

# **Jharkhand Water, Gas and Drainage Pipelines (Acquisition of Right of User in Land) Act, 2018**

JHARKHAND

India

## **Jharkhand Water, Gas and Drainage Pipelines (Acquisition of Right of User in Land) Act, 2018**

### **Act 23 of 2018**

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Jharkhand Water, Gas and Drainage Pipelines (Acquisition of Right of User in Land) Act, 2018(Jharkhand Act No. 23 of 2018)[Dated 6.12.2018.]

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

(1)This Act may be called the Jharkhand Water, Gas and Drainage Pipelines (Acquisition of Right of User in Land) Act, 2018.(2)It extends to the whole of the State of Jharkhand.(3)It shall come into force on such date as the State Government may by notification in the Official Gazette, appoint.

### **2.**

In this Act, unless the context otherwise requires,(a)"Competent authority" means any person or authority authorized by the State Government by notification in the Official Gazette, to perform the functions of the competent authority under this Act;(b)"Corporation" means any body corporate established under any Jharkhand Act and includes (i)A company formed and registered under the Companies Act, 2013; and(ii)A company formed and registered under any law relating to companies formerly in force in any part of India;(c)"Collector" means the Deputy Commissioner or any Deputy Collector of the district especially empowered by the State Government to perform all or any function of Collector under this Act.(d)"Prescribed" means prescribed by rules made under this Act.

### **3.**

(1)Whenever it appears to State Government that it is necessary in the public interest that for the transport of water, gas or drainage from one place to another place, pipelines may be laid by the State Government, or, the corporation and that for the purpose of laying such pipelines, it is

necessary to acquire the right of user (ROU) in any land under which such pipelines may be laid, it may, by notification in the Official Gazette, declare its intention to acquire the right of user there in.(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.**

(1)Any person interested in the land may, within thirty days from the date of the publication of notification under sub-section (1) of section 3, object to the laying of the pipelines under the land.(2)Every objection 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 a legal practitioner and may, after hearing all such objections and after making such further inquiry, if any, as that authority thinks necessary, by order either allow or disallow the objections.(3)Any order made by the competent authority under sub-section (2) shall be final.

#### **5.**

(1)Where no objection under sub-section (1) of section 4 has been made to the competent authority within the period specified therein or where the competent authority has disallowed the objections under sub-section (2) of that section, that authority shall, as soon as may be, submit a report accordingly to the State Government and upon receipt of such report, the State Government shall declare, by notification in the Official Gazette, that the right of user in the land for laying the pipelines shall be acquired.(2)On the publication of the declaration under sub-section (1), the right of user in the land shall vest absolutely in the State Government free from all encumbrances.(3)Where in respect of any land, a notification has been issued under sub-section (1) of section 3, but no declaration under this section has been published within a period of one year from the date of that notification, that notification shall cease to have effect on the expiration of the said period.(4)Notwithstanding anything contained in sub-section (2), the State Government may, on such terms and conditions as it may think fit, to impose, direct by order in writing that the right of user in the land for laying the pipelines shall, instead of vesting in the State Government, vest either on the date of publication of the declaration or, on such other date as may be specified in the order, in the Corporation, proposing to lay the pipelines and thereupon the right of such user in the land shall, subject to the terms and conditions so imposed, vest in that Corporation free from all encumbrances.

#### **6.**

(1)(i)Where the right of user in any land has vested in the State Government or, as the case may be, the Corporation under section 5, it shall be lawful for any person authorized by the State Government or, as the case may be, 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 line by

placing marks and cutting trenches;(e)where otherwise survey cannot be completed and levels taken and the boundaries and line marked, to cut down and clear away any part of any standing crops, fence or jungle; and(f)to do all other acts necessary to ascertain whether pipelines can be laid under the land;Provided that while exercising any power under this section, such person or any servant or workman of such person shall cause minimum damage or injury as possible to such land.Provided further that no pipelines shall be laid under -(a)any land which, immediately before the date of the publication of notification under sub-section (1) of section 3, was used for residence purposes; or(b)any land on which there stands any permanent structure which was in existence immediately before the said date, or(c)any land which is appurtenant to a dwelling house; or(d)any land at a depth which is less than one metre from the surface; and(ii)Such land shall be used only for laying the pipelines and for maintaining examining, repairing, altering or removing any such pipelines or for doing any other thing necessary for any of the aforesaid purposes or for the utilization of such pipelines.(2)If any dispute arises with regard to any matter referred to in sub-clause (b) or (c) of the second proviso to clause (i) of sub-section (1), the dispute shall be referred to the competent authority whose decision thereon shall be final.

## 7.

For maintaining, examining, repairing, altering or removing any pipeline, or for doing any other thing necessary for the utilization of the pipelines or for the making of any inspection or measurement for any of the aforesaid purposes, any person authorized in this behalf by the State-Government or, as the case may be, the Corporation may, after giving reasonable notice to the occupier of the land under which the pipelines has been laid, enter therein with such workmen and assistants as may be necessary.Provided that, where such person is satisfied that an emergency exists, no such notice shall be necessary.Provided further that, while exercising any powers under this section, such person or any workmen or assistants of such person, shall cause as little damage or injury as possible to such land.

## 8.

(1)The owner or occupier of the land with respect to which a declaration has been made under sub-section (1) of section 5, 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 5 -(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 under which any pipeline has been laid shall not do any thing or permit any thing to be done which will or is likely to cause any damage in any manner whatsoever, to the pipeline.(3)Where the owner or occupier of the land with respect to which a declaration has been made under sub-section (1) of section 5-(a)constructs any building or any other structure, or(b)constructs or excavates any well, tank, reservoir or dam, or(c)Plants any tree, on that land, the Collector within the local limits of whose jurisdiction such land is situated may, on an application made to it by the competent authority and after holding such inquiry, as it may deem fit, cause the building, structure, reservoir, dam or tree to be removed or the well or tank to be filled up, and the costs of such removal or filling up shall be

recoverable from such owner or occupier.

## 9.

(1)Where in the exercise of the power conferred by section 6 or 7 by any person, any damage, loss or injury is sustained by any person interested in the land under which the pipeline is proposed to be, or is being, or has been laid, the State Government or, as the case may be, 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 based on market value of the land.(2)If the amount of compensation, determined by the competent authority under subsection (1) is not acceptable to either of the parties, the amount of compensation shall, on application by either of the parties to the Collector within the limits of whose jurisdiction the land or any part thereof is situated, be determined by that Collector.(3)The competent authority or, as the case may be the Collector while determining the compensation under sub-section (1) or, as the case may be sub-section (2) shall, have due regard to the damage or loss sustained by any person interested in the land by reason of (i)the removal of trees or standing crops, if any, on the land while exercising the powers under section 6 or as the case may be section 8;(ii)the temporary severances of the land under which the 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 persons caused in any other manner.Provided that in determining the compensation no account shall be taken of any structure or other improvement made in the land after the date of publication of the notification under sub-section (1) of section 3.(4)Where the right of user of any land has vested in the State Government or, as the case may be, the Corporation it shall, in addition to the compensation, if any, payable under sub-section (1), be liable to pay to the owner and to any other person whose right of enjoyment in that land has been affected in any manner whatsoever by reason of such vesting, compensation calculated at ten percent, of the market value of that land on the date of the publication of the notification under sub-section (1) of section 3.(5)The market value of the land on the said date shall be taken as in sub-section (1) of section 3 by the competent authority and if the value so determined by that authority is not acceptable either of the parties, it shall on application by either of the parties to the Collector, referred to sub-section (2) be determined by the Collector.(6)The decision of the Collector under sub-section (2) or (5) shall be final.

## 10.

(1)The amount of compensation determined under Section 9 shall be deposited by the State Government or, as the case may be the Corporation, 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, as the case may be, the Corporation, shall be liable to pay interest thereon at the rate of nine percent, if the amount of compensation is deposited within one year after the period prescribed under subsection (1) and at the rate of fifteen percent, if the amount of compensation is deposited after the expiry of the said one year.(3)As soon as may be after the compensation has been deposited under sub section (1), the competent authority shall, on behalf of the State Government or, as the case may be, the Corporation pay the compensation to the persons entitled thereof.(4)Where several persons claim to

be interested in the amount of compensation deposited under sub-section (1), the competent authority shall determine the persons who in its opinion are entitled to receive the compensation and the amount payable to each of them.(5)If any dispute arises as the apportionment of the compensation or any part thereof or as to the persons to whom the same or any part thereof is payable, the competent authority shall refer the dispute to the Collector within the limits of whose jurisdiction the land or any part thereof is situated and the decision of the Collector thereon shall be final.

## **11.**

The Collector and the competent authority shall have, for the purposes of this Act, all the powers of a civil court while trying a suit under the Code of Civil Procedure, 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 witness.

## **12.**

(1)No suit, prosecutions 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 notification made or issued there under.(2)No suit or other legal proceeding shall lie against the State Government, Corporation or, as the case may be, the competent authority for any damage, loss or injury caused or likely to be caused by anything which is in good faith done or intended to be done pursuance of this Act or any rules or notification made or issued there under.

## **13.**

No civil court shall have jurisdiction in respect of any matter which the Collector or, as the case may be the competent authority is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or proposed to be taken in pursuance of any power conferred by or under this Act.

## **14.**

(1)Whoever willfully obstructs any person in doing any of the acts authorized under section 6 or as the case may be, section 7 or willfully fills up destroys, damages or displaces any trench or mark made under section 6 or willfully does anything prohibited under the provision to sub-section (1) of section 8, shall be punishable with imprisonment which may extend to six months or fine or both.(2)Whoever willfully removes, displaces, damages or destroys any pipeline laid under section 6, 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.

**15.**

Notwithstanding anything contained in the Code of Criminal Procedure, 1973 an offence falling under sub-section (2) of section 14 shall be deemed to be cognizable within the meaning of that Code,

**16.**

(1)The State Government, by notification in the Official Gazette, will continue the framed rules for carrying out the purposes of this Act.(2)In particular and without prejudice to the generality of the foregoing power, such framed rules will provide for all or any of the following matters, namely :- (a)the places at which and the manner in which the substance of the notification may be published under sub-section (3) of section 3;(b)the time within which and the manner in which the amount of compensation shall be deposited under sub-section (1) of section 10,(3)All rules made under this section shall be laid for not less than thirty days before the State legislature as soon as possible after they are made and shall be subject to rescission by the State Legislature or to such modifications as the State Legislature may make during the session in which they are so laid or the session immediately following.(4)Any rescission or modification so made by the State Legislature shall be published in the Official Gazette, and shall thereupon take effect.

**17.**

The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force relating to the acquisition of land.