

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

PROCEDURES AND GUIDELINES

The Government of Seychelles with effect from 1st October, 2021, will introduce a Scheme for return of land which was either compulsorily acquired by the Government under the Land Acquisitions Act, 1977, or that the Government purchased under a private agreement with the seller where the seller claims that if upon Government's offer to purchase the land the seller had refused to do so, the Government would have compulsorily acquired it (hereinafter "Acquisition by Private Agreement") during the period 1977 to 1993.

The Scheme is based on the principle that land which was either compulsorily acquired or acquired by private agreement for a specific public purpose or in the national interest and which is still undeveloped and not earmarked to be utilized in the public interest or for a public purpose can be considered for return to the original owner or their executor or heirs.

Undeveloped land will be considered for return to their former owners in consideration of:-

- (i) the refund of a specified percentage or all, as applicable, of the monetary compensation paid by the Government to the previous owner or his successor in title in respect of compensation paid under the Land Acquisition Act, 1977 and their claim under Part III of Schedule 7 of the Constitution as applicable;
- (ii) the applicant discontinuing any claim to the Truth, Reconciliation and National Unity Commission, or irrevocably foregoing or waiving any claim based on the recommendation for reparation by the Truth and Reconciliation and National Unity Commission in respect of the compulsory acquisition or the acquisition by private agreement.

This form of redress will be applicable to land previously owned by Seychellois individuals only in the spirit of national reconciliation and unity and will be considered on a case by case basis, based on the procedures and guidelines set out below.

The scheme will not apply in respect of:-

- (1) any land compulsorily acquired under the Land Acquisition Act, 1977, or acquired by the Government by private agreement during the said period from non-Seychellois individuals or body corporate whether registered, incorporated or existed under the laws of Seychelles or their successor in title; and
- (2) land where compensation has been paid on the basis of market value by the Government under Part III of Schedule 7 of the Constitution on the basis of the Seychelles Court of Appeal decision in the case of *Moulinie v Government of Seychelles & Attorney General*; and
- (3) compensation that was determined by the competent courts in the Third Republic on a petition for compensation under Part III of Schedule 7 of the Constitution.**
- (4) Applications in respect of land which has been the subject of an exchange with the Republic or in respect of land which has been forfeited to the Republic under the Immovable Property (Transfer Restriction) Act

Procedures and Guidelines

1.0 All Seychellois individuals whose land---

- 1.1 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
- 1.2 was acquired by the Government by private agreement as defined above by the State during the period 1977 – 1993,

may submit an application to Government for the return of land, which has not been developed or fully developed, subject to the following:

The application in the prescribed form shall be submitted within 3 months from 1st October, 2021. No application will be entertained after the expiration of the specified period.

- 2.0 An application shall be made by the previous owner or his 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.
- 3.0 Land which has not been developed or fully developed **excludes** the following:
- (a) Land required by Government for **planned** future housing, community and related infrastructure projects which is in the public interest. A list of those will be published with their coordinates by the latest 31st December 2021
 - (b) Land for which outline planning approval has been granted by the Planning Authority for a **development project which is in the public interest** eg: housing estates, land bank projects, community facilities etc. before 31st December 2021
 - (c) All 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.
 - (d) Land sold to third parties including State owned Enterprises (SOE's) and Public Authorities before 31st December 2021.
 - (e) Land leased to SOE's and Public Authorities before 31st December 2021.
 - (f) Land which was held on a lease by an applicant at the date of compulsory acquisition or acquisition by private agreement and which was owned by the Republic at such date.
 - (g) Outlying Islands;

- (h) 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.

4.0 Where part of the land is returned the formula for calculation of the refund of monetary compensation will be:

$$R = \frac{A1 \times C}{A2}$$

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

5.0 All applications received will be considered on a case by case basis.

6.0 Undeveloped land which can be considered for return will be transferred back to their original owners or their executors or heirs, as applicable, prior to compulsorily acquisition or acquisition by the Government by private agreement in consideration of the refund of the monetary compensation paid by the Government in respect of the land or such part thereof as per above-mentioned formula and will be subject to a written agreement with the Republic that such return of land where applicable, represents full, final and total compensation under this form of redress and discharging 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 under the Truth, Reconciliation and National Unity Commission Act

7.0 Where land which had been compulsorily acquired or acquired by the Government by private agreement has been leased or similar or real rights granted by the Republic to a third party and meets the criteria for return to its former owner/(s) it may be returned subject to the lease and the express agreement of the transferee that the transferee will adhere to the lessor's obligations under the lease. Appropriate notice of the intended transfer may be given to the lessee or beneficiary.

- 8.0 Land agreed for return will be returned on an "as is basis" and subject to its 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. The Republic will be discharged from any obligation to grant any developments rights to the land. Any proposal for development by the beneficiaries will be subject to approval from the Town and Country Planning Authority.
- 9.0 Any related survey works will be carried out by private land surveyors based on coordinates provided by the Ministry responsible for Lands at the cost of the applicant.
- 10.0 Where the previous owner is deceased, agreement for the return of the land shall be entered into with the executor of the estate of the deceased or all the heirs of the deceased person.
- 11.0 The Ministry responsible for Lands will process all claims..
- 11.1 The President will set up an advisory committee that the Minister responsible for lands will consult in respect of land that is the subject of an application that the Government will require in the public interest or for a public purpose.
- 11.2 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.
- 12.0 On the other hand, the Land Compensation Tribunal will be abolished and its mandate and functions will revert back to the Ministry which will continue to consider the outstanding cases of compulsory acquisition for which an application for review was submitted during the statutory period of 12 months ending 21st June 1994 under Part III of Schedule

7 of the Constitution. As far as possible, the Ministry will consider the return of undeveloped land in its settlement proposals in accordance with this form of redress.

- 13.0 The return of undeveloped land as proposed will require an amendment to the State Land and River Reserves Act 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, as a form of redress for land compulsorily acquired by Government or acquired by private agreement by Government during the Period 1977-1993. The Attorney General's office will be publishing the Bill for the proposed amendments shortly.