

CHAPTER 228**LAND ACQUISITION****ARRANGEMENT OF SECTIONS****SECTION**

1. Short title.
2. Interpretation.
3. Power to enter and survey land to be acquired, etc.
4. Power to apply land to purpose for which it is to be acquired without waiting for formal vesting.
5. Acquisition of land.
6. Notice to be given by Chief Surveyor.
7. Claim of person interested to have land acquired or abandoned.
8. Chief Surveyor may require information as to interests in land.
9. Abandonment of acquisition.
10. Compensation for compulsory acquisition.
11. Rules for assessment.
12. Special rule as to severance.
13. Compensation to persons interested in adjacent land.
14. How compensation determined.
15. Proceedings in respect of claims to compensation.
16. Parties to proceedings; and power to appoint guardian *ad litem*.
17. Costs in proceedings in the High Court.
18. Appeal.
19. Rules of court.
20. Payment of compensation, etc.
21. Limitation.
22. Persons refusing to give up possession.

SECTION

- 23. Assaulting or obstructing officers.
- 24. Conveyancing costs to be paid by Chief Surveyor.
- 25. Person in possession to be deemed owner.
- 26. Question of title to be settled summarily by Judge.
- 27. Special provision as to leases.
- 28. Superfluous lands.
- 29. Annual statements.

CHAPTER 228

LAND ACQUISITION

An Act to authorise the acquisition of land for public purposes.

1949-56.
1956-56.
1958-9.
1958-55.
1961-21.
1963-27.
1967-47.
L.N.117/
1964
L.N.168/
1967.
1994-23.

[19th November, 1949]

Commence-
ment.

1. This Act may be cited as the *Land Acquisition Act*.

Short title.

2. (1) For the purposes of this Act, the expression

Interpreta-
tion.

"Chief Surveyor" means the Chief Surveyor, Lands and Surveys;

"compulsory acquisition" means the acquisition of land by virtue of the powers conferred by subsections (1) and (2) of section 5 and "compulsorily acquired" shall be construed accordingly;

"land" includes messuages, lands, tenements and hereditaments of any tenure;

"Minister" means the Minister responsible for Lands;

"person interested" means every person claiming, or entitled to claim, compensation under this Act, provided that a tenant by the month or at will shall be deemed not to be a person interested for the purposes of this Act;

"Registrar" means the Registrar of the Supreme Court and includes the Deputy Registrar.

(2) The Governor-General may direct that any public officer other than the Chief Surveyor shall have charge of the acquisition of any specified land or of the work to be done on any specified land, and

thereupon this Act shall apply in relation to such acquisition or work as though the designation of such other officer was substituted for the words "Chief Surveyor" in the appropriate sections of this Act.

(3) The powers conferred upon the Chief Surveyor by sections 3, 4 and 6 may be exercised by any person acting by the authority of the Chief Surveyor or of the other officer in charge of the acquisition or work, as the case may be.

Power to
enter and
survey land,
to be
required
etc.
L.N. 117/
1964.

3. (1) Whenever it appears to the Minister that any land is likely to be required for any purposes for which the Crown is authorised by any Act to acquire land or for any purposes which, in the opinion of the Minister, are public purposes, a notification to that effect shall be published in 3 successive issues of the *Official Gazette* and of a daily newspaper in Barbados under the hand of the Permanent Secretary to the Minister.

(2) Thereupon it shall be lawful for the Chief Surveyor to do all or any of the following things, that is to say

- (a) to enter upon and survey and take levels of any land in any locality to which the public purposes relate;
- (b) to dig or bore into the sub-soil of such land;
- (c) to do all other acts necessary to ascertain whether the land is adapted to such purposes;
- (d) to set out the boundaries of the land intended to be taken and the intended line of the work, if any, proposed to be done thereon;
- (e) to mark levels, boundaries and lines by placing marks and cutting trenches;
- (f) where otherwise the survey cannot be completed, the levels taken or the boundaries or line of the work marked, to cut down and clear away any standing crop, fence, tree, or bush;
- (g) to set up and maintain gauges in any stream or watercourse and have access to the same from time to time for purposes of observation;
- (h) to do all such other acts as may be incidental to or necessary for any of the purposes aforesaid.

(3) The Chief Surveyor shall not enter under this section into any building or into or upon any enclosed yard, court or

garden attached to a dwelling-house, unless with the consent of the occupier thereof, without previously giving such occupier at least twenty-four hours' notice in writing of his intention to do so.

(4) Compensation shall be paid to the persons interested in the land so entered for any actual damage or injury resulting to them by reason of the exercise of the powers conferred by this section and shall be assessed and paid—

- (a) in so far as it relates to land the acquisition of which is subsequently abandoned under section 9, in accordance with that section:
- (b) in so far as it relates to land the compulsory acquisition of which is subsequently completed under section 5, as though it were part of the compensation for the acquisition of the land.

4. (1) When the notification mentioned in section 3 has been published in relation to any land it shall be lawful for the Governor-General to authorise the Chief Surveyor, without waiting for the formal vesting of the land in the Crown, to do any work on the land connected with the use to which the land is intended to be put on acquisition and thereupon the Chief Surveyor may proceed with such work accordingly.

Power to apply land to purpose for which it is to be acquired without waiting for formal vesting.

(2) Compensation shall be paid to the persons interested for any actual damage or injury resulting to them by reason of the exercise of the powers conferred by this section and shall be determined in the same way as compensation for actual damage or injury resulting from the exercise of the power conferred by section 3.

5. (1) Whenever the Minister has decided, with the approval of both Houses, that any land should be acquired it shall be lawful for the Governor-General whether all or any of the powers conferred by section 3 have been exercised or not, by notification published in the *Official Gazette* and in a daily newspaper in this Island to declare the land to have been acquired for any of the purposes mentioned in section 3.

Acquisition of land.

L.N. 116/1967.

(2) A notification published in the *Official Gazette* under

THE LAWS OF BARBADOS

subsection (1) shall describe the land with precision, either in words or by reference to a map or plan which shall be kept at the office of the Chief Surveyor and shall be open to inspection by the public, and shall be conclusive evidence that the land is required for the public purposes stated therein and upon the publication of the notice as aforesaid, the land shall vest absolutely in the Crown free from all estates, liens and encumbrances.

(3) Nothing in this section shall be deemed to prevent the acquisition of lands for public purposes by private treaty.

Notice to be
given by
Chief
Surveyor.

6. (1) As soon as may be after any land has been compulsorily acquired, the Chief Surveyor shall, if the land acquired has not been marked out, cause the same to be marked out and shall also, before taking exclusive possession of the land, cause a notice or notices in accordance with subsection (2) to be posted conspicuously on the land.

(2) Every such notice shall be signed by the Chief Surveyor and shall—

- (a) state the particulars (as far as may be) of the land acquired; and
- (b) state in respect of what public purposes the land has been acquired; and
- (c) require all persons interested as soon as is reasonably practicable either—
 - (i) to appear personally or by attorney or agent before the Chief Surveyor to state the nature of their respective interests in the land and the amounts and full particulars of their claims to compensation in respect of those interests, distinguishing the amounts under separate heads and showing how the amount claimed under each head is calculated; or
 - (ii) to render to the Chief Surveyor a statement in writing, signed by them or by their attorneys or agents, setting forth the like matters.

(3) Any person removing any marks or defacing any notice placed or posted in accordance with this section shall be liable, on summary conviction before a magistrate, to a fine of ninety-six dollars.

(4) The Chief Surveyor shall also serve a notice to the like effect, either personally or by post addressed to the last known place of abode or business of the person concerned, on every person whose whereabouts are known to the Chief Surveyor and who is known or believed by the Chief Surveyor to be entitled to compensation in respect of the acquisition.

7. Where, within three months after entry has been made on any land under the powers conferred by section 3, such land has not been acquired or notification has not been published or given that the acquisition of such land is abandoned, any person interested in the land, or any part thereof, may serve a notice on the Permanent Secretary to the Minister requiring that the acquisition of such land or part thereof be completed or abandoned and, if within one month thereafter the acquisition of such land or part thereof be not completed or abandoned in accordance with this Act, the acquisition of such land or part thereof shall be deemed to have been abandoned.

Claim of person interested to have land acquired or abandoned.

8. (1) The Chief Surveyor may, by notice served personally or by post addressed to the last known place of abode or business of the person concerned, require any person interested in any land, or in any part thereof, in respect of which a notification in the *Official Gazette* has been published under section 3 or which has been compulsorily acquired to deliver to him, within a time to be specified in the notice, being not less than twenty-one days after service of the notice, a statement in writing containing, so far as may be within the knowledge of such person, the name of every person possessing any interest in the land or any part thereof whether as partner, mortgagee, lessee, tenant or otherwise and the nature of such interest.

Chief Surveyor may require information as to interests in land.

(2) Every person required to make or deliver a statement under this section who—

- (a) refuses to make or deliver such statement; or
- (b) fails without reasonable cause to make or deliver such statement within the time specified in the notice served upon him under subsection (1); or
- (c) wilfully makes any such statement which is false or incomplete in any material particular,

THE LAWS OF BARBADOS

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shall be liable, on summary conviction before a magistrate, to a fine of ninety-six dollars.

Abandonment of acquisition.
1963-27.

9. (1) At any time before any compensation awarded under this Act for the compulsory acquisition of any land has been paid the Minister may, by notification published in the *Official Gazette*, declare that the acquisition of such land is abandoned:

Provided that, where the acquisition of the land has been approved by Parliament, the Minister shall not cause such notification to be published except with the approval of both Houses.

1963-27.

(2) Where the acquisition of any land is abandoned after a notification under subsection (1) of section 5 with respect to such land is published in the *Official Gazette*, then, notwithstanding subsection (2) of section 5, such land shall forthwith upon such abandonment cease to be vested in the Crown and shall be deemed to vest for the same estate and in the same person or persons in whom such land was vested before it was compulsorily acquired, and any notification published pursuant to subsection (1) shall, in any such case, be conclusive evidence of such vesting.

1963-27.

(3) Where compensation has been awarded for the compulsory acquisition of any land and the acquisition of such land is abandoned before such compensation is paid, then such compensation shall not be payable, but any person interested in such land shall be paid compensation for any actual damage or injury resulting to him by reason of the use and occupancy of such land by the Crown.

L.N. 117/
1964.

1967-47.

(4) When the acquisition of any land is abandoned in accordance with this section or is deemed to have been abandoned under section 7, any compensation payable by virtue of this Act shall, in default of agreement, be assessed in the same manner as is provided in this Act for the assessment of compensation on the acquisition of land.

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

Compensation for compulsory acquisition.

10. (1) Compensation in respect of the compulsory acquisition of any land shall be payable in accordance with this Act.

(2) The Judge determining the amount of any such compensation may, unless the compensation is determined under section 15, direct that there shall be included in the sum awarded interest at such rate as he thinks fit, not exceeding six per cent *per annum*, on the whole or any part of the compensation for the whole or any part of the period between the date of the acquisition and the date of the award and in the exercise of this discretion the Judge shall have regard, *inter alia* to—

- (a) any delay on the part of the claimant in submitting a proper claim;
- (b) any circumstances which would justify an order under subsections (3) and (4) of section 17 that the claimant should bear his own costs;
- (c) the conduct of the claimant generally in relation to his claim and to the proceedings;
- (d) whether the claimant continued in beneficial enjoyment of the land in whole or in part after the date of the acquisition.

11. (1) Subject to this Act, the following rules shall apply to the determination of compensation for the compulsory acquisition of land. Rules for assessment.

- (2) (a) The value of the land shall, subject as hereinafter provided, be taken to be the amount which the land, in its condition at the material time, might be expected to realise if sold at that time in the open market by a willing seller for the purpose of being put to the same use to which such land was being put at the material time; 1963-27.
- (b) in ascertaining the value of such land, regard shall be had to the net amount of any income derived from that land at the material time and, where no income is derived therefrom at that time, to the rent at which the land might, at the material time, reasonably be expected to be let from year to year for the purpose of being put to the same use to which it was being put at that time;
- (c) for the purposes of this subsection—

THE LAWS OF BARBADOS

- (i) land shall be deemed to be used for agricultural purposes unless the party claiming compensation proves to the satisfaction of the Judge that at the material time such land was being used for a purpose other than agricultural purposes;
- (ii) the expression “agricultural purposes” includes all purposes directly connected with the use of land as arable, grazing or pasture land or for dairy farming or for any other purpose of animal husbandry including the keeping or breeding of poultry or bees or for the growth of fruit, vegetables or flowers;
- (iii) “the material time” is the date of the first publication in the *Official Gazette* of a notification under section 3 with respect to the land.

(3) 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 requirements of any Department of Government or any local or public authority.

(4) 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.

(5) Where land is, and but for the compulsory acquisition would continue to be, devoted to a purpose of such a nature that there is no general demand or market for land for that purpose, the compensation may, if the Judge is satisfied that reinstatement in some other place is *bona fide* intended, be assessed on the basis of the reasonable cost of equivalent reinstatement.

- (6) No allowance shall be made on account of—
 - (a) the acquisition being compulsory or the degree of urgency or necessity 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 render such person liable to an action;

- (d) any damage, not being in the nature of deprivation of or interference with an easement or legal right, which after the time of awarding compensation is likely to be caused by or in consequence of the use to which the land acquired will be put;
- (e) any increase in the value of the land acquired likely to accrue from the use to which the land acquired will be put;
- (f) any outlay or improvement on such land which is made, commenced or effected within two years before the publication of the notice of appropriation under section 5, with the intention of enhancing the compensation to be awarded therefor in the event or with the view of such land being required for public purposes.

12. As to severance, compensation shall be assessed on the footing that any specified works, crossings or access agreed to on behalf of the Chief Surveyor shall be erected, provided and allowed, and any such agreement shall be reduced into writing and signed by the Judge and shall be valid and effectual and binding on the Chief Surveyor and on the claimant and his successors in title.

Special rule
as to
severance.

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

Compensation to
persons
interested in
adjacent
land.

(2) Compensation shall not be payable under this section in respect of any injurious affection—

- (a) which, if caused by a private person, would not render such person liable to an action; or
- (b) which is caused by the user of land acquired.

14. Compensation payable under this Act shall, in default of determination by agreement, be determined by a Judge as hereinafter provided.

How compensation
determined.

THE LAWS OF BARBADOS

Proceedings
in respect of
claims to
compensation.

1967-47.

15. (1) Proceedings in respect of any claim to compensation under this Act (other than claims determined by agreement) may be taken either by the claimant or by the Chief Surveyor and shall be instituted by summons (hereinafter referred to as the summons for assessment) entitled "In the matter of the Land Acquisition Act, Chapter 228 of the *Laws of Barbados*, and of the compulsory acquisition of the land":

Provided that the Chief Surveyor shall not institute proceedings under this section until the expiration of fourteen days from the date of the publication in the *Official Gazette* of a notification under section 5.

(2) Every summons for assessment shall contain—

- (a) particulars of the land acquired;
- (b) particulars of each person who has an interest in the land acquired and of the nature of such interest;
- (c) particulars of the compensation claimed including the total amount of such compensation and the amounts distinguished under separate heads which make up the total.

(3) Every such summons shall be returnable within fourteen days or such other period as may be prescribed by rules made under section 19 or as the Judge may allow and shall be served on the Chief Surveyor or the claimant or on such other person as the Judge may direct, as the case may be.

(4) Subject to any rules made under section 19, the rules of the High Court applicable in respect of proceedings by way of originating summons shall apply *mutatis mutandis* in respect of the proceedings on a summons for assessment under this Act.

(5) The proceedings on a summons for assessment and all matters and things incidental and ancillary thereto shall be had and taken in the same manner, and the powers of the Judge and the Registrar shall be the same, as in a trial in an action in the High Court.

(6) Without prejudice to the generality of subsection (5), in any proceedings on a summons for assessment—

- (a) the hearing shall be in open court unless the Judge otherwise directs;

- (b) the Judge shall have the same powers to control the proceedings as in a trial in an action in the High Court;
- (c) any award made by the Judge may be enforced in the same manner as a judgment of the High Court.

16. (1) In any proceedings for a summons for assessment instituted by the Chief Surveyor for determining the amount of any compensation payable under this Act, every person by whom or on whose behalf any such compensation is claimed or who has an interest in the land in respect of which compensation is payable under this Act shall be named as a party to the proceedings.

Parties to proceedings; and power to appoint guardian *ad litem*.

1967-47.

(2) Where in any such proceedings, or if otherwise, the Judge is of the opinion that any person by whom or in whose behalf compensation is claimed or who has an interest in the land in respect of which compensation is payable is subject to any disability or incapacity, the Judge may appoint a guardian *ad litem* to protect the interests of that person.

17. (1) Subject to this section, the amount of costs to be awarded in proceedings in the High Court and all questions relating thereto shall be determined by the Judge, who may direct to and by whom and in what manner these costs or any part thereof shall be paid, and the Judge may award lump sum costs or may direct that they be taxed.

Costs in proceedings in the High Court.

(2) The Chief Surveyor shall pay to the claimant the reasonable costs incurred by him in or about the preparation and submission of his claim unless he has failed to put forward a proper claim within the time specified in the notice under section 6 or the claim put forward is grossly excessive or he has been a party to some deceit or fraud in respect of his claim.

(3) Subject to subsection (2), where an unconditional offer in writing of any sum as compensation to any claimant has been made by or on behalf of the Chief Surveyor and the sum awarded as compensation does not exceed the sum offered, the Judge shall, unless for special reasons he thinks proper not to do so, order the claimant to bear his own costs and to pay the costs of the Chief Surveyor so far as the costs of the Chief Surveyor were incurred after the offer was made.

THE LAWS OF BARBADOS

(4) Where the claimant has failed to put forward a proper claim in sufficient time to enable the Chief Surveyor to make a proper offer, the foregoing provisions of this section shall apply as if an unconditional offer had been made by or on behalf of the Chief Surveyor at the time when, in the opinion of the Judge, a proper claim should have been put forward and the claimant had been awarded a sum not exceeding the amount of such offer.

(5) Subject to subsection (2), where a claimant has made an unconditional offer in writing to accept any sum as compensation and has put forward a proper claim in sufficient time to enable the Chief Surveyor to make a proper offer and the sum awarded is equal to or exceeds that sum, the Judge shall, unless for special reasons he thinks proper not to do so, order the Chief Surveyor to bear his own costs and to pay the costs of the claimant so far as the costs of the claimant were incurred after the offer was made.

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

(7) Without prejudice to subsection (6), all costs shall be recoverable as though they were costs awarded in an action in the High Court.

(8) For the purposes of this section, costs includes fees, charges and expenses.

Appeal.
1967-47.

18. Either party may appeal to the Court of Appeal and every such appeal shall be made within the time and in the manner laid down by any enactment or rules of court for the purposes of appeals from the High Court to the Court of Appeal and shall be subject in all respects to the law relating to such appeals.

Rules of
court.

LN 168/
1967.

19. The Judicial Advisory Council may make rules for regulating the practice and procedure to be adopted in proceedings in the High Court and Court of Appeal, under this Act and for prescribing the forms to be used and the scales of fees and costs to be applied.

20. (1) All compensation awarded by a Judge under this Act, shall, unless the compensation is determined under section 15, bear interest at the rate of six per cent *per annum* from the date of the award until payment to the claimant or payment into court under subsection (3).

Payment of compensation, etc,
LN 168/
1967.

(2) All compensation under this Act and all costs, charges and expenses lawfully incurred or payable by the Chief Surveyor shall be paid from moneys voted for the purpose by Parliament.

(3) Where there is no person able to give a good discharge for any compensation payable under this Act or no person can be found to receive the same, after the amount of the compensation has been determined, the Chief Surveyor may pay the compensation into the High Court to the credit of the person entitled.

(4) Any compensation so paid into court may, on the subsequent application of any person claiming to be entitled thereto, be paid out to such person on the order of a Judge.

21. (1) No claim for compensation in respect of the compulsory acquisition of land shall be admitted or entertained unless it is made in writing to the Chief Surveyor within two years after the publication in the *Official Gazette* under section 5 of the notice of appropriation of the land.

Limitation.
1958-9.

(2) No claim to compensation under section 9 shall be admitted or entertained unless it is made in writing to the Chief Surveyor within two years after the publication in the *Official Gazette* of the notification mentioned in that section.

(3) No claim for compensation under section 13 shall be admitted or entertained unless it is made in writing to the Chief Surveyor within two years after the publication by the Chief Surveyor in the *Official Gazette* of a notification of the completion of the work in respect of which the land was acquired.

22. (1) Where any person refuses to give up possession of any land or hinders the Chief Surveyor or a person authorised by the Chief Surveyor in taking possession of any land which

Persons refusing to give up possession.

THE LAWS OF BARBADOS

has been acquired for public purposes or on which the Chief Surveyor or such person is authorised by virtue of this Act to do any work or thing, it shall be lawful for any magistrate to issue his precept or warrant to a police or parish constable to enter upon the lands, the possession of which is refused or withheld, and to take possession thereof and to deliver the possession of the same to the Chief Surveyor or such person.

(2) The police or parish constable is hereby authorised and required to take such possession and to deliver the same accordingly.

Assaulting or
obstructing
officers.

23. Any person who assaults or obstructs or abets any person in assaulting or obstructing—

- (a) any police or parish constable in the execution of his duties under this Act; or
- (b) the Chief Surveyor or a person authorised by the Chief Surveyor in the exercise or performance of any power or duty conferred or imposed by this Act,

shall be guilty of an offence and shall be liable on summary conviction before a magistrate to a fine of two hundred and forty dollars.

Convey-
ancing costs
to be paid by
Chief
Surveyor.

24. All reasonable costs, charges and expenses incurred by the owners of the land or parties therein interested for all conveyances and assurances of any lands purchased or acquired, and of any outstanding terms of interest therein, and of deducing, evidencing and producing title to such lands, terms or interest, and of making out such abstracts and attested copies as the Chief Surveyor may require, and all other reasonable expenses incident to the investigation, deduction and verification of titles shall be paid by the Chief Surveyor.

Person in
possession to
be deemed
owner.

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

26. (1) It shall be lawful for a Judge, upon the application of any party when any question of title to any lands in respect of which compensation is by this Act authorised to be made arises, to summon the other party or parties to appear before the Judge at a time and place to be named in the summons.

Question of title to be settled summarily by Judge.

(2) Upon the appearance of such parties, or in the absence of any of them upon proof of due service of the summons, it shall be lawful for the Judge to hear and determine such question and for that purpose to examine such parties, or any of them, and their witnesses upon oath, and the cost of such enquiry shall be in the discretion of, and the amount thereof shall be taxed and allowed by, the Judge.

27. Where any land is comprised in a lease for a term of years unexpired and part only of such land is compulsorily acquired, the rent payable in respect of the land comprised in such lease may, on the application of the lessor or the lessee to the Judge, be apportioned between the land acquired and the residue of land.

Special provision as to leases.

(2) After such apportionment the lessee shall, as to all future accruing rent, be liable only to so much of the rent as is so apportioned in respect of the residue of the land, and as to the residue of the land, and as against the lessee, the lessor shall have all the same rights and remedies for the recovery of such portion of the rent as previously to such apportionment he had for the recovery of the whole rent reserved by such lease.

(3) All the covenants, conditions and agreements of such lease, except as to the amount of the rent to be paid, shall remain in force with regard to the residue of the land in the same manner as they would have done in case the residue of the land only had been included in the lease.

28. Where lands acquired under this Act have become superfluous and are no longer required for the purpose for which the same were so acquired, the Minister may,

Superfluous lands.
1994-23.

- (a) grant a licence to use such lands for any purpose or for such purposes as are mentioned in the licence;

- (b) grant by way of licence or letting any easement, profit or right in respect of any such lands;
- (c) with the approval of Parliament, sell, lease, exchange or grant, any such lands.

**Annual
statements.
1994-23.**

29. In respect of each financial year and within 3 months after the close of such financial year, the Minister shall cause to be laid before both Houses of Parliament a statement of all dealings, transactions and dispositions with respect to superfluous lands which have been effected by him without the prior approval of Parliament.