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## Key changes of the Land Acquisition (Amendment) Act 2016

On 1 December 2017, the Land Acquisition (Amendment) Act 2016 (“the Amendment Act”) came into force. The amendments aim to improve land acquisition procedures in Malaysia due to the scarcity of suitable land for underground development such as the Mass Rapid Transit (MRT), High Speed Rail (HSR) and Bandar Malaysia projects.

### Key changes of the Amendment Act:

#### 1. Acquisition of underground land allowed

Currently, there are no specific provisions on underground land which pose difficulties for developers to acquire underground land. Now acquisition of underground land is permitted for building of tunnels, drainage systems and underground infrastructure. Where the acquisition of part of the land refers to an underground land, the Land Administrator is required to prepare a plan that describes the extent and depth of the area of the underground land to be acquired.

To facilitate the provisions concerning underground land, the National Land Code (Underground Land) (Minimum Depth) Regulations 2017 (“the Regulations”) was Gazetted on 7 December 2017 which prescribes the minimum depth of the following types of land use as follows:

Description	Minimum Depth (m)
Agricultural	6
Building	10
Industry	15

Before a project can be implemented, the technical aspects and safety of those above must be considered. Compensation will be paid to those who are required to vacate their premises temporarily for their safety while the underground project is carried out, according to Natural Resources and Environment Minister Datuk Seri Dr. Wan Junaidi Tuanku Jaafar.

#### 2. Compliance requirements for the Land Administrator in relation to subdivided building or land

Where there is an acquisition of land with subdivided building or land, the Land Administrator is required to endorse acquisition notes on the document of title. The Land Administrator will also be required to serve Form K (Notice to take formal possession of land) on the management corporation and to also comply with the provisions under the Strata Titles Act 1985 where it involves acquisition of part of a subdivided building or land.

#### 3. Evidence to be recorded during enquiry

Where the State Authority is of the opinion that a land is urgently required for public purpose or public utility which is beneficial for the economic development of the nation or to the public, the State Director may issue a Certificate of Urgency (“the Certificate”) to direct the Land Administrator to take possession of the land. Despite the possession of the land, however, the Land Administrator is required to continue to make a full enquiry and to record all evidences in order to determine the amount of compensation to be awarded.

#### 4. **Late payment charges reduced**

The rate of late payment charges have been reduced from 8% per annum to 5% per annum and it is no longer automatic. Any late payment charges or additional compensation awarded is to be paid only if the court so orders.

#### 5. **Limits of compensation increased for appeals**

The threshold for right to appeal to the High Court has been increased as follows:

- for landowners: RM3,000 to RM5,000;
- for government or any person or corporation: RM15,000 to RM30,000.

Currently, a landowner can appeal to the High Court by filing an objection if he is not satisfied with the compensation made by the Land Administrator. A similar right to appeal on compensation awarded by the Land Administrator has been introduced in the Amendment Act where the State Authority:

- withdraws from the acquisition;
- needs temporary occupation and use of the land.

#### 6. **Objections on compensation permitted**

Where the State Authority withdraws from the acquisition or needs temporary occupation of the land and an award for compensation has been made by the Land Administrator, a person interested may make an objection to the compensation made.

The objection may be made where the person has made a claim to the Land Administrator and who has not accepted the Land Administrator's award or has accepted payment of such award under protest.

The Amendment Act also provides that in relation to acquisition for temporary use or occupation of land, any Government, person or corporation is deemed to be a person interested and is entitled to make an objection.

#### 7. **Temporary occupation or use of land under town and country planning laws**

Currently, the State Authority is empowered to procure temporary occupation or use of land under four circumstances namely:

- public purposes;
- beneficial economic developments of the nation and public;
- the purposes of mining, residential and agricultural, commercial, industrial, recreational, or any combination of such purposes; and
- public works.

Now, a land may also be acquired for temporary occupation or use if the land has been indicated in a development plan under the town and country planning laws. The land may be acquired for a term not exceeding 3 years and a note of temporary occupation or use of land must be endorsed on the document of title by the Land Administrator.

## 8. **Written opinion of valuer allowed before making offer of compensation**

A Land Administrator is allowed to obtain a written opinion on the value of the land from a valuer before making an offer of compensation.

Equitable arrangements may also be entered upon by the Land Administrator as a substitute to the monetary compensation, in full or in part, with a person who has an interest in the land. The particulars of such equitable arrangement must be recorded once an equitable arrangement is reached.

Furthermore, even when the land owner does not agree with the compensation, the State Authority is permitted to temporarily occupy the land.

## 9. **Where compensation can't be agreed upon**

Landowners who are aggrieved with the compensation offered by the Land Administrator may object to the compensation and refer their dispute to Court under the Amendment Act.

Previously only the Land Administrator was allowed to refer disputes if the Land Administrator is unable to agree with the landowner on the amount of compensation to be paid for:

- temporary use or occupation of land; or
- restoration of land temporarily occupied

Now that aggrieved landowners are allowed to refer their dispute to Court, the amendment brings more fairness compared with the position previously.

If you have any questions or require any additional information, you may contact [Ravichandran Sinnappah](#) or the ZICO Law partner you usually deal with.

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