

**Jersey Law 40/1961**

**“COMPULSORY PURCHASE OF LAND (PROCEDURE)  
(JERSEY) LAW, 1961”,**

CONFIRME PAR

**Ordre de Sa Majesté en Conseil**

en date du 25 septembre 1961.

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*(Enregistré le 21 octobre 1961).*

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**COMPULSORY PURCHASE OF LAND (PROCEDURE)**  
**(JERSEY) LAW, 1961.**

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**A LAW** to re-enact, with amendments, the Law prescribing the procedure for the acquisition of land by compulsory purchase on behalf of the public of the Island, sanctioned by Order of Her Majesty in Council of the

**25th day of SEPTEMBER, 1961.**

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*(Registered on the 21st day of October, 1961).*

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**STATES OF JERSEY.**

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The 15th day of June, 1961.

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**THE STATES**, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law : -

ARTICLE 1

**INTERPRETATION**

(1) In this Law, unless the context otherwise requires –

“the acquiring authority” means the Committee of the States charged with the administration of the relevant Special Law ;

“the Board” has the meaning assigned thereto by Article 7 ;

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“land” includes houses, buildings and structures on land, water, interests in land or water and servitudes or rights in, on or over land or water ;

“owner” includes a usufructuary and the husband of a *feme covert* ;

“Special Law” has the meaning assigned thereto by Article 2.

(2) Any reference in this Law to any other enactment shall be construed as a reference to that enactment as amended by any subsequent enactment.

## ARTICLE 2

### **APPLICATION OF THE PROVISIONS OF THIS LAW**

The provisions of this Law shall apply only where, by a Law confirmed by Order of Her Majesty in Council (in this Law referred to as a “Special Law”), power is conferred on the States to acquire land by compulsory purchase on behalf of the public in accordance with the provisions of this Law but not otherwise, and, in any such case, the provisions of this Law shall apply in relation to the acquisition of the land, save so far as they are expressly varied or excepted by such Special Law as aforesaid.

## ARTICLE 3

### **PLAN TO BE PREPARED AND MONEY VOTED**

No land may be acquired by compulsory purchase on behalf of the public unless –

- (a) a plan showing the land to be acquired has been approved by the States ; and

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- (b) a credit of the monies necessary to meet the expenses to be incurred in the acquisition of the land has been voted by the States.

ARTICLE 4

**PRELIMINARY NOTICES**

(1) Subject as provided by paragraph (1) of Article 5 of this Law, the Greffier of the States shall serve a notice on every owner, lessee and occupier of the land to be acquired, of which a sufficient description shall be contained in the notice, requiring each of them to notify the Greffier of the States, in writing, [within such period as the acquiring authority deems appropriate having regard to the circumstances of the case (which period shall in no case be less than twenty-eight days after the service of the notice)]<sup>1</sup> of his interest in the land and of the amount of the compensation which he is prepared to accept for such interest :

Provided that no such notice shall be served on any lessee or occupier whose interest in the land it is not intended to acquire in accordance with the provisions of this Law.

(2) The notice aforesaid shall, if need be, state the time at which vacant possession of the land will be required.

(3) If any owner, lessee or occupier of the land refuses or neglects to comply with the requirements contained in the notice served on him in pursuance of paragraph (1) of this Article or if the acquiring authority considers that the amount of the compensation which he is prepared to accept is excessive, then, unless the acquiring authority is of the opinion that it is unnecessary that the interest should be acquired in accordance with the provisions of this Law, the Greffier of the States shall serve a notice on him informing him of the amount of the compensation which the acquiring authority offers to pay and notifying him that, if the offer be not accepted within eight days after the service of

<sup>1</sup> Amendment of 26th March, 1964.

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the notice, the interest will be acquired in consideration of a compensation assessed in manner hereafter in this Law provided.

ARTICLE 5

**LAND BELONGING TO INFANTS**

(1) Where the owner of any land to be acquired is an infant, or, if there is more than one owner, where any such owner is an infant, the compensation for the interest of the infant or of each such owner, as the case may be, shall be assessed in manner hereafter in this Law provided and, accordingly, the notice to be served in pursuance of paragraph (1) of Article 4 of this Law on the owner of the land shall contain only a sufficient description of the land, a statement of the time at which vacant possession thereof will be required and a statement that the compensation will be assessed as aforesaid.

(2) Where any land is acquired from an infant in accordance with the provisions of this Law, neither he nor his heirs may disclaim the transaction or claim possession of the land in any manner whatsoever.

ARTICLE 6

**PAYMENT FOR LAND ACQUIRED**

Where there are any charges on the land, the States shall undertake to discharge the same up to the amount of the compensation, being, where such amount is agreed between the acquiring authority and the owner, the amount so agreed, or, where it is assessed in manner hereafter in this Law provided, the amount so assessed, and, where that amount exceeds the amount of the charges thereon, the States may discharge the balance by a cash payment or by the creation of new rentes or by the assignment of ancient rentes :

Provided that where any owner of the land is an infant or a person under interdiction or a *feme covert*, the States shall be bound to discharge the compensation for the acquisition of his or her interest in the

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land, or the balance thereof, by the creation of new rentes or simple conventional hypothecs in favour of such owner which shall not be reimbursable at the instance of the States –

- (a) where the owner is an infant, until the expiration of one year after he has attained his majority ;
- (b) where the owner is a person under interdiction, until the expiration of one year after his reinstatement or, if he is not reinstated, one year after his death.

ARTICLE 7

**BOARD OF ARBITRATORS**

(1) For the purpose of this Law, there shall be a Board to be known as “the Board of Arbitrators” (hereafter in this Law referred to as “the Board”) which shall consist of a Chairman and two other persons and which shall be constituted, as the need arises, in accordance with the provisions of Article 8 of this Law.

(2) The Superior Number of the Royal Court shall appoint at least six persons (not being either Advocates or Solicitors) to form a panel of persons who may be called on to serve as members of the Board.

(3) The constitution of the said panel may be reviewed from time to time and the Superior Number of the Royal Court may make such additions thereto or deletions therefrom as it considers necessary.

ARTICLE 8

**APPLICATION FOR SUBMISSION OF QUESTIONS TO BOARD**

Where it is necessary to determine any question as to compensation, or, where any part of the land to be acquired is subject to a lease which comprises land not to be acquired, any question as to the apportionment of the rent payable under the lease, the Greffier of the States shall make application to the Inferior Number of the Royal Court

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for an order that the question be referred to and determined by the arbitration of the Board and the Court shall appoint an Advocate or Solicitor as Chairman of the Board, and shall designate two persons from the panel appointed under paragraph (2) of Article 7 of this Law as the other members of the Board, for the purposes of the arbitration.

ARTICLE 9

**RULES FOR THE ASSESSMENT OF COMPENSATION**

(1) In assessing compensation, the Board shall act in accordance with the following rules –

- (a) no allowance shall be made on account of the fact that the acquisition is compulsory ;
- (b) the value of the land shall, subject as hereinafter provided, be taken to be the amount which the land, if sold in the open market by a willing seller, might be expected to realise :
 

\* \* \* \* \*<sup>2</sup> ;
- (c) 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 it could be applied only in pursuance of statutory powers, or for which there is no market apart from the special needs of a particular purchaser or the requirements of any public or parochial authority ;
- (d) 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 the public health, the amount of that increase shall not be taken into account ;

<sup>2</sup> Amendment of 26th March, 1964.



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- (e) 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 Board is satisfied that reinstatement in some other place is *bona fide* intended, be assessed on the basis of the reasonable cost of equivalent reinstatement ;
- (f) the Board shall not take into account any interest in land, or any enhancement of the value of any interest in land by reason of any building erected, work done or improvement or alteration made, whether on the land purchased or on any other land with which the person claiming the compensation is, or was at the time of the erection, doing or making of the building, works, improvement or alteration, directly or indirectly concerned, if the Board is satisfied that the creation of the interest, the erection of the building, the doing of the work, the making of the improvement or the alteration, as the case may be, was not reasonably necessary, and was undertaken with a view to obtaining compensation or increased compensation ;
- (g) the provisions of sub-paragraph (b) shall not affect the assessment of compensation for disturbance or any other matter not directly based on the value of land.

(2) For the purposes of this Article, the Board shall be entitled to be furnished with such returns and assessments relating to the land as it may require.

## ARTICLE 10

### **PROCEDURE BEFORE BOARD**

(1) In any proceedings before the Board, not more than one expert witness on either side shall be heard unless the Board otherwise directs :

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Provided that, where the claim includes a claim for disturbance of business, as well as in respect of land, one additional expert witness on either side may be heard with regard to the damage by reason of the disturbance.

(2)      The Board shall be entitled to enter on and inspect any land which is the subject of proceedings before it, and may, if it thinks fit, cause the land to be measured by a public surveyor.

(3)      Proceedings before the Board shall be held in public.

(4)      Subject as aforesaid, the States may make regulations prescribing the procedure before the Board.

#### ARTICLE 11

### **DECISIONS OF THE BOARD**

A decision of the Board shall be taken by the votes of the majority of the members :

Provided that in the event of a failure on the part of any two members of the Board to agree on the amount of compensation which should properly be awarded, the Chairman of the Board shall determine the amount, but, in any such case, the amount so determined shall be not lower than, nor in excess of, the amounts which, in the opinion of the other members of the Board, should be awarded.

#### ARTICLE 12

### **FINALITY OF AWARD AND STATEMENT OF SPECIAL CASES**

(1)      The decision of the Board on any question of fact shall be final and binding on the parties and the persons claiming under them respectively, but the Board may, and if the Inferior Number of the Royal Court so directs shall, state at any stage of the proceedings in the form of a special case for the opinion of the Court, any question of law arising in

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the course of the proceedings, and may state its award as to the whole or part thereof in the form of a special case for the opinion of the Court.

(2) The decision of the Inferior Number of the Royal Court on any case so stated shall be final and conclusive, and shall not be subject to appeal to any other court.

ARTICLE 13

**REGISTRATION OF AWARD OF BOARD**

(1) The award of the Board shall specify, in sterling currency, the amount awarded in respect of each matter the subject of the award and, insofar as the award relates to the acquisition of land on which there are charges which the States are bound under Article 6 of this Law to discharge, shall specify the amount of the charges and, where the amount awarded exceeds the amount of the charges, the manner in which the balance is to be discharged.

(2) The Inferior Number of the Royal Court shall, on application of the Greffier of the States, order the registration of the award of the Board in the Rolls of the Royal Court and shall order the registration in the Public Registry of Contracts of a record of the title of the public in the interest or interests the subject of the award.

(3) A record registered as aforesaid shall have like effect to a contract passed before the Royal Court and the title of the public shall bear the date of the order of the Court.

(4) A record registered as aforesaid shall not be renounced for want of insertion in the register of a “décret” if it bears a date prior to that of the insertion on which a “tenant” is confirmed in the tenure of the real estate “en décret”.

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## ARTICLE 14

**FEES AND EXPENSES**

(1) There shall be paid to the members of the Board fees in accordance with such scale as the States may by regulations determine.

(2) The fees of the Board and all expenses incurred in proceedings under this Law shall be paid by the acquiring authority.

## ARTICLE 15

**DOWER RIGHTS**

A person entitled either actually or contingently to dower on land acquired by compulsory purchase may not claim such dower by actual possession of the land, but shall be entitled to such dower on the basis of the compensation assessed in accordance with the foregoing provisions of this Law.

## ARTICLE 16

**PROTECTION OF THE PUBLIC AGAINST DISPOSSESSION**

(1) The public may not in any circumstances as the result of a “décret” or a “dégrévement” be dispossessed of any land acquired in accordance with the provisions of this Law, nor shall the public be required, in order to retain the property and possession of such land, to be confirmed in the tenure thereof, nor to take any of the proceedings prescribed by the enactments relating to “décrets” and “dégrévements”, but the public shall nevertheless be bound to comply with the conditions mentioned in Article 50 of the “Loi (1880) sur la Propriété Foncière”.<sup>3</sup>

(2) Where the amount of the compensation for the compulsory acquisition of any land has been assessed in accordance with the foregoing provisions of this Law, the amount so assessed and set out

<sup>3</sup> Tomes I-III, page 415.

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in the award of the Board shall be deemed to be the value of the land for the purposes of Article 50 of the “Loi (1880) sur la Propriété Foncière”.<sup>3</sup>

(3) Where any land has been acquired by agreement with the owner thereof and the value thereof has been assessed at the time of the acquisition in conformity with the provisions of Article 51 of the “Loi (1880) sur la Propriété Foncière”,<sup>4</sup> the value thereof shall be deemed to be the value assessed as aforesaid, and, where the value has not been so assessed, the consideration for the acquisition of the land stated in the contract of acquisition shall be taken as the value of the land.

[ARTICLE 16A

**POWER TO PAY ALLOWANCES TO PERSONS DISPLACED**

(1) Where any land is acquired in accordance with the provisions of this Law, the acquiring authority may –

- (a) pay to any person displaced from a house or other building on that land such reasonable allowance as it thinks fit towards his expenses in removing therefrom ; and
- (b) pay to any person carrying on a trade or business in any such house or building, such reasonable allowance as it thinks fit towards the loss which, in its opinion, he will sustain by reason of the disturbance of his trade or business consequent on his having to quit the house or building.

(2) In estimating the loss of any person for the purposes of sub-paragraph (b) of paragraph (1) of this Article, the acquiring authority shall have regard to the period for which the premises occupied by him might reasonably have been expected to have been available for the purpose of his trade or business, and to the availability of other premises suitable for that purpose.]<sup>5</sup>

<sup>4</sup> Tomes I-III, page 416.

<sup>5</sup> Amendment of 26th March, 1964.

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ARTICLE 17

**POWER TO SELL LAND ACQUIRED**

It shall be lawful for the States to sell any land acquired in accordance with the provisions of this Law, or any part thereof, to such persons and for such considerations as they may think fit.

ARTICLE 18

**NOTICES**

(1) Any notice required or authorized to be served by the Greffier of the States for the purposes of this Law may be served either –

- (a) by delivering it to the person on whom it is to be served ;
- (b) by leaving it at the usual or last-known place of abode of that person or, in the case of a company, at its registered office or its principal place of business ;
- (c) by forwarding it by post addressed to that person at his usual or last-known place of abode or, in the case of a company, at its registered office or its principal place of business ; or
- (d) by delivering it to some person on the premises to which it relates or, if there is no person on the premises, then by fixing it on some conspicuous part of the premises.

(2) Any notice required or authorized to be served by the Greffier of the States on the owner, lessee or occupier of any land for the purposes of this Law may be addressed by the description of “owner”, “lessee” or “occupier” of the land (naming it) without further name or description.

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ARTICLE 19

**REPEAL AND TRANSITIONAL PROVISION**

The Compulsory Purchase of Land (Procedure) (Jersey) Law, 1953,<sup>6</sup> is hereby repealed :

Provided that where before the commencement of this Law the States have resolved to acquire any land by compulsory purchase in accordance with the provisions of the said Law of 1953 and the proceedings for the acquisition of the land have not been completed, the proceedings may be completed as if this Law had not been passed.

ARTICLE 20

**SHORT TITLE**

This Law may be cited as the Compulsory Purchase of Land (Procedure) (Jersey) Law, 1961.

**F. DE L. BOIS,**

*Greffier of the States.*

<sup>6</sup> Tome 1951–1953, page 713.