

Information Note* on Ordinance to amend the RFCTLARR Act, 2013

Ministry's Name: Land Reforms Division, Department of Land Resources, Ministry of Rural Development

Subject: **The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Ordinance, 2014.**

Background:

The Department of Land Resources (DoLR) is responsible for administering the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act (hereinafter referred to as Act), 2013. This Act came into force on 01.01.2014 by repealing the Land Acquisition Act, 1894. It had been reported that some provisions of the Act are making the implementation of the Act difficult. Accordingly, a Conference of State Revenue Ministers was organized in Vigyan Bhavan on 27th June, 2014. Further, consultations with Secretaries and officers of concerned ministries administering the Acts mentioned in the Fourth Schedule of the Act were held on 21.10.2014. Based on such discussions and deliberations

- a) It was felt necessary to bring changes in the Act, while safeguarding the interest of the farmers and affected families in cases of land acquisition.
- b) In addition, procedural difficulties in the acquisition of lands required for important national projects required to be mitigated.

* This is an information note and not to be relied upon for legal purposes. The precise version of the amendment Ordinance may be seen at the DoLR website at dolr.nic.in

In view of the urgency, these have been brought about by an Ordinance.

Point wise details:

- (i) Compensation in accordance with the First Schedule and rehabilitation and resettlement specified in the Second and Third Schedules of the Act is sought to be extended to the acquisition under thirteen Acts mentioned in the Act, namely, --(1) The Ancient Monuments and Archaeological Sites and Remains Act, 1958, (2) The Atomic Energy Act, 1962, (3) The Damodar Valley Corporation Act, 1948, (3) The Indian Tramways Act, 1886, (4) The Land Acquisition (Mines) Act, 1885, (6) The Metro Railways (Construction of Works) Act, 1978, (7) The National Highways Act, 1956; (8) The Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962; (9). The Requisitioning and Acquisition of Immovable Property Act, 1952; (10) The Resettlement of Displaced Persons (Land Acquisition) Act, 1948; (11) The Coal Bearing Areas Acquisition and Development Act, 1957 (12) The Electricity Act, 2003; (13) The Railways Act, 1989.

- (ii) In order to expedite the process of land acquisition for strategic and development activities such as national security or defence of India including preparation for defence and defence production; rural infrastructure including electrification; affordable housing and housing for poor; industrial corridors; infrastructure and social infrastructure projects including projects under public private partnership where the ownership of the land continues to vest with the Government it is proposed empower the appropriate government to take steps for exemption from “Social Impact Assessment” and “Special Provisions for Safeguarding Food Security” and the provisions of the first proviso to the sub section (2) of Section 2 dealing with “Consent” as well.

- (iii) In order to ensure better health and educational facilities in the country, it is proposed to include private hospitals and private educational institutions in the definition of 'public purpose'.
- (iv) At present, the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation & Resettlement Act, 2013, extend to 'private company'. However, as per Companies Act, 2013, a 'Private company' means a company having a minimum paid-up share capital of one lakh rupees or such higher paid-up share capital, thereby restricting the provisions of the Act to such companies only and excluding other form of companies like proprietorship, partnership, corporation, nonprofit organization, etc. Therefore, in place of the term 'private company', the term 'private entity' is proposed to be substituted thereby including all non-governmental entities.
- (v) Further, as The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation & Resettlement Act, 2013 was drafted prior to the passage of the Companies Act, 2013, the Act still refers to the Companies Act, 1956 for the definition of 'Company'; which is now proposed to be substituted by the Companies Act, 2013.
- (vi) In cases where land acquisition process under Land Acquisition Act, 1894 has been initiated and the Award was passed, but either possession of land was not taken or compensation was not paid, there is provision of lapsing of such proceedings after five years of passing of Award. The period during which the proceedings for acquisition of the land were held up on account of any stay or injunction issued by any court or the period specified in the award of a Tribunal for taking possession or such period where possession has been taken but the compensation

lying deposited in a Court or in any account maintained for this purpose shall be excluded for the purpose of calculation of five years period.

- (vii) The *Explanation* under Section 46 of the Act, dealing with application of provisions relating to rehabilitation and resettlement in case of land purchased through private negotiations is now proposed to be extended in cases when land is purchased by persons other than the Government, Government Company and Trust or Society aided or controlled by the Government.
- (viii) The Section dealing with Offences by Government Departments is proposed to be modified to bring it in line with existing provisions in other laws. When an offence under this Act is committed by any official of the Government, action would be taken as per Section 197 of the Code of Criminal Procedure.
- (ix) The provision of Removal of Difficulties is proposed to be applicable to entire Act rather than 'Part' as the word 'part' was used in the Act inadvertently. Further, the time period to remove the difficulties is proposed to be extended from two years at present to five years.
