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# THE DRAFT NATIONAL LAND ACQUISITION AND REHABILITATION & RESETTLEMENT BILL, 2011

I. Foreword

II. Overview of the Draft Bill

III. Text of the Draft Bill

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Ministry of Rural Development  
Government of India  
July 27<sup>th</sup> 2011

## I.

### FOREWORD

Infrastructure across the country must expand rapidly. Industrialisation, especially based on manufacturing has also to accelerate. Urbanisation is inevitable. Land is an essential requirement for all these processes. Government also needs to acquire land for a variety of public purposes.

In every case, land acquisition must take place in a manner that fully protects the interests of land-owners and also of those whose livelihoods depend on the land being acquired.

Under our Constitution, land is a State subject but land acquisition is a Concurrent subject. So far, the basic law governing the land acquisition process has been the Land Acquisition Act, 1894. Although it has been amended from time to time, it is painfully evident that the basic law has become archaic.

Land markets in India are imperfect. There is asymmetry of power (and information) between those wanting to acquire the land and those whose lands are being acquired. That is why there has to be a role for the government to put in place a transparent and flexible set of rules and regulations and to ensure its enforcement.

Land Acquisition and Rehabilitation and Resettlement (R&R) need to be seen necessarily as two sides of the same coin. R&R must always, in each instance, necessarily follow upon acquisition of land. Not combining the two – R&R and land acquisition – within one law, risks neglect of R&R. This has, indeed, been the experience thus far.

This **draft** Bill seeks to balance the need for facilitating land acquisition for various public purposes including infrastructure development, industrialisation and urbanisation, while at the same time meaningfully addressing the concerns of farmers and those whose livelihoods are dependent on the land being acquired.

The issue of who acquires land is less important than the process of land acquisition, compensation for land acquired and the R&R process, package and conditions. This **draft** Bill specifies these irrespective of the ratios of private and government acquisition. The objective is to make the process of land acquisition easy, transparent and fair for both sides in each instance. This **draft** Bill covers all cases (0-100%, 50-50%, 70-30%, 90-10%, 100-0% and all other possible combinations in between),

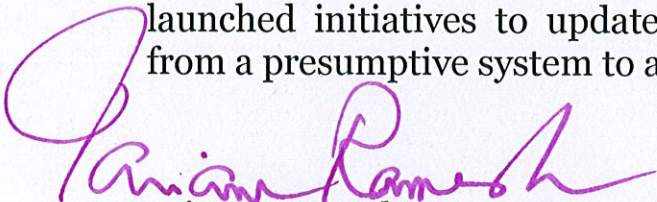
irrespective of the ratios and leads to equal treatment of equals in R&R, irrespective of who acquires their land, government or private parties.

The **draft** Bill puts in place a new institutional mechanism to ensure that the R&R provisions are implemented effectively as an integral part of land acquisition.

There are 18 other laws of the Central Government for land acquisition (like for highways, SEZs, defence, railways etc). The **draft** Bill will enjoy primacy over other such specialised legislations that are currently in force. The provisions of the **draft** Bill will be in addition to and not in derogation of the existing safeguards currently provided for in these laws. The draft Bill is fully compliant with the provisions of (i) PESA, 1996; (ii) Forest Rights Act, 2006; and (iii) Land Transfer Regulations in Schedule V (i.e., tribal) areas.

Finally, it must be pointed out that the **draft** Bill does not preclude private companies *buying* land directly from farmers and others. What the **draft** Bill proposes in such cases beyond a threshold is that a fair R&R package be offered. The **draft** Bill also suggests that under no circumstances should multi-cropped, irrigated land be acquired.

The **draft** Bill is being placed in the public domain as part of a pre-legislative consultative process. Comments are invited preferably before August 31<sup>st</sup>, 2011. Separately, the Ministry of Rural Development has launched initiatives to update and digitise land records and to move from a presumptive system to a conclusive system of land records.



Jairam Ramesh  
Minister of Rural Development,  
July 29<sup>th</sup>, 2011



## **II.**

# **THE DRAFT LAND ACQUISITION AND REHABILITATION AND RESETTLEMENT BILL (LARR), 2011 – AN OVERVIEW**

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*Ministry of Rural Development*

***Government of India***

July 29<sup>th</sup>, 2011

# Agenda

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- **Why a New Law?**
- **Why a Combined Law?**
- **Scope of the Draft Bill**
- **Salient Features of the Draft Bill**
  - Definition of 'Public Purpose'
  - Urgency
  - Definition of 'Affected Family'
  - Minimum Compensation for Land
  - Minimum R&R Entitlements
  - Infrastructural Amenities
  - Compliance with Other Laws
  - Process Flow
  - Institutional Structure
  - Safeguards
  - Transparency
  - Penalties
  - Awards

## Why a New Law

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### Public Concern

- Heightened public concern on Land Acquisition issues
- Absence of a national law to provide for the resettlement, rehabilitation and compensation for loss of livelihoods

### Outdated Law

- While multiple amendments have been made to the Original Act, the principal law continues to be the same i.e. the Land Acquisition Act of 1894

### Need for Balance

- Addressing concerns of farmers and those whose livelihoods are dependent on the land being acquired
- While facilitating land acquisition for industrialisation, infrastructure and urbanisation

## **Why a Combined Law**

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- 1. Land Acquisition and Resettlement & Rehabilitation need to be seen necessarily as two sides of the same coin**
- 2. Resettlement & Rehabilitation must always, in each instance, necessarily follow upon acquisition of land**
- 3. Not combining the two – R&R and land acquisition – within one law, risks neglect of R&R. This has, indeed, been the experience thus far**
- 4. This is the first National/ Central Law on the subject of Resettlement and Rehabilitation of families affected and displaced as a result of land acquisition**

## **Scope of LARR, 2011**

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### **Both LA and R&R Provisions will apply when:**


1. Government acquires land for its own use, hold and control
2. Government acquires land with the ultimate purpose to transfer it for the use of private companies for stated public purpose (including PPP projects but other than national highway projects)
3. Government acquires land for immediate and declared use by private companies for public purpose

**Note I: *Public purpose for 2. & 3. above, once stated, cannot be changed***

**Note II: *Land Acquisition under 2. & 3. above can take place provided 80% of the project affected families give consent to the proposed acquisition.***

### **Only R&R provisions will apply when:**

1. Private companies buy land, equal to or more than 100 acres, on their own;
2. Private company approaches Government for partial acquisition for public purpose.



**Note:** Government does not envisage acquiring:  
1. Land for private companies for private purposes.

**Or**

2. Any multi-crop irrigated land for public purposes



## Salient Features of the Draft Bill

### Definition of Public Purpose

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The following categories are considered as public purpose:

1. **Strategic purposes:** e.g., armed forces, national security;
2. **Infrastructure and Industry:** where benefits largely accrue to the general public;
3. **Land acquired for R&R purposes;**
4. **Village or urban sites:** planned development - residential purpose for the poor and educational and health schemes;
5. **Land for private companies for public purpose;**
6. **Needs arising from natural calamities.**

## **Salient Features of the Draft Bill**

### **Urgency Clause**

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**The Urgency Clause can only be invoked in the following cases:**

1. National defense and security purposes
2. R&R needs in the event of emergencies or natural calamities
3. To be exercised in '**rarest of rare**' cases

## **Salient Features of the Draft Bill Affected Families**

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- **Land Owners:**

1. Family whose land/other immovable properties have been acquired;
2. Those who are assigned land by the Governments under various schemes;
3. Right holders under the Forest Rights Act, 2006

- **Livelihood Losers:**

1. A family whose livelihood is primarily dependent on the land being acquired
2. May or may not own property

## Salient Features of the Draft Bill

# Minimum Compensation for Land

### A Comprehensive Compensation Package (Schedule I)

#### 1. Market value of the land:

- a) the minimum land value, if any, specified in the Indian Stamp Act, 1899 for the registration of sale deeds in the area, where the land is situated; or
- b) the average of the sale price for similar type of land situated in the village or vicinity, ascertained from fifty per cent of the sale deeds registered during the preceding three years, where higher price has been paid; or

**whichever is higher:**

**PROVIDED THAT THE MARKET VALUE SO CALCULATED SHALL BE MULTIPLIED BY THREE IN RURAL AREAS.**

#### 2. Value of the assets attached to land:

Building/Trees/Wells/Crop etc as valued by relevant govt. authority;

**Total compensation = 1+2**

#### 3. Solatium: 100% of total compensation

*This implies that in case of urban areas, the award amount would be not less than twice that of the market value determined, whereas in rural areas it would be not less than six times the original market value*

## **Salient Features of the Draft Bill**

### **Minimum R&R Entitlements**

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#### **A Comprehensive R&R Package (Schedule II and Draft Bill)**

##### **For Land Owners:**

1. Subsistence allowance at Rs. 3000 per month per family for 12 months;
2. Rs 2000 per month per family as annuity for 20 years, with appropriate index for inflation;
3. If house is lost, a constructed house of plinth area of 150 sq mts of house site in rural areas or 50 sq mts plinth area in urban area;
4. One acre of land to each family in the command area, if land is acquired for an irrigation project;
5. Rs 50,000 for transportation;
6. Where land is acquired for urbanization, 20% of the developed land will be reserved and offered to land owners, in proportion to their land acquired;
7. Upon every transfer of land within 10 years of the date of acquisition, 20% of the appreciated value shall be shared with the original owner whose land has been acquired;
8. Mandatory employment for one member per affected family or 2 lakh rupees if employment is not offered;
9. Offer of shares up to 25% of the Compensation amount

## **Salient Features of the Draft Bill**

### **Minimum R&R Entitlements**

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#### **A Comprehensive R&R Package (Schedule II)**

##### **For Livelihood losers (including landless):**

1. Subsistence allowance at Rs. 3000 per month per family for 12 months;
2. Rs 2000 per month per family as annuity for 20 years, with appropriate index for inflation;
3. If home-less, a constructed house (plinth area) on 150 sqmts of house site in rural areas or 50 sqmts in urban area, provided free of cost;
4. A one-time 'Resettlement Allowance' of Rs 50,000;
5. Rs 50,000 for transportation;
6. Mandatory employment for one member per affected family or 2 lakh rupees.

## Salient Features of the Draft Bill

### Minimum R&R Entitlements

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#### A Comprehensive R&R Package (**Schedule II**)

##### **Special Provisions for ST's**

1. One acre of land to each ST family in every project;
2. One time financial assistance of Rs 50,000 for ST families;
3. ST families settled outside the district shall be entitled to an additional 25% R&R benefits (and a one time payment of Rs 50,000) to which they are entitled in monetary terms;
4. Payment of one third of the compensation amount at very outset to ST families;
5. Preference in relocation and resettlement in area in same compact block;
6. Free land for community and social gatherings;
7. In case of displacement of 100 or more ST families, a *Tribal Displacement Plan* is to be prepared:
  - Detailing process to be followed for settling land rights and restoring titles on alienated land;
  - Details of programme for development of alternate fuel, fodder and non-timber forest produce.

Continuation of reservation and other benefits from displaced area to resettlement area for both SCs and STs

## **Salient Features of the Draft Bill**

### **Infrastructural Amenities to be provided**

**(Schedule III)**

**25 infrastructural amenities to be provided in the Resettlement area, including:**

- Schools and playgrounds;
- Health Centres;
- Roads and electric connections;
- Assured sources of safe drinking water for each family;
- Panchayat Ghars;
- Anganwadi's providing child and mother supplemental nutritional services;
- Places of worship and burial and/or cremation ground;
- Village level Post Offices, as appropriate, with facilities for opening saving accounts;
- Fair price shops and seed-cum-fertilizer storage facilities



## **Salient Features of the Draft Bill**

### **Compliance with other Laws**

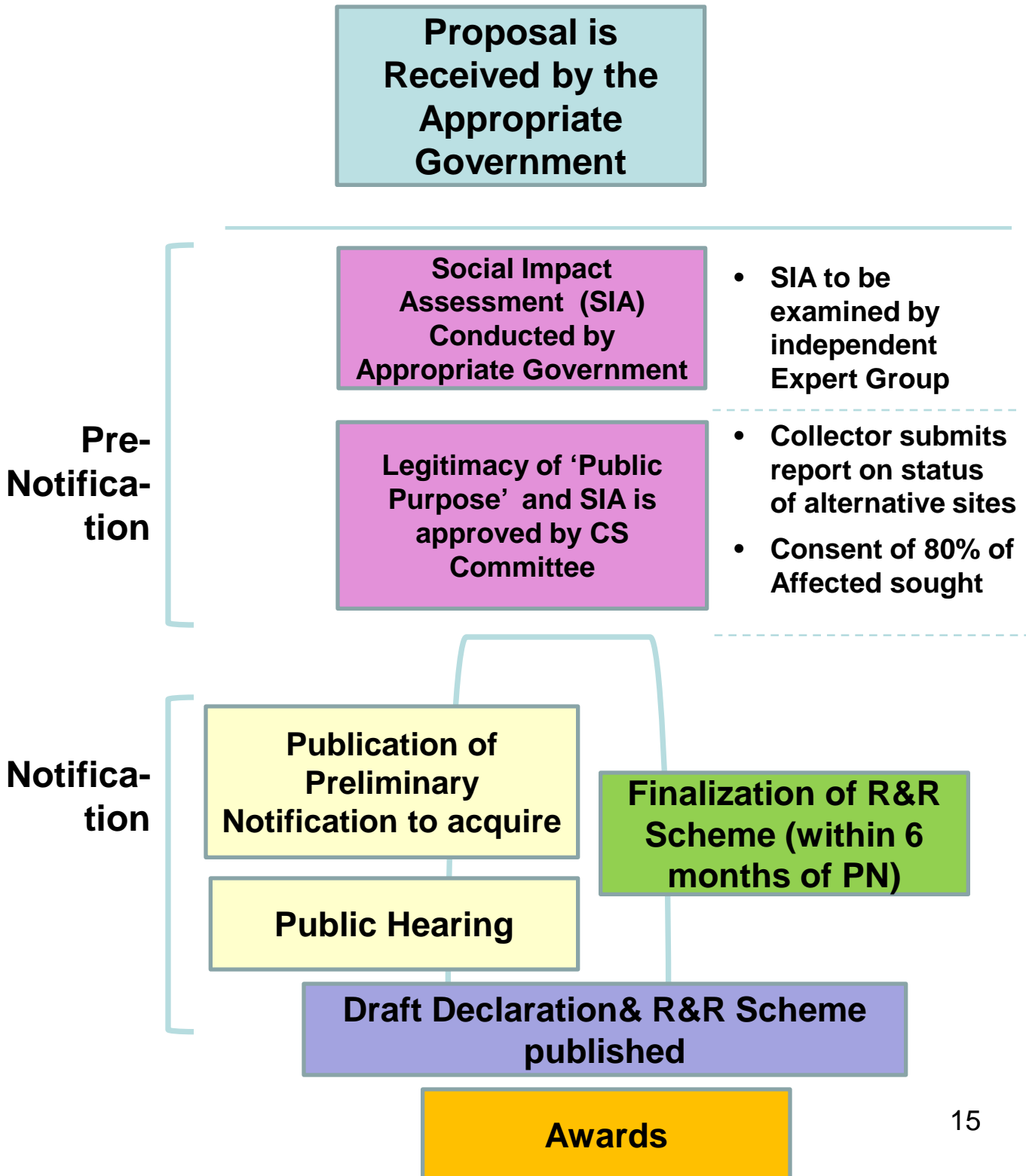
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**The Provisions of the New Law shall be fully compliant with other laws such as:**

- The Panchayats (Extension to the Scheduled Areas) Act, 1996;
- The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006;
- Land Transfer Regulations in Schedule V Areas.

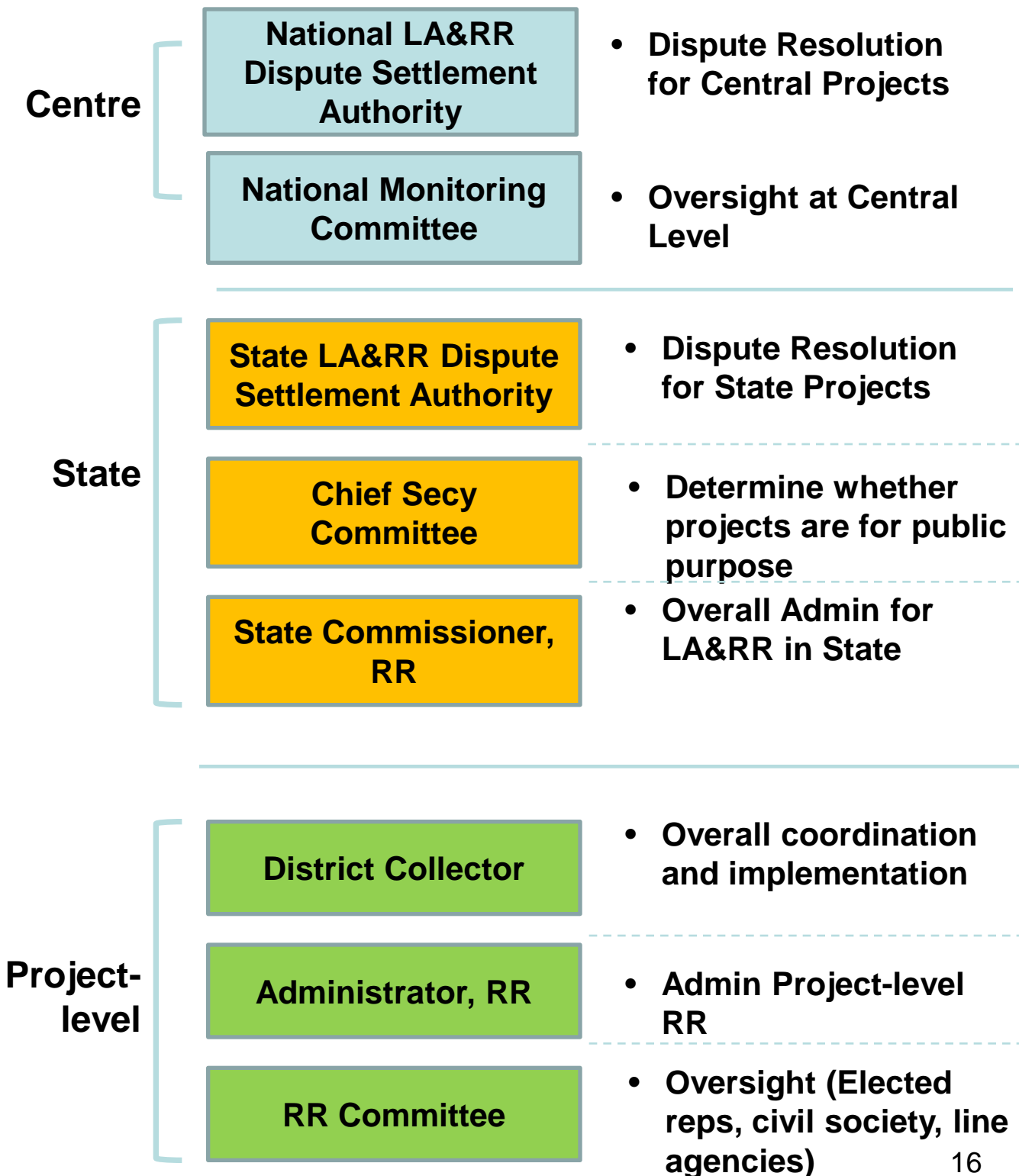
# Salient Features of the Draft Bill

## Process Flow



# Salient Features of the Draft Bill

## Institutional Structure



## **Salient Features of the Draft Bill**

### **Safeguards against indiscriminate acquisition**

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- **Social Impact Assessment** made mandatory where area to be acquired is equal to or greater than 100 acres;
- **Chief Secretary Committee** to approve 'public purpose' and approve the SIA report;
- **Draft Notification** to include:
  - Summary of SIA
  - Particulars of Administrator for R&R who prepares R&R scheme
- **Draft Declaration** to include:
  - Summary of R&R package
- **Return of Land:** Land returned to original owner if not used in 5 years for the purpose for which it is acquired, one-fourth of the award amount for the land acquired
  - Provided government can use land acquired for a department to some other department

## **Salient Features of the Draft Bill Transparency Provisions**

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- **Social Impact Assessment**
  - Gram Sabha to be consulted
  - Summary of SIA notified along with Draft Notification
  - SIA document made available for public scrutiny
  
- **R&R Scheme**
  - Summary notified along with Draft declaration
  - Made available for public scrutiny
  
- **Individual Awards passed**
  
- **Public Disclosure**
  - All documents mandatorily to be made available in the public domain and on the website

## Salient Features of the Draft Bill

### Penalties

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#### **Punishment for false information, *Mala Fide* action, etc**

- **If False or Misleading Documents:** Will result in the levy of a fine of up to one lakh rupees and/ or with imprisonment up to a month.
- **If R&R benefits obtained on false information:** Shall be recovered by the Appropriate Authority.
- **Disciplinary Proceedings against Govt. Officers:** A Government servant who is guilty of a *mala fide* action in respect of any provision of this Act and he shall be liable to such punishment (and fine) as the disciplinary authority may decide.

## **Salient Features of the Draft Bill**

### **Awards**

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#### **Collector passes 2 types of Awards:**

##### **1. Award for Land Acquisition**

- Award made in respect of every affected family whose land is being acquired and containing details of LA compensation as listed in Schedule I;

##### **2. Award for R&R**

- Award made in respect of every affected family, regardless of whether they may be losing land or not, containing details of R&R entitlements as listed in Schedule II.

**Provided that Land will not be transferred until R&R is completed**

### **III.**

## **The *Draft* Land Acquisition and Rehabilitation & Resettlement Bill, 2011**



## **THE LAND ACQUISITION, REHABILITATION AND RESETTLEMENT BILL 2011**

### ***PREAMBLE***

A **Draft** Bill to balance the need for facilitating land acquisition for industrialisation, development of essential infrastructure facilities and urbanisation, while at the same time to meaningfully address the concerns of farmers and those whose livelihoods are dependent on the land being acquired;

And to prevent the human and social suffering caused by involuntary displacement, by minimizing the displacement of affected persons and mitigating the adverse impacts on people and their habitats;

And comprehensively defining and identifying project affected persons/families to ensure that they are provided with a just compensation and rehabilitation and resettlement package, sensitive to the aspirations, culture, community, natural resource base and skill base of the affected people;

And ensuring a humane, participatory, informed, consultative and transparent process; and above all ensuring that the cumulative outcome of compulsory acquisition should be that affected persons become partners in development.

It is hereby enacted as follows:

#### **1. Short title, Extent and Commencement:**

- (1) This Bill may be called the Land Acquisition Rehabilitation and Resettlement Bill 2011.
- (2) It extends to the whole of India except the state of Jammu and Kashmir.
- (3) It shall come into force on such date as the date notified by the Government in the Official Gazette which shall not be more than three months from the passage of the Bill by both houses of Parliament;

#### **1A. Applicability of the Law:**

(1) The provisions of this Act, shall apply in their entirety when:-

- (a) the Appropriate Government acquires land for its own use, to hold and to control;
- (b) Government acquires land with the ultimate intent to transfer it for the use of private companies for stated public purpose (including Public Private Partnership projects but not including national or state highway projects);
- (c) the Appropriate Government acquires land for immediate and declared use by private companies for public purpose;

PROVIDED that the Public purpose for sub sections (b) and (c) above, once stated, cannot be changed.

PROVIDED FURTHER that Land Acquisition under sub sections (b) and (c) above can take place where at least 80 per cent of the affected families give their consent to the proposed acquisition.

(2) Only the provisions relating to rehabilitation and resettlement shall apply when:-

- (a) Private companies purchase or acquire land, equal to or more than one hundred acres, on their own;
- (b) a private company approaches the Appropriate Government for partial acquisition of an area so identified for a public purpose.

PROVIDED that where a private company seeks Government intervention for partial acquisition then the rehabilitation and resettlement entitlements shall be applicable for

the entire area identified for acquisition by the private company and not just the area for which the intervention is sought.

(3) All entitlements set forth in this Act shall be the absolute minimum to be guaranteed to those so entitled and no States shall in any manner limit or restrict the entitlements so enumerated.

PROVIDED nothing in this section shall prevent the States from enacting legislations or similar instruments having the force of law, to enhance or add to the entitlements enumerated in this Act.

## **2. Definitions**

In this Act, unless there is something repugnant in the subject or context;-

(a) the expression “**Administrator**” means an officer appointed for the purpose of Rehabilitation and Resettlement of affected families under section 8;

(b) the expression “**Affected Area**” means an area of village or locality notified by the Appropriate Government for the purposes of land acquisition;

(c) the expression “**Affected Family**” means-

(i) a family whose land or other immovable property has been acquired or which is involuntarily and permanently displaced from their land or immovable property;

(ii) a landless family, which includes agriculture labourer or artisans, which has been working in the affected area and whose primary source of livelihood has been affected by land acquisition in such area;

(iii) tribals and other traditional forest dwellers, who have lost any traditional rights recognised under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006;

(iv) Any individuals who have been assigned land by the State or Central Government under various schemes.

PROVIDED that where as a result of the acquisition there is a loss of their primary source of livelihood, families which are dependent on forests or waterbodies for their livelihoods, including forest gatherers, hunters, fisher folk and boatmen shall be included.

(d) the expression “**Agricultural Land**” means lands being used for the purpose of-

(i) agriculture or horticulture;

(ii) dairy farming, poultry farming, pisciculture, sericulture, breeding of livestock or nursery growing medicinal herbs;

(iii) raising of crops, grass or garden produce; and

(iv) land use for the grazing of cattle.

(e) the expression “**Appropriate Government**” means,-

(i) in relation to acquisition of land for the purposes of the Union, the Central Government;

(ii) in relation to acquisition of land for the purposes of any infrastructure project in more than one State, the Central Government; and

(iii) in relation to acquisition of land for any other purpose, the State Government;

(iv) in relation to Rehabilitation and Resettlement, the State Government;

(f) the expression “**Authority**” means the State Land Acquisition Rehabilitation and Resettlement Disputes Settlement Authority in respect of a State and the Central Land Acquisition Rehabilitation and Resettlement Disputes Settlement Authority in respect of the Centre;

(g) the expression “**Collector**” means the Collector of a district, and includes a Deputy Commissioner and any officer specially designated by the Appropriate Government to perform the functions of a Collector under this Act;

(h) the expression “**Cost of Acquisition**” includes-

(i) compensation award amount which includes Solatium, any enhanced compensation ordered by Land Acquisition and Rehabilitation & Resettlement Dispute Settlement Authority or the relevant High Court and any other amount and interest payable thereupon;

(ii) demurrage to be paid for damages caused to the land and standing crops in the process of acquisition;

(iii) cost of acquisition of sites which are out of project land for settlement of displaced or adversely affected families;

(iv) cost of development of infrastructure and amenities at resettlement areas;

(v) cost of Rehabilitation and Resettlement as per the Act;

(vi) administrative cost of acquisition of land including both in project site and out of project area lands;

(vii) administrative cost involved in planning and implementation of Rehabilitation and Resettlement packages for providing physical rehabilitation and resettlement to the entitled and interested families, displaced or adversely affected on account of in-project acquisition of land; and

(viii) Cost of undertaking ‘Social Impact Assessment;’;

(i) the expression “**Court**” means a principal Civil Court of original jurisdiction;

(j) the expression “**Company**” means –

(i) a company as defined in section 3 of the Companies Act, 1956 (1 of 1956), other than a Government company;

(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;

(k) the expression “**Displaced family**” means any family, who on account of acquisition of land has to be relocated and resettled from the affected area to the resettlement area;

(l) the expression “**Family**” includes a person, his or her spouse, minor children, minor brothers, minor sisters dependent on him;

*Explanation* –An adult of either gender with or without spouse or children or dependents may be considered as a separate family for the purposes of this Act.

(m) the expression “**Holding**” means the total land held by a person as an owner, occupant or tenant or as both;

(n) the expression “**Infrastructure Project**” shall include,-

(i) any project relating to generation, transmission or supply of electricity;

(ii) construction of roads, highways, defence, bridges, airports, ports, rail systems or mining activities, educational, sports, health care, tourism, transportation, space programme and housing for such income groups, as may be specified from time to time by the appropriate Government;

(iii) water supply project, irrigation project, sanitation and sewerage system; or

(iv) any other public facility as may be notified in this regard by the Central Government in the Official Gazette;’;

(o) 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;

(p) the expression “**Landless**” shall have the same meaning as assigned to it in relevant state laws;

(q) the expression “**Land Owner**” includes any person who is reflected as the owner of the land in the land records or any person who is granted Patta rights or is entitled to be granted Patta rights on the land under any law of the State including assigned lands;

(r) the expression “**Local Authority**” includes a town planning authority (by whatever name called) set up under any law for the time being in force;

(s) the expression “**Marginal Farmer**” means a cultivator with an un-irrigated land holding up to one hectare or irrigated land holding up to half hectare;

(t) the expression “**Notification**” means a notification published in the Gazette of India or, as the case may be, the Gazette of a State;

(u) the expression “**Patta**” shall have the same meaning as assigned to it in the relevant state laws;

(v) the expression “**Person Interested**” means-

(i) all persons claiming an interest in compensation to be made on account of the acquisition of land under this Act;

(ii) tribals and other traditional forest dwellers, who have lost any traditional rights recognised under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006;

(iii) a person interested in an easement affecting the land; and

(iv) persons having tenancy rights under the relevant State laws

(w) the expression “**Prescribed**” means prescribed by Rules made under this Act;

(x) the expression “**Project**” means a project for which land is being acquired, irrespective of the number of persons affected;

(y) the expression “**Public Purpose**” includes-

(i) the provision of land for strategic purposes relating to naval, military, air force and armed forces of the Union or any work vital to national security or defence of India or State police, safety of the people;

(ii) the provision of land for infrastructure, industrialization and urbanization projects of the appropriate Government, where the benefits largely accrue to the general public;

(iii) the provision of village or urban sites, acquisition of land for the project affected people, planned development or improvement of village sites, provision of land for residential purpose to the poor, government administered educational and health schemes,

(iv) the provision of land for any other purpose useful to the general public, including land for companies, for which at least 80 per cent of the project affected people have given their consent through a prior informed process;

PROVIDED that where a private company after having purchased part of the land needed for a project, for public purpose, seeks the intervention of the Appropriate Government to acquire the balance of the land it shall be bound by Rehabilitation and

Resettlement provisions of this Act for the land already acquired through private negotiations and it shall be bound by all provisions of this Act for the balance area sought to be acquired.

(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;’;

*Explanation*-The word “person” shall include any company or association or body of individuals, whether incorporated or not;’;

(z) the expression “**Requiring Body**” means a company, a body corporate, an institution, or any other organisation for whom land is to be acquired by the appropriate Government, and includes the Appropriate Government, if the acquisition of land is for such Government either for its own use or for subsequent transfer of such land in public interest to a company; body corporate, an institution, or any other organisation, as the case may be, under lease, licence or through any other mode of transfer of land;

(aa) the expression “**Resettlement Area**” means an area where the affected families who have been displaced as a result of land acquisition are resettled by the Appropriate Government;

(bb) the expression “**Small Farmer**” means a cultivator with an un-irrigated land holding up to two hectares or with an irrigated land holding up to one hectare, but more than the holding of a marginal farmer.

(cc) the following persons shall be deemed person “**entitled to act**” as and to the extent hereinafter provided (that is to say)-

trustees for other persons beneficially interested shall be deemed to be the person entitled to act with reference to any such case, and that to the same extent as the person beneficially interested could have acted if free from disability;

the guardians of minors and the committees or managers of lunatics shall be deemed respectively the persons so entitled to act, to the same extent as the minors, lunatics or other persons of unsound mind themselves, if free from disability, could have acted:

PROVIDED that the provisions of [Order XXXII of the First Schedule to the Code of Civil Procedure, 1908 (5 of 1908) shall, *mutatis mutandis*, apply in the case of persons interested appearing before a Collector or Authority by a next friend, or by a guardian for the case, in proceedings under this Act; and

(dd) the expression “**Website**” shall mean an online portal created by the Appropriate Government to provide a single repository of information presented online and to be accessed by the public at large and to track the steps in the land acquisition process from Social Impact Assessment to Rehabilitation and Resettlement.

## PART II

### DETERMINATION OF SOCIAL IMPACT AND PUBLIC PURPOSE

#### *Preliminary Investigation*

### **3. Preparation of Social Impact Assessment**

(1) Whenever the Appropriate Government intends to acquire land equal to or more than one hundred acres for a public purpose, a Social Impact Assessment study shall be carried out in the affected area in consultation with the Gram Sabha at habitation level or equivalent body in urban areas, in such manner and within such time as may be prescribed. The Social Impact Assessment study shall include assessment of;

- (a) nature of public interest involved;
  - (b) estimation of affected families and among them how many are likely to be displaced;
  - (c) socio-economic impact the families left behind suffer;
  - (d) extent of lands, public and private, houses, settlements and other common properties likely to be affected by the proposed acquisition;
  - (e) whether extent of land proposed for acquisition is the absolute bare-minimum extent needed for the project;
  - (f) financial, social and environmental costs and benefits;
  - (g) whether less or non-displacing alternatives not technically or geographically available;
  - (h) social and environmental impacts from the project, and the nature and cost of addressing them and their impact on the project's overall costs and benefits vis-à-vis the social and environmental costs
- (2) While undertaking a Social Impact Assessment under sub-section (1), the Appropriate Government shall, *inter alia*, take into consideration the impact that the project will have on public and community properties, assets and infrastructure particularly roads, public transport, drainage, sanitation, sources of drinking water, sources of water for cattle, community ponds, grazing land, plantations, public utilities, such as post offices, fair price shops, food storage godowns, electricity supply, health care facilities, schools and educational or training facilities, anganwadis, children parks, places of worship, land for traditional tribal institutions, burial and cremation grounds.

(3) The Appropriate Government may specify that the ameliorative measures, which will need to be undertaken for addressing the said impact for a specific component, may not be less than what is provided under a scheme or programme, in operation in that area, of the Central Government or, as the case may be, the State Government.

#### **4. Public Hearing for Social Impact Assessment**

(1) The Appropriate Government shall ensure that a public hearing is held at the affected area, , after giving adequate publicity about the date, time and venue for the public hearing at the affected area, to ascertain the views of the affected families to be recorded and included in the Social Impact Assessment Report;

*Furthermore* the Appropriate Government shall ensure that the Social Impact assessment study report is published in the affected area, in the manner prescribed, and uploaded mandatorily on a website created especially for this purpose.

(2) Wherever Environment Impact Assessment (EIA) is taken up, a copy of the Social Impact Assessment report shall be made available to the Impact Assessment Agency authorised in respect of environmental impact assessment by the Central Government in the Ministry of Environment and Forests

#### **5. Appraisal of Social Impact Assessment Report by an Expert Group**

(1) The Appropriate Government shall ensure the Social Impact Assessment report is subjected to an examination by an independent multi-disciplinary expert group, as may be constituted;

PROVIDED that any expert group so constituted shall necessarily include the following persons, namely: –

- (a) two non-official social scientist;
- (b) two experts on rehabilitation; and
- (c) a technical expert in the area relating to the project.

(2) The expert committee shall make specific recommendations on public purpose, whether the extent of land proposed to be acquired is the absolute bare-minimum extent needed for the project and whether there are no other less displacing options available

#### **6. Exemption from Social Impact Assessment**

Where land is proposed to be acquired invoking the urgency provisions under section 30 of the Act, the appropriate Government may exempt undertaking of the Social Impact Assessment study.

#### **7. Constitution of Committee to examine proposals for Land Acquisition and the Social Impact Assessment Report**

(1) Where the acquisition involves any extent of land, the Appropriate Government shall constitute a Committee under the Chairmanship of the Chief Secretary or officer of equivalent rank, consisting of the Secretaries of the Departments of Finance, Revenue, Rural Development, Social Justice, Tribal Welfare, Panchayati Raj and the concerned Departments and not more than three experts from the relevant fields, to examine proposals for land acquisition.

(2) The Committee shall ensure that-

- (a) there is a legitimate and *bona fide* public purpose behind the proposed acquisition which necessitates the acquisition of the land identified;



- (b) this public purpose shall, on a balance of convenience and in the long term, be in the larger public interest so as to justify the impact as determined by the Social Impact Assessment where carried out;
- (c) only the absolute minimum area of land required for the project is proposed to be acquired;
- (d) the Collector of the district, where the acquisition of land is proposed, has explored the possibilities of utilising waste, degraded, barren lands and that the agricultural land, especially land under assured irrigation is being acquired only as a last resort

PROVIDED that that no irrigated multi-crop land will be proposed for acquisition under any circumstances

(3) The Committee shall examine the report of the Collector and the report given by the Expert Committee on the Social Impact Assessment and after considering all the reports, recommend such area for acquisition which may follow the principle of minimum displacement of people, minimum disturbance to the infrastructure, ecology and minimum adverse impact on the individuals affected.

(4) The Appropriate Government shall make available the decision of the Committee in the public domain and also upload the same on the website created for this purpose.

PROVIDED that where land is sought to be acquired in the manner as specified in sub-section (1)(b) and (1)(c) of Section 1A, the Committee shall also ascertain as to whether the consent of 80 per cent of the affected families has been obtained in a manner that may be prescribed.

### **PART III**

#### **NOTIFICATION AND ACQUISITION**

**8. Appointment of Administrator for Rehabilitation and Resettlement** Whenever, it appears to the Appropriate Government that land in any area is required or likely to be required for any public purpose, it shall appoint an Administrator for Rehabilitation and Resettlement as per the provisions of section 31 and on such terms and of such qualifications as may be prescribed by the Appropriate Government;

#### **9. Publication of Preliminary Notification and Power of Officers thereupon**

(1) Whenever, it appears to the Appropriate Government that land in any area is required or likely to be required for any public purpose, a notification to that effect along with details of the land to be acquired in rural and urban areas shall be published in the following manner, namely:-

- (i) in the Official Gazette;
- (ii) in two daily newspapers circulating in that locality of which one shall be in regional language;
- (iii) on the website of the appropriate Government in public domain;
- (iv) by making available for inspection by persons affected, at the tehsil or gram panchayat or urban local body office;
- (v) the Collector shall also cause public notice of the substance of such notification to be put up at convenient places in the said locality: and

PROVIDED that no notification shall be issued under this section unless the concerned Gram Sabha at the village level and equivalent forum in Urban Local Bodies, as the case may be, or Autonomous Councils in the Sixth Schedule Areas have been consulted in all cases of land acquisition in such areas as per the provisions of all relevant laws for the time being in force:

PROVIDED FURTHER that where no declaration is made consequent upon the issue of a notification under sub-section (1) within the time limit of twelve months from the date of the notification shall be deemed to have lapsed:

PROVIDED ALSO that if that if a Notification under this section is not issued within six months from the date of appraisal of the Social Impact Assessment report by the Expert Committee then the same shall be deemed to have lapsed and a fresh Social Impact Assessment will have to be undertaken prior to acquisition proceedings under this section.

(2) The Notification shall also contain a Statement on the nature of public purpose involved, why less displacing alternatives are not feasible and summary of the Social Impact

Assessment Report and particulars of the Administrator appointed for the purposes of Rehabilitation and Resettlement under this Act

(3) No person shall make any transaction or cause any transaction of land specified in the preliminary notification or create any encumbrances on such land from the date of publication of such notification till such time as the proceedings under this Part are completed:

PROVIDED that the Collector may, on the application made by the land owner in respect of the land so notified, exempt in special circumstances to be recorded in writing, such owner from the operation of this sub-section:

PROVIDED FURTHER that any loss or injury suffered by any person due to his wilful violation of this provision shall not be made up by the Collector.

(4) After issuance of notice under sub-section (1), the Collector shall, before the issue of a declaration under section 18, undertake and complete the exercise of updating of land records as prescribed.

(5) The damages caused while carrying out works on land such as survey, digging or boring sub-soil, marking boundaries or cutting trenches or clearing away any standing crop, fence or forest or doing such other acts or things which may cause damages while acting under this Act and particularly in relation to land which is excluded from acquisition proceeding, shall be evaluated and compensation shall be paid to the persons having interest in that land, within six months from the completion of the said works

## **10. Payment for damage**

The officer so authorized under the provisions of this Act shall at the time of such entry pay or tender payment for any damage caused, 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.

## **11. Hearing of objections**

(1) Any person interested in any land which has been notified under sub-section (1) of section 9, as being needed or likely to be needed for a public purpose, may within sixty days from the date of the publication of the notification, object to the extent and choice of land proposed to be acquired, justification offered for public purpose, the findings of the Social Impact Assessment report;

(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 authorized by him in this behalf 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 sub-section (1) of section 9, 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 along with a separate report giving approximate cost of land

acquisition, particulars as to the number of affected families likely to be resettled, for the decision of that Government;

(3) The decision of the Appropriate Government on the objections shall be final.

## **12. Preparation of Rehabilitation and Resettlement Scheme by the Administrator**

(1) Upon the publication of the Preliminary Notification under section 9 by the Collector, the Administrator for Rehabilitation and Resettlement shall conduct a baseline survey and undertake a census of the affected families, in a manner as may be prescribed but which shall include;

(a) affected family wise particulars of lands and immovable properties being acquired, livelihoods lost in respect of land losers and landless whose livelihoods are primarily dependent on the lands being acquired;

(b) where resettlement of affected families is involved;-

(i) list of public utilities and Government buildings which are affected or likely to be affected;

(ii) details of the amenities and infrastructural facilities which are affected or likely to be affected.

(2) The Administrator Rehabilitation and Resettlement shall, based on the baseline survey and census as detailed above, prepare Rehabilitation and Resettlement Scheme, as prescribed which shall include;

(a) affected family wise particulars of Rehabilitation and Resettlement entitlements in respect of land losers and landless whose livelihoods are primarily dependent on the lands being acquired and where resettlement of affected families is involved:-

(i) list of Government buildings to be provided in the Resettlement area;

(ii) details of the public amenities and infrastructural facilities which are to be provided in the resettlement area;

(3) The draft Rehabilitation and Resettlement scheme shall include time frame for implementing Rehabilitation and Resettlement Scheme;

(4) The draft Rehabilitation and Resettlement scheme shall be made known locally by wide publicity in the affected area and discussed in the concerned gram sabhas or equivalent body in the urban area;

(5) A Public hearing shall be conducted as prescribed, after giving adequate publicity about the date, time and venue for the public hearing at the affected area. Where affected area involves more than one Gram Panchayat, public hearings shall be conducted in every Gram Sabha and equivalent forum in urban areas;

PROVIDED that the consultation with the Gram Sabha in Scheduled Areas under the Fifth Schedule shall be in accordance with the provisions of the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996

(6) The Administrator for Rehabilitation and Resettlement shall, on completion of public hearing submit the Scheme for Rehabilitation and Resettlement along with a specific report on the claims and objections raised in the public hearing to the Collector.

(7) The Administrator shall cause the approved Rehabilitation and Resettlement Scheme to be published in the Official Gazette, and make available in the affected areas with a copy of the same being published on the website

### **13. Review of the Resettlement and Rehabilitation Scheme**

(1) The Collector shall review the Scheme submitted by the Administrator with the Rehabilitation and Resettlement Committee at the Project level constituted under section 33;

(2) The Collector shall submit the Rehabilitation and Resettlement Scheme with his remarks to the Commissioner Rehabilitation and Resettlement for approval of the Scheme.

### **14. Declaration that Land is required for a public purpose and publication of R&R Summary**

(1) When the Appropriate Government is satisfied, after considering the report, if any, made under sub-section (2) of section 11, that any particular land is needed for a public purpose, a declaration shall be made to that effect, along with a declaration of an area identified as the 'resettlement area' for the purposes of rehabilitation and resettlement of the affected families, under the signature of a Secretary to such Government or of some officer duly authorized 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 irrespective of whether one report or different reports has or have been made (wherever required);

(2) The Collector shall publish a summary of the Rehabilitation and Resettlement Scheme along with Draft Declaration.

PROVIDED that no declaration under this sub-section shall be made unless the summary of the Rehabilitation and Resettlement Scheme is published along with such declaration.

PROVIDED FURTHER that no declaration under this sub-section shall be made unless the requiring body deposits an amount, in full or part, as may be prescribed by the Appropriate Government toward the cost of acquisition.

(3) Every declaration shall be published in the Official Gazette and in two daily newspapers circulating in the locality in which the land is situated of which at least one shall be in the regional language, and the Collector shall publish the public notice on the website and 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 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.

(5) The said declaration shall be conclusive evidence that the land is needed for a public purpose and, after making such declaration, the Appropriate Government may acquire the land in manner hereinafter appearing.

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

(1) The Collector shall thereupon cause the land (unless it has been already marked out under section 9) 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;

#### **16. Notice to persons interested**

(1) The Collector shall publish the public notice on the website and 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 compensations and rehabilitation and resettlement for all interests in such land may be made to him.

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 or pleader 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, their claims to rehabilitation and resettlement along with their objections (if any) to the measurements made under section 15.

The Collector may in any case require such statement to be made in writing and signed by the party or his agent.

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 authorized to receive service on their behalf, within the revenue district in which the land is situate.

In case any person so interested resides elsewhere, and has no such agent, the notice shall be sent to him by post in 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).

#### **17. 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.

Every person required to make or deliver a statement under this section 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)

### **18. Enquiry and Land Acquisition Award by Collector**

(1) 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 objections (if any) which any person interested has stated pursuant to a notice given under section 16, to the measurements made under section 15, and into the value of the land at the date of the publication of the notification, and into the respective interests of the persons claiming the compensation and rehabilitation and resettlement, shall make an award under his hand of-

(i) the true area of the land;

(ii) the compensation along with rehabilitation and resettlement scheme as determined under section 12 and 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, or whom, or of whose claims, he has information, whether or not they have respectively appeared before him:

(2) Notwithstanding anything contained in this Act, in a case where the notification under the Land Acquisition Act 1894 was issued before the commencement of this Act but the award under sub-section (1) has not been made before such commencement, the Collector shall make an award in accordance with the provisions of this Act, within one year from the commencement of the Act.

### **19. Period within which an Award shall be made**

The Collector shall make an award within a period of two years from the date of the publication of the declaration under section 9 and if no award is made within that period, the entire proceedings for the acquisition of the land shall lapse.

### **20. Determination of market value of land by Collector**

(1) The Collector shall adopt the following criteria in assessing and determining the market value of the land;-

(a) the minimum land value, if any, specified in the Indian Stamp Act, 1899 for the registration of sale deeds in the area, where the land is situated; or

(b) the average of the sale price for similar type of land situated in the village or vicinity, ascertained from fifty per cent of the sale deeds registered during the preceding three years, where higher price has been paid; or

whichever is higher:

PROVIDED that the market value so calculated shall be multiplied by three in rural areas.

(2) Where the provisions of sub-section (1) are not applicable for the reason that—

(a) the land is situated in such area where the transactions in land are restricted by or under any other law for the time being in force in that area; or

(b) the registered sale deeds for similar land as mentioned in clause (i) of sub-section (1) are not available for the preceding three years; or

(c) the minimum land value has not been specified under the Indian Stamp Act, 1899 by the appropriate authority,

the concerned State Government shall specify the floor price per unit area of the said land based on the average higher prices paid for similar type of land situated in the adjoining areas or vicinity, ascertained from fifty per cent of the sale deeds registered during the preceding three years where higher price has been paid, and the Collector shall calculate the value of the land accordingly.

PROVIDED that the requiring authority, wherever possible, may offer 25 per cent of the compensation value in shares belonging to the requiring authority or one of its sister companies

## **21. Elements of Land Acquisition Award by Collector**

(1) The Collector having determined the market value of the land to be acquired shall calculate the total amount of compensation to be paid to the land owner by including all assets attached to the land. To this end, the Collector may;

(a) in determining the market value of the building and other immovable property or assets attached to the land or building which are to be acquired, use the services of a competent engineer or any other specialist in the relevant field, as may be considered necessary by the Collector.

(b) for the purpose of determining the value of trees and plants, use the services of experienced persons in the field of agriculture, forestry, horticulture, sericulture, or any other field, as may be considered necessary by the Collector.

(c) for the purpose of assessing the value of the standing crops damaged during the process of land acquisition proceedings, may utilise the services of experienced persons in the field of agriculture as he considers necessary.

(2) The Collector having determined the total compensation to be paid, shall, to arrive at the final award, impose a 'Solatium' amount equivalent to 100 per cent of the compensation amount;



(3) The Collector shall issue individual awards detailing the particulars of compensation payable and the details of payment of the compensation as prescribed in Schedule I to this Act;

## **22. Rehabilitation and Resettlement Award by Collector**

The Collector shall pass Rehabilitation and Resettlement Awards in terms of the mandatory entitlements provided in the Schedule II of the Act. Every family covered under the Rehabilitation and Resettlement Award of the Collector shall be given family wise proceedings indicating;

- (a) Rehabilitation and Resettlement amount payable to the family and the bank account number of the person to which the Rehabilitation and Resettlement award amount is to be transferred;
- (b) Particulars of house site and house to be allotted, in case of displaced families;
- (c) Particulars of Land allotted to the displaced families;
- (d) Particulars of one time subsistence allowance, transportation allowance in case of displaced families;
- (e) Particulars of payment for Cattle Shed/ petty shops;
- (f) Particulars of one-time amount to artisans and small traders;
- (g) Details of mandatory employment to be provided to the members of the affected families;
- (h) Particulars of any Fishing rights that may be involved;
- (i) Particulars of Annuity and other entitlements to be provided.
- (j) Particulars of special provisions for SC's and ST's to be provided;

## **23. Provision of Infrastructural Amenities in the Resettlement Area**

Where there are more than one hundred families displaced, then the Collector shall ensure the provision of all infrastructural and basic amenities as listed in Schedule III of the Act.

## **24. Corrections to the Awards by the Collector**

(1) The Collector may at any time, but not later than six months from the date of award or where he has been required under the provisions of this Act to make a reference to the Authority, before the making of such reference, by order, correct any clerical or arithmetical mistakes in either of the awards or errors arising therein either on his own motion or on the application of any person interested or 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 representation in the matter

(2) The Collector shall give immediate notice of any corrections made in the award so corrected 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 refunded and in the case of any default or refusal to pay, the same may be recovered, as prescribed by the Appropriate Government.

## **25. Awards of Collector when to be final**

(1) The Awards shall be filed in the Collector's 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 market value of the land and the assets attached thereto, and the apportionment of the compensation among the persons interested.

(2) The Collector shall give immediate notice of his awards to such of the persons interested as are not present personally or by their representatives when the awards are made.

(3) The Collector shall keep open to the public and display a summary of the entire proceedings undertaken in a case of acquisition of land including the amount of compensation awarded to each individual along with details of the land finally acquired under this Act on the website created for this purpose.

## **26. 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.

## **27. 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 of 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).

## **28. Power to call for records, etc.**

The Appropriate Government may at any time before the award is made by the Collector under section 18 call for any record of any proceedings (whether by way of inquiry or otherwise) for the purpose of satisfying itself as to the legality or propriety of any findings 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.

### **29. Power to take Possession**

(1) The Collector shall ensure that full payment of compensation as well as rehabilitation and resettlement entitlements are paid or tendered to the entitled persons within a period of three months for the compensation and a period of six months for the rehabilitation and resettlement entitlements commencing from the date of the award under section 18;

(2) The Collector shall be responsible for ensuring that the rehabilitation and resettlement process is completed in all its aspects;

(3) On the fulfillment of the condition provided in sub-section(1) and (2) above, the Collector shall take possession of the land acquired, which shall, thereupon, vest absolutely in the Government, free from all encumbrances.

### **30. Special powers in case 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 take possession of any land needed for a public purpose. Such land shall thereupon vest absolutely in the Government, free from all encumbrances.

(2) The powers of the Appropriate Government under sub-section (1) shall be restricted to the minimum area required for the defence of India or national security or for any emergencies arising out of natural calamities;

PROVIDED that the powers listed under this section shall be used in the **rarest of rare** cases.

PROVIDED FURTHER 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 to do so, 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) Before taking possession of any land under sub-section (1) or sub-section (2), the Collector shall tender payment of eighty per cent of the compensation for such land as estimated by him to the person interested entitled thereto;

(4) In the case of any land to which, in the opinion of the Appropriate Government, the provisions of sub-section (1), sub-section(2) or sub-section (3) are applicable, the Appropriate Government may direct that any or all of the provisions of Part II shall not apply, and, if it does so direct, a declaration may be made under section 18 in respect of the land at any time after the date of the publication of the notification under section 9, sub-section (1).

(5) An additional compensation of seventy-five per cent of the market value as determined under the provisions of this Act, shall be paid by the Collector in respect of land and property for acquisition of which proceedings have been initiated under sub-section (1) of this section.

**PART IV**  
**REHABILITATION AND RESETTLEMENT**  
*Institutional Arrangements*

**31. Administrator for Rehabilitation and Resettlement**

(1) Where the Appropriate Government is satisfied that there is likely to be involuntary displacement of persons due to acquisition of land, then, the State Government shall, by notification, appoint in respect of that project, an officer not below the rank of Joint Collector or Additional Collector or Deputy Collector or equivalent official of Revenue Dept to be the Administrator for Rehabilitation and Resettlement

(2) The Administrator for Rehabilitation and Resettlement shall, with a view to enable him to function efficiently and to meet the special time-frame, be provided with such powers, duties and responsibilities as may be prescribed by the Appropriate Government and provided with office infrastructure and be assisted by such officers and employees who shall be subordinate to him as the Appropriate Government may decide.

(3) Subject to the superintendence, directions and control of the Appropriate Government and the Commissioner for Rehabilitation and Resettlement, the formulation, execution and monitoring of the Rehabilitation and Resettlement Scheme shall vest in the Administrator for Rehabilitation and Resettlement.

**32. Commissioner for Rehabilitation and Resettlement**

(1) The State Government shall appoint an officer of the rank of Commissioner or Secretary of that Government for rehabilitation and resettlement of affected families under this Act, to be called the Commissioner for Rehabilitation and Resettlement.

(2) The Commissioner shall be responsible for supervising the formulation of rehabilitation and resettlement schemes or plans and proper implementation of such schemes or plans.

(3) The Commissioner shall be responsible for the post-implementation social audit in consultation with the village panchayat in rural areas and municipality in urban areas.

**33. Rehabilitation and Resettlement Committee at Project Level**

(1) Where land proposed to be acquired is equal to or more than one hundred acres, the Appropriate Government shall constitute a Committee under the chairmanship of the Collector to be called the Rehabilitation and Resettlement Committee, to monitor and review the progress of implementation of the Rehabilitation and Resettlement scheme and to carry out post-implementation social audits in consultation with the village panchayat in rural areas and municipality in urban areas.

(2) The Rehabilitation and Resettlement Committee shall include, apart from officers of the Appropriate Government, the following members, namely.-

- (i) a representative of women residing in the affected area;
  - (ii) a representative each of the Scheduled Castes and the Scheduled Tribes residing in the affected area;
  - (iii) a representative of a voluntary organisation working in the area;
  - (iv) a representative of a nationalised bank;
  - (v) the Land Acquisition Officer of the project;
  - (vi) the Chairpersons of the panchayats or municipalities located in the affected area, or their nominees;
  - (vii) the Member of Parliament and Member of the Legislative Assembly of the concerned area;
  - (viii) a representative of the requiring body; and
  - (ix) Administrator for Rehabilitation and Resettlement as the Member-Convenor.
- (3) The procedure regulating the discharge of the process given in this section and other matters connected thereto of the Rehabilitation and Resettlement Committee shall be such as may be prescribed by the State Government.

## **PART V**

### **NATIONAL MONITORING COMMITTEE FOR REHABILITATION AND RESETTLEMENT**

#### **34. Establishment of National Monitoring Committee for Rehabilitation and Resettlement:**

(1) The Central Government shall constitute a National Monitoring Committee for reviewing and monitoring the implementation of rehabilitation and resettlement schemes or plans under this Act.

(2) The Committee may, besides having representation of the concerned Ministries and Departments of the Central and State Governments, associate with it eminent experts from the relevant fields.

(3) The procedures to be followed by the Committee and the allowances payable to the experts shall be such as may be prescribed.

(4) The Central Government shall provide officers and other employees to the Committee necessary for its efficient functioning.

#### **35. Reporting requirements**

The States and Union territories shall provide all the relevant information on the matters covered under this Act, to the National Monitoring Committee in a regular and timely manner, and also as and when required.

## **PART VI**

### **ESTABLISHMENT OF LAND ACQUISITION REHABILITATION AND RESETTLEMENT DISPUTE SETTLEMENT AUTHORITY FOR STATE AND CENTRE**

#### **36. Establishment of State Land Acquisition Rehabilitation and Resettlement Dispute Settlement Authority**

The State Government shall, for the purpose of providing speedy disposal of disputes relating to land acquisition, compensation, Rehabilitation and Resettlement establish, by notification in the Official Gazette, an Authority for the State to be known as the (name of the State) Land Acquisition Dispute Settlement Authority to exercise the jurisdiction, powers and authority conferred on it by or under this Act with regard to acquisition of land by the State Government:

Provided that a State Government may constitute more than one Authority or the benches thereof, for the purposes of this Act, if considers necessary.

(2) The head office of the Authority shall be at such place as the State Government may, by notification in the Official Gazette, specify.

(3) The Authority shall consist of at least three Members, including the Chairperson to be appointed by the State Government

(4) The Members of the Authority shall be persons of ability, integrity and standing who have adequate knowledge of, and have shown capacity in, dealing with the problems relating to land acquisition matters, public administration, finance, economics and law.

(5) A person shall not be qualified to be a Member of the Authority unless he is or has been

- (i) A judge of the High Court of the State;
- (ii) An officer of the State Government not below the rank of district collector;
- (iii) An officer of the State Government in the Law Department not below the rank of Director.

(6) The terms and conditions of service shall be those as prescribed from time to time in Rules framed under this Act by the State Government.

#### **37. Establishment of National Land Acquisition Dispute Settlement Authority**

The Central Government shall, for the purpose of providing speedy disposal of disputes relating to land acquisition, compensation, Rehabilitation and Resettlement establish, by notification in the Official Gazette, an Authority for the Centre to be known as the National Land Acquisition Dispute Settlement Authority to exercise the jurisdiction, powers and authority conferred on it by or under this Act with regard to acquisition of land by the Central Government:

Provided that the Central Government may constitute more than one Authority or the benches thereof, for the purposes of this Act, if considers necessary.



(2) The head office of the Authority shall be at such place as the Central Government may, by notification in the Official Gazette, specify.

(3) The Authority shall consist of at least three Members, including the Chairperson to be appointed by the Central Government

(4) The Members of the Authority shall be persons of ability, integrity and standing who have adequate knowledge of, and have shown capacity in, dealing with the problems relating to land acquisition matters, public administration, finance, economics and law.

(5) A person shall not be qualified to be a Member of the Authority unless he is or has been

- (i) A Chief Justice of a High Court/judge of the Supreme Court;
- (ii) An officer of the Indian Administrative Service having sufficient knowledge of land acquisition and has held the post of Collector of a District
- (iii) An officer equivalent to that of a Joint Secretary in the Government of India.

(6) The terms and conditions of service shall be those as prescribed from time to time in Rules framed under this Act by the Central Government.

### **38. Reference to Authority**

(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 State or Central Authority, as the case may be, whether his objection be to the measurement of the land, the amount of the compensation, the person to whom it is payable, the rights of Rehabilitation and Resettlement under Part III and IV of this Act or the apportionment of the compensation among the persons interested.

PROVIDED that the Collector shall, within a period of fifteen days from the date of receipt of application, make a reference to the appropriate Authority

PROVIDED FURTHER that where the Collector fails to make such reference within the period so specified, the applicant may apply to the State or Central Authority, as the case may be, requesting it to direct the Collector to make the reference to it within a period of thirty days

(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 16, or within six months from the date of the Collector's award, whichever period shall first expire.

PROVIDED FURTHER that the Collector may entertain an application after the expiry of the said period, within a further period of one year, if he is satisfied that there was sufficient cause for not filing it within the period specified in the first proviso

### **39. Collector's statement to the Authority**

(1) In making the reference, the Collector shall state for the information of the Authority, 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 10, and the amount of compensation awarded under the provisions of this Act;

(d) the amount paid or deposited under any other provisions of this Act; and

(e) 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.

### **40. Service of notice**

The State or Central Authority, as the case may be, shall thereupon cause a notice specifying the day on which the Authority will proceed to determine the objection, and directing their appearance before the Authority 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.

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

The scope of the enquiry in every such proceeding shall be restricted to a consideration of the interest of the persons affected by the objection

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

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

### **43. Determination of Award by the Authority**

(1) In determining the amount of compensation to be awarded for land acquired under this Act, the Authority shall take into consideration-

*firstly*, the market value and the Award amount in accordance with Schedule I and Schedule II of the Act;

*secondly*, the damage sustained by the person interested, by reason of the taking of any standing crops 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 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 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*, 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, 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 9 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 Authority shall in every case award an amount calculated at the rate of twelve per cent per annum on such market value for the period commencing on and from the date of the publication of the notification under section 9 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.

(3) In addition to the market value of the land as above provided, the Authority shall in every case award a solatium of 100% over the total compensation amount.

### **44. Forms of awards**

(1) Every award under this part shall be in writing signed by the Chairman of the Authority concerned, and shall specify the amount awarded under clause first of sub-section (1) of section 43, 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).

#### **45. Costs**

(1) Every such award shall also state the amount of costs incurred in the proceeding 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 cost shall ordinarily be paid by the Collector, unless the Authority concerned is of the 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.

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

If the sum, which in the opinion of the Authority concerned, 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 Authority concerned may direct that the Collector shall pay interest on such excess at the rate of nine per cent per annum from the date on which he took possession of the land to the date of payment of such excess into Authority

PROVIDED that the award of the Authority concerned may also direct that where such excess or any part thereof is paid to the Authority after the date or expiry of a period of one year from the date on which possession is taken, interest at the rate of fifteen per cent 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 Authority before the date of such expiry

#### **47. Re-determination of the amount of compensation on the basis of the award of the Authority**

(1) where in an award under this part, the Authority concerned allows to the applicant any amount of compensation in excess of the amount awarded by the Collector under section 18, the persons interested in all the other land covered by the same notification under section 9, and who are also aggrieved by the award of the Collector may, notwithstanding that they had not made an application to the Collector, by written application to the Collector within three months from the date of the award of the Authority concerned require that the amount of compensation payable to them may be re-determined on the basis of the amount of compensation awarded by the Authority:

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, required that the matter be referred by the Collector for the determination of the Authority concerned.

## **PART VII**

### **APPORTIONMENT OF COMPENSATION**

#### **48. Particulars of apportionment to be specified**

When 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

#### **49. Dispute as to apportionment**

When the amount of compensation has been settled, 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 disputes to the State or Central Authority, as the case may be.

## **PART VIII**

### **PAYMENT**

#### **50. Payment of Compensation or deposit of same in Court**

(1) On making an award under section 18, 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 by depositing the amount in their bank accounts 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 Authority to which a reference under section 38 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 FURTHER that no person who has received the amount otherwise than under protest shall be entitled to make any application under section 38:

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.

#### **51. Investment of money deposited in respect of lands belonging to person incompetent to alienate**

(1) If any money shall be deposited in the Authority concerned 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 Authority concerned 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 of other approved securities as the Authority concerned 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 money deposited to which this section applies the Authority concerned shall order the costs of the following matters, including therein all reasonable charge and expenses incident thereon, 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 the Authority concerned of the principal of such moneys, and of all proceedings relating thereto, except such as may be occasioned by litigation between adverse claimants.

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

When any money shall have been deposited in the Authority concerned under this Act for any cause other than mentioned in the last preceding section, the Authority 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 paid in such manner as it may consider will give the parties interested therein the same benefit the reform as they might have had from the land in respect whereof such money shall have been deposited or as near thereto as may be.

## **53. 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 cent 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 cent per annum shall be payable from the date or 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.



## **PART IX**

### TEMPORARY OCCUPATION OF LAND

#### **54. Temporary occupation of waste or arable land, procedure when difference as to compensation exists**

(1) 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 terms 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 person 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 there from, 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 State or Central Authority, as the case may be, shall refer such difference to the decision of the Court.

#### **55. 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 54, 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 shall proceed under this Act to acquire the land as if it was needed permanently for a public purpose or for a Company.

#### **56. 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 Authority concerned.

## PART X

### MISCELLANEOUS

#### **57. 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, by the officer therein mentioned, and, in the case of any other notice, 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 member of his family residing with him; and, if no such adult 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 6[registered under sections 28 and 29 of the Indian Post Office Act, 1898 (6 of 1898), and service of it may be proved by the production of the addressee's receipt.

#### **58. Punishment for false information, mala fide action, etc**

(1) If a person, in connection with a requirement or direction under this Act, provides any information or produces any document that the person knows is false or misleading, he shall be liable to be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to one lakh rupees, or with both.

(2) Any rehabilitation and resettlement benefit availed of by making a false claim or through fraudulent means shall be liable to be recovered by the appropriate authority.

(3) Disciplinary proceedings may be drawn up by the disciplinary authority against a Government servant, who if proved to be guilty of a *mala fide* action in respect of any provision of this Act, shall be liable to such punishment including a fine as the disciplinary authority may decide.

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

Whoever willfully obstructs any person in doing any of the acts authorized by section 9 or section 15, or willfully fills up, destroys, damages or displaces any trench or mark made under section 15, 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, or to both.

## **60. 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.

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

(1) The Appropriate 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 there under, 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.

## **62. 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 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 Authority concerned and shall not be take possession of such land until after the question has been determined.

In deciding on such a reference the Authority concerned 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 this Act, 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 9 to 18, 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 18.

### **63. Acquisition of land at cost of a local authority of 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 Authority concerned 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 to the Authority concerned under section 38.

### **64. 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.

### **65. Acceptance of certified copy as evidence**

In any proceeding under this Act, a certified copy of a document registered under the Regulation 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.

### **66. 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 amendments.

### **67. Code of Civil Procedure to apply to proceedings before Authority**

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), shall apply to all proceedings before the Authority under this Act.

### **68. Appeals in proceedings before Court**

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 Authority and from any decree of the High Court passed on such appeal as aforesaid an appeal shall lie to the Supreme Court and from any order or award of the Central Authority an appeal shall lie to the Supreme Court subject to the provisions contained in section 110 of the Code of Civil Procedure, 1908, and in Order XLV thereof.

## **69. Return of Unutilised Land**

(1) The land acquired under this Act shall not be transferred to any other purpose except for a public purpose, and after obtaining the prior approval of the Appropriate Government, and any change in purpose made in violation of this provision shall be void and shall render such land and structures attached to it liable to be reverted to the land owner.

(2) When any land or part thereof, acquired under this Act remains unutilised for a period of five years from the date of taking over the possession, the same shall return to the land owner by reversion;

(3) The Appropriate Government shall return the unutilized land or part thereof, as the case may be, to the original owner of the land from whom it was acquired subject to the refund of one fourth of the amount of compensation paid to him along with the interest on such amount at such rate, as may be specified by the Appropriate Government, from the date of payment of compensation to him till the refund of such amount; and

(4) The person to whom the land is returned being the owner of the land shall be entitled to all such title and rights in relation to such land from which he has been divested on the acquisition of such land.

## **70. Difference in price of land when transferred for higher consideration to be shared**

Whenever the ownership of any land acquired under this Act is transferred to any person for a consideration, twenty per cent of the difference in the acquisition cost and the consideration received, which in no case shall be less than the acquisition cost, duly adjusting for development cost shall be shared amongst the persons from whom the lands were acquired or their heirs, in proportion to the value at which the lands were acquired, and for the purpose, a separate fund may be maintained which shall be administered by the Collector in such manner as may be prescribed.

PROVIDED that this section shall be applicable on each transaction where ownership of the land or part thereof is transferred within a period of ten years from the date of award.

## **71. Provisions to be in addition to existing laws**

The provisions of this law are in addition to and not in derogation of, any other law for the time being in force.

## **72. Power to make rules**

(1) The Appropriate Government shall have power to make rules 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 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.

PROVIDED FURTHER 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.

(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 be published in the Official Gazette, and shall thereupon have the force of law.

### **73. Act to have overriding effect**

The provisions of this Act, shall have effect notwithstanding anything inconsistent contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this law.

### **74. Savings and Repeal Clause**

(1) The Land Acquisition Act 1894 as amended from time to time is hereby repealed

(2) Notwithstanding such repeal, anything done or action taken under the said Act shall be deemed to have been done or taken under the corresponding provisions of this Act

## SCHEDULE I

### Compensation for Land owners

The Following elements shall constitute the minimum Compensation Package to be given to those whose land is acquired under the provisions of this Act:

1. **Market value of the land:** As determined under Section 20 of the Act to be multiplied by three in rural areas;
2. **Value of the assets attached to land:** All assets attached to the land including buildings/trees/wells/crops etc valued by Collector, as determined under section 21 of the Act.

PROVIDED that the combined value of items (1) and (2) above shall be taken to be the compensation amount;’;

3. **Solatum:** A solatum amount of 100% on total compensation.

**The total of all the items listed above shall be taken to be the Final Award towards compensation for land acquisition**

## SCHEDULE II

### **List of Rehabilitation and Resettlement Entitlements for all the affected families (both land owners and the families whose livelihood is primarily dependent on land acquired) in addition to those provided in Schedule I**

#### **1. Provision of Housing Units in case of displacement**

(1) Any affected family owning house and whose house has been acquired shall be provided with a house, without requiring him to pay the price for such house, in an extent of a minimum of 150 square metre of plinth area in rural areas or, as the case may be, 50 square metre of plinth area in urban areas.

(2) Any affected family which is without homestead land and which has been residing in the area continuously for a period of not less than three years preceding the date of notification of the affected area and which has been involuntarily displaced from such area, shall be provided with a house with a house, without requiring him to pay the price for such house, in an extent of a minimum of 150 square metre of plinth area in rural areas or, as the case may be, 50 square metre of plinth area in urban areas.

PROVIDED that any such family which opts not to take the house offered, shall get a one-time financial assistance for house construction, which shall not be less than Rs 1.50 lakhs

*Explanation.*-The houses in urban areas may, if necessary, be provided in multi-storied building complexes.

PROVIDED FURTHER that no family affected by acquisition shall be given more than one house under the provisions of this Act

#### **2. Land for Land**

In the case of Irrigation project, each affected family owning agricultural land in the affected area and whose land has been acquired or lost, or who has, as a consequence of the acquisition or loss of land, been reduced to the status of a marginal farmer or landless, shall be allotted, in the name of each person included in the records of rights with regard to the affected family, a minimum of one acre of land in the command area of the project for which the land is acquired.

PROVIDED that those losing land and belonging to the Scheduled Tribes shall be given land in every project.

PROVIDED FURTHER that where the land is acquired for urbanization purposes, 20 per cent of the developed land will be reserved and offered to land owners, in proportion to their land acquired.



### **3. Annuity Policies**

The Appropriate Government shall, at their cost, arrange for annuity policies that will pay an annuity of two thousand rupees per month, indexed to Consumer Price Index;

### **4. Subsistence Grant for displaced families for a period of one year**

Each affected family which is displaced shall be given a monthly subsistence allowance equivalent to three thousand rupees per month for a period of one year from the date of award.

In addition to this amount, Scheduled Tribes displaced from Scheduled areas shall receive an amount equivalent to fifty thousand rupees.

### **5. Transportation Cost for displaced families**

Each affected family which is displaced shall get a one-time financial assistance of fifty thousand rupees as transportation cost for shifting of the family, building materials, belongings and cattle.

### **6. Cattle Shed/ Petty Shops Cost**

Each affected family having cattle or having a petty shop shall get one-time financial assistance of such amount as the Appropriate Government may prescribe subject to a minimum of twenty five thousand rupees for construction of cattle shed or petty shop as the case may be.

### **7. One time grant to Artisan's etc.**

Each affected family of an artisan, small trader or self-employed person or an affected family which owned non-agricultural land or commercial, industrial or institutional structure in the affected area, and which has been involuntarily displaced from the affected area due to land acquisition, shall get one-time financial assistance of such amount as the appropriate Government may prescribe subject to a minimum of twenty-five thousand rupees.

### **8. Provision of Mandatory Employment**

In case of a project involving land acquisition on behalf of a requiring body-

- (1) The requiring body shall give mandatory employment to at least one member per affected family in the project or arrange for a job in such other project as may be required;

(2) Wherever necessary, the requiring body shall arrange for training of the affected persons, so as to enable such persons to take on suitable jobs;

(3) the requiring body shall offer scholarships and other skill development opportunities to eligible persons from the affected families, as per such criteria as may be fixed by the appropriate Government.

PROVIDED that where the Employer fails to provide regular employment for one member of the affected family, Appropriate Government shall pay to the affected family a sum of rupees two lakhs in lieu of such employment.

### **9. Fishing Rights**

In cases of irrigation or hydel projects, the affected families may be allowed fishing rights in the reservoirs, in such manner as may be prescribed by the Appropriate Government

### **10. One Time Resettlement Allowance**

Each affected family shall be given a one-time 'Resettlement Allowance' of fifty thousand rupees only.

### **11. Miscellaneous**

(1) The stamp duty and other fees payable for registration of the land or house allotted to the affected families shall be borne by the requiring body.

(2) The land for house allotted to the affected families shall be free from all encumbrances.

(3) The land or house allotted may be in the joint names of wife and husband of the affected family.

### **12. Registration fee and the Titles**

(1) The stamp duty and other fees payable for registration of the land or house allotted to the affected families shall be borne by the requiring body.

(2) The land for house allotted to the affected families shall be free from all encumbrances.

### **13. Special Provisions for Schedule Tribes:**

(1) In case of a project involving land acquisition on behalf of a requiring body which involves involuntary displacement of one hundred or more Scheduled Tribes families,

a Tribal Development Plan shall be prepared, in such form as may be prescribed, laying down the details of procedure for settling land rights due but not settled and restoring titles of tribals on alienated land by undertaking a special drive together with land acquisition.

(2) The Tribal Development Plan shall also contain a programme for development of alternate fuel, fodder and non-timber forest produce resources on non-forest lands within a period of five years sufficient to meet the requirements of tribal communities.

(3) The concerned Gram Sabha or the Panchayats at the appropriate level in the Scheduled Areas under the Fifth Schedule or, as the case may be, Councils in the Sixth Schedule Areas shall be consulted in all cases of land acquisition in such areas, including acquisition under the urgency clause, before issue of a notification under the Act, or any other Act of the Union or a State for the time being in force as per the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996 and other relevant laws.

(4) In case of land being acquired from members of the Scheduled Tribes, at least one-third of the compensation amount due shall be paid to the affected families at the outset as first instalment and the rest shall precede the taking over of the possession of the land.

(5) The Scheduled Tribes affected families shall be resettled preferably in the same Schedule Area in a compact block, so that they can retain their ethnic, linguistic and cultural identity.

(6) The resettlement areas predominantly inhabited by the Scheduled Tribes shall get land, to such extent as may be decided by the appropriate Government, free of cost for community and social gatherings.

(7) In case of a project involving land acquisition on behalf of a requiring body, the Scheduled Tribes affected families resettled out of the district will get twenty-five per cent higher monetary benefits under Rehabilitation And Resettlement scheme.

(8) Any alienation of tribal lands in disregard of the laws and regulations for the time being in force shall be treated as null and void; and in the case of acquisition of such lands, the rehabilitation and resettlement benefits shall be available to the original tribal land-owners.

(9) The affected Scheduled Tribes, other traditional forest dwellers and the Scheduled Castes families having fishing rights in a river or pond or dam in the affected area shall be given fishing rights in the reservoir area of the irrigation or hydel projects.

(10) That where the affected Scheduled Tribes are relocated outside of the district then they shall be paid an additional 25 per cent R&R benefits to which they are entitled in monetary terms along with a one time entitlement of fifty thousand rupees.

#### **14. Reservation Benefits**

All benefits, including the reservation benefits available to the Scheduled Tribes and the Scheduled Castes, available to the affected families in the affected areas, shall continue in the resettlement area.

## SCHEDULE III

### Provision of Infrastructural Amenities

For resettlement of populations, the following infrastructural facilities and basic minimum amenities are to be provided at the cost of Requisitioning Authority to ensure that the resettled population in the new village or colony can secure for themselves a reasonable standard of community life and can attempt to minimise the trauma involved in displacement.

A reasonably habitable and planned settlement would have, as a minimum, the following facilities and resources, as appropriate:

1. Roads within the resettled villages and an all-weather road link to the nearest *pucca* road, passages and easement rights for all the resettled families be adequately arranged.
2. Proper drainage as well as sanitation plans executed before physical resettlement.
3. One or more assured sources of safe drinking water for each family as per the norms prescribed by the Government of India;
4. Provision of Drinking water for cattle;
5. Grazing land as per proportion acceptable in the state
6. A reasonable number of Fair Price shops;
7. Panchayat Ghars, as appropriate;
8. Village level Post Offices, as appropriate, with facilities for opening saving accounts;
9. Appropriate seed-cum-fertilizer storage facility if needed;
10. Efforts must be made to provide basic irrigation facilities to the agricultural land allocated to the resettled families if not from the irrigation project, then by developing a cooperative or under some government scheme or special assistance;
11. All new villages established for resettlement of the displaced persons shall be provided with suitable transport facility which must include public transport facilities through local bus services with the nearby growth centres/urban localities;
12. Burial and/or cremation ground, depending on the caste- communities at the site and their practices;
13. Facilities for sanitation, including individual toilet points;

14. Individual single electric connections (or connection through non-conventional sources of energy like solar energy), for each household and for public lighting;
15. Anganwadi's providing child and mother supplemental nutritional services;
16. School as per the provisions of Right to Education Act;
17. Sub health centre within two kilometre range;
18. Primary Health Centre as prescribed by the Government of India;
19. Playground for children;
20. One community centre for every 100 families;
21. Places of worship and chowpal/ tree platform for every 50 families for community assembly, of numbers and dimensions consonant with the affected area;
22. Separate land must be earmarked for traditional tribal institutions;
23. The forest dweller families must be provided, where possible, with their traditional rights on non-timber forest produce and common property resources, if available close to the new place of settlement and, in case any such family can continue their access or entry to such forest or common property in the area close to the place of eviction, they must continue to enjoy their earlier rights to the aforesaid sources of livelihood;
24. Appropriate security arrangements must be provided for the settlement, if needed;
25. Veterinary service centre as per norms.