

United Provinces Land Acquisition (Rehabilitation of Refugees) Act, 1948

UTTAR PRADESH

India

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Act 26 of 1948

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United Provinces Land Acquisition (Rehabilitation of Refugees) Act, 1948(U.P. Act No. 26 of 1948)Last Updated 26th February, 2020For Statement of Objects and Reasons see U. P. Gazette Extraordinary, dated April 23, 1948.For Statement of Objects and Reasons see, U. P, Gazette, dated December 17, 1949.Received the assent of the Governor on May 19, 1948, under section 75 of the Government of India Act, 1935, as adapted by the India (Provisional Constitution) Order, 1947, and was published in the United Provinces Government Gazette, dated June 5, 1948.An Act to provide for the acquisition of land for the rehabilitation of refugees from Pakistan.Whereas it is expedient to acquire land required for the rehabilitation of refugees from Pakistan and to prescribe an expeditious procedure for the determination of compensation to be paid on account of such acquisition;It is hereby enacted as follows : -

1. Short title, extent and commencement.

(1)This Act may be called the United Provinces Land Acquisition (Rehabilitation of Refugees) Act, 1948.(2)It shall extend to the whole of [Uttar Pradesh.] [Substituted by A.O. 1950 for (United provisions).](3)It shall come into force at once.

2. Definitions.

- In this Act, unless there is anything repugnant in the subject or context -(i)"Compensation Officer" means the Compensation Officer appointed by, general or special order by the [State Government.] [Substituted by A.O. 1950 for (provincial Government).](ii)"Court" means the principal Civil Court of original jurisdiction and includes a Civil Judge having jurisdiction in the area;(iii)"land" includes benefits to arise out of land and things attached to the earth or permanently fastened to anything attached to the earth;(vi)"person interested" has the meaning assigned to it in section 3 of the Land

Acquisition Act, 1894;(v)"Prescribed" means prescribed by the rules made under this Act;(vi)[State Government] [Substituted by A. o, 1950 for (provincial Government).] means the Government of [Uttar Pradesh]; [Substituted by A. O. 1950 for (United Provinces).](vii)["Refugees" means any person who was a resident in any place forming part of Pakistan and who, on account of partition or civil disturbances or the fear of such disturbances, has on or after the first day of March, 1947, migrated to any place in the [Uttar Pradesh] [Substituted by section 2 of U. P. Act No. XVI of 1950.]and has been since residing there;](viii)"builder" means a society registered under the Co-operative Societies Act, 1912, or the local authority and includes such other person as the [State Government] [Substituted by A. o, 1950 for (provincial Government).] may, by notification in the Gazette, declare in that behalf.

3. Procedure of requisition.

- If in the opinion of the [State Government] [Substituted by A. o, 1950 for (provincial Government).] or such other authority as the [State Government] [Substituted by A. o, 1950 for (provincial Government).] may appoint in that behalf (hereinafter called 'the appointed authority'), it is necessary or expedient so to do for the erection of houses, shops, and workshops for the rehabilitation of refugees, the [State Government] [Substituted by A. o, 1950 for (provincial Government).] or the appointed authority, as the case may be, may by order requisition any land by serving on the owner and occupier thereof, and, when the owner or the occupier is not ready traceable or the ownership or the right to occupation of the land is in dispute, or owing to the number of persons entitled as owner or occupier it is not reasonably convenient to serve every one of them separately, by publishing in such manner, as may be specified in that behalf, a notice stating that the [State Government] [Substituted by A. o, 1950 for (provincial Government).] or the appointed authority, as the case may be, has decided to requisition it in pursuance of this section and may make such further orders including an order for the taking of possession as appear to it to be necessary or expedient in connexion with the requisitioning.

4. Use of requisitioned land.

- Where any land has been requisitioned under section 3, the [State Government] [Substituted by A. o, 1950 for (provincial Government).] or such other person as may be authorized in that behalf may use it, in such manner as may appear to it to be expedient, for the purpose of erecting, houses, shops and workshops for the rehabilitation of refugees and for providing other amenities.

5. Application for requisition by a builder.

- A builder may, in the prescribed manner apply to the [State Government] [Substituted by A. O. 1950 for (Provincial Government).] to acquire any land, as may be specified in the application, for the purpose of erecting houses, shops and workshops for the rehabilitation of refugees and for providing amenities connected therewith.

6. Declaration of [State Government] [Substituted by A. O. 1950 for (Provincial Government).] on an application by a builder.

(1) Whenever the [State Government] [Substituted by A. O. 1950 for (Provincial Government).] is satisfied after such inquiry as it may consider necessary that the land is needed and is suitable for the erection of houses, shops and workshops for the rehabilitation of refugees or for the provision of amenities directly connected therewith, the [State Government] [Substituted by A. O. 1950 for (Provincial Government).] or the appointed authority, shall require the builder to enter into an agreement with the [State Government] [Substituted by A. O. 1950 for (Provincial Government).] providing to the satisfaction of the [State Government] [Substituted by A. O. 1950 for (Provincial Government).] for the following matters; viz: (i) the payment to the [State Government] [Substituted by A. O. 1950 for (Provincial Government).] of the cost of acquisition; (ii) the transfer on such payment of the land to the builder; (iii) the terms on which the land shall be held by the builder; (iv) the time within which the condition on which and the manner in which the houses, shops and workshops shall be erected, workshops started and amenities provided; (v) the disposal by sale, exchange, lease or otherwise of the land acquired or of the building erected thereon; (vi) water supply, lighting, drainage inclusive of sewerage and surface drains, and sewage disposal; (vii) housing standard and location of market places and other places for common use of the residents in the area acquired; (viii) resumption with or without the constructions and the penalty which may be imposed on the builder and the manner in which it may be enforced; and (ix) generally for such other matters as the [State Government] [Substituted by A. O. 1950 for (Provincial Government).] may prescribe. (2) Every such agreement shall as soon as may be after its execution, be published in the official Gazette, and shall thereupon have the same effect as if it had formed part of this Act.

7. Acquisition of land after execution of agreement under section 6.

(1) After the agreement mentioned in section 6 has been made and the builder has deposited such amount as the [State Government] [Substituted by A. O. 1950 for (Provincial Government).] may direct, the [State Government] [Substituted by A. O. 1950 for (Provincial Government).] or the appointed authority may acquire the land by publishing in the official Gazette a notice to the effect that it has decided to acquire such land, and may make such further order including an order for the taking of possession as appear to it to be necessary or expedient in connexion with the acquisition. (2) Upon the publication of notice under sub-section (1) the land acquired shall vest absolutely in the [State Government] [Substituted by A. O. 1950 for (Provincial Government).] from the beginning of the day on which the notice is so published and all other provisions of the Act in so far as they are applicable shall apply as if it had been acquired under the next following section.

8.

(1) The [State Government] [Substituted by A. O. 1950 for (Provincial Government).] or the appointed authority may with a view to requisitioning any land under section 3 or acquiring it under section 7, or determining the compensation under sections 10 and 11, by order- (a) require any person to furnish to such authority as may be specified in the order, such information in his

possession relating to the property as may be so specified in the said order, and(b)direct that the owner or the occupier or person in possession of the land shall not, without the permission of the authority making the order, dispose of it till the expiry of such period his may be specified in the order.(2)Without prejudice to the powers conferred by subsection (1), any person or authority appointed in this behalf by the [State Government] [Substituted by A. O. 1950 for (Provincial Government)].[State Government] may enter any land and inspect it for the purpose of determining whether, and if so in what manner, an order under section 3 or 7 should be made in relation to such land, or with a view to securing compliance with any order made under the said sections.

9. Acquisition of land.

(1)Where any land has been requisitioned under section 3, the [State Government] [Substituted by A. O. 1950 for (Provincial Government).] may at any time, acquire it by publishing in the official Gazette, a notice to the effect that it has decided, to acquire it in pursuance of this section.(2)Where a notice as aforesaid is published in the official Gazette, the requisitioned land shall, from the beginning of the day, on which the notice, is so published vest absolutely in the [State Government] [Substituted by A. O. 1950 for (Provincial Government).] free from all encumbrances and the period of requisitioning of such land shall end forthwith.

10. Payment of compensation.

(1)Where any land is requisitioned under section 3 there shall be paid to every person interested such compensation as may be agreed upon in writing between such person and the [State Government] [Substituted by A. O. 1950 for (Provincial Government).] or the appointed authority, in respect of -(a)the requisitioning of such land, and(b)any damage done during the period of requisitioning to such land other than that which may have been sustained by any natural causes.(2)Where no such agreement can be reached the [State Government] [Substituted by A. O. 1950 for (Provincial Government).] or the appointed authority shall refer the matter, with its recommendation, as to the amount of compensation and the reasons therefor, to the Compensation Officer and also direct the person claiming compensation to appear before such officer on such date as may be specified,(3)Upon the receipt of any reference under sub-section (2) the Compensation Officer shall, on the date fixed or on any other date to which the hearing may be postponed, hear such person and after such further inquiry as he may deem fit, determine the amount of compensation which shall be final and conclusive.

11. Amount of compensation.

(1)Whenever any land is acquired under section 7 or 9 there shall be paid compensation the amount of which shall be determined by the Compensation Officer, in accordance with the principles set out in clauses first, second and third of sub-section (1) and sub-section (2) of section 23 of the Land Acquisition Act, 1894 :Provided that the market value referred to in clause first of the said sub-section shall be deemed to be the market value of such land on the date of publication of the notice under section 7 or 9 as the case may be, or on the first day of September 1939, whichever is less :Provided further that where such land has been held by the owner thereof under a purchase

made before the first day of April, 1948, but after the first day of September, 1939, by a registered document, or a decree for pre-emption between the aforesaid dates, the compensation shall be the price actually paid by the purchaser or the amount on payment of which he may have acquired the land in the decree for pre-emption, as the case may be.(2)When the compensation has been determined under sub-section (1), the Compensation Officer shall make an award in accordance with the principles, in so far as they are not inconsistent with this Act or any rule made thereunder, set out in section 11 of the Land Acquisition Act, 1894.(3)Where any person aggrieved by an award made under sub-section (2) makes an application within the period prescribed requiring the matter to be referred to the court, the Compensation Officer, shall refer it to the decision of the District Court having jurisdiction.(4)The provisions of the Land Acquisition Act, 1894, shall in so far as they are not inconsistent with the provisions of this Act, apply in respect of any reference made to the District Court under sub-section (3).

12. Release from requisition.

(1)Where any land requisitioned under section 3 is not acquired and is to be released from requisitioning, the [State Government] [Substituted by A. O. 1950 for (Provincial Government).] or the appointed authority, as the case may be, may, after making such inquiry, if any, as it considers necessary, specify by order in writing the person who appears to it to be entitled to the possession of such land.(2)The delivery of possession of such land to the person specified in the order made under sub-section (1) shall be a full discharge of any liability of the [State Government] [Substituted by A. O. 1950 for (Provincial Government).] to deliver possession to such person as may have rightful claim to possession thereof but shall not prejudice any right in respect of such land which any other person may be entitled by due process of law to enforce against the person to whom possession of the land is so delivered.(3)Where the person to whom the possession of any land requisitioned under section 3 is to be delivered, cannot be found or is not readily traceable or has no agent or other person empowered to accept delivery on his behalf the [State Government] [Substituted by A. O. 1950 for (Provincial Government).] shall publish in the official Gazette, a notice declaring that such land is released from requisitioning and shall cause a copy thereof to be affixed on some conspicuous part of such land.(4)When a notice referred to in sub-section (3) is published in the official Gazette, the land specified in such notice shall cease to be subject to requisitioning from the date of such publication and shall be deemed to have been delivered to the person entitled to possession thereof.(5)Upon delivery of possession under sub-section (2) or (4), the [State Government] [Substituted by A. O. 1950 for (Provincial Government).] shall not be liable for any compensation or other claims in respect of such land.

13. Court not to question any order passed under the Act.

(1)No order made in exercise of any power conferred by or under this Act shall be called in question in any court except as provided in this Act.(2)Where an order purports to have been made and signed by any authority in exercise of any power conferred under this Act, a court shall within the meaning of Indian Evidence Act, 1872, presume that such order was so made by that authority.

14. Protection of persons acting under the Act.

(1) Except as provided in this Act, no suit or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any rules or orders made thereunder. (2) No suit or other legal proceeding shall lie against the [State Government] [Substituted by A. O. 1950 for (Provincial Government).] for any damage caused or likely to be caused by anything in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

15. Rule making power.

(1) The [State Government] [Substituted by A. O. 1950 for (Provincial Government).] may make rules for the purpose of carrying into effect the provisions of this Act. (2) Without prejudice to the generality of the forgoing power, such rules may provide—(a) for the appointment, functions and jurisdiction of Compensation Officers and other prescribed authorities; (b) the conduct and hearing of references that may be made to Compensation Officer, and the procedure to be followed by such officer; (c) the form of application to be made by builder for the acquisition of land; (d) the form of notices to be given and the mode of their service; (e) for any matter which is to be or may be prescribed.