

4. How can a district acquire land when the owner refuses to sell?

The Land Acquisition Act (1965) was created to say the Government can acquire land which it needs, when an owner does not want to give it or sell it. Sections 2 to 7 describe the exact steps which must be followed by the authority which wants to acquire the land. These are described below. However, this leaflet is only intended to give general information, and the actual Act should always be consulted and followed by anyone actually proposing to carry out compulsory purchase. There are three key stages:

1. Application to the Ministry of Lands, for permission to acquire through compulsion
2. Assessment of compensation claims and sale price
3. Taking possession of the land

1. Application to the Ministry of Lands, for permission to acquire through compulsion

This is the only stage for which the District can take responsibility. The Minister responsible for Lands has to be satisfied that the land is needed by the Government for a public purpose and that no alternative land is available. The District must therefore apply to the Ministry of Lands, Housing and Urban Development whenever it wants to use compulsory purchase to acquire land. The Minister makes a public declaration that the acquisition should go ahead, and then appoints an “assessment officer” who makes sure that a map has been drawn up of the exact land to be acquired.

2. Assessment of compensation claims

The assessment officer is responsible for putting up notices of the Government’s intention to acquire the land by compulsory acquisition, in public places near the land and in the Gazette (the Government’s own paper), calling on anyone with an interest in the land to apply for compensation. It is important to note compensation is not restricted to one person as “the owner” of the land, but to anyone who had an interest in the land or some rights to use it. The deadline for making these claims will be set by the assessment officer, but he must give people between two and four weeks.

The assessment officer appointed by the Ministry then investigates all the claims, and must decide how much compensation should be paid in total, and how this money should be divided between all the different people with some interest in the land. (The District Land Board has been given the responsibility for setting compensation rates for crops or other non-permanent structures on land, but not the value of the land itself or any permanent buildings.) The law does not make any provision for a District to be involved in setting compensation rates. People have to appeal to the High Court, if they do not feel the levels of compensation were adequate or if they were not given any compensation but felt that they should have been.

3. Taking possession

The Assessment Officer is responsible for notifying everyone about the decisions reached for compensation. It is the Assessment Officer who formally “takes possession” of the land, and who is responsible for notifying the Registrar of titles, so that they can issue a freehold title in the name of the Uganda Land Commission. The 1965 Act says that the Assessment Officer can take possession of the land as soon as compensation claims are decided upon, even before they are actually paid, but the 1995 Constitution stipulates that compensation must be prior to possession and must be prompt. It is the Constitution that must be followed.

It is clear that the main problem for a District with this process is that everything depends upon the Ministry in Kampala. If many Districts across the country all have several urgent development plans needing to go through this process, it won’t be possible for the Ministry to respond to the needs of the Districts.

It is important that compulsory acquisition is an option for Districts, but it is rarely likely to be the easiest choice for them. It is expensive in terms of time and of money. Where possible, Districts will usually find it easier to negotiate and reach amicable settlement with landowners, to lease land or to buy it.

