

## PUBLIC PURPOSE, PRIVATE PERIL: THE ACQUISITION OF LAND ACT



By Sebastian Masnyk | September 2025

The Acquisition of Land Act (“the Act”), first enacted in The Bahamas in 1913, sets out the procedure and limitations on the exercise of state power to seize private land for public purposes. This article provides a brief overview of the key provisions of the Act.

### Promoters and Preliminary Inspection

Land acquisition is pursued by one “promoter” or more. A promoter is the Minister responsible for the Acquisition and Disposition of Lands or any statutory corporation.

A landowner may learn of the promoter’s intention to acquire their property in a handful of ways. A preliminary inspection may first be undertaken. Under section 4 of the Act, where the Minister considers that land will likely be needed for a public purpose, he must publish a notice in the Gazette and the relevant magistrate for the district will put up several notices in convenient places to alert the public.

Once these notices have gone up, any authorised person can enter private land and survey it, dig into the soil, mark boundaries by cutting trenches and placing marks, and cut down and clear impeding crops, fences, or vegetation. If someone has a home on the land, the authorised person can enter the home or enclosed court or garden after giving seven days’ notice. Where damage is caused by the preliminary inspection, the Act provides a compensation mechanism, with the value to be determined by a magistrate if not agreed.

### Declaration of Acquisition and Challenge to Purpose

Where the promoter has determined that the land is needed, under section 6 of the Act a further notice must be signed and published in the Gazette, and also posted on a conspicuous part of the land. That notice must contain certain information, including a statement of the public purpose relied upon for the acquisition, and it must be served on the occupier, any mortgage holders, and any other party known to have an interest in the land.

An interested party then has only thirty days under section 6(3) to contest whether the stated purpose is proper. This is a strict barrier, and a Court will generally not entertain an appeal once the time has passed.

As stated by the Privy Council in Bethel and others v Attorney General of the Commonwealth of The Bahamas [2013] UKPC 31:

*“[18] In the Board’s view the meaning of s 6(3) is clear: if no appeal is made to the Supreme Court within 30 days of publication of the notice, it becomes ‘conclusive evidence’ that the land is needed for a public purpose ...”*

However, if the stated public purpose is plainly abandoned by the Government, the Privy Council left open the possibility of advancing such a challenge outside the thirty-day window. It is plausible, for instance, that if the Government stated the land was required for road works but instead converted it into a public park, or it emerged that the acquisition was motivated by improper purposes, a challenge might succeed.

In certain circumstances, the Court will examine the genuineness of a stated public purpose.

In Toussaint v Attorney General of St Vincent and the Grenadines [2007] UKPC 48, the Privy Council permitted reliance on statements made in Parliament to support a judicial review claim where the appellant alleged that the true motive for the acquisition was political.

A key challenge to an affected landowner or interested party is the speed at which they must act. Once notice is given, they should promptly investigate whether the stated purpose is legitimate or contradicted by other evidence.

### **Compensation and Assessment**

Once the time for notices and challenges has passed, interested parties must agree a price. If they cannot do so by negotiation, and the land value is more than \$4,000, the Court will determine compensation. Any interested party may lodge a summons for assessment.

At the first hearing the Court will ensure all relevant parties have been served and appoint assessors: one on behalf of the Government, and the other on behalf of all other interested parties. If the interested parties agree, the requirement for assessors can be waived, leaving the judge to assess compensation alone. The Court then conducts an inquiry in the same manner as a civil trial and determines the amount of compensation due.

Where interested parties fail to convey their interests, refuse to accept compensation, fail to prove their interest, are under a disability, or cannot be located, their share will be held by the Treasurer. They will then have to apply to the Court to claim their share.

The Court when assessing the value to be awarded will consider:

- a) The market value at the date of the Section 6 Notice,
- b) The damage caused by severing the land from other land of the interested parties,
- c) The damage caused by the acquisitions negatively affecting other property belonging to the interest person, whether real or personal or his actual earnings,
- d) If as a result of the acquisition, the affected party has to change his residence or place of business, then reasonable expenses of the change, and
- e) Any accommodation works offered by the promoters to the interested parties.

The Court will also award an additional 10% of the market value, in consideration of the compulsory nature of the acquisition.

### **Vesting of Land and Time Limits on Claims**

Once the compensation is paid to the interested parties or the Treasurer, or if the Minister thinks it necessary to take possession prior to payment, the Minister may by notice in the Gazette declare that the land has been appropriated under section 18. The promoter(s) or the Treasurer will then become vested with the land and may take possession. If possession is not surrendered, warrants may be issued. Where possession is taken before payment, additional interest must be paid to the affected parties. The promoters must record a declaration of the vesting in the Registry of Records once it has occurred under section 18.

The Act also restricts the time within which any claim for compensation can be made. Section 50 provides:

*"No claim for compensation in respect of any land ... shall be admitted or entertained unless the same shall be made within twelve months after the day on which such land shall have been ... entered upon, surveyed, set out, appropriated or taken, as the case may be."*

Where a person cannot be found, but it is plain from the recorded deeds that they have an interest, the Act provides that their funds will be held by the Treasurer. In such a case, although section 50 prevents new claims after twelve months, provided the application is made before twenty years elapse, the interested party may still obtain their share of compensation. Under section 47, however, if funds remain unclaimed for twenty years, they are transferred into the Consolidated Fund and all claims are extinguished.



Such a situation may arise, for example, where a person owned land in The Bahamas but retired or entered care abroad and ceased to monitor their property. If an authorised representative later discovered the entitlement, they could apply to the Court for the allotted compensation to be paid out, provided it fell within the twenty-year period.

## **Conclusion**

The Act provides a fast, streamlined, and efficient method for the Government to acquire private property for a wide array of purposes, while limiting the avenues for dispute. At the same time, it preserves limited protection for parties with an obvious interest in the land, ensuring that they are not wholly deprived of the proceeds of their lost property so long as they assert their rights within the statutory window.

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