

Bill No. 152 of 2015

THE RIGHT TO FAIR COMPENSATION AND TRANSPARENCY IN
LAND ACQUISITION, REHABILITATION AND RESETTLEMENT
(SECOND AMENDMENT) BILL, 2015

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BILL

*further to amend the Right to Fair Compensation and Transparency in Land
Acquisition, Rehabilitation and Resettlement Act, 2013.*

BE it enacted by Parliament in the Sixty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Second Amendment) Act, 2015. Short title and commencement.

(2) It shall be deemed to have come into force on the 31st day of December, 2014.

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30 of 2013. 2. In the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as the principal Act), for the words "private company" wherever they occur, the words "private entity" shall be substituted. Substitution of certain expression throughout the Act.

Amendment of section 2.	<p>3. In the principal Act, in sub-section (2) of section 2, after the second proviso, the following proviso shall be inserted, namely:—</p> <p>"Provided also that the acquisition of land for the projects listed in sub-section (1) of section 10A and the purposes specified therein shall be exempted from the provisions of the first proviso to this sub-section."</p>	5
Amendment of section 3.	<p>4. In the principal Act, in section 3,—</p> <p>(i) in clause (j), in sub-clause (i), for the words and figures "the Companies Act, 1956", the words and figures "the Companies Act, 2013" shall be substituted;</p> <p>(ii) after clause (y), the following clause shall be inserted, namely:—</p> <p>'(yy) "private entity" means any entity other than a Government entity or undertaking and includes a proprietorship, partnership, company, corporation, non-profit organisations or other entity under any law for the time being in force;'</p>	1 of 1956. 18 of 2013.
Insertion of new Chapter IIIA.	<p>5. In the principal Act, after Chapter III, the following Chapter shall be inserted, namely:—</p> <p style="text-align: center;">"CHAPTER IIIA</p> <p style="text-align: center;">PROVISIONS OF CHAPTER II AND CHAPTER III NOT TO APPLY TO CERTAIN PROJECTS</p>	15
Power of appropriate Government to exempt certain projects.	<p>10A. (1) The appropriate Government may, in the public interest, by notification, exempt any of the following projects from the application of the provisions of Chapter II and Chapter III of this Act, namely:—</p> <p>(a) such projects vital to national security or defence of India and every part thereof including preparation for defence or defence production;</p> <p>(b) rural infrastructure including electrification;</p> <p>(c) affordable housing and housing for the poor people;</p> <p>(d) industrial corridors set-up by the appropriate Government and its undertakings (in which case the land shall be acquired up to one kilometer on both sides of designated railway line or roads for such industrial corridor); and</p> <p>(e) infrastructure projects including projects under public-private partnership where the ownership of land continues to vest with the Government:</p> <p>Provided that the appropriate Government shall, before the issue of notification, ensure the extent of land for the proposed acquisition keeping in view the bare minimum land required for such project.</p> <p>(2) The appropriate Government shall undertake a survey of its wasteland including arid land and maintain a record containing details of such land, in such manner as may be prescribed by the appropriate Government."</p>	20 25 30 35
Amendment of section 24.	<p>6. In the principal Act, in section 24, in sub-section (2), after the proviso, the following proviso shall be inserted, namely:—</p> <p>"Provided further that in computing the period referred to in this sub-section, any period or periods during which the proceedings for acquisition of the land were held up on account of any stay or injunction issued by any court or the period specified in the award of a Tribunal for taking possession or such period where possession has been taken but the compensation is lying deposited in a court or in any designated account maintained for this purpose shall be excluded."</p>	40
Amendment of section 31.	<p>7. In the principal Act, in section 31, in sub-section (2), in clause (h), after the words "affected families", the words "including compulsory employment to at least one member of such affected family of a farm labourer" shall be inserted.</p>	45

<p>8. In the principal Act, in section 46, in sub-section (6), in the <i>Explanation</i>, in clause (b), the words "any person other than" shall be omitted.</p>	<p>Amendment of section 46.</p>
<p>9. In the principal Act, after section 67, the following section shall be inserted, namely:—</p>	<p>Insertion of new section 67A.</p>
<p>5 "67A. The Authority shall, after receiving reference under section 64 and after giving notice of such reference to all parties concerned, hold the hearing in the district where the land acquisition takes place for settlement of the objections raised in the reference."</p>	<p>Hearing to be held by Authority in district or districts to decide grievances.</p>
<p>10. In the principal Act, for section 87, the following section shall be substituted, namely:—</p>	<p>Substitution of new section for section 87.</p>
<p>10 "87. Where an offence under this Act has been committed by any person who is or was employed in the Central Government or the State Government, as the case may be, at the time of commission of such alleged offence, the court shall take cognizance of such offence provided the procedure laid down in section 197 of the Code of Criminal Procedure, 1973 is followed." 2 of 1974.</p>	<p>Offences by Government officials.</p>
<p>15 11. In the principal Act, in section 101, for the words "a period of five years", the words "a period specified for setting-up of any project or for five years, whichever is later," shall be substituted.</p>	<p>Amendment of section 101.</p>
<p>12. In the principal Act, in section 105,—</p>	<p>Amendment of section 105.</p>
<p>(i) for sub-section (3), the following sub-section shall be substituted, namely:—</p>	
<p>20 "(3) The provisions of this Act relating to the determination of compensation in accordance with the First Schedule, rehabilitation and resettlement in accordance with the Second Schedule and infrastructure amenities in accordance with the Third Schedule shall apply to the enactments relating to land acquisition specified in the Fourth Schedule with effect from 1st January, 25 2015.";</p>	
<p>(ii) sub-section (4) shall be omitted.</p>	
<p>13. In the principal Act, in section 109, in sub-section (2), after clause (d), the following clause shall be inserted, namely:—</p>	<p>Amendment of section 109.</p>
<p>30 "(dd) the manner of undertaking a survey of waste land including arid land and maintenance of the record containing the details of arid land under sub-section (2) of section 10A;"</p>	
<p>14. In the principal Act, in section 113, in sub-section (1),—</p>	<p>Amendment of section 113.</p>
<p>(i) for the words "the provisions of this Part", the words "the provisions of this Act" shall be substituted;</p>	
<p>35 (ii) in the proviso, for the words "a period of two years", the words "a period of five years" shall be substituted.</p>	
<p>Ord. 4 of 2015. 15. (1) The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Ordinance, 2015, is hereby repealed.</p>	<p>Repeal and saving.</p>
<p>40 (2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.</p>	

STATEMENT OF OBJECTS AND REASONS

The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (herein referred to as the Fair Compensation in Land Acquisition Act) was enacted to provide for just and fair compensation to the owners of the land and affected families for the land acquisitions made under the said Act and the 13 Acts specified in the Fourth Schedule, which makes provision for acquisition of land for the purposes specified in the respective Acts, in terms of the provisions made in the First, Second and Third Schedule to the Fair Compensation in Land Acquisition Act. In other words, the benefits of compensation, rehabilitation and resettlement provided in the Fair Compensation in Land Acquisition Act is proposed to be extended in cases of land acquisition made under the Acts specified in the Fourth Schedule.

2. In view of the deadline provided in Section 105 of the Fair Compensation in Land Acquisition Act and the necessity of extending the enhanced compensation, rehabilitation and resettlement to land acquisitions under thirteen Acts of the Fourth Schedule and to make necessary provisions for infrastructure projects the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Ordinance, 2014 was promulgated on the 31st December, 2014. On the 24th February, 2015 a replacement Bill was introduced in Lok Sabha. The Bill was passed by Lok Sabha with some amendments on the 10th March, 2015. Notice for Motion for consideration and passing of the Bill as passed by the Lok Sabha was given in Rajya Sabha on the 13th March, 2015. However, the Bill could not be taken up for consideration in the Rajya Sabha as the Rajya Sabha was prorogued on the 28th March, 2015.

3. Section 105 of the Act of 2013 as amended by the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Ordinance, 2014 extends the benefit of enhanced compensation in case of land acquisition made under the thirteen Acts listed in the Fourth Schedule of the Act.

4. Section 105 of the Act of 2013 as amended by the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Ordinance, 2014 provided to extend the benefit of enhanced compensation, rehabilitation and resettlement in case of land acquisitions done under the 13 Acts listed in the Fourth Schedule of the Act. With a view to give continuity to the provisions of the said Ordinance, it was necessary to repromulgate the Ordinance and get the same replaced by the Replacement Bill in Parliament so that enhanced compensation and rehabilitation and resettlement made available through the provisions of earlier Ordinance continue to remain in force in cases of land acquisitions made under the thirteen Acts listed in the Fourth Schedule to the Act of 2013.

5. As the Council of States was not in session and immediate action was required to be taken by the Central Government to give continuity to the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Ordinance, 2014 and to expedite the process of land acquisition, the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Ordinance, 2015 (No. 4 of 2015) was promulgated on 3rd April, 2015.

6. The said Ordinance contains enabling provision necessary to expedite the process of land acquisition for strategic and development activities, such as, national security or defence of India including preparation for defence and defence production; rural infrastructure including electrification; affordable housing and housing for poor people; industrial corridors set-up by the appropriate Government and its undertakings (in which case the land shall be acquired up to one kilometre on both sides of designated railway line or roads for such industrial corridor); infrastructure projects including projects under public private partnership where the ownership of the land continues to vest with the Government, it is proposed to continue with the "Consent" clause provided under sub-section (2) of section 2 of the Fair

Compensation in Land Acquisition Act in case of the acquisitions provided in the Act except in cases provided above.

7. Further, to ensure the growth and development of the country, while safeguarding the welfare of farmers, it is proposed to empower the appropriate Government to exempt them from "Social Impact Assessment" and "Special Provisions for Safeguarding Food Security" provisions of the Fair Compensation in Land Acquisition Act. However, the appropriate Government shall, before the issue of notification, ensure the extent of land for the proposed acquisition keeping in view the bare minimum land required for such project. The appropriate Government shall undertake a survey of its wasteland including arid land and maintain a record containing details of such land, in such manner as may be prescribed by the appropriate Government.

8. It is proposed to make consequential amendment by substituting the "Companies Act, 1956" with the "Companies Act, 2013" where the word "Company" has been defined. At present, the provisions of the Fair Compensation in Land Acquisition Act extend to "private company" thereby excluding others like public company, proprietorship, partnership, nonprofit organisation, etc. Therefore, in place of the term "private company", the term "private entity" is proposed to be substituted and defined accordingly.

9. It is proposed to exclude all such period, that is the period during which the proceedings for acquisition of the land have been held up on account of any stay or injunction issued by any court, or the period specified in the award of a Tribunal for taking possession or such period where possession has been taken but the compensation is lying deposited in a court or in designated account maintained for this purpose, in calculation of five years period as specified in sub-section (2) of section 24 of the Fair Compensation in Land Acquisition Act, arising out of the Land Acquisition Act, 1894.

10. Section 31 of the Act is proposed to be amended so that in the Rehabilitation and Resettlement Award passed by Collector for affected families, compulsory employment to at least one member of such affected family of a farm labourer is also included.

11. Section 46 is proposed to be modified so that the rehabilitation and resettlement benefits are available to land owners in case of purchase of land through private negotiations by non-governmental entities.

12. A new Section 67 A is proposed to be inserted in the Act mandating that the Land Acquisition, Rehabilitation and Resettlement Authority shall hold the hearing in the district where the land acquisition takes place for settlement of the objections raised in the reference under section 64 of the Act.

13. Section 87 is proposed to be amended to provide that the court shall take cognizance of offence by Government officials under the Act in accordance with the procedure laid down in section 197 of the Code of Criminal Procedure, 1973.

14. Section 101 which deals with return of unutilised land is being amended to increase the period after which unutilised land will be reverted back to land owner or to Land Bank from "five years" at present to "a period specified for setting up of any project or for five years whichever is later".

15. In section 113 of the Fair Compensation in Land Acquisition Act, the word "Part" has been inadvertently used instead of the word "Act" which needs to be rectified. Further, the period provided for removal of difficulties is being extended to five years.

16. The Bill proposes to replace the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Ordinance, 2015 (4 of 2015).

ANNEXURE

EXTRACTS FROM THE RIGHT TO FAIR COMPENSATION AND TRANSPARENCY IN LAND ACQUISITION,
REHABILITATION AND RESETTLEMENT ACT, 2013

(30 OF 2013)

	*	*	*	*	*
Application of Act.	2. (1) *	*	*	*	*
	(2) The provisions of this Act relating to land acquisition, consent, compensation, rehabilitation and resettlement, shall also apply, when the appropriate Government acquires land for the following purposes, namely :—				

	*	*	*	*	*
Definitions.	3. In this Act, unless the context otherwise requires,—				
	(j) “company” means—				
	(i) a company as defined in section 3 of the Companies Act, 1956, other than a Government company;				

1 of 1956.

	*	*	*	*	*
Land acquisition process under Act No.1 of 1894 shall be deemed to have lapsed in certain cases.	24. (1) *	*	*	*	*
	(2) Notwithstanding anything contained in sub-section (1), in case of land acquisition proceedings initiated under the Land Acquisition Act, 1894, where an award under the said section 11 has been made five years or more prior to the commencement of this Act but the physical possession of the land has not been taken or the compensation has not been paid the said proceedings shall be deemed to have lapsed and the appropriate Government, if it so chooses, shall initiate the proceedings of such land acquisition afresh in accordance with the provisions of this Act:				

Provided that where an award has been made and compensation in respect of a majority of land holdings has not been deposited in the account of the beneficiaries, then, all beneficiaries specified in the notification for acquisition under section 4 of the said Land Acquisition Act, shall be entitled to compensation in accordance with the provisions of this Act.

CHAPTER V

REHABILITATION AND RESETTLEMENT AWARD

	*	*	*	*	*
Rehabilitation and Resettlement Award for affected families by Collector.	31. (1) *	*	*	*	*
	(2) The Rehabilitation and Resettlement Award shall include all of the following, namely:—				
	(h) details of mandatory employment to be provided to the members of the affected families;				

46. (1) * * * *

(6) If any land has been purchased through private negotiations by a person on or after the 5th day of September, 2011, which is more than such limits referred to in sub-section (1) and, if the same land is acquired within three years from the date of commencement of this Act, then, forty per cent. of the compensation paid for such land acquired shall be shared with the original land owners.

Provisions relating to rehabilitation and resettlement to apply in case of certain persons other than specified persons.

Explanation.—For the purpose of this section, the expression—

* * * *

(b) "specified persons" includes any person other than—

(i) appropriate Government;

(ii) Government company;

(iii) association of persons or trust or society as registered under the Societies Registration Act, 1860, wholly or partially aided by the appropriate Government or controlled by the appropriate Government.

21 of 1860.

* * * *

87. (1) Where an offence under this Act has been committed by any department of the Government, the head of the department, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Offences by Government departments.

Provided that nothing contained in this section shall render any person liable to any punishment if such person proves that the offence was committed without his knowledge or that such person exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a Department of the Government and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any officer, other than the head of the department, such officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

* * * *

101. When any land acquired under this Act remains unutilised for a period of five years from the date of taking over the possession, the same shall be returned to the original owner or owners of their legal heirs, as the case may be, or to the Land Bank of the appropriate Government by reversion in the manner as may be prescribed by the appropriate Government.

Return of unutilised land.

Explanation.—For the purpose of this section, "Land Bank" means a governmental entity that focuses on the conversion of Government owned vacant, abandoned, unutilised acquired lands and tax-delinquent properties into productive use.

* * * *

105. (1) * * * *

(3) The Central Government shall, by notification, within one year from the date of commencement of this Act, direct that any of the provisions of this Act relating to the determination of compensation in accordance with the First Schedule and rehabilitation and resettlement specified in the Second and Third Schedules, being beneficial to the affected families, shall apply to the cases of land acquisition under the enactments specified in the Fourth Schedule or shall apply with such exceptions or modifications that do not reduce the compensation or dilute the provisions of this Act relating to compensation or rehabilitation and resettlement as may be specified in the notification, as the case may be.

Provisions of this Act not to apply in certain cases or to apply with certain modifications.

(4) A copy of every notification proposed to be issued under sub-section (3), shall be laid in draft 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 in 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 disapproving the issue of the notification or both Houses agree in making any modification in the notification, the notification shall not be issued or, as the case may be, shall be issued only in such modified form as may be agreed upon by both the Houses of Parliament.

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Power to
remove
difficulties.

113. (1) If any difficulty arises in giving effect to the provisions of this Part, the Central Government may, by order, make such provisions or give such directions not inconsistent with the provisions of this Act as may appear to it to be necessary or expedient for the removal of the difficulty:

Provided that no such power shall be exercised after the expiry of a period of two years from the commencement of this Act.

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LOK SABHA

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further to amend the Right to Fair Compensation and Transparency in Land
Acquisition, Rehabilitation and Resettlement Act, 2013.

*(Shri Birender Singh, Minister of Rural Development, Panchayati Raj and Drinking
Water and Sanitation)*