

A.P. Domestic, Irrigation and Industrial Water Grid Pipelines (Acquisition of Right of User in Land) Act, 2018

ANDHRA PRADESH

India

A.P. Domestic, Irrigation and Industrial Water Grid Pipelines (Acquisition of Right of User in Land) Act, 2018

Act 19 of 2018

- Published on 27 April 2018
- Commenced on 27 April 2018
- [This is the version of this document from 27 April 2018.]
- [Note: The original publication document is not available and this content could not be verified.]

A.P. Domestic, Irrigation and Industrial Water Grid Pipelines (Acquisition of Right of User in Land) Act, 2018(Act No. 19 of 2018)Last Updated 9th July, 2019Statement of Objects and Reasons. - The Government of Andhra Pradesh proposes to execute water grid, envisaging the supply of drinking water to Municipal Corporations, Municipalities, Nagar Panchayats and Gram Panchayats habitations besides meeting the demands of industries, involving laying large number of pipelines across the 13 districts from reservoirs and rivers. Though land can be acquired outright for laying such pipeline under the law governing the land acquisition, as the water pipelines will be laid down underground, outright acquisition of land involving a long-drawn procedure besides being costly, the outright acquisition of land is considered not necessary and it has been considered sufficient to acquire the mere right to user in the land for laying the pipelines and their maintenance. It has been decided to acquire a right of user in the land to lay pipelines for drinking water grid by undertaking a suitable legislation providing for the acquisition of right of user in any land for laying pipelines and their maintenance. It has also been decided to give effect to the above decision immediately. This Bill seeks to give effect to the above objects. Received the assent of the Governor on the 27th April, 2018 and the said assent is hereby first published on the 30th April, 2018 in the Andhra Pradesh Gazette for general information. An Act to Provide for the Acquisition of Right of user in Land for laying pipelines for supplying drinking water to Municipal Corporations, Municipalities, Nagar Panchayats, Gram Panchayats, Habitations and for providing irrigation facilities and to Meet the Demands of Industries and for matters connected therewith or Incidental thereto: Be it enacted by the Legislature of the State of Andhra Pradesh in the Sixty-Ninth Year of the Republic of India as follows:-

1. Short title extent and Commencement.

(1) This Act may be called the Andhra Pradesh Domestic, Irrigation and Industrial Water Grid Pipelines (Acquisition of Right of User in Land) Act, 2018. (2) It extends to the whole of the State of Andhra Pradesh. (3) It shall come into force with immediate effect.

2. Definitions.

- In this Act, unless the context otherwise requires, - (a) "Collector" means the Collector of a District; (b) "Competent Authority" means any person or authority authorized by the State Government by notification in the Andhra Pradesh Gazette, to perform the functions of the competent authority under this Act; (c) "Corporation" means anybody corporate established under any State Act or any other law for the time being in force in the State of Andhra Pradesh and includes a Company formed and registered under the Companies Act, 2013 (Central Act No. 18 of 2013); (d) "Government" means the State Government of Andhra Pradesh; (e) "Land owner" includes any person, - (i) Whose name is recorded as the owner of the land or part thereof, in the records of the authority concerned; (ii) who is granted forest rights under the Scheduled Tribes and Other Traditional Forest Dwellers (Reorganization of Forest Rights) Act, 2006 or under any other law for the time being in force; (iii) who is entitled to be granted patta rights on the land under any law of the State including assigned lands; (iv) who has been declared as such by an order of the Court or authority; (f) "Notification" means the notification published in the Andhra Pradesh Gazette and the word notified shall be construed accordingly; (g) "Person" includes an individual, un-divided Hindu family, a Trustee, a Company, a Society or an Association of individual whether incorporated or not; (h) "Prescribed" means prescribed by rules made under this Act; (i) "Water Grid" means a network of synchronized Water providers and consumers, connected by transmission or transportation and distribution pipelines and operated by one or more control centres.

3. Publication of Preliminary Notification.

(1) Whenever it appears to the Government that it is necessary in the public interest that for the transport of water from one area to another area, pipelines may be laid by the Government or a Corporation and that for the purpose of laying such pipelines, it is necessary to acquire the right of user in any land under which such pipelines may be laid, it may, by notification declare its intention to acquire the right of use therein; (2) Every notification under sub-section (1) shall give a brief description of such 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. Hearing of objections.

(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 under sub-section (1) shall be made to the competent authority in writing and shall set out the grounds thereof and the competent 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. Power of officers to enter, survey and excavate.

- On the issue of a notification under sub-section(1) of Section 3, it shall be lawful for any person authorized by the Government or, as the case may be, the Corporation which proposes to lay pipelines for transporting water and its servants and workmen,-(a)to enter upon the 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)to cut down and clear away any part of any standing crop, fence or jungle where otherwise survey cannot be completed and levels taken and the boundaries and line marked;(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 may cause as little damage or injury as possible to such land.

6. Declaration of acquisition of right of user in the land.

(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) thereof the competent authority shall, as soon as may be. submit a report accordingly to the Government and upon receipt of such report, the Government shall declare, by notification 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 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 Government, vest, either on the date of publication of the declaration or, on such other data 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.

7. Laying of pipelines.

(1)Where the right of user in any land has vested in the State Government or, as the case may be, the Corporation under section 6;(i)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 to enter upon the land and lay pipelines or to do any other thing necessary for laying of pipelines:Provided that no pipeline 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 residential purposes;(b)any land on which there

stands any permanent structure which was in existence immediately before the said date;(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 paragraph (b) or (c) of the proviso to clause (i) of sub-section (1), the dispute shall be referred to the competent authority whose decision thereon shall be final.

8. Power to enter land for inspection etc.

- 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 Government or, as the case may be, the Corporation may, after giving reasonable notice to the occupier of the land under which the pipelines have 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.

9. Restrictions regarding the use of land.

(1)The owner or occupier of the land with respect to which a declaration has been made under sub-section (1) of section 6, 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 subsection (1) of section 6,-(i)construct any building or any other structure,(ii)construct or excavate any tank, well, reservoir or dam;(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 6,-(a)constructs any building or any other structure;(b)constructs or excavates any well, tank, reservoir or dam;(c)plants any tree,on that land, the Collector within the local limits of whose jurisdiction such land is situate may, on an application made to it by the competent authority and after holding such inquiry, as he 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.

10. Compensation.

(1)Where in the exercise of the powers conferred by Sections 5,7 or 8 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 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 in the first instance;(2)If the amount of compensation, determined by the competent authority under sub-section (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 situate, 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 Sections 5, 7 and 8;(ii)the temporary severance of the land under which the pipeline has been laid from other lands belonging to, or in the occupation of, such person;(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 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 10% of the market value of the 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 determined by the competent authority and if the value so determined by that authority is not acceptable to either of the parties, it shall, on application by either of the parties to the Collector referred to in sub-section (2), be determined by that Collector;(6)The decision of the Collector under sub-section (2)or sub-section (5) shall be final.

11. Deposit and payment of compensation.

(1)The amount of compensation determined under Section 10 shall be deposited by the 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 Government or, as the case may be, the Corporation shall be liable to pay interest thereon at the rate of six (6) per cent per annum, if the amount of compensation is deposited within one year after the period prescribed under sub-section (1); and at the rate of nine (9)per cent per annum 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 subsection (1), the competent authority shall, on behalf of the Government or, as the case may be, the Corporation pay the compensation to the persons entitled thereto;(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 to 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 situate and the decision of the Collector thereon shall be final.

12. Collector and competent authority to have certain powers of civil court.

- 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 (Act 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. Protection of action taken in good faith.

(1)No suit, prosecution 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 thereunder;(2)No suit or other legal proceeding shall lie against the 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 in pursuance of this Act or any rules or notification made or issued thereunder.

14. Bar of Jurisdiction of Civil Court.

- 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.

15. Penalty.

(1)Whoever willfully obstructs any person in doing any of the acts authorized under sections 5, 7 or as the case may be, section 8 or willfully fills up, destroys, damages or displaces any trench or mark made under section 5 or willfully does anything prohibited under the proviso to sub-section (1) of Section 9, shall be punishable with imprisonment which may extend to six months or fine or both;(2)Whoever wilfully removes, displaces, damages or destroys any pipeline laid under section 7, 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.

16. Certain offences to be cognizable.

- Notwithstanding anything contained in the Code of Criminal Procedure, 1973, an offence falling under sub-section (2) of Section 15 shall be deemed to be cognizable within the meaning of that Code.

17. Power to remove difficulties.

- If any doubt or difficulty arises in giving effect to the provisions of this Act the State Government may, within a period of three years from the commencement of this Act, by order published in the Gazette, make such provision as appears to it to be necessary or expedient for removing the difficulty.

18. Power to make rules.

(1)The Government may, by notification, make rules for carrying out all or any of the purposes of this Act.(2)in particular and without prejudice to the generality of the foregoing power, such rules may 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 11.(3)Every rule made under this Act shall, immediately after it is made, be laid before the Legislature of the State, if it is in session and if it is not in session, in the session immediately following for a total period of fourteen days which may be comprised in one session or in two successive sessions and it, before the expiration of the session in which it is so laid or the session immediately following the Legislature of the State agrees in making any modification in the rule or in the annulment of the rule. the rule shall, from the date on which the modification or annulment is notified, have effect only in such modified form or shall stand annulled as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

19. Application of other laws not barred.

- 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.