

ORDINANCE No. 13 OF 1957.

ACQUISITION OF LAND (LAND SETTLEMENT) ORDINANCE, 1957.

I assent.

F. D. JAKEWAY,

Officer Administering
the Government.

23rd May, 1957.

Arrangement of Sections.

Section.

1. Short title.
2. Interpretation.
3. Power of Governor in Council to declare a land settlement scheme a public work under section 3 of Chapter 179.
4. Modification of application of Chapter 179 when land required for land settlement scheme.
5. Method of assessment of compensation.
6. Award and assessment of fair value where land is acquired.
7. Appointment of commissioners, etc.
8. Power to acquire land by lease.
9. Power of Court to award additional sum to claimant.
10. Conditions relating to land sold or leased.
11. Repeal of Cap. 180.

AN ORDINANCE to repeal and re-enact the Acquisition of Land (Land Settlement) Ordinance.

[25th May, 1957]

A.D. 1957.

Enacted by the Legislature of British Guiana:—

Short Title.

1. This Ordinance may be cited as the Acquisition of Land (Land Settlement) Ordinance, 1957.

Interpreta-
tion.

2. In this Ordinance —
“land settlement scheme” includes any project intended to secure land for the establishment of farmers as an organised settlement or for distribution by sale, lease or otherwise to persons individually for agricultural purposes.

3. Subject to the provisions of section 7 of this Ordinance, it shall be lawful for the Governor in Council, by order published in the Gazette under section 3 of the Acquisition of Lands for Public Purposes Ordinance (hereinafter referred to as the Principal Ordinance), to declare any land settlement scheme to be a public work for the purposes of the Principal Ordinance, and thereafter the provisions of that Ordinance shall, subject to the modifications hereinafter stated, apply in relation to the acquisition of any land for the purposes of such schemes.

Power of Governor in Council to declare a land settlement scheme a public work under section 3 of Chapter 179. Cap. 179.

4. When an order made under section 3 of the Principal Ordinance and section 3 of this Ordinance has declared a land settlement scheme to be a public work, then in relation to the acquisition of any land required for the purposes of such scheme —

Modification of application of Chapter 179 when land required for land settlement scheme.

(a) subsection (1) of section 5 of the Principal Ordinance shall have effect as if the following paragraphs were added thereto—

“(d) to set out the boundaries of the land proposed to be taken;

(e) to do all such other acts as may be incidental to or necessary for any of the purposes aforesaid.”;

(b) the proviso to subsection (1) of section 7 of the Principal Ordinance shall have effect as if for the words “for the public work for which the land is required” therein appearing there were substituted the following words —

“to pay the purchase price or compensation for the land required”; and

(c) the provisions of section 19 of the Principal Ordinance shall not have effect.

5. (1) The provisions of paragraph (a) of section 18 of the Principal Ordinance shall not have effect, and in assessing the value of land or of any interest therein acquired compulsorily under the provisions of this Ordinance, regard shall be had to the following provisions, that is to say—

Method of assessment of compensation.

(a) either the capitalized value of the net annual income which would be derived from the use of the land for agriculture after deducting the estimated capital expenditure on improvements required to bring the land into a state fit for use as aforesaid or, the price paid for the land (exclusive of any buildings, plant and machinery on the land) by the person who owned the land on the 1st July, 1955, whichever is the greater;

(b) the market value of any buildings, plant and machinery on the land having regard to the general conditions, state of repair and fitness for use of such buildings, plant and machinery.

(2) For the purposes of subsection (1) of this section the net annual income and the capitalized value of such income shall be determined in accordance with the principles set out in the schedule to this Ordinance.

Schedule.

Award and assessment of fair value where land is acquired.

6. (1) In determining claims for compensation the Court shall have power to consider and award to the claimant such additional amount as the Court deems necessary in order to make such compensation a fair value of the land acquired compulsorily under the provisions of this Ordinance.

(2) In determining whether it is necessary to award any additional amount as aforesaid the Court shall consider—

- (a) the nature and extent of the estate or interest of the claimant in the land;
- (b) the extent to which the value of the improvements on the land exceeds the value of the improvements normally required;
- (c) any special value that the land may have by reason of locality;
- (d) such other matters affecting the land as the Court considers relevant.

Appointment of commissioners, etc.

7. (1) Before an order is made under section 3 of the Principal Ordinance and section 3 of this Ordinance the Governor, acting in his discretion may, and if requested to do so in writing by the owner or occupier of the land shall, by notice published in the Gazette, issue a Commission appointing two or more commissioners to determine by investigation whether or not it is in the public interest that the land in respect of which it is sought to make an order as aforesaid should be acquired for a land settlement scheme having regard to the extent to which the land is not beneficially occupied or utilised for agriculture.

(2) In making their investigation the commissioners shall, together with any other relevant matters, take into consideration the following matters, that is to say —

- (a) the extent to which the land requires improvements to be effected before it can be utilised for agriculture;
- (b) the reasonable requirements of the owner of the land for agriculture.

(3) Subject to the provisions of subsection (5) of this section, commissioners appointed as aforesaid shall have all the powers, duties and obligations of, and shall for all purposes be deemed to be, commissioners appointed under the Commissions of Inquiry Ordinance.

(4) Any person whose interests are, or may be prejudicially affected shall be entitled to be heard by himself or counsel or solicitor before such commissioners.

(5) The report of the commissioners to the Governor shall be published in the Gazette.

(6) If the commissioners report to the Governor that it is not in the public interest that any land or any part of such land in respect of which it is sought to make an order should be acquired for a land settlement scheme, it shall not be lawful for the Governor in Council to make an order with respect to such land or part thereof as the case may be.

Cap. 59.

Power to acquire land by lease.

8. (1) Anything in the provisions of the Principal Ordinance to the contrary notwithstanding, where any order has been made under the

provisions of section 3 of the Principal Ordinance and section 3 of this Ordinance, the Governor in Council may, where he considers it expedient so to do, by order published in the Gazette, declare that the land described in such order shall be held by the Colony on a lease subject to such terms and conditions as may be specified in such order.

(2) Upon the expiration of thirty days after the publication of any order made under subsection (1) of this section, the land described in such order shall be deemed to have been leased to the Colony on the terms and conditions specified in such order.

(3) The compensation to be paid in respect of such land shall be assessed on the following basis, that is to say —

- (a) an annual rent equivalent to the amount of the estimated net annual income derived from the use of the land for agriculture determined as at the date of the acquisition of the land in accordance with the principles set out in the schedule to this Ordinance, or six per centum of the price paid for the land (exclusive of any buildings, plant and machinery on the land) by the person who owned the land on the 1st July, 1955, whichever is the greater;
- (b) six per centum of the market value of any buildings, plant and machinery on such land;
- (c) such amount, if any, as may be payable in accordance with the provisions of paragraphs (b), (c) and (d) of section 18 of the Principal Ordinance.

Schedule.

(4) The powers conferred upon the Governor in Council by this section shall be in addition to, and not in derogation of any other power conferred upon him by the Principal Ordinance and this Ordinance, and notwithstanding the exercise of the power conferred by this section in respect of any land, the Governor in Council may at any subsequent time exercise in respect of such land any other power conferred upon him by the Principal Ordinance and this Ordinance.

9. In determining claims for compensation where an order has been made by the Governor in Council under the provisions of section 8 of this Ordinance the Court shall have power to consider and award to the claimant an additional sum by way of annual rent equivalent to six per centum of such additional amount as the Court would deem it necessary to award under the provisions of section 6 of this Ordinance if the land were acquired compulsorily under the provisions of section 3 of this Ordinance.

Power of Court to award additional sum to claimant.

10. (1) Where any land acquired under the provisions of the Principal Ordinance and of this Ordinance is sold or leased to any person for the purposes of any land settlement scheme —

- (a) the purchaser or lessor as the case may be, shall not sell, lease, let, sub-let, charge or encumber such land without the consent of the Governor in Council, and any sale, lease, letting, sub-letting, charge or encumbrance in contravention of the provisions of this section shall be void and of no effect;
- (b) such land, or the lessor's interest therein as the case may be, shall not be liable to be taken in execution except in respect of any debt owing to, or obligation arising under any guarantee by, the Colony, or in respect of the recovery

Conditions relating to land sold or leased.

of any tax, duty, rate or other sum of money due and owing to the Colony or to any statutory authority.

(2) The provisions of paragraphs (a) and (b) of subsection (1) of this section shall be set out in every transport or lease relating to any land acquired under the provisions of the Principal Ordinance and of this Ordinance which is sold or leased for the purposes of a land settlement scheme.

Repeal of
Cap. 180.

11. The Acquisition of Land (Land Settlement) Ordinance is hereby repealed.

SCHEDULE

Sections 5(2) and 8(3)

Principles for determining the net annual income from the use of land for agriculture and the capitalized value of such income.

The net annual income from the use of land for agriculture shall be the estimated net annual income that can be derived from the land by average efficient farmers engaged in the cultivation of crops, in animal husbandry or both in accordance with normal standards and practices in the Colony having regard to the position and character of the land.

2. In order to arrive at the estimated net annual income there shall be deducted from the estimated gross annual income all expenses (other than land rent and capital expenditure) that would necessarily be incurred in the production of the income. The amount of the gross income as aforesaid shall be computed on the basis of the price for farm products that can be expected to be produced from the use of the land on the basis of prices ruling at the date of the compulsory acquisition of the land.

3. For the purposes of paragraph 2 above, the expenses that would necessarily be incurred in the production of the income shall include, in addition to all other working expenses, reasonable remuneration for the work performed by the farmer or any other person in the production of the income together with interest calculated at the rate of 6 **per centum** per annum on the estimated capital expenditure on improvements required to bring the land into a state fit for use for agriculture and on the estimated average annual capital value of the stock and equipment required to be used in the farming operations.

No. 81 of
1956.

4. In the case of land which is, or would after improvements effected be, rice land as defined by the Rice Farmers (Security of Tenure) Ordinance, 1956, the estimated net annual income per acre therefrom shall in any event not be less than the net amount that would accrue to the owner from the rental of such rice land after deducting from the current appropriate maximum basic rent under the provisions of the aforesaid Ordinance interest at 6 **per centum** per annum on the estimated capital expenditure required to bring the land into a state fit for rice cultivation.

5. The capitalized value of the net annual income from the use of land for agriculture shall be deemed to be the sum which if invested at interest at the rate of 6 **per centum** per annum would yield annual interest equivalent to such net annual income.