

**THE ACQUISITION OF PROPERTY (AMENDMENT)
LAW, 1966**



No. 26



1966

I assent,

7th September, 1966

H.S. Norman-Walker,
Her Majesty's Commissioner.

**A LAW TO AMEND THE ACQUISITION OF PROPERTY
PROCLAMATION**

(16th September, 1966)

ENACTED by the Legislature of Bechuanaland.

Short Title.

1. This Law may be cited as the Acquisition of Property (Amendment) Law, 1966.

Amendment of Section 1 of Cap. 118.

2. Section 1 of the Acquisition of Property Proclamation (hereinafter referred to as the principal law) is amended by the deletion of the definition of "public purposes".

Amendment of Section 2 of Cap. 118.

3. Section 2 of the principal law is amended by the deletion of subsection (1) and the substitution of —

" (1) Her Majesty's Commissioner may acquire any real property where the acquisition of such property is necessary or expedient —

(a) in the interest of defence, public safety, public order, public morality, public health, town and country planning or land settlement; or

(b) in order to secure the development or utilisation of that, or other, property for a purpose beneficial to the community;

paying such compensation therefor as may be agreed upon or determined under the provisions of this Proclamation. "

Amendment of Section 4 of Cap. 118.

4. Section 4 of the principal law is amended —

(a) in subsection (1) by the deletion of "that any property is required for a public purpose" and the substitution of "to acquire any property in terms of section 2"; and

(b) by the deletion of subsection (2).

Insertion of New Section 7A in Cap. 118.

5. The principal law is amended by the insertion of the following new section after section 7 —

"Disputes as to Legality of Acquisition etc.

7A. If any person holding or claiming any interest or title in any property described in any notice under section 4 or section 6 disputes the legality of the proposed acquisition or entry into possession of such property he may apply to the High Court to determine the same. "

Replacement of Section 14 of Cap. 118.

6. Section 14 of the principal law is repealed and the following section substituted therefor —

“Matters to be considered in Determining Compensation.

14. (1) In determining the amount of compensation to be given for property acquired or to be acquired under this Proclamation, a Board shall assess what is adequate compensation therefor, and for such purpose shall have regard to —

- (a) the market value of the property at the date of service of the notice of acquisition under section 4 ;
- (b) any increase in the value of any other property of any person interested likely to accrue from the use to which the property acquired will be put ;
- (c) the damage, if any, sustained by any person interested, by reason of the severing of any land from any other land of such person ;
- (d) the damage, if any, sustained by any person interested, by reason of the acquisition injuriously affecting any other property of such person ;
- (e) the reasonable expenses, if any, incidental to any change of residence or place of business of any person interested which is necessary in consequence of the acquisition ;

and shall not have regard to —

- (f) the fact that the acquisition is compulsory ;
- (g) the degree of urgency which has led to the acquisition ;
- (h) any disinclination of any person interested to part with the property to be acquired ;
- (i) any damage sustained by any person interested which, if caused by a private person, would not be a good cause of action ;
- (j) any increase in the value of the property to be acquired which is likely to accrue from the use to which it will be put when acquired ;
- (k) any outlay on additions or improvements to the property to be acquired, which has been incurred after the date of service of the notice of acquisition under 4 unless such additions or improvements were in the opinion of the Court necessary.

(2) If the market value of the property has been increased by means of any improvements made within one year

immediately preceding the service of the notice of acquisition under section 4, such increase shall be disregarded unless it be proved that the improvement was made *bona fide* and not in contemplation of such property being compulsory acquired under the provisions of this Proclamation. ”.

Amendment of Section 18 of Cap. 118.

7. Section 18 of the principal law is amended by the deletion of the proviso and the substitution of —

“ Provided that any person who is aggrieved by any such decision may, within 30 days after the date thereof, appeal to the High Court against such decision. ”.

Insertion of New Section 23A in Cap. 118.

8. The principal law is amended by the insertion of the following section after section 23 —

“Delay in Payment of Compensation.

23A. Any person aggrieved by any delay in the payment of compensation due to him under this Proclamation may apply to the High Court for the purpose of obtaining prompt payment thereof. ”.

Amendment of Section 28 of Cap. 118.

9. Section 28 of the principal law is amended in subsection (1) by the deletion of all the words after “a Board” and the substitution of “or the High Court under this Proclamation. ”.

Passed by the Legislative Assembly this day,

the 23rd August, 1966.

G.T. MATENGE,
Clerk of the Legislative Assembly.