

NOTE ON THE SALIENT PROVISIONS OF THE 1894 ACT AND THE 2013 ACTPART - ALAND ACQUISITION ACT, 1894

Section 2(d)	Defines 'Court' as the principal civil court of original jurisdiction
Section 2(f)	Defines 'Public Purpose'
Section 4	Issuance of a Preliminary Notification where it appears to the appropriate government that the land is needed or likely to be needed for any public purpose <i>or for a company</i>
Section 5A	Any 'person interested' permitted to file objections to the aforesaid Preliminary Notification to the Collector. The term 'person interested' is defined in sub-section (3) as only a person who would be entitled to claim compensation for the subject land(s)
Section 6 <i>(within one year)</i>	The Appropriate Government, if satisfied after considering the report of the Collector, if any, under Section 5A, that the land is required for a public purpose, or for a company, can issue a Declaration in respect of the land(s). The Declaration is to be made <i>within one year</i> of the Preliminary Notification. The <i>Explanation</i> specifically provides that in calculating the aforesaid period, the period for which proceedings are stayed on account of an order of the court shall be excluded.
Section 9	Notice by Collector that claims in respect of compensation of all interests in the land(s) be made to him and for all such persons to appear before the Collector.
Section 11 <i>(within two years)</i>	The Collector shall make an Award in respect of the true area of the land, the compensation which in his opinion should be allowed and the apportionment of such compensation.
Section 11A	The Award is to be made <i>within a period of two years</i> from the date of the Declaration under Section 6.

	<p>It further states that if the Award is not made within such period, <i>'the entire proceedings for the acquisition of the land shall lapse'</i>.</p> <p>The <i>Explanation</i> specifically provides that in calculating the aforesaid period, the period for which proceedings are stayed on account of an order of the court shall be excluded.</p>
Section 12	<p>The Award shall be filed in the office of the Collector and be final and conclusive evidence of the area of land and apportionment of compensation as between the Collector and the persons interested who appeared before him.</p> <p>Sub-section (2) requires the Collector to issue <i>immediate</i> notice of the award to such persons interested and not present personally before him.</p>
Section 16	<p>Provides for taking over possession of the land once the Collector has made an Award under Section 11, and further that such land shall thereafter <i>'vest absolutely in the Government free from all encumbrances'</i></p>
Section 17	<p>In cases of urgency (<i>not defined</i>), the Collector can take possession of the land on the expiry of 15 days from the notice under Section 9, even though no Award has been made under Section 11.</p> <p>However, the Collector under sub-section 3A is required to make payment of 80% of the estimated compensation for the land(s).</p> <p>In the event of urgency, the provisions of Section 5A may be dispensed with.</p>
Section 18	<p>Any person who has not accepted the Award can, by way of a written application to the Collector, require the matter to be referred to the Collector for the determination by the Court to determine his objections regarding measurement, compensation and its apportionment.</p> <p>The application is required to be made within six weeks / six months.</p>
Section 23	<p>Requires the Government to make compensation in terms of the market value (<i>not defined and no formula/guidance prescribed</i>).</p> <p>The Court is required to award a sum equivalent to 12% per annum of the market value for the period</p>

	<p>commencing from the date of Notification under Section 4 till the date of the Award or till the date possession has been taken, whichever is earlier.</p> <p>The <i>Explanation</i> specifically provides that in calculating the aforesaid period, the period for which proceedings are stayed on account of an order of the court shall be excluded.</p> <p>Solatium is payable at 30% of the market value.</p>
Section 28A	The compensation will be re-determined for all the other persons interested in all the other land covered by the same Notification under Section 4 if the Court under Section 18 allows the application of any one applicant.
Section 31	<p>Provides for the manner of payment of compensation. The Collector is required to tender the compensation and pay it unless prevented by three contingencies: (i) the person does not consent to receive it, (ii) there is no person competent to alienate the land, or (iii) there is a dispute as to title or apportionment.</p> <p>In the above contingencies, the Collector is required to deposit the amount in the Court.</p>
Section 32	If money is deposited in Court, and it appears that the land belonged any person who did not have the power to alienate it, the Court is required to order the money to be invested in any other land or government (or other) securities
Section 33	If the money is deposited in Court, the Court may on the application of any person interested in claiming interest on such money, order the same to be invested in government (or other) securities
Section 34	If the amount of compensation is not paid or deposited on or before taking possession of the land, the Collector is required to pay the awarded amount with interest at 9% p.a. (within one year) and thereafter at 15% p.a.
Section 48	Permits the Government to withdraw from the acquisition of any land(s) of which possession has not been taken.
Section 55	Power to make Rules

PART - B**RIGHT TO FAIR COMPENSATION & TRANSPARENCY IN LAND ACQUISITION, REHABILITATION & RESETTLEMENT ACT, 2013**

Section 2	<p>Defines that land under the Act can be acquired for own use, hold and control, including for Public Sector Undertakings and for 'public purpose' (<i>which is defined</i>).</p> <p>Sub-section 2 provides that in the event for acquisition for <i>private companies</i>, consent of 80% of the 'affected families' will be required to be taken and for <i>public private partnerships</i> consent of 70% of the 'affected families' will be required to be taken.</p>
Section 3(c)	<p>The term 'affected family' widely defined to <i>inter alia</i> include Schedule Tribes and other forest dwellers and families whose livelihood is dependent on forests or water bodies.</p>
Sections 4 to 9	<p>Social Impact Assessment is to be prepared in consultation with the concerned Panchayat, Municipality or Municipal Corporation within a period of six months (Section 4).</p> <p>The report will have to be made public and a public hearing will also be required to be held in the affected area (Section 5).</p> <p>The report will thereafter be evaluated by an independent multi-disciplinary Expert Group <i>inter alia</i> comprising of social scientists, representatives of Panchayat, Gram Sabha and Municipal Corporations (Section 7).</p> <p>Finally, the report shall be examined by the Appropriate Government (Section 8).</p> <p>Social Impact Assessment may be exempted in case the urgency provisions under Section 40 are invoked (Section 9).</p>
Section 10	<p>Special Provisions to Safeguard Food Security have been made by prohibiting the acquisition of multi-cropped land except in exceptional circumstances.</p>

<p>Section 11 (Akin to Section 4 of the 1894 Act)</p>	<p>The publication of the Preliminary Notification akin to Section 4 of the 1894 Act. It is to also contain the summary of the Social Impact Assessment Report and the particulars of the Administrator for Rehabilitation and Resettlement.</p>
<p>Section 14</p>	<p>The Social Impact Assessment report shall lapse if the aforesaid Preliminary Notification under Section 11 is not issued within a period of 12 months therefrom.</p>
<p>Section 15 (Akin to Section 5A of the 1894 Act)</p>	<p>Permits any person interested in the land notified under Section 11 to file objections.</p>
<p>Section 16 to 18</p>	<p>Upon the Preliminary Notification having been issued under Section 11, the Administrator shall conduct a survey and undertake a census of the affected families for the purpose of preparing a Rehabilitation & Resettlement Scheme. The draft scheme prepared will be given publicity and a public hearing shall also be afforded at a venue in the affected area. The scheme will be reviewed by the Collector (Section 17) and eventually approved by the Commissioner (Section 18).</p>
<p>Section 19 (Akin to Section 6 of the 1894 Act)</p>	<p>Publication of Declaration alongwith the summary of the Rehabilitation & Resettlement Scheme. The Declaration shall only be issued after the Requiring Body deposits the amount towards the costs of acquisition. The Declaration will have to be issued <i>within 12 months</i> of the date of Preliminary Notification. The Proviso specifically states that the period during which the proceedings were held up on account of any stay or injunction order by the court shall however be excluded.</p>
<p>Section 21 (Akin to Section 9 of the 1894 Act)</p>	<p>Notice by the Collector in respect of the award to be made</p>
<p>Section 23 (Akin to Section 11 of the 1894 Act)</p>	<p>The Collector shall after considering objections made by any person interested shall make an Award</p>

Section 24	Land Acquisition proceedings under the 1894 Act shall be deemed to have lapsed in certain circumstances.
Section 26	Determination of 'market value' by the Collector to be in terms of a specified criteria which <i>inter alia</i> requires consideration of the sale price of similar lands in the surrounding area. The 'market value' so arrived at is to be multiplied by a factor specified in the First Schedule (which is <i>two</i> in case of rural areas).
Section 30	Solatum has been fixed at 100%
Section 31	The Collector shall also pass a Rehabilitation & Resettlement Award.
Section 37 (Akin to Section 12 of the 1894 Act)	The Collector shall be required to give immediate notice of his Award to such people who are not present when the Award is made.
Section 38 (Akin to Section 16 of the 1894 Act)	The Collector shall take possession of land <i>after ensuring that full payment of compensation as well as rehabilitation and resettlement entitlements are paid or tendered to the entitled persons.</i> The Collector shall also be responsible for ensuring that the rehabilitation and resettlement process is complete before displacing people.
Section 40 (Akin to Section 17 of the 1894 Act)	In urgent cases, the Collector after 30 days of the notice under Section 21 (Section 9 under the 1894 Act) may take possession of any land, which shall thereafter vest absolutely in the Government. The powers would however be restricted to the minimum area required for the defence of India or national security or for any emergencies arising out of natural calamities or any other emergency with the approval of the Parliament. In such cases, provisions in respect of Social Impact Assessment and Rehabilitation & Resettlement may be exempted. An additional compensation of 75% would be payable in such cases.
Section 41	Special provisions for Schedule Castes & Scheduled Tribes by <i>inter alia</i> prohibiting acquisition in Scheduled Areas as far as possible.

Sections 43 to 50	<p>Provides for appointment and constitution of:</p> <ul style="list-style-type: none"> • Administrator for Rehabilitation & Resettlement at Project Level. • Commissioner Rehabilitation & Resettlement for supervising such schemes. • Rehabilitation & Resettlement Committee at Project Level. • National Monitoring Committee for Rehabilitation & Resettlement
Sections 51 to 74	<p>Establishment of Land Acquisition, Rehabilitation & Resettlement Authority.</p> <p>The reference in respect of the Award of the Collector shall be to this Authority (Section 64) and the jurisdiction of civil courts shall be barred (Section 63)</p> <p>The order of the Authority under Section 69 is appealable to the High Court under Section 74.</p> <p>The Authority while passing its order under Section 69 is mandated to award interest at 12% p.a. from the date of the Preliminary Notification under Section 11 till the date of the Award or the date of taking possession, whichever is earlier.</p> <p>The <i>Explanation</i> to Section 69 specifically provides that the period during which the proceedings were held up on account of any stay or injunction order by the court shall however be excluded.</p> <p>In the event the Authority enhances the compensation, the other persons also become entitled to such enhanced compensation under Section 73 (<i>which is akin to Section 28A in the 1894 Act</i>)</p>
Section 77 (Akin to Section 17 of the 1894 Act)	<p>Payment to persons interested by deposit of the sum in their bank account or otherwise by deposit with the Authority in the event of occurrence of the named contingencies.</p>
Section 78 & 79 (Akin to Section 32 & 33 of the 1894 Act)	<p>Permits investment of the deposit by the Authority.</p>
Section 80 (Akin to Section 34 of the 1894 Act)	<p>Permits interest at 9% and thereafter at 15% (on the expiry of one year) if compensation is not deposited at or before taking possession.</p>

Section 93 <i>(Akin to Section 48 of the 1894 Act)</i>	The Government shall be at liberty to withdraw from acquisition, subject to payment of compensation/damages, if possession of land has not been taken.
Section 101	Requires land to be returned to the original owner or the Land Bank of the Appropriate Government if it remains unutilized for a period of five years.
Section 109 <i>(Akin to Section 55 of the 1894 Act)</i>	Power to make rules.
Section 113	Power to remove difficulties.
Section 114	Repeal & Saving.

PART - C**SIGNIFICANT IMPROVEMENTS & DEPARTURES FROM THE OLD ACT**

	OLD ACT	NEW ACT
Social Impact Assessment	No provision for Social Impact Assessment	The Act mandates conducting a Social Impact Assessment (after conducting a public hearing) which is appraised by an Expert Group prior to issuance of notification. <i>(See Chapter II)</i>
Rehabilitation & Resettlement	No provision for rehabilitation & resettlement	The Act mandates the publication of a Rehabilitation & Resettlement Scheme (after conducting a public hearing) which is eventually to be approved by the Commissioner, Rehabilitation & Resettlement. The Act also establishes a National Monitoring Committee for Rehabilitation & Resettlement. <i>(See Sections 16 to 19, Chapter VI and Chapter VII)</i>
Compensation	The Act provided for determining the market value of compensation, but the amount on account of old land records wherein values were rarely, if ever, updated, was generally quite low.	The Act provides guidance on how to determine market value of the land by considering and taking into account transactions of similar lands. The compensation so arrived at is multiplied by a factor of two in rural areas. Solatium has been increased to 100%. In addition, there is also a Rehabilitation & Resettlement Award. <i>(See Sections 26, 30, 31, First & Second Schedule)</i>
Public Purpose & Consent	'Public Purpose' was loosely defined and the Act was abused for facilitating acquisitions for private projects by companies. Further, the concept of	A strict and tight interpretation of 'Public Purpose' has been provided to prevent abuse. Further, consent of 80% of affected families has been mandated for private companies and 70% for public-private partnerships. <i>(See Section 2)</i>

	'consent' was absent.	
Urgency	The Urgency Clause was also much abused in the Old Act	Urgency Clause has been strictly defined (national security or natural calamities or emergencies approved by Parliament). An additional compensation of 75% is mandated if the Urgency Clause is invoked. <i>(See Section 40)</i>
Scheduled Caste & Scheduled Tribes	No provision for Scheduled Castes & Scheduled Tribes	Special provisions have been made to safeguard the interests of Scheduled Castes & Scheduled Tribes and acquisition has been avoided, as far as possible, in Scheduled Areas <i>(See Sections 41 and 42)</i>
Land Acquisition, Rehabilitation & Resettlement Authority	The determination of compensation to be paid and allied matters were to be determined by courts and there were significant delays.	Establishes Land Acquisition, Rehabilitation & Resettlement Authority and the jurisdiction of civil courts has been barred. <i>(See Chapter VIII)</i>