

Madhya Pradesh Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Rules, 2015

MADHYA PRADESH

India

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Rule

MADHYA-PRADESH-RIGHT-TO-FAIR-COMPENSATION-AND-TRANSPARENCY IN LAND ACQUISITION, REHABILITATION AND RESETTLEMENT RULES, 2015

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Madhya Pradesh Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Rules, 2015Published vide Notification No. F. 12-2-2014-VII-2A, dated 03.09.2015Last Updated 10th February, 2020No. F.12-2-2014-VII-2A. - In exercise of the powers conferred by section 109 of the Right to Fair Compensation and Transparency In Land Acquisition, Rehabilitation and Resettlement Act, 2013 (No. 30 of 2013), the State Government, hereby makes the following Rules, the same having been previously published as required by section 112 of the said Act, namely: -

1. Short title, extent and commencement.

(1)These rules may be called the Madhya Pradesh Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Rules, 2015.(2)They shall extend to the whole of the State of Madhya Pradesh.(3)They shall come into force from the date of their publication in the Madhya Pradesh Gazette.

2. Definitions.

(1)In these rules, unless the context otherwise requires,-(a)'Act' means the Right to Fair Compensation and Transparency In Land Acquisition, Rehabilitation and Resettlement Act, 2013

(30 of 2013);(b)'Form' means forms appended to these rules;(c)'Rural Area' means the area other than urban area;(d)'Section' means the section of the Act;(e)'Urban Area' means the area defined as urban area under the Madhya Pradesh Land Revenue Code, 1959 (No. 20 of 1959).(2)The words and expressions used but not defined in these rules shall have the same meaning as assigned to them in the Act.

3. Selection of the social impact assessment team.

(1)The Collector shall constitute the Social Impact Assessment (SIA) team for each project from amongst Government officials/or qualified institutions in social impact assessment resource, partners and practitioners which may also be appointed to assist the team where he feels necessary. The team leader shall not be below the rank of Deputy Collector but he shall not be in charge officer of the land acquisition section of the office of the Collector.(2)The Collector may change any team member during the process of 'study.(3)If, it is found at any stage that any team member or any family member of the team member receives any benefit directly or indirectly from the requiring body or any other stakeholder of the project, the said member shall be disqualified.

4. Notification for social impact assessment.

- The Collector shall issue the Notification under section 4 of the Act, for carrying out the Social Impact Assessment Study as mentioned in Form-A appended to these rules.

5. social impact assessment study.

(1)The social impact assessment study shall be conducted in accordance with sub-section (1) of section 4.(2)The social impact assessment report shall be submitted to the Government in Form-B alongwith the Social Impact Management Plan in Form-C appended to these rules.

6. Public hearing for social impact assessment.

(1)Public hearings may be conducted at one or more places at the discretion of the Collector.(2)The draft of social impact assessment report and the Social Impact Management Plan shall be circulated in the affected area in booklet form in Hindi language and shall be made available to the Panchayat, Municipality or Municipal Corporation, as the case may be, and also to the offices of the District Collector. A copy of the draft of social impact assessment report and the social impact management plan shall be provided to the requiring body.(3)The social impact assessment team, after public hearing, shall analyse, the feedback recovery and information gathered in the public meetings and incorporate the gist alongwith their analysis in the social impact assessment report to be submitted to the Collector.(4)Consultation with the Gram Sabhas in the Scheduled areas shall be in accordance with the provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996 (No. 40 of 1996)

7. Appraisal of social impact assessment report by an expert group.

- The Expert Group constituted under sub-section (1) of section 7 of the Act shall evaluate the social impact assessment report and shall make its recommendation to that effect within a period of two months from the date of its constitution.

8. Publication of social impact assessment report, social impact management plan and recommendations of expert group.

- The social impact assessment report, social impact management plan and recommendations of expert group prepared in Hindi shall be published by way of uploading them in the website of district concerned and shall be made available to Panchayat, Municipality or Municipal Corporation, as the case may be and to the offices of the Collector, the Sub-Divisional Magistrate and the Tahsildar, also the notice of such publication shall be publicized in two daily newspapers circulated in the affected area and also affixing at some conspicuous places in the affected area.

9. Obtaining prior consent.

- For the purpose of obtaining prior consent of affected families as required under sub-section (2) of section 2, - (a) Collector shall issue a notice in Form-D. (b) The notice shall be displayed on the notice board of Gram Panchayat, Janpad Panchayat and Zila Panchayat for rural areas and notice board of Municipality or Municipal Corporation for urban areas, as the case may be and also on the notice board at the Collectorate. (c) The consent or denial to consent shall be conveyed in Form-E. (d) After expiry of the time for submission of consent or otherwise, Collector shall record his findings as to whether the requisite consent under sub-section (2) of section 2 of the Act has been received or not.

10. Power, duties and responsibilities of the administrator.

- The Administrator shall exercise the powers and perform the duties and have the responsibilities as follows - (a) to conduct a survey and undertake a census of the affected families; (b) to prepare a draft rehabilitation and resettlement scheme; (c) to publish the draft scheme in same manner as prescribed in rule 9; (d) to organize and conduct public hearings on the draft scheme; (e) to provide an opportunity to the requiring body to make suggestions and comments on the draft scheme; (f) to submit the modified draft scheme suitably to the Collector for approval; (g) to publish the approved rehabilitation and resettlement scheme in the affected area; (h) to help and assist the Collector in preparing the rehabilitation and resettlement award; (i) to monitor and supervise the implementation of the rehabilitation and resettlement award; (j) to assist in post-implementation audit of rehabilitation and resettlement; and (k) any other work required to be done or assigned to him by the Collector for rehabilitation and resettlement.

11. Survey and census of affected families.

(1) Administrator, Rehabilitation and Resettlement under sub-section (1) of section 16 of the Act shall conduct a survey and undertake a census of the affected families either by his own staff or by out-sourcing from any agency. The survey and census work may be conducted by way of collecting data from the social impact assessment study report and Government records and verification of data as necessary during field survey. (2) Where the option of choosing specific rehabilitation and resettlement entitlement is available, the option of the affected families shall be obtained during the survey which shall be in the form of written statement signed by the Head of the affected family. (3) This work shall be completed as far as practicable within a period of thirty days from the date of publication of the preliminary notification. The Collector may extend such period as he deems fit.

12. Preparation of draft rehabilitation and resettlement scheme.

(1) The Administrator Rehabilitation and Resettlement Scheme shall prepare the draft of rehabilitation and resettlement Scheme within a period of thirty days from the date of completion of survey. (2) Where consent is involved, the draft of rehabilitation and resettlement scheme shall be prepared by taking into account the negotiated terms and conditions of rehabilitation and resettlement Scheme reached between the requiring body and the affected families. (3) The draft of rehabilitation and resettlement Scheme prepared by the Administrator shall in addition to the particulars mentioned in sub-section (2) of section 16, indicate the time plan for completion of all construction works including the infrastructural developments to be provided as per the Scheme.

13. Public hearing by administrator.

(1) The Administrator shall fix a date, time and venue for public hearing under sub-section (5) of Section 16. (2) Public hearings shall be conducted in all Gram Sabhas where more than twenty five percent of the members are directly or indirectly affected by the acquisition of the land: Provided that the public hearing shall be conducted in each and - every Gram Sabha in Scheduled Areas. (3) The date and venue of the public hearing must be announced and publicized fifteen days in advance through public notifications in all the affected village/municipality/affected ward of Municipal Corporation and through direct communication with Gram Panchayat or Municipal Ward representatives and by uploading the information on the website of the district.

14. Deposits to be made by the requiring body.

- Fifty percent of the estimated amount of the cost of acquisition shall be deposited by the requiring body with the Collector. If requiring body fails to deposit the same, no declaration shall be made under sub-section (2) of Section 19 of the Act: Provided that if the requiring body is the State Government, the deposits of the estimated amount may be made as per demand of Collector.

15. Recovery of excess amount.

- Where any excess amount is proved to have been paid to any person as a result of the correction made under sub-section(1) of Section 33, the excess amount so paid shall be liable to be refunded and in case of any default or refusal to pay, the said amount shall be recovered as an arrears of land revenue. The procedure for recovery of such amount shall be followed as prescribed in Chapter XI of the Madhya Pradesh Land Revenue Code, 1959 (No. 20 of 1959) and rules made thereunder.

16. Prior consent of Gram Sabha.

- In all cases of acquisition of land in Scheduled Area under the Fifth Schedule of the Constitution, prior consent of the concerned Gram Sabha shall be obtained in Form-F.

17. Form of development plan.

- The development plan for involuntary displacement of the Scheduled Castes or the Scheduled Tribes families in Scheduled Areas, under sub-section (4) of Section 41, shall be prepared.

18. Recovery of benefits availed by making false claim.

- If any rehabilitation and re-settlement benefit is availed by making a false claim or through fraudulent means, it shall be liable to be recovered and in case of any refusal to pay the same, shall be recovered as an arrears of land revenue. The procedure for recovery of such amount shall be followed as prescribed in Chapter XI of the Madhya Pradesh Land Revenue Code, 1959 (No. 20 of 1959) and rules made thereunder.

Form - A(see rule 4)The State Government intends to acquire the following lands in consultation with the concerned Panchayat / Municipality / Municipal Corporation, as the case may be, at village / ward level, in the affected area and carry out a Social Impact Assessment study for public purpose. The study shall be undertaken as per the provisions of section 4 of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (No. 30 of 2013)

(1)Name of project developer : (2)Purpose of proposed acquisition of land: (3)Details of Social Impact Assessment team to undertake the study: (4)Land details:- (a)District (b)Tehsil (c)Village (d)Total affected area (e)Area to be acquired (5)Brief description of the proposed project: (6)The project area and the affected areas: (7)Whether consent of Gram Sabhas and/or land owners is required? (8)The date of completion of Social Impact Assessment

Collector District.....

Form - B(See rule 5)Social Impact Assessment Report

1. Name of the Project

2. Public purpose

3. Location

4. Area of the Project

5. Alternatives considered

6. Background of the project, including developer's background and governance

7. Phases of project construction

8. Maps showing area of impact under the project

9. Total land requirement for the project.

10. Land prices

11. Number of families affected (according to clause (c) of Section; 3 of the Act)

12. Properties-

Public property- land.....buildings.....other.....Private property-
land.....buildings.....other.....

13. Number of families likely to be displaced

- Whose land acquired village/wardNo. of families

d Castes/ Scheduled Tribes Others Total

- Whose house acquired village/wardNumber of families

d Castes/Scheduled Tribes Others Total

14. Social Impacts:

(a)Description of impacts(b)Indicative list of impacts

15. Alternatives considered:

(a) If yes- why the present proposal is preferred (b) If no- why?

16. Conclusion:

Form-C (See rule-5) Social Impact Management Plan Ameliorative measures required to be undertaken for addressing the impact on: (1) Livelihood of the affected families (2) Public and community properties (3) Assets and infrastructure particularly roads and (4) Drainage and sanitation (5) Sources of drinking water (6) Sources of water for cattle (7) Community ponds (8) Public utilities (such as post offices, fair price shops, electricity supply, health care facilities, schools, anganwadis, children parks and burial and cremation grounds) (9) Measures that Requiring Body has stated it shall introduce in the Project Proposal (10) Additional measures that Requiring Body has stated it shall undertake in response to the findings of the Social Impact Assessment process and public hearings

Form-D (See Rule-9) Form For Seeking Prior Consent (1) Name of the project (2) Purpose of the project (3) Estimated completion time (in months) (4) Brief description of area affected (Village, Number of Village, Ward etc.) (5) Estimated Land required for the project - (a) Government land, (i) Forest land; (ii) Non-Forest land. (b) Private land : (c) Private property (other than land) : (d) Public Property (other than land): (6) Number of affected families (holders of land or other immovable property): (7) The consent or refusal to consent by affected family shall be submitted in Form-E to the Collector on or before (date which shall not be less than 2 weeks from the issue of this notice) by depositing at the following address

.....
 Rule-9) Form For Consent Or Denial of Consent I aged about years, son of resident of is affected from the project as: (a) I am a holder of immovable property in the proposed project area; (b) I do not hold any immovable property in the proposed project area but I am affected family and have other interests as

2. I express my consent for the above project.

or I refuse to give my consent for the above project

for Signature Name Date : Form-F (See Rule-16) Format For Gram Sabha Resolution We, the undersigned members of the Gram Sabha of within Panchayat of Tehsil in District , states that on the basis of information supplied by the administration and officials, this Gram Sabha, hereby certifies that it *consents / *refuses to consent to the proposed project, which shall involve; (1) acquisition of hectares of private land; (2) transfer of hectares of Government land to the project; and (3) transfer of hectares of forest land to the project. Date: Signatures/thumb impressions of Gram Sabha members Date: Signature of Designated District Officer on receipt of the Resolution N.B. - *Strike out whichever is not applicable.