

Sikkim Greenfield Airport, Pakyong (Settlement of Claims For Loss and Damages) Act, 2018

SIKKIM

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Act 14 of 2018

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Sikkim Greenfield Airport, Pakyong (Settlement of Claims For Loss and Damages) Act, 2018(Act No. 14 of 2018)Last Updated 9th June, 2020[Dated 11.06.2018]An Act To provide for the settlement of claims for loss and damages arising out of the construction of the airport at Pakyong.Be it enacted by the Legislature of Sikkim in the Sixty-ninth Year of the Republic of India as follows:-

1. Short title and commencement.

(1)This Act may be called the Sikkim Greenfield Airport, Pakyong (Settlement of Claims for Loss and Damages) Act, 2018.(2)It shall come into force immediately on its notification in the Official Gazette.

2. Definitions.

- In this Act, unless the context otherwise requires,(1)"Airports Authority of India" means the Authority established under the Airports Authority of India Act, 1994;(2)"Claim" means and includes monetary compensation and such other relief as may be sought by an aggrieved party;(3)"Aggrieved party" means the person whose property, land and crops have been damaged;(4)"Claims Commissioner" means the person appointed under Section 3 of this Act to adjudicate the claims;(5)"Contractor" means the person to whom any part of the DPR, structural design, execution of civil works, and other related works was entrusted and had undertaken the same;(6)"Pakyong Airport" means the Greenfield Airport constructed at Pakyong;(7)"State Government" means the Government of Sikkim;

3. Appointment of Claims Commissioner.

- The State Government shall, within 60 (sixty) days of the coming into force of this Act, appoint a person to be the Claims Commissioner to adjudicate upon the claims.

4. Qualifications of the Claims Commissioner.

- A person shall not be qualified for appointment as the Claims Commissioner under this Act, unless he has, for a period of not less than 10 (ten) years, held office as a Judicial Officer or practiced as a lawyer.

5. Term of a Claims Commissioner.

- The order of appointment may specify the duration for which the Claims Commissioner is being appointed and remuneration payable to him.

6. Termination.

(1)The appointment would come to an end at the end of the term specified. (2) He shall be removed from the office before the end of the term of his appointment, for incapacity or proved misconduct.

7. Right to file claim.

(1)Any person who has suffered any loss or damage to his property i.e. land or building or crop, on account of the construction and other related activities of the Pakyong Airport, may file a claim before the Claims Commissioner.(2)The claim petition shall contain particulars of the damage and loss suffered.(3)The claim petition shall specify the quantum of compensation being claimed.(4)If the claimant seeks any other or additional relief, the same should also be specified with supporting reasons.

8. Right to adduce evidence.

- The claimant shall be entitled to adduce oral and documentary evidence in support of his claim.

9. Necessary Parties.

- In any claim, the Airports Authority, the contractors, and the State Government shall be made parties.

10. Notice to Parties.

(1)In respect of each claim petition, the Claims Commissioner shall give notice to the Airports Authority, the contractors, and the State Government and they would be entitled to file pleadings,

and adduce oral and documentary evidence.(2)Notice may also be issued to such other parties as the Claims Commissioner may consider appropriate.

11. Right of Cross-examination.

- Parties to the proceedings would be entitled to examine and cross-examine witnesses, including witnesses who may be summoned by the Claims Commissioner suo moto.

12. Powers of Claims Commissioner.

- The Claims Commissioner shall have all the Powers of a Civil Court 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)reception of evidence on affidavits;(d)requisitioning any public record from any court or office;(e)issuing commission for examination of witnesses.

13. Power to regulate own procedure.

- In the discharge of his functions, the Claims Commissioner shall be guided by the principles of natural justice and the provisions of the Code of Civil Procedure, 1908 (5 of 1908) and shall have the powers to regulate his own procedure.

14. Interim Award.

- It will be competent for the Claims Commissioner. to make an Interim Award, if the circumstances so warrant.

15. Time for making the Award.

- The Claims Commissioner shall decide the claim and make an Award, as far as possible, within a period of 6 (six) months.

16. The Award.

- The Award shall specify the amount payable and by whom. If any other or further relief is granted, the same shall be specified in like manner.

17. Appeal and Execution.

- The Award of the Claims Commissioner, both interim and final, shall be deemed to be a decree of a Civil Court for the purposes of appeal and execution, which shall be governed by the provisions of the Code of Civil Procedure, 1908 (5 of 1908).

18. Transfer of pending matters.

- On the Claims Commissioner being appointed, any claim pending before any Authority, Tribunal or Court, claiming compensation or any other relief arising out of the construction of Pakyong Airport, shall stand transferred to the Claims Commissioner, to be adjudicated upon, under and in accordance with the provisions of this Act.

19. Power to make rules.

- The State Government may, by notification in the Official Gazette, frame Rules to give effect to the provisions of the Act.

20. Power to remove difficulties.

(1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient, for removing the difficulty. (2) Every order made under this section shall, as soon as may be after it is made, be laid before the Legislative Assembly.