

**CHAPTER 119.****DEFENCE LANDS ACQUISITION.****ARRANGEMENT OF SECTIONS.****SECTION.**

1. Short title.
2. Interpretation.
3. Appointment of authorised officer or officers and limitation of powers.

**PART I.—ACQUISITION OF LAND FOR DEFENCE PURPOSES.**

4. Power to enter to survey.
5. Issue of warrant for acquiring land.
6. Service of notice on owner.
7. Power to enter and take land.
8. Marking out of land.
9. Registration of plan and certificate.
10. Registration to be conclusive.
11. Land injuriously affected.
12. Part of house, etc., not to be taken.
13. Cases in which owner, etc., refuses to give up possession, etc.

**PART II.—SALE AND DISPOSAL OF ACQUIRED LAND.**

14. Sale of acquired land.

**PART III.—COMPENSATION.**

15. Compensation to be allowed.
  16. Agreed compensation.
  17. Cases of disputed compensation, etc.
  18. Matters to be considered in determining compensation.
  19. Matters to be neglected in determining compensation.
  20. Appeals.
    - (2) Notice of Appeal.  
When Court's decision to be final.
    - (3) Postponement of payment of price; parties not notified may appear and claim.
    - (4) Payment after one year.  
To be complete discharge.
-

## CHAPTER 119.

## DEFENCE LANDS ACQUISITION.

An Ordinance to enable the Commissioners for executing the Office of Lord High Admiral in the United Kingdom, the Secretary of State for War and the Secretary of State for Air severally to acquire Land in the Colony of Sierra Leone for the purposes of Defence.

9 of 1942.  
19 of 1944.  
22 of 1945.  
14 of 1946.

[30TH JULY, 1942.]

1. This Ordinance may be cited as the Defence Lands Acquisition Ordinance, and shall apply to the Colony and the Protectorate. Short title.

2. In this Ordinance, unless the context otherwise requires— Interpretation.  
“ Court ” means the Supreme Court of Sierra Leone and includes the Chief Justice and the Puisne Judges thereof sitting together or separately;

“ defence purposes ” includes rifle or artillery practice, the building and enlarging of barracks and camps, the erection of butts, targets, batteries and other accommodation, the storing of arms, and any other purpose connected with the defence of Sierra Leone and, in relation to the Secretary of State for Air, the provision of land required for use in connection with civil aviation;

“ land ” includes all land, whether covered with water or otherwise, together with all buildings and erections, if any, thereon, and, where such meaning may be inferred, any right to the same, and includes any easement in or over land, and includes any right of firing over land or other right of user.

3. (1) The Commissioners for executing the Office of Lord High Admiral in the United Kingdom, the Secretary of State for War and the Secretary of State for Air may each severally appoint an authorised officer either by name or by the designation of the office which he holds for the purpose of taking such steps as may be necessary and lawful under this Ordinance for the acquisition of land within Sierra Leone and for the sale and disposal of land in accordance with the provisions of section 14 of this Ordinance. Appointment of authorised officer or officers and limitation of powers.

(2) Every appointment made under the provisions of this section shall be notified by publication in the *Gazette*, and, in

like manner, the revocation of any such appointment shall be so notified.

(3) Where an appointment has been made under the provisions of this section of an authorised officer by the designation of any office which he holds any person who may at any time thereafter hold such office, whether he shall be the substantive holder thereof or shall have been appointed temporarily to perform the duties and to exercise the powers thereof in place of the substantive holder, shall be deemed to be the authorised officer to whom such appointment relates.

(4) Nothing in this section shall be construed as giving any power to an authorised officer to take any step for the acquisition of land under this Ordinance, or for the sale or disposal of land in accordance with the provisions of section 14, except for and on behalf of the authority from whom he holds his appointment as an authorised officer.

#### PART I.—ACQUISITION OF LAND FOR DEFENCE PURPOSES.

Power to enter to survey.

4. (1) Whenever an authorised officer resolves that any land is required for defence purposes he may, subject to the consent of the Governor in Council, by writing under his hand, authorise any person, together with his agents, servants or workmen, to enter, as often as may be necessary, upon such land, and there to survey and take levels, to make borings or trial pits, and to do such other acts as may be necessary, with a view to the taking or appropriating of any such land.

(2) The report of any such person, together with a plan of such land, shall be laid before the said officer, and by him be submitted to the Governor in Council.

Issue of warrant for acquiring land.

5. Whenever an authorised officer shall declare that any land is required for defence purposes, it shall be lawful for him, subject to the consent of the Governor in Council, by warrant, under his hand, to direct that such lands shall be acquired for defence purposes. Every such warrant may be in the Form A in the Schedule hereto, and shall be published in the *Gazette*.

Service of notice on owner.

6. Whenever by any such warrant, as in the last section mentioned, it is directed that any land shall be acquired for defence purposes, the authorised officer executing such warrant shall cause a notice in the Form B in the Schedule hereto, or as near thereto as possible to be served personally on any person entitled to sell, or interested in, any land specified in the warrant, or if he cannot be found, shall cause it to be left at

his last usual place of abode, or business, with some inmate thereof, to be given to such person, and in case no such person can be ascertained or found, shall cause it to be left, with the occupier of such land, or if there be no such occupier, shall cause it to be affixed on some conspicuous part of such land, within eight days from the date of such warrant:

Provided that where the land affected is situated in the Protectorate, the notice shall be served on the Tribal Authority having jurisdiction over such land unless any non-native shall be interested in the land specified in the warrant, in which case notice shall, in addition, be served on such non-native.

7. After the lapse of twenty-one days from the publication of any such warrant in the *Gazette*, it shall be lawful for the authorised officer, or some person appointed by him for that purpose, with all necessary workmen and other servants, to enter upon such land, and also to set out, appropriate and take so much of such land as is specified in the said warrant.

Power to enter and take land.

8. When the authorised officer, or some person appointed by him for that purpose, shall set out, appropriate and take the land specified in any such warrant, he shall cause such land to be marked out and a notice to be posted in some conspicuous part of such land, and such notice shall be in these words, viz.: "Taken for defence purposes," and shall be signed by the authorised officer, or some person appointed by him for that purpose. All such land, when so set out, taken and appropriated, shall be vested in the authority, being the Commissioners for executing the office of Lord High Admiral in the United Kingdom, the Secretary of State for War or the Secretary of State for Air, on whose behalf the said land was so set out, appropriated, or taken, free from all other estates and all liens, rights, charges and encumbrances whatsoever.

Marking out of land.

9. Within twenty-one days after such appropriation, the authorised officer shall cause a plan of the land so set out, taken and appropriated, as aforesaid, together with a certificate under his hand, to the effect that the same has been taken and appropriated for defence purposes, to be registered in the office of the Registrar General.

Registration of plan and certificate.

10. When any land has been taken and appropriated for defence purposes, whether under the provisions of this or any other Ordinance, the registration of a plan of such land, together with the certificate in the office of the Registrar General, as in

Registration to be conclusive.

the last section mentioned, shall be conclusive evidence that such land has been lawfully set out, appropriated and taken for defence purposes.

Land injuriously affected.

11. If any land be so cut through and divided by the taking and appropriation of part of such land for any defence purpose as to leave a portion thereof practically useless to the owner for the purpose for which he had been accustomed to use the land, it shall be lawful for the owner of such land, by notice in writing, to be served on the authorised officer at any time before an agreement is come to for the purchase of the land taken as aforesaid, or before the assessment of the price to be paid for such land under the provisions of this Ordinance, to require the officer, on behalf of the authority, being an authority within the meaning of section 8 of this Ordinance, on whose behalf such part has been taken, and appropriated, to purchase, not only the land actually taken as aforesaid, but also the land rendered useless as aforesaid by reason of the severance aforesaid, and thereupon it shall be lawful for the authorised officer to purchase the land rendered useless as aforesaid, or if he refuse to do so, it shall be lawful for the Court, if it shall find as a fact that any portion of the said land has been, by the severance, rendered useless, as aforesaid, to adjudge that the authorised officer shall purchase the same, and determine the price to be paid for the same, in the same way as if such land was actually taken for any defence purpose.

Part of house, etc. not to be taken.

12. Nothing in this Ordinance shall be deemed to authorise an authorised officer to take a part only of any house, building or manufactory, but where a part of the land on which any house, building, or manufactory stands, is required for any defence purpose, it shall be lawful for the owner of such house, building or manufactory to require the authorised officer to take the whole house, building or manufactory.

Cases in which owner, etc., refuses to give up possession, etc.

13. If, in any case in which, according to the provisions of this Ordinance, an authorised officer, or some person appointed by him for that purpose, is authorised to enter upon and take any land, the owner or occupier of any such land, or any other person, refuses to give up possession thereof, or hinders the authorised officer or person appointed by him for that purpose, his workmen or servants, from entering upon or taking possession of the same, it shall be lawful for the Court, upon application made by the authorised officer, or any person on his behalf, to issue a warrant in the Form C in the Schedule hereto, or as

near thereto as possible, directed to the Sheriff, ordering him to enter and take possession of the land, and to deliver the same to the authorised officer, and upon receipt of such warrant, the Sheriff shall enter, and deliver possession of any such land accordingly; and the taxed costs accruing by reason of the execution of such warrant, subject to review by the Court, shall be paid by the person refusing to give possession or hindering the authorised officer or person aforesaid, his workmen or servants, as aforesaid, and the amount of such costs shall be deducted and retained by the authorised officer from the compensation, if any, then payable by him to such person, and if no compensation be payable to such person, or if the same be less than the amount of such costs, then such costs, or the excess thereof beyond such compensation, if not paid on demand, shall be levied by distress, and, upon application to the Magistrate for that purpose, he shall issue his warrant accordingly.

## PART II.—SALE AND DISPOSAL OF ACQUIRED LAND.

14. It shall be lawful for an authorised officer at the direction of the authority from whom he holds his appointment as an authorised officer to sell or otherwise dispose of any land acquired or purchased under the powers contained in this Ordinance or in the Air Navigation (Colonies and Protectorates) Order in Council, 1922:

Sale of  
acquired  
land.

Provided that the authorised officer shall in the first place offer the land for sale to the Government and in the event of the Government refusing to purchase it, shall then offer the land to the person from whom it was acquired under this Ordinance before disposing of it to any other person:

And provided further that when the land acquired is situated in the Protectorate, the authorised officer shall not sell or otherwise dispose of the land except to the Tribal Authority having jurisdiction within the area in which the land is situated.

## PART III.—COMPENSATION.

15. The owner and occupier of, and any other person beneficially interested in, any land which may be appropriated and taken, or entered upon, as aforesaid, shall be entitled to, and shall receive compensation for, the value of the land so taken and appropriated, and for all damages sustained by such owner, occupier and other person, by reason of the exercise, as regards such land, of the powers granted by this Ordinance, the amount of such compensation to be ascertained and determined as hereinafter provided:

Compensa-  
tion to be  
allowed.

Provided that, for the purposes of this part where the land is situated in the Protectorate, the Tribal Authority having jurisdiction in the area in which the land is situated shall be deemed to be the owner and occupier thereof:

And provided further that where the land affected is situated in the Protectorate, any compensation to which a Tribal Authority having jurisdiction over the said land is entitled, shall be paid to the Chiefdom Treasury, who shall distribute the compensation in accordance with native customary law.

Agreed compensation.

16. It shall be lawful for an authorised officer, for and on behalf of the authority, being an authority within the meaning of section 8 of this Ordinance, on whose behalf land has been taken and appropriated under this Ordinance to contract and agree with the owner or occupier thereof and with any person who, at the time of the taking and appropriation was beneficially interested therein and whose beneficial interest has been injuriously affected by the exercise of any of the powers as regards such land granted by this Ordinance, for the compensation to be allowed either in respect of the actual value of the land or in respect of damages incurred by reason of the exercise of any of the said powers, and any sum so agreed on as last aforesaid, or which shall be awarded under the provisions of this Ordinance, shall be paid by the authorised officer.

Cases of disputed compensation, etc.

17. In all cases in which any land has been taken and appropriated or entered upon under the provisions of this Ordinance, or has been injuriously affected by the exercise of any of the powers granted by this Ordinance, if, within twenty-one days after the publication of the warrant in the *Gazette* that such land shall be acquired for defence purposes, as hereinbefore provided, no claim in respect of such lands shall have been lodged with the authorised officer executing the warrant, or if the person who may have lodged any claim and the authorised officer shall not have agreed as to the amount of compensation to be paid for the beneficial interest of any such person, or if any such person shall not have given satisfactory evidence of his alleged beneficial interest, or if separate and conflicting claims are made in respect of the same land, the amount of compensation due, if any, and every such disputed interest or title, shall be settled in accordance with the following provisions—

(a) Application may be made by motion *ex parte*—

- (i) by or on behalf of the authorised officer;
- (ii) in the event of the authorised officer making no such application within twenty-one days after the registration

of the plan of any land, and of the certificate of the authorised officer, that such land has been taken and appropriated for defence purposes in the office of the Registrar General, either by or on behalf of the authorised officer, or of any person claiming to be the owner, occupier, or to be otherwise beneficially interested in any such land, to the Court, which shall have jurisdiction to hear and determine in all such cases as aforesaid.

(b) The authorised officer or other person applying to the Court, as last aforesaid, shall cause the records of the Registrar General's Office to be searched in order to ascertain whether or not there is any mortgage or other charge affecting any such land, or any part thereof, and in the event of there being any mortgage or other charge affecting any such land, or any part thereof, shall produce, at the hearing of any such application, a report of all such mortgages or charges, their nature, the persons interested thereunder, or affected thereby, and the Court shall thereupon direct that the value of the land so taken and appropriated be ascertained, that the amount of compensation which ought to be paid to the several persons interested therein be determined, what notices shall be given or served to enable all persons interested to protect their rights, and the manner in which such notices shall be given or served, and shall further appoint the time and the place at which it will sit to hear and determine the matter, and the Master of the Court shall cause notice of the time and place so appointed to be published in the *Gazette*.

(c) The Court shall, after hearing evidence in that behalf, assess the amount of compensation to be paid to the owner of the land so taken and appropriated and to all persons having any just right, title, or interest therein, or any portion thereof, and whenever it shall appear that any such land is owned either wholly or in part by, or that the occupier or any person injuriously affected, as aforesaid, is an infant, lunatic or a person who is absent from the Colony, it shall be lawful for the Court to appoint a curator to protect the interest of any such infant, lunatic, or absentee, and every such curator shall be subject to the control and direction of the Court.

(d) On the day appointed for the hearing—

(1) the authorised officer, or any person on his behalf, and every person interested in the said land may appear before the Court, and may tender such evidence as may be relevant in support of their alleged rights, and the value thereof, and may cross-examine any witness produced in

any adverse interest, and may produce any adverse testimony;

(2) the Court, on the application of the authorised officer or of any person on his behalf, or of any person interested as aforesaid, may summon any witness who may be required.

(e) When the owner or any person claiming to be the owner of such land, or to possess or represent the possessor of any interest therein, shall not appear at the time appointed for the hearing, a decision may be given *ex parte* upon hearing the evidence adduced by the authorised officer or any person on his behalf, and such decision shall be as effectual as if given after hearing, and in the presence of, all parties.

(f) The written report of any surveyor or engineer nominated by the authorised officer, as to the value of such land, shall be evidence thereof, but shall not exclude any other evidence of such value. Such report may be proved by a copy thereof, under the hand of such surveyor or engineer, as last aforesaid, but he may be required by the Court to attend and give evidence either upon the motion of the Court itself or upon an application on the part of the authorised officer or of any person having interest. Proof of the signature of such copy shall not be required unless the Court sees reason to doubt the genuineness thereof.

(g) Compensation shall not be awarded to any party in respect of land which is situated in the Colony and is unoccupied. Any land shall be deemed to be unoccupied where it is proved that beneficial use thereof for cultivation or habitation, or for collecting or storing water, or for any industrial purposes, has not been made for twelve years next prior to the date on which such land has been taken and appropriated under the provisions of this Ordinance.

Matters to be considered in determining compensation.

18. (1) In determining the amount of compensation to be awarded for land acquired under this Ordinance the Court shall take into consideration the following matters and no others, namely—

(a) the market value at the date of the publication of the warrant under section 5 of this Ordinance or, in the case of land already requisitioned for defence purposes under regulations made under the Emergency Powers (Defence) Act, 1939, what would have been the market value at the date of the publication of such warrant if the land had remained in the condition in which it was at the date of the requisition thereof:

Provided that where land is situated in the Protectorate, the market value thereof shall be deemed to be the amount of the assessed agricultural value of the land together with any amount by which that value is increased by the situation of the land and the use to which it is being put at the date of acquisition;

(b) any increase in the value of the other land of the person interested likely to accrue from the use to which the land acquired will be put;

(c) the damage, if any, sustained by the person interested at the time of the taking possession of the land by reason of severing such land from his other land;

(d) the damage, if any, sustained by the person interested at the time of the taking and appropriation of the land by reason of the acquisition injuriously affecting his other property whether movable or immovable in any other manner or his actual earnings;

(e) if, in consequence of the acquisition, he is compelled to change his residence or place of business, the reasonable expenses, if any, incidental to such change;

(f) the damage if any sustained by persons interested by reason of the imposition of any easement or exercise of any other rights of users on the basis of amount by which the value of the land shall have been diminished thereby;

(g) where land is, and but for the compulsory acquisition would continue to be, devoted to a purpose of such a nature that there is no general demand or market for land for that purpose, the compensation may, if the Court is satisfied that reinstatement in some other place is *bona fide* intended, be assessed on the basis of the reasonable cost of equivalent reinstatement.

14 of 1946.

(2) For the purposes of paragraph (a) of sub-section (1) of this section—

(a) if the market value has been increased by means of any improvement made by the owner or his predecessor in interest within two years before the publication of the warrant under section 5, such increase shall be disregarded if the improvement was made in contemplation of proceedings for the acquisition of the land being taken under this Ordinance;

(b) when the value of the land is increased by reason of the use thereof or of any premises thereon in a manner which could be restrained by any Court or is contrary to law or is

detrimental to the health of the inmates of the premises or to the public health the amount of that increase shall not be taken into account;

(c) the effect of any expressed or implied condition of title restricting the use to which the land may be put shall be taken into account.

Matters to be neglected in determining compensation.

19. In determining the amount of compensation to be awarded for land acquired under this Ordinance the Court shall not take into consideration—

(a) the degree of urgency which has led to the acquisition;

(b) any disinclination of the person interested to part with the land acquired;

(c) any damage sustained by the person interested which, if caused by a private person, would not be a good cause of action;

(d) any damage which is likely to be caused to the land acquired after the date of the publication of the warrant under section 5 by or in consequence of the use to which it will be put;

(e) any increase to the value of the land acquired likely to accrue from the use to which it will be put when acquired;

(f) any outlay on additions or improvements to the land acquired, which was made after the date of the publication of the warrant under section 5, unless such additions or improvements were necessary for the maintenance of any building in a proper state of repair;

(g) any increase to the value of the land by reason of any work done thereon by or at the expense of the acquiring authority prior to the acquisition;

14 of 1946.

(h) the special suitability or adaptability of the land for any purpose if that purpose is a purpose to which it could be applied only in pursuance of statutory powers, or for which there is no market apart from the special needs of a particular purchaser or the requirements of the acquiring authority.

Appeals.

20. (1) Any final judgment of the Court respecting compensation or in the case of disputed interest or title shall be subject to the like appeal to which other final judgments of any Court are subject, including appeal to the West African Court of Appeal and to Her Majesty's Privy Council where such appeal is allowed by law.

(2) The party who may desire to appeal against such judgment shall proceed according to any Rules of Court or Order in Council for the time being regulating appeals, and if an appeal is not perfected within the period prescribed, the judgment of the Court or Court of Appeal, as the case may be, shall be final.

Notice of Appeal.

When Court's decision to be final.

(3) The decision of any Court having competent jurisdiction, whether original or appellate, where appeal has been taken in manner above mentioned, respecting compensation, or on any question of disputed interest or title, shall be final and conclusive in regard to all persons upon whom notices have been served 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:

Postponement of payment of price; parties not notified may appear and claim.

Provided that persons upon whom notices have not been served, and who have not appeared or claimed or on whose behalf no claim has been made, may do so at any time within one year after the date of the final decision.

(4) In all cases where any compensation has been awarded, except where a valid written title to the land shall be delivered, payment thereof shall be postponed until the period of one year shall have elapsed from the date of the judgment, or judgment on appeal, whereupon it may be paid over to the person who shall then appear by the judgment of the Court to have the best right thereto, and such payment shall, as concerns the Governor or officer appointed by him, operate as a complete discharge and acquittance of such compensation and of all claims in respect of such lands or any interest therein:

Payment after one year.

To be complete discharge.

Provided that such payment shall not hinder any subsequent proceedings at the instance of any persons having or alleging better right thereto as against the person to whom such payment may have been made.

## SCHEDULE.

Sec. 5.

## FORM A.

## WARRANT THAT LAND SHALL BE ACQUIRED FOR DEFENCE PURPOSES.

WHEREAS on the.....day of.....19....., .....declared that the land herein described, that is to say..... (*insert description of land*), shall be acquired for defence purposes for and on behalf of.....(*set out the name of the authority on whose behalf acquisition is to be made*).

AND WHEREAS the Governor in Council did on the.....day of.....19....., consent that the said lands should be acquired for defence purposes.

NOW, THEREFORE, I do hereby, under the provisions of the Defence Lands Acquisition Ordinance, by this my warrant under my hand, direct that the said land shall be acquired for such purposes.

Dated this.....day of.....19.....

.....  
*Authorised Officer.*

Sec. 6.

## FORM B.

Notice is hereby given that the following land.....(*describe land, denoting the boundaries by physical marks wherever practicable*), is to be acquired or defence purposes.

Any person claiming to be possessed of, or to have any right, title, or beneficial interest in, the said land, or to be injuriously affected by any such acquisition, is required on or before the.....day of.....19..... (*.....days after the date of publication of warrant in the Gazette*) to forward to me at.....a statement of the right or interest and the evidence thereof and of any claim made by him in respect of the value of such land or of his interest therein.

I am willing to treat for the purchase of the said land for and on behalf of the.....(*set out the name of the authority on whose behalf acquisition is to be made*).

Date.....

.....  
*Authorised Officer.*

Sec. 13.

## FORM C.

## WARRANT TO THE SHERIFF.

To the Sheriff of.....

WHEREAS by a warrant dated the.....day of.....19....., under the hand of.....it was directed that the following land..... (*describe land*), should be acquired for defence purposes.

AND WHEREAS.....days have elapsed since the publication of the said warrant in the *Gazette*:

These are, therefore, to command you to put.....or any person authorised by him in that behalf, in possession of the said land and premises.

Dated the.....day of.....19.....

.....  
*Chief Justice or Puisne Judge.*