

# United Provinces Acquisition of Property (Flood Relief) Act, 1948

UTTAR PRADESH

India

## United Provinces Acquisition of Property (Flood Relief) Act, 1948

### Rule

### UNITED-PROVINCES-ACQUISITION-OF-PROPERTY-FLOOD-RELIEF-A of 1948

- Published on 9 December 1948
- Commenced on 9 December 1948
- [This is the version of this document from 9 December 1948.]
- [Note: The original publication document is not available and this content could not be verified.]

United Provinces Acquisition of Property (Flood Relief) Act, 1948U.P. Act No. XXXIX of 1948

### 04.

[9th December, 1948]Passed by the United Provinces Legislative Assembly on October 22, 1948 and the United Provinces Legislative Council on November 5, 1948.[Received the assent of the Governor on December 9, 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 Gazette, Extraordinary, dated December 13, 1948).An Act to provide for powers to afford immediate relief to persons in the flood affected areas.Preamble. - Whereas [\* \* \*] [The words "owing to extensive damage caused by the recent floods in certain areas of the United Provinces" omitted by U.P.Act XXXVI of 1952] it is necessary to provide for powers for [immediate requisition and acquisition of land for building sites and building materials for relief to the sufferers in the flood affected areas] [Substituted by ibid, for the words, "immediately to requisition and acquisition of land for building sites and building material for relief to the sufferers in the flood affected areas and to provide for powers therefor"].It is hereby enacted as follows :

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

(1)This Act may be called the United Provinces Acquisition of Property (Flood Relief) [\* \* \*] [ The words and brackets "temporary powers" deleted by U.P. Act No. 36 of 1952] Act, 1948.(2)[\* \* \*] [ Sub-section (2), omitted by U.P. Act 52 of 1976, vide schedule, serial No. 4 (w.e.f. 15th Oct.,

1976.)(3)[\* \* \*] [ Sub-section (3), omitted by U.P. Act No. 52 of 1976 (w.e.f. 15th Oct., 1976)]Notification[Vide Notification No. 23(5)(2)-:979-Rajaswa-11, dated August 21, 1979, published in U.P. Gazette, Part 1, dated 15th September, 1979].In exercise of the powers under sub-section (2) of Section 1 of the U.P. Acquisition of Property (Flood Relief) Act, 1948 (U.P. Act No. 39 of 1948) and in suppression of all previous notifications, extending the provisions of the said Act to the Districts of the Uttar Pradesh, the Governor is pleased to apply with effect from the date of publication of their notification in the Gazette, the provisions of the said Act to the whole of the Uttar Pradesh.

## **2. Definitions.**

- In this Act, unless there is anything repugnant in the subject of context, - (a)"Building material" includes bricks, timber, bamboo, earth, lime, cement, iron and steel, and other material required in construction of houses;(b)"Compensation officer" and "Requisitioning Authority" mean the Collector of the District and include and Assistant Collector of the 1st class appointed by the Collector, provided that the same officer shall not be Requisitioning Authority and Compensation Officer in respect of the same case;(c)"Landholder", "Tenant", "Rent" and "Sayar" have the meanings respectively assigned to them in the United Provinces Tenancy Act, 1939;(d)"Persons interested" includes all persons claiming an interest in compensation to be made on account of the requisition or acquisition of land under this Act; and a person shall be deemed to be interested in the land if he is interested in an easement affecting the land:Provided that in the case of building materials person interested shall mean the owner of such building materials;(e)[State Government]" [Substituted by the ALO 1950 for ] means the [Government of] [ Substituted by ibid for "the United Provinces"]; and(f)"Public purpose" means provision of village sites or repair or construction of houses for persons affected by floods.

## **3. Procedure of requisition.**

- If in the opinion of the Requisitioning Authority it is necessary or expedient so to do for a public purpose it may, by order, requisition any land or building material by serving on the owner and the person in possession thereof and, when the owner or person in possession thereof is not readily traceable, or the ownership or the right to possession of the land or building material is in dispute or owing to the number of persons entitled to the ownership or to the possession thereof, it is not reasonably convenient to serve everyone of them separately, by publishing in such manner as may be specified in that behalf a notice stating that the Requisitioning Authority has decided to requisition such land or building material in pursuance of this Section, and may make such further orders including orders relating to the disposal, possession and enjoyment of any trees and other crops of any persons standing on such land, as appear to it to be necessary or expedient in connection with the requisitioning.

## **4. Use of requisitioned land.**

- Where any land or building material has been requisitioned under Section 3, the Requisitioning Authority may use it in such manner as may appear to it to be expedient for any public purpose.

## **5. Powers of the Requisitioning Authority.**

(1)the Requisitioning Authority may with a view to requisition any land or building material under Section 3 or determining the compensation therefor, 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 specified, and(b)direct that the owner or person in possession of the land or building material shall not without the permission of the authority making the order, dispose of it till the expiry of such period as may be specified in the order, may enter any land and inspect it for the purpose of determining, whether and if so in what manner an order under Section 3 should be made in relation to such land or building material or with a view to securing compliance with any order made under Section 3.

## **6. 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 Requisitioning Authority in respect of -(a)the requisitioning of such land, and(b)any damage done during the period of requisitioning such land, other than that which may have been sustained by natural causes.(2)Where no such agreement can be reached, the Requisitioning Authority shall refer the matter with his recommendations as to the amount of compensation therefor to the Compensation Officer and shall direct the person claiming compensation to appear before such officer on such date as may be specified and the Compensation Officer shall, on the date fixed in that behalf or on any other date of 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, except as provided in Section 11, be final and conclusive.(3)The Compensation Officer shall in fixing the amount of compensation have regard to -(a)the rent if any assessed on the land which has been requisitioned;(b)the sayar income, if any derived from the land;(c)the value of any trees which as a result of the requisition have to be removed from the land ;(d)the damage sustained by the person interested by reason of taking of any standing crops of trees which may be on the land at the time of taking possession thereof.But he shall not take into consideration the value of trees which may continue to be possessed and enjoyed by the person entitled thereto.(4)The compensation fixed under sub-section (1) or determined under sub-section (2) shall be paid in such manner as the parties may agree or as the case may be, the Compensation Officer may direct.

## **7. Acquisition of land.**

(1)Where any land or building material has been requisitioned under Section 3 the Requisitioning Authority may, at any time, acquire it by publishing in such manner as the said Authority may specify a notice to the effect that it has decided to acquire it in pursuance of this Section.(2)Where a notice as aforesaid is duly published, the requisitioned land or building material shall from the beginning of the day on which the notice is so published, vest absolutely in the [Stale Government] free from all encumbrances and the period of requisitioning of such land or building material shall end forthwith.(3)The Requisitioning Authority may, subject to the general control of the [Stale Government] [Substituted by the A.I.O 1950 for ] retain or utilize, or let on hire, lease, sell, exchange

or otherwise dispose of, any land acquired in pursuance of this Section to any person affected by floods and in such manner as it may deem proper.

## **8. Compensation to the owner.**

- (i) Whenever in pursuance of Section 3 or Section 7, a Requisitioning Authority requisitions or acquires, as the case may be, any building material the owner thereof shall be paid, such compensation as the said Authority may determine. (ii) In determining the amount of compensation under sub-section (1), the Requisitioning Authority shall have regard to the control price, or if there is no control price to the market value thereof and to cost of transport and storage actually incurred by the person interested.

## **9. Payment of compensation for acquisitioned land.**

(1) Whenever any land is acquired under Section 7 there shall be paid to the person interested compensation the amount of which shall be determined by the Compensation Officer in accordance with the principles set out in clauses first to fourth of sub-section (1) of Section 23 of the Land Acquisition Act, 1894: Provided that the market value referred to in clause first of sub-section (1) of Section 23 of the Land Acquisition Act, 1894, shall be deemed to be the market value of such land on the date of publication of the notice under Section 7 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 October, 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 of payment on which he may have acquired the land in the decree for pre-emption as the case may be: Provided further that in determining the amount of compensation the Compensation Officer shall also take into consideration any benefit which may accrue or have accrued to the person interested in or over any other land belonging to such person on account of the abandonment of such other land by any person in occupation thereof. (2) When the compensation has been determined under sub-section (1), the Compensation Officer shall make an award in accordance with the principle 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) When 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 District Judge, the Compensation Officer shall refer it to the decision of the District Judge 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 Judge under sub-section (3), except that no appeal shall lie from any order passed by such District Judge.

## **10. Release from requisition.**

(1) Where any land or building material requisitioned under Section 3 is to be released from requisition, the Requisitioning Authority 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 or building material. (2) The delivery of possession of such land or building material to the

person named in the order made under sub-section (1) shall be full discharge of any liability of the [State 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 or building material which any other person may, by due process of law, be entitled to enforce against the person to whom possession is so delivered.(3)Where the person to whom possession of any land or building material 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 Requisitioning Authority (a) if the property to be delivered is land, shall publish in the official Gazette a notice declaring that such land is released from requisitioning and the fact will be notified by beat of drums in the locality; and (b) if it is building material may sell the same in such manner, as may be prescribed and deposit the proceeds in the treasury which shall then be payable to the person entitled thereto.(4)When a notice referred to in clause (a) of sub-section (3) is published in the official Gazette, the land specified in such notice shall cease to be subject to requisitioning onward 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 or sale made under sub-sections (2) to (4) the [State Government] [Substituted by the A.I.O., 1950 for ] shall, save as provided in clause (b) of sub-section (3) or as may be directed by any order made under Section 6, not be liable for any compensation or other claims in respect of such land or building material.

## **11. Review of order by Commissioner.**

- The Commissioner may review any order passed by the Requisitioning Authority under Section 3 or by the Compensation Officer under sub-section (2) of Section 6, if he is satisfied that grave injustice has been done to the person interested.

## **12. Court not to question any orders passed under this 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 powers 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.

## **13. Protection of persons acting under this Act.**

(1)Not suit, prosecution or other legal proceedings shall lie against the Compensation Officer or the Requisitioning Authority or any person for anything which is in good faith done or intended to be done in pursuance of this Act or any rule made or order issued thereunder.(2)No suit or other legal proceeding shall lie against the [State Government] [Substituted by the A.I.O. 1950 for ] 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.

## **14. Repeal.**

(1)The United Provinces Acquisition of Property (Flood Relief) Ordinance, 1948 is hereby repealed and the provisions of Sections 6 and 24 of the United Provinces General Clauses Act, 1904, shall apply to it as if it has been an Act repealed by an [Uttar Pradesh] [Substituted by the A.I.O. 1950 for ].(2)Any appointment or order made or direction issued under the said Ordinance and in force immediately before the commencement of this Act shall continue in force and be deemed to be an appointment, order or direction made or issued as the case may be, under this Act.

## **15. Rule-making power.**

(1)[State Government] [Substituted by the A.I.O. 1950 for ] may make rules for the purposes of carrying into effect the provisions of this Act.(2)Without prejudice to the generality of the foregoing power, such rules may provide for -(a)the appointment, function and jurisdiction of Compensation Officers and Requisitioning 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 notices to be given and the mode of their service.