

PUBLIC LANDS ACQUISITION (MISCELLANEOUS PROVISIONS) DECREE 1976



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Decree No. 33

[See section 23 (2)]

Commencement.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

PART I

GENERAL

1.—(1) Compensation payable in respect of land compulsorily acquired under the Public Lands Acquisition Act, the State Lands Act or any other enactment or law permitting the acquisition of land compulsorily for the public purposes of the Federation or of a State shall be assessed and computed in accordance with the provisions of this Decree, notwithstanding anything to the contrary in the Constitution of the Federation or in any other enactment or law or rule of law.

Compensation to be paid for land compulsorily acquired.
Cap. 167.
Cap. 45.

(2) Without prejudice to subsection (1) of this section, where before the commencement of this Decree any land has been compulsorily acquired by the Government or notice for the acquisition of any land has been given in accordance with the provisions of the Public Lands Acquisition Act, or any other applicable law and compensation in respect of such acquisition has not been paid, the compensation payable shall be determined in accordance with the provisions of this Decree, notwithstanding anything to the contrary in the Constitution of the Federation or in any other enactment or law or rule of law.

2.—(1) For the purposes of section 1 of this Decree the whole area of the Federation is hereby divided into zones as set out in the first column of Schedule 1 to this Decree and the maximum compensation payable in respect of land in each zone (excluding compensation payable in respect of the building or structure thereon) shall be as respectively specified in the second column of that Schedule.

Division of Federation into zones and maximum compensation payable for land in each zone.

(2) The Commissioner may, with the approval of the Federal Executive Council, by order published in the Gazette amend Schedule 1 to this Decree either to vary the areas comprised in each zone or to vary the amount of compensation prescribed in respect thereof, or otherwise howsoever.

3. Any claim in respect of compensation payable by virtue of the Public Lands Acquisition Act or the State Lands Act or any other enactment or law shall be determined in accordance with the provisions of this Decree, and any dispute arising from such claim shall be referable by any party to the dispute for adjudication by a lands tribunal established under section 12 below.

Claims and disputes.

PART II

COMPUTATION OF COMPENSATION

4.—(1) In the computation of compensation payable under this Decree account shall be taken of whether the land is a developed land or an undeveloped land and such compensation shall be computed on the principles set out in this section, but in no case shall the amount of compensation payable in respect of land (excluding compensation in respect of the building or structure thereon) exceed the maximum amount prescribed in Schedule 1 for the zone in which the land is situated.

Principles for computation of compensation.

(2) Where the land is an undeveloped land compensation payable shall be limited to the actual cost of the land together with interest at the bank rate calculated from the date of the purchase of the land up to the date of the notice to acquire the land, subject to a maximum of ten years, or the existing use value of the land, whichever is the greater :

Provided that where the actual cost of the land is not determinable or where the owner acquired the land other than by purchase, compensation payable shall be limited to the existing use value of the land,

(3) Where in respect of land to which subsection (2) of this section relates there is in existence a development or building plan approved by the appropriate town planning authority the compensation payable shall also include such reasonable sum as may be determined by the appropriate officer as reimbursement for expenses incurred subsequent to the purchase of the land being expenses in the nature of survey fees, architect's fees and fees payable for the approval of the plan by the appropriate town planning authority.

(4) Where the land is a developed land compensation—

(a) in respect of the land, shall be assessed on the same principles as in subsection (2) of this section ; and

(b) in respect of the building or structure on the land, shall be limited to the current replacement cost of the building or structure.

(5) In any other case, compensation payable shall be limited to such amount as may be determined to be reasonable by the appropriate officer or the lands tribunal, having regard to the general principles set out in this section.

(6) In this section—

“actual cost of land” means the actual price paid for the land by the owner as stated in the instrument transferring the land or any document in evidence of the payment of the purchase price and includes incidental expenses in the nature of survey fees, legal fees, registration fees and stamp duty charges ;

“existing use value” means the value assigned to the land or structure thereon and determined in accordance with any current prescribed method of assessment acting on the assumption that no further development is to take place in the future and, for the avoidance of doubt, does not include the potential value of the land or structure.

Residential
areas : option
to accept
resettlement.

5.—(1) In cases where any estate or interest in any area which has been mainly developed for residential purposes is acquired compulsorily under any scheme for the development of the area for the public purposes of the Federation or of a State, the Government may at its discretion offer, and the owner of any estate or interest may accept, in lieu of compensation payable in accordance with the provisions of this Decree, resettlement in any place or area other than the area acquired by way of a reasonable alternative accommodation (if appropriate in the circumstances).

(2) Where the value of any alternative accommodation as determined by the appropriate officer or the lands tribunal is higher than the compensation payable under the foregoing provisions of this Decree, the parties concerned may by agreement require that the excess in value in relation to the acquired property shall be treated as a loan which the owner concerned shall refund or repay to the Government in the prescribed manner.

(3) Where an owner accepts resettlement pursuant to subsection (2) of this section his right to compensation shall be deemed to have been fully satisfied and no further compensation shall be payable to such owner.

6. Where an owner of an estate or interest in land compulsorily acquired is required to yield up possession of his estate or interest in land prior to the payment of compensation or provision of alternative accommodation, as the case may be, interest at the bank rate shall be payable on the value of the estate or interest acquired (as determined pursuant to this Decree) for the period between the entry on the land and the payment of compensation or the provision of alternative accommodation :

Interest on
delayed
compensa-
tion.

Provided that in determining the period for which interest is payable under this section the appropriate officer shall not take account of any period of delay responsibility for which is, in the opinion of the appropriate officer, assignable to the owner of the estate or interest in land.

PART III

COMPENSATION FOR STATE LAND

7. Compensation payable under section 24 of the State Lands Act (hereinafter in this Part referred to as "the relevant Act") shall be assessed and computed in accordance with the provisions of this Part.

Compensa-
tion payable
for resumed
State lands,
etc. Cap. 45.

8. In computing compensation payable under this Part account shall be taken of any estate or interest in respect of the land resumed for the purposes of the relevant Act and any improvement thereon, so however that any compensation payable shall be, as respects—

Computation
of compen-
sation under
the State
Lands Act.

(a) land resumed, for an amount equal to the rent paid by the lessee during the year in which the land was resumed ;

(b) building, installation or improvement thereon, for the amount of the actual cost of the building, installation or improvement, that is to say, such cost as may be assessed on the basis of the current method of assessment as prescribed and determined by the appropriate officer less any depreciation, together with interest at the bank rate during the year the land was resumed, and in respect of any improvement in the nature of reclamation works, being such cost thereof as may be substantiated by documentary evidence and proof to the satisfaction of the appropriate officer ;

(c) crops on the land apart from any building, installation or improvement thereon, for an amount equal to the value as prescribed and determined by the appropriate officer.

9.—(1) Where the land resumed under the relevant Act forms part of a larger area leased or sold, the compensation payable shall be computed as in section 8 (a) above less a proportionate amount calculated in relation to that part of the area not resumed but of which the land resumed forms a part, and any interest payable shall be assessed and computed in the like manner.

Computation
where land
resumed,
etc. forms
part of a
larger area.

(2) Where there is any building, installation or improvement or crops on the land resumed under subsection (1) of this section, then compensation shall be computed as prescribed hereunder, that is, as respects—

(a) such land, on the basis specified in that subsection ;

(b) any building, installation or improvement or crops thereon (or any combination of two or all of those things), on the basis specified in that subsection and in section 8 (b) and (c) above, or so much of those provisions as are applicable,

and any interest, payable under those provisions, shall be computed and determined in like manner.

(3) In this section, "installation" means any mechanical apparatus set up or put in position for use, plant or materials set up in or on land or other equipment, but excludes any fixture in or on any building.

Reference of dispute as to compensation.

10. Where there arises any dispute as to the amount of compensation calculated in accordance with the provisions of section 8 above, such dispute shall be referred to a lands tribunal.

Revocation of existing offer, etc. concerning resumed State lands.

11. Any offer for compensation or acceptance thereof, or any agreement for the purposes of payment of compensation in respect of State lands resumed under the provisions of the relevant Act or the Public Lands Acquisition Act made or given, or, as the case may be, entered into, before 3rd August 1968, and in respect of which compensation has not been paid, shall be deemed to have lapsed as from that date.

PART IV

ESTABLISHMENT, CONSTITUTION AND POWERS OF LANDS TRIBUNALS

Establishment of lands tribunals.

12.—(1) Notwithstanding anything to the contrary in the Constitution or any other enactment or law, there shall be one or more tribunals which shall be styled "lands tribunal" in every state of the Federation.

(2) A lands tribunal shall consist of a Judge of the High Court of a State or of the Federal Revenue Court who shall be assisted by two assessors, each of whom shall possess qualifications approved for appointment to the public service of the Federation or of a State, as the case may be, as estate surveyor or land officer and shall have been so qualified for not less than 5 years, in the determination of any question relating to compensation payable by or under this Decree.

(3) The judge and the assessors shall be appointed by the Head of the Federal Military Government acting after consultation—

(a) in the case of a judge of the High Court of a State, with the Military Governor of the State ; and

(b) in the case of an assessor, with the Military Governor of the State in whose area the land in question is situated and with such other person or body as the Head of the Federal Military Government may think fit, and the period of appointment shall be as may be specified in the respective instrument of appointment ; and whilst engaged in the functions of the tribunal under this Decree an assessor shall not himself engage or be partner of any person who engages, in private practice or business.

(4) Any assessor appointed pursuant to subsection (3) above shall not enter upon the duties of his office unless he has taken and subscribed such oath as may be prescribed for the due execution of his office under this Decree.

(5) The assessors appointed under this Decree shall be paid out of moneys provided by the Federal Executive Council such salaries or remuneration as it may in its discretion determine.

(6) Any lands tribunal established under this section may act notwithstanding the absence of an assessor, and the proceedings of the tribunal shall not be vitiated by reason of any such absence.

13. Notwithstanding anything to the contrary in any law a lands tribunal shall to the exclusion of any other court have power to hear and determine—

(a) any question relating to or concerning the ownership, whether beneficial or otherwise, of any land to be compulsorily acquired by the Government for the public purposes of the Federation or of a State ; and

(b) any question relating to or concerning the amount of compensation payable in respect of such acquisition and the persons entitled to such compensation.

Jurisdiction to hear and determine questions relating to compulsorily acquired land.

14.—(1) A lands tribunal shall be a superior court of record and shall, in respect of matters on which jurisdiction is conferred on it under this Decree, have all the powers of the High Court of a State in its original jurisdiction.

Lands tribunal to have the same powers as the High Court of a State.

(2) Subject to this Decree, the provisions of any law of a State, including the Constitution, regarding the powers, practice and procedure of a High Court shall be applicable in relation to the lands tribunal established for a State as if the lands tribunal were duly established by and expressly mentioned in those laws.

15. Whenever a notice of intention to acquire land has been duly given by the Commissioner pursuant to section 5 of the Public Lands Acquisition Act or by the appropriate State Commissioner under any applicable law no lands tribunal shall, in respect of the land to which the notice relates, have power to grant to any person any injunction or make any order of mandamus or of prohibition if the effect of the injunction or order of mandamus or prohibition would be to prevent (to any extent whatsoever) the Commissioner or the State Commissioner or any person authorised by either of them from entering upon the land for any purpose connected with the proposed acquisition and to carry out works on the land.

Lands tribunal not to grant injunction, etc. in certain cases.

16.—(1) An appeal shall lie from the decision of any lands tribunal as if such decision were the decision of the High Court of a State.

Appeals.

(2) A right of appeal from the decision of a lands tribunal—

(a) shall be exercisable at the instance of any party to the proceeding or of any person having an interest in the subject matter thereof ; and

(b) shall be exercised in accordance with the laws and rules of court for the time being in force regulating the powers, practice and procedure for appeals from the High Court of a State to the court to which such appeal may, as prescribed, lie.

PART V

MISCELLANEOUS PROVISIONS

Supple-
mental
applicable
principles.

17.—(1) Subject to the provisions of section 4 and Part III above, in computing compensation payable for any land or any estate or interest therein a lands tribunal shall take account of the following principles, that is to say—

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

(b) where part only of land, estate or interest belonging to any person is acquired, no account shall be taken of the excess value of the residue by reason of the proximity of any improvements or walls made or constructed or to be made or constructed by the Government.

Exclusion of
jurisdiction
of High
Court of a
State.

18.—(1) As from the commencement of this Decree and notwithstanding anything to the contrary in any law, the High Court of a State or any other court having original jurisdiction in land matters shall not have jurisdiction to hear or determine—

(a) any question relating to or connected with the ownership, whether beneficial or otherwise, of any land to be compulsorily acquired by the Government for the public purposes of the Federation or of a State ; and

(b) any question relating to or concerning any such land including the amount of compensation payable in respect of such acquisition and the persons entitled to such compensation,

and no action whatsoever shall be brought in any such court in respect of any such question, and if such action is pending in any such court or on appeal in any other court the action shall abate :

Provided that where before the commencement of this Decree—

(i) compensation had already been paid by the Government to any person or into the registry of the High Court of a State or any other court ; and

(ii) action in respect of such land is not connected with the adequacy of the amount of compensation so paid,

then such proceedings may be continued and disposed of by the court having jurisdiction in the matter either at first instance or on appeal, as if this Decree had not been made.

(2) For the purposes of this section, “action” means any civil proceedings commenced by writ or in such other manner as may be prescribed by rules of court, but does not include a criminal proceeding.

(3) The reference in section 13 and in this section to land to be compulsorily acquired by the Government is a reference to any land in respect of which a notice of intention to acquire the land has been given by or on behalf of the Commissioner pursuant to section 5 of the Public Lands Acquisition Act or on behalf of the appropriate Commissioner under any applicable law.

Consequen-
tial amend-
ments, etc.
Cap. 167.
Cap. 45.

19.—(1) The Public Lands Acquisition Act and the State Lands Act and any equivalent law of a State shall have effect subject to this Decree and the provisions of those Acts or law shall, without prejudice to the generality of the foregoing—

(a) in the case of the Public Lands Acquisition Act and the State Lands Act, have effect subject to the amendments respectively set out in Parts A and B of Schedule 2 to this Decree ; and

(b) in the case of any equivalent State law, have effect subject to such modifications, amendments or omissions as would bring such law into line with the general intendment of this Decree, so however that nothing in this paragraph shall be construed as precluding the Military Governor of a State from effecting such textual and other amendments in that law as would bring it into line with the general intendment of this Decree.

(2) The State Lands (Compensation) Decree 1968 is hereby repealed. 1968 No. 38.

20. On the expiration of six weeks from the date of the notice of intention to acquire land under section 5 of the Public Lands Acquisition Act or under the appropriate provision of the equivalent State law title to the land in fee simple shall vest in the Head of the Federal Military Government in trust for the Federal Military Government, or as the case may be, in the Military Governor of the State in trust for the Government of the State, free from all adverse or competing rights, titles or interests whatsoever :

Vesting of compulsorily acquired land.

Provided that nothing in this section shall affect the right of the owner of the land to compensation as provided under this Decree.

21.—(1) The Commissioner may make all such regulations as in his opinion are necessary or expedient for giving full effect to the provisions of this Decree and for the due administration thereof.

Regulations.

(2) Without limiting the generality of the provisions of subsection (1) above, regulations may be made for all or any of the following purposes, that is to say—

(a) for prescribing the method by which the existing use value of land and the current replacement cost of a building or structure shall be determined on the general application of the principles set out under this Decree ; and

(b) for prescribing anything in this Decree that is required to be prescribed.

22. In this Decree, unless the context otherwise requires, or it is otherwise expressly provided, the following expressions shall have the meanings respectively assigned to them—

Interpretation.

“appropriate officer” means the Chief Federal Lands Officer or the Chief Lands Officer of a State ;

“building” includes any fixture thereon ;

“Commissioner” means the Federal Commissioner charged with responsibility for lands ;

“developed land” means land on which there exists any physical improvement in the nature of road development services, water, electricity, drainage, building, structure or such other improvement that may enhance the value of the land for industrial, agricultural or residential purposes ;

“Government” means the Government of the Federation or the Government of a State ;

“improvement” includes any development in respect of land in the nature of cultivation, building, enclosures or clearing ;

"interest at the bank rate" means simple interest payable at the rate per cent per annum at which the Central Bank of Nigeria (established under the Central Bank of Nigeria Act) will rediscount bills of exchange;

"land" includes water and any interest in land or water and any right in, to or over land or water;

"owner" includes any person upon whom a notice to acquire land is served, or who is entitled to be served with such notice, in accordance with the provisions of the Public Lands Acquisition Act or the person entitled to sell or convey the land in relation to which the notice is served;

"prescribed" means prescribed by or under this Decree;

"State Commissioner" means the Commissioner in the Government of a State charged with responsibility for lands.

Cap. 167.

Citation and commencement.

23.—(1) This Decree may be cited as the Public Lands Acquisition (Miscellaneous Provisions) Decree 1976.

(2) This Decree shall be deemed to have come into operation on 1st July 1976.

SCHEDULE 1

(Section 2)

MAXIMUM COMPENSATION PAYABLE FOR LAND COMPULSORILY ACQUIRED
(excluding compensation payable in respect of building or structure on land)

Zone	Maximum compensation per Hectare
	₦
1. A—Metropolitan Lagos (i.e. the former Federal Territory)	
B—(i) Lagos State, other than Metro- politan Lagos	7,500
(ii) State Capitals	
(iii) Industrial and Commercial Urban Centres	3,750
C—Other Urban and Semi-Urban Centres	1,500
D—All other areas	1,250
2. CASES NOT INCLUDED IN 1A-D	Compensation shall be in accordance with the local customs and Land Tenure Law applicable to the state.

SCHEDULE 2

(Section 19)

Amendments of the Enactments Affected

PART A : Public Lands Acquisition Act (Cap. 167)

1. In section 2—

(a) for the definition of "public purposes" there shall be substituted the following new definition :—

"public purposes" includes—

(a) for exclusive Government use or for general public use;

(b) for use by any body corporate directly established by law or by any body corporate registered under the Companies Decree 1968 as respects which the Government owns shares, stocks or debentures;

(c) for or in connection with sanitary improvements of any kind, including reclamations;

(d) for obtaining control over land contiguous to any port or over land the value of which will be enhanced by the construction of any railway, road or other public work or convenience about to be undertaken or provided by the Government;

(e) for obtaining control over land required for or in connection with development of telecommunication or provision of electricity;

(f) for obtaining control over land required for or in connection with mining purposes;

(g) for obtaining control over land required for or in connection with planned urban or rural development or settlement;

(h) for obtaining control over land required for or in connection with economic, industrial or agricultural development; and

(i) for educational and other social services ;"

(b) after the definition of "land" insert the following definition—

"lands tribunal" means a lands tribunal established under the Public Lands Acquisition (Miscellaneous Provisions) Decree 1976".

2. In section 3 (1) for the words "this Act" there shall be substituted the words "the Public Lands Acquisition (Miscellaneous Provisions) Decree 1976".

3. In section 4 (2) for the words "commissioner of the court" there shall be substituted the words "lands tribunal".

4. Sections 6 and 7 shall be deleted.

5. In section 10 the words "or which he is by this Act entitled to sell and convey" shall be deleted, and for the words "High Court" there shall be substituted the words "lands tribunal" and for the word "court" there shall be substituted the word "tribunal".

6. In section 12—

(a) in subsection (1) for the words from "the value" to the end of the subsection there shall be substituted the words "the existing use value of any land or the actual cost or the current replacement cost of any building or the value of trees or crops on any land shall be evidence thereof".

(b) in subsection (2) for the words from "ascertaining" to the end of the subsection there shall be substituted the words "subsection (1) above".

7. In section 13 (1) for the words "No compensation" there shall be substituted the words "Except as may be prescribed by or under the Public Lands Acquisition (Miscellaneous Provisions) Decree 1976, no compensation"

8. Section 15 shall be deleted.

9. Section 17 shall be deleted.

10. In section 18—

(a) in subsection (1) for the words “judgment of the court to intimate the court” there shall be substituted the words “decision of the lands tribunal to intimate the tribunal”;

(b) in subsection (2) for the words “High Court” there shall be substituted the words “the appropriate lands tribunal in accordance with such of the provisions of the Public Lands Acquisition (Miscellaneous Provision) Decree 1976 as may be applicable in any particular case”.

11. In section 19 for the word “court” whenever it occurs in the section there shall be substituted the words “lands tribunal”.

12. For section 20 there shall be substituted the following new section :—

“20.—(1) The decision of a lands tribunal in respect of any compensation or any question of disputed interest or title shall be final and conclusive as respects all parties upon whom summonses have been served as aforesaid, 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 the claim at any time within one year after the date of the final decision; and in all cases where any compensation has been awarded the amount thereof or such part thereof as may be payable within the said period of one year shall be paid into the registry of the lands tribunal (except where a valid written title to the land has been delivered) and shall not be paid out of that registry until the said period of one year has elapsed from the date of such final decision, after which upon application to the lands tribunal by any person claiming as aforesaid to be interested therein it may be paid to whomsoever the tribunal may direct.

(2) The payment into the registry 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 Government of such rent as it accrues due to the parties who have appeared by the judgment of the tribunal to have the best right thereto shall operate as a complete discharge and acquittance of the Government 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 paid into the registry (such compensation or some part thereof not having been paid out of the registry) 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 the registry, made after twelve months have elapsed after the final decision of the tribunal, shall be made by notice of motion served upon the Commissioner, in the manner provided by the rules 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.”

13. In section 21 for the words “the court” there shall be substituted the words “the tribunal”.

Postpone-
ment of pay-
ment of com-
pensation.

14. In section 22 for the words "into court" there shall be substituted the words "into the registry of the appropriate lands tribunal", and for the words "the court" there shall be substituted the words "the tribunal".

15. Sections 24, 25 and 26 and Forms A, B and C in the Schedule shall be deleted.

16. In section 27 for the words "any court" there shall be substituted the words "any lands tribunal" and for the words "such court" there shall be substituted the words "such tribunal".

PART B: State Lands Act (Cap. 45)

17. In section 24 immediately after subsection (4) there shall be inserted the following new subsections:—

"(5) Compensation payable under this section shall be completed and determined in accordance with the provisions of the Public Lands Acquisition (Miscellaneous Provisions) Decree 1976.

(6) The compensation to be awarded under this section shall, if not agreed upon between the parties, be determined by the lands tribunal in accordance with the provisions of Part III of the Public Lands Acquisition (Miscellaneous Provisions) Decree 1976".

MADE at Lagos this 20th day of July 1976.

LT.-GENERAL O. OBASANJO,
*Head of the Federal Military Government,
Commander-in-Chief of the Armed Forces,
Federal Republic of Nigeria*

EXPLANATORY NOTE

(This note does not form part of the above Decree but is intended to explain its effect)

The Decree provides a new basis for the assessment of compensation in respect of lands compulsorily acquired for the public purposes of the Federation or of a State. Compensation payable by the Government is to be determined in accordance with the principles set out in section 4 of the Decree and the maximum compensation payable is to be the amount specified in Schedule 1 in respect of the zone in which the land is situated.

The Decree also re-enacts with amendments provisions relating to the computation of compensation payable under the State Lands Compensation Decree 1968 and also amends the existing State Lands Act.

Disputes as to the amount of compensation payable are referable to lands tribunals established under Part IV of the Decree which also sets out the powers, practice and procedure of the tribunals.