

BILL No. 97 OF 2007

THE LAND ACQUISITION (AMENDMENT) BILL, 2007

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BILL

further to amend the Land Acquisition Act, 1894.

BE it enacted by Parliament in the Fifty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Land Acquisition (Amendment) Act, 2007.

Short title
and com-
mencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different provisions of this Act and any reference in any provision to the commencement of this Act shall be construed as reference to the coming into force of that provision.

2. In the long title to the Land Acquisition Act, 1894 (hereinafter referred to as the principal Act), the words “and for Companies” shall be omitted.

Amendment of
long title.

Amendment of preamble.

3. In the principal Act, in the preamble, the words “and for Companies” shall be omitted.

Insertion of new section 1A.

4. After section 1 of the principal Act, the following section shall be inserted, namely:—

Application of Rehabilitation and Resettlement Act, 2007 to persons affected due to land acquisition.

“1A. The provisions of the Rehabilitation and Resettlement Act, 2007 shall apply in respect of acquisition of land by the appropriate Government under this Act.”.

Amendment of section 3.

5. In section 3 of the principal Act,—

(i) for clause (b), the following clause shall be substituted, namely :—

‘(b) the expression “person interested” includes,—

(i) all persons claiming an interest in compensation to be made on account of the acquisition of land under this Act;

(ii) tribals and other traditional forest dwellers, who have lost any traditional rights recognised under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006;

(iii) a person interested in an easement affecting the land; and

(iv) persons having tenancy rights under the relevant State laws;’;

(ii) after clause (cc), the following clause shall be inserted, namely :—

‘(ccc) the expression “cost of acquisition” includes—

(i) compensation awarded including the solatium and other amount and interest payable thereupon;

(ii) demurrage to be paid for damages caused to the land and standing crops in the process of acquisition;

(iii) cost of acquisition of out-project land for settlement of displaced or adversely affected families;

(iv) cost of development of infrastructure and amenities at resettlement sites;

(v) additional cost of resettlement as may be required after admissible adjustment of rehabilitation and resettlement cost against compensation awarded to affected persons or families;

(vi) administrative cost of acquisition of land including both in-project and out-project areas lands; and

(vii) administrative cost involved in planning and implementation of resettlement and rehabilitation packages for providing physical rehabilitation and resettlement to the entitled and interested families, displaced or adversely affected on account of in-project acquisition of land;’;

(iii) clauses (d) and (e) shall be omitted;

(iv) for clause (ee), the following clause shall be substituted, namely:—

‘(ee) the expression “appropriate Government” means,—

(i) in relation to acquisition of land for the purposes of the Union, the Central Government;

(ii) In relation to acquisition of land for the purposes of any infrastructure project in more than one State, the Central Government; and

(iii) in relation to acquisition of land for any other purpose, the State Government;’;

(v) for clause (f), the following clause shall be substituted, namely:—

‘(f) the expression “public purpose” includes,—

(i) the provision of land for strategic purposes relating to naval, military and air force works or any other work vital to the State;

(ii) the provision of land for infrastructure projects of the appropriate Government, where the benefits accrue to the general public; and

(iii) the provision of land for any other purpose useful to the general public, for which land has been purchased by a person under lawful contract to the extent of seventy per cent but the remaining thirty per cent of the total area of land required for the project as yet to be required.’

Explanation.—The word “person” shall include any company or association or body of individuals, whether incorporated or not.’;

(vi) after clause (f), the following clause shall be inserted, namely:—

‘(ff) the expression “infrastructure project” shall include,—

(i) any project relating to generation, transmission or supply of electricity;

(ii) construction of roads, highways, bridges, airports, ports, rail systems or mining activities;

(iii) water supply project, irrigation project, sanitation and sewerage system; or

(iv) any other public facility as may be notified in this regard by the Central Government in the Official Gazette.’

(vii) in clause (g) for the expression “court”, wherever it occurs, the expression “the Authority for the Centre or, as the case may be, the Authority” shall be substituted;

(viii) after clause (g), the following clauses shall be inserted, namely:—

‘(h) the expression “Authority” means the Land Acquisition Compensation Disputes Settlement Authority established by the State Government under sub-section (1) of section 17A;

(i) the expression “Authority for the Centre” means the Land Acquisition Compensation Disputes Settlement Authority for the Centre established by the Central Government under sub-section (1) of section 17L;

(j) the expression “Member” means a Member of the Authority for the Centre, or as the case may be, the Authority, and includes the Chairperson.’

6. Throughout the principal Act, the words “or for a company” along with their grammatical variations, shall be omitted.

Omission of the expression “or for a company” throughout the Act.

Substitution of words “Authority for the Centre or the Authority” in place of words “the Court” throughout the Act.

7. Throughout the principal Act except in Explanation to sub-section (1A) section 23, for the words “the Court”, along with their grammatical varieties the words “the Authority for the Centre, or as the case may be, the Authority” shall be substituted.

Insertion of new section 3A.

8. After section 3 of the principal Act, the following section shall be inserted, namely:—

Mandatory social impact assessment prior to acquisition of land under this Act.

‘3A. Whenever the appropriate Government intends to acquire land for public purpose involving physical displacement of—

(i) four hundred or more families *en masse* in plain area; or

(ii) two hundred or more families *en masse* in tribal or hilly areas or Desert sixth Development Programme blocks or areas specified in V Schedule or Schedule VI to the Constitution,

a social impact assessment study shall be carried out in the affected area for the purpose of social impact appraisal, incorporation of Tribal Development Plan, plan for giving emphasis for the Scheduled Castes, the Scheduled Tribes and other vulnerable sections of the society, provision for infrastructural amenities and facilities in the proposed resettlement area in terms of the provisions contained in Chapters II, IV, V and VI of the Rehabilitation and Resettlement Act, 2007, in such manner and within such time as may be prescribed by rules made by the Central Government.’—

Amendment of section 4.

9. In section 4 of the principal Act,—

(a) in sub-section (1), the following provisos shall be inserted, namely:—

“Provided that where no declaration is made consequent upon the issue of a notification under sub-section (1) within the time-limit specified in sub-section (1) of section 6, no fresh notification under this sub-section shall, subsequent to the expiry of the period aforesaid, be made for a period of one year in respect of the same land:

Provided further that in case a notification issued under sub-section (1) in respect of a particular land lapsed for the second time, no proceeding under sub-section (1) shall be initiated at least for a period of five years from the date of such notification.”;

(b) After sub-section (1), the following sub-sections shall be inserted, namely:—

“(1A) No person shall make any transaction or cause any transaction of land specified in the notice of acquisition to create any encumbrances on such land from the date of publication of such notice under this section till the final declaration under section 6, or the award made and paid under section 16 of the Act, whichever is earlier:

Provided that the Collector may, on the application made by the land owner in respect of the land so notified, exempt in special circumstances to be recorded in writing, such owner from the operation of this sub-section:

Provided further that any loss or injury suffered by any person due to his wilful violation of this provision shall not be made up by the Collector.

(1B) After issuance of notice under sub-section (1), the Collector shall, before issue of declaration under section 6, undertake and complete the exercise of updating of land records, classification of land and its tenure, survey and

standardisation of land and property values in respect of the land under acquisition.”.

10. In section 6 of the principal Act, in sub-section (J),—

(i) the words “subject to the provisions of Part VII of this Act” shall be omitted;

(ii) the *Explanation 1* shall be omitted.

Amendment
of section 6.

11. After section 8 of the principal Act, the following section shall be inserted, namely:—

“8A. The damages caused while carrying out works on land such as survey, digging or boring sub-soil, marking boundaries or cutting trenches or clearing away any standing crop, fence or forest or doing such other acts or things which may cause damages while acting under section 4 particularly relating to land which is excluded from acquisition proceeding, shall be evaluated and compensation shall be paid to the persons having interest in that land, within six months from the completion of the said works.”.

Insertion of
new section
8A.

Evaluation of
damages
during survey,
measurement,
etc.

12. For section 11A of the principal Act, the following section shall be substituted, namely:—

“11A. The Collector shall make an award under section 11 within a period of one year from the date of the publication of the declaration and if no award is made within that period, the entire proceedings for the acquisition of the land shall lapse:

Substitution of
section 11A.

Period within
which an
award shall be
made.

Provided that in a case where the said declaration has been published before the commencement of the Land Acquisition (Amendment) Act, 2007, the award shall be made within a period of one year from such commencement:

Provided further that the Collector may, after the expiry of the period of limitation, if he is satisfied that the delay has been caused due to unavoidable circumstances, and for the reasons to be recorded in writing, he may make the award within an extended period of six months:

Provided also that where an award is made within the extended period, the entitled person shall, in the interest of justice, be paid an additional compensation for the delay in making of the award, every month for the period so extended, at the rate of not less than five per cent. of the value of the award, for each month of such delay.”.

13. After section 11A of the principal Act, the following sections shall be inserted, namely:—

Insertion of
new sections
after section
11A.

“11B.(I) The Collector shall adopt the following criteria in assessing and determining the market value of the land,—

Determina-
tion of
market value
of land.

(i) the minimum land value, if any, specified in the Indian Stamp Act, 1899 for the registration of sale deeds in the area, where the land is situated; or

(ii) the average of the sale price for similar type of land situated in the village or vicinity, ascertained from not less than fifty per cent. of the sale deeds registered during the preceding three years, where higher price has been paid; or

(iii) the average of the sale price, ascertained from the prices paid or agreed to be paid for not less than fifty per cent. of the land already purchased for the project where higher price has been paid, for the purpose of item (iii) of clause (f) of section 3,

whichever is higher.

(2) Where the provisions of sub-section (1) are not applicable for the reason that:

(i) the land is situated in such area where the transactions in land are restricted by or under any other law for the time being in force in that area; or

(ii) the registered sale deeds for similar land as mentioned in clause (i) of sub-section (1) are not available for the preceding three years; or

(iii) the minimum land value has not been specified under the Indian Stamp Act, 1899 by the appropriate authority,

2 of 1899.

the concerned State Government shall specify the floor price per unit area of the said land based on the average higher prices paid for similar type of land situated in the adjoining areas or vicinity, ascertained from not less than fifty per cent. of the sale deeds registered during the preceding three years where higher price has been paid, and the Collector may calculate the value of the land accordingly.

(3) The Collector shall, before assessing and determining the market value of the land being acquired under this Act,—

(a) ascertain the intended land use category of such land; and

(b) take into account the value of the land of the intended category in the adjoining areas or vicinity,

for the purpose of determination of the market value of the land being acquired.

(4) In determining the market value of the building and other immovable property or assets attached to the land or building which are to be acquired, the Collector may use the services of a competent engineer or any other specialist in the relevant field, as may be considered necessary by the Collector.

(5) The Collector may, for the purpose of determining the value of trees and plants, use the services of experienced persons in the field of agriculture, forestry, horticulture, sericulture, or any other field, as may be considered necessary by him.

(6) For the purpose of assessing the value of the standing crops damaged during the process of land acquisition proceedings, the Collector may utilise the services of experienced persons in the field of agriculture as he considers necessary.

Part payment of compensation by shares, debentures, etc.

11C. (1) When land is acquired for the purpose of item (iii) of clause (f) of section 3 and the person for whom the land is acquired is a company authorised to issue shares and debentures, such company shall, with the previous approval of the appropriate Government, offer its shares or debentures to the extent of fifty per cent. but in any case not less than twenty per cent. of the compensation amount to be paid to the person whose land has been acquired.

(2) On the acceptance of the offer, a part of the compensation amount shall be adjusted by transfer of shares and debentures to the person to whom such compensation is due and on such transfer the liability of the company in respect of such part of the compensation shall stand discharged.

(3) The allotment of shares and debentures mentioned in this section shall be made by the company in such manner as may be prescribed.

Explanation.—In this section, the expression “shares and debentures” has the same meaning as assigned to it under the Companies Act, 1956.”

1 of 1956.

Amendment of section 12.

14. In section 12 of the principal Act, after sub-section (2), the following sub-sections shall be inserted, namely:—

“(3) The Collector shall keep open to the public and display a summary of the entire proceedings undertaken in a case of acquisition of land including the amount of

compensation awarded to each individual along with details of the land finally acquired under this Act.

(4) For the purposes of sub-section (3), the summary of the entire proceedings shall include the summary of schedule for payment of compensation, dates of taking possession of the land and such other information as may be prescribed.

(5) It shall be the duty of the Collector to ensure that physical possession of the land is taken over and the amount of compensation is paid within a period of sixty days commencing from the date of the award.

(6) The possession of the land acquired shall not be taken unless the compensation due under this Act is paid in full or is tendered to the entitled person.”.

15. In section 15 of the principal Act, for the words and figures “sections 23 and 24”, the words, figures and letter, “sections 11B, 23 and 24” shall be substituted. Amendment of section 15.

16. In section 17 of the principal Act, after sub-section (4), the following sub-section shall be inserted, namely :— Amendment of section 17.

“(5) Without prejudice to the provisions of sub-section (3) and sub-section (3A), an additional compensation of seventy-five per cent. of the market value as determined under section 11B, shall be paid by the Collector in respect of land and property for acquisition of which proceedings have been initiated under sub-section (1) of this section.”.

17. After Part II of the principal Act, the following Parts shall be inserted, namely:— Insertion of new Parts IIA and IIB.

‘PART IIA

ESTABLISHMENT OF THE STATE AUTHORITY

17A. (1) The State Government shall, for the purpose of providing speedy disposal of disputes relating to land acquisition compensation, establish, by notification in the Official Gazette, an Authority for the State to be known as the (name of the State) Land Acquisition Compensation Disputes Settlement Authority to exercise the jurisdiction, powers and authority conferred on it by or under this Act with regard to acquisition of land by the State Government: Establishment of Land Acquisition Compensation Disputes Settlement Authority.

Provided that a State Government may constitute more than one Authority or the benches thereof, for the purposes of this Act, if considers necessary.

(2) The head office of the Authority shall be at such place as the State Government may, by notification, specify.

(3) The Authority shall consist of not more than three but not less than two Members, including the Chairperson to be appointed by the State Government.

(4) The Members of the Authority shall be persons of ability, integrity and standing who have adequate knowledge of, and have shown capacity in, dealing with the problems relating to land acquisition matters, public administration, finance, economics and law.

(5) A person shall not be qualified to be a Member of the Authority unless he is or has been—

(i) a judge of a district court;

(ii) an officer of the State Government not below the rank of District Collector;

(iii) an officer of the State Government in the Law Department not below the rank of Director.

(6) The Members of the Authority shall not hold any other office.

(7) The Authority shall ensure transparency while exercising its powers and discharging its functions.

Term of office and conditions of service of Members.

17B. (1) A Member shall hold office for a term of five years from the date he enters upon his office:

Provided that the Member shall not be eligible for re-appointment in the same capacity in that Authority in which he had earlier held the office:

Provided further that no Member shall hold office as such after he has attained the age of sixty-seven years.

(2) A Member of the Authority may, by notice in writing under his hand addressed to the State Government, resign his office:

Provided that the Member shall, unless he is permitted by the State Government to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is the earliest.

(3) The salary, allowances and other terms and conditions of service of the Members shall be such as may be prescribed by the State Government:

Provided that the salary, allowances and other terms and conditions of service of the Members, shall not be varied to their disadvantage after appointment.

Removal of Member.

17C. (1) No Member shall be removed from office except in accordance with the provisions of this section.

(2) The State Government may by order remove from office any Member, if he—

(a) has been adjudged an insolvent;

(b) has been convicted of an offence which, in the opinion of the State Government, involves moral turpitude;

(c) has become physically or mentally incapable of acting as a Member;

(d) has acquired such financial or other interest as is likely to affect prejudicially his functions as a Member;

(e) has so abused his position as to render his continuance in office prejudicial to the public interest; or

(f) has been guilty of proved misbehaviour.

(3) No person shall be removed under this section until that person has been given an opportunity of being heard in the matter.

Officers and employees of Authority.

17D. (1) The State Government may specify the numbers, nature and categories of the officers and employees of the Authority.

(2) The salaries and allowances payable to, and other terms and conditions of service of, the officers and employees of the Authority shall be such as may be prescribed by the State Government.

Proceedings of Authority.

17E. The Authority shall have its sittings at the head office or any other place and at such time as the Chairperson may direct, and shall observe such rules of procedure in regard to the transaction of business in its sittings as it may specify.

Filling of a casual vacancy.

17F. A casual vacancy in the office of a Member of the Authority shall be filled by the State Government, by notification in the Official Gazette, as soon as may be, after the occurrence of the vacancy.

5 of 1908.	<p>17G. (1) The Authority shall, for the purposes of the settlement of disputes relating to land acquisition compensation under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 in respect of the following matters, namely:—</p> <p>(a) summoning and enforcing the attendance of any person and examining him on oath;</p> <p>(b) discovery and production of any document or other material object producible as evidence;</p> <p>(c) receiving evidence on affidavits;</p> <p>(d) requisitioning of any public record;</p> <p>(e) issuing commission for the examination of witnesses;</p> <p>(f) reviewing its decisions, directions and orders;</p> <p>(g) any other matter which may be prescribed;</p> <p>(2) The Authority shall have the powers to pass such interim order in any proceeding, hearing or matter before it as it may consider appropriate.</p>	Powers of Authority.
45 of 1860. 2 of 1974.	<p>17H. All proceedings before the Authority shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Indian Penal Code and the Authority shall be deemed to be a civil court for the purposes of sections 345 and 346 of the Code of Criminal Procedure, 1973.</p>	Proceedings before Authority.
45 of 1860.	<p>17-I. The applications relating to settlement of land acquisition compensation under this Act, shall be decided by the Authority as expeditiously as possible and endeavour shall be made by it to dispose of the disputes finally within a period of six months from the date of receipt of the reference under section 18.</p> <p>17J. The Members and officers of the Authority shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.</p>	Speedy disposal of disputes by Authority. Members and officers of Authority to be public servants.
	<p>17K. No civil court shall have jurisdiction to entertain any dispute relating to land acquisition in respect of which the Collector or the Authority is empowered by or under this Act, and no injunction shall be granted by any court in respect of any such matter.</p>	Jurisdiction of civil courts barred.

PART IIB

ESTABLISHMENT OF THE AUTHORITY FOR THE CENTRE

17L. (1) The Central Government may, for the purpose of providing speedy disposal of disputes relating to land acquisition compensation, by notification, establish one or more Authority to be known as the Land Acquisition Compensation Disputes Settlement Authority for the Centre to exercise jurisdiction, powers and authority conferred on it by or under this Act with regard to the acquisition of land by the Central Government.	Establishment of Land Acquisition Compensation Disputes Settlement Authority for the Centre.
(2) The Central Government shall specify in the notification referred to in sub-section (1) the matters and places in relation to which the Authority for the Centre may exercise jurisdiction.	
(3) The Authority for the Centre shall consist of a Chairperson and not less than two Members to be appointed by the Central Government.	

(4) A person shall not be qualified to be a Member of the Authority for the Centre unless he,—

(i) is or has been a Judge of a High Court; or

(ii) has for at least fifteen years held any Legislative or Legal post of the Union and a post in the Grade II of the Indian Legal Service for at least three years; or

(iii) a person who is or has been a member of the Indian Administrative Service having sufficient knowledge of land acquisition and has held the post of Collector of a district and a post equivalent to a Joint Secretary in the Government of India:

Provided that no appointment of a sitting Judge under clause (i) shall be made except after consultation with the Chief Justice of the High Court concerned.

(5) The Authority for the Centre will have a Secretariat consisting a Secretary-General and such other staff as may be decided by the Central Government.

Application of certain provisions relating to Authority for compensation disputes settlement to Authority for the Centre.

17M. The provisions of sections 17B, 17C, 17D, 17E, 17F, 17G, 17H, 17-I, 17J and 17K shall apply to the Authority for the Centre and shall have effect, subject to the following modifications, namely:—

(a) references to “Authority” shall be construed as references to “Authority for the Centre”;

(b) references to “State Government” shall be construed as references to “Central Government”;

(c) for the reference “any Member” in sub-section (2) of section 17C, the reference “any Member except a sitting Judge of a High Court” shall be substituted.’.

Amendment of section 18.

18. In section 18 of the principal Act,-

(i) in sub-section (1), the following provisos shall be inserted, at the end, namely:—

“Provided that the Collector shall, within a period of fifteen days from the date of receipt of application, make a reference to the Authority for the Centre, or as the case may be, the Authority:

Provided further that where the Collector fails to make such reference within the period so specified, the applicant may apply to the Authority for the Centre, or as the case may be, the Authority, requesting it to direct the Collector to make the reference to it within a period of thirty days.”;

(ii) in sub-section (2), after the proviso, the following proviso shall be inserted, namely :—

“Provided further that the Collector may entertain an application after the expiry of the said period, within a further period of one year, if he is satisfied that there was sufficient cause for not filing it within the period specified in the first proviso.”.

Amendment of section 23.

19. In section 23 of the principal Act,—

(i) in sub-section (1), in item “first”, after the words “market value of the land”, the words, figures and letter ”in terms of section 11B” shall be inserted;

(ii) in sub-section (2), for the words “a sum of thirty per centum on such market-value”, the words “a sum of sixty per centum on such market-value” shall be substituted.

- 20.** After section 28A of the principal Act, the following section shall be inserted, namely:—
- Insertion of new section after section 28A.
- “28B. Where an award is pending or remains unsettled at any stage under the Act, prior to the coming into force of the Land Acquisition (Amendment) Act, 2007, then the amount of compensation payable to the entitled person may be determined on the basis of section 11B as inserted by the said Act.”.
- Determination of amount of compensation in pending or unsettled cases.
- 21.** Part VII of the principal Act relating to “Acquisition of Land for Companies” and sections 38 to 44B (both inclusive) shall be omitted.
- Omission of Part VII.
- 22.** After section 54 of the principal Act, the following sections shall be inserted, namely:—
- “54A. (1) The land acquired under this Act shall not be transferred to any other purpose except for a public purpose, and after obtaining the prior approval of the appropriate Government.
- (2) When any land or part thereof, acquired under this Act remains unutilised for a period of five years from the date of taking over the possession, the same shall return to the appropriate Government by reversion.
- 54B. Whenever any land acquired under this Act is transferred to any person for a consideration, eighty per cent. of the difference in the acquisition cost and the consideration received, which in no case shall be less than the acquisition cost, shall be shared amongst the persons from whom the lands were acquired or their heirs, in proportion to the value at which the lands were acquired, and for the purpose, a separate fund may be maintained which shall be administered by the Collector in such manner as may be prescribed.”.
- Utilisation of land for the purpose it is acquired.
- Sharing with landowners the difference in price of a land when transferred for a higher consideration.
- 23.** In section 55 of the principal Act, in sub-section (1),—
- (i) the first proviso shall be omitted;
- (ii) in the second proviso, for the words “Provided further that”, the words “Provided that” shall be substituted;
- (iii) in the third proviso, for the words “Provided also”, the words “Provided further” shall be substituted.
- Amendment of section 55.

STATEMENT OF OBJECTS AND REASONS

The Land Acquisition Act, 1894 (the Act) has been an affective instrument for the acquisition of land for public purposes and also for companies, yet its provisions have been found to be inadequate in addressing certain issues related to the exercise of the statutory powers of the state for involuntary acquisition of private land and property.

2. Often, such acquisition of land leads to displacement of people, depriving them of their livelihood and shelter, restricting access to their traditional resource base, and uprooting them from their socio-cultural environment. These have traumatic, psychological and socio-cultural consequences for the affected population, which call for protecting their rights, including those of the weaker sections of society, particularly tribals, tenants, etc. Rehabilitation and resettlement of the persons and families affected by involuntary acquisition of private land and immovable property is of paramount importance. Thus, it is necessary to extend the provisions of the extant policies or statutes for rehabilitation and resettlement of those affected by the acquisition of land under the Act.

3. Also, the ambit of the expression "person interested" under the Act is proposed to be expanded so as to include tribals and other traditional forest dwellers, who have lost any traditional rights recognised under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognitions of Forest Rights) Act, 2006 (2 of 2007). Moreover, it is necessary to ensure that persons having tenancy rights under the relevant State laws are included under the scope of "person interested".

4. Although the Land Acquisition Act provides for acquisition of land for public purpose, the expression "public purpose" has not been defined. Hence, the necessity of defining "public purpose", so as to restrict the scope of land acquisition under the Act to provision of land for strategic purposes vital to the state, and for infrastructure projects where the benefits accrue to the general public is essential.

5. The provision of the Act are also used to acquire private lands for companies. This frequently raises a question mark on the desirability of such state intervention when land could be arranged by the company through private negotiations on a "willing seller-willing buyer" basis, which could be seen to be a more fear arrangement from the point of view of the land owner. In view of this it is desirable to omit the provisions for the acquisition of land for companies under the Act. However, under certain circumstances, it may be necessary to acquire some land through statutory mechanism to the extent of a limited portion of the total area of the land required when the "person" has already purchased the rest of the land through private negotiations and the purpose is useful to the general public. Such "person" may include any company or association or body of individuals, whether incorporated or not.

6. Further, it has been the experience that a large number of disputes relating to land acquisition compensation are brought before the courts of law. Quite often these cases remain pending for long periods of time in the courts. Such cases also add to the workload of the courts, which are generally over-burdened with cases other than land acquisition matters. Thus, it would be desirable that the jurisdiction of civil courts is barred for the purposes of the land acquisition compensation disputes and other alternate mechanisms created for disposal of such disputes in a time-bound manner.

7. Also, it is desirable to make the various steps of the land acquisition process time-bound, so that the entire process can be completed within a reasonable period of time. This will be in the interest of the land owners and farmers whose lands are acquired as well as the projects and requiring bodies.

8. Another area of concern in the application of the Act, so far, has been the requirement of providing a fair compensation at market value commensurate with the purpose for which the acquired land would be used. Certain provisions need to be introduced accordingly in the Act. In addition, in view of the involuntary nature of the acquisition, adequate solatium

amount should be offered to the land owners, and the amount may be higher in cases of acquisition under urgency.

9. Often it is seen that the possession of land acquired is not taken over in time, and also there are delays in the payment of the compensation amount. Therefore, it is necessary to make a provision to ensure that physical possession of the land is taken over and the amount of compensation is paid within a defined period from the date of the compensation award under the Act.

10. Issues around the utilisation of the land acquired and their transfer are also areas of concern. Here, provision are proposed to be made so that the land acquired is not transferred to any other purpose except for a public purpose, and that too, not without prior approval of the appropriate Government. When any land or part thereof, acquired under the Act remains unutilized for a defined period from the date of taking over possession, the same will return to the appropriate Government. Further, whenever any land acquired under the Act is transferred to any person for a consideration, a part of the net unearned income so accruing to the transferor, will be shared amongst the persons from whom the lands were acquired or their heirs, in proportion to the value at which the lands were acquired.

11. Bringing in suitable amendments to the Land Acquisition Act, 1894 on these lines will go a long way in striking a balance between the need for land for development and other public purposes and protecting the interests of the persons whose lands are statutorily acquired.

12. The Bill seeks to achieve the above objectives.

New Delhi;
The 30th November, 2007.

RAGHUVANSH PRASAD SINGH,

FINANCIAL MEMORANDUM

Clause 17 of the Bill proposes to insert a new section 17L in the Act under which it is proposed that the Central Government may, by notification, establish one or more Authority to be known as the Land Acquisition Compensation Disputes Settlement Authority for the Centre to exercise jurisdiction, powers and authority conferred on it by or under this Act with regard to the acquisition of land by the Central Government, for the purpose of providing speedy disposal of disputes relating to land acquisition compensation. The Authority for the Centre shall consist of a Chairperson and not less than two members to be appointed by the Central Government. It will have a Secretariat consisting of a Secretary-General and other staff as may be decided by the Central Government. The terms and conditions subject to which the Chairperson and other members of the Authority, will be appointed and the procedure of transaction of business of the Authority for the Centre shall be such as may be prescribed by the Central Government.

This will involve expenditure of a recurring as well as non-recurring nature, which would be a part of the administrative expenditure of the Ministry.

The exact expenditure which will be involved under the proposed Bill will depend upon the composition of the above-mentioned Authority, which will be decided after the Bill is passed. Hence, it is not practicable to make an exact estimate of the recurring and non-recurring expenditure for the purpose at this stage.

NOTES ON CLAUSES

Clause 2 and 3 seek to omit the words "and for companies" from the long title and the preamble.

Clause 4 seeks to insert new section 1A to provide for application of the provisions of the Rehabilitation and Resettlement Act, 2007 for land acquisition under this Act.

Clause 5 seeks to amend section 3 relating to definitions of certain expressions, insert definitions of new expressions, etc. as a consequence of the amendment to the Act.

Clause 6 seeks to amend the Act to omit the words "or for a Company" (wherever they occur in the Act) along with grammatical variations.

Clause 7 seeks to amend the Act to substitute the words "the Court" (along with grammatical variations), with the words "the Authority for the Centre, or as the case may be, the Authority".

Clause 8 seeks to insert new section 3A relating to mandatory social impact assessment prior to acquisition of land under the Act in cases of displacement of a certain number of families.

Clause 9 seeks to amend section 4 providing that no fresh notification to be issued for a period of one year in respect of the same land and no proceedings to be initiated for five years if the notification issued under sub-section (1) lapses for the second time. It also seeks to bar any person from making any transaction of land specified in the notice of acquisition till final declaration, etc.

Clause 10 seeks to amend sub-section (1) of section 6 so as not to make this sub-section "subject to the provision of Part VII of the Act.". It also seeks to omit Explanation 1 regarding computation of the period referred to in the first proviso.

Clause 11 seeks to insert new section 8A for the purpose of evaluation of damages during survey, measurement, etc.

Clause 12 seeks to substitute new section 11A to provide that the award shall be made within one year; for delay due to unavoidable circumstances and reasons to be recorded, the award to be made within an extended period of 6 months, and for such extended period additional compensation shall be paid.

Clause 13 seeks to insert new sections 11B and 11C. The proposed new section 11B provides the criteria for assessing and determining the market value, such as the minimum land value if any specified in the Stamp Act, average sale price of similar type of land or average sale price paid for already land purchased for the same project; the State Government may specify floor price per unit area, etc. The proposed new section 11C provides for part payment of compensation by shares, debentures etc. where a company is authorized to issue shares.

Clause 14 seeks to amend section 12 casting upon the Collector a duty to keep open and display summary of the entire proceedings, such summary to include schedule of payment of compensation, date of taking possession, etc.; to ensure physical possession of the land and payment of compensation within 60 days from the date of award etc.

Clause 15 seeks to amend section 15 to include therein reference to new section 11B.

Clause 16 seeks to amend section 17 as a consequence of new section 11B, for the purpose of additional compensation.

Clause 17 seeks to insert Part IIA and Part IIB. The proposed Part IIA relates to Establishment of the State Authority and contains the proposed new section 17A to section 17K. These deal with establishment of the Land Acquisition Compensation Disputes Settlement Authority by the State, number of Members of the authority, qualifications of the Members;

terms and conditions of service of the Members, removal of a Member, officers and employees of the Authority, proceedings of the Authority, filling of casual vacancies, powers of the Authority, speedy disposal of disputes, members and officers to be public servants; and barring of jurisdiction of civil courts.

The proposed Part IIB relates to establishment of Authority for the Centre, and contains section 17L and section 17M. These deal with Land Acquisition Compensation, Disputes Settlement Authority by the Centre, constitution of the Authority, qualifications of the members etc.; and application of the provisions of sections 17B to 17K (both inclusive to the Authority for the Centre with necessary modifications to references to "Authority" and "State Government" to be read as "Authority for the Centre" and "Central Government" respectively, and reference to "any Member" in section 17C to be read as "any member except a sitting Judge of a High Court".

Clause 18 seeks to amend section 18 for the purpose of making reference to the Authority for the Centre by the Collector, etc.

Clause 19 seeks to amend section 23 as a consequence of new section 11B, etc.

Clause 20 seeks to insert new section 28B for determination of amount of compensation in cases which are pending or unsettled at any stage under the Act prior to the coming into force of this Act.

Clause 21 seeks to omit Part VII of the Act relating to Land Acquisition Act and sections 38 to 44B (both inclusive).

Clause 22 seeks to insert new sections 54A and 54B providing for utilization of land for the purpose for which it is required; and sharing with land owners difference in price of land where the land is transferred for higher consideration.

Clause 23 seeks to omit the first proviso to sub-section (1) of section 55 of the Act.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill seeks to insert a new section 3A in the Land Acquisition Act, 1894 which relates to mandatory social impact assessment prior to acquisition of land under the said Act. The new section 3A seeks to empower the Central Government to prescribe, by rules, the manner and time in which social impact assessment study and other matters enumerated in the new section shall be carried out. Clause 13 seeks to insert new section 11C in the Land Acquisition Act, 1894 to provide for allotment of shares and debentures in such manner as may be prescribed. Clause 14 seeks to amend section 12 of the Act to provide for payment of compensation and other related matters by framing the rules.

2. Sub-section (3) of section 17B and sub-section (2) of section 17D, which has been proposed to be inserted by clause 17 of the Bill in the 1894 Act seeks to provide that the State Government may by rules prescribe the salaries and allowances payable to, and other terms and conditions of service of Members of the Authority and the officers and employees of the said Authority. In respect of the Authority for the Centre, similar rules can be framed by the Central Government under section 17M.

3. Clause 22 of the Bill seeks to insert a new section 54B in the 1894 Act which provides sharing with landowners the difference in price of a land when transferred for a higher consideration and provides for making rules for maintaining and administering the fund for the purposes of new section 54B.

4. As per the provisions contained in sub-section (1) of section 55 to the Land Acquisition Act, 1894, the rules made under the Act are required to be laid before Parliament or State Legislature, as the case may be.

The aforesaid matters in respect of which rules may be made relate to matters of procedure or administrative details and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

ANNEXURE

EXTRACTS FROM THE LAND ACQUISITION ACT, 1894

(1 OF 1894)

An Act to amend the law for the acquisition of land for public purposes and for Companies.

WHEREAS it is expedient to amend the law for the acquisition of land needed for public purposes and for Companies and for determining the amount of compensation to be made on account of such acquisition.

It is hereby enacted as follows:—

PART I

PRELIMINARY

Definitions.

1. (1)	*	*	*	*	*
(2)	*	*	*	*	*
(3)	*	*	*	*	*
	*	*	*	*	*

(b) the expression “person interested” includes all persons claiming an interest in compensation to be made on account of the acquisition of land under this Act; and a person shall be deemed to be interested in land if he is interested in an easement affecting the land;

* * * * *

(d) the expression “Court” means a principal Civil Court of original jurisdiction, unless the appropriate Government has appointed (as it is hereby empowered to do) a special judicial officer within any specified local limits to perform functions of the Court under this Act;

(e) the expression “company” means—

(i) a company as defined in section 3 of the Companies Act, 1956, other than a Government company referred to in clause (cc); 1 of 1956.

(ii) a society registered under the Societies Registration Act, 1860, or under any corresponding law for the time being in force in a State, other than a society referred to in clause (cc); 21 of 1860.

(iii) a co-operative society within the meaning of any law relating to co-operative societies for the time being in force in any State, other than a co-operative society referred to in clause (cc);

(ee) the expression “appropriate Government” means, in relation to acquisition of land for the purposes of the Union, the Central Government, and, in relation to acquisition of land for any other purposes, the State Government;

(f) the expression “public purpose” includes—

(i) the provision of village-sites, or the extension, planned development or improvement of existing village-sites;

(ii) the provision of land for town or rural planning;

(iii) the provision of land for planned development of land from public funds in pursuance of any scheme or policy of Government and subsequent disposal thereof in whole or in part by lease, assignment or outright sale with the object of securing further development as planned;

(iv) the provision of land for a corporation owned or controlled by the State;

(v) the provision of land for residential purposes to the poor or landless or to persons residing in areas affected by natural calamities, or to persons displaced or affected by reason of the implementation of any scheme undertaken by Government, any local authority or a corporation owned or controlled by the State;

(vi) the provision of land for carrying out any educational, housing, health or slum clearance scheme sponsored by Government, or by any authority established by Government for carrying out any such scheme, or, with the prior approval of the appropriate Government, by a local authority, or a society registered under the Societies Registration Act, 1860, or under any corresponding law for the time being in force in State, or a cooperative society within the meaning of any law relating to cooperative societies for the time being in force in any State;

(vii) the provision of land for any other scheme of development sponsored by Government or, with the prior approval of the appropriate Government, by a local authority;

(viii) the provision of any premises or building for locating a public office, but does not include acquisition of land for Companies;

(g) the following persons shall be deemed persons “entitled to act” as and to the extent hereinafter provided (that is to say)—

trustees for other persons beneficially interested shall be deemed the persons entitled to act with reference to any such case, and that to the same extent as the persons beneficially interested could have acted if free from disability;

a married woman, in cases to which the English law is applicable, shall be deemed the person so entitled to act, and, whether of full age or not, to the same extent as if she were unmarried and of full age; and

the guardians of minors and the committees or managers of lunatics or idiots shall be deemed respectively the persons so entitled to act, to the same extent as the minors, lunatics or idiots themselves, if free from disability, could have acted:

Provided that—

(i) no person shall be deemed “entitled to act” whose interests in the subject-matter shall be shown to the satisfaction of the Collector or Court to be adverse to the interest of the person interested for whom he would otherwise be entitled to act;

(ii) in every such case the person interested may appear by a next friend, or, in default of his appearance by a next friend, the Collector or Court, as the case may be, shall appoint a guardian for the case to act on his behalf in the conduct thereof;

(iii) the provisions of Order XXXII of the First Schedule to the Code of Civil Procedure, 1908 shall, *mutatis mutandis*, apply in the case of persons interested appearing before a Collector or Court by a next friend, or by a guardian for the case, in proceedings under this Act; and

(iv) no person “entitled to act” shall be competent to receive the compensation-money payable to the person for whom he is entitled to act, unless he would have been competent to alienate the land and receive and give a good discharge for the purchase-money on a voluntary sale.

PART II
ACQUISITION

Preliminary investigation

Publication of preliminary notification and powers of officers thereupon

4. (I) Whenever it appears to the appropriate Government that land in any locality is needed or is likely to be needed for any public purpose or for a Company, a notification to that effect shall be published in the Official Gazette and in two daily newspapers circulating in that locality of which at least one shall be in the regional language, and the Collector shall cause public notice of the substance of such notification to be given at convenient places in the said locality (the last of the dates of such publication and the giving of such public notice, being hereinafter referred to as the date of the publication of the notification.

* * * *

Declaration of intended acquisition

Declaration that land is required for a public purpose—

6. (I) Subject to the provisions of Part VII of this Act when the appropriate Government is satisfied after considering the report, if any, made under section 5A, sub-section (2) that any particular land is needed for a public purpose or for a Company a declaration shall be made to that effect under the signature of a Secretary to such Government or of some officer duly authorised to certify his orders and different declarations may be made from time to time in respect of different parcels of any land covered by the same notification under section 4, sub-section (I), irrespective of whether one report or different reports has or have been made (wherever required) under section 5A, sub-section (2):

Provided that no declaration in respect of any particular land covered by a notification under section 4, sub-section (I),—

(i) published after the commencement of the Land Acquisition (Amendment and Validation) Ordinance, 1967 but before the commencement of the Land Acquisition (Amendment) Act, 1984 shall be made after the expiry of three years from the date of the publication of the notification; or

Ord. 1 of 1967.

(ii) published after the commencement of the Land Acquisition (Amendment) Act, 1984 shall be made after the expiry of one year from the date of the publication of the notification:

68 of 1984.

Provided further that no such declaration shall be made unless the compensation to be awarded for such property is to be paid by a Company, or wholly or partly out of public revenues or some fund controlled or managed by a local authority.

Explanation 1.—In computing any of the periods referred to in the first proviso, the period during which any action or proceeding to be taken in pursuance of the notification issued under section 4, sub-section (I), is stayed by an order of a Court shall be excluded.

* * * *

Enquiry into measurements value and claims and award by the Collector

Enquiry and award by Collector.

11. (I) On the day so fixed, or any other day to which the enquiry has been adjourned, the Collector shall proceed to enquire into the objections (if any) which any person interested has stated pursuant to a notice given under section 9 to the measurements made under section 8, and into the value of the land at the date of the publication of the notification under section 4, sub-section (I), and into the respective interests of the persons claiming the compensation, and shall make an award under his hand of—

(i) the true area of the land;

(ii) the compensation which in his opinion should be allowed for the land; and

(iii) the apportionment of the said compensation among all the persons known or believed to be interested in the land, of whom, or of whose claims, he has information, whether or not they have respectively appeared before him:

Provided that no award shall be made by the Collector under this sub-section without the previous approval of the appropriate Government or of such officer as the appropriate Government may authorise in this behalf:

provided further that it shall be competent for the appropriate Government to direct that the Collector may make such award without such approval in such class of cases as the appropriate Government may specify in this behalf.

(2) Notwithstanding anything contained in sub-section (1) if at any stage of the proceedings, the Collector is satisfied that all the persons interested in the land who appeared before him have agreed in writing on the matters to be included in the award of the Collector in the form prescribed by rules made by the appropriate Government, he may, without making further enquiry, make an award according to the terms of such agreement.

(3) The determination of compensation for any land under sub-section (2) shall not, in any way affect the determination of compensation in respect of other lands in the same locality or elsewhere in accordance with the other provisions of this Act.

16 fo 1908.

(4) Notwithstanding anything contained in the Registration Act, 1908, no agreement made under sub-section (2) shall be liable to registration under that Act.

11A. (1) The Collector shall make an award under section 11 within a period of two years from the date of the publication of the declaration and if no award is made within that period, the entire proceedings for the acquisition of the land shall lapse:

Period within which an award shall be made.

68 to 1984.

Provided that in a case where the said declaration has been published before the commencement of the Land Acquisition (Amendment) Act, 1984, the award shall be made within a period of two years from such commencement.

Explanation.— In computing the period of two years referred to in this section, the period during which any action or proceeding to be taken in pursuance of the said declaration is stayed by an order of a Court shall be excluded.

* * * *

15. In determining the amount of compensation, the Collector shall be guided by the provisions contained in sections 23 and 24.

Matters to be considered and neglected.

* * * *

PART III

REFERENCE TO COURT AND PROCEDURE THEREON

18. (1) Any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court, whether his objection be to the measurement of the land, the amount of the compensation, the persons to whom it is payable, or the apportionment of the compensation among the persons interested.

Reference to Court.

(2) The application shall state the grounds on which objection to the award is taken:

Provided that every such application shall be made,—

(a) if the person making it was present or represented before the Collector at the time when he made his award, within six weeks from the date of the Collector's award;

(b) in other cases, within six weeks of the receipt of the notice from the Collector

under section 12, sub-section (2), or within six months from the date of the Collector's award, whichever period shall first expire.

Collector's statement to the Court.

19. (1) In making the reference, the Collector shall state, for the information of the Court, in writing under his hand,—

(a) the situation and extent of the land, with particulars of any trees, buildings or standing crops thereon;

(b) the names of the persons whom he has reasons to think interested in such land;

(c) the amount awarded for damages and paid or tendered under sections 5 and 17, or either of them, and the amount of compensation awarded under section 11;

(cc) the amount paid or deposited under sub-section (3A) of section 17; and

(d) if the objection be to the amount of the compensation, the grounds on which the amount of compensation was determined.

(2) To the said statement, shall be attached a Schedule giving the particulars of the notices served upon, and of the statements in writing made or delivered by the parties interested, respectively.

Service of notice.

20. The Court shall thereupon cause a notice specifying the day on which the Court will proceed to determining the objection, and directing their appearance before the Court on that day, to be served on the following persons, namely:—

(a) the applicant;

(b) all persons interested in the objection, except such (if any) of them as have consented without protest to receive payment of the compensation awarded; and

(c) in the objection is in regard to the area of the land or to the amount of compensation, the Collector.

* * * *

Matters to be considered in determining compensation.

23. (1) In determining the amount of compensation to be awarded for land acquired under this Act, the Court shall take into consideration—

first, the market-value of the land at the date of the publication of the notification under section 4, sub-section (1);

* * * *

(2) In addition to the market-value of the land, as above provided, the Court shall in every case award a sum of thirty per centum on such market-value, in consideration of the compulsory nature of the acquisition.

Matters to be neglected in determining compensation.

24. But the Court shall not take into consideration—

first, the degree of urgency which has led to the acquisition;

secondly, any disinclination of the person interested to part with the land acquired;

thirdly, any damage sustained by him which, if caused by a private person, would not render such person liable to a suit;

fourthly, any damage which is likely to be caused to the land acquired, after the date of the publication of the declaration under section 6, by or in consequence of the use to which it will be put;

fifthly, any increase to the value of the land acquired likely to accrue from the use to which it will be put when acquired;

sixthly, any increase to the value of the other land of the person interested likely to accrue from the use to which the land acquired will be put;

seventhly, any outlay or improvements on, or disposal of, the land acquired, commenced, made or effected without the sanction of the Collector after the date of the publication of the notification under section 4, sub-section (1); or

eighthly, any increase to the value of the land on account of its being part to any use which is forbidden by law or opposed to public policy.

25. The amount of compensation awarded by the Court shall not be less than the amount awarded by the Collector under section 11.

* * * * *

Amount of compensation awarded by Court not to be lower than the amount awarded by the Collector.

27. (1) Every such award shall also state the amount of costs incurred in the proceedings under this Part, and by what persons and in what proportions they are to be paid.

Costs.

(2) When the award of the Collector is not upheld, the costs shall ordinarily be paid by the Collector, unless the Court shall be of opinion that the claim of the applicant was so extravagant or that he was so negligent in putting his case before the Collector that some deduction from his costs should be made or that he should pay a part of the Collector's costs.

28. If the sum which, in the opinion of the Court, the Collector ought to have awarded as compensation is in excess of the sum which the Collector did award as compensation, the award of the Court may direct that the Collector shall pay interest on such excess at the rate of nine per centum per annum from the date on which he took possession of the land to the date of payment of such excess into Court:

Collector may be directed to pay interest on excess compensation.

Provided that the award of the Court may also direct that where such excess or any part thereof is paid into Court after the date of expiry of a period of one year from the date on which possession is taken, interest at the rate of fifteen per centum per annum shall be payable from the date of expiry of the said period of one year on the amount of such excess or part thereof which has not been paid into Court before the date of such expiry.

28A. (1) Where in an award under this Part, the Court allows to the applicant any amount of compensation in excess of the amount awarded by the Collector under section 11, the persons interested in all the other land covered by the same notification under section 4, sub-section (1) and who are also aggrieved by the award of the Collector may, notwithstanding that they had not made an application to the Collector under section 18, by written application to the Collector within three months from the date of the award of the Court require that the amount of compensation payable to them may be re-determined on the basis of the amount of compensation awarded by the Court:

Re-determination of the amount of compensation on the basis of the award of the Court.

Provided that in computing the period of three months within which an application to the Collector shall be made under this sub-section, the day on which the award was pronounced and the time requisite for obtaining a copy of the award shall be excluded.

(2) The Collector shall, on receipt of an application under sub-section (1), conduct an inquiry after giving notice to all the persons interested and giving them a reasonable opportunity of being heard, and make an award determining the amount of compensation payable to the applicants.

(3) Any person who has not accepted the award under sub-section (2) may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court and the provisions of sections 18 to 28 shall, so far as may be, apply to such reference as they apply to a reference under section 18.

PART IV

APPORTIONMENT OF COMPENSATION

* * * * *

Dispute as to apportionment.

30. When the amount of compensation has been settled under section 11, if any dispute arises as to the apportionment of the same or any part thereof, or as to the persons to whom the same or any part thereof, is payable, the Collector may refer such dispute to the decision of the Court.

PART V

PAYMENT

Payment of compensation or deposit of same in Court.

31. (1)* * * * *

(2) If they shall not consent to receive it, or if there be no person competent to alienate the land, or if there be any dispute as to the title to receive the compensation or as to the apportionment of it, the Collector shall deposit the amount of the compensation in the Court to which a reference under section 18 would be submitted:

Provided that any person admitted to be interested may receive such payment under protest as to the sufficiency of the amount:

Provided also that no person who has received the amount otherwise than under protest shall be entitled to make any application under section 18:

Provided also that nothing herein contained shall affect the liability of any person, who may receive the whole or any part of any compensation awarded under this Act, to pay the same to the person lawfully entitled thereto.

* * * * *

Investment of money deposited in respect of lands belonging to persons incompetent to alienate.

32. (1) If any money shall be deposited in Court under sub-section (2) of the last preceding section and it appears that the land in respect whereof the same was awarded belonged to any person who had no power to alienate the same, the Court shall—

(a) order the money to be invested in the purchase of other lands to be held under the like title and conditions of ownership as the land in respect of which such money shall have been deposited, was held, or

(b) if such purchase cannot be effected forthwith, then in such Government or other approved securities as the Court shall think fit;

and shall direct the payment of the interest or other proceeds arising from such investment to the person or persons who would for the time being have been entitled to the possession of the said land, and such moneys shall remain so deposited and invested until the same be applied—

(i) in the purchase of such other lands as aforesaid; or

(ii) in payment to any person or persons becoming absolutely entitled thereto.

(2) In all cases of moneys deposited to which this section applies, the Court shall order the costs of the following matters, including therein all reasonable charges and expenses incident thereon, to be paid by the Collector, namely:—

(a) the costs of such investments as aforesaid;

(b) the costs of the orders for the payment of the interest or other proceeds, of the securities upon which such moneys are for the time being invested, and for the payment out of Court of the principal of such moneys, and of all proceedings relating thereto, except such as may be occasioned by litigation between adverse claimants.

33. When any money shall have been deposited in Court under this Act for any cause other than that mentioned in the last preceding section, the Court may, on the application of any party interested or claiming an interest in such money, order the same to be invested in such Government or other approved securities as it may think proper, and may direct the interest or other proceeds of any such investment to be accumulated and paid in such manner as it may consider will give the parties interested therein the same benefit therefrom as they might have had from the land in respect whereof such money shall have been deposited or as near thereto as may be.

Investment of money deposited in other cases.

* * * *

PART VI

TEMPORARY OCCUPATION OF LAND

35. (1) * * * * *

(3) In case the Collector and the persons interested differ as to the sufficiency of the compensation or apportionment thereof, the Collector shall refer such difference to the decision of the Court.

Temporary occupation of waste or arable land, procedure when difference as to compensation exists.

* * * *

37. In case the Collector and persons interested differ as to the condition of the land at the expiration of the term, or as to any matter connected with the said agreement, the Collector shall refer such difference to, the decision of the Court.

Difference as to condition of land.

PART VII

ACQUISITION OF LAND FOR COMPANIES

* * * *

38A. An industrial concern, ordinarily employing not less than one hundred workmen owned by an individual or by an association of individuals and not being a Company, desiring to acquire land for the erection of dwelling-houses for workmen employed by the concern or for the provision of amenities directly connected therewith shall, so far as concerns the acquisition of such land, be deemed to be a Company for the purposes of this Part, and the references to Company in sections 4, 5A, 6, 7 and 50 shall be interpreted as references also to such concern.

Industrial concern to be deemed Company for certain purposes.

39. The provisions of sections 6 to 16 (both inclusive) and sections 18 to 37 (both inclusive) shall not be put in force in order to acquire land for any company under this part, unless with the previous consent of the appropriate Government, nor unless the Company shall have executed the agreement hereinafter mentioned.

Previous consent of appropriate Government and execution of agreement necessary.

40. (1) Such consent shall not be given unless the appropriate Government be satisfied, either on the report of the Collector under section 5A, sub-section (2), or by an enquiry held as hereinafter provided—

Previous enquiry.

(a) that the purpose of the acquisition is to obtain land for the erection of dwelling-houses for workmen employed by the Company or for the provision of amenities directly connected therewith; or

(aa) that such acquisition is needed for the construction of some building or work for a Company which is engaged or is taking steps for engaging itself in any industry or work which is for a public purpose; or

(b) that such acquisition is needed for the construction of some work and that

such, work, is likely to prove useful to the public.

(2) Such enquiry shall be held by such officer and at such time and place as the appropriate Government shall appoint.

(3) Such officer may summon and enforce the attendance of witnesses and compel the production of documents by the same means and, as far as possible, in the same manner as is provided by the Code of Civil Procedure, 1908 in the case of Civil Court. 5 of 1908.

Agreement
with
appropriate
Government.

41. If the appropriate Government is satisfied after considering the report, if any, of the Collector under section 5A, sub-section (2), or on the report of the officer making an inquiry under section 40 that the proposed acquisition is for any of the purposes referred to in clause (a) or clause (aa) or clause (b) of sub-section (1) of section 40, it shall require the Company to enter into an agreement with the appropriate Government providing to the satisfaction of the appropriate Government for the following matters, namely:—

(1) the payment to the appropriate Government of the cost of the acquisition;

(2) the transfer, on such payment, of the land to the Company;

(3) the terms on which the land shall be held by the Company;

(4) where the acquisition is for the purpose of erecting dwelling-houses or the provision of amenities connected therewith, the time within which, the conditions on which and the manner in which the dwelling-houses or amenities shall be erected or provided;

(4A) where the acquisition is for the construction of any building or work for a Company which is engaged or is taking steps for engaging itself in any industry or work which is for a public purpose, the time within which and the conditions on which, the building or work shall be constructed or executed; and

(5) where the acquisition is for the construction of any other work the time within which and the conditions on which the work shall be executed and maintained, and the terms on which the public shall be entitled to use the work.

Publication of
agreement.

42. Every such agreement shall, as soon as may be after its execution, be published in the Official Gazette, and thereupon (so far as regards the terms on which the public shall be entitled to use the work) have the same effect as if it had formed part of this Act.

Sections 39 to
42 not to
apply where
Government
bound by
agreement.

43. The provisions of section 39 to 42, both inclusive, shall not apply and the corresponding sections of the Land Acquisition Act, 1870, shall be deemed never to have applied, to the acquisition of land of any Railway or other Company, for the purposes of which, under any agreement with such Company, the Secretary of State for India in Council, the Secretary of State, the Central Government or any State Government is or was bound to provide land. 10 of 1870.

How agree-
ment with
railway Com-
pany may be
proved.

44. In the case of the acquisition of land for the purposes of a Railway Company, the existence of such an agreement as is mentioned in section 43 may be proved by the production of a printed copy thereof purporting to be printed by order of Government.

Restriction on
transfer, etc.

44A. No Company for, which any land is acquired under this Part shall be entitled to transfer the said land or any part thereof by sale, mortgage, gift, lease or otherwise except with the previous sanction of the appropriate Government.

Land not to be
acquired under
this Part except
for certain
purposes for
private
companies
other than
Government
Companies.

44B. Notwithstanding anything contained in the Act, no land shall be acquired under this Part, except for the purpose mentioned in clause (a) of sub-section (1) of section 40, for a private company which is not a Government company.

Explanation.—“Private company” and “Government company” shall have the meanings respectively assigned to them in the Companies Act, 1956

1 of 1956.

PART VIII
MISCELLANEOUS

* * * * *

49. (1) The provisions of this Act shall not be put in force for the purpose of acquiring a part only of any house, manufactory or other building, if the owner desires that the whole of such house, manufactory or building shall be so acquired:

Acquisition of part of house or building.

* * * * *

Provided also that, if any question shall arise as to whether any land proposed to be taken under this Act does or does not form part of a house, manufactory or building within the meaning of this section, the Collector shall refer the determination of such question to the Court and shall not take possession of such land until after the question has been determined.

In deciding on such a reference, the Court shall have regard to the question whether the land proposed to be taken is reasonably required for the full and unimpaired use of the house, manufactory or building.

* * * * *

50. (1) Where the provisions of this Act are put in force for the purpose of acquiring land at the cost of any fund controlled or managed by a local authority or of any Company, the charges of any incidental to such acquisition shall be defrayed from or by such fund or Company.

Acquisition of land at cost of local authority or Company.

(2) In any proceeding held before a Collector or Court in such cases the local authority or Company concerned may appear and adduce evidence for the purpose of determining the amount of compensation:

Provided that no such local authority or Company shall be entitled to demand a reference under section 18.

* * * * *

5 of 1908

53. Save in so far as they may be inconsistent with anything contained in this Act, the provisions of the Code of Civil Procedure, 1908, shall apply to all proceedings before the Court under this Act.

Code of Civil Procedure to apply to proceedings before Court.

5 of 1908

54. Subject to the provisions of the Code of Civil Procedure, 1908, applicable to appeals from original decrees, and notwithstanding anything to the contrary in any enactment for the time being in force, an appeal shall only lie in any proceedings under this Act to the High Court from the award, or from any part of the award of the Court and from any decree of the High Court passed on such appeal as aforesaid an appeal shall lie to the Supreme Court subject to the provisions contained in section 110 of the Code of Civil Procedure, 1908, and in Order XLIV thereof.

Appeals in proceedings before Court.

55. (1) The appropriate Government shall have power to make rules consistent with this Act for the guidance of officers in all matters connected with its enforcement, and may from time to time alter and add to the rules so made:

Power to make rules.

Provided that the power to make rules for carrying out the purposes of Part VII of this Act shall be exercisable by the Central Government and such rules may be made for the guidance of the State Governments and the officers of the Central Government and of the State Governments:

Provided further that every such rule made by the Central Government shall be laid as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or two or more successive

sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under the rule:

Provided also that every such rule made by the State Government shall be laid, as soon as may be after it is made, before the State Legislature.

* * * * *

LOK SABHA

A

Bill

further to amend the Land Acquisition Act, 1894.

(Shri Raghuvansh Prasad Singh, Minister of Rural Development)