

Sikkim Land (Requisition and Acquisition) Act, 1977

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Act 1 of 1978

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Sikkim Land (Requisition and Acquisition) Act, 1977(Sikkim Act No. 1 of 1978)Last Updated 12th March, 2020[Dated 11.01.1978.]An Act To provide for the requisition and speedy acquisition of land for certain purposes.Whereas it is expedient to provide for the requisition and speedy acquisition of land for public purposes as defined hereafter;Be it enacted by the Legislature of Sikkim in the Twenty-eight year of the Republic of India as follows:

1. Short title, extent and commencement.

(1)This Act may be called the Sikkim Land (requisition and Acquisition) Act, 1977.(2)It extends to the whole of Sikkim(3)It shall come into force on such date as the State Government may by notification appoint.

2. Definitions.

- In this Act, unless there is anything repugnant in the subject or Context,-(1)"Collector" means the Collector of the district where the land is situated and includes any other officer specially empowered by the State Government to perform the functions of a Collector under this Act;(2)"Court" means a principal Civil Court of original jurisdiction and includes the Court of any Additional District Judge and also the Court of a Civil Judge whom the State Government may appoint, by name or by virtue of his office, to perform all or any of the function of the Court under this Act within such local limits, if any, as may be specified and in the case of a Civil Judge, upto the limits of the pecuniary jurisdiction with which he is vested for the time being;(3)"Cultivator" means a person who cultivates the land of another No. 3 Gangtok, Monday, January 16, 1978 person on condition of delivering a share or any fixed quantity of the produce or any fixed amount to that person;

3. Power to requisition.

(1) If the State Government is of the opinion that it is necessary so to do for any public purpose, the State Government may, by order in writing, requisition any land and may make such further orders as appear to it to be necessary or expedient in connection with the requisitioning : Provided no land used for the purpose of religious worship or used by and educational or charitable institution shall be requisitioned under this Section. (2) A Collector, when authorized by the State Government in this behalf may exercise within his jurisdiction the powers conferred by sub-section (1). (3) An order under sub-section (1) or sub-section (2) shall be served in the manner prescribed on the owner of the land and where the land is in the occupation of an occupier, not being the owner of the land also on such occupier. (4) If any person fails to comply with an order made under sub-section (1) or sub-section (2), the Collector or any other person authorized by him in writing in this behalf shall execute the order in such manner as he considers expedient and may, - (a) if he is a Magistrate, enforce the delivery of possession of the land in respect of which the order has been made, to himself, or (b) if he is not a Magistrate, apply to a Magistrate and such Magistrate shall enforce the delivery of possession of such land to him.

4. Acquisition of Land.

(1) Where any land has been requisitioned under section 3, for any public purpose, the State Government may use or deal with such Land for such public purpose or any other public purpose. (2) The State Government may acquire any land requisitioned Under section 3, by notification to the effect that such land is required to be acquired for any public purpose. (3) Where such a notification is published, the land requisitioned under Section 3 shall, on and from the beginning of the day on which the notification is published, vest absolutely in the State Government free from all incumbrances and the period of Requisition of such land shall end forthwith.

5. Notice to persons Interested.

(1) After the publication of a notification under sub-section (2) of Section 4 the collector shall cause public notice to be given at Convenient places on or near the land acquired stating that the State Government has acquired the land and that claims to the amount payable for the acquisition of such land may be made to him. (2) Such public notices shall state the particulars of the land so acquired and shall require all persons interested in the land to appear personally or by agent before the Collector at such place and on such date and at such time as may be mentioned therein, not being earlier than fifteen days after the publication of such notice and to state in writing and signed by such person or his agent the nature and particulars of their claims to the amount payable for the acquisition of such land. (3) The Collector shall also serve notice in the manner prescribed on the occupier, if any, of such land and on all such persons known or believed to be interested therein or to be entitled to act for such occupier or person so interested, as reside or have agents authorized to receive service on their behalf, within the district within which the land is situated. (4) In case any person so interested resides elsewhere, and has no Such agent, the notice shall be sent to him by registered post to his last known residence, address or place of business.

6. Release from Requisition.

(1)Where any land requisitioned under Section 3 is not acquired and is to be released from requisition, the State Government may, after making such inquiry as it considers necessary, specify, by order in writing 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 for any claim for any amount payable for requisition or other claim in respect of such land for any period after the date of delivery, 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 specified in the order made under sub-section (1) 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 shall publish a notification declaring that such land is released from requisition and shall cause a copy of such notification to be affixed on some conspicuous part of the land.(4)On the publication of such a notification under sub-section (3) the land specified in such notification shall cease to be subject to requisition on and from the date of such publication and shall be deemed to have been delivered to the person specified in the order made under sub-section (1) and the State Government shall not be liable to pay any amount or other Claims in respect of such land for any period after the said date.

7. Amount payable for Acquisition.

(1)Whenever any land is acquired under Section 4, there shall be Paid to every person interested an amount which shall be Determined by the Collector in the manner and in accordance with the principles of Section 23 of the Land Acquisition Act, 1894, so far as they may be applicable;Provided that the market value referred to in clause first of Sub-section (1) of Section 23 of the said Act shall, in respect of any land acquired under this Act, be deemed to be the price which such land would have fetched in the open market if it had remained in the same state and condition as it was on the date of the order of requisition under Section 3 and been sold on the date of the publication of the notification referred to in sub-section (2) of Section 4.(2)When the amount has been determined under sub-section (1) the Collector shall, in accordance with the provisions of Section 11 of the Land Acquisition Act, 1894, so far as they may be applicable, make an award under his hand of-(i)the true area of the land;(ii)the amount determined as payable for the land; and(iii)the apportionment of the said amount among all the persons known or believed or be interested, of whom, or of whose claims, he has information, whether or not they have respectively appeared before him:Provided that interest at the rate of six per centum per Annum on the amount under the award from the date of the Publication of the notification under sub-section (2) of section 4 Until payment shall be included:(3)(a)such award shall be filed in the office of the Collector and shall, except as hereinafter provided, be final and conclusive evidence, as between the Collector and the persons interested in the land, whether they have respectively appeared before the collector or not, of the true area and value of the land and the apportionment of the amount among the persons interested;(b)the Collector shall give, in the prescribed manner, immediate notice of his award to such of the persons interested in the land as are not present personally or by their representatives when the award is made;(c)Upon an award being made under the foregoing provisions, the Collector shall proceed to

make payment in accordance with the provisions contained in Sections 31 to 33 of the Land Acquisition Act, 1894, so far as they may be applicable.

8. Amount payable for requisition.

(1)Where any land is requisitioned under Section 3, there shall be paid to every person interested an amount in respect of -(a)the requisition of such land; and(b)any damage done during the period of such requisition to such land other than what may have been sustained by reasonable user thereof or by natural causes.(2)The principles to be followed in determining the amount payable under sub-section (1) shall be as follows, namely:-(a)Where the collector and the person interested do not agree as to the amount or where the person interested cannot be traced or does not appear before the Collector when called upon to be present for the purpose of the determination of the amount, such amount shall be determined in the manner prescribed as appears reasonable to the Collector having regard to the facts and circumstances of the case and the collector shall make an award ordering payment of the amount so determined and shall give in the prescribed manner immediate notice of his award to such of the persons interested in the land as are not present personally or by their representatives when the award is made.

9. Reference to Court.

(1)The Collector shall, in every case, where any person Interested being aggrieved by an award made under sub-section (2) of Section 7 or clause (b) or sub-section (2) of Section 8, makes an application requiring the matter to be referred to the Court, refer the matter for the decision of the Court.(2)The application shall state the grounds on which objection to the award is taken and shall be made -(a)If the applicant was present or represented before the Collector at the time when the award was made. Within six weeks from the date of making of the award;(b)in other cases, within six weeks of the receipt of the notice from the collector under clause (b) of sub-section (3) of Section 7 or clause (b) of sub-section (2) of section 8, as the case may be, or clause (b) of sub-section (2) of Section 8, as the case may be, or within six months from the date of the making of the award by the Collector whichever period shall first expire.(3)the provisions contained in Sections 19 to 22 and Sections 25 to 28 of the Land Acquisition act, 1894, so far as they may be applicable and the principles set out in sub-section (1) and sub-section (2) of section 7 and clause (b) of sub-section (2) of Section 8 of this Act so far as they may be applicable, shall apply in respect of any reference made to the court under sub-section (1).(4)No person who has received any amount under the award otherwise than under protest shall be entitled to make any application under sub-section (1).

10. Payment to cultivators.

(1)Notwithstanding anything contained anywhere in this Act or any other law for the time being in force, if any land which is being cultivated by any cultivator is requisitioned or acquired under this Act, the cultivator shall be paid an amount determined in accordance with the principles set out in sub-section (2) out of the amount payable for the requisition or the acquisition of the land, as the case may be, to the person interested in such land.(2)The amount to be paid to the cultivator under sub-section (1) shall be determined according to the following principles, namely:-(a)if the cultivator

has been cultivating the land for a period of more than five years but not more than ten years on the date of the requisition or the acquisition of the land, as the case may be, fifteen per cent of the amount payable for the requisition or the acquisition of such land as the case may be;(b)if the cultivator is cultivating the land for more than ten years but not more than fifteen years on the date of the requisition or the acquisition of the land as the case may be, twenty percent for the amount payable for the requisition or the case may be, twenty five per cent the amount payable for the requisition or the acquisition of the land, s the case may be.

11. Appeal.

- The provisions of the Code of Civil Procedure, 1908, relating to appeals shall apply to an award made by the Court on a reference under section 9, if such award were an original decree passed by the Court in exercise of its civil jurisdiction.

12. Power to enter upon land etc. - The State Government may, with a view to requisitioning or acquiring any land or for the purpose of determination by the Collector of the amount payable under this Act, 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 land as may be specified;(b)authorize any person -(i)to enter upon and survey and take levels of any land in such locality;(ii)to dig or bore into the sub-soil;(iii)to do all other acts necessary to ascertain whether the land is adapted for such purposes;(iv)to set out the boundaries of the land proposed to be taken and the intended line of the work (if any) proposed to be made thereon;(v)to make such levels, boundaries and line by placing marks an cutting trenches;(vi)and , where otherwise the survey cannot be completed and the levels taken and the boundaries and line marked, to cut down and clear away any part of the standing crop, fence or jungle;Provided that no person shall enter into any building or upon Any enclosed court or garden attached to a dwelling-house (unless with the consent of the occupier thereof) without previously giving such occupier at least seven days' notice in writing of his intention to do so.

13. Requisition or acquisition to be made under this Act.

- If the State Government is of the opinion that it is necessary to requisition or acquire any land for any of the public purposes as defined and specified in clause (7) of Section 2, all such requisition and acquisition shall be made under and in accordance with the provisions of this act and the rules made thereunder and not under any other law inconsistent with provision of this Act and the rules made thereunder.

14. Penalty.

- If any person contravenes any order made under this Act, he shall be Punishable with imprisonment for a term which may extend to one year or with fine which may extend to two thousand rupees or with both.

15. Saving.

- Save as otherwise provided in this Act, no decision or order or award made in exercise of any power conferred by or under this Act shall be called in question in any Court.

16. Protection of action taken under this Act.

- No suit, prosecution or other legal proceeding shall lie against the State Government or any officer of the State Government or any other person for anything or for any damage cause or likely to be caused by anything, which is in good faith done or intended to be done in pursuance of this Act or any order made thereunder.

17. No Stamp Duty to Be paid for award or agreement and no fees to be paid thereof for copies thereof.

- No award or agreement made under this Act shall be chargeable with any Stamp Duty, and no person claiming under any such award or agreement shall be liable to pay any fee for a copy.

18. Powers to make rules.

(1)The State Government may make rules for carrying out the Purposes of this Act.(2)In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:-(a)the manner of service of orders on the owner or occupier of land under sub-section (3) of Section 3;(b)the manner of service of notice on the persons referred to in sub-section (3) of Section 5;(c)the manner of service of notice of award under clause (b)of sub-section (3) of Section 7;(d)the manner of determination of and of giving notice of the award to the persons interested under clause (b) of sub-section (2) of Section 8.

19. Certain Laws to Cease to apply.

- The provisions of the Sikkim Public Security (Requisitioning and Acquisition of Immovable Property) Rules, 1962, and any other Law shall cease to apply and have any effect to any matter for which provision is made in this Act.