

West Bengal Act II of 1948

THE WEST BENGAL LAND (REQUISITION AND ACQUISITION) ACT, 1948.

[Passed by the West Bengal Legislature.]

[Assent of the Governor was first published in the Calcutta Gazette of the 11th March, 1948.]

An Act to provide for the requisition and speedy acquisition of land for certain purposes.

WHEREAS it is expedient to provide for the requisition and speedy acquisition of land for the purposes of maintaining supplies and services essential to the life of the community and for providing proper facilities for transport, communication, irrigation or drainage;

It is hereby enacted as follows:—

1. (1) This Act may be called the West Bengal Land (Requisition and Acquisition) Act, 1948. Short title,
extent,
commence-
ment and
duration.
(2) It extends to the whole of West Bengal.
(3) It shall come into force at once.
(4) It shall remain in force up to the 31st day of March, 1951.

2. In this Act unless there is anything repugnant in the subject or context,— Definitions.

- (a) "Collector", "land" and "person interested" have the same meanings as in the Land Acquisition Act, 1894;

- (b) "Court" means a principal Civil Court of original jurisdiction, and includes the Court of any Additional Judge, Subordinate Judge or Munsif whom the Provincial Government may appoint, by name or by virtue of his office, to perform, concurrently with any such principal Civil Court, all or any of the functions of the Court under this Act within any specified local limits and, in the case of a Munsif, up to the limits of the pecuniary jurisdiction with which he is vested under section 19 of the Bengal, Agra and Assam Civil Courts Act, 1887; and

- (c) "prescribed" means prescribed by rules made under this Act.

3. (1) If in the opinion of the Provincial Government or any person authorised in this behalf by the Provincial Government it is necessary so to do for maintaining supplies and services essential to the life of the community or for providing proper facilities for transport, communication, irrigation or drainage, the Provincial Government or the person so authorised, as the case may be, may, by order in writing, requisition any land and may make such further orders as appear to it or to him to be necessary or expedient in connection with the requisitioning: Power to
requisi-
tion.

Provided that no land used for the purpose of religious worship shall be requisitioned under this section.

(Sections 4—6.)

(2) An order under sub-section (1) shall be served in the prescribed manner on the owner of the land and where the order relates to land in occupation of a tenant also on such tenant.

Acquisition
of land.

4. (1) Where any land has been requisitioned under section 3, the Provincial Government may use or deal with it in such manner as may appear to it to be expedient and may acquire such land by publishing in the *Official Gazette*, a notice to the effect that the Provincial Government has decided to acquire such land in pursuance of this section.

(2) Where a notice as aforesaid is published in the *Official Gazette*, the requisitioned land shall, on and from the beginning of the day on which the notice is so published, vest absolutely in the Provincial Government free from all incumbrances and the period of requisition of such land shall end.

Notice to
persons
interested.

5. (1) After the publication of a notice under sub-section (1) of section 4, the Collector shall cause public notice to be given at convenient places on or near the land to be taken, stating that the Provincial Government has acquired 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 acquired, 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. 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 in the manner prescribed on the occupier (if any) of such land and on all such persons known or believed to be interested therein, or to be entitled to act for 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 registered post in a letter addressed to him at his last known residence, address or place of business.

Release
from
requisition.

6. (1) Where any land requisitioned under section 3 is not acquired and is to be released from requisition, the Provincial Government may, after making such inquiry, if any, as it considers necessary, specify by order in writing the person who appears to it to be entitled to the possession of such land.

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(Section 7.)

(2) The delivery of possession of such land to the person specified in the order made under sub-section (1) shall be a full discharge of any liability of the Provincial Government to deliver possession to such person as may have rightful claim to possession thereof but shall not prejudice any right in respect of such land which any other person may be entitled by due process of law to enforce against the person to whom possession of the land is so delivered.

(3) Where the person to whom the possession of any land requisitioned under section 3 is to be delivered cannot be found or is not readily traceable or has no agent or other person empowered to accept delivery on his behalf, the Provincial Government shall publish in the *Official Gazette* a notice declaring that such land is released from requisition and shall cause a copy thereof to be affixed on some conspicuous part of such land.

(4) When a notice referred to in sub-section (3) is published in the *Official Gazette*, the land specified in such notice shall cease to be subject to requisition on and from the date of such publication and shall be deemed to have been delivered to the person entitled to possession thereof; and the Provincial Government shall not be liable for any compensation or other claims in respect of such land for any period after the said date.

7. (1) Wherever any land is acquired under section 4 there shall be paid compensation the amount of which shall be determined by the Collector in the manner and in accordance with the principles set out in sub-section (1) of section 23 of the Land Acquisition Act, 1894: Compensation

1 of 1894

Provided that the market value referred to in clause first of sub-section (1) of section 23 of the said Act shall, in respect of any land acquired under this Act, be deemed to be the market value of such land on the date of publication of the notice referred to in sub-section (1) of section 4:

Provided further that if such market value exceeds by any amount the market value of the land on the 31st day of December, 1946 on the assumption that the land had been at that date in the state in which it in fact was on the date of publication of the notice referred to in sub-section (1) of section 4, the amount of such excess shall not be taken into consideration.

(2) When the compensation has been determined under sub-section (1) the Collector shall make an award in accordance with the principles set out in section 11 of the Land Acquisition Act, 1894, and no amount referred to in sub-section (2) of section 23 of that Act, shall be included in the award.

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(Sections 8—11.)

(3) Where any land is requisitioned under section 3, there shall be paid to every person interested such compensation as may be agreed upon in writing between such person and the Collector, in respect of—

- (a) the requisition of such land; and
- (b) any damage done during the period of requisition to such land other than what may have been sustained by natural causes.

Reference
to Court,

8. (1) The Collector shall in every case—

- (a) where any person aggrieved by an award made under sub-section (2) of section 7 makes an application requiring the matter to be referred to the Court; or
- (b) where there is any disagreement with regard to the compensation payable under sub-section (3) of section 7 between the Collector and the person to whom possession of any land is delivered under section 6,

refer the matter to the decision of the Court.

(2) The provisions of the Land Acquisition Act, 1894, I of 1894, shall *mutatis mutandis* apply in respect of any reference made to the Court under sub-section (1).

Power to
enter upon
land, etc.

9. The Provincial Government may, with a view to requisitioning any land or for the purpose of determination by the Collector of the amount of compensation payable under this Act, by order,—

- (a) require any person to furnish to such authority as may be specified in the order such information in his possession relating to the property as may be specified;
- (b) direct that the owner or occupier of the land shall not dispose of it or alter it till the expiry of such period as may be specified in the order;
- (c) authorise any person to perform in respect of any land all or any of the functions referred to in sub-section (2) of section 4 of the Land Acquisition Act, 1894.

Penalty.

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

Saving.

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

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(Sections 12, 13.)

12. (1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any order made thereunder.

Protection
of action
taken
under this
Act.

(2) Save as otherwise expressly provided in this Act, no suit or other legal proceeding shall lie against the Provincial Government for any damage caused or likely to be caused by anything in good faith done or intended to be done in pursuance of this Act or any order made thereunder.

13. (1) The Provincial Government may make rules for carrying out the purposes of this Act.

Power to
make
rules.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:—

(a) the manner of service of orders on the owner or occupier of land referred to in sub-section (2) of section 3; and

(b) the manner of service of notice on the persons referred to in sub-section (3) of section 5.