

Bill No. 20 of 2015

**THE RIGHT TO FAIR COMPENSATION AND TRANSPARENCY IN
LAND ACQUISITION, REHABILITATION AND RESETTLEMENT
(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 (Amendment) Act, 2015.

Short title
and
commence-
ment.

(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
Act.

3. In the principal Act, in section 2,—

Amendment
of section 2.

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(i) in sub-section (1), in clause (b), in sub-clause (i), the words "private hospitals, private educational institutions and" shall be omitted;

(ii) in sub-section (2), after the second proviso, the following proviso shall be inserted, namely:—

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

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Amendment
of section 3.

4. In the principal Act, in section 3,—

(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;

1 of 1956.
18 of 2013.

(ii) after clause (y), the following clause shall be inserted, namely:—

'(yy) "private entity" means any entity other than a Government entity or undertaking and includes a proprietorship, partnership, company, corporation, non-profit organisation or other entity under any law for the time being in force.'

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Insertion of
new Chapter
IIIA.

5. In the principal Act, after Chapter III, the following Chapter shall be inserted, namely:—

"CHAPTER IIIA

PROVISIONS OF CHAPTER II AND CHAPTER III NOT TO APPLY TO CERTAIN PROJECTS

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Power of
appropriate
Government
to exempt
certain
projects.

10A. 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:—

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

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(b) rural infrastructure including electrification;

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

(d) industrial corridors; and

(e) infrastructure and social infrastructure projects including projects under public-private partnership where the ownership of land continues to vest with the Government."

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Amendment
of section 24.

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

"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 lying deposited in a court or in any account maintained for this purpose shall be excluded."

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Amendment
of section 46.

7. In the principal Act, in section 46, in sub-section (6), in the *Explanation*, in clause (b), the words "any person other than" shall be omitted.

Substitution
of new
section for
section 87.

8. In the principal Act, for section 87, the following section shall be substituted, namely:—

Offences by
Government
officials.

"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, no court shall take cognizance of such offence except with the previous sanction of the appropriate Government, in the manner provided in section 197 of the Code of Criminal Procedure, 1973."

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2 of 1974.

Amendment
of section
101.

9. 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.

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10. In the principal Act, in section 105,—

Amendment
of section
105.

(i) for sub-section (3), the following sub-section shall be substituted, namely:—

"(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, 2015."

(ii) sub-section (4) shall be omitted.

11. In the principal Act, in section 113, in sub-section (1),—

Amendment
of section
113.

(i) for the words "the provisions of this Part", the words "the provision of this Act" shall be substituted;

(ii) in the proviso, for the words "a period of two years", the words "a period of five years" shall be substituted.

Ord. 9 of 2014.

12. (1) The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Ordinance, 2014, is hereby repealed.

Repeal and
saving.

(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.

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 provisions 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 the 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. As the Parliament was not in session and immediate action was required to be taken by the Central Government to make applicable the provisions relating to compensation, rehabilitation and resettlement of Fair Compensation in Land Acquisition Act to the thirteen Acts mentioned in the Fourth Schedule and to expedite the process of land acquisition, for the purposes given in succeeding paragraph and to carry out certain other amendments, an Ordinance, namely, the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Ordinance, 2014 (Ord. 9 of 2014) was promulgated on 31st December, 2014.

3. With a view 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; industrial corridors; infrastructure and social 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. 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.

4. Under Fair Compensation in Land Acquisition Act, the land may be acquired for public purpose. In order to ensure better health and educational facilities in the country, it is proposed to include private hospitals and private educational institutions within the ambit of the 'public purpose'.

5. 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.

6. It is proposed to exclude all such period, that is the period during which the proceeding 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 any 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.

7. 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.

8. Section 87 is proposed to be amended so that action against an official of the Government will be taken as per section 197 of the Code of Criminal Procedure.

9. 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'.

10. In section of the 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.

11. The Bill proposes to replace the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Ordinance, 2014 (Ord. 9 of 2014).

NEW DELHI;

BIRENDER SINGH.

The 16th February, 2015.

ANNEXURE

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

(30 OF 2013)

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Application
of Act.

2. (1) The provisions of this Act relating to land acquisition, compensation, rehabilitation and resettlement, shall apply, when the appropriate Government acquires land for its own use, hold and control, including for Public Sector Undertakings and for public purpose, and shall include the following purposes, namely:—

(a) * * * * *

(b) for infrastructure projects, which includes the following, namely:—

(i) all activities or items listed in the notification of the Government of India in the Department of Economic Affairs (Infrastructure Section) number 13/6/2009-INF, dated the 27th March, 2012, excluding private hospitals, private educational institutions and private hotels;

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(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:—

* * * * *

Provided further that the process of obtaining the consent shall be carried out along with the Social Impact Assessment study referred to in section 4:

* * * * *

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 (1 of 1956), other than a Government company;

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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.

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46. (1) * * * *

(6) If any land has been purchased through private negotiations by a persons 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 person other than specified persons.

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

(a) * * * *

(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 its 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.

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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 or 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.

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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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BILL

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

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