

BERMUDA STATUTORY INSTRUMENT

SR&O 63/1971

**ACQUISITION OF LAND (ARBITRATION AND APPELLATE
PROCEEDINGS) RULES 1971**

*[made under section 26 of the Acquisition of Land Act 1970 [title 19 item 2
and brought into operation on 30 October 1971]*

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Interpretation

- 1 In these Rules, unless the context otherwise requires—
- "the Act" means the Acquisition of Land Act 1970 [title 19 item 2];
- "appellant" means a person appealing under section 17 of the Act against an award of the arbitrators;

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"the arbitrators" means the arbitrators appointed by the Governor in exercise of the power conferred upon him by section 10(1) of the Act to determine any question or questions referred to arbitration by the Minister under the Act;

"arbitration proceedings" has the meaning assigned to it by section 11(1) of the Act;

"the Chairman" means that one of the arbitrators appointed by the Governor, in exercise of the power conferred on him by section 10(2) of the Act, to be the Chairman of the arbitrators;

"the hearing" means any part of the arbitration proceedings at which the arbitrators hear evidence or representation by any of the parties to the arbitration proceedings;

"party to the proceedings" means the Minister and any other person to whom has been sent by the Chairman a notice of the place, date and time of the hearing under rule 2(2) and (4);

"persons interested" in relation to the land in question, means any person having an estate, interest, right or easement in or over that land.

PART I

ARBITRATION PROCEEDINGS

Sitting of arbitrators

2 (1) The arbitrators shall sit at such places as the Chairman may from time to time determine.

(2) The Chairman shall send to the Minister and to each of the persons whose names have, in accordance with section 10(5) of the Act, been furnished to him by the Minister as persons interested in or claiming to be interested in the land in question a written notice of the place, date and time of the hearing, which shall be not earlier than fourteen days after the date on which the notice is sent, together with a copy of the reference to arbitration made by the Minister.

(3) The Chairman may, in his discretion, in any case where it appears appropriate to him to do so cause a notice of the place, date and time of the hearing, or any alteration thereof pursuant to paragraph (5), to be published in one or more issues of a newspaper or newspapers.

(4) A person interested or claiming to be interested in the land in question whose name has not been furnished by the Minister to the arbitrators may give notice in writing to the Chairman of his interest or

claim and on receipt of such notice the Chairman shall then send to him a notice of the place, date and time of the hearing together with a copy of the reference to arbitration made by the Minister.

(5) Any party to the proceedings may apply for an alteration of the place, date or time of hearing and the Chairman may after considering such application and any representation made thereon by the parties alter the place, date or time of the hearing to such place or to such later date or time than that specified in any such notice as appears to him to be appropriate and shall notify the parties to the proceedings accordingly.

Procedure at hearing

3 (1) At the hearing the parties to the proceedings shall be heard in such order among themselves as the Chairman may direct and shall be followed by the Minister.

(2) Subject to these Rules the procedure at the hearing shall be such as the Chairman may direct.

Default of appearance

4 If a party to the proceedings does not appear, either personally or by some person authorised to represent him, at the time and place appointed for the hearing the arbitrators may hear and determine the question or questions referred to them in his absence.

Disclosure etc of documents

5 (1) The Minister shall at the request of any party to the proceedings furnish such person with a copy of the particulars furnished by him to the arbitrators pursuant to section 10(5) of the Act.

(2) Any party to the proceedings shall furnish to the Chairman at his request any document or other information which the arbitrators may require and shall afford to all other parties to the proceedings an opportunity to inspect such documents (or copies of such documents) and to take copies thereof:

Provided that nothing in this rule shall be deemed to require the furnishing of any information which it would be contrary to public interest to disclose.

Failure to supply documents

6 If it appears to the arbitrators that any party to the proceedings has failed to send a copy of any document required under these Rules to be sent to any other party or to the Chairman, the arbitrators may direct that a copy of the document shall be sent as may be necessary and that further hearing of the proceedings be adjourned on such terms as the arbitrators may determine.

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Service of notices

7 (1) Any notice or other document required or authorised to be served on any person for the purpose of these Rules may be served—

- (a) by delivering it to the person on whom it is to be served:
or
- (b) by leaving it at the usual or last known place of abode of that person; or
- (c) by sending it by prepaid post addressed to that person at his usual or last known place of abode; or
- (d) in the case of a body corporate, by delivering it or sending it by prepaid post to the secretary or clerk of that body at its registered office or other place of business; or
- (e) if it is not practicable after reasonable enquiry to ascertain the name or address of the owner of any land on whom it should be served, by addressing it to him by the description of "owner" or as the case may be "occupier" of the land to which it relates and by delivering it to some person occupying any premises on the land; or if there is no such person to whom it can be delivered, by affixing it or a copy thereof to some conspicuous part of the premises.

(2) Service effected by delivery pursuant to paragraph (1)(a) or (d) shall have effect from time of delivery.

(3) Service effected otherwise than by delivery shall be deemed to have been effected three days after the steps taken pursuant to any of the provisions of paragraph (1) of this rule have been taken unless and to the extent that the contrary is proved.

Forms of summons

8 (1) A summons issued by the Chairman, in accordance with section 12 of the Act shall be in Form I in the Schedule.

(2) There shall be attached to every such summons a copy of the reference to arbitration made by the Minister,

Failure to comply with Rules

9 Any failure on the part of any person to comply with this Part of the Rules shall not render the proceedings or anything done in pursuance thereof invalid unless the arbitrators so direct.

PART II

APPEALS TO THE SUPREME COURT

Application of Part II

10 This Part shall apply only to appeals to the Supreme Court against an award of the arbitrators.

Filing of notice of appeal

11 Any person wishing to appeal to the Supreme Court against an award of the arbitrators shall lodge with the Registrar of the Supreme Court and the Chairman a notice of appeal which shall be in Form II in the Schedule, with such variations as the circumstances may require.

Service of notice of appeal

12 The appellant shall serve a copy of the notice of appeal under this Part on all other parties to the proceedings.

Procedure after filing notice of appeal

13 Upon receipt of the notice of appeal under this Part, the Chairman of the arbitrators shall forward to the Registrar all documents received by him under section 10(5) of the Act, together with—

- (i) a copy of the reference to arbitration made by the Minister;
- (ii) a copy of the notes of evidence and submissions taken by him at the hearing and any exhibits produced in evidence thereat;
- (iii) a copy of the award made by the arbitrators;
- (iv) a report setting out the reasons for the making of the award by the arbitrators,

and the Registrar shall cause to be made copies of all documents received by him pursuant to this rule and a copy of all such documents shall be forwarded to the appellant and to all parties on whom the notice of appeal under this Part has been served.

Procedure at the hearing of an appeal

14 (1) An appeal to the Supreme Court shall be by way of argument on the record, without prejudice to the power of the Court to admit further evidence, either orally or by affidavit, as the Court shall direct.

(2) The parties to the proceedings on appeal shall be heard in such order as the Court may direct.

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(3) Subject to these Rules the procedure at the hearing of an appeal shall be such as the Court may direct.

Abandonment of appeal

15 An appellant who wishes to abandon his appeal may do so by serving a notice of abandonment in writing on all persons served with the notice of appeal pursuant to rule 12.

SCHEDULE

FORM I

SUMMONS

THE ACQUISITION OF LAND ACT, 1970.

THE [blank] COMPULSORY PURCHASE ORDER, 19

ARBITRATION PROCEEDINGS

Between

THE MINISTER FOR WORKS AND ENGINEERING

and

(persons interested or claiming to be interested in the land in question in the proceedings).

TO:

WHEREAS His Excellency the Governor has appointed arbitrators to determine (a) question(s) referred to Arbitration by the above mentioned Minister which question(s) is/are set out in the copy of the said reference attached hereto:

AND WHEREAS it appears to me the undersigned Chairman of the said arbitrators that you are likely to give evidence which is material to the determination of the said question(s). THESE PRESENTS are therefor to require you to appear and be before the said arbitrators on the [blank] day of [blank] 19 [blank] at [blank] o'clock in the [blank] noon at [blank] (place) to testify what you do know concerning the said question(s). HEREIN fail not.

Given under my hand this [blank] day of 19.

Chairman

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FORM II

IN THE SUPREME COURT OF BERMUDA

IN THE MATTER OF ARBITRATION PROCEEDINGS UNDER SECTION 17
OF THE ACQUISITION OF LAND ACT, 1970

Between

THE MINISTER FOR WORKS AND ENGINEERING

and

(persons interested or claiming to be interested in the land in question in
the proceedings).

NOTICE OF APPEAL TO THE SUPREME COURT

TAKE NOTICE THAT [blank] of [blank] (full address of appellant)
appeals against the award of the arbitrators herein dated the [blank] day
of [blank] 19 [blank] on the following ground(s)—

(here state one or more of the grounds of appeal specified in
section 17(1) of the Act giving proper and adequate particulars of such
ground (s).)

Signature of appellant or
legal representative.

TO: The Chairman of the above mentioned arbitrators.