

# **Bihar Underground Pipelines (Acquisition of Right of User in Land) Act, 2011**

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### **Act 15 of 2011**

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Bihar Underground Pipelines (Acquisition of Right of User in Land) Act, 2011(Bihar Act 15 of 2011)Last Updated 4th February, 2020Preamble. - An Act to provide for the acquisition of right of user in land for laying underground pipelines for carrying of water, gas or other material in the State of Bihar and for matters connected therewith or incidental thereto.Be it enacted by the Legislature of the State of Bihar in the sixty two year of the Republic of India as follows :-

### **1. Short title, extent and commencement.**

(1)This Act may be called the Bihar Underground Pipelines (Acquisition of Right of User in Land) Act, 2011.(2)It shall extend to the whole of the State of Bihar.(3)It shall come into force on such date as the State Government may, by notification, appoint.

### **2. Definitions.**

- In this Act, unless otherwise required in the context,-(a)"Competent authority" means any person or authority authorized by the State Government, by notification in the Official Gazette, to perform the functions 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 (Central Act 1 of 1956);(c)"Prescribed" means prescribed by rules made under this Act;(d)"State Government" means the Government of the State of Bihar;(e)"Underground pipeline" means an underground pipeline laid at a depth of not less than one and a half meter of the land surface.

### **3. Publication of notification for Acquisition.**

(1)Whenever it appears to the State Government that it is necessary in the public interest for the carrying out water, gas or other material from one locality to another locality, an underground pipeline may be laid and that for the purpose of laying such underground pipelines, it is necessary to acquire the right of user in any land under which such underground 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 a period of twenty-one days from the date of the notification under sub-section (1), object to the laying of the underground pipelines.(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 his legal practitioner and may, after hearing all such objections and after making such further inquiry, if any, as it deems necessary, by order, either allow or reject the objections.(6)Every order made by the competent authority under sub-section (5) shall be final.

### **4. Declaration of acquisition of right of user in Land.**

(1)Where no objections under sub-section (4) of section 3 have been made to the competent authority within the period specified therein or where the competent authority has passed final order, the competent authority shall declare, by notification in the Official Gazette, that the right of user in the land for laying the underground pipelines is required for public purpose.(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 underground pipelines shall, instead of vesting in the State Government, vest in the corporation proposing to lay the underground pipelines, free from all encumbrances.

### **5. Power to enter and survey.**

- On publication of the declaration under sub-section (1) of section 4, it shall be lawful for any person authorized by the State Government or the corporation and its servants and workmen,-(a)to enter upon, 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 lines by placing marks and cutting trenches;(e)to cut down and clear away any part of any standing crop, fence or jungle, where survey is not completed, levels not taken, boundaries and lines are not marked; and(f)to do all other acts necessary to ascertain whether underground 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. Laying underground pipelines.**

(1) Where the right of user in any land has been vested in the State Government or corporation under section- 4-(i) It shall be lawful for any person authorized by the State Government or the corporation, as the case may be, and its servants to enter upon the land and lay underground pipelines or to do any other act necessary for laying of such underground pipelines: Provided that no underground pipelines 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; or (b) any land which is appurtenant to a dwelling house; (ii) Such land shall be used only for laying underground pipelines and maintaining, examining, repairing, altering or removing any such underground pipelines or for doing any other act necessary for any of the aforesaid purposes or for the utilization of such underground 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 into land for inspection.**

- For maintaining, examining, repairing, altering or removing any underground pipeline, or measurement for any of the aforesaid purpose, or for making any inspection, any person authorized 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. Restrictions regarding 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 may cause or likely to cause any damage in any manner whatsoever to the underground pipeline.

## **9. Compensation.**

(1) Where in exercise of the powers conferred under sections-5, 6 or 7, 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, it 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; (ii) the temporary severance of the land under which the underground 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 person 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, as the case may be, shall be liable to pay, in addition to compensation, if any, compensation calculated at twenty 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. - "Market value" means the value determined on the basis of methods as prescribed in the Bihar Land Acquisition Rehabilitation and Resettlement Policy 2007 as amended from time to time. In addition to market value, 30% solatium on the rates as fixed under the provisions of the Bihar Land Acquisition Rehabilitation and Resettlement Policy 2007, shall be paid but wherever the land owner gives consent in writing, the solatium amount shall be 60% in place of 30%. (3) If the market value determined by the competent authority is not acceptable to either of the parties, an application may be made by the aggrieved party within thirty days to the Court as defined under the Land Acquisition Act, 1894, whose decision 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 subsection (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 as to the apportionment of the compensation or additional compensation or any part thereof, the competent authority shall refer the dispute to the Court as defined under the Land Acquisition Act, 1894 and the decision of the Court thereon shall be final.

## **11. Period within which compensation shall be made.**

- The competent authority shall pay compensation under section-9 within a period of two years from the date of the publication of the notification under section-3 and if no compensation is paid within that period, the entire proceeding for the acquisition of right of user in land shall lapse. Explanation. - In computing the period of two years referred to in this section, the period during which any action or proceeding in pursuance of the said declaration is stayed by an order of a court shall be excluded.

## **12. Special powers in cases of urgency.**

(1) In cases of urgency, whenever the State Government so directs, the competent authority, though no such award has been made, may, on the expiration of fifteen days from the publication of the notification mentioned in sub-section (1) of section-3, acquire right of user in land needed for laying of such underground pipelines. Such right of user in the land shall thereupon vest absolutely in the

State Government, free from all encumbrances: Provided that the competent authority shall not acquire right of user in any land or part thereof under this sub-section without giving to the occupier thereof at least forty eight hours notice of its intention so to do, or such longer notice as may be reasonably sufficient to enable such occupier to remove his movable property from such land without unnecessary inconvenience. (2) In every case under the preceding sub-section, the competent authority shall at the time of taking possession, offer to the persons interested, compensation for the standing crops and trees (if any) on such land and for any other damage caused by such sudden dispossession; and, in case such offer is not accepted, the value of such crops and trees and the amount of such other damage shall be allowed in awarding compensation for the land under the provisions herein contained. (3) Before taking possession of any land under sub-section (1), the competent authority shall, without prejudice to the provisions of sub-section (2)-(a) make payment of eighty per centum of the compensation for such land as estimated by him to the person interested and entitled thereto; and (b) pay to him, unless prevented by one or more of the contingencies mentioned in section 9, and where the competent authority is so prevented, the provisions of section-9, shall apply as they apply to the payment of compensation under that section. (4) The amount paid or deposited under sub-section (3), shall be taken into account for determining the amount of compensation required to be tendered under section-9 and where the amount so paid or deposited exceeds the compensation awarded by the competent authority under section-9, the excess amount may, unless refunded within three months from the date of competent authority's award, be recovered as an arrear of land revenue. (5) In the case of any land to which, in the opinion of the State government the provisions of sub-section (1) are applicable, the State Government may direct that the provisions of section-3 shall not apply, and, if it so directs a declaration may be made under section-4 in respect of the land at any time after the date of the publication of the notification under section-3.

### **13. Competent authority to have certain powers of civil court.**

- The competent authority shall have for this Act, all the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908 (5 of 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) recording of evidence on affidavits; (d) requisitioning any public record from any court or office; (e) issuing commission for examination of witnesses.

### **14. Protection for action taken in good faith.**

- No suit, prosecution or other legal proceedings 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.

### **15. Bar of jurisdiction.**

- No civil court shall have jurisdiction to entertain any suit or to try any dispute or to pass any interim injunction in respect of any matter for which the competent authority is empowered under

this Act.

## **16. Punishment.**

(1)Whosoever wilfully obstructs any person in doing any of the acts authorized under sections-5, 6 or 7 of this Act or wilfully fills up, destroys, damages or displaces any trench or mark made under section-5 or wilfully does anything prohibited under the provision to sub-section (1) of section-8, shall be punishable with simple imprisonment which may extend to six months or fine or with both.(2)Whosoever wilfully removes, displaces, damages or destroys any underground pipeline laid, shall be punishable with rigorous imprisonment for a term which shall not be less than one year, but which may extend to three years and shall also be liable to fine.

## **17. Power to remove difficulties.**

- If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by an order published in the Official Gazette, make such provision or give such directions not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty.

## **18. Power to make rules.**

(1)The State Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.(2)Every rule made under this Act shall be laid, as soon as may be, after it is made, before the House of the State Legislature, while it is in session.