

THE LAND ACQUISITION ACT, 1894

ACT NO.1 OF 1894

[AS ON 1955]!

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:-!

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 Part B States; and

(3) It shall come into force on the first day of March, 1894.

(Part I - Preliminary)

2.[Repeal ] Rep.party by the Repealing and Amending Act, 1914 (10 of 1914), s.3 and Sch.II,

and partly by the Repealing Act, 1938 (1 of 1938), s.2and Sch.

3.Definication:- 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 fastended to anything attached to the earth;

(b) the expression " person interested" includes all persons claiming an interest in compensation

to be made on accout 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 to perform the

function of a Collector under this Act;

(d) the expression "Court" means a principal Civil Court of original jurisdiction, unless the

appropriate Government 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 a Company registered under the {See now the Indian

Companies Act, 1913( 7 of 1913)} Indian Companies Act, 1882, or under the (English)

Companies Acts, 1862 to 1890, or incorporated by an Act of Parliament {Ins.by the A.O.1950.} [

of the United Kingdom] or by an Indian law, or by Royal Charter or Letters Patent {Ins.by Act 17

of 1919, s.2.}[ and includes a society registered under the Societies Registration Act, 1860, and a

registered society within the meaning of the Co-operative Societies Act, 1912];

{Ins.by the A.O.1950.}[(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].

(f) The expression " public purpose" includes the provision of village-sites In districts in which the

appropriate Government shall have declared by notification in the Official Gazette that it is

customary for the Government to make such provision; and

(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 the person so

entitled to act, and whether of full age or not, to the same extent as if she were unmarried and of

full age ; and

the guardians of minors and the committees or managers of lunatics or idiots shall be deemed

respectively the persons so entitled to act, 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 {See now the Code of Civil Procedure, 1908 (5 of 1908), Sch.I Order XXXII.}

Chapter XXXI of the Code of Civil Procedure 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.!

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## PART II-ACQUISITION!

### Preliminary investigation

{As to amendments with which this section should be read when land is required for the purposes

of a Company, See s.38 (2) , infra.)

(A protected monument may be acquired under this Act as if its preservation were a "public

purpose" within the meaning of the Act, see s.10 of the Ancient Monuments Preservation Act,

1904 (7 of 1904).} 4.Publication of preliminary notification and powers of officers of there upon:-

(1) Whenever it appears to the appropriate Government that land in any locality {Ins.by Act.38 of

1923, s.2.} [ is needed or ] is likely to be needed for any public purpose, a notification to that

effect shall be published in the Official Gazette, and the Collector shall cause public notice of the

substance of such notification to be given at convenient places in the said locality.

(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 into the subsoil ;

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 crop, fence or jungle :

Provided that no person shall enter into any building or upon any enclosed court or garden

attached to a dwelling-house (unless with the consent of the occupier thereof ) without previously

giving such occupier at least seven days' notice in writing of his intention to do so.

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 {Ins.by s.3, ibid.}]

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 after the issue of the notification, 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 either in person or by pleader and

shall, after hearing all such objections and after making such further inquiry, if any, as he thinks

necessary, submit the case for the decision of the appropriate Government, together with the

record of the proceedings held by him and a report containing his recommendations on the

objections,The decision of the appropriate Government 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, {Subs. by Act 38 of 1923, s.4. for "whenever it appears to the L.G."}[when the

appropriate Government is satisfied, after considering the report, if any, made under section 5 A,

sub-Section (2),] that any particular land is needed for 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 :

Provided 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.

(2 ) The declaration shall be published in the Official Gazette, and shall state 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 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 may acquire the land in manner hereinafter appearing.

7. After declaration Collector to take order for acquisition:-  
Whenever any 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  
interest 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 interest 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 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 Part III of the {See now the  
Indian Post Office Act, 1898 (6 of

1898).}

Indian Post Office Act, 1866.

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.

Enquiry into measurements, value and claims, and award by the Collector

11. Enquiry and award by Collector:- On the day so fixed, or any other day to which the enquiry

has been adjourned, the Collector shall proceed to enquire into the objections (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 {Ins. by Act 38 of 1923, s.5}[ at the date of

the publication of the notification under section 4, sub-section (1)], and into the respective

interests 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,

12.Award of Collector when to be final:- (1) Such award shall be filed in the Collector's office

and shall, except as hereinafter provided, be final and conclusive evidence 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.

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 power 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 {See now the Code of Civil

Procedure, 1908 (5 of 1908).} Code of Civil Procedure.

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.

## 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, free

from all encumbrances.

17. Special powers in cases of urgency:- (1) In cases of urgency, whenever the appropriate

Government 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 waste or arable land needed for public purposes or for a

Company. Such land shall thereupon vest absolutely in the Government, 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, the Collector may, immediately after the publication of the notice mentioned in subsection

(1) and with the previous sanction of the appropriate Government enter upon and take

possession of such land, which shall thereupon vest absolutely in the Government 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 hour's 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 cases, 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.

{Ins.by Act 38 of 1923, s.6}[(4) In the case of any land to which, in the opinion of the appropriate

Government, the provisions of sub-section (1) or sub-section (2) are applicable, the appropriate

Government may direct that the provisions of section 5A shall not apply, and, if it does not so

direct, a declaration may be made under section 6 in respect of the land at any time after the

publication of the notification under section 4, sub-section (1).]!

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### PART III-REFERENCE TO COURT AND PROCEDURE THEREON!

18.Reference to Court:- (1) Any person interested who has not accepted the award may, be

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 appropriate 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 Collector's 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 Collector's 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 for tendered under sections 5 and 17, or either of

them, and the amount of compensation awarded under section 11; and

(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 proceedings

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, 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

consideration---

first, the market-value of the land at the date of the publication of the {Subs, by Act 38 of 1923,

s.7, for "declaration relating thereto under s.6."} [notification under section 4, sub-section (1)];

secondly, the damage 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 Collector's taking possession thereof;

thirdly, the damage (if any) sustained by the person interested, at the time of the Collector's

taking possession taking possession of the land; and, by the reason of severing such land from his

other land;

fourthly, the damage (if any) sustained by the person interested, at the time of the Collector's

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 the 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; and



sixthly, 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 Collector's taking

possession of the land.

(2) In addition to the market-value of the land as above provided the Court shall in every case

award a sum of fifteen per centum on such market-value, in consideration of the compulsory

nature of the acquisition. !

Comment: "It is settled law that the burden of proof of market value prevailing as on the

date of publication of Section 4(1) notification is always on the claimants. Though this

Court has time and again pointed out the apathy and blatant lapse on the part of the

acquiring officer to adduce evidence and also improper or ineffective or lack of interest on

the part of the counsel for the State to cross-examine the witnesses on material facts, it is

the duty of the Court to carefully scrutinise the evidence and determine just and adequate

compensation. If the sale deeds are found to be genuine, the market value mentioned

therein must be presumed to be correct. If the genuineness is doubted, it cannot be relied

upon, Proper tests and principles laid down by this Court must be applied to determine

compensation." Hookiyar Singh v. Special Land Acquisition Officer, Moradabad AIR 1996

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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, if caused by a private person, would not render such

persons 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 acquires will be put; or

seventhly, any outlay or improvements on, or disposal of, the land acquired, commenced, made

or affected without the sanction of the Collector after the date of the publication of the {Subs, by

Act 38 of 1923, s.8, for "declaration under s.6. "[notification under section 4, sub-section (1)].

25. Rules as to amount of compensation:- (1) When the applicant has made a claim to

compensation, pursuant to any notice given under section 9,  
the amount awarded to him by the

Court shall not exceed the amount so claimed or be less than  
the amount awarded by the

Collector under section 11.

(2) when the applicant has refused to make such claim or has  
omitted without sufficient reason

(to be allowed by the Judge) to make such claim, the amount  
awarded by the Court shall in no

case exceed the amount awarded by the Collector.

(3) When the applicant has omitted for a sufficient reason (to  
be allowed by the Judge) to make

such claim, the amount awarded to him by the Court shall not  
less than, and may exceed, the

amount awarded by the Collector.

(S.26 was re-numbered as sub-section (1) of that section by Act  
19 of 1921.s.2.)[26.Form of

awards:- (1)] 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.

{Ins.by s.2, Act 19 of 1921.}[ (2) every such award shall be  
deemed to be a decree and the

statement of the grounds of every such award a judgement  
within the meaning of section 2,

clause (2) and section 2, clause (9), respectively, of the Code of  
Civil Procedure, 1908.]

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 Collector's 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 six per centum from the date on

which he took possession of the land to the date of payment of such excess into Court.!

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#### 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.Disputes 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 to any part thereof is payable, the Collector may refer such dispute to the decision of the Court.

## PART V

### PAYMENT

31.Payment 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 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 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 (As to

persons who are competent to contract, see s.11 of the Indian Contract Act, 1872 (9 of

1872).)competent to contract in respect thereof.

32.Investment of money deposited in respect of lands belonging to persons in competent

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 has 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 incident 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 that 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 six per centum per annum from the time of so taking possession until it shall have been so paid or deposited.!

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## 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 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 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 moneys , 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 excuting 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 persons interested therein: !

Provided that, if the land has become permanently unfit to be used to 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 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 on 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:- (1) {The words "Subject to such rules

as the G.G. of India in C. may from time to time prescribe in this behalf" rep. by s. 2 and Sch. I of Act

38 of 1920.} The appropriate Government may authorise any officer of any Company desiring to

acquire land for its purposes to exercise the powers conferred by section 4. !

(2) In every such case section 4 shall be constructed as if for the words "for such purpose" the

words "for the purposes of the Company" were substituted; and section 5 shall be construed as if

after the words "the officer" the words "of the Company" were inserted. !

{Ins, by Act 16 of 1933, s.6.}[38A.Industrial concern to be deemed Company for certain

purposes:- 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 5A, 6, 7, 17 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 section 6 to 37 (both inclusive) shall not be put in force in order to acquire land

for any Company, unless with the previous consent of the appropriate Government, 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

be satisfied, {Ins, by Act 38 of 1923, s.9}[either on the report of the Collector under Section 5A,

Sub-section (2), or] by an enquiry held as hereinafter provided,-!

{Subs, by Act 16 of 1933, s.3, for the original clauses (a) and (b).}[a) that the purposes 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 !

(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 be held by such officer and at such time and place as the 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 {See now the Code of Civil Procedure, 1908 (5 of 1908).} Code of Civil Procedure

in the case of a Civil Court. !

41.Agreement with appropriate Government:- {The words "Such officer shall report to the

L.G.the result of the enquiry and" were rep.by Act 38 of 1923, s.10.} If the appropriate

Government is satisfied {Ins, by s.10, ibid.} [after considering the report, if any, of the Collector

under section 5A, sub-section (2), or on the report of the officer making an inquiry under subsection

40] that {Ins, by Act 16 of 1933, s.4.) [the purpose of the proposed 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 that]  
the proposed acquisition is needed for

the construction of a work, and that such work is likely to prove  
useful to the public, it shall {The

words "Subject to such rules as the G.G.in C.may from time to  
time prescribe in this behalf"

rep.by Act 38 of 1920, s.2 and Sch.I.} require the Company to  
enter into an agreement with the

appropriate Government, providing to the satisfaction of the  
appropriate Government for the

following matters, namely:-!

(1) the payments to the appropriate Government 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; !

{Subs, by Act 16 of 1933, s.4, for the original clauses (4) and  
(5).} [(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; and !

(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.] !

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" rep.by the A.O.1937.} in the

Official Gazette and shall thereupon (so as 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:- The provisions

of sections 39 to 42, both inclusive, shall not apply and the corresponding section of the {Rep.by

this Act.} Land Acquisition Act, 1870, shall be deemed never to have applied, to the acquisition of

land for any Railway or other Company, for the purposes of which, {Subs, by the 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"} [under any agreement with such Company, the

Secretary State for India in Council, the Secretary of State, the Central Government of any State

Government 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.!

!!

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 Part III of the {See now the Indian Post Office Act, 1898 (6 of 1898).} Indian

Post Office Act, 1866, and service of it may be proved by the production of the addressee's

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  
fils up, destroys, damages or

displace 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 fifty

rupees, 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 fo 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 to 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 of 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 desire 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 writng, 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), thridly, by a person interested, on

account of the severing of the land to be acquired from his other land, the appropriate

Government 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 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. !

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 (See now the Code

of Civil Procedure, 1908 (5 of 1908).} Code of Civil Procedure shall apply to all proceedings

before the Court after this Act. !

{Subs, by Act 10 of 1921, s.3.} [54. Appeals in proceedings before Court:- Subject to the

provisions of the Code of Civil Procedure, 1908 applicable to appeals from the 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 as appeal shall lie of the Supreme Court subject to the provisions contained in

section 110 of the Code of Civil Procedure, 1908, and in Order XLV thereof.]

to make rules consistent with this Act for the guidance of officers in!

55.Power to make rules:- (1) The appropriate Government shall {The words "subject to the

control of the G.G.in C." were rep.by Act 38 of 1920, s.2 and Sch.I} have power all matters

connected with its enforcement, any may from time to time alter and add to the rules so

made.{The provisio was rep.by the A.O.1937.} !

(2) The power to make, alter and add to rules under subsection (1) shall be subject to the

condition 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 G.G.in C."

were rep.by Act 4 of 1914, s.2 and Sch., Pt.I} be published in the Official Gazette, and shall

thereupon have the force of law.!