

The Chhattisgarh Underground Pipelines (Acquisition of Right of User in Land) Act, 2004

CHHATTISGARH

India

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Act 7 of 2004

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The Chhattisgarh Underground Pipelines (Acquisition of Right of User in Land) Act, 2004(C.G. Act No. 7 of 2004)[Dated 2nd April, 2004]Received the assent of the Governor on the 2nd April, 2004; assent first published in the Chhattisgarh Rajpatra (Asadharan) dated 16-4-2004.An Act to provide for the acquisition of right of user in land for laying pipelines for carrying of water, gas and electricity from, one locality to another locality and to construct pipeline for carrying industrial waste and for the words connected /herewith in the State of Chhattisgarh.Be it enacted by the Chhattisgarh Legislature in the Fifty-fifth Year of the Republic of India as follows ;-

1. Short title, extent and commencement.

(1)This Act may be called the Chhattisgarh Underground Pipelines (Acquisition of Right of User in Land) Act, 2004.(2)It extends to the whole of the State of Chhattisgarh.(3)It shall come into force from 1st March, 2004.

2. Definitions.

- In this Act, unless the context otherwise requires,-(a)"competent authority" means any person or authority authorised by the State Government, by notification in the Official Gazette, to perform the functions of the competent authority under this Act;(b)"corporation" means any body corporate established under any Central or State Act, or a company formed and registered under the Companies Act, 1956;(c)"prescribed" means prescribed by rules made under the Act;(d)"underground pipeline" means a pipeline laid at a depth of not less than one and half meter of the land surface.

3. Publication of notification for acquisition.

(1)Whenever it appears to the State Government it is necessary in the public interest that for the carrying of water, gas, electricity from one locality to another locality and to construct, pipeline for carrying industrial waste and works connected therewith, pipelines may be laid by the State Government or a corporation and that for the purpose of laying such pipelines, it is necessary to acquire the right of user in any land under which such pipelines may be laid, it may, by notification in the Official Gazette, declare its intention to acquire the right of user therein.(2)Every notification under sub-section (1) shall give a brief description of the land.(3)The Competent Authority shall cause the substance of the notification to be published at such places and in such manner as may be prescribed.(4)Any person interested in the land may, within twenty-one days from the date of the notification under sub-section (1), object to the laying of the pipeline under the land.(5)Every objection under sub-section (4) shall be made to the Competent Authority in writing and shall set out the grounds thereof and the Competent Authority shall give the objector an opportunity of being heard either in person or by a legal practitioner and may, after hearing all such objections and after making such further inquiry, if any, as that authority thinks necessary, by order either allow or disallow the objections.(6)Any order made by the Competent Authority under sub-section (5) shall be final.

4. Declaration of acquisition of right of user.

(1)Where no objections under sub-section (2) of Section 3 have been made to the Competent Authority within the period specified therein or where the Competent Authority has passed final order, that authority shall declare, by notification in the Official Gazette, that the right of user in the land for laying the pipelines should be acquired.(2)On publication of the declaration under sub-section (1), the right of user in the land specified therein shall vest absolutely in the State Government free from all encumbrances.(3)Notwithstanding anything contained in sub-section (2), the State Government may, on such terms and conditions as it may think fit, direct by order in writing, that the right of user in the land for laying the pipeline shall, instead of vesting in the State Government vest in the corporation proposing to lay the pipelines, subject to the terms and conditions so imposed, free from all encumbrances.

5. Power to enter, survey etc. in the land.

- On publication of the declaration under sub-section (1) of Section 4 it shall be lawful for any person authorised by the State Government or the corporation and his servants and workmen,-(a)to enter upon and survey and take levels of any land specified in the notification;(b)to dig or bore into the sub-soil;(c)to set out the intended line of work;(d)to mark such levels, boundaries and line by placing marks and cutting trenches;(e)where otherwise survey cannot be completed and levels taken and the boundaries and line marked, to cut down and clear away any part of any standing crop, fence or jungle; and(f)to do all other acts necessary to ascertain whether pipelines can be laid under the land :Provided that while exercising any power under this section, such person or any servant of such person shall cause as little damage or injury as possible to such land.

6. State Government or Corporation to lay Pipelines.

(1)Where the right of user in any land has vested in the State Government or corporation under Section 4,-(i)it shall be lawful for any person authorised by the State Government or corporation, as the case may be, and his servants to enter upon the land and lay pipeline or to do any other act necessary for laying of pipelines :Provided that no pipeline shall be laid under,-(a)any land which immediately before the date of the notification under sub-section (1) of Section 3 was used for residential purpose;(b)any land which is appurtenant to a dwelling house; or(ii)such land shall be used only for laying underground pipelines and maintaining, examining, repairing, altering or removing any such pipelines or for doing any other act necessary for any of the aforesaid purposes for the utilization of such pipelines.(2)If any dispute arises with regard to any matter referred to in the proviso to clause (i) of sub-section (1), the dispute shall be referred to the Competent Authority whose decision thereon shall be final.

7. Power to enter land for inspection.

- For maintaining, examining, repairing, altering or removing any pipeline, or measurement for any of the aforesaid purpose, or for the making any inspection, any person authorised in this behalf by the State Government or the corporation, may, after giving reasonable notice to the occupier of the land enter therein with such workmen and assistants as may be necessary :Provided that where an emergency exists, no such notice shall be necessary.

8. Restriction regarding the use of land.

(1)The owner or occupier of the land with respect to which a declaration has been made under sub-section (1) of Section 4, shall be entitled to use the land for the purpose for which such land was put to use immediately before the date of the notification under sub-section (1) of Section 3 :Provided that, such owner or occupier shall not, after the declaration under sub-section (1) of Section 4,-(i)construct any building or any other structure;(ii)construct or excavate any tank, well, reservoir or dam; or(iii)plant any tree, on that land.(2)The owner or occupier of the land shall not do any act which will or is likely to cause any damage in any manner whatsoever to the pipeline.

9. Compensation.

(1)Where in the exercise of the powers conferred by Section 5, Section 6 or Section 7 by any person, any damage, loss or injury is sustained by any person interested in the land, the State Government or the corporation, shall be liable to pay compensation to such person for such damage, loss or injury the amount of which shall be determined by the Competent Authority in the first instance. While determining such compensation, he shall have due regard to the damage or loss sustained by reason of,-(i)the removal of trees or standing crops, if any, on the land while exercising the powers under Section 5, Section 6 or Section 7;(ii)the temporary severance of the land under which the pipeline has been laid from other lands belonging to, or in the occupation of such person; or(iii)any injury to any other property, whether movable or immovable, or the earnings of such persons caused

in any other manner.(2)Where the right of user of any land has vested in the State Government or the Corporation, the State Government or the Corporation, shall be liable to pay, in addition to the compensation, if any, compensation calculated at ten percent of the market value of that land on the date of publication of the declaration under sub-section (1) of Section 4. The market value of the land on the said date shall be determined by the Competent Authority.Explanation. - The market value means the value determined on the basis of the sale price of similar land in the area in the last 3 years.(3)If the value determined by the Competent Authority is not acceptable to either of the parties, an application may be made by the party within 30 days to the District Judge having jurisdiction.(4)The decision of the District Judge under sub-section (3) shall be final.

10. Deposit and payment of compensation.

(1)The amount of compensation determined under Section 9 shall be deposited by the State Government or the corporation, as the case may be, with the Competent Authority within such time and in such manner as may be prescribed.(2)If the amount of compensation is not deposited within the time prescribed under sub-section (1), the State Government or the Corporation, as the case may be, shall be liable to pay interest thereon at the rate of nine percent per annum from the date on which the compensation had to be deposited till the date of actual deposit.(3)As soon as may be after the compensation has been deposited under sub-section (1), the Competent Authority shall, on behalf of the State Government or the Corporation as the case may be, pay the compensation to the persons entitled thereto.(4)If any dispute arises to the apportionment of the compensation or additional compensation or any part thereof, the Competent Authority shall refer the dispute to the District Judge having jurisdiction and the decision of the District Judge thereon shall be final.

11. Competent Authority to have certain powers of Civil Court.

- The Competent Authority shall have for the purposes of this Act, all the powers of a Civil Court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely,-(a)summoning and enforcing the attendance of any person and examining him on oath;(b)requiring the discovery and production of any document;(c)receiving of evidence on affidavits;(d)requisitioning any public record from any Court or office;(e)issuing commission for examination of witnesses.

12. Protection of action taken in good-faith.

- No suit, prosecution or other legal proceeding shall lie against any person for anything which is done or intended to be done in good faith in pursuance of this Act or any rule or notification made or issued thereunder.

13. Bar of jurisdiction of Civil Court.

- No civil Court shall have jurisdiction to entertain any suit or try any dispute or pass any interim injunction in respect of any matter which the Competent Authority is empowered under this Act.

14. Penalty.

- Whoever willfully obstructs any person in doing any of the acts authorized by Section 5, Section 6 or Section 7 or willfully fills up, destroys, damages or displaces any trench or mark made under Section 5, or willfully removes, damages or destroys the pipeline laid under Section 6, or willfully does any act prohibited under Section 8 shall be punishable with simple imprisonment which may extend to six months or with fine or with both.

15. Offences to be cognizable.

- All offences under Section 14 shall be cognizable.

16. Power to make rules.

(1)The State Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.(2)All rules made under this Act shall be laid on the table of the Legislative Assembly and shall be subject to such modifications as the Legislative Assembly may make.