
principal
enactment.

"A claimant whose claim is wholly or partly disallowed, or a party to a dispute which is determined, by the decision of an acquiring officer under sub-section (1) may, within fourteen days of the service on him of notice of the decision, make application to that acquiring officer for the reference of the claim or dispute, as the case may be,".

6. Section 15 of the principal enactment is hereby amended in sub-section (1), by the substitution in paragraph (b), for the words "notify to him in writing," of the words "notify to him in writing under their hand or under the hand of agents duly authorised as aforesaid,".

Amendment of
section 15
of the
principal
enactment.

7. (1) The following new section is hereby inserted immediately after section 15, and shall have effect as section 15A, of the principal enactment:—

Insertion of
new section
15A in the
principal
enactment.

"Claims
made out
of time.

15A. (1) An acquiring officer shall entertain and inquire into any claim to any right, title or interest to, in or over the land which is to be acquired or over which a servitude is to be acquired, made in writing at any time before the conclusion of an inquiry held by him under this Act, notwithstanding that such claim is made after the expiry of the time allowed therefor by any other provision of this Act; and accordingly such other provisions of this Act as are applicable to claims, other than those relating to the time within which claims may be made, shall apply in relation to such claims.

(2) An acquiring officer shall entertain and inquire into any claim to any right, title or interest to, in or over the land which is to be acquired or over which a servitude is to be acquired, made orally at any time after the commencement and before the conclusion of an inquiry held by him under this Act, notwithstanding that such claim is made after the expiry of the time allowed therefor by any other provision of this Act and is not made in writing; and accordingly such other provisions of this Act as are applicable to claims, other than those relating to the time within which claims may be made and requiring claims to be made in writing, shall apply in relation to such claim.

(3) When a claim is made orally to an acquiring officer as provided in the preceding provisions of this sub-section, he shall make a record of that claim.”.

(2) Where any inquiry relating to any land under section 9 of the principal enactment is pending at the date of commencement of this Act, the provisions of section 15A inserted in the principal enactment by this Act shall apply to any claim made in regard to that land prior to that date.

(3) Where prior to the date of commencement of this Act, the acquiring officer has entertained and decided upon any claim made in writing at any time before the conclusion of an inquiry held by him under the principal enactment or made orally at any time after the commencement and before the conclusion of such inquiry, such claim shall be deemed to have been lawfully entertained and such decision, unless prior to such date, it has been reversed on reference or appeal under the principal enactment, shall not be deemed to have been or to be invalid by reason only of the fact that such claim had been made after the lapse of the time allowed for the making of claims by the principal enactment or that such claim had not been made in writing.

8. (1) Section 16 of the principal enactment is hereby amended as follows:—

Amendment of
section 16
of the
principal
enactment.

(a) in sub-section (1), by the substitution, for the the words “under that section, make”, of the words “under that section and subject to the other provisions of this section, make”;

(b) by the insertion, immediately after sub-section (1), of the following new sub-section:—

“(1A) Where no person having any right, title or interest to, in or over the whole or any part of a land which is to be acquired or over which a servitude is to be acquired is known, then, in regard to the whole of the land or in regard to that part only, as the case may be, it shall not be necessary to determine in the award under this section the matters specified in paragraphs (a), (b), (c) and (e) of sub-section (1) and to comply with the provisions of that sub-section relating to notice of the award.”; and

(c) in sub-section (2)—

(i) by the omission of the words “in writing”; and

(ii) by the substitution for all the words and figures from “by the notice” to “section 7 (2) (c),”, of the words “by this Act,”.

(2) The amendment made in sub-section (2) of section 16 of the principal enactment by sub-section (1) of this section shall be deemed to have come into force on the date on which the principal enactment came into operation.

9. The following new section is hereby inserted in Part II, immediately after section 16, and shall have effect as section 16A; of the principal enactment:—

Insertion of
new section
16A in the
principal
enactment.

“Acquiring officer may supply failures or omissions in the course of acquisition proceedings.

16A. (1) Where in the course of any proceedings for the acquisition of any land or servitude under this Act it is found that there has, at any stage of such proceedings, been an inadvertent failure or omission on the part of the acquiring officer to comply with any

provision of Part I or Part II of this Act relating to such proceedings, the acquiring officer may supply such failure or omission at any time prior to the making of his award under section 16; and thereupon any such proceedings as may have been taken under that Part after the stage aforesaid shall be deemed to be null and void and fresh proceedings shall be taken under the Act as from the said stage.

(2) Where an acquiring officer considers it necessary so to do for the purpose of supplying any failure or omission on his part in the course of any proceedings for the acquisition of any land or servitude under this Act to inquire into any matter which should have been inquired into by him at the inquiry held under section 9, he may re-open that inquiry at any time prior to the making of his award under section 16."

Amendment of section 20 of the principal enactment.

10. (1) Section 20 of the principal enactment is hereby amended in sub-section (1) of that section as follows:—

(a) by the omission of the words "in writing"; and

(b) by the substitution, for all the words and figures from "by the notice" to "section 7 (2) (c)", of the words "by this Act,".

(2) The amendment made in sub-section (1) of section 20 of the principal enactment by sub-section (1) of this section shall be deemed to have come into force on the date on which the principal enactment came into operation.

Amendment of section 31 of the principal enactment.

11. Section 31 of the principal enactment is hereby amended as follows:—

(a) by the substitution, for the words "diligent search," of the words "diligent search, or where no person entitled to any compensation for the acquisition of a land or servitude under this Act is known,";

(b) by the addition, at the end of that section, of the following:—

"Notice of the payment of any sum as provided in this section shall be published in the *Gazette* and in at least one Sinhalese

daily newspaper, one Tamil daily newspaper, and one English daily newspaper circulating in Ceylon.”; and

- (c) in the marginal note to that section by the substitution, for the word “ awarded.”, of the words “ awarded or who may be entitled thereto.”.

12. (1) The following new section is hereby inserted immediately after section 36, and shall have effect as section 36A, of the principal enactment:—

Insertion
of new
section 36A
in the
principal
enactment.

“ Revocation
of vesting
orders.

36A. (1) Notwithstanding that by virtue of an Order under section 36 (hereinafter in this section referred to as a “ vesting order ”) any land has vested absolutely in Her Majesty, the Minister may, if possession of the land has not actually been taken for and on behalf of Her Majesty in pursuance of that Order, by subsequent Order published in the *Gazette* revoke the vesting order.

(2) Copies of any Order under sub-section (1) shall be published in at least one Sinhalese daily newspaper, one Tamil daily newspaper, and one English daily newspaper circulating in the area in which the land to which the Order relates is situated, and shall be exhibited in conspicuous places upon and in the vicinity of the land.

(3) Where a vesting order is revoked under this section, the land to which it relates shall be deemed never to have vested in Her Majesty by virtue thereof; and any question which might arise as to any right, title or interest to, in or over the land shall be determined accordingly.”.

(2) The new section 36A inserted in the principal enactment by sub-section (1) of this section shall be deemed to have come into force on the date on which the principal enactment came into operation.

Insertion of
new section
37A in the
principal
enactment.

13. (1) The following new section is hereby inserted immediately after section 37, and shall have effect as section 37A, of the principal enactment:—

“Provisions for application of Act where Order under proviso to section 36 is made.

37A. In any case where an Order is made under the proviso to section 36 for the taking of immediate possession of any land or for the immediate acquisition of any servitude on the ground of urgency, then—

(a) if the provisions or any of the provisions of section 4 have not been complied with prior to the making of the Order, it shall not be necessary to comply with those provisions or such of those provisions as have not already been complied with;

(b) if a declaration under section 5 has not been made prior to the making of such Order, a declaration shall be made and published in terms of that section notwithstanding that all or any of the provisions of section 4 have not been complied with; and

(c) notwithstanding that such Order takes effect as provided in section 37, all the provisions of this Act shall, save as hereinbefore in this section provided, apply in the aforesaid case in like manner as they apply in the case of a land or servitude which is to be acquired.”.

(2) The provisions of section 37A inserted in the principal enactment by sub-section (1) of this section shall apply, and proceedings in accordance with those provisions may be taken under that enactment, in the case of the acquisition, by virtue of an order made under the Proviso to section 36 of that enactment, of any land or servitude before the date on which this Act comes into operation including the acquisition in connection with which an order was made by the Supreme Court in the matter of the Suffragam Rubber

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and Tea Company of Ceylon, Limited, Colombo, vs. M. J. M. Muhsin, Assistant Government Agent, Ratnapura District (S. C. Application No. 169/53), notwithstanding that order, or any decree, order or decision entered or made before that date by any court or by the Board of Review on a reference or an appeal made under the principal enactment with regard to any matter connected with such acquisition.

14. Section 40 of the principal enactment is hereby amended as follows:—

Amendment
of section
40 of the
principal
enactment.

(1) by the re-numbering of that section as sub-section (1) of section 40; and

(2) by the addition, immediately after re-numbered sub-section (1), of the following new sub-section:—

“ (2) Where any land which is required for the purposes of any local authority or of any other person or body of persons—

(a) was, in pursuance of any other written law, acquired for such purposes under the Land Acquisition Ordinance repealed by this Act; and

(b) was taken possession of under that Ordinance for and on behalf of Her Majesty but is not on the date on which this Act comes into force vested in such local authority or such person or body of persons, as the case may be,

that land may be so vested in the manner provided by sub-section (1).”.

15. (1) Section 47 of the principal enactment is hereby amended by the substitution, for the word “Secretary.”, of the words “Secretary or any Assistant Secretary to the Ministry.”.

Amendment of
section 47
of the
principal
enactment.

(2) The amendment made in section 47 of the principal enactment by sub-section (1) of this section shall be deemed to have come into force on the date on which the principal enactment came into operation.