



महाराष्ट्र शासन राजपत्र

असाधारण भाग आठ

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असाधारण क्रमांक ३३

प्राधिकृत प्रकाशन

महाराष्ट्र विधानमंडळाचे अधिनियम व राज्यपालांनी प्रख्यापित केलेले अध्यादेश व केलेले विनियम आणि विधि व न्याय विभागाकडून आलेली विधेयके (इंग्रजी अनुवाद).

In pursuance of clause (3) of article 348 of the Constitution of India, the following translation in English of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Maharashtra Amendment) Bill, 2018 (L. A. Bill No. VII of 2018), introduced in the Maharashtra Legislative Assembly on the 9th March 2018, is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

RAJENDRA G. BHAGWAT,

I/c. Secretary (Legislation) to Government,
Law and Judiciary Department.

L.A. BILL No. VII OF 2018.

A BILL

further to amend the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, in its application to the State of Maharashtra.

WHEREAS, it is expedient further to amend the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, in its application to the State of Maharashtra, for the purposes hereinafter appearing; it is hereby enacted in the Sixty-ninth Year of the Republic of India as follows :—

1. This Act may be called the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Maharashtra Amendment) Act, 2018. Short title.

Amendment of section 2 of Act 30 of 2013.

2. In section 2 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, in its application to the State of Maharashtra (hereinafter referred to as “the principal Act”), in sub-section (2), after the second proviso, the following proviso shall be added, namely :—

“Provided also that, the acquisition of land for the projects listed in section 10A and the purposes specified therein, shall be exempted from the provisions of the first proviso to this sub-section.”.

Insertion of a new section 10A in Act 30 of 2013.

3. After section 10 of the principal Act, the following section shall be inserted, namely :—

Power of State Government to exempt certain projects.

“10A. The State Government may, in the public interest, by notification in the *Official Gazette*, exempt any of the following projects from the application of the provisions of Chapter II and Chapter III of this Act, namely :—

(a) such projects vital to national security or defence of India and every part thereof, including preparation for defence or defence production ;

(b) rural infrastructure including irrigation and electrification ;

(c) affordable housing and housing for the poor people ;

(d) industrial area or industrial estate set up by the State Government and its undertaking ;

(e) industrial corridor set up by the State Government and its undertaking (in which case the land shall be acquired up to one kilometre on both sides of designated railway line or roads for such industrial corridor) ; and

(f) infrastructure projects including projects under public-private partnership where the ownership of land continues to vest with the Government :

Provided that, the State Government shall, before issue of notification, ensure the extent of land for the proposed acquisition keeping in view the bare minimum land required for such project.

Insertion of a new section 23A in Act 30 of 2013.

4. After section 23 of the principal Act, the following section shall be inserted, namely :—

Award of Collector without enquiry in case of agreement of interested persons.

“23A. (1) Notwithstanding anything contained in section 23, 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 State Government, he may, without making further enquiry, make an award according to the terms of such agreement.

(2) The determination of compensation for any land under sub-section (1) 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.

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1908.

(3) Notwithstanding anything contained in the Registration Act, 1908, no agreement made under sub-section (1) shall be liable to registration under that Act.”.

5. In section 24 of the principal Act, in sub-section (2), after the proviso, the following proviso shall be added, namely :—

Amendment of section 24 of Act 30 of 2013.

“Provided further that, in computing the period referred to in this sub-section, any period or periods during which the proceedings for acquisition of the land were held up on account of any stay or injunction issued by any court or the period specified in the award of a Tribunal for taking possession or such period where possession has been taken but the compensation is lying deposited in a court or in any designated account maintained for this purpose on account of refusal or not coming forward for receiving compensation despite receipt of such notice under sub-section (2) of section 12 of the Land Acquisition Act, 1894, shall be excluded. Also if the said land is mutated within three years after passing the award in the name of acquiring body, it shall be deemed that the possession of the land has been taken.”.

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1894.

6. After section 31 of the principal Act, the following section shall be inserted, namely :—

Insertion of a new section 31A in Act 30 of 2013.

“31A. Notwithstanding anything contained in this Act, it shall be competent for the State Government to pay, whenever the land is to be acquired for its own use amounting to less than one hundred acres or whenever the land is to be acquired in case of projects which are linear in nature as referred to the proviso to sub-section (4) of section 10, as Rehabilitation and Resettlement cost, such lump sum amount equal to fifty per cent. of the amount of compensation as determined under section 27 to the affected families.”.

Payment of lump sum amount by State Government for its linear nature projects.

7. In section 40 of the principal Act, in sub-section (2), after the words “approval of Parliament”, the words “or to comply with the directions given by the Central Government to the State Government” shall be added.

Amendment of section 40 of Act 30 of 2013.

8. In section 46 of the principal Act, in sub-section (6), in the *Explanation*, in clause (b), sub-clauses (i) and (ii) shall be deleted.

Amendment of section 46 of Act 30 of 2013.

9. For section 87 of the principal Act, the following section shall be substituted, namely :—

Substitution of section 87 of Act 30 of 2013.

“87. Where any offence under this Act has been committed by any person who is or was employed in the Central Government or the State Government, as the case may be, at the time of commission of such alleged offence, the court shall take cognizance of such offence provided the procedure laid down in section 197 of the Code of Criminal Procedure, 1973, in its application to the State of Maharashtra, is followed.”.

Offences by Government Officials.

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1974.

Insertion of a new section 105A in Act 30 of 2013.

10. After section 105 of the principal Act, the following section shall be inserted, namely :—

Provisions of this Act not to apply to certain Maharashtra Acts or to apply with certain modifications.

“105-A. (1) Subject to sub-section (2), the provisions of this Act shall not apply to acquisition of land under the enactments specified in the Fifth Schedule.

(2) The State Government may, by notification, within one year from the date of commencement of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Maharashtra Amendment) Act, 2018, direct that any of the provisions of this Act, relating to the determination of compensation in accordance with the First Schedule and rehabilitation and resettlement specified in the Second and Third Schedules, being beneficial to the affected families, shall apply to the cases of land acquisition under the enactments specified in the Fifth Schedule or shall apply with such exceptions or modifications that do not reduce the compensation or dilute the provisions of this Act relating to the compensation, rehabilitation and resettlement as may be specified in the notification, as the case may be :

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of 2018.

Provided that, no such notification shall be issued except on a resolution passed by both Houses of the State Legislature.”

Addition of FIFTH SCHEDULE in Act 30 of 2013.

11. After the Fourth Schedule to the principal Act, the following Schedule shall be added, namely :—

“ THE FIFTH SCHEDULE

(See section 105-A)

LIST OF MAHARASHTRA ENACTMENTS REGULATING LAND ACQUISITION IN THE STATE OF MAHARASHTRA

1. The Maharashtra Highways Act (LV of 1955).
2. The Maharashtra Industrial Development Act, 1961 (Mah. III of 1962).
3. The Maharashtra Regional and Town Planning Act, 1966 (Mah. XXXVII of 1966).
4. The Maharashtra Housing and Area Development Act, 1976 (Mah. XXVIII of 1977).”

STATEMENT OF OBJECTS AND REASONS.

The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (30 of 2013) has been enacted by the Parliament to provide for uniform process in land acquisition and for ensuring just and fair compensation to the persons whose lands are acquired.

2. In the State of Maharashtra, certain State Acts, such as the Maharashtra Highways Act (LV of 1955), the Maharashtra Industrial Development Act, 1961 (Mah. III of 1962), the Maharashtra Regional and Town Planning Act, 1966 (Mah. XXXVII of 1966), the Maharashtra Housing and Area Development Act, 1976 (Mah. XXVIII of 1977), etc., also contain certain provisions for acquisition of lands. However, as the provisions relating to compensation for acquisition of lands under those Acts are different, it is necessary to ensure that those provisions are brought in alignment with the provisions of the said Act of 2013.

3. To ensure that the acquisition of land under the said State Acts for the development projects, with a view to achieve the objectives of the said Acts, is made in an effective and speedy manner, which will further accelerate the economic development of the State, it is considered expedient to amend the said Act of 2013, in its application to the State of Maharashtra, suitably and to enable the State Government to provide that the provisions of the Act of 2013 shall apply to the acquisition proceedings under the said State enactments, with such modifications as may be deemed fit. It is also considered expedient to ensure that the persons whose lands are acquired under the said State enactments, continue to get fair compensation for the acquisition of the lands thereunder.

4. To achieve speedy social and economic development, it is felt necessary that the process of land acquisition, especially for development projects ought to be expeditious, smooth and unhindered but without impairing the rights of the persons whose lands are acquired. With a view to achieve the aforesaid objectives certain amendments are also proposed, the salient features of which are, *inter alia*, as under :—

(i) Facilitate the passing of an award by the Collector on the basis of an agreement of all the persons interested in the land, and dispensing with the requirement of registration of such an agreement under the Registration Act, 1908 (16 of 1908) ;

(ii) Rationalise the provisions of sub-section (2) of section 24 of the said Act of 2013, to address the practical situations, by adding a proviso thereto ;

(iii) Facilitate the payment of lump-sum compensation, as rehabilitation and resettlement cost for acquisition for the State Government or for the projects which are linear in nature.

5. The Bill seeks to achieve the above objectives.

Mumbai,
dated the 7th March 2018.

CHANDRAKANT (DADA) PATIL,
Minister for Revenue.

MEMORANDUM REGARDING DELEGATED LEGISLATION.

The Bill involves the following proposals for delegation of legislative power, namely :—

Clause 3.—Under this clause, which seeks to insert a new section 10A, power is taken to the State Government to exempt, by notification in the *Official Gazette*, the projects specified in the said new section 10 A, from the application of the provisions of Chapter II and Chapter III.

Clause 4.—Under this clause, power is taken to the State Government to prescribe by rules, the form in which the Collector may make the award.

Clause 10.—Under this clause, which seeks to insert a new section 105A, power is taken to the State Government to issue a notification directing that the provisions of the Act relating to compensation, rehabilitation and resettlement shall apply with such exceptions or modifications that do not dilute the provisions of the principal Act relating to compensation, rehabilitation and resettlement.

2. The above-mentioned proposals for delegation of legislative power are of a normal character.

FINANCIAL MEMORANDUM.

The Bill provides for amendment of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, in its application to the State of Maharashtra, to achieve speedy social and economic development, by making the process of land acquisition, especially for development projects expeditious, smooth and unhindered but without impairing the rights of the persons whose lands are acquired.

Certain non-recurring expenditure will have to be incurred from the Consolidated Fund of the State towards the payment of compensation for such acquisition of land. However, the amount of compensation would vary in accordance with the project undertaken. As such, it is not possible at this stage to give an estimate of actual expenditure that may have to be incurred in this behalf from the Consolidated Fund of the State.