

# The Land Acquisition Act, 1894

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## The Land Acquisition Act, 1894

### Act 1 of 1894

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1. [Amended by The Land Acquisition (Amendment) Act, 1962 (Act 31 of 1962) on 1 January 1962]

The Land Acquisition Act, 1894(1 of 1894)

#### 046.

Statement of Objects and Reasons.-For past several years the amendment of the Land Acquisition Act, 1870, has been under consideration by the Government of India in communication with local Governments. Before the passing of that Act, the valuation of lands, which it was found necessary to take up for the execution of public works, was entirely in the hands of arbitrators, from whose decision there was no appeal. This system led to a lamentable waste of the public money, both because the arbitrators were incompetent, and sometimes, it is to be feared corrupt, and also because the law, as it then stood, laid down no instructions for their guidance in the performance of their duties. This latter defect, among others, was remedied by the Act of 1870, which it is now proposed to amend, and which contains detailed instructions as to the matters which are to be considered, and which are to be neglected, in awards of compensation for lands acquired under its provisions. The Act of 1870 also provided for the abolition of the system under which uncontrolled direction was entrusted to arbitrators; and, in lieu thereof, required the Collector when unable to come to terms with the persons interested in land which it was desired to take up, to refer the difference for the decision of a Civil Court, usually that of the District Judge. In the disposal of such references, the Court is aided by Assessors, and its finding is final if the Judge and one or more of the Assessors agree. If, however, the Judge and the Assessors disagree, an appeal is allowed, which usually lies to the High Court. The Act of 1870 has not, in practice, been found entirely effective for the protection either of the persons interested in lands taken up or of the public purse. The requirement that the Collector shall refer for the decision of the Court every petty difference of opinion as to value, and every case in which any one or perhaps a large number of persons fail to attend before him, has involved in litigation, with all its trouble and delay and expense, a great

number of persons whose interest in the land was extremely insignificant. It has, in fact, frequently been the case that the owners of small pieces of land have had to pay Court cost to an amount far exceeding the value of the land itself. On the other hand, the provisions of the Act as to the incidence of costs, the whole of which fall on the Collector if the final award is ever so little in excess of the amount of his tender, are such as to encourage extravagant and speculative claims. The change of altogether escaping the payment of costs is so great, that claimants are in the position of risking very little in order to gain very much and have, therefore, every motive to refuse even liberal offers made by the Collector, and to try their luck by compelling a reference to the Court. Much the same may be said as to the provisions of the existing law regarding the payment of interest. No matter how fair the original offer of the Collector and how groundless the refusal to accept the compensation he has tendered, interest is payable on the amount of the award finally arrived at from the date of the Collector's taking possession of the land. This may be for a period of two or three years, and as interest continues to run until the litigation is finally completed, it is to be advantage of the land owner to protract the proceedings to the utmost. All this costs a very heavy and undeserved burden on the public purse. It is proposed, therefore, to amend the law by making the Collector's award final, unless altered by a decree in a regular suit. Persons interested in land taken up for public works will thus still have the opportunity, if they desire it, of preferring to an authority quite independent of the Collector their claims to more substantial compensation than the Collector has awarded; and will, in all cases, have a further right of appeal to the regular appellate Courts. They will no longer, however, be encouraged to litigate by the feeling that they can hardly lose, but may make a great gain by doing so. This change in the procedure for determining the valuation of land taken up for public works will also render it possible to dispense with the services of the Assessors, who are now supposed to assist the Court. Considering the difficulty, almost throughout the country, of obtaining the services of such Assessors as are really qualified to form a sound opinion on the subject of the valuation of land, it is believed that the proposal to dispense with them, and to leave the matter to the sole arbitrament, first of the Collector, and then of the Judge, will in no way diminish the efficiency of the Courts in enquiries in which the value of lands is in issue. It will certainly tend to shorten litigation and to diminish its expense.

Amendment Act 31 of 1962-Statement of Objects and Reasons.-Under the Land Acquisition Act, 1894, land may be acquired for a public purpose as also for companies. The purposes for which acquisition of land for companies may be made are, however, restricted and they have been specified in section 40(1) of the Act. Such acquisition may be made for obtaining land (a) for the construction of dwelling-houses for workmen or for the provision of amenities directly connected therewith; or (b) for the construction of some work which is likely to prove useful to the public.<sup>2</sup> Section 40(1)(b) and section 41 of the Land Acquisition Act came up for consideration before the Supreme Court in the case of *R.L. Aurora v. State of Uttar Pradesh* A.I.R. 1962 S.C. 764. The Supreme Court held that land can be acquired for a company under section 40(1)(b) read with section 41 of the Act only when the work to be constructed would be directly useful to the public and the public would be entitled to use the work as of right for its own benefit in accordance with the terms of the agreement. In the various States, land has been acquired for companies engaged in industries which are likely to promote economic development of the country or which are essential to the life of the community. Doubts have arisen as to the validity of such acquisition.<sup>3</sup> Some State Governments have represented that the aforesaid decision of the Supreme Court may have far-reaching consequences in respect of acquisition of land for companies. It is feared that the decision may render planned development of industries

extremely difficult and also that there will be danger that the acquisition of land made for companies in the past might be questioned in Courts of law and claims may be made by previous owners whose lands have been acquired for restoration of land or payment of damages. In order to overcome these difficulties, the Land Acquisition (Amendment) Ordinance, 1962 was promulgated on the 20th July 1962, suitably amending sections 40 and 41 of the Act and also validating all past acquisition of land made for companies. Amendment Act 13 of 1967-Statement of Objects and Reasons.-In acquisition of land for big projects, the practice generally followed under the Land Acquisition Act, 1894, is that a single notification is issued under section 4(1) of the Act which indicates that a particular area of land is needed or is likely to be needed for a public purpose. This is then followed by one or more declarations under section 6 of the Act in respect of the land specified in the aforesaid notification to the effect that such land is needed for a public purpose or for a company, as and when the plans are completed for the various stages of the project, e.g., plant, township and ancillary requirements.<sup>2</sup> In their judgment dated 9th February 1966, in the case of *State of Madhya Pradesh v. Vishnu Prasad Sharma*, the Supreme Court held that once a declaration under section 6 of the Act is issued, whether it be in respect of a part of the land comprised in the notification under section 4(1) or in respect of the whole of it, the effect of initial notification is exhausted and no further declarations under section 6 of the Act are sustainable. In other words, Government cannot acquire land by means of successive declarations following the notification under section 4(1) in respect of a particular area. The Supreme Court has construed the acts done under sections 4, 5-A and 6 of the Act as part and parcel of a single process.<sup>3</sup> The above decision of the Supreme Court, however, has the effect of upsetting a large number of proceedings for land acquisition for various public purposes throughout the country as in most cases of bigger projects, acquisition has been done in stages consistent with the requirements of the situation and a single notification under section 4(1) has been followed with more than one declaration under section 6 of the Act. It was not possible to reopen all such cases and to start proceedings afresh as it would have seriously dislocated projects for which land had been acquired and compensation paid.<sup>4</sup> Consequently, to overcome the adverse effect of the Supreme Court judgment and in view of the urgency of the situation affecting many important projects, the Land Acquisition Act, 1894, was amended with retrospective effect by the promulgation of the Land Acquisition (Amendment and Validation) Ordinance, 1967, on the 20th January 1967, to provide for submission of either one report in respect of the land which has been notified under section 4(1) or different reports in respect of different parcels of such land to the appropriate Government containing the recommendations of the Collector(s) on the objections submitted by the interested persons under section 5-A(1) of the Act to the acquisition of the land covered by the notification under section 4(1) or of any land in the locality, as the case may be. The Ordinance specifically provides that, if necessary, more than one declaration may be issued from time to time in respect of different parcels of any land covered by the same notification under section 4, sub-section (1) of the Act irrespective of the fact whether one report or different reports has or have been made under section 5-A, sub-section (2) of the Act.<sup>5</sup> At the same time, care has been taken to ensure that land acquisition proceedings do not linger on for unduly long time. The aforesaid Ordinance, therefore, provides that no declaration under section 6 of the Act should be issued in respect of any particular land covered by a notification under section 4(1) published after the commencement of the Ordinance, after the expiry of three years from date of such publication. In case of pending proceedings it has been provided that no declaration under section 6 of the Act in respect of any land which has been notified before the commencement of the above Ordinance,

under sub-section (1) of section 4 of the Act, may be issued after the expiry of two years from the commencement of the Ordinance. Amendment Act 68 of 1984-Statement of Objects and Reasons.-With the enormous expansion of the State's role in promoting public welfare and economic development since independence, acquisition of land for public purposes, industrialisation, building of institutions, etc., has become far more numerous than ever before. While this is inevitable, promotion of public purpose has to be balanced with the rights of the individual whose land is acquired, thereby often depriving him of his means of livelihood. Again, acquisition of land for private enterprises ought not to be placed on the same footing as acquisition for the State or for an enterprise under it. The individual and institutions who are unavoidably to be deprived of their property rights in land need to be adequately compensated for the loss keeping in view the sacrifice they have to make for the larger interests of the community. The pendency of acquisition proceedings for long periods often causes hardship to the affected parties and renders unrealistic the scale of compensation offered to them.<sup>2</sup> It is necessary, therefore, to restructure the legislative framework for acquisition of land so that it is more adequately informed by this objective of serving the interests of the community in harmony with the rights of the individual. Keeping the above objects in view and considering the recommendations of the Law Commission, the Land Acquisition Review Committee as well as the State Governments, institutions and individuals, proposals for amendment to the Land Acquisition Act, 1894, were formulated and a Bill for this purpose was introduced in the Lok Sabha on the 30th April, 1982. The same has not been passed by either House of Parliament. Since the introduction of the Bill, various other proposals for amendment of the Act have been received and they have also been considered in consultation with State Governments and other agencies. It is now proposed to include all these proposals in a fresh Bill after withdrawing the pending Bill. The main proposals for amendment are as follows:-

- (i) The definition of "public purpose" as contained in the Act is proposed to be so amended as to include a longer illustrative list retaining, at the same time, the inclusive character of the definition.
- (ii) Acquisition of land for non-Government companies under the Act will henceforth be made in pursuance of Part VII of the Act in all cases.
- (iii) A time-limit of one year is proposed to be provided for completion of all formalities between the issue of the preliminary notification under section 4(1) of the Act and the declaration for acquisition of specified land under section 6(1) of the Act.
- (iv) It is proposed to provide that the Collector shall, before making his award, obtain the previous approval of the appropriate Government or any officer of that Government authorised in this behalf. Provision has also been included to empower the Collector to make the award without any enquiry if the persons interested in the acquisition agree in writing on the matters to be included in the award of the Collector in the form prescribed by rules made under the Act.
- (v) It is proposed to provide for a period of two years from the date of publication of the declaration under section 6 of the Act within which the Collector should make his award under the Act. If no award is made within that period, the entire proceedings for the acquisition of the land would lapse. He has also been empowered to correct clerical or arithmetical mistakes in the award within a certain period from the date of the award.
- (vi) The circumstances under which the Collector should take possession of the land before the award is made in urgent cases are being enlarged to include a larger variety of public purposes.
- (vii) The appropriate Government is being empowered to call for the record of any order passed by the Collector at any time before he makes an award for the purpose of satisfying itself as to the legality or propriety of such order passed.
- (viii) Solatium now payable at the rate of fifteen per centum of the market value of the land acquired in consideration of the compulsory nature of the

acquisition, is proposed to be increased to thirty per centum. Similarly, the rate of interest payable on the excess compensation awarded by the Court and on the compensation in cases where possession of land is taken before payment of compensation, are also proposed to be increased substantially.(ix) Considering that the right of reference to the Civil Court under section 18 of the Act is not usually taken advantage of by inarticulate and poor people and is usually exercised only by the comparatively affluent land owners and that this causes considerable inequality in the payment of compensation for the same or similar quality of land to different interested parties, it is proposed to provide an opportunity to all aggrieved parties whose land is covered under the same notification to seek re-determination of compensation, once any one of them has obtained orders for payment of higher compensation from the reference Court under section 18 of the Act.(x) As a large number of cases for the acquisition of land are pending before various authorities for a very long time and payment of the market value of the land obtaining on the date of the preliminary notification under section 4 of the Act in respect of such land is likely to be unrealistic and iniquitous, it is proposed to provide for payment of simple interest at ten per centum per annum on the amount of compensation for the period commencing from the date of issue of the notification under section 4 of the Act to the date of tender of payment or deposit of compensation awarded by the Collector in respect of all pending proceedings on the 30th April, 1982, the date when the earlier Bill for the amendment of the Act was introduced in the House of the People.[2nd February, 1894]An Act to amend the law for the acquisition of land for public purposes and for companies. Whereas it is expedient to amend the law for the acquisition of land needed for public purposes and for companies and for determining the amount of compensation to be made on account of such acquisition; It is hereby enacted as follows:

The Land Acquisition Act has now been extended to the Union Territories of Dadra and Nagar Haveli by Regn. 6 of 1963; Pondicherry by Regn. 7 of 1963; Goa, Daman and Diu by Regn. 11 of 1963 and Laccadive, Minicoy and Amindivi Islands by Regn. 8 of 1965. The Amendments made to the Act in its application to the Bombay area of the State of Gujarat by Section 2 of Bombay Act 18 of 1938, by Sections 2 to 4 of Bombay Act 20 of 1945, by Section 6 of Bombay Act 35 of 1949, by Section 2 of Bombay Act 27 of 1950, by Sections 2 of 11 of Bombay Act 35 of 1953 and by Section 2 of Bombay Act 1 of 1958, have been extended to the whole of that State by the Land Acquisition (Gujarat Unification and Amendment) Act 20 of 1965, with effect from 15th August, 1965. The Act and the Rules made thereunder as in force in the Bombay area of the State of Maharashtra except the Bombay Amendment Act 4 of 1948, have been extended to the whole of that State by the Land Acquisition (Maharashtra Extension and Amendment) Act 38 of 1964, with effect from 7th December, 1964. This Act has repealed the Bombay Amendment Act 17 of 1960 and the Act as in force in the Hyderabad area of that State. The Act as in force in the Mahakoshal region of the State of Madhya Pradesh before 1st January, 1950, has been extended with effect from that date to all other regions of that State by the M.P. Extension of Laws Act 23 of 1958. The Act has been extended to the new provinces and merged States by the Merged States (Laws) Act 59 of 1949 and to the States of Manipur, Tripura and Vindhya Pradesh by the Union Territories (Laws) Act 30 of 1950. Manipur and Tripura are full-fledged States now, see Act 81 of 1971. The Act as amended from time to time by the State Legislature of Punjab has been extended from 3rd April, 1957 to the Pepsu territories transferred to the State of Punjab, by Punjab Act 5 of 1957. The Act shall cease to apply to the Malabar district of the State of Kerala See Section 62, Kerala Land Acquisition Act 21 of 1962

with effect from 1st April, 1963. The Act has been extended to the transferred territory of Kanyakumari district and shencottahtaluk of Tirnelveli district in the State of Tamil Nadu by Tamil Nadu Act 23 of 1960.

## Part I – Preliminary

### 1.

Short title, extent and commencement .(1) This Act may be called The Land Acquisition Act, 1894.(2)It extends to the whole of India except [the State of Jammu and Kashmir] [Substituted by Act 68 of 1984, Section 2, for " the territories which, immediately before the 1st November, 1956, were comprised in Part B States; and " (w.e.f. 24.9.1984).](3)It shall come into force on the 1st day of March, 1894.

### 2.

. Repeal and saving.[Repealed partly by the Repealing and Amending Act, 1914 (10 of 1914), section 3 and Schedule II and partly by the Repealing Act, 1938 (1 of 1938), section 2 and Schedule.]

### 3.

. Definitions.In this Act, unless there is something repugnant in the subject or context,(a)the expression land includes benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth;(aa)[ the expression local authority includes a town planning authority (by whatever name called) set up under any law for the time being in force;] [Inserted by Act 68 of 1984, Section 3 (w.e.f. 24.9.1984).](b)the expression person interested includes all persons claiming an interest in compensation to be made on account of the acquisition of land under this Act; and a person shall be deemed to be interested in land if he is interested in an easement affecting the land;(c)the expression Collector means the Collector of a district, and includes a Deputy Commissioner and any officer specially appointed by the [appropriate Government] [Substituted by A.O. 1950.] to perform the functions of a Collector under this Act;(cc)[ the expression corporation owned or controlled by the State means any body corporate established by or under a Central, Provincial or State Act, and includes a Government company as defined in section 617of the Companies Act, 1956 (1 of 1956), a society registered under the Societies Registration Act, 1860 (21 of 1860), or under any corresponding law for the time being in force in a State, being a society established or administered by Government and a co-operative society within the meaning of any law relating to co-operative societies for the time being in force in any State, being a co-operative society in which not less than fifty-one per centum of the paid-up share capital is held by the Central Government, or by any State Government or Governments, or partly by the Central Government and partly by one or more State Governments;] [Inserted by Act 68 of 1984, Section 3 (w.e.f. 24.9.1984).](d)the expression Court means a principal Civil Court of original jurisdiction, unless the [appropriate Government] [Substituted by A.O.1950.] has appointed (as it is hereby empowered to do) a special judicial officer within any specified local limits to perform the functions of the Court under this Act;(e)[ the expression Company means [Substituted by Act 68 of

1984, Section 3, for Clause (e) (w.e.f. 24.9.1984).](i)a company as defined in section 3 of the Companies Act, 1956 (1 of 1956), other than a Government company referred to in clause (cc);(ii)a society registered under the Societies Registration Act, 1860 (21 of 1860), or under any corresponding law for the time being in force in a State, other than a society referred to in clause (cc);(iii)a co-operative society within the meaning of any law relating to co-operative societies for the time being in force in any State, other than a co-operative society referred to in clause (cc);](ee)[the expression appropriate Government means, in relation to acquisition of land for the purposes of the Union, the Central Government, and, in relation to acquisition of land for any other purposes, the State Government;] [Inserted by A.O.1950.](f)the expression public purpose includes(i)the provision of village-sites, or the extension, planned development or improvement of existing village-sites;(ii)the provision of land for town or rural planning;(iii)the provision of land for planned development of land from public funds in pursuance of any scheme or policy of Government and subsequent disposal thereof in whole or in part by lease, assignment or outright sale with the object of securing further development as planned;(iv)the provision of land for a corporation owned or controlled by the State;(v)the provision of land for residential purposes to the poor or landless or to persons residing in areas affected by natural calamities, or to persons displaced or affected by reason of the implementation of any scheme undertaken by Government, any local authority or a corporation owned or controlled by the State;(vi)the provision of land for carrying out any educational, housing, health or slum clearance scheme sponsored by Government or by any authority established by Government for carrying out any such scheme, or, with the prior approval of the appropriate Government, by a local authority, or a society registered under the Societies Registration Act, 1860 (21 of 1860), or under any corresponding law for the time being in force in a State, or a co-operative society within the meaning of any law relating to co-operative societies for the time being in force in any State;(vii)the provision of land for any other scheme of development sponsored by Government, or, with the prior approval of the appropriate Government, by a local authority;(viii)the provision of any premises or building for locating a public office,but does not include acquisition of land for companies;](g)the following persons shall be deemed persons entitled to act as and to the extent hereinafter provided (that is to say)trustees for other persons beneficially interested shall be deemed the persons entitled to act with reference to any such case, and that to the same extent as the persons beneficially interested could have acted if free from disability;a married woman, in cases to which the English law is applicable, shall be deemed to the persons so entitled to act, and whether of full age or not, to the same extent as if she were unmarried and of full age; andthe guardians of minors and the committees or managers of lunatics or idiots shall be deemed respectively the persons so entitled to act, to the same extent as the minors, lunatics or idiots themselves, if free from disability, could have acted:Provided that(i)no person shall be deemed entitled to act whose interest in the subject-matter shall be shown to the satisfaction of the Collector or Court to be adverse to the interest of the person interested for whom he would otherwise be entitled to act;(ii)in every such case the person interested may appear by a next friend or, in default of his appearance by a next friend, the Collector or Court, as the case may be, shall appoint a guardian for the case to act on his behalf in the conduct thereof;(iii)the provisions of [Order XXXII of the First Schedule to the Code of Civil Procedure, 1908 (5 of 1908)] [Substituted by Act 62 of 1984, Section 3, for " Chapter XXXI of the Code of Civil Procedure, 1882 (14 of 1882)" (w.e.f. 24.9.1984).], shall, mutatis mutandis, apply in the case of persons interested appearing before a Collector or Court by a next friend, or by a guardian for the case, in proceedings under this

Act; and (iv) no person entitled to act shall be competent to receive the compensation-money payable to the person for whom he is entitled to act, unless he would have been competent to alienate the land and receive and give a good discharge for the purchase-money on a voluntary sale.

## Part II – Acquisition

### Preliminary investigation

#### 4. Publication of preliminary notification and powers of officers thereupon

(1) Whenever it appears to the [appropriate Government] [Substituted by A.O.1950.] that land in any locality [is needed or] [Inserted by Act 38 of 1923, Section 2.] is likely to be needed for any public purpose [or for a company] [Inserted by Act 38 of 1923, Section 2.], a notification to that effect shall be published in the Official Gazette [and in two daily newspapers circulating in that locality of which at least one shall be in the regional language] [Inserted by Act 68 of 1984, Section 4 (w.e.f. 24.9.1984).], and the Collector shall cause public notice of the substance of such notification to be given at convenient places in the said locality [(the last of the dates of such publication and the giving of such public notice, being hereinafter referred to as the date of the publication of the notification)] [Inserted by Act 68 of 1984, Section 4 (w.e.f. 24.9.1984).]. (2) Thereupon it shall be lawful for any officer, either, generally or specially authorised by such Government in this behalf, and for his servants and workmen, to enter upon and survey and take levels of any land in such locality; to dig or bore in the sub-soil; to do all other acts necessary to ascertain whether the land is adapted for such purpose; 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; to mark such levels, boundaries and line by placing marks and cutting trenches; 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 any standing crops, 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.

#### 5. Payment for damage

.The officer so authorised shall at the time of such entry pay or tender payment for all necessary damage to be done as aforesaid, and in case of dispute as to the sufficiency of the amount so paid or tendered, he shall at once refer the dispute to the decision of the Collector or other Chief Revenue Officer of the District, and such decision shall be final. [Objections [Inserted by Act 38 of 1923, Section 3.]

#### 5.

-A. Hearing of objections (1) Any person interested in any land which has been notified under section 4, sub-section (1), as being needed or likely to be needed for a public purpose or for a company may,



[within thirty days from the date of the publication of the notification] [Substituted by Act 68 of 1984, Section 5, for " within thirty days after the issue of the notification" (w.e.f. 24.9.1984).], object to the acquisition of the land or of any land in the locality, as the case may be.(2)Every objection under sub-section (1) shall be made to the Collector in writing, and the Collector shall give the objector an opportunity of being heard [in person or by any person authorised by him in this behalf] [Substituted by Act 68 of 1984, Section 5, for " either in person" (w.e.f. 24.9.1984).] or by pleader and shall, after hearing all such objections and after making such further inquiry, if any, as he thinks necessary, [either make a report in respect of the land which has been notified under section 4, sub-section (1), or make different reports in respect of different parcels of such land, to the appropriate Government, containing his recommendations on the objections, together with the record of the proceedings held by him, for the decision of that Government] [Substituted by Act 13 of 1967, Section 2, for certain words (w.e.f. 12.4.1967).]. The decision of the [appropriate Government] [Substituted by A.O.1950.] on the objections shall be final.(3)For the purposes of this section, a person shall be deemed to be interested in land who would be entitled to claim an interest in compensation if the land were acquired under this Act.]Declaration of intended acquisition

## 6. Declaration that land is required for a public purpose

(1)Subject to the provisions of Part VII of this Act, [when the [appropriate Government] [Substituted by Act 38 of 1923, Section 4, for " whenever it appears to the Local Government" .] is satisfied, after considering the report, if any, made under section 5-A, sub-section (2)], that any particular land is needed for a public purpose, or for a company, a declaration shall be made to that effect under the signature of a Secretary to such Government or of some officer duly authorised to certify its orders [and different declarations may be made from time to time in respect of different parcels of any land covered by the same notification under section 4, sub-section (1), irrespective of whether one report or different reports has or have been made (wherever required) under section 5-A, sub-section (2)] [Inserted by Act 13 of 1967, Section 3 (w.e.f. 12.4.1967).]:[6Provided that no declaration in respect of any particular land covered by a notification under section 4, sub-section (1),(i)published after the commencement of the Land Acquisition (Amendment and Validation) Ordinance, 1967 (1 of 1967), but before the commencement of the Land Acquisition (Amendment) Act, 1984, shall be made after the expiry of three years from the date of the publication of the notification;or(ii)published after the commencement of the Land Acquisition (Amendment) Act, 1984, shall be made after the expiry of one year from the date of the publication of the notification:][Provided further] [Substituted by Act 13 of 1967, Section 3, for " Provided that" (w.e.f. 12.4.1967).] that no such declaration shall be made unless the compensation to be awarded for such property is to be paid by a company, or wholly or partly out of public revenues or some fund controlled or managed by a local authority.[Explanation 1. In computing any of the periods referred to in the first proviso, the period during which any action or proceeding to be taken in pursuance of the notification issued under section 4, sub-section (1), is stayed by an order of a Court shall be excluded.Explanation 2. Where the compensation to be awarded for such property is to be paid out of the funds of a corporation owned or controlled by the State, such compensation shall be deemed to be compensation paid out of public revenues.] [Inserted by Act 68 of 1984, Section 6 (w.e.f. 24.9.1984).](2)[Every declaration] [Substituted by Act 13 of 1967, Section 3, for " the declaration" (w.e.f. 12.4.1967).]shall be published in the Official Gazette, [and in two daily newspapers

circulating in the locality in which the land is situate of which at least one shall be in the regional language, and the Collector shall cause public notice of the substance of such declaration to be given at convenient places in the said locality (the last of the dates of such publication and the giving of such public notice, being hereinafter referred to as the date of the publication of the declaration), and such declaration shall state] [Substituted by Act 68 of 1984, Section 6, for " and shall state" (w.e.f. 24.9.1984).] the district or other territorial division in which the land is situate, the purpose for which it is needed, its approximate area, and, where a plan shall have been made of the land, the place where such plan may be inspected.(3)The said declaration shall be conclusive evidence that the land is needed for a public purpose or for a company, as the case may be; and, after making such declaration the [appropriate Government] [Substituted by A.O.1950.] may acquire the land in a manner hereinafter appearing.

## **7. After declaration Collector to take order for acquisition**

.Whenever any land shall have been so declared to be needed for a public purpose or for a company, the appropriate Government, or some officer authorised by the appropriate Government in this behalf, shall direct the Collector to take order for the acquisition of the land.

## **8. Land to be marked out, measured and planned**

.The Collector shall thereupon cause the land (unless it has been already marked out under section 4), to be marked out. He shall also cause it to be measured, and (if no plan has been made thereof), a plan to be made of the same.

## **9. Notice to persons interested**

(1)The Collector shall then cause public notice to be given at convenient places on or near the land to be taken, stating that the Government intends to take possession of the land, and that claims to compensation for all interests in such land may be made to him.(2)Such notice shall state the particulars of the land so needed, and shall require all persons interested in the land to appear personally or by agent before the Collector at a time and place therein mentioned (such time not being earlier than fifteen days after the date of publication of the notice), and to state the nature of their respective interests in the land and the amount and particulars of their claims to compensation for such interests, and their objections (if any) to the measurements made under section 8. The Collector may in any case require such statement to be made in writing and signed by the party or his agent.(3)The Collector shall also serve notice to the same effect 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 persons so interested, as reside or have agents authorised to receive service on their behalf, within the revenue district in which the land is situate.(4)In case any person so interested resides elsewhere, and has no such agent, the notice shall be sent to him by post in a letter addressed to him at his last known residence, address or place of business and [registered under sections 28 and 29 of the Indian Post Office Act, 1898 (6 of 1898)] [Substituted by Act 68 of 1984, Section 7, for " registered under Part III of the Indian Post Office Act, 1866 (14 of 1866)" (w.e.f. 24.9.1984).].

## 10. Power to require and enforce the making of statements as to names and interests

(1)The Collector may also require any such person to make or deliver to him, at a time and place mentioned (such time not being earlier than fifteen days after the date of the requisition), a statement containing, so far as may be practicable, the name of every other person possessing any interest in the land or any part thereof as co-proprietor, sub-proprietor, mortgagee, tenant or otherwise, and of the nature of such interest, and of the rents and profits (if any) received or receivable on account thereof for three years next preceding the date of the statement.(2)Every person required to make or deliver a statement under this section or section 9 shall be deemed to be legally bound to do so within the meaning of sections 175 and 176 of the Indian Penal Code (45 of 1860).Enquiry into measurements, value and claims, and award by the Collector

## 11. Enquiry and award by Collector

.[(1)] [Section 11 renumbered as sub-Section (1) thereof by Act 68 of 1984, Section 8 (w.e.f. 24.9.1984).] On the day so fixed, or on any other day to which the enquiry has been adjourned, the Collector shall proceed to enquire into the objection (if any) which any person interested has stated pursuant to a notice given under section 9 to the measurements made under section 8, and into the value of the land [at the date of the publication of the notification under section 4, sub-section (1)] [Inserted by Act 38 of 1923, Section 5.], and into the respective interest of the persons claiming the compensation and shall make an award under his hand of(i)the true area of the land;(ii)the compensation which in his opinion should be allowed for the land; and(iii)the apportionment of the said compensation among all the persons known or believed to be interested in the land, of whom, or of whose claims, he has information, whether or not they have respectively appeared before him:[Provided that no award shall be made by the Collector under this sub-section without the previous approval of the appropriate Government or of such officer as the appropriate Government may authorise in this behalf:Provided further that it shall be competent for the appropriate Government to direct that the Collector may make such award without such approval in such class of cases as the appropriate Government may specify in this behalf.] [Inserted by Act 38 of 1923, Section 5.](2)[ Notwithstanding anything contained in sub-section (1), if at any stage of the proceedings, the Collector is satisfied that all the persons interested in the land who appeared before him have agreed in writing on the matters to be included in the award of the Collector in the form prescribed by rules made by the appropriate Government, he may, without making further enquiry, make an award according to the terms of such agreement.(3)The determination of compensation for any land under sub-section (2) shall not in any way affect the determination of compensation in respect of other lands in the same locality or elsewhere in accordance with the other provisions of this Act.(4)Notwithstanding anything contained in the Registration Act, 1908 (16 of 1908), no agreement made under sub-section (2) shall be liable to registration under that Act.] [Section 11 renumbered as sub-Section (1) thereof by Act 68 of 1984, Section 8 (w.e.f. 24.9.1984).][11-A. Period within which an award shall be made [Inserted by Act 68 of 1984, Section 9 (w.e.f. 24.9.1984).](1)The Collector shall make an award under section 11 within a period of two years from the date of the publication of the declaration and if no award is made within that period, the entire proceedings for the acquisition of the land shall lapse:Provided that in a case where the said

declaration has been published before the commencement of the Land Acquisition (Amendment) Act, 1984, the award shall be made within a period of two years from such commencement. Explanation. In computing the period of two years referred to in this section, the period during which any action or proceeding to be taken in pursuance of the said declaration is stayed by an order of a Court shall be excluded.] [Substituted by Act 68 of 1984, Section 6, for the first proviso (w.e.f. 24.9.1984).]

## **12. Award of Collector when to be final**

(1) Such award shall be filed in the Collectors office and shall, except as hereinafter provided, be final and conclusive evidence, as between the Collector and the persons interested, whether they have respectively appeared before the Collector or not, of the true area and value of the land, and the apportionment of the compensation among the persons interested. (2) The Collector shall give immediate notice of his award to such of the persons interested as are not present personally or by their representatives when the award is made.

## **13. Adjournment of enquiry**

.The Collector may, for any cause he thinks fit, from time to time adjourn the enquiry to a day to be fixed by him. [13-A. Correction of clerical errors, etc [Inserted by Act 69 of 1984, Section 10 (w.e.f. 24.9.1984).] (1) The Collector may, at any time but not later than six months from the date of the award, or where he has been required under section 18 to make a reference to the Court, before the making of such reference, by order, correct any clerical or arithmetical mistake in the award or errors arising therein either on his own motion or on the application of any person interested or a local authority: Provided that no correction which is likely to affect prejudicially any person shall be made unless such person has been given a reasonable opportunity of making a representation in the matter. (2) The Collector shall give immediate notice of any correction made in the award to all the persons interested. (3) Where any excess amount is proved to have been paid to any person as a result of the correction made under sub-section (1), the excess amount so paid shall be liable to be refunded and in the case of any default or refusal to pay, the same may be recovered as an arrear of land revenue.]

## **14. Power to summon and enforce attendance of witnesses and production of documents**

.For the purpose of enquiries under this Act the Collector shall have powers to summon and enforce the attendance of witnesses, including the parties interested or any of them, and to compel the production of documents by the same means, and (so far as may be) in the same manner, as is provided in the case of a Civil Court under the [Code of Civil Procedure, 1908 (5 of 1908)] [Substituted by Act 68 of 1984, Section 11, for " Code of Civil Procedure" (w.e.f. 24.9.1984).].

## 15. Matters to be considered and neglected

.In determining the amount of compensation, the Collector shall be guided by the provisions contained in sections 23 and 24.[15-A. Power to call for records, etc [Inserted by Act 68 of 1984, Section 12 (w.e.f. 24.9.1984).].The appropriate Government may at any time before the award is made by the Collector under section 11call for any record of any proceedings (whether by way of enquiry or otherwise)for the purpose of satisfying itself as to the legality or propriety of any finding or order passed or as to the regularity of such proceedings and may pass such order or issue such direction in relation thereto as it may think fit:Provided that the appropriate Government shall not pass or issue any order or direction prejudicial to any person without affording such person a reasonable opportunity of being heard.]Taking possession

## 16. Power to take possession

.When the Collector has made an award under section 11, he may take possession of the land, which shall thereupon [vest absolutely in the [Government] [Substituted by A.O.1937.]], free from all encumbrances.

## 17. Special powers in cases of urgency

(1)In cases of urgency, whenever the [appropriate Government] [Substituted by A.O.1950.] so directs, the Collector, though no such award has been made, may, on the expiration of fifteen days from the publication of the notice mentioned in section 9, sub-section (1), [take possession of any land needed for a public purpose] [Substituted by Act 68 of 1984, Section 13, for " take possession of any waste or arable land needed for public purposes or for a company" (w.e.f. 24.9.1984).]. Such land shall thereupon [vest absolutely in the [Government] [Substituted by A.O.1937.]], free from all encumbrances.(2)Whenever, owing to any sudden change in the channel of any navigable river or other unforeseen emergency, it becomes necessary for any Railway administration to acquire the immediate possession of any land for the maintenance of their traffic or for the purpose of making thereon a river-side or ghat station, or of providing convenient connection with or access to any such station, [or the appropriate Government considers it necessary to acquire the immediate possession of any land for the purpose of maintaining any structure or system pertaining to irrigation, water supply, drainage, road communication or electricity,] [Inserted by Act 68 of 1984, Section 13 (w.e.f. 24.9.1984).] the Collector may, immediately after the publication of the notice mentioned in sub-section (1) and with the previous sanction of the [appropriate Government] [Substituted by A.O.1950.] enter upon and take possession of such land, which shall thereupon vest absolutely in the [Government] [Substituted by A.O.1950.] free from all encumbrances:Provided that the Collector shall not take possession of any building or part of a building under this sub-section without giving to the occupier thereof at least forty-eight hours notice of his intention so to do, or such longer notice as may be reasonably sufficient to enable such occupier to remove his movable property from such building without unnecessary inconvenience.(3)In every case under either of the preceding sub-sections the Collector shall, at the time of taking possession, offer to the persons interested compensation for the standing crops and trees (if any) on such land and for any other damage sustained by them caused by such sudden dispossession and not excepted in section 24; and, in case

such offer is not accepted, the value of such crops and trees and the amount of such other damage shall be allowed for in awarding compensation for the land under the provisions herein contained. [(3-A) Before taking possession of any land under sub-section (1) or sub-section (2), the Collector shall, without prejudice to the provisions of sub-section (3), (a) tender payment of eighty per centum of the compensation for such land as estimated by him to the persons interested entitled thereto, and (b) pay it to them, unless prevented by some one or more of the contingencies mentioned in section 31, sub-section (2), and where the Collector is so prevented, the provisions of section 31, sub-section (2), (except the second proviso thereto,) shall apply as they apply to the payment of compensation under that section. (3-B) The amount paid or deposited under sub-section (3-A), shall be taken into account for determining the amount of compensation, required to be tendered under section 31, and where the amount so paid or deposited exceeds the compensation awarded by the Collector under section 11, the excess may, unless refunded within three months from the date of the Collectors award, be recovered as an arrear of land revenue.] [Inserted by Act 68 of 1984, Section 13 (w.e.f. 24.9.1984).] (4) [In the case of any land to which, in the opinion of the [appropriate Government] [Added by Act 38 of 1923, Section 6.], the provisions of sub-section (1) or sub-section (2) are applicable, the [appropriate Government] [Substituted by A.O.1950.] may direct that the provisions of section 5-A shall not apply, and, if it does so direct, a declaration may be made under section 6 in respect of the land at any time [after the date of the publication of the notification] [Substituted by Act 68 of 1984, Section 13, for " after the publication of the notification" (w.e.f. 29.4.1984).] under section 4, sub-section (1)].

## Part III – Reference To Court And Procedure Thereon

### 18. Reference to Court

(1) Any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court, whether his objection be to the measurement of the land, the amount of the compensation, the persons to whom it is payable, or the apportionment of the compensation among the persons interested. (2) The application shall state the grounds on which objection to the award is taken: Provided that every such application shall be made, (a) if the person making it was present or represented before the Collector at the time when he made his award, within six weeks from the date of the Collectors award; (b) in other cases, within six weeks of the receipt of the notice from the Collector under section 12, sub-section (2), or within six months from the date of the Collectors award, whichever period shall first expire.

### 19. Collectors statement to the Court

(1) In making the reference, the Collector shall state for the information of the Court, in writing under his hand, (a) the situation and extent of the land, with particulars of any trees, buildings or standing crops thereon; (b) the names of the persons whom he has reason to think interested in such land; (c) the amount awarded for damages and paid or tendered under sections 5 and 17, or either of them, and the amount of compensation awarded under section 11; [\*] [The word "and" omitted by

Act 68 of 1984, Section 14 (w.e.f. 24.9.1984).](cc)[ the amount paid or deposited under sub-section (3-A) of section 17; and] [Inserted by Act 68 of 1984, Section 14 (w.e.f. 24.9.1984).](d)if the objection be to the amount of the compensation, the grounds on which the amount of compensation was determined.(2)To the said statement shall be attached a schedule giving the particulars of the notices served upon, and of the statements in writing made or delivered by the parties interested respectively.

## **20. Service of notice**

.The Court shall thereupon cause a notice specifying the day on which the Court will proceed to determine the objection, and directing their appearance before the Court on that day, to be served on the following persons, namely:(a)the applicant;(b)all persons interested in the objection, except such (if any) of them as have consented without protest to receive payment of the compensation awarded; and(c)if the objection is in regard to the area of the land or to the amount of the compensation, the Collector.

## **21. Restriction on scope of proceedings**

.The scope of the inquiry in every such proceeding shall be restricted to a consideration of the interests of the persons affected by the objection.

## **22. Proceedings to be in open Court**

.Every such proceeding shall take place in open Court, and all persons entitled to practise in any Civil Court in the State shall be entitled to appear, plead and act (as the case may be) in such proceeding.

## **23. Matters to be considered in determining compensation**

(1)In determining the amount of compensation to be awarded for land acquired under this Act, the Court shall take into considerationfirst , the market value of the land at the date of the publication of the [notification under section 4, sub-section (1)] [Substituted by Act 38 of 1923, Section 7, for " declaration relating thereto under section 6" .];secondly , the damage sustained by the person interested, by reason of the taking of any standing crops or trees which may be on the land at the time of the Collectors taking possession thereof;thirdly , the damage (if any) sustained by the person interested, at the time of the Collectors taking possession of the land, by reason of severing such land from his other land;fourthly , the damage (if any) sustained by the person interested, at the time of the Collectors taking possession of the land, by reason of the acquisition injuriously affecting his other property, movable or immovable, in any other manner, or his earnings;fifthly , if, in consequence of the acquisition of the land by the Collector, the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change;andsixthly , the damage (if any) bona fide resulting from diminution of the profits of the land between the time of the publication of the declaration under section 6 and the time of the

Collectors taking possession of the land. [(1-A) In addition to the market value of the land, as above provided, the Court shall in every case award an amount calculated at the rate of twelve per centum per annum on such market value for the period commencing on and from the date of the publication of the notification under section 4, sub-section (1), in respect of such land to the date of the award of the Collector or the date of taking possession of the land, whichever is earlier. Explanation. In computing the period referred to in this sub-section, any period or periods during which the proceedings for the acquisition of the land were held up on account of any stay or injunction by the order of any Court shall be excluded.] [Inserted by Act 68 of 1984, Section 15 (w.e.f. 24.9.1984).] (2) In addition to the market value of the land as above provided, the Court shall in every case award a sum of [thirty per centum] [Substituted by Act 68 of 1984, Section 15, for "fifteen per centum" (w.e.f. 24.9.1984).] on such market value, in consideration of compulsory nature of the acquisition.

## 24. Matters to be neglected in determining compensation

.But the Court shall not take into consideration first, the degree of urgency which has led to the acquisition; secondly, any disinclination of the person interested to part with the land acquired; thirdly, any damage sustained by him which, if caused by a private person, would not render such person liable to a suit; fourthly, any damage which is likely to be caused to the land acquired, after the date of the publication of the declaration under section 6, by or in consequence of the use to which it will be put; fifthly, any increase to the value of the land acquired likely to accrue from the use to which it will be put when acquired; sixthly, any increase to the value of the other land of the person interested likely to accrue from the use to which the land acquired, will be put; [\*] [The word "or" omitted by Act 68 of 1984, Section 16 (w.e.f. 24.9.1984).] seventhly, any outlay or improvements on, or disposal of, the land acquired, commenced, made or effected without the sanction of the Collector after the date of the publication of the [notification under section 4, sub-section (1)] [Substituted by Act 38 of 1923, Section 8, for "declaration under section 6" .]; [or] [Inserted by Act 68 of 1984, Section 16 (w.e.f. 24.9.1984).] eighthly, any increase to the value of the land on account of its being put to any use which is forbidden by law or opposed to public policy.] [Inserted by Act 68 of 1984, Section 16 (w.e.f. 24.9.1984).]

## 25. [ Amount of compensation awarded by Court not to be lower than the amount awarded by the Collector [Substituted by Act 68 of 1984, Section 17, for Section 25 (w.e.f. 24.9.1984).]

.The amount of compensation awarded by the Court shall not be less than the amount awarded by the Collector under section 11.]

## 26. Form of awards

.[(1)] [Section 26 renumbered as sub-Section (1) thereof and sub-Section (2) added by Act 19 of 1921, Section 2.] Every award under this part shall be in writing signed by the Judge, and shall specify the amount awarded under clause first of sub-section (1) of section 23, and also the amounts (if



any)respectively awarded under each of the other clauses of the same sub-section, together with the grounds of awarding each of the said amounts.(2)[ Every such award shall be deemed to be a decree and the statement of the grounds of every such award a judgment within the meaning of section 2, clause (2), and section 2, clause (9), respectively of the Code of Civil Procedure, 1908 (5 of 1908).] [Section 26 renumbered as sub-Section (1) thereof and sub-Section (1) thereof and sub-Section (2) added by Act 19 of 1921, Section 2.]

## **27. Costs**

(1)Every such award shall also state the amount of costs incurred in the proceedings under this part, and by what persons and in what proportions they are to be paid.(2)When the award of the Collector is not upheld, the costs shall ordinarily be paid by the Collector, unless the Court shall be of opinion that the claim of the applicant was so extravagant or that he was so negligent in putting his case before the Collector that some deduction from his costs should be made or that he should pay a part of the Collectors costs.

## **28. Collector may be directed to pay interest on excess compensation**

.If the sum which, in the opinion of the Court, the Collector ought to have awarded as compensation is in excess of the sum which the Collector did award as compensation, the award of the Court may direct that the Collector shall pay interest on such excess at the rate of [nine per centum] [Substituted by Act 68 of 1984, Section 18, for " six per centum" (w.e.f. 24.9.1984).] per annum from the date on which he took possession of the land to the date of payment of such excess into Court:[Provided that the award of the Court may also direct that where such excess or any part thereof is paid into Court after the date of expiry of a period of one year from the date on which possession is taken, interest at the rate of fifteen per centum per annum shall be payable from the date of expiry of the said period of one year on the amount of such excess or part thereof which has not been paid into Court before the date of such expiry.] [Inserted by Act 68 of 1984, Section 18 (w.e.f. 24.9.1984).][28-A. Re-determination of the amount of compensation on the basis of the award of the Court [Inserted by Act 68 of 1984, Section 19 (w.e.f. 24.9.1984).](1)Where in an award under this Part, the Court allows to the applicant any amount of compensation in excess of the amount awarded by the Collector under section 11, the persons interested in all the other land covered by the same notification under section 4, sub-section (1) and who are also aggrieved by the award of the Collector may, notwithstanding that they had not made an application to the Collector under section 18, by written application to the Collector within three months from the date of the award of the Court require that the amount of compensation payable to them may be re-determined on the basis of the amount of compensation awarded by the Court:Provided that in computing the period of three months within which an application to the Collector shall be made under this sub-section, the day on which the award was pronounced and the time requisite for obtaining a copy of the award shall be excluded.(2)The Collector shall, on receipt of an application under sub-section (1), conduct an inquiry after giving notice to all the persons interested and giving them a reasonable opportunity of being heard, and make an award determining the amount of compensation payable to the applicants.(3)Any person who has not accepted the award under sub-section (2) may, by written application to the Collector, require that the matter be referred by the Collector for the

determination of the Court and the provisions of sections 18 to 28 shall, so far as may be, apply to such reference as they apply to a reference under section 18.]

## **Part IV – Apportionment Of Compensation**

### **29.**

Particulars of apportionment to be specified .Where there are several persons interested, if such persons agree in the apportionment of the compensation, the particulars of such apportionment shall be specified in the award, and as between such persons the award shall be conclusive evidence of the correctness of the apportionment.

### **30. Dispute as to apportionment**

.When the amount of compensation has been settled under section 11, if any dispute arises as to the apportionment of the same or any part thereof, or as to the persons to whom the same or any part thereof, is payable, the Collector may refer such dispute to the decision of the Court.

## **Part V – Payment**

### **31. P**

ayment of compensation or deposit of same in Court .(1) On making an award under section 11, the Collector shall tender payment of the compensation awarded by him to the persons interested entitled thereto according to the award and shall pay it to them unless prevented by some one or more of the contingencies mentioned in the next sub-section.(2)If they shall not consent to receive it, or if there be no person competent to alienate the land, or if there be any dispute as to the title to receive the compensation or as to the apportionment of it, the Collector shall deposit the amount of the compensation in the Court to which a reference under section 18 would be submitted:Provided that any person admitted to be interested may receive such payment under protest as to the sufficiency of the amount:Provided also that no person who has received the amount otherwise than under protest shall be entitled to make any application under section 18:Provided also that nothing herein contained shall affect the liability of any person, who may receive the whole or any part of any compensation awarded under this Act, to pay the same to the person lawfully entitled thereto.(3)Notwithstanding anything in this section, the Collector may, with the sanction of the [appropriate Government] [Substituted by A.O.1950.] instead of awarding a money compensation in respect of any land, make any arrangement with a person having a limited interest in such land, either by the grant of other lands in exchange, the remission of land revenue on other lands held under the same title, or in such other way as may be equitable having regard to the interests of the parties concerned.(4)Nothing in the last foregoing sub-section shall be construed to interfere with or limit the power of the Collector to enter into any arrangement with any person interested in the land and [competent] [As to persons who are competent to contract, see Section 11 of the Indian Contract Act, 1872 (9 of 1872).] to contract in respect thereof.

### **32. Investment of money deposited in respect of lands belonging to persons incompetent to alienate**

(1) If any money shall be deposited in Court under sub-section (2) of the last preceding section and it appears that the land in respect whereof the same was awarded belonged to any person who had no power to alienate the same, the Court shall (a) order the money to be invested in the purchase of other lands to be held under the like title and conditions of ownership as the land in respect of which such money shall have been deposited was held, or (b) if such purchase cannot be effected forthwith, then in such Government or other approved securities as the Court shall think fit, and shall direct the payment of the interest or other proceeds arising from such investment to the person or persons who would for the time being have been entitled to the possession of the said land, and such moneys shall remain so deposited and invested until the same be applied, (i) in the purchase of such other lands as aforesaid; or (ii) in payment to any person or persons becoming absolutely entitled thereto. (2) In all cases of moneys deposited to which this section applies, the Court shall order the costs of the following matters, including therein all reasonable charges and expenses incidental thereto, to be paid by the Collector, namely: (a) the costs of such investments as aforesaid; (b) the costs of the orders for the payment of the interest or other proceeds of the securities upon which such moneys are for the time being invested, and for the payment out of Court of the principal of such moneys, and of all proceedings relating thereto, except such as may be occasioned by litigation between adverse claimants.

### **33. Investment of money deposited in other cases**

.When any money shall have been deposited in Court under this Act for any cause other than mentioned in the last preceding section, the Court may, on the application of any party interested or claiming an interest in such money, order the same to be invested in such Government or other approved securities as it may think proper, and may direct the interest or other proceeds of any such investment to be accumulated and paid in such manner as it may consider will give the parties interested therein the same benefit therefrom as they might have had from the land in respect whereof such money shall have been deposited or as near thereto as may be.

### **34. Payment of interest**

.When the amount of such compensation is not paid or deposited on or before taking possession of the land, the Collector shall pay the amount awarded with interest thereon at the rate of [nine per centum] [Substituted by Act 68 of 1984, Section 20, for "six per centum" (w.e.f. 24.9.1984).] per annum from the time of so taking possession until it shall have been so paid or deposited: [Provided that if such compensation or any part thereof is not paid or deposited within a period of one year from the date on which possession is taken, interest at the rate of fifteen per centum per annum shall be payable from the date of expiry of the said period of one year on the amount of compensation or part thereof which has not been paid or deposited before the date of such expiry.] [Inserted by Act 68 of 1984, Section 20 (w.e.f. 24.9.1984).]

## **Part VI – Temporary Occupation Of Land**

### **35. Temporary occupation of waste or arable land. Procedure when difference as to compensation exists**

(1) Subject to the provisions of Part VII of this Act, whenever it appears to the [appropriate Government] [Substituted by A.O.1950.] that the temporary occupation and use of any waste or arable land are needed for any public purpose, or for a company, the [appropriate Government] [Substituted by A.O.1950.] may direct the Collector to procure the occupation and use of the same for such term as it shall think fit, not exceeding three years from the commencement of such occupation. (2) The Collector shall thereupon give notice in writing to the persons interested in such land of the purpose for which the same is needed, and shall, for the occupation and use thereof, for such term as aforesaid, and for the materials (if any) to be taken therefrom, pay to them such compensation, either in a gross sum of money, or by monthly or other periodical payments, as shall be agreed upon in writing between him and such persons respectively. (3) In case the Collector and the persons interested differ as to the sufficiency of the compensation or apportionment thereof, the Collector shall refer such difference to the decision of the Court.

### **36. Power to enter and take possession, and compensation on restoration**

(1) On payment of such compensation, or on executing such agreement or on making a reference under section 35, the Collector may enter upon and take possession of the land, and use or permit the use thereof in accordance with the terms of the said notice. (2) On the expiration of the term, the Collector shall make or tender to the persons interested compensation for the damage (if any) done to the land and not provided for by the agreement, and shall restore the land to the persons interested therein: Provided that, if the land has become permanently unfit to be used for the purpose for which it was used immediately before the commencement of such term, and if the persons interested shall so require, the [appropriate Government] [Substituted by A.O.1950.] shall proceed under this Act to acquire the land as if it was needed permanently for a public purpose or for a company.

### **37. Difference as to condition of land**

.In case the Collector and persons interested differ as to the condition of the land at the expiration of the term, or as to any matter connected with the said agreement, the Collector shall refer such difference to the decision of the Court.

## **Part VII – Acquisition Of Land For Companies**

### 38.

Company may be authorised to enter and survey .[Omitted by the Land Acquisition (Amendment) Act, 1984 (68 of 1984), section 21 (w.e.f. 24-9-1984).][38-A. Industrial concern to be deemed company for certain purposes [Inserted by Act 16 of 1933, Section 2.].An industrial concern, ordinarily employing not less than one hundred workmen owned by an individual or by an association of individuals and not being a company, desiring to acquire land for the erection of dwelling-houses for workmen employed by the concern or for the provision of amenities directly connected therewith shall, so far as concerns the acquisition of such land, be deemed to be a company for the purposes of this Part, and the references to company in [sections 4, 5-A, 6, 7 and 50] shall be interpreted as references also to such concern.]

### 39. Previous consent of appropriate Government and execution of agreement necessary

.The provisions of [sections 6 to 16 (both inclusive)] [Substituted by Act 68 of 1984, Section 23, for "sections 6 to 37 (both inclusive)" (w.e.f. 24.9.1984).] and sections 18 to 37 (both inclusive) shall not be put in force in order to acquire land for any company [under this part] [Inserted by Act 68 of 1984, Section 23 (w.e.f. 24.9.1984).], unless with the previous consent of the [appropriate Government] [Substituted by A.O.1950.], nor unless the company shall have executed the agreement hereinafter mentioned.

### 40. Previous enquiry

(1)Such consent shall not be given, unless the [appropriate Government] [Substituted by A.O.1950.] be satisfied, [either on the report of the Collector under section 5-A, sub-section (2), or] [Inserted by Act 38 of 1923, Section 9.] by an enquiry held as hereinafter provided,(a)[ that the purpose of the acquisition is to obtain land for the erection of dwelling-houses for workmen employed by the company or for the provision of amenities directly connected therewith, or [Substituted by Act 16 of 1933, Section 3, for Cls. (a) and (b).](aa)[ that such acquisition is needed for the construction of some building or work for a company which is engaged or is taking steps for engaging itself in any industry or work which is for a public purpose, or](b)that such acquisition is needed for the construction of some work, and that such work is likely to prove useful to the public.](2)Such enquiry shall be held by such officer and at such time and place as the [Code of Civil Procedure, 1908 (5 of 1908)] [[Substituted by Act 16 of 1933, Section 3, for Cls.(a) and (b)[appropriate Government]] shall appoint. (3)Such officer may summon and enforce the attendance of witnesses and compel the production of documents by the same means and, as far as possible, in the same manner as is provided by the <SPAN class=amd1><A TITLE =]] in the case of a Civil Court.

## 41. Agreement with appropriate Government

[\* \* \*] [The words " Such officer shall report to the Local Government the result of the enquiry, and" repealed by Act 38 of 1923, Section 10.] If the [appropriate Government] [Substituted by Act 16 of 1933, Section 3, for Cls.(a) and (b).] is satisfied [after considering the report, if any, of the Collector under section 5-A, sub-section (2), or on the report of the officer making an inquiry under section 40] [Inserted by Act 38 of 1923, Section 10.] that [the proposed acquisition is for any of the purposes referred to in clause (a) or clause (aa) or clause (b) of sub-section (1) of section 40] [Substituted by Act 31 of 1962, Section 4, for certain words (w.e.f. 12.7.1962).], it shall [\* \* \*] [The words " subject to such rules as the Governor-General in Council may from time to time prescribe in this behalf" repealed by Act 38 of 1920, Section 2 and Sch.I.] require the company to enter into an agreement [with the [appropriate Government] [Substituted by A.O.1937, for certain words.]], providing to the satisfaction of the [appropriate Government] [Substituted by Act 16 of 1933, Section 3, for Cls.(a) and (b).] for the following matters, namely:(1)the [payment to the [appropriate Government] [Substituted by A.O.1937, for certain words.]] of the cost of the acquisition;(2)the transfer, on such payment, of the land to the company;(3)the terms on which the land shall be held by the company;(4)[ where the acquisition is for the purpose of erecting dwelling-houses or the provision of amenities connected therewith, the time within which, the conditions on which and the manner in which the dwelling-houses or amenities shall be erected or provided;[\*] [Substituted by Act 16 of 1933, Section 4, for Cls. (4) and (5).] [(4-A) where the acquisition is for the construction of any building or work for a company which is engaged or is taking steps for engaging itself in any industry or work which is for a public purpose, the time within which, and the conditions on which, the building or work shall be constructed or executed; and] [Inserted by Act 31 of 1962, Section 4 (w.e.f. 12.9.1962).] (5)where the acquisition is for the construction of any other work, the time within which and the conditions on which the work shall be executed and maintained and the terms on which the public shall be entitled to use the work.]

### Additional Information<sup>6</sup>

Section 165 of the Electricity Act, 2003 (36 of 2003) provides as under:-"165. Amendment of Sections 40 and 41 of Act 1 of 1894.-(1) In section 40, sub-section (1), clause (b) and section 41, sub-section (5) of the Land Acquisition Act, 1894 (1 of 1894), the term "work" shall be deemed to include electricity supplied or to be supplied by means of the work to be constructed.(2) The Appropriate Government may, on recommendation of the Appropriate Commission in this behalf, if it thinks fit, on the application of any person, not being a company desirous of obtaining any land for its purposes, direct that he may acquire such land under the provisions of the Land Acquisition Act, 1894 (1 of 1894) in the same manner and on the same conditions as it might be acquired if the person were a company."

## 42. Publication of agreement

.Every such agreement shall, as soon as may be after its execution, be published [\* \* \*] [The words " in the Gazette of India and also" repealed by A.O.1937.] in the [Official Gazette] [Substituted by A.O.1937, for certain words.], and shall thereupon (so far as regards the terms on which the public shall be entitled to use the work) have the same effect as if it had formed part of this Act.

### **43. Sections 39 to 42 not to apply where Government bound by agreement to provide land for companies**

.The provisions of sections 39 to 42, both inclusive, shall not apply and the corresponding sections of the [Land Acquisition Act, 1870 (10 of 1870)] [Repealed by this Act.], shall be deemed never to have applied, to the acquisition of land for any Railway or other company, for the purposes of which, [under any agreement with such company, the Secretary of State for India in Council, the Secretary of State, [the Central Government or any [State Government] [Substituted by A.O.1937, for " under any agreement between such company and the secretary of State for India in Council, the Government is, or was bound to provide land" .] is or was] bound to provide land].

### **44. How agreement with Railway company may be proved**

.In the case of the acquisition of land for the purposes of a Railway company, the existence of such an agreement as is mentioned in section 43 may be proved by the production of a printed copy thereof purporting to be printed by order of Government.[44-A. Restriction on transfer, etc [Inserted by Act 31 of 1962, Section 5 (w.e.f. 12.9.1962).].No company for which any land is acquired under this Part shall be entitled to transfer the said land or any part thereof by sale, mortgage, gift, lease or otherwise except with the previous sanction of the appropriate Government.

### **44.**

-B. Land not to be acquired under this Part except for certain purpose for private companies other than Government companies. Notwithstanding anything contained in this Act, no land shall be acquired under this Part, except for the purpose mentioned in clause (a) of sub-section (1) of section 40, for a private company which is not a Government company. Explanation. Private company and Government company shall have the meanings respectively assigned to them in the Companies Act, 1956 (10 of 1956).]

## **Part VIII – Miscellaneous**

### **45. Service of notices**

(1) Service of any notice under this Act shall be made by delivering or tendering a copy thereof signed, in the case of a notice under section 4, by the officer therein mentioned, and, in the case of any other notice, by or by order of the Collector or the Judge. (2) Whenever it may be practicable, the service of the notice shall be made on the person therein named. (3) When such person cannot be found, the service may be made on any adult male member of his family residing with him; and if no such adult male member can be found, the notice may be served by fixing the copy on the outer door of the house in which the person therein named ordinarily dwells or carries on business, or by fixing a copy thereof in some conspicuous place in the office of the officer aforesaid or of the Collector or in the Court-house, and also in some conspicuous part of the land to be acquired: Provided that, if the Collector or Judge shall so direct, a notice may be sent by post, in a letter addressed to the person

named therein at his last known residence, address or place of business and [registered under sections 28 and 29 of the Indian Post Office Act, 1898 (6 of 1898)] [Substituted by Act 68 of 1984, Section 25, for " registered under Part III of the Indian Post Office Act, 1866 (14 of 1866)" (w.e.f. 24.9.1984).] and service of it may be proved by the production of the addressees receipt.

#### **46. Penalty for obstructing acquisition of land**

.Whoever wilfully obstructs any person in doing any of the acts authorised by section 4 or section 8, or wilfully fills up, destroys, damages or displaces any trench or mark made under section 4, shall, on conviction before a Magistrate, be liable to imprisonment for any term not exceeding one month, or to fine not exceeding [five hundred rupees] [Substituted by Act 68 of 1984, Section 26, for " fifty rupees" (w.e.f. 24.9.1984).], or to both.

#### **47. Magistrate to enforce surrender**

.If the Collector is opposed or impeded in taking possession under this Act of any land, he shall, if a Magistrate, enforce the surrender of the land to himself, and, if not a Magistrate, he shall apply to a Magistrate or (within the towns of Calcutta, Madras and Bombay) to the Commissioner of Police and such Magistrate or Commissioner (as the case may be) shall enforce the surrender of the land to the Collector.

#### **48. Completion of acquisition not compulsory, but compensation to be awarded when not completed**

(1)Except in the case provided for in section 36, the Government shall be at liberty to withdraw from the acquisition of any land of which possession has not been taken.(2)Whenever the Government withdraws from any such acquisition, the Collector shall determine the amount of compensation due for the damage suffered by the owner in consequence of the notice or of any proceedings thereunder, and shall pay such amount to the person interested, together with all costs reasonably incurred by him in the prosecution of the proceedings under this Act relating to the said land.(3)The provisions of Part III of this Act shall apply, so far as may be, to the determination of the compensation payable under this section.

#### **49. Acquisition of part of house or building**

(1)The provisions of this Act shall not be put in force for the purpose of acquiring a part only of any house, manufactory or other building, if the owner desires that the whole of such house, manufactory or building shall be so acquired:Provided that the owner may, at any time before the Collector has made his award under section 11, by notice in writing, withdraw or modify, his expressed desire that the whole of such house, manufactory or building shall be so acquired:Provided also that, if any question shall arise as to whether any land proposed to be taken under this Act does or does not form part of a house, manufactory or building within the meaning of this section, the Collector shall refer the determination of such question to the Court and shall not



take possession of such land until after the question has been determined. In deciding on such a reference, the Court shall have regard to the question whether the land proposed to be taken is reasonably required for the full and unimpaired use of the house, manufactory or building. (2) If, in the case of any claim under section 23, sub-section (1), thirdly, by a person interested, on account of the severing of the land to be acquired from his other land, the [appropriate Government] [Substituted by A.O.1950.] is of opinion that the claim is unreasonable or excessive, it may, at any time before the Collector has made his award, order the acquisition of the whole of the land of which the land first sought to be acquired forms a part. (3) In the case last hereinbefore provided for, no fresh declaration or other proceedings under sections 6 to 10, both inclusive, shall be necessary, but the Collector shall without delay furnish a copy of the order of the [appropriate Government] [Substituted by A.O.1950.] to the person interested, and shall thereafter proceed to make his award under section 11.

## **50. Acquisition of land at cost of a local authority or company**

(1) Where the provisions of this Act are put in force for the purpose of acquiring land at the cost of any fund controlled or managed by a local authority or of any company, the charges of and incidental to such acquisition shall be defrayed from or by such fund or company. (2) In any proceeding held before a Collector or Court in such cases the local authority or company concerned may appear and adduce evidence for the purpose of determining the amount of compensation: Provided that no such local authority or company shall be entitled to demand a reference under section 18.

## **51. Exemption from stamp duty and fees**

.No award or agreement made under this Act shall be chargeable with stamp duty, and no person claiming under any such award or agreement shall be liable to pay any fee for a copy of the same. [51-A. Acceptance of certified copy as evidence [Inserted by Act 68 of 1984, Section 27 (w.e.f. 24.9.1984).]. In any proceeding under this Act, a certified copy of a document registered under the Registration Act, 1908 (16 of 1908), including a copy given under section 57 of that Act, may be accepted as evidence of the transaction recorded in such document.]

## **52. Notice in case of suits for anything done in pursuance of Act**

.No suit or other proceeding shall be commenced or prosecuted against any person for anything done in pursuance of this Act, without giving to such person a month's previous notice in writing of the intended proceeding, and of the cause thereof, nor after tender of sufficient amends.

## **53. Code of Civil Procedure to apply to proceedings before Court**

.Save in so far as they may be inconsistent with anything contained in this Act, the provisions of the [Code of Civil Procedure, 1908 (5 of 1908)] [Substituted by Act 68 of 1984, Section 28, for "Code of Civil Procedure, 1882 (14 of 1882)" (w.e.f. 24.9.1984).], shall apply to all proceedings before the

Court under this Act.

#### **54. [ Appeals in proceedings before Court [Substituted by Act 19 of 1921, Section 3.]**

.Subject to the provisions of the Code of Civil Procedure, 1908 (5 of 1908), applicable to appeals from original decrees, and notwithstanding anything to the contrary in any enactment for the time being in force, an appeal shall only lie in any proceedings under this Act to the High Court from the award, or from any part of the award of the Court and from any decree of the High Court passed on such appeal as aforesaid an appeal shall lie to [the Supreme Court] subject to the provisions contained in section 110 of the Code of Civil Procedure, 1908 (5 of 1908), and in Order XLV thereof.]

#### **55. Power to make rules**

(1)The [appropriate Government] [Substituted by A.O.1950.] shall [\* \* \*] [The words " subject to the control of the Governor-General in Council" repealed by Act 38 of 1920, Section 2 and Sch.I.]have power to make [rules] [See the Land Acquisition (Companies) Rules, 1963.] consistent with this Act for the guidance of officers in all matters connected with its enforcement, and may from time to time alter and add to the rules so made:[Provided that the power to make rules for carrying out the purposes of Part VII of this Act shall be exercisable by the Central Government and such rules may be made for the guidance of the State Governments and the officers of the Central Government and of the State Governments:Provided further that every such rule made by the Central Government shall be laid as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or two or more successive sessions, and if, [before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, 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:] [Inserted by Act 31 of 1962, Section 6 (w.e.f. 12.9.1962).][Provided also that every such rule made by the State Government shall be laid, as soon as may be after it is made, before the State Legislature.] [Inserted by Act 68 of 1984, Section 29 (w.e.f. 24.9.1984).](2)The power to make, alter and add to rules under sub-section (1) shall be subject to the conditions of the rules being made, altered or added to after previous publication.(3)All such rules, alterations and additions shall [\* \* \*] [The words " when sanctioned by the Governor-General in Council" repealed by Act 4 of 1914, Section 2 and Sch.] be published in the Official Gazette, and shall thereupon have the force of law.