

PARLIAMENT OF CEYLON

4th Session 1950



Requisitioning of Land Act, No. 33 of 1950

Date of Assent: December 6, 1950

*Printed on the Orders of Government
and published as a Supplement to Ceylon Government
Gazette Extraordinary of December 9, 1950.*

Printed at the CEYLON GOVT. PRESS, COLOMBO. To be purchased at the GOVT. PUBLICATIONS BUREAU, COLOMBO Annual Subscription (including Bills) Rs. 25, payable in advance to the SUPERINTENDENT, GOVERNMENT PUBLICATIONS BUREAU, POST OFFICE BOX 500, Secretariat, Colombo 1

L. D.—O. 14/50.

AN ACT TO AUTHORISE THE TAKING OF POSSESSION AND THE USE OF LAND REQUIRED FOR CERTAIN ESSENTIAL PURPOSES, TO PROVIDE FOR THE DETERMINATION OF THE COMPENSATION PAYABLE IN RESPECT OF SUCH LAND, AND TO MAKE SPECIAL PROVISION RELATING TO THE ACQUISITION OF SUCH LAND AND OF LAND HERETOFORE REQUISITIONED UNDER DEFENCE REGULATIONS.

[Date of Assent: December 6, 1950.]

BE it enacted by the King'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 Requisitioning of Land Act, No. 33 of 1950, and shall come into operation on the ninth day of December, 1950, (hereinafter referred to as "the appointed date").

Short title and date of operation.

PART I.—POSSESSION OF LAND AND PROVISION FOR COMPENSATION.

2. (1) It shall be lawful for a competent authority, with the prior approval of the Prime Minister, to take possession of any land and to give such written directions as appear to him to be necessary or expedient in connection with the taking of possession of such land, in any case where it appears to him that the land is required—

Power to take possession of land.

(a) for the purpose of the maintenance of supplies or services essential to the life of the community; or

(b) for the purposes of use or occupation by His Majesty's Ceylon forces or any Visiting Force.

(2) The owner or occupier of any land shall, if requested by or on behalf of a competent authority so to do, furnish to such authority or person as may be specified in the request such information in his possession relating to the land (being information which may reasonably be demanded of him for the purposes of this section) as may be so specified.

(3) Any police officer may, if requested so to do by a competent authority, take such steps and use such force as may be reasonably necessary for securing

compliance with any directions given under subsection (1) in relation to the taking or giving up of possession of any land.

(4) The period during which possession may be retained by virtue of this Act of any land of which possession is taken under this section shall be fixed by the Prime Minister at the time of taking of possession; but such period may from time to time be extended by the Prime Minister.

Continuation
of occupation
of land
requisitioned
under the
Defence
Regulations.

3. (1) In any case where possession of any land had, on or after February 24, 1946, been taken by a competent authority under Regulation 34 of the Defence (Miscellaneous) Regulations as having effect by virtue of the Supplies and Services (Transitional Powers) Act, 1945, of the Parliament of the United Kingdom, and the land is at the appointed date in the occupation of that competent authority or of any other person authorised by the competent authority in that behalf, the competent authority under this Act may, if it appears to him that the land is required for the purpose of the maintenance of supplies or services essential to the life of the community, give notice in writing by registered post to the owner of the land that possession and occupation of the land is to be continued after the appointed date; and in any such case possession of the land shall be deemed for the purposes of this Act to be taken on that date by virtue of section 2 of this Act.

(2) In any case where possession of any land was continued after February 24, 1946, under Regulation 34 of the Defence (Miscellaneous) Regulations as having effect by virtue of the Emergency Laws (Transitional Powers) Act, 1946, of the Parliament of the United Kingdom, and the land is at the appointed date in the occupation of a competent authority or of any other person authorised in that behalf under that Regulation, the competent authority under this Act may, if it appears to him that the land is required for the purposes of use or occupation by His Majesty's Ceylon forces or any Visiting Force or for the purpose of the maintenance of supplies or services essential to the life of the community, give notice in writing by registered post to the owner of the land that possession and occupation of the land is to be continued after the appointed date; and in any such case possession of the land shall be deemed for the purposes of this Act to be taken on that date by virtue of section 2 of this Act.

(3) For the purposes of the application of the Defence (Compensation) Regulations, 1941, in relation to any land in the case of which the power conferred by sub-section (2) of this section is exercised, the period of possession of that land in the exercise of emergency powers shall be deemed to have terminated on the appointed date :

Provided, however, that notwithstanding anything in the Defence (Compensation) Regulations, 1941,—

- (a) any compensation, under sub-paragraph (b) of paragraph (1) of regulation 2 thereof, in respect of any damage to any such land which may have occurred before the appointed date, shall not accrue due until the end of the period for which possession of the land is retained by virtue of this Act, and shall be paid to the person who is the owner of the land at the end of the period aforesaid; and
- (b) no compensation under the aforesaid sub-paragraph (b) shall be payable in respect of any such damage which may be made good by a person acting on behalf of a competent authority while possession of the land is retained by virtue of this Act.

4. Any land, of which possession is taken under section 2 of this Act or is deemed to be taken by virtue of that section, may, notwithstanding any restriction imposed on the use thereof by any other written law or any instrument or otherwise, be used by, or under the authority of, the competent authority, for such purpose and in such manner, as that authority thinks expedient for any purpose referred to in paragraph (a) or paragraph (b) of section 2 (1); and the competent authority, so far as appears to him to be necessary or expedient in connection with the use of the land by virtue of this section—

Occupation and use of requisitioned land.

- (a) may do, or authorise persons using the land as aforesaid to do, in relation to the land, anything which any person having an interest in the land would be entitled to do by virtue of that interest; and
- (b) may by order provide for prohibiting or restricting the exercise of rights of way over the land, and of other rights relating thereto, which are enjoyed by any person, whether by virtue of an interest in the land or otherwise.

The power of the competent authority under this section to authorise the use of land for any purpose shall include the power to authorise a person carrying on any business or undertaking to occupy and use the land for the purposes of that business or undertaking upon such terms as may be agreed between such person and the competent authority.

Compensation payable in respect of requisitioned land.

5. Compensation, assessed in accordance with the provisions hereinafter contained in that behalf, shall be paid in respect of the taking of possession and the occupation of any land possession of which is taken under section 2 of this Act or is deemed to be taken by virtue of that section.

Amount of compensation.

6. (1) The amount of the compensation payable as provided in section 5 in respect of any land shall be—

- (a) a sum equal to the rent which might reasonably be expected to be payable by a tenant in occupation of the land, during the period for which possession of the land is retained by virtue of this Act, under a lease granted immediately before the beginning of that period, whereby the tenant undertook to pay all usual rates and taxes and to bear the cost of the repairs and insurance and the other expenses, if any, necessary to maintain the land in a state to command that rent; and
- (b) a sum equal to the cost of making good any damage to the land which may have occurred during the period for which possession thereof is so retained (except in so far as the damage has been made good during that period by a person acting on behalf of the competent authority); and
- (c) in a case where the land is agricultural land, a sum equal to the amount (if any) which might reasonably have been expected to be payable in addition to rent by an incoming tenant, in respect of things previously done for the purpose of the cultivation of the land, and in respect of seeds, cultivation, growing crops and other similar matters, under a lease of the land granted immediately before possession thereof was taken; and
- (d) a sum equal to the amount of any expenses reasonably incurred, otherwise than on behalf of the competent authority, for the

purpose of compliance with any directions given by the competent authority in connection with the taking of possession of the land:

Provided, however, that in computing for the purposes of paragraph (a) of this sub-section the rent of any land of which possession is deemed to be taken by virtue of section 2 of this Act, no account shall be taken of any building or structure erected on the land before the appointed date by a person acting on behalf of a competent authority under the Defence (Miscellaneous) Regulations:

Provided, further, that in the case of any land, being premises to which the Rent Restriction Act, No. 29 of 1948, applies, the amount of the rent computed for the purposes of paragraph (a) of this sub-section shall not exceed the authorised rent of the premises as determined under that Act.

(2) Any compensation under paragraph (a) of sub-section (1) shall be considered as accruing due from day to day during the period for which the possession of the land is retained by virtue of this Act, and be apportionable in respect of time accordingly, and shall be paid to the person who for the time being would be entitled to occupy the land but for the fact that possession thereof is retained by virtue of this Act; but this sub-section shall not operate so as to require the making of payments at intervals of less than one month in arrear.

For the purposes of any written law relating to income tax and any written law relating to tax or rates leviable on land, and, in particular, for the purposes of any such written law relating to the deduction of tax or rates from rent, any compensation under the said paragraph (a) shall be deemed to be rent payable for the land, the Crown shall be deemed to pay it as tenant occupier, and the person receiving it shall be deemed to receive it as landlord.

(3) Any compensation under paragraph (b) of sub-section (1) shall accrue due at the end of the period for which possession of the land is retained by virtue of this Act, and shall be paid to the person who is then the owner of the land.

(4) In computing the amount of the compensation under paragraph (b) of sub-section (1) in respect of any land possession of which is deemed to be taken by

virtue of section 2 of this Act, the following provisions shall apply:—

- (i) an assessment of compensation shall be made, taking account of all damage to the land, other than damage caused by war operations; which may have occurred at any time after possession thereof was first taken under Regulation 34 of the Defence (Miscellaneous) Regulations, whether possession was so first taken prior to or after February 24, 1946;
- (ii) the amount of the compensation payable under paragraph (b) of sub-section (1) shall be the amount assessed as provided in paragraph (i) of this sub-section, reduced by such amount, if any, as may have been paid or be payable to any person in respect of the land under paragraph (b) of Regulation 2 (1) of the Defence (Compensation) Regulations, 1941.

In this sub-section, "damage caused by war operations" has the same meaning as in the definition of that expression in the Defence (Compensation) Regulations, 1941, which definition shall be deemed to be herein incorporated.

(5) Any compensation under paragraph (c) of sub-section (1) shall accrue due at the time when possession of the land is taken under section 2 of this Act and shall be paid to the person who, immediately before that time, was the occupier of the land.

(6) Any compensation under paragraph (d) of sub-section (1) shall accrue due at the time when the expenses in respect of which the compensation is payable are incurred, and shall be paid to the person by whom or on whose behalf those expenses were incurred.

Interest on compensation.

7. Any compensation under this Act shall carry interest, as from the date on which it accrues due until payment, at such rate not exceeding five per centum per annum as the Minister may from time to time prescribe by Order made with the concurrence of the Minister of Finance.

Provision as to land subject to mortgage.

8. Where any sum by way of compensation is paid in accordance with this Act to the owner of any land, then, if the land is, at the time when the compensation accrues due, subject to any mortgage, the sum so paid shall be deemed to be comprised in that mortgage.

9. (1) No claim for any compensation under this Act shall be entertained unless notice of the claim has, in such form and manner as may be prescribed by regulations, been given to the prescribed authority within the period of six months commencing on the date on which the compensation accrues due or such longer period as the Minister of Justice may prescribe either generally or in relation to any particular claim or class of claims.

Claims for compensation.

(2) Every such notice of claim shall be signed by the claimant or by a person duly authorised by him in that behalf and shall be delivered or transmitted to the prescribed authority referred to in sub-section (1).

10. In any case where any dispute arises as to the person to whom any compensation under this Act in respect of any land is payable, the provisions of sections 10 to 14 of the Land Acquisition Act, No. 9 of 1950, shall apply in like manner as they apply where any land is to be acquired under that Act.

Dispute as to right to compensation.

11. (1) Upon any claim for any compensation under this Act being duly made in accordance with the provisions of section 9, the competent authority shall endeavour to settle by agreement the amount of the compensation, if any, payable to the claimant; and the competent authority shall, whether or not such agreement is reached, make an award under his hand determining the amount of the compensation, if any, which in his opinion should, in accordance with the provisions of this Act, be paid to the claimant.

Settlement of award as to compensation.

The competent authority shall give written notice of the award to the claimant.

(2) In any case where any dispute referred to in section 10 has arisen, the competent authority shall defer the making of an award under this section until there has been a final decision or determination upon that dispute; and in any such case the award made under this section shall accord with the final decision or determination upon the dispute.

12. Any claimant who is dissatisfied with the award made by the competent authority under section 11 upon his claim for compensation may appeal against that award to the Board of Review constituted under section 17 of the Land Acquisition Act, No. 9 of 1950; and the provisions of sub-sections (2) and (3) of section 20 of that Act and of sections 21 to 26 of that Act shall apply in relation to any appeal so preferred.

Appeal from award.

PART II.—COMPULSORY ACQUISITION OF
REQUISITIONED LAND.

Application of
Ordinance
No. 21 of
1944.

13. In any case where any land, possession of which is deemed to be taken by virtue of section 2 of this Act, is acquired under the Land Acquisition Act, No. 9 of 1950, while it is in the possession of any authority or person under the powers conferred by this Act, the provisions of the Land Acquisition (War Purposes) (Assessment of Compensation) Ordinance, No. 21 of 1944, as amended by the Land Acquisition Act, (which Ordinance is hereinafter referred to as the "special Ordinance"), shall apply in all respects as though the possession of the land by virtue of this Act were possession under emergency powers as defined in that Ordinance.

Construction of
section 2 of
the special
Ordinance.

14. The special Ordinance shall have effect and be deemed at all times after its enactment to have had effect in relation to any land in like manner as though the reference in section 2 thereof to "purposes connected with the present war" included a reference to all the purposes for which possession of that land is or was authorised to be retained, whether by this Act or by any Defence Regulation heretofore in force.

Exclusion of
damage com-
pensation where
the special
Ordinance
applies.

15. (1) In every case where any land is acquired under the Land Acquisition Act, No. 9 of 1950, and the provisions of the special Ordinance apply in relation to the compensation payable in respect of the acquisition, then, notwithstanding anything in the Defence (Compensation) Regulations, 1941, no compensation under sub-paragraph (b) of paragraph (1) of regulation 2 of those regulations shall be payable or be deemed to be payable to any person in respect of that land.

(2) The provisions of sub-section (1) of this section shall be deemed to have come into force on the date of the commencement of the special Ordinance.

Compensation
upon acquisition
of land where
possession is
taken under
section 2.

16. (1) In every case where any land, possession of which is taken under section 2 of this Act, is acquired under the Land Acquisition Act, No. 9 of 1950, while it is in the possession of any authority or person under the powers conferred by this Act, then, in determining the amount of compensation to be awarded under the Land Acquisition Act for that land—

(a) the market value of that land shall be taken to be the market value (within the meaning

of that Act) which that land would have had if it had remained, until the date by reference to which the market value is required by that Act to be determined, in the condition in which it was at the date on which possession thereof was taken under section 2 of this Act; and

(b) no account shall be taken of any enhancement or depreciation in the value which may be attributable, directly or indirectly, to any buildings, works or improvements erected, constructed, demolished or made on, over or under that land for any purpose for which the land is authorised by this Act to be used.

(2) In every case where the provisions of sub-section (1) apply in relation to the compensation payable in respect of the acquisition of any land, then, notwithstanding anything in paragraph (b) of sub-section (1) of section 6 of this Act, no compensation under that paragraph shall be payable or be deemed to be payable to any person in respect of that land.

PART III.—GENERAL.

17. The Minister may from time to time appoint any public officer to be, for the purposes of this Act, a competent authority, whether for the whole of Ceylon or for any specified area.

Appointment of competent authority.

18. In any proceedings in any court, a certificate under the hand of the Prime Minister that any land specified or described therein is required for any purpose so specified shall be conclusive proof that the land is required for such purpose.

Certificate that land is required under this Act.

19. Any notice which by this Act is required or authorised to be served on any person shall be deemed to be duly served if it is sent by registered letter through the post to the last known address of that person, or where the address is not known, if the notice is published in the *Gazette*.

Service of notices.

20. (1) The Minister may make such regulations as may be necessary for carrying out or giving effect to the principles and provisions of this Act; and without prejudice to the generality of the powers hereinbefore conferred, any such regulation may

Regulations.

provide that any provision of the Land Acquisition Act, No. 9 of 1950, specified in section 10 or section 12 of this Act shall in its application for the purposes of this Act have effect subject to such amendments, omissions or modifications as may be specified in the regulation.

(2) No regulation made by the Minister under this section shall have effect until it is approved by the Senate and the House of Representatives. Notice of the approval of any regulation by the Senate and the House of Representatives shall be published in the *Gazette*.

(3) Where a regulation made by the Minister under this section is approved by the Senate and the House of Representatives and notice of the approval is published in the *Gazette*, that regulation shall be valid and effectual as if it were herein enacted.

Interpretation.

21. In this Act, unless the context otherwise requires—

“ agricultural land ” means any land used for cultivation, plantation, or pasture and includes land used for the purpose of poultry farming, market gardens, nurseries, or orchards;

“ His Majesty’s Ceylon forces ” means the naval, military or air forces of His Majesty raised in Ceylon;

“ land ” includes land covered with water, and houses, buildings and parts of houses or buildings;

“ owner ”, in relation to land, means the person who is receiving the rent of the land whether on his own account or as agent or trustee for any other person, or who would so receive the rent of the land if it were let at a rent;

“ Visiting Force ” has the same meaning as in the Visiting Forces Act, No. 31 of 1949.