

STATE OF SABAH

LAND ACQUISITION ORDINANCE (Sabah Cap. 69)

LIST OF AMENDMENTS

<i>Enactment No.</i>	<i>Sections amended</i>	<i>Effective date of amendment</i>
G.N.S. 144/1954	3 (3), 15 (1) (f)	1-12-1954
G.N.S. 129/1963 Article 48 (1)	3 (3), (4), 22 (3)	16-9-1963
G.N.S. 87/1965	2 (definition of “authorised officer”), 3 (1), (4), 4, 5, 6 (2), 7 (2), 10 (1), 11 (1), 20 (3), 22 (1), (2), (3), 26 (1), (3), 31, 33, 35 (1)	16-9-1963
Act 91, s. 5 (1) (b)	2 (definition of “Judge”)	16-9-1963
3/1964	2 (definition of “public purpose”)	1-5-1964
Act 160	7 (4), 8 (2), 14 (2), 20 (1),	29-8-1975

	34, 35(2)	
7/1994	21	15-9-1994
Act A 886	2 (“Chief Judge” substituted for “Chief Justice”)	24-6-1994

To authorise the acquisition of land for public purposes.

[28th June, 1950.]

Short title.

1. This Ordinance may be cited as the Land Acquisition Ordinance.

INTERPRETATION

Interpretation.

2. In this Ordinance, unless the context otherwise requires, the following expressions shall have the meanings hereby assigned to them —

“authorised officer” means any person who may be appointed as such by the Yang di-Pertua Negeri* for the purposes of this Ordinance in respect of any area set out in such appointment;

“Judge” means a Judge of the High Court sitting in Chambers:

†Provided that if such Judge shall be other than the Chief Judge or a Puisne

* Throughout this Ordinance “Yang di-Pertua Negeri” substituted for “Yang di-Pertua Negara” by virtue of Enactment No. 17 of 1976.

† Judge other than the Chief Judge or a Puisne judge here refers to a Judge appointed under Article 122B(1) of the Federal Constitution. It does not refer to a judicial commissioner appointed under Article 122 AB of the Federal Constitution.

Judge then any award, order or determination shall be subject to confirmation by the High Court and such Court may confirm or may vary such award, order or determination or hear further evidence or rehear the whole application or remit the application to the Judge for further evidence or order a rehearing before the same or another Judge and any award, order or determination requiring confirmation under this provision shall take effect from the date of the final order of the High Court;

“land” includes messuages, tenements and hereditaments corporeal or incorporeal, and immovable property of every tenure or description, whatever may be the estate or interest therein;

“person interested” means every person claiming, or entitled to claim, compensation under this Ordinance:

Provided that a tenant by the month or at will shall be deemed not to be a person interested for the purposes of this Ordinance;

“public purpose” means any, or any combination, of the following purposes —

- (a) for exclusive use of the Government or of the Federal Government or for general public use;
- (b) for or in connection with the planning, establishment, extension, improvement or development of any town or township any purpose reasonably necessary or desirable in regard thereto, including the provision of open spaces and amenities and the setting apart of suitable sites for factories industries and trade;
- (c) for or in connection with the provision of residential accommodation for any section or class of the community including the officers, servants or employees of the Government or the Federal Government, and the families and employees thereof;
- (d) for obtaining control over land contiguous to, or required for or in connection with, any port, airport, railway, road or other public works of convenience;
- (e) for or in connection with any public utility undertaking or the provision of any

public service;

- (f) for or in connection with any scheme relating to the settlement or re-settlement of any community, or of any section or class of the public, rural or urban;
- (g) for or in connection with the provision of land for the cultivation of padi, or for agricultural research or experimental purposes;
- (h) for or in connection with the conservation, improvement or exploitation of natural resources.

ACQUISITION OF LAND AND ABANDONMENT OF ACQUISITION

Acquisition of land.

3. (1) If the Yang di-Pertua Negeri considers that any land should be acquired for a public purpose he may cause a declaration to that effect to be made in the manner provided by this section and the declaration shall be conclusive evidence that the land to which it relates is required for a public purpose.

(2) Every declaration shall be published in two ordinary issues of the *Gazette* and copies thereof shall be posted on one of the buildings (if any) on the land or exhibited at suitable places in the locality in which the land is situate, and, where possible, be served on the owner of the land and in the declaration shall be specified the following particulars to the land which is to be acquired:

- (a) the district in which the land is situate;
- (b) a description of the land, giving the approximate area and such other particulars as are necessary to identify the land;
- (c) in cases where a plan has been prepared, the place where, and the time when, a plan of the land can be inspected;
- (d) the public purpose for which the land is required.

(3) Upon the second publication of the declaration in the *Gazette* as aforesaid the land and the buildings and erections thereon shall, without any conveyance, vest in the Government free from all encumbrances and shall be deemed to have been surrendered by the lawful owner thereof and the Director of Lands and Surveys shall take or cause to be taken all such steps as are necessary by way of registering memoranda against the titles to the land affected or otherwise to give effect to such order and every person in possession of any title or copy of title affected by this section shall produce such title or copy to the Director of Lands and Surveys or, in Labuan, to the Collector of Land Revenue for such purpose.

(4) Notwithstanding the provisions of the preceding subsection, where any buildings upon land vested in the Government under the provisions of such subsection are occupied by any person as a residence or for the purposes of a trade or business, then possession shall not be demanded by or on behalf of the Government, unless the land in the opinion of the Yang di-Pertua Negeri is urgently required for the public purpose, until after the expiration of three months from the date of the first publication of the declaration made under the provisions of subsection (1), but in such case the owner of the land shall account to the Government for all rents as from the date of vesting or shall allow credit for reasonable rent in any claim for compensation if such owner occupies the building himself.

(5) Nothing in this Ordinance shall be deemed to prevent the acquisition of lands for public purposes and the settlement of any compensation therefor by private treaty.

Preliminary notification and power to enter land.

4. If it appears to the Yang di-Pertua Negeri that any land is likely to be required for any purpose which, in the opinion of the Yang di-Pertua Negeri, is a public purpose and it is necessary to make a preliminary survey or other investigation of the land, he may cause a notification to that effect to be published in two ordinary issues of the *Gazette* and thereupon it shall be lawful for the authorised officer (and his agents, assistants and workmen) to do all or any of the following things, that is to say —

- (a) to enter upon and survey and take levels of any land in any locality to which the notification relates;
- (b) to dig or bore into the sub-soil of such land;

- (c) to do all other acts necessary to ascertain whether the land is adapted to such purpose;
- (d) to set out the boundaries of the land intended to be taken, and the intended line of work, if any, proposed to be done thereon;
- (e) to mark levels and lines by placing marks and cutting trenches;
- (f) where otherwise the survey cannot be completed, the levels taken or the boundaries or line of the work set out, to cut down and clear away any standing crop, fence, tree or bush;
- (g) to do all such other acts as may be incidental to or necessary for any of the purposes aforesaid:

Provided that the authorised officer shall not enter into any building, or into or upon any enclosed yard, court, or garden attached to a dwelling house, except at all reasonable hours and, except with the consent of the occupier thereof, without previously giving to such occupier at least seven days' notice in writing of his intention to do so:

And provided further that compensation shall be assessed and paid to the person interested in the land so entered upon for any actual damage or injury resulting to them by reason of the exercise of the powers conferred by this section —

- (i) in so far as it relates to land the acquisition of which is subsequently deemed to be abandoned under section 9 or abandoned under section 10, as though it were compensation payable under this Ordinance for the acquisition of the land;
- (ii) in so far as it relates to land the compulsory acquisition of which is subsequently completed under section 3, as though it were part of the compensation for the acquisition of the land.

Power to apply land to purposes of acquisition without waiting for formal vesting.

5. If, at any time after the publication of a notification in accordance with the provisions of section 4, it appears to the Yang di-Pertua Negeri that the land or some parcel of the land to which it refers should be acquired but that for any reason it is not possible to make an

immediate declaration to that effect, it shall be lawful for the Yang di-Pertua Negeri by publication in two ordinary issues of the *Gazette* to direct the authorised officer to do any work on the land or parcel thereof connected with the use to which the land is intended to be put on its acquisition, and thereupon the authorised officer may proceed with the execution of the work:]

Provided that compensation shall be paid to the persons interested for any actual damage or injury resulting to them by reason of the exercise of the power conferred by this section and shall be determined in the same way as compensation for actual damage or injury resulting from the exercise of the powers conferred by section 4.

Authorised officer to treat with landowner.

6. (1) As soon as any declaration has been published in accordance with the provisions of section 3, the authorised officer shall, without delay, enter into negotiations (or further negotiations) for the purchase of the land to which the declaration relates upon reasonable terms and conditions, and by voluntary agreement with the owner of the land.

(2) It shall not be necessary for the authorised officer to await the publication of the declaration before he endeavours to ascertain from the owner the terms and conditions on which he is willing to sell his land, but no negotiations or agreement shall be deemed to be concluded unless and until the conditions of sale and acquisition have been approved by the Yang di-Pertua Negeri.

Boundaries of land and issue of notice of acquisition.

7. (1) As soon as may be after any land has been acquired compulsorily, the authorised officer shall, if the boundaries of the land have not been set out or if they cannot be identified by reference to any plan, cause the same to be surveyed and set out, and he shall also issue a notice of acquisition in accordance with the provisions of this section.

(2) Every notice of acquisition under this section shall —

- (a) state the decision of the Yang di-Pertua Negeri to acquire and take possession of the land compulsorily;
- (b) contain the particulars which, in relation to the land, were included in the

declaration provided for by subsection (2) of section 3; and

(c) require all persons interested, as soon as is reasonably practicable, either

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(i) to appear personally or by attorney or agent before the authorised officer to state the nature of their respective interests in the land and the amounts and full particulars of their claims to compensation in respect of those interests, distinguishing the amounts under separate heads and showing how the amount claimed under each head is calculated; or

(ii) to render to the authorised officer a statement in writing, signed by them or by their attorneys or agents, setting forth the like matters.

(3) The authorised officer shall cause a copy of the notice of acquisition to be served, either personally on, or by post addressed to the last known place of abode or business of, every person interested whose whereabouts are known to the authorised officer:

Provided that where the whereabouts of any such person are not known, the authorised officer shall cause copies of such notice to be posted on one of the buildings (if any) on the land or exhibited at suitable places in the locality in which the land is situate.

(4) Any person who, without lawful authority or excuse, removes or destroys any landmark placed, or removes or defaces or destroys any notice posted or exhibited, by the authorised officer in or upon the land or any building thereon in accordance with the provisions of this Ordinance, shall be liable on summary conviction, to a fine of one hundred ringgit or to imprisonment for three months.

Authorised officer may require information as to interests in land.

8. (1) The authorised officer may, by notice served personally, or by post addressed to the last known place of abode or business of the person concerned, require the owner or occupier of, or any person interested in, any land, or in any part thereof, in respect of which a declaration or a notification has been published in the *Gazette* under section 3 or section 4 respectively, to deliver to him within a time to be specified in the notice, being not less than twenty-one days after service of the notice, a statement in writing containing, so far as may

be within his own knowledge, the name of every person possessing any interest in the land, or any part thereof, whether as partner, mortgagee, lessee, tenant or otherwise, and the nature of such interest.

(2) Every person who is required to make and deliver a statement under this section and who, without reasonable excuse, refuses to make or deliver such statement, or wilfully makes any such statement which is false or incomplete in any material particular, shall be liable on summary conviction, to a fine of one hundred ringgit or to imprisonment for three months.

Claim of person interested to have land acquired or abandoned.

9. If, within three months after entry has been made on any land under the provisions of section 4, such land shall not be acquired or abandoned, any person interested in the land or any part thereof may serve a notice on the authorised officer requiring that the acquisition of the land or part thereof be completed or abandoned, and, if within one month thereafter, the acquisition of such land or part thereof be not completed or abandoned in accordance with the provisions of this Ordinance, the acquisition of the land or part thereof shall be deemed to have been abandoned.

Abandonment of acquisition.

10. (1) At any time before any land has been acquired compulsorily the Yang di-Pertua Negeri may, by notification published in the *Gazette*, declare that the intended acquisition of such land is abandoned.

(2) When the acquisition of any land is abandoned in accordance with the provisions of this section, or is deemed to have been abandoned under section 9, any compensation payable by virtue of this Ordinance shall, in default of agreement, be assessed as though it was compensation payable under this Ordinance for the acquisition of land.

(3) No compensation shall be payable in any case for loss of bargain or for damages for breach of contract.

Revocation of acquisition [c.i.f. 30.03.2012]

10 A. (1) The Yang di-Pertua Negeri may, at any time as and when he deems it necessary, by notification published in the *Gazette*, revoke the acquisition of any land which has been acquired compulsorily under section 3.

(2) Upon the publication of the notification in the *Gazette*, the land and the buildings and erections thereon shall revert to the owner or the person interested in the land, as the case may be, and the Director of the Lands and Surveys shall take or cause to be taken all such steps as are necessary to lawfully revert the land to the owner or the person interested.

(3) Where any acquisition is revoked under subsection (1), any damages for actual loss or injury, if any, suffered by the owner or the person interested, arising by reason of the exercise of the power conferred by section 3, shall be paid to the owner or the person interested.

(4) No damages shall be payable in any case for loss of bargain or for breach of contract.

TEMPORARY OCCUPATION OF LAND

Temporary occupation of unoccupied land.

11. (1) Whenever it appears to the Yang di-Pertua Negeri that temporary occupation and use of any unoccupied land are needed for any public purpose, he may direct the authorised officer to procure the occupation and use the same for such term or terms as the Yang di-Pertua Negeri shall think fit not exceeding three years from the commencement of such occupation.

(2) The authorised officer shall thereupon give notice in writing to any person interested in such land of the purpose for which the same is needed, and shall for the occupation and use therefor for such term aforesaid and for the materials, if any, to be taken therefrom pay to them such compensation, either in a gross sum of money or by monthly or other periodical payments, as shall be agreed upon in writing between him and such persons respectively.

(3) In case the authorised officer and the persons interested differ as to the

sufficiency of the compensation or the apportionment thereof the authorised officer shall refer such difference to the decision of a Judge in accordance with the provisions of section 14.

Power to enter and take possession.

12. (1) The authorised officer may immediately enter upon and take possession of the land and use or permit the use thereof in accordance with the terms of the said notice.

(2) On the expiration of the term the authorised officer shall make or tender to the persons interested compensation for the damage if any, done to the land and not provided for by the agreement and shall restore the land to the persons interested therein.

Difference as to condition of land.

13. If the authorised officer and the persons interested differ as to the condition of the land at the expiration of the term or as to the compensation mentioned in subsection (2) of section 12 or as to any matter connected with the said agreement the authorised officer shall refer such difference to the decision of a Judge.

DETERMINATION OF CLAIMS TO COMPENSATION

Determination of questions by Judge.

14. (1) All questions and claims relating to the payment of compensation under this Ordinance and to the apportionment of such compensation shall, save as is hereinafter provided, be submitted to a Judge.

(2) The Judge shall have full power to assess, award and apportion compensation in such cases, in accordance with the provisions of this Ordinance:

Provided that in every case in which the amount of compensation claimed shall exceed ten thousand ringgit the Judge in hearing any such claim shall sit with two assessors who shall be appointed by the High Court for the purpose of aiding the Judge (neither of whom shall be a public officer) who shall advise the Judge of their opinions but in the case of any difference of opinion, the opinion of the Judge shall prevail.

Documents, etc., to be forwarded to the Judge.

15. (1) Where proceedings are taken before the Judge or the Magistrate as provided in section 20 for the determination of any question relating to the payment of compensation, the authorised officer shall forward to the Judge, or to the Magistrate as the case may be, those of the following documents and particulars which relate to the acquisition or the intended acquisition of the land, as the case may be —

- (a) a copy of any notification and declaration which has been published in the *Gazette*;
- (b) a copy of the notice of acquisition;
- (c) a copy of any notice issued or received by him;
- (d) a copy of all statements received by him in compliance with any notice issued by him;
- (e) the names and addresses of the persons who the authorised officer has reason to believe are interested in the land;
- (f) the acreage of the land as certified by the Deputy Director of Lands and Surveys; and
- (g) a copy of the report required by this section.

(2) The report to be sent to the Judge shall state the opinion of the authorised officer, and his reasons for such opinion, upon each of the following matters —

- (a) what is a fair and proper description of the land acquired, including particulars of any building, trees or standing crops thereon;
- (b) the value of the land, for the purposes of compensation under this Ordinance;
- (c) the amount of provisional compensation which should be paid for the land, including any damage payable in respect of entry into possession;
- (d) the apportionment of the provisional compensation among the persons

interested in the land, in respect of their interests.

(3) The authorised officer, in assessing the amount of any compensation for the purpose of a report under this section, shall have regard to the rules prescribed by this Ordinance which may and may not be taken into consideration in assessing compensation.

Inquiry by Judge.

16. The Judge shall hold an inquiry at a place, date and time to be fixed by him, of which not less than fourteen clear days notice shall be given to the parties concerned, and every such inquiry shall be conducted in public.

Procedure at inquiry.

17. The procedure at an inquiry, the summoning and remuneration of witnesses for attendance thereat, and all questions incidental to the inquiry shall be governed by the provisions of the laws for the time being in force relating to civil proceedings in the High Court:

Provided that in the case of any doubt arising on any question of practice and procedure the same may be settled by the Judge.

Power of entry for purpose of inquiry.

18. The Judge, or any person authorised by him, may at any time before, during or after an inquiry under this Ordinance, enter upon and inspect any land for any purpose connected with such inquiry.

Award of Judge.

19. At the conclusion of the inquiry the Judge shall decide upon the claims for compensation and apportionments submitted to him and shall make an award under his hand and shall cause the same to be filed in the High Court and such award shall thereupon for all purposes (including appeals and executions) be deemed to be a final judgment or order of the High Court.

DETERMINATION OF SMALL CLAIMS FOR COMPENSATION

Procedure where claim for compensation does not exceed certain amounts.

20. (1) Anything in any Ordinance to the contrary notwithstanding, in any case in which the compensation claimed does not exceed five hundred ringgit, and in any case in which the compensation claimed does not exceed one thousand ringgit and, in the latter case, the parties agree in writing to the settlement of the claim by a Magistrate of the First Class, the amount of the compensation to be paid in any such case shall be determined by such Magistrate.

(2) It shall be lawful for the Magistrate upon the application of either party with respect to any question of disputed compensation in either of the cases mentioned in the preceding subsection, to summon the other party to appear before him at a time and place to be named in such summons and to hear and determine such question of disputed compensation.

(3) For the purposes of any proceeding under this section —

(a) the procedure to be followed thereat, the summoning and remuneration of witnesses and all questions incidental to such proceeding shall be governed by any law for the time being in force in Sabah relating to the recovery of claims before the Magistrate and all the provisions of any such law shall apply *mutatis mutandis* to any such proceeding; and

(b) the provisions of sections 15, 18, 21, 22, 23, 24 and 28 shall apply with such verbal alteration (not affecting the substance) as may be necessary to make the same applicable.

(4) An appeal shall lie against the determination by the Magistrate of any question of disputed compensation under this section in like manner as if such determination was given in the exercise of the summary jurisdiction of the Magistrate in a civil matter under the provisions of any written law for the time being in force relating to civil appeals from Magistrates and for the purposes of such appeal the determination of the Magistrate under this section shall be deemed to be a final judgment or order of the Magistrate.

PROVISIONS GOVERNING ASSESSMENT OF COMPENSATION, ETC.

Rules for assessment of compensation.

21. Subject to the provisions of this Ordinance the following rules shall apply to the assessment and award of compensation by a Judge for the compulsory acquisition of land —

- (a) the value of the land shall, subject as hereinafter provided, be taken to be the amount which the land, in its condition at the time of acquisition, if sold in the open market by a willing seller, might have been expected to have realised at a date twelve months prior to the date of the second publication in the *Gazette* of the declaration under section 3 or of the direction under section 5, whichever is the earlier:

Provided that this rule shall not affect the assessment of compensation for the damage sustained by the person interested by reason of severance, or by reason of the acquisition injuriously affecting his other property or his earnings, or for disturbance, or any other matter not directly based on the value of the land:

And provided further that the fact that the land is held under Part IV of the Land Ordinance [Cap. 68.] or any other written law in the State relating to native land tenure shall be disregarded in determining the value of the land;

- (b) the special suitability or adaptability of the land for any purpose shall not be taken into account if that purpose is a purpose to which the land could be applied only in pursuance of statutory powers not already granted, or for which there is no market apart from the special needs of a particular purchaser or the requirements of any Government department;
- (c) where 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 public health, the amount of that increase shall not be taken into account;
- (d) 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 Judge is satisfied that reinstatement in some other place is *bona fide* intended, be assessed on the basis of the reasonable cost of equivalent reinstatement;

- (e) no allowance shall be made on account of —
- (i) the acquisition being compulsory or the degree of urgency or necessity which has led to the acquisition;
 - (ii) any disinclination of the person interested to part with the land acquired;
 - (iii) any damage sustained by the person interested which, if caused by a private person, would not render such person liable to an action;
 - (iv) any damage, not being in the nature of deprivation of or interference with an easement, servitude or legal right, which, after the time of awarding compensation, is likely to be caused by or in consequence of the use to which the land acquired will be put:

Provided that nothing herein shall prejudice any claim under this Ordinance for damage subsequently sustained in consequence of the use to which the land acquired is put;
 - (v) any increase to the value of the land acquired likely to accrue from the use to which the land acquired will be put;
 - (vi) any outlay or improvement of such land which shall have been made, commenced or effected within twelve months before the publication of the declaration under section 3, unless it be proved that the improvement was made *bona fide* and not in contemplation of proceedings for the acquisition of the land being taken by compulsory acquisition.

Special rule as to severance.

22. (1) As to severance, compensation may be assessed on the footing that any specified works, crossings, or access agreed to on behalf of the Yang di-Pertua Negeri shall be erected, provided, and allowed, and any such agreement shall be reduced into writing and be signed by the Judge and shall be valid and effectual and binding on the parties.

(2) If, in the case of any claim by a person interested on account of the severing of the land to be acquired from his other land, the Yang di-Pertua Negeri is of opinion that the claim is unreasonable or excessive, the Yang di-Pertua Negeri may at any time before the Judge has made his award order the acquisition of the whole or any additional portion of the land of which the land first sought to be acquired forms a part.

(3) No fresh declaration of other proceedings under sections 3 to 7 both inclusive shall be necessary and such additional land shall vest absolutely in the Government on the date of the order of the Yang di-Pertua Negeri; but the authorised officer shall without delay furnish a copy of the order of the Yang di-Pertua Negeri to the persons interested and to the Judge who shall thereafter proceed to make his award.

Interest.

23. The Judge, in awarding compensation, may add thereto interest at a rate not exceeding six per centum per annum, calculated from the date upon which the authorised officer entered into possession of the land acquired until the date of the payment of the compensation awarded by the Judge.

Rules as to costs.

24. (1) The authorised officer shall pay to the claimant the reasonable costs incurred by him in or about the preparation and submission of his claim, unless the Judge considers that the claimant has failed to put forward a proper claim within a reasonable time after the service of the notice under section 7 or that the claim put forward is grossly excessive or that he has been a party to some deceit or fraud in respect of his claim.

(2) Subject to the provisions of subsection (1), where an unconditional offer in writing of any amount as compensation has been made to any claimant by or on behalf of the authorised officer and the sum awarded as compensation does not exceed the amount offered, the Judge shall, unless for special reasons he thinks it proper not to do so, order the

claimant to bear his own costs and to pay the costs of the authorised officer so far as the costs of the authorised officer were incurred after the offer was made; and, where the claimant has failed to put forward a proper claim in sufficient time to enable the authorised officer to make a proper offer, the foregoing provisions of this section shall apply as if an unconditional offer had been made by or on behalf of the authorised officer at the time when, in the opinion of the Judge, a proper claim should have been put forward and the claimant had been awarded a sum not exceeding the amount of such offer.

(3) Subject to the provisions of subsection (1), where a claimant has made an unconditional offer in writing to accept any amount as compensation and has put forward a proper claim in sufficient time to enable the authorised officer to make a proper offer, and the sum awarded is equal to or exceeds that amount, the Judge shall, unless for special reasons he thinks it proper not to do so, order the authorised officer to bear his own costs and to pay the costs of the claimant so far as the cost of the claimant were incurred after the offer was made.

(4) Subject to the preceding provisions of this section, the costs shall be in the discretion of the Judge who may direct to and by whom and in what manner those costs or any part thereof shall be paid, and he may in any case direct such costs to be taxed by the Registrar of the High Court.

(5) The mode of enforcing any order as to costs shall be in the manner prescribed by the practice of the High Court.

(6) Where the Judge orders the claimant to pay the costs or any part of the costs of the authorised officer, the authorised officer may deduct the amount so payable by the claimant from the amount of any compensation which may be payable to him.

MISCELLANEOUS

Service of notices, etc..

25. Any notice, order, or other document required or authorised to be served under this Ordinance may be served —

- (a) by delivering it to the person on whom it is to be served; or

- (b) by leaving it at the usual or last known place of abode of that person; or
- (c) by sending it in a prepaid letter addressed to that person at his usual or last known place of abode provided that such place of abode is within a postal delivery district; or
- (d) in the case of an incorporated company or body, by delivering it to the secretary or clerk of the company or body at their registered or principal office or sending it in a prepaid letter addressed to the secretary or clerk of the company or body at that office; or
- (e) if it is not practicable after reasonable inquiry to ascertain the name or address of any person on whom it should be served, by addressing it to him by the description of "owner" or "lessee" or "occupier" (or as the case may be) of the premises (naming them) to which it relates, and by delivering it to some person on the premises or, if there is no person on the premises to whom it can be delivered by affixing it, or a copy of it, to some conspicuous part of the premises.

Absentee owners.

26. (1) Where there is no person competent to alienate land or to receive or to give a sufficient discharge for any compensation awarded, or where any person interested in land, by reason of his absence from Sabah and of his not being represented therein by a duly authorised attorney, does not submit a statement to or appear before the authorised officer as required by section 7, and where such person after diligent inquiry, cannot be found, the authorised officer shall pay the compensation into the High Court to the credit of the person entitled thereto.

(2) Any compensation paid into the High Court by virtue of this section may, on the subsequent application of any person claiming to be entitled thereto, be paid out to such person on the order of the said Court.

(3) All moneys paid into the High Court under the provisions of this section which remain unclaimed for twelve years after such payment shall be transferred and paid into the funds of Sabah and all legal claims thereto shall be for ever barred.

Compensation to persons interested in adjacent land.

27. A person interested in any land which, without any portion thereof being compulsorily acquired, has been injuriously affected by the erection or construction on land compulsorily of any works in respect of which the land was acquired, shall be entitled to compensation in respect of such injurious affection:

Provided that compensation shall not be payable under this section in respect of any injurious affection which, if caused by a private person, would not render such person liable to an action.

Special provisions as to leases.

28. (1) If any land shall be comprised in a lease for a term of years unexpired and part only of such land shall be acquired compulsorily, the rent payable in respect of the land comprised in such lease may, on the application of the lessor or the lessee to a Judge be apportioned between the land acquired and the residue of the land.

(2) After such apportionment the lessee shall, as to all future accruing rent, be liable to pay only so much of the rent as shall be so apportioned in respect of the residue of the land, and as to the residue of the land, and as against the lessee, the lessor shall have all the same rights and remedies for the recovery of such portion of the rent as previously to such apportionment he had for the recovery of the whole rent reserved by such lease, and all the convenience, conditions, and agreements of such lease, except as to the amount of rent to be paid shall remain in force with regard to the residue of the land in the same manner as they would have done in case the residue of the land only had been included in the lease.

(3) Where it is shown that the compulsory acquisition of a portion of land comprised in a lease has rendered the residue unsuitable for the purpose for which the land was leased or where in the circumstances the Judge considers it just so to do he may rescind the lease altogether; and in such case the lessee shall only be liable to pay the rent due at the date of the occurrence of the circumstances on which the rescission order is based.

(4) Where as the result of such rescission of lease the lessor or lessee suffers any loss or injury he shall be entitled to compensation as hereinbefore provided in this Ordinance.

Persons in possession to be deemed owners.

29. Where any question shall arise touching the title of any person to any land which may be entered upon or acquired for the purposes of this Ordinance, or touching any estate or interest therein, the person having the ostensible possession or enjoyment of the rents and profits of such land shall, for the purposes of this Ordinance, be deemed to be the owner of the same until the contrary is proved.

Fees and expenses of assessors.

30. Any assessor shall receive for his services such fee and such expenses as the Judge may direct.

Payment of compensation, etc.

31. All amounts which have been awarded by way of compensation under this Ordinance, including interest and costs to be paid by the authorised officer, and all other costs, charges and expenses which shall be incurred under the authority of this Ordinance, shall be paid out of the funds of Sabah.

Exemption from stamps duty and fees.

32. Anything in any Ordinance to the contrary notwithstanding, no instrument or document relating to anything lawfully done under or for the purposes of this Ordinance, shall be chargeable with any stamp duty, registration or recording fee.

Limitation of time for making claims.

33. Notwithstanding anything contained in any other written law, except with the approval of the Yang di-Pertua Negeri in any case in which he considers that injustice may otherwise be done, no claim for compensation which may be made under the provisions of this Ordinance shall be admitted or entertained unless the same shall be made within twelve months after the date on which entry has been made on the land under section 4 or, if a declaration has been made under section 3, within a similar period after the date of the second publication of such declaration.

Assaulting or obstructing officer.

34. Any person who —

- (a) assaults or obstructs or aids and abets any person in assaulting or obstructing the authorised officer or any of his agents, assistants or workmen in the execution of his or their duty under this Ordinance; or
- (b) opposes or impedes the lawful occupation or taking of possession of any land under the provisions of this Ordinance; or
- (c) fails to comply with any of the provisions of this Ordinance or the lawful requirements of any person authorised or required to do any act thereunder,

shall be liable on summary conviction, to a fine of two hundred ringgit or to imprisonment for three months.

Rules.

35. (1) The Yang di-Pertua Negeri may make rules generally to give effect to the provisions of this Ordinance.

(2) Such rules may —

- (a) prescribe any form required to be used for the purposes of this Ordinance;
- (b) fix any fees to be paid for anything required or allowed to be done under this Ordinance;
- (c) provide that the breach or contravention of any rule is an offence against such rules and provide a penalty for any such offence not exceeding five hundred ringgit and imprisonment for six months.