



PARLIMEN MALAYSIA



BILL

Land Acquisition 1960

D.R.32/1960

(Presented and read a first time and ordered to be printed, 20th June, 1960.)

A BILL

intituled

An Act to consolidate the law relating to the acquisition of land, the assessment of compensation to be made on account of such acquisition, and other matters incidental thereto.

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BE IT ENACTED by the Duli Yang Maha Mulia Seri Paduka Baginda Yang di-Pertuan Agong with the advice and consent of the Dewan Negara and Dewan Ra'ayat in Parliament assembled, and by the authority of the same, as follows:

1. This Act may be cited as the Land Acquisition Act, Short title. 1960.

PART I

PRELIMINARY

2. (1) In this Act, unless the context otherwise requires— Interpreta-
tion.
“building” includes any dwelling-house or factory;

“Certificate of Urgency” means a certificate in Form I issued under section 19;

“Collector” means any Collector of Land Revenue, Land Officer, District Officer or other officer appointed under the State land law, and includes an Assistant Collector, Assistant Land Officer or Assistant District Officer;

“Commissioner” means the officer designated by the State Authority to be the Commissioner in the State for the purposes of this Act;

“Court” means the High Court;

“Form” means any Form set out in the Second Schedule;

“issue document of title” means a grant, lease of State land or other document evidencing title, including an extract from the Mukim Register, and in relation to the States of Penang and Malacca, includes an original grant or lease or other title or deed evidencing title;

“land” means land held under any grant, lease of State land or other registered title and, in the States of Penang and Malacca, shall include land held by freehold, lease or other deed evidencing title, or under customary right, and includes things attached to the earth or permanently fastened to things attached to the earth, and also every interest in land and benefits to arise therefrom, including the right to occupy land in expectation of title;

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"Minister" means the Minister charged with responsibility for lands;

"persons entitled to act" shall be deemed to include the following persons as and to the extent hereinafter provided—

- (a) trustees for other persons beneficially interested shall be deemed the persons entitled to act with reference to any such case, and that to the same extent as the persons beneficially interested could have acted if free from disability;
- (b) subject to the provisions of the Married Women Ordinance, 1957, a married woman shall be deemed the person so entitled to act and, whether of full age or not, to the same extent as if she were unmarried and of full age; and
- (c) the guardians of minors and the committees of mentally disordered persons shall be deemed respectively the persons so entitled to act to the same extent as the minors or mentally disordered persons themselves could have acted if free from disability:

Provided that:

- (i) no person shall be deemed entitled to act whose interest in the subject-matter shall be shown to the satisfaction of the Collector or Court to be adverse to the interest of the person interested for whom he would otherwise be entitled to act;
- (ii) in every such case the person interested may appear by a next friend or, in default of his appearance by a next friend, the Collector or Court, as the case may be, shall appoint a guardian for the case to act on his behalf in the conduct thereof;
- (iii) the provisions of the law for the time being relating to civil procedure relating thereto shall *mutatis mutandis* apply in the case of persons interested appearing before a Collector or Court by a next friend, or by a guardian for the case, in proceedings under this Act; and
- (iv) no person entitled or deemed to be entitled to act shall be competent to receive the compensation money payable to the person for whom he is entitled to act, unless he would have been competent to transfer the land and receive and give a good discharge for the purchase money on a voluntary sale;

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"person interested" includes every person claiming an interest in compensation to be made on account of the acquisition of land under this Act, but does not include a tenant by the month or at will.

"proper registering authority" includes, in the States of Kelantan and Trengganu the Registrar, in the State of Johore the Commissioner of Lands and Mines and the Collector, and in the States of Penang and Malacca the Registrar of Deeds and the Collector;

"register document of title" means a grant, lease of State land, entry in the Mukim Register or other document or record evidencing title registered or kept by the proper registering authority and, in relation to the States of Penang and Malacca, includes entries in the registry book recording the registration of deeds;

"registered deed" means, in relation to the States of Penang and Malacca, any deed registered under the provisions of the Registration of Deeds Ordinance or the Mutations in Title to Land Ordinance;

*S.S. Cap.
121.
S.S. Cap.
126.*

"registered proprietor" includes, in relation to the States of Penang and Malacca, the current beneficial owner under any registered deed;

"scheduled land" means any land or lands included in a schedule prepared under section 8 and appended to any declaration or notification in Forms D, E, J and K;

"State Authority" means the Ruler or the Governor of the State, as the case may require;

"State land law" means the State law for the time being in force relating to land and land tenure and the registration of title thereto and the collection of revenue therefrom;

(2) Where in any notification, declaration or other instrument issued under this Act any locality referred to therein cannot, in the opinion of the authority promulgating such notification, declaration or other instrument otherwise be conveniently described, it shall be sufficient if the lands in such locality are described by their survey lot numbers, or by the lot numbers of adjacent or surrounding lands.

(3) Any notification, declaration or other instrument made or issued under this Act shall be valid and effectual for all purposes notwithstanding that pieces or parcels of any lands referred to therein are held under different titles or by different persons.

(4) In the application of this Act in a State, words and expressions used in this Act shall, unless the context otherwise requires or it is herein otherwise expressly provided, have the meanings assigned to them by the State land law.

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PART II

ACQUISITION

Acquisition
of land.

3. The State Authority may acquire any land which is needed—

- (a) for any public purpose; or
- (b) by any person or corporation undertaking a work which in the opinion of the State Authority is of public utility; or
- (c) for the purpose of mining or for residential or industrial purposes.

*Preliminary Investigation*Preliminary
notice.

4. (1) Whenever the State Authority is satisfied that any land in any locality in the State is likely to be needed for any of the purposes referred to in section 3 a notification in Form A shall be published in the *Gazette*.

(2) The Collector shall give public notice of any notification published under sub-section (1) in the manner prescribed by section 52.

Power of
entry and
survey.

5. (1) The Commissioner may by written authority in Form B generally or specifically authorise any officer or person, together with servants and workmen, to enter upon any land in any locality specified in a notification published under section 4, and to do such work as may be specified in such Form.

(2) A person authorised under sub-section (1) shall, on demand by the occupier of any land upon which he enters, produce to such occupier his letter of authority in Form B together with a copy of the relevant notification in Form A.

(3) A person authorised under sub-section (1) shall not enter into any building or upon any enclosed court or garden attached to a dwelling house unless—

- (a) he has first obtained the consent of the occupier thereof, or
- (b) failing such consent, he has given the occupier three days' notice in writing of his intention to do so.

Payment for
damage.

6. (1) Where any person authorised under sub-section (1) of section 5 causes damage to any land entered upon he shall as soon as possible compensate the occupier for all such damage.

(2) In the case of any dispute as to the compensation to be paid under sub-section (1) the person authorised shall at once refer the dispute to the decision of the Collector.

(3) Any occupier aggrieved by a decision of the Collector under sub-section (2) may appeal to the State Authority, whose decision thereon shall be final.

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Declaration of Intended Acquisition

7. Whenever any lands are needed for any of the purposes referred to in section 3 the Collector shall prepare and submit to the State Authority—

Preparation of plan and list of lands.

- (a) a plan of the whole area of such lands, showing the particular lands, or parts thereof, which it will be necessary to acquire; and
- (b) a list of such lands, in Form C.

8. (1) When the State Authority decides that any of the lands referred to in section 7 are needed for any of the purposes referred to in section 3, a declaration in Form D shall be published in the *Gazette*.

Declaration that land is required for a public purpose.

(2) A copy of the list of lands referred to in paragraph (b) of section 7, amended, if necessary, in accordance with the decision of the State Authority, shall be included as a schedule to the declaration in Form D.

(3) A declaration in Form D shall be conclusive evidence that all the scheduled land referred to therein is needed for the purpose specified therein.

9. (1) Upon the publication pursuant to section 8 of the declaration in Form D that any land is needed for the purpose specified in such Form, then—

Land to be marked out and notice entered on register, etc.

- (a) the Collector shall cause the areas affected by the acquisition to be marked out upon the land, unless this has already been done to his satisfaction; and
- (b) the Collector or other registering authority shall make a note of the intended acquisition in the manner specified in sub-section (2) or (3).

(2) In States other than the States of Penang and Malacca the note of the intended acquisition required by paragraph (b) of sub-section (1) shall be made—

- (a) where the scheduled land is held by registered title, upon the register document of title or Mukim Register, as may be appropriate; or
- (b) where the scheduled land is occupied in expectation of title, upon the Register of Approved Applications, Register of Holdings or other appropriate register.

(3) In the States of Penang and Malacca the note of the intended acquisition required by paragraph (b) of sub-section (1) shall be made—

- (a) where the scheduled land is held under the Malacca Lands Customary Rights Ordinance, in the Mukim Register;

S.S. Cap. 125.

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(b) in all other cases in both:

- (i) the appropriate Settlement Register, Town Register, Mukim Register or other permanent record in the Land Office; and
- (ii) in the State of Penang the Mukim Book and Index of Land of the Penang Registry of Deeds, and in the State of Malacca the Registers of Grants in the Malacca Registry of Deeds.

*Commencement of Proceedings*Collector to
commence
proceedings.

10. (1) The Collector shall, having completed the action required by section 9, commence proceedings for the acquisition of the land by giving public notice in Form E in the manner prescribed by section 52, and by fixing the date of an inquiry for the hearing of claims to compensation for all interests in such land.

(2) The Collector shall not hold such inquiry earlier than twenty-one days after the date of publication of the notice referred to in sub-section (1).

(3) A copy of the schedule to the declaration in Form D gazetted under sub-section (2) of section 8 shall be appended to every notice in Form E.

Service of
notices.

11. (1) The Collector shall, in addition to giving public notice as required by sub-section (1) of section 10, in respect of all scheduled land specified in every notice in Form E, serve copies of such notice in the manner prescribed by section 53, upon—

- (a) the occupier of such land;
- (b) the registered proprietor of such land, where he is not the occupier thereof;
- (c) any person having a registered interest in such land;
- (d) any person whom he knows or has reason to believe to be interested therein.

(2) The Collector in any particular case may also, by service of a notice in Form F, require the registered proprietor of any land, specified in any notice in Form E, or any other person who may in the opinion of the Collector have knowledge of the facts referred to therein, within such period as may be prescribed in such notice to furnish a statement in writing of the information required by such Form.

*Procedure at Enquiry*Enquiry
by the
Collector.

12. (1) On the date appointed under sub-section (1) of section 10 the Collector shall make full enquiry into the value of all scheduled lands and shall as soon as possible

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thereafter assess the amount of compensation which in his opinion is appropriate in each case, according to the considerations set out in the First Schedule.

(2) The Collector shall also enquire into the respective interests of all persons claiming compensation or who in his opinion are entitled to compensation in respect of the scheduled land, and into the objections, if any, made by any interested person to the area of any scheduled land.

(3) The Collector may for a sufficient cause postpone any enquiry or adjourn any hearing of an enquiry from time to time.

13. (1) The Collector making an enquiry under section 12 shall have all the powers of a Court for the summoning and examination of witnesses, including the persons interested in the land which is the subject of the enquiry, the administration of oaths or affirmations, and for compelling the production and delivery to him of documents, including issue documents of title and other documents evidencing title.

Power to
summon
witnesses,
etc.

(2) Every person required to appear before or to make or deliver a written statement to the Collector by notice in Form E or F shall, without prejudice to the generality of the powers conferred by sub-section (1), be deemed to be legally bound to do so within the meaning of sections 175 and 176 of the Penal Code.

F.M.S.
Cap. 45.

14. (1) Upon the conclusion of the enquiry under section 12 relating to any scheduled land the Collector shall prepare a written award under his hand in Form G, in which he shall, in respect of each separate area of scheduled land, make a separate award in respect of each person whose interest in the land has been established in such enquiry.

Award of
the
Collector.

(2) Every award prepared under sub-section (1) shall be filed in the office of the Collector and shall be final and conclusive evidence of the area of any scheduled land, of its value in the opinion of the Collector, and of the apportionment of the compensation awarded by the Collector, whether the persons interested therein have or have not appeared at the enquiry.

(3) An award under this section shall not be invalidated by reason only of the fact that the area in respect of which the award is made is within half an acre greater or smaller than the area of scheduled land:

Provided that any person interested who is aggrieved by any increase in such area may make an objection to the award in the manner prescribed by section 37.

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(4) Wherever the area of land in respect of which an award is made under this section—

(a) exceeds by not more than half an acre the area of the scheduled land, it shall not be necessary for any further declaration in respect thereof under section 8 to be made and published;

(b) is less than the area of the scheduled land by not more than half an acre, it shall not be necessary for any formal withdrawal therefrom to be made under section 35.

(5) The Collector shall determine the amount of the costs incurred in the proceedings and by what persons and in what proportion they are to be paid.

Power of
Collector to
enter into
arrangement,
etc.

15. (1) In the course of making any enquiry and award under sections 12 and 14 the Collector may in his discretion, in respect of any scheduled land, instead of assessing or awarding monetary compensation enter into any arrangement with a person having an interest in such land in such a way as may be equitable, having regard to the interests of the parties concerned.

(2) Whenever the Collector enters into any arrangement under sub-section (1) he shall make an entry thereof in the appropriate register, and record therein the fact that no monetary compensation has been assessed or awarded.

Service of
award.

16. (1) On making any award under sub-section (1) of section 14 in respect of any scheduled land the Collector shall prepare and serve on each person interested in such land a notice in Form H.

(2) Every notice in Form H shall include an extract from the written award of the Collector in Form G, relating to the land in which the person to whom such notice is addressed has an interest.

PART III

SUMMARY ENQUIRY

Summary
enquiry.

17. (1) Whenever a notice in Form E has been served in respect of any scheduled land, and the Collector is satisfied, either by reason of the number of persons interested in such land or the small area of land involved in each separate award to be made in respect of the scheduled land, or otherwise, that it is expedient to do so, he may in lieu of making an enquiry under section 12 proceed by way of a summary enquiry under this section.

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(2) A summary enquiry shall be held in such manner and at such place or places as the Collector may think fit and, on enquiring into the respective interests of all persons claiming compensation or who in his opinion are entitled to compensation in respect of the scheduled land, and into the objections, if any, made by any interested person to the area of the scheduled land, the Collector may, in lieu of making a written award under section 14, make an oral award, either in the form of a monetary offer of compensation or otherwise, to every such person entitled in his opinion thereto.

(3) When any award is made under sub-section (2) the Collector shall record such award, together with the acceptance or rejection thereof, in Form G.

(4) The Collector may, where any award under sub-section (2) is accepted—

(a) require the title to the scheduled land to be delivered to him forthwith; and

(b) upon any such delivery, pay to the person interested therein the amount of the award.

(5) The Collector may, where any award under sub-section (2) is rejected or where the person interested fails to attend the enquiry—

(a) adjourn the enquiry and proceed in accordance with the provisions of section 12; or

(b) make an application under sub-section (2) of section 29.

(6) When any payment is made in respect of any scheduled land under paragraph (b) of sub-section (4), possession of such land shall, without any action under section 22, be deemed to have been taken on the date of the making of such payment.

(7) In making a summary enquiry under this section the Collector may exercise all the powers conferred on him by this Act.

PART IV

TAKING POSSESSION OF LAND

18. The Collector may take possession—

(a) of any land in respect of which an award has been made under section 14, such possession being taken at the time of the service upon the occupier of such land of a notice in Form H, or at any time thereafter;

General
power
to take
possession.

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- (b) of any land specified in a Certificate of Urgency issued under section 19, whether or not any award has been made in respect of such land:

Provided that the Collector shall not take possession of any part of any land under paragraph (b) which is occupied by any building, except in accordance with the provisions of section 20.

Power to
take posses-
sion in
urgent
cases.

19. (1) Where any country land or arable land or unoccupied land, described in any notice in Form E given under section 10, is in the opinion of the State Authority urgently required for use for a public purpose the Commissioner may, on or after the expiration of fifteen days from the date of the giving of such notice, issue a Certificate of Urgency directing the Collector to take possession of such land, subject to the provisions of section 20.

(2) In this section—

“arable land” means any land within the State of Penang or Malacca used for agricultural purposes or for purposes connected therewith;

“country land” has the meaning attributed to it by the State land law;

“unoccupied land” includes any surveyed lot or portion thereof which has not been cultivated, or upon which there is no building of any kind and, in the case of any land alienated subject to any condition requiring the erection thereon of any permanent structure, includes any such land which has been cultivated, or upon which there is no building of any kind, or upon which there is a temporary building.

Special
provisions
relating to
buildings.

20. Where on any scheduled land in respect of which a Certificate of Urgency has been issued there is any building the Collector shall, upon taking formal possession as provided in section 22 of the land not built upon, serve notices in Form J upon—

- (a) the occupier of the building requiring that he vacate the building within such period, not exceeding sixty days from the date of the notice, as may be specified therein;
- (b) the owner of the building making an offer of compensation in respect of the building—
 - (i) where the building is a permanent structure, of the value of the building as it stands;
 - (ii) where the building is of temporary construction, or is otherwise capable of removal and re-erection, of the value of

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the building or the cost of its removal and re-erection, whichever is the less.

21. (1) Where the owner of a building accepts an offer of compensation under section 20 the Collector—

Procedure on acceptance or rejection of offer of compensation.

(a) may take possession of such building on the expiration of the period prescribed in the notice in Form J; or

(b) may, upon its removal by the proprietor, pay the cost of its removal and re-erection.

(2) Where the owner of a building does not accept an offer of compensation under section 20 the Collector—

(a) where the building is a permanent structure, shall not take possession thereof until he has obtained a valuation of such building by a competent valuer or,

(b) where the building is of temporary construction, or is otherwise capable of removal and re-erection, may himself remove and re-erect such building.

22. (1) The Collector shall take formal possession of any scheduled land by serving upon the occupier thereof or, if he cannot be found, by posting thereon, a notice in Form K.

Formal possession.

(2) A copy of the list of lands gazetted under sub-section (1) of section 8, or any relevant part thereof, shall be included as a schedule to the notice in Form K.

(3) Upon taking possession of land under sub-section (1) the Collector shall also serve a copy of the notice in Form K upon—

(a) the registered proprietor of the land, where he is not the occupier; and

(b) the proper registering authority, where he is not the Collector himself.

23. The proper registering authority, upon receipt of the notice in Form K, or the Collector of his own motion after completing Form K, shall, upon the register document of title or other appropriate record in his possession as specified in sub-section (2) or (3) of section 9, make with respect to any scheduled land a note—

Entry in register.

(a) that the whole of such land has been acquired and has vested in the Ruler or, in the case of the States of Penang and Malacca, in the State, as the case may be; or

(b) that so much of the land as is specified in the last column of the schedule to such Form has been acquired.

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Delivery of
issue and
other
documents
of title.

24. (1) Where the issue document of title or other deed or deeds evidencing title to any scheduled land has not previously been delivered to him, the Collector shall, by a notice in writing in Form L require any person in whose possession such document or deed may be, to deliver such document or deed to the Collector; and upon service of such notice upon him such person shall be legally bound to deliver such document or deed to the Collector:

Provided that in the States of Penang and Malacca no person shall be required so to deliver a document of title, unless the scheduled land is held under a single title.

(2) Where any document of title delivered to the Collector under sub-section (1) relates, or such deed or deeds relate, to a title of which the records are kept by some authority other than the Collector, the Collector shall on receipt thereof forward such document, deed or deeds, as the case may be, to the proper registering authority.

Procedure
on receipt
of document
of title, etc.,
in States
other than
Penang and
Malacca.

25. In States other than the States of Penang and Malacca, upon receipt of any document of title pursuant to the provisions of section 24 the Collector or the proper registering authority, as the case may be, shall—

- (a) where the whole of the land comprised therein has been acquired, cancel such document;
- (b) where only part of the land comprised therein has been acquired, make upon such document an entry that so much of the land as is specified in the last column of notice in Form K has been acquired, and thereafter shall return such document to the person by whom it was delivered to the Collector.

Procedure
on receipt
of document
of title, etc.,
in Penang
and
Malacca.

26. (1) In the States of Penang and Malacca, upon receipt of any document, deed or deeds pursuant to the provisions of section 24, the proper registering authority shall, where the land is held under a single title—

- (a) retain the document of title relating thereto;
- (b) make a note in the appropriate register referred to in paragraph (b) of sub-section (3) of section 9 that the whole of the land comprised in the title thereto is now vested in the State;
- (c) make a note similar to that referred to in paragraph (b) upon the filed copy of the original document of title, where such a document is in existence; and

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- (d) where a part only of such land is acquired, issue a new grant or lease, or, in the case of land held under the Malacca Lands Customary Rights Ordinance, make an entry on the register in respect of the unacquired portion of such land. *S.S. Cap. 125.*

(2) In any case other than that referred to in sub-section (1) the proper registering authority shall—

- (a) make a note on the deed evidencing title that the whole, or, as the case may be, a part of the land to which such deed relates has been acquired by the State;
- (b) make a note in the appropriate register referred to in paragraph (b) of sub-section (3) of section 9 that the whole or, as the case may be, a part of the land to which such deed relates has been acquired by the State;
- (c) where the whole of the land referred to in such deed has been acquired, retain such deed in his possession;
- (d) where a part only of the land so referred to has been acquired, return such deed to the person who made due delivery thereof.

(3) Notwithstanding the foregoing provisions of this section, where the original document of title or any deed conveying title to any scheduled land is of historic or other interest to the owner, such owner may apply in writing to the Collector for the return to him of such document or deed; and the Collector shall, after cancelling such document or deed in the manner, if any, provided by any rules made under section 69, return such document or deed to such owner.

(4) Whenever a new grant or lease is issued under the provisions of paragraph (d) of sub-section (1)—

- (a) it shall be presumed that the Governor has approved the re-grant of the unacquired portion of the land referred to in such paragraph;
- (b) the provisions of the Lands Ordinance relating to grants issued in replacement of earlier titles shall apply thereto. *S.S. Cap. 113.*

27. The Collector shall, as soon as may be after taking the action prescribed by section 25 or 26, as the case may be— *Final survey, etc.*

- (a) cause a final survey to be made of all the land acquired; and

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- (b) except in any case referred to in sub-section (2) of section 26, cause documents of title to be prepared for any unacquired part or parts of any land;

and the proper registering authority shall then—

- (i) recall and cancel all existing documents of title;
- (ii) register any new document of title; and
- (iii) send the issue document of title to the person by whom the previous document of title was surrendered.

Valuation of
differences
in area.

28. Whenever as a result of a final survey as provided in paragraph (a) of section 27 a difference is found to exist between the area of any land acquired and the area of scheduled land specified in an award under section 14, such difference shall be valued at the same rate as that at which the land in question has been valued in the award in Form G.

Payment of Compensation

Payment of
compensation
or
deposit in
Court.

29. (1) After a notice of award in Form H has been served in the manner prescribed by section 53 upon all interested persons the Collector shall, as soon as may be, make payment of each amount awarded to the person entitled thereto unless—

- (a) there shall be no person competent to receive such payment; or
- (b) the person entitled thereto does not consent to receive the amount awarded; or
- (c) there is a dispute as to the right or title of the person to receive the compensation, or as to the apportionment thereof.

(2) In the cases referred to in paragraphs (a), (b) and (c) of sub-section (1) the Collector shall apply *ex parte* to the Registrar of the Court in chambers, supported by affidavit, for an order to deposit the amount awarded into Court and, notwithstanding anything to the contrary in the law for the time being in force relating to civil procedure, the Registrar shall have power to make such order.

Receipt of
payment
under
protest, etc.

30. Notwithstanding anything contained in section 29—

- (a) any interested person may receive a payment of the amount awarded under protest as to the sufficiency of such amount;
- (b) any person who has received any payment of any amount awarded otherwise than under protest shall not be entitled to require that his claim be referred to the Court under section 37.

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31. Any person who may have received the whole or any part of any compensation awarded for an interest in any scheduled land either in error or before it has been established that another person is rightfully entitled to such interest shall be liable, on demand by the Collector, to refund the amount received or to pay it to the person entitled thereto.

Payment in error, etc.

32. (1) When the amount of any compensation awarded under this Act in respect of any land is not paid or deposited on or before taking possession of such land, the Collector shall pay the amount awarded with interest thereon at the rate of six per cent per annum from the time of so taking possession until the time of such payment or deposit.

Payment of interest.

(2) Where any valuation is made under section 28 relating to any difference in area found on final survey, there shall be added to the amount of such valuation interest thereon at the rate of six per cent per annum from the date at which possession was taken or compensation paid, whichever shall have been the earlier; and the Collector shall, as the case may require, either pay any such amount and interest to the person interested, or obtain from him a refund thereof.

Extension to and Withdrawal from Acquisition

33. (1) Whenever the State Authority is of the opinion that a claim to compensation made by a person interested on account of the severing of the land to be acquired from his other land is unreasonable or excessive, the State Authority may at any time before the possession of the land has been taken order the acquisition of the whole or of any additional portion of such remaining land.

Acquisition of other land where severance claim is excessive.

(2) On the making of any order under sub-section (1) no fresh declaration or other proceedings under sections 7 to 11 shall be necessary, but the Collector shall—

- (a) without delay furnish to the person interested a copy of the order of the State Authority; and
- (b) thereafter proceed to make an award as in section 14.

34. (1) The provisions of this Act shall not be applied for the purpose of acquiring a part only of a building if—

Acquisition of part of a building.

- (a) such part is reasonably required for full and unimpaired use of the building; or
- (b) the person interested in such building desires that the whole thereof shall be acquired:

Provided that such person may at any time before the Collector has made an award under

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section 14 by notice in writing withdraw or modify his expressed desire that the whole of such building shall be so acquired.

(2) If any question arises as to whether any land proposed to be taken under this Act does or does not form part of a building which is reasonably required for the full and unimpaired use thereof within the meaning of this section, such acquisition shall be determined by agreement between the parties; and in default of any such agreement, the Collector—

(a) shall refer the determination of such question to the Court; and

(b) shall not take possession of such land until after such question has been determined.

Withdrawal
from
acquisition.

35. (1) The State Authority shall be at liberty to withdraw from the acquisition of any land of which possession has not been taken.

(2) Whenever the State Authority withdraws from any acquisition under sub-section (1), the Collector shall—

(a) determine the amount of compensation due for the damage, if any, done to such land by action taken under section 5 or sub-section (2) of section 9 and not already paid for under section 6, and pay such amount to the person injured; and

(b) pay to the persons interested all such costs as shall have been incurred by them by reason or in consequence of the proceedings for acquisition, together with compensation for the damage, if any, which they may have sustained by reason or in consequence of such proceedings.

(3) The provisions of the First Schedule shall apply, so far as may be, to the determination of the compensation payable under this section.

(4) The Collector or other registering authority shall make a note of any withdrawal under this section in the manner specified in sub-section (2) or (3) of section 9.

PART V

REFERENCE TO COURT

Reference
to Court.

36. (1) No reference to Court under this Act shall be made otherwise than by the Collector.

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(2) The Collector may, at any time of his own motion by application in Form M refer to the Court for its determination any question as to—

- (a) the true construction or validity or effect of any instrument;
- (b) the person entitled to a right or interest in land;
- (c) the extent or nature of such right or interest;
- (d) the apportionment of compensation for such right or interest;
- (e) the persons to whom such compensation is payable;
- (f) the costs of any enquiry under this Act and the persons by whom such costs shall be borne.

(3) Without prejudice to the powers of the Court under this Part, the costs of any reference under sub-section (2) shall be borne by such person as the Court may direct or, in the absence of any such direction, by the Collector.

(4) After an award has been made under section 14 the Collector shall refer to the Court for determination any objection to such award duly made in accordance with the provisions of this Part.

Application by persons interested

37. (1) Any person interested in any scheduled land who, pursuant to any notice under section 10 or 11, has made a claim to the Collector in due time and who has not accepted the Collector's award thereon, or has accepted payment of the amount of such award under protest as to the sufficiency thereof, may, subject to the provisions of this section, make objection to—

Application
to Court.

- (a) the measurement of the land;
- (b) the amount of the compensation;
- (c) the persons to whom it is payable;
- (d) the apportionment of the compensation.

(2) Where the total amount claimed in compensation in respect of any interest in any scheduled land does not exceed five hundred dollars the written award of the Collector shall be final with regard to both the measurement of the land and the amount of compensation awarded, and no objection may be made under sub-section (1) in respect thereof.

(3) Where the total amount of any award in respect of any scheduled land exceeds five thousand dollars any Government or any person or corporation undertaking a work which in the opinion of the State Authority is of public utility, and on whose behalf such land was acquired

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pursuant to the provisions of section 3, shall be deemed to be a person interested in any scheduled land under the provisions of sub-section (1), and may make objections on any of this grounds specified in sub-section (1).

Form and
content of
application,
etc.

38. (1) Any objection made under section 37 shall be made by a written application in Form N to the Collector requiring that he refer the matter to the Court for its determination.

(2) Every application under sub-section (1) shall state fully the grounds on which objection to the award is taken, and at any hearing in Court no other grounds shall be given in argument, without leave of the Court.

(3) Every application under sub-section (1) shall be made—

(a) if the person making it was present or represented before the Collector at the time when the Collector made his award, within six weeks from the date of the Collector's award under section 14;

(b) in other cases, within six weeks of the receipt of the notice from the Collector under section 16 or within six months from the date of the Collector's award under section 14 whichever period shall first expire.

(4) The period of six weeks prescribed by paragraph (a) of sub-section (3) and the periods of six weeks and six months prescribed by paragraph (b) of sub-section (3) shall not be capable of enlargement by any Court, except in such special circumstances as the Court may think fit.

(5) On receiving any application under sub-section (1) the Collector shall, subject to the provisions of section 39, as soon as may be refer the matter to the Court by a reference in Form O.

Deposit.

39. (1) Before making reference to the Court the Collector may require each person making application therefor to deposit with the Collector such sum not exceeding one thousand dollars, or the amount of the Collector's award, in respect of the interest under reference whichever is the less, as he may consider reasonable as security for the costs of reference and appeal.

(2) In the event of any deposit required under sub-section (1) not being made within fourteen days of its being required by the Collector the application for reference shall be deemed to have been withdrawn and the Collector's award shall thereupon become final.

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The Court

40. (1) Except as provided in this section the Court shall consist of a Judge sitting alone. Constitution of Court.

(2) Where—

(a) the objection before the Court is in regard to the amount of compensation, and

(b) the amount awarded is not less than five thousand dollars,

the Court shall also appoint two assessors for the purpose of aiding the Judge in determining the objection.

(3) The Court may also, wherever it considers such action desirable, appoint one or more assessors for the purpose of aiding the Judge in determining the objection, in any other case.

41. (1) Every person appointed as an assessor under section 40 shall be legally bound to attend and serve as an assessor, unless excused for some reason to be approved by the Judge. Assessors.

(2) If an assessor dies, or becomes incapable of acting, or is excused by the Judge, some other suitably qualified person shall be appointed in his stead.

(3) Every assessor shall receive such fee for his services as the Judge shall direct provided that such fee shall not exceed one hundred dollars a day, or such higher figure as the Minister may, with the approval of the National Land Council may by notification in the *Gazette* prescribe.

(4) The fee of each assessor shall be deemed to be costs in the proceeding.

42. (1) The opinion of each assessor shall be given orally, and shall be recorded in writing by the Judge. Opinion of assessors.

(2) In case of a difference of opinion between the Judge and the assessors or either of them upon a question of law or practice, or of usage having the force of law, the opinion of the Judge shall prevail.

(3) In case of difference of opinion between the Judge and both of the assessors as to the amount of compensation or as to the amount of any item thereof the decision of the Judge shall prevail.

Procedure

43. On receiving a reference from the Collector pursuant to the provisions of sub-section (5) of section 38, the Court shall cause a notice in Form P, specifying the day on which Notice relating to reference.

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the Court will proceed to hear and determine the objection contained in such reference, to be served on the following persons, and directing their appearance before the Court at that hearing:

- (a) the applicant;
- (b) the person or corporation, if any, on whose behalf the proceedings were instituted pursuant to the provisions of section 3;
- (c) all persons interested in the objection, except such, if any, as have consented without protest to receive payment of the compensation awarded; and
- (d) if the objection is in regard to the area of the land or to the amount of the compensation, the Collector.

Restriction
on scope of
proceedings.

44. (1) In every proceeding under this Part the scope of the inquiry shall be restricted to a consideration of the interests of the persons affected by the objection.

(2) The Court shall consider the interests of all persons interested who have not accepted the award, whether those persons have themselves made an objection or not.

Proceedings
to be in
open Court.

45. (1) Every proceeding under this Part shall take place in open Court.

(2) Save in so far as they may be inconsistent with anything contained in this Act, the provisions of the law for the time being in force relating to civil procedure shall apply to all proceedings before the Court under this Act.

Copy of
First
Schedule to
be supplied
to assessors.

46. Where the proceedings under this Part are in regard to the amount of compensation, and assessors have been appointed, a copy of the provisions of First Schedule shall be supplied to each assessor.

Decision and Award

Award to be
in writing.

47. (1) Every decision made under this Part shall be in writing signed by the Judge and by the assessor or assessors, if any, concurring therein.

(2) Where such decision comprises an award of compensation it shall specify—

- (a) the amount awarded on account of the market value of the land under paragraph (a) of section 2 of the First Schedule;
- (b) the amount, if any, deducted under paragraph (b) of section 2 of the First Schedule;

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(c) the amounts, if any, respectively awarded under paragraphs (c), (d) and (e) of section 2 of the First Schedule; and

(d) in respect of each such amount, the grounds for awarding or deducting the said amounts.

(3) Every such written decision or award shall be deemed to be a decree and the statement of the grounds of any such award a judgment within the meaning of the law for the time being in force relating to civil procedure.

48. If the sum which in the opinion of the Court the Collector ought to have awarded as compensation is in excess of the sum which the Collector did award as compensation, the award of the Court may direct that the Collector shall pay interest on such excess at the rate of six per cent per annum from the date on which the Collector took possession of the land to the date of payment of such excess to the Court or to the person interested.

Collector may be required to pay interest.

49. (1) Any person interested, including the Collector and any person or corporation on whose behalf the proceedings were instituted pursuant to the provisions of section 3 may appeal from a decision of the Court to the Court of Appeal:

Appeal from decision as to compensation.

Provided that where the decision comprises an award of compensation there shall be no appeal therefrom unless the amount awarded by the Court exceeds five thousand dollars.

(2) Every appeal under this section shall be presented within the time and in the manner provided for appeals in suits in the Supreme Court:

Provided that the time within which an appeal may be presented shall only be capable of enlargement by order of a Court in such special circumstances as the Court may think fit.

(3) An appeal shall lie from any judgment or order of the Court of Appeal made on appeal under this section to the Yang di-Pertuan Agong, as provided for by Article 131 of the Constitution.

50. The cost of all proceedings under this Part, other than those arising from an objection to the amount of an award, shall be borne by the persons interested, in such proportions as the Court may determine.

Costs may be apportioned.

51. (1) In any proceedings arising from an objection to the amount of an award, costs shall be borne in accordance with the following provisions:

Costs.

(a) where the amount of the Court award does not exceed the sum awarded by the Collector the costs shall be paid by the applicant;

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- (b) where the amount of the Court award exceeds the sum awarded by the Collector, the costs shall ordinarily be paid by the Collector, but if the Court is of opinion that the claim of the applicant was so excessive or that he was so negligent in putting his case before the Collector that some deduction from his costs should be made, or that he should pay a part of the Collector's costs, the Court may at its discretion make such order as to costs as it may think fit;
- (c) where the claim of the applicant made pursuant to any notice under section 10 or 11 exceeds by twenty per cent or more the amount of the Court award, he shall not be entitled to his costs.

(2) The costs, if any, payable by the applicant may be recovered as if they were costs incurred in a suit in the Supreme Court and as if the award were the decree therein.

PART VI

SERVICE OF NOTICES

Public
notice.

52. Whenever it is provided in this Act that public notice (otherwise than by notification in the *Gazette*) shall be given of any notification, declaration or other document, sufficient notice thereof shall be deemed to be given if the Collector shall cause copies of such notification, declaration or document to be posted at the District Land Office, on public notice-boards in the mukim or township in which the land to which such notification, declaration or document refers, is situate and in such other places on or near the lands specified in that notification, declaration or document as the Collector may think fit.

Service of
notices.

53. (1) Service of any notice or other document under this Act shall, subject to the provisions of section 54, be made by delivering or tendering a copy thereof, duly signed by the Collector or other proper authority, either—

- (a) to the person to whom the notice is addressed or, if he cannot be found,
- (b) to any adult member of his family residing with him,

and by obtaining the signature of the person to whom such copy is delivered or tendered to an acknowledgment of service endorsed upon the original document or an office copy thereof, or entered in a book to be kept for that purpose.

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(2) If the person to whom any copy referred to in sub-section (1) is delivered or tendered is unwilling or unable to sign the acknowledgment thereof, or if no proper person can be found on whom to effect service, service may be effected by fixing a copy thereof—

(a) upon the outer door of the building in which the person therein named ordinarily dwells or carries on business; and

(b) on any public notice-board in the town, village or mukim in which the person to be served usually resides.

(3) Where the person to be served is the occupier of any scheduled land specified in any notice then, failing personal service, a copy of the notice shall also be posted in some conspicuous part of such land.

(4) In each of the cases referred to in sub-sections (2) and (3) the serving officer shall enter on the original of the document served, or on an office copy thereof, or in a book to be kept for that purpose, a statement of the time, place and manner in which he effected the service, and shall sign such statement.

54. Where neither any party interested nor any adult member of his family can be found the Collector may, and where he does not reside within the State the Collector shall—

Service
upon agent,
etc.

(a) effect service upon an agent authorised to receive service on behalf of the party or upon a person entitled to act for such party; or

(b) where there is no such agent or person entitled to act within the State, effect service by sending the notice by registered post to the party if, after reasonable inquiry, his address can be ascertained.

55. (1) In any proceedings under this Act—

Service
on and
appearance
of interested
persons.

(a) a copy of every notification, declaration and other document required by this Act to be served upon any person interested in any scheduled land shall also be served upon a representative of any Government, person or corporation on whose behalf the proceedings were instituted pursuant to the provisions of section 3;

(b) any representative referred to in paragraph (a) may appear and be heard on behalf of any such Government, person or corporation as if such Government, person or corporation were a party to the proceedings.

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(2) A certificate under the hand of the State Secretary certifying that any person or officer is such a representative as is referred to in sub-section (1) shall be conclusive evidence thereof.

Omission,
etc., not to
invalidate
proceedings.

56. No omission or failure to make due publication of a notice or to make due service upon persons and parties interested as provided in this Part shall invalidate any proceedings under this Act.

PART VII

TEMPORARY OCCUPATION OR USE OF LAND

Temporary
occupation
or use of
land.

57. Whenever it appears to the State Authority that the temporary occupation and use of any land is needed—

(a) for any purpose specified in section 3; or

(b) in order to carry out public works on any land,

the State Authority may direct the Collector to procure the occupation or use of any such land for such term as he shall think fit, not exceeding three years from the date of commencement of such occupation or use, in the manner prescribed by this Part.

Offer of
compensa-
tion.

58. (1) On receiving any direction under section 57 the Collector shall give notice in writing in Form Q to the persons interested in such land of the purpose for which the land is needed, and shall make such offer of compensation, or shall negotiate the payment of such compensation, as shall be reasonable in all the circumstances of the case.

(2) Compensation under sub-section (1) may be in the form of a single sum of money, in the form of periodical payments of money, or in such other form as may be agreed.

(3) In making any assessment of compensation under this section the Collector shall, where the land is required in order to carry out public works, take into account any increase in the value of the land to be occupied or used, or any advantages which will accrue to any person interested therein, by reason of the purpose for which such public works are being carried out.

Restoration
of land, etc.

59. On the expiration of the term of occupation or use referred to in section 57 the land shall be restored to the condition it was in before such occupation or use and, failing such restoration, compensation in addition to that referred to in section 58 shall be paid for any damage done to the land, or for the extent by which the value of the land has been reduced by reason of such occupation or use.

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60. Where the Collector is unable to agree with the persons interested on the amount of compensation to be paid under section 58 or 59, or on the apportionment thereof, or as to the condition of the land at the expiration of the term for which it is occupied or used, the Collector shall refer such difference to the Court for its decision.

Reference where compensation cannot be agreed.

61. Wherever the State Authority is satisfied that any land referred to in section 57 is needed solely as a means of access to any other land, then—

Where land is needed for access.

(a) the right of access so acquired shall extend to the passage of vehicles of all kinds including heavy machinery, whether owned or operated by the authority responsible for the public works or by any contractor or servant employed by such authority; and

(b) the compensation to be paid under section 58 shall be limited to the damage done on such land to trees, plants, growing crops and permanent improvements thereon.

PART VIII

MISCELLANEOUS

62. The Collector, any Government Surveyor, any Settlement Officer, and any officer or person authorised under section 5 shall have the right at all reasonable times to enter upon any land for any of the purposes of this Act.

Right of entry.

63. If the Collector is opposed or impeded in taking possession under this Act of any land he may apply to the Chief Police Officer for assistance in taking such possession; and the Chief Police Officer shall thereupon take such steps as he may consider necessary to enforce the surrender of such land to the Collector.

Application for police assistance.

64. Whoever—

(a) wilfully obstructs any officer or person referred to in section 62 or 63 in doing any of the acts authorised or required by any provision of this Act; or

Penalty for obstruction, etc.

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(b) wilfully fills up, destroys, damages or displaces any trench or mark made or put on any land under any provision of this Act,

shall on conviction be liable to imprisonment for a term not exceeding one month, or to a fine not exceeding two hundred dollars, or to both such imprisonment and fine.

Payment of costs, etc., of acquisition, etc.

65. Subject to the provisions of section 50, the costs and charges incurred by the Collector in acquiring any land or the use or occupation of any land under the provisions of this Act shall be defrayed by the Government of the State or, where such land is acquired, used or occupied on behalf of any person or corporation pursuant to the provisions of section 3, by such person or corporation.

Land to vest free from incumbrances.

66. Upon the completion of any proceedings for the acquisition of land under this Act the land shall vest in the Ruler or in the case of the States of Penang and Malacca, in the State, as the case may be, free from incumbrances.

Exemption from stamp duty and fee.

67. No award or agreement made under this Act shall be chargeable with stamp duty, and no person claiming under any such award or agreement shall be liable to pay any fee for a copy thereof.

Bar to setting aside of awards.

68. No suit shall be brought to set aside an award or apportionment under this Act.

Rules.

69. The Minister may, with the approval of the National Land Council, make rules generally for carrying out the provisions of this Act and, without prejudice to the generality of such power, may—

(a) provide for the guidance of officers in all matters connected with this Act;

(b) add to, amend or revoke all or any of the Forms in the Second Schedule;

(c) provide for the return to their owners of documents and deeds of historic or other interest, pursuant to the provisions of sub-section (3) of section 26.

Repeal.
Cap. 140.
16/1936.
No. 57.
8/1934.
6/1932.
4/1958.
9/1952.
Cap. 128.

70. The Land Acquisition Enactment of the Federated Malay States, the Land Acquisition Enactment of the State of Johore, 1936, the Land Acquisition Enactment (No. 57) of the State of Kedah, the Land Acquisition Enactment of the State of Kelantan, the Acquisition of Land for Railway Purposes of the State of Perlis, the Land Acquisition (Extension to Perlis) Enactment, 1958, of the State of Perlis, the Land Acquisition (Extension to Trengganu) Ordinance, 1952, and the Land Acquisition Ordinance of the Straits Settlements, are hereby repealed.

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FIRST SCHEDULE

(Sections 12, 35 and 46)

PRINCIPLES RELATING TO THE DETERMINATION OF
COMPENSATION

1. (1) For the purposes of this Act the term "market value" where applied to any scheduled land shall mean the market value of such land: Market value.

- (a) at the date of publication in the *Gazette* of the notification under section 4, provided that such notification shall within six months from the date thereof be followed by a declaration under section 8 in respect of all or some part of the land in the locality specified or;
- (b) in other cases, at the date of the publication in the *Gazette* of the declaration made under section 8.

(2) In assessing the market value the effect of any express or implied condition of title restricting the use to which the scheduled land may be put shall be taken into account.

(3) If the market value of any scheduled land has been increased, or is currently increased, in either of the following ways, such increase shall be disregarded:

- (a) an increase by means of any improvement made by the owner or his predecessor in interest within two years before the declaration under section 8 was published in the *Gazette*, unless it be proved that such improvement was made *bona fide* and not in contemplation of proceedings for the acquisition of the land;
- (b) an increase by reason of the use of the land, 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.

2. In determining the amount of compensation to be awarded for any scheduled land acquired under this Act there shall be taken into consideration the following matters and no others:

Matters to be considered in determining compensation.

- (a) the market value as determined in accordance with paragraph 1 of this Schedule;
- (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 or likely to be sustained by the person interested at the time of the Collector's taking possession of the land by reason of severing such land from his other land;
- (d) the damage, if any, sustained or likely to be sustained by the person interested at the time of the Collector's taking possession 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; and

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

Matters to be
neglected in
determining
compensation.

3. In determining the amount of compensation to be awarded for any scheduled land acquired under this Act the following matters shall not be taken 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 declaration under section 8 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 incurred after the date of the publication of the declaration under section 8, unless such additions or improvements were necessary for the maintenance of any building in a proper state of repair.

Limitation
on award.

4. Where at any inquiry made by the Collector under section 12, or in any statement in writing required by the Collector under sub-section (2) of section 11, any person interested has—

- (a) made a valuation of or claimed compensation for any land or any interest therein, such person shall not at any time be awarded any amount in excess of the amount stated or claimed;
- (b) refused, or has omitted without sufficient reason to be allowed by a Judge, to make a claim to compensation, such person shall not at any time be awarded any amount in excess of the amount awarded by the Collector.

SECOND SCHEDULE

(Sections 2 and 69)

FORM A

Land Acquisition Act, 1960

(Section 4)

NOTICE THAT LAND IS LIKELY TO BE ACQUIRED

It is hereby notified that lands in the locality described in the Schedule hereto, including those lands, if any, specified by lot number or by the lot numbers of neighbouring lands, are likely to be needed for the following purpose:

2. It is further notified that any person authorised by the Commissioner in that behalf may enter upon any land in such locality in order to examine it and undertake survey operations. If any damage is

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done in the course of such work compensation therefor will be paid. Any dispute as to the amount of such compensation will be referred to the Collector at.....

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

.....
Commissioner

SCHEDULE

District.....
Mukim.....
Township.....
Description of the locality.....
.....
.....

FORM B

Land Acquisition Act, 1960

(Section 5)

AUTHORITY TO ENTER AND SURVEY

To.....
.....
.....

You and your servants and workmen are hereby authorised, subject to the provisions of paragraph 2, to enter upon—

- (i) any lands in a locality which has been the subject of a notification issued under section 4 of the Land Acquisition Act, or
- (ii) any lands in the locality scheduled in *Gazette Notification*
No.....of.....*

*Delete which is inapplicable.

and to do any or all of the following:

- (a) survey and take levels of the land;
- (b) dig or bore into the sub-soil;
- (c) do all other acts necessary to ascertain whether the land is adapted for the purpose for which it is to be acquired;
- (d) set out the boundaries of the land proposed to be taken and the intended line of the work, if any, proposed to be made thereon;
- (e) mark such levels, boundaries and line by placing marks and cutting trenches;
- (f) cut down and clear away any standing crop, fence or jungle, where otherwise the survey cannot be completed, or the levels cannot be taken, or the boundaries or line of the work cannot be marked.

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2. Neither you nor any of your servants and workmen may enter into any building or upon any enclosed court or garden attached to a dwelling house, unless you have first obtained the consent of the occupier thereof, or, failing such consent, have given such occupier three days' notice in writing of your intention to do so.

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

.....
Commissioner

FORM C

Land Acquisition Act, 1960

(Section 7)

SCHEDULE OF LANDS AFFECTED BY ACQUISITION

District.....

Mukim/Township.....

Survey Lot No.	Title or Occupation	Registered Proprietor or recorded occupant	Area of lot	Approximate area to be acquired

FORM D

Land Acquisition Act, 1960

(Section 8)

DECLARATION OF INTENDED ACQUISITION

It is hereby declared that the particular lands and areas specified in the Schedule hereto are needed for the following purpose:

.....
.....

2. A plan of the particular lands and areas so specified may be inspected during the normal hours of business in the Land Office of the District in which such lands and areas are situated.

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

.....
Commissioner

[Schedule as in Form C, amended, if necessary, in accordance with the decision of the State Authority.]

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FORM E

Land Acquisition Act, 1960

(Section 10)

INTENDED ACQUISITION: NOTICE OF ENQUIRY

In accordance with the declaration of intended acquisition of the lands described in the Schedule hereunder, notice is hereby given that an enquiry to hear all claims to compensation for all interests in such land will be held on.....day of.....at.....hours at.....

2. All persons having interests in the said land, whether as proprietor, occupier, lessee, chargee, tenant or otherwise, are hereby required to appear before the undersigned at the above time either personally or by agent and there to state—

- (a) the nature of their respective interests in the land;
- (b) the amount and particulars of their claims to compensation for such interests;
- (c) their objections, if any, to the measurements of approximate area given in the Schedule below;
- (d) the names of any other person known to the party or his agent to possess any interests in the land or any part thereof, and to produce all documents and deeds relating to their claims.

* 3. Notice is further given that the undersigned may require—

- (a) that in any particular case any such statement or statements should be reduced to writing and signed by the party or his agent;
- (b) that any person in possession of the issue document of title or of any deed or deeds evidencing title in respect of any land scheduled below deliver up such document, deed or deeds at the time of the inquiry.

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

.....
Collector

[Schedule in Form D]

FORM F

Land Acquisition Act, 1960

(Section 11)

NOTICE TO REQUIRE EVIDENCE IN WRITING

To.....

Whereas the undersigned has reason to believe that you have particular knowledge of the land referred to in the attached notice (*Copy of Form E to be attached*):

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Take notice that you are hereby required to furnish, withindays of this date, a statement in writing declaring the following:

- (a) separate valuations of the land and of the improvements, if any, thereon, showing the basis upon which such valuations are made;
- (b) the name of every person possessing any interest in the land or any part thereof, either as co-owner, chargee, lessee, sub-lessee, tenant or otherwise; and
- (c) the nature of any such interests and the amount of the rents and profits, if any, received or receivable on account thereof for the three years immediately preceding the date of this notice.

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

.....
Collector

I, the undersigned.....hereby
acknowledge receipt of the above notice.

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

FORM G

Land Acquisition Act, 1960

(Section 14)

WRITTEN AWARD OF COMPENSATION

Acquisition Hearing No.....in respect of Lands scheduled
in Gazette Notification.....

The awards set out in the Schedule hereto are hereby made in respect of the areas of land specified therein, to the persons interested therein, as specified below.

SCHEDULE

Lot No.	Area required	Persons interested	Nature of interest	Apportionment of Award	For Official use

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

.....
Collector

LAND ACQUISITION

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FORM H

Land Acquisition Act, 1960

(Section 16)

NOTICE OF AWARD AND OFFER OF COMPENSATION

Acquisition Proceedings No..... Gazette Notification No.....

To.....

You are hereby informed that at the hearing before the undersigned on the.....day of....., an award as in the Schedule hereto was made in respect of the lands specified therein in which you have an interest.

2. In accordance with this award I hereby offer you the sum of \$.....being the amount specified below as full compensation for your interest in this land.

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

Collector

SCHEDULE

(Relevant extract from Form C including all awards, if any, to other persons interested in the land)

I, the undersigned..... hereby acknowledge receipt of the above offer.

2. I am prepared to attend the Land Office on any appointed day to receive payment in cash.*

I request that the amount due be sent to me by cheque/money order at the above address.*

I do not accept the above offer.*

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

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FORM I

Land Acquisition Act, 1960

(Section 19)

CERTIFICATE OF URGENCY

Acquisition Proceedings No..... *Gazette Notification No.....*To The Collector of Land Revenue,
.....

Whereas the land scheduled below, being country land/arable land/unoccupied land*, was declared by the above *Gazette Notification* to be required for a public purpose:

And whereas such land is now urgently required for use for a public purpose:

Now therefore in exercise of the powers conferred by section 19 of the Land Acquisition Act, 1960, I hereby certify that such land is urgently required for use for a public purpose and DIRECT you forthwith to take possession of such land.

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

.....
Commissioner

* Delete as appropriate.

(Schedule as in Form D)

FORM J

Land Acquisition Act, 1960

(Section 20)

To Occupier/Owner of the building on Lot No.....

Title No.....Mukim/Township.....

Whereas the above land has this day been acquired by virtue of a Certificate of Urgency signed by the State Secretary:

Now I hereby require that you vacate the building referred to above and situated on the said land within.....days of this date.

2. Take notice further that I hereby offer to the owner of the premises compensation to the amount of \$.....which compensation represents—

(a) the value of the building*

(b) the cost of removing and re-erecting such building elsewhere.*

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

.....
Collector

*Delete
whichever is
inapplicable.

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FORM K

Land Acquisition Act, 1960

(Section 22)

NOTICE THAT POSSESSION HAS BEEN TAKEN OF LAND

Acquisition Proceedings No..... Gazette Notification No.....

It is hereby notified that I have to-day, pursuant to section 22 of the Land Acquisition Act, 1960, taken formal possession of the land shown in the Schedule below to the extent declared in the last column of that Schedule.

* A copy of a Certificate of Urgency issued by the Commissioner is annexed.

*Delete if inapplicable

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

.....
Collector

(Schedule as in Form D as amended)

FORM L

Land Acquisition Act, 1960

(Section 24)

Acquisition Proceedings No..... Gazette Notification No.....

NOTICE TO DELIVER UP DOCUMENT/S

To.....
.....

Whereas the whole/part of the land comprised in Title.....
Lot.....Mukim/Township.....has been formally
acquired by the Government of the State:

And whereas I have reason to believe that the documents of title/
deeds hereinafter referred to are in your possession:

Now therefore in exercise of the powers conferred by section 24 of the Land Acquisition Act, 1960, I hereby require you to deliver to me the document/s of title/deed/s specified in the Schedule hereto within a period of.....days from the date of the service on you of this Notice.

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

.....
Collector

SCHEDULE

(Here list document/s of title or deeds)

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FORM M

Land Acquisition Act, 1960
(Section 36)

REFERENCE TO COURT

To.....

The High Court,.....

In the matter of.....

I....., Collector for the District
of.....in the State of....., in
exercise of the powers conferred by sub-section (2) of section 36 of the
Land Acquisition Act, 1960, hereby refer the following question to the
Court for its determination:

2. The parties interested, so far as I know or have been informed,
are as follows:

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

Collector

FORM N

Land Acquisition Act, 1960
[Section 38 (1)]

APPLICATION THAT AN OBJECTION BE REFERRED TO COURT

To:

The Collector of Land Revenue.....

ACQUISITION PROCEEDINGS NO.....

I.....of.....hereby make an
objection to the award of the Collector.....
dated.....in respect of land Lot.....Title.....

2. My interest in the said land is as follows:.....

3. My objection is to:

- (a) the measurement of the land;
- (b) the amount of the compensation;
- (c) the persons to whom it is payable;
- (d) the apportionment of the compensation.

4. The grounds of my objection are as follows:

5. In accordance with the provisions of sub-section (1) of section 38
of the Land Acquisition Act, 1960, I hereby require you to refer the
matter to the Court for its determination.

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

Signature of the applicant

Delete items
inapplicable.Here set out
fully the
grounds on
which objection
to the award
is taken.

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FORM O

Land Acquisition Act, 1960

[Section 38 (5)]

Acquisition Proceedings No..... Gazette Notification No.....

REFERENCE TO COURT

To the Registrar, High Court,

Whereas I have received an Application under section 38 of the Land Acquisition Act, 1960, requiring me to refer to the Court the following matter for its determination:

*And whereas a due deposit of.....dollars has been deposited with me as security for the costs of the reference and appeal:

*Delete if inapplicable.

Now therefore pursuant to the provisions of section 38 of the said Act I hereby refer the following objection to the Court:

[Here summarise objection/s]

2. The following is the situation and extent of the land, and particulars of any trees, buildings, or standing crops thereon:

[Here set out details]

3. The following are the names and addresses of all the persons whom I have reason to believe are interested in such land:

(Name)

(Address)

(Interest)

4. The following notices have been served upon the parties interested:

(Notice)

(Name of Party)

5. The following statements in writing have been made or delivered by the following interested parties:

(Name of Party)

(Particulars of statement)

†6. The amount awarded for damages under section 6 of the said Act was.....dollars.

7. The amount of compensation awarded under section 14 was.....dollars.

†8. The following are the grounds on which the amount of compensation was determined:

[Here set out grounds]

†To be completed only where the objection is to the amount of compensation.

9. I attach hereto copies of the following documents:

[Here list documents]

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

Collector

[The above paragraphs may be completed by appropriate references to documents to be annexed thereto.]

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FORM P

Land Acquisition Act, 1960
(Section 43)

NOTICE

To.....

LAND REFERENCE NO.....OF.....

Notice is hereby given that on the.....
day of.....at the hour of.....in
the.....noon, the High Court sitting at.....
will proceed to hear and determine the objections contained in the
above Reference, and relating to the following land:

[Here insert details of land]

2. You are hereby directed to appear before the Court at such
hearing.

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

Registrar

FORM Q

Land Acquisition Act, 1960
(Section 58)

NOTICE OF TEMPORARY OCCUPATION OR USE OF LAND

To.....

Owner of Lot.....Title.....Mukim
Occupier.....Township.....

All persons having any interest in the above land are hereby notified
that it is required for temporary occupation/use for the term
of.....from date.....for the
following purpose:

2. In exercise of the powers conferred by section 56 of the Land
Acquisition Act, 1960, I hereby give notice that I am prepared to

*make an offer of compensation of.....

*negotiate payment of compensation.....

for the occupation/use of the above land and that I require every
person having any interest in the land to appear before me on
the.....day of.....at.....
at the hour of.....in the fore/afternoon.

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

Collector

*Delete
whichever is
inapplicable.

LAND ACQUISITION
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55. Service on and appearance of interested persons.
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EXPLANATORY STATEMENT

At present there are five separate laws relating to land acquisition in force in the Federation, and correspondingly five separate procedures for the acquisition of land. Not one of these laws is entirely satisfactory either in form or content and, although the differences between them are in most respects of a minor nature, they result in a multiplicity of forms and procedures which is confusing and time-wasting. On these grounds alone a single consolidated system is desirable, and since it is considered necessary that uniformity should be achieved wherever possible in matters of land legislation, the above Bill is introduced under the provisions of Article 76 (4) of the Constitution.

2. The amendments to the existing laws which are now proposed are with one exception of a minor nature, and the main purpose of the Bill is not to make innovations but to provide a clear, unambiguous and simple system of acquisition supported by a series of essential forms. Some minor alterations in procedure must result from such a process of rationalisation, but these have been kept to a minimum.

3. The changes in principle proposed by the above Bill are with regard to—

- (a) the introduction of a summary procedure for acquisition of small pieces of land for the purpose of roads, pipelines, etc. (*clause 17*);
- (b) provision for entry upon land in cases of urgency (*clauses 19, 20 and 21*);
- (c) the conferment upon Government of the right of appeal against a collector's award (*clause 37*); and
- (d) the introduction of a provision for securing access to the site of new public works (*Part VII*), which is an amended form of existing legislation.

4. The remaining changes in the law contemplated by the above Bill are of a procedural or minor nature, the more important of which may be summarised as follows:

- (a) A formal procedure is now specified (*clause 22*) for the crucial act of taking possession of any land. This clause imposes an obligation on Government to observe a prescribed formality.
- (b) A final survey of land after it has been formally entered is now required (*clause 27*) so giving legislative sanction for what is in fact already done.
- (c) *Clauses 37 and 38* define with greater precision the scope and nature of references to Court; these do not, however, alter existing practice.
- (d) A new provision (*clause 55*) requires that a Court hearing a reference shall serve notice of the proceedings upon the Government, person or corporation which is a party to the acquisition, and so supplies an omission in the present law.
- (e) The Court is now empowered to consider the interests of all parties who have not accepted a Collector's award, whether those parties have formally applied for reference or not (*clause 44*). This enables a Court to dispose at one time of all possible claims, instead of dealing piecemeal with a whole series of separate references.

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- (f) A system of public notification is laid down for application to all notices issued under the Act (*clause 52*).
- (g) A system of personal service of notices, including substituted service, is provided (*clauses 53 and 54*).
- (h) The rights of Collectors and Survey Officers to enter upon any land which is the subject of acquisition are re-declared (*clause 62*). These rights are nowhere conveniently stated in the law in force in Penang and Malacca, although the rights in practice are never disputed.
- (i) The provisions relating to assessment of compensation (which follow the existing law) have, for convenience of reference, been transferred to a Schedule (*First Schedule*).
- (j) The forms to be used in acquisition proceedings are set out in the *Second Schedule*, and can be amended by the Minister with the approval of the National Land Council (*clause 69*).

5. The following constitutes a general review of the Bill, and should be read in conjunction with the Comparative Table, below:

(a) PART I. In *clause 2* amendments and additions to definitions have been made chiefly to allow for concise drafting and to make the provisions applicable to the States of Penang and Malacca, e.g., the new definitions of "issue and register document of title", "registered deed" and "registered proprietor". In addition the amended definition of "land" makes express provision for the interest created by the right to occupy land in expectation of title, and new definitions of "building", "Certificate of Urgency", "scheduled land", "State Authority" and "State land law" have been added.

Sub-section (3) repeats the substance of the most recent amendment to the F.M.S. Enactment section 46A, which ensured that an enquiry was not restricted merely to one piece of land.

(b) PART II. *Clause 3* is an abbreviated form of the original F.M.S. provisions. The detailed and more specific provisions of the F.M.S. Enactment were never found necessary in Penang, Malacca or in Johore and in present circumstances there is no reason for including them. Provision for public enquiry prior to acquisition in certain cases is, for example, unreal now that the general power of acquisition is vested in the elected representatives of the public.

Clauses 4, 5 and 6 must be read together with Forms A and B. They introduce no new provisions but are intended to simplify routine operations.

Clause 7 sets out what logically is the first step in acquisition, although ignored in the present law. The introduction of the concept of "scheduled lands" in Form C is new and should be a great convenience: once prepared and, if necessary, printed it may be appended to the four separate Forms of Notice D, E, J and K.

Clause 8 together with Form D and *clause 9* make no new provision, but *clause 9* specifies in detail the action required, including action in Penang and Malacca.

Clauses 10 to 16, with the exception of *clause 14*, introduce no new principles, but they and the new Forms E, F, G and H are drafted in logical sequence.

Clause 14 is of importance for two reasons: firstly, it allows for a margin of plus or minus half an acre between the declared and the acquired area, and secondly, in conjunction with *clause 16* it makes

clear what has always been confused in the existing law, namely the difference between a "written award" and an "offer of compensation" [vide F.M.S. sections 12 (ii) and 43 (i)].

(c) PART III. *Clause 17* introduces the first of the three main amendments to the law. It is intended to minimise the burden of acquiring a large number of small pieces of land from different holdings, e.g. for the purposes of roads, pipelines, etc. It would permit, for example, a Collector going into the field, obtaining agreement on the spot and paying compensation all in one operation. Should summary action fail there is provision for reversion to the full-scale enquiry.

(d) PART IV. *Clauses 18 and 22* are of the greatest importance. They specify a form of procedure for the crucial act of taking formal possession: *18* makes it clear *when* possession may be taken and *22* makes it clear *how*. Under the existing law doubts could arise as to the precise date on which possession was taken and, in fact, whether possession had been taken at all. This doubt is now ended by the service of notice in Form K.

Clauses 19, 20 and 21 contain three major amendments and provide a complete procedure for the entry upon land in cases of urgency. The significant features are the new definitions of "arable land" and "unoccupied land" and the amended provision making it possible for entry to be made on any country land or arable land whether occupied or not. This is a major advance on the existing law, with the exception of the law in Johore where it has always been possible to acquire *any* land under a direction of urgency. This power will now be restricted in Johore as elsewhere, since it is considered that the power in Johore was in fact too far-reaching. Buildings present a major difficulty with entry in cases of urgency. Clearly a building cannot be entered as summarily as cultivated or vacant land, but the new provisions permit the land around the building to be taken, and fix a period of 60 days as the limit of delay in taking possession of a building. Provision is made for compulsory entry at the end of 60 days, whether the occupier or owner accepts compensation or not. Where a building is capable of being moved the Collector may himself remove and re-erect the building, but in other cases he may demolish the building, provided that he has first obtained a proper valuation by a competent valuer.

Clauses 23 to 28 introduce no new principles but attempt to rationalise and put in their correct sequence the routine processes of endorsing particulars of title and preparing new title for unacquired portions of lots.

Clause 26, dealing specifically with Penang and Malacca, requires special mention only because of sub-section (3). It is believed that considerable difficulties have arisen in these States from the reluctance of owners to surrender historic titles or deeds, i.e. Dutch Titles or documents dating from the early days of settlement in Penang. Sub-section (4) simplifies the issue of replacement title.

Clauses 29 to 32 introduce no new principles, and *clauses 33 to 35* essentially reproduce already existing sections of the law, which have previously been included under the head "Miscellaneous". They are sufficiently important to be brought together in this sub-Part, in their logical position.

(e) PART V. No new principles are introduced here, except that by *clause 37 (3)* any Government, or any person or corporation on whose behalf land is acquired, may where an award exceeds five thousand dollars require that a collector's award be referred to the High Court. Further, by *clause 43 (b)* it is put beyond doubt that a

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person or corporation acquiring land may be represented at Court hearings, and that essential forms previously omitted are now supplied. The lay-out of the Part is also now in a more logical sequence. The need for the judge to read to the assessors the sections relating to the principles of valuation is now dispensed with. The principles of valuation have been removed to the First Schedule, a copy of which must be supplied to every assessor.

(f) PART VI. A rationalised procedure is provided, on the principle that personal service on the person or an adult member of his family, and failing that substituted service by posting on a notice board, should normally be sufficient unless the party does not reside in the State. In that event service shall be upon an agent authorised to receive service or, failing that, by registered post. There is also a new provision that where the person to be served is the occupier of any scheduled land, substituted service shall include posting on the land itself.

(g) PART VII. This follows substantially existing provisions, but *clauses 57 (b) and 61* make it possible for Government to obtain temporary access through lands for the purpose of constructing public works on other lands.

(h) PART VIII substantially follows existing law, but the right of entry of Government officers upon land affected by the Act is now placed beyond doubt: previously the rights of surveyors in the State of Penang were, in particular, obscure. Further, power to make rules or issue instructions varying forms is vested in the Minister, with the approval of the National Land Council.

6. A comparative table, showing the origins of the Bill, is reproduced below:

COMPARATIVE TABLE

F = F.M.S. Land Acquisition Enactment, Cap. 140.

S = S.S. Land Acquisition Ordinance, Cap. 128.

Clause		Clause	
1 ...	F 1; S 1	15 ...	F 43 (iii); S 39 (3)
2 ...	F 2, 46A (i); S 2, 49A (1)	16 ...	F 12 (ii), 43 (i); S 11 (2), 39 (1)
3 ...	F 3 (i)-(iii); S 5 (2)	17 ...	New
4 ...	F 4 (i); S 3 (1)	18 ...	F 16, 17; S 15, 16
5 ...	F 4; S 3	19 ...	F 17; S 16
6 ...	F 5; S 4	20 ...	New
7 ...	F 6 (i); S 5 (1)	21 ...	New
8 ...	F 6 (i)-(iii); S 5 (3), (4)	22 ...	F 18, 19; S 17
9 ...	F 6 (iv), 8; S 7	23 ...	F 18 (i), 19 (i); S 17
10 ...	F 7, 9; S 6, 8	24 ...	F 18 (ii), 19 (ii)
11 ...	F 9, 10 (i); S 8, 9 (1)	25 ...	F 18 (iii), 19 (iii)
12 ...	F 11 (i), 13, 15; S 10 (1), 12, 14	26 ...	S 17
13 ...	F 10 (ii), 14; S 9 (2), 13	27 ...	F 19 (iv); S 17A
14 ...	F 11 (i)-(iii), 12 (i); S 10 (1), (2), 11 (1)	28 ...	F 20; S 17A
		29 ...	F 43; S 39
		30 ...	F 43 (ii); S 39 (2)
		31 ...	F 43 (ii); S 39 (2)
		32 ...	F 44; S 40
		33 ...	F 51; S 54

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Clause		Clause	
34	... F 50; S 53	54	... F 46; S 49
35	... F 49; S 52	55	... New
36	... F 11 (ii); S 10 (2)	56	... F 9 (iv)
37	... F 21, 22 (i); S 18	57	... F 45 (i); S 41 (1)
38	... F. 22 (i)-(iv), 123; S 18, 19	58	... F 45 (ii); S 41 (2)
39	... F 22 (v)	59	... S 42
40	... F 25; S 21	60	... F 45 (iii) and (iv); S 41 (3), 43
41	... F 25, 26, 35; S 21, 22, 31	61	... New
42	... F 32, 33, 34; S 28, 29, 30	62	... F 4, 47; S 3, 50
43	... F 24; S 20	63	... F 48; S 51
44	... F 27; S 23	64	... F 47; S 50
45	... F 28, 40; S 24, 36	65	... F 3 (vii) and (viii); S 5 (2), 55
46	... F 29, 30, 31; S 25, 26, 27	66	... S 17 (3)
47	... F 36; S 32	67	... F 52; S 56
48	... F 39; S 35	68	... F 53; S 57
49	... F 38, 41, 54; S 34, 37	69	... F 55; S 58
50	... F 42; S 38	70	...
51	... F 37; S 33		
52	... New		
53	... F 46; S 49		

First

Schedule

F 29, 30, 31; S 25,
26, 27

Second

Schedule

New