

GOVERNMENT SCHEME FOR RETURN OF LAND COMPULSORILY ACQUIRED BY THE GOVERNMENT OR PURCHASED BY GOVERNMENT BY PRIVATE AGREEMENT DURING THE PERIOD 1977-1993

Introduction

1. From the 1st October, 2021, the Government of Seychelles has introduced a scheme for the return of land that during the period 1977 to 1993 the Government either compulsorily acquired under the Lands Acquisition Act, 1977, or purchased under a private agreement that the sellers claim that if they had refused to sell to the Government, the Government would have compulsorily acquired the land (hereinafter “acquisition by Government by private agreement”). The scheme is hereinafter referred to as the “Scheme”.

The Scheme

2. The Scheme is based on the principle that land which was either compulsorily acquired or acquired by the Government by private agreement for a public purpose or in the national interest and which is still undeveloped and not earmarked by the Government to be utilized in the public interest or for a public purpose will be considered for return to the original owner or his executor or heir (hereinafter the “previous owner”).
3. Undeveloped land will be considered for return to their former owners in consideration of:
 - 3.1 the previous owner refunding the Government a proportion or the whole, as applicable, of the monetary compensation paid by the Government to the previous owner under the Land Acquisition Act, 1977 and/or Part III of Schedule 7 of the Constitution (*Compensation for past land acquisition*);
 - 3.2 the applicant discontinuing any pending claim under the Truth, Reconciliation and National Unity Commission Act, or irrevocably foregoing or waiving any claim for reparation recommended to the Government by the Truth and Reconciliation and National Unity Commission in respect of a violation in relation to unjustified acquisition or loss of property.

4. The Scheme will apply to land previously owned by previous owners who were Seychellois citizens at the material time in the spirit of national reconciliation and unity. Every application will be considered on a case-by-case basis according to the conditions, procedures and guidelines set out below.
5. The scheme will not apply to:
 - 5.1 land compulsorily acquired under the Land Acquisition Act, 1977, or acquired by the Government by private agreement during the said period from:
 - 5.1.1 a non-Seychellois individual;
 - 5.1.2 a body corporate registered, incorporated or existed under any law or its successor in title;
 - 5.2 land where compensation has been paid by the Government to the previous owner on the basis of market value under Part III of Schedule 7 of the Constitution on the basis of the Seychelles Court of Appeal decision in the case of *Government of Seychelles & the Attorney General, Appellants, v/s Charles Alfred Paul Moulinie, Respondents, SCA 16 of 2012*; and
 - 5.3 land that was the subject of an exchange with the Republic; and
 - 5.4 land that was the subject to forfeiture to the Republic under the Immovable Property (Transfer Restriction) Act.

Procedures and Guidelines

6. All Seychellois individuals whose land :
 - 6.1 was compulsorily acquired by the State under the Lands Acquisition Act, 1977, during the period 1977 to 1993; and who had submitted an application for compensation under Part III of Schedule 7 of the Constitution; or
 - 6.2 was acquired by the Government by private agreement as defined above,may submit an application to the Government for the return of land, which has not been developed or fully developed.

7. An application shall be made by the previous owner or his or her legal representative or, where the previous owner is deceased, by the executor of the estate of the previous owner or any or all of the heirs of the deceased previous owner or their legal representative.
8. The application shall be made in the prescribed form and shall be submitted within 3 months from 1st October, 2021.
9. No application will be entertained after the expiration of the specified period.
10. Land that has not been developed or fully developed **excludes** the following:
 - 10.1 Land required by Government for planned future housing, community and related infrastructure projects which is in the public interest or for public purpose. A list of those will be published by the Government with their coordinates by the latest 31st December 2021;
 - 10.2 Land for which outline planning approval has been granted by the Town and Country Planning Authority before 31st December 2021 for a development project which is in the public interest or for a public purpose, e.g. housing estates, land bank projects, community facilities etc....;
 - 10.3 Land on which situate estate roads, sites for sewerage treatment works and other public utilities including but not limited to electrical substations, and waterworks and water storage infrastructure and areas considered as recreation or public amenity in a residential estate;
 - 10.4 Land sold or transferred to third parties including State owned Enterprises (SOE's) and other public authorities before 31st December 2021 or that Government before the said date had agreed to transfer to them;
 - 10.5 Land leased to SOE's and public authorities before 31st December 2021;
 - 10.6 Land which was held on a lease by an applicant at the date of compulsory acquisition or acquisition by the Government by private agreement and which was owned by the Republic at such date;
 - 10.7 Outlying Islands;

- 10.8 Land leased for agricultural purposes where such land is being utilized to the extent commensurate with the topography and other physical characteristics of the land as certified by the Seychelles Agricultural Agency (SAA) before 31st December 2021.
11. Where part of the land is returned the formula for calculation of the refund of monetary compensation shall be as follows:
- $$R = \frac{A1 \times C}{A2}$$
- Where:
- R= REFUND AMOUNT
A1= AREA RETURNED IN SQUARE METERS
A2= AREA COMPULSORILY ACQUIRED OR ACQUIRED BY PRIVATE AGREEMENT IN SQUARE METERS
C= TOTAL MONETARY COMPENSATION PAID
12. All applications received will be considered on a case-by-case basis.
13. Undeveloped land which will be returned will be transferred back to their original owners or their executors or heirs, as applicable, in consideration of the refund of the monetary compensation paid by the Government in respect of the compulsory acquisition of the land or the price paid by the Government to acquire it by private Agreement or such part thereof as per the above-mentioned formula.
14. The return of the land will represent full, final and total compensation under the scheme and shall discharge the Republic from any further liabilities, obligations, etc. in respect of the beneficiaries and the land returned including any reparation recommended for the persons to which the land is transferred to under the Truth, Reconciliation and National Unity Commission Act.
15. Where land that had been compulsorily acquired or acquired by the Government by private agreement has been leased or such other right or interest, personal or real, granted by the Republic to a third party (with Government owning the freehold title thereof) satisfy the criteria for return to its former owner(s), the freehold title to such land may be returned subject to the lease or such other third party right or interest and the express agreement of the previous owner/transferee that the previous owner/transferee will adhere to the Government's obligations under the lease or such other agreement

for the third party right or interest. Appropriate notice of the intended transfer may be given by the Government to the lessee or third party.

16. Land agreed for return will be returned on an "as is basis" and subject to its existing status (e.g. a national park, a nature reserve, a sanctuary or an area of historical interest or any similar area established under the Nature Reserves Act or the Seychelles Heritage Foundation Act or the National Monuments Act or similar or connected legislation) or any restriction or encumbrance under any law.
17. The previous owner shall take the land that the Government will agree to return to the previous owners as it is without any representation, warranty or guarantee on the part of the Government of the suitability of the land for any development that the previous owner intends to use the land for. Any proposal for development by the previous owner/transferee of the land will be subject to approval from the Town and Country Planning Authority.
18. Any related survey works will be carried out by private land surveyors at the cost and expense of the previous owner based on coordinates provided by the Ministry responsible for lands.
19. Where the previous owner is deceased, agreement for the return of the land shall be subject to a written agreement by and between the Government and the executor of the estate of the deceased or all the heirs of the deceased person.
20. All applications will be processed by the Ministry responsible for Lands.
21. An advisory committee will be set up with whom the Minister responsible for lands will consult in respect of land that the Government will require in the public interest or for a public purpose.
22. The Minister will in consultation with the advisory committee make recommendations to the President for return of land under the scheme as required by the State Land and River Reserves Act.
23. The Land Compensation Tribunal will be abolished and its mandate and functions will be transferred to the Ministry of Lands and Housing which will continue to consider the outstanding applications for compensation submitted during the period of 12 months ending 21st June 1994 under Part III of Schedule 7 of the Constitution. As far as

possible, the Ministry of Lands and Housing will consider the return of undeveloped land in its settlement proposals in accordance with this scheme.

24. A bill to amend the State Land and River Reserves Act will be presented to the National Assembly to grant the necessary powers to the President to dispose of State land, both with or without valuable consideration and for land in excess of 5 acres, under this Scheme.
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