

Presentation on RFCTLARR Act, 2013

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The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013 : Salient features

- The new Act has come into force w.e.f. 01.01.2014
- R&R is an integral part of the land acquisition including purchase of land through private negotiations beyond a threshold limit fixed by the state government
- Transparency & Participatory approach at various stages of the land acquisition, R&R processes
- Consent inbuilt in certain cases to ensure participation of the land owners
- Urgency Clause limited to defence, national security and natural calamities.
- **To ensure sustainable livelihood of the affected families**
- Dedicated Authority for disposal of disputes
- **No displacement before rehabilitation**
- **Schedule I,II and III of the Act specify details of compensation, rehabilitation measures and infrastructure facilities in resettlement area.**

Public Purpose (Section 2)

1. Land for strategic purposes relating to armed forces, national security or defence, police, safety of the people;
2. Land for infrastructure:
 - (i) items listed in circular of Government of India, 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
 - (ii) projects involving agro-processing, supply of inputs to agriculture, warehousing, cold storage facilities, marketing infrastructure for agriculture and allied activities such dairy, fisheries, and meat processing as set up or owned by the appropriate
 - (iii) project for industrial corridors or mining activities, national investment and manufacturing zones as designated in the national manufacturing Policy;

Public Purpose...contd/...

- (iv) project for water harvesting and water conservation structures, sanitation;
- (v) project for Government administered and government aided educational and research schemes or institutions;
- (vi) project for sports, health care, tourism, transportation, space programme,
- (vii) any infrastructure facility as may be notified in this regard by the Central Government and after tabling of such notification in Parliament;

3.Land for the project affected people

4.Land for planned development or improvement of village or urban sites or for residential purpose to weaker sections;

5.Land for persons residing in areas affected by natural calamities or displaced

Provision of Public Consent (Section 2)

- To ensure transparency and participation while acquiring land for public purpose
 - ✓ consent of at least 70% of the land owners in case of Public Private Partnership Projects where the ownership of land continues to vest with the Government
 - ✓ consent of at least 80% of the land owners in the cases of land acquisition for Private Projects
- In Scheduled Areas prior consent of the Gram Sabhas /Panchayats/autonomous district councils mandatory in any cases of land acquisition

Definition of Affected family (Section 3)

- a family whose land or other immovable property has been acquired;
- **a family which has lost its livelihood;**
- a family of tribals and other traditional forest dwellers that have lost any of their traditional rights recognized under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 due to acquisition of land;
- A member of the family who has been assigned land by the Govt.

Provisions relating to Compensation, R & R and infrastructural facilities are applicable on certain other Acts (Section 105)

LIST OF ENACTMENTS REGULATING LAND ACQUISITION AND REHABILITATION AND RESETTLEMENT

1. The Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958).
2. The Atomic Energy Act, 1962 (33 of 1962).
3. The Damodar Valley Corporation Act, 1948 (14 of 1948).
4. The Indian Tramways Act, 1886 (1 of 1886)
5. The Land Acquisition (Mines) Act, 1885 (18 of 1885).
6. The Metro Railways (Construction of Works) Act, 1978 (33 of 1978).
7. **The National Highways Act, 1956 (48 of 1956).**
8. The Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962).
9. The Requisitioning and Acquisition of immovable Property Act, 1952 (30 of 1952).
10. The Resettlement of Displaced Persons (Land Acquisition) Act, 1948 (60 of 1948)
11. The Coal Bearing Areas Acquisition and Development Act, 1957 (20 of 1957).
12. The Electricity Act, 2003 (36 of 2003).
13. The Railways Act, 1989 (24 of 1989).

Major issues for Determination of compensation, Rehabilitation and Resettlement

(1) Market value of land

a) Determination

b) Date of determination

(i) Cases where awards declared prior to 1.01.2014 [24 (1) (b)]

(ii) Cases where award declared after 1.01.2014[24(1)(a)]

(c) Factors for determination of market value of land

i. Transaction of land properties

ii. Classification of land

iii. Abnormal transactions

Difference between Market value, Compensation and Awards

(a) Market value (Section 26)

- i. Market value as determined on the basis of transaction in the SRO office.
- ii. Multiplication factors

(b) Compensation (Section 27)

- i. Market Value
- ii. Value of Assets

(c) Awards (Section 30)

- i. Compensation
- ii. Solatium

Preparation of Rehabilitation and Resettlement Scheme

- (a) Appointment of Administrator (Section 43)
 - (i) Census of affected families
 - (ii) Definition of affected families.
- (b) R&R commissioner
- (c) R &R Authority
 - (i) Grievances redressal mechanism
 - (ii) Jurisdiction of lower civil courts are barred.

Land Acquisition Awards (Section 11 to 30)

- No objective method for calculation of the market value of land under the LA Act, 1894.

In new Act -

Market value is higher of -

- (a) the market value, if any, **specified in the** Indian Stamp Act, 1899
- (b) average sale price for similar type of land in the vicinity
- (c) average sale price already paid or agreed to be paid in private or PPP projects

Further, to ensure adequate compensation to the land owners, the market value calculated shall be multiplied by a factor of two in the rural area and by a factor of one in the urban area as specified in the **First Schedule**.

- Solatium of 100% of the compensation amount

Land Acquisition Awards (Section 11 to 30)...contd.

A Comprehensive Compensation Package (First Schedule)

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 sale price for similar type of land situated in the nearest village or nearest vicinity area:

or

c) consented amount of compensation as agreed upon under sub-section (2) of section 2 in case of acquisition of lands for private companies or for public private partnership projects,

whichever is higher

PROVIDED THAT THE MARKET VALUE SO CALCULATED FOR RURAL AREAS SHALL BE MULTIPLIED BY A FACTOR OF ONE TO TWO.

2. Value of the assets attached to land: Building/Trees/Wells/Crop etc. as valued by relevant govt. authority;

Total compensation = 1+2

Land Acquisition Awards (Section 11 to 30)...contd.

3. Solatium: 100% of total compensation

4. Where land is acquired for urbanization, 20% of the developed land will be reserved and offered to land owning project affected families, in proportion to their land acquired and at a price equal to cost of acquisition and the cost of development.

5. The Company for whom land is being acquired may offer shares limited to 25% of the Compensation amount .

R&R Awards (Section 31 to 42)

3. If a house is lost in **rural** areas, a constructed house shall be provided as per the **Indira Awas Yojana specifications**.

If a house is lost in **urban** areas, a constructed house shall be provided, which will be not less **than 50 sq. mts.** in plinth area.

In either case the equivalent cost of the house may also be provided in lieu of the house as per the preference of the project affected family;

4. **One acre** of land to each family in the **command area**, if land is acquired for an irrigation project if possible BUT the same shall be in lieu of Compensation as far as possible;

5. Rs 50,000 for transportation;

6. A one-time '**Resettlement Allowance**' of Rs 50,000;

Provisions of Livelihood for the Project Affected Family(PAFs)

- 1. Land for Land in case of land acquired for irrigation projects**
 - **Minimum one acre of land for general**
- 2. Offer for Developed Land in Urban areas**
 - **20% of the developed area to the affected families**
- 3. Choice of Annuity or Employment**
 - **Jobs to each affected family after skill development, in case project creates job**
 - or**
 - **One time payment of Rs five lakh per PAF**
 - or**
 - **Annuity policies Rs 2000 per family per month for 20 years**

Provisions of Livelihood for the Projected Affected Family(PAFs)

4.Subsistence grant for displaced families for a period of one year

- Monthly subsistence allowance of Rs. 3000/- per family
- In addition to above weaker section family displaced from a scheduled area will also get Rs.50,000/-

5. Cattle shed /petty shops cost

- Each affected family having cattle or petty shop shall get one time financial assistance subject to minimum of Rs.25000/- for construction of shed / shop

Provisions of Livelihood for the Projected Affected Family(PAFs)

6. **One-time grant to artisan, small traders and certain others**
 - Each affected family of an artisan, small traders and certain self-employed shall get one time financial assistance subject to minimum of Rs.25000/- for construction of shed / shop
7. **Fishing rights**
 - In case of irrigation or hydel projects, the affected families can be given fishing rights in the reservoirs
8. **One-time Resettlement Allowance**
 - Each affected family shall be given one-time “Resettlement Allowance “ of Rs. 50,000/-

Special Provisions for ST/SCs of the Society

In addition to the R&R package, weaker section families will be entitled to the following additional benefits:

- i. Prior consent of the Gram Sabha in Schedule fifth areas
- ii. **Land to be given to each family in every project in the case of irrigation projects;**
- iii. One time financial assistance of Rs. 50,000 per family;
- iv. Families settled outside the district shall be entitled to an additional 25% R&R benefits;
- v. Payment of one third of the compensation amount at very outset;
- vi. Preference in relocation and resettlement in area in same compact block;
- vii. Free land for community and social gatherings;
- viii. In case of displacement, a *Development Plan* is to be prepared.
- ix. Continuation of reservation and other Schedule V and Schedule VI area benefits from displaced area to resettlement area.

Infrastructural Amenities under R&R

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.

Infrastructural Amenities under R&R

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
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.

Infrastructural Amenities under R&R

15. Anganwadi's providing child and mother supplemental nutritional services.
16. School as per the provisions of the Right of Children to Free and Compulsory Education Act, 2009 (35 of 2009);
17. Sub-health centre within two kilometres range.
18. Primary Health Centre as prescribed by the Government of India.
19. Playground for children.
20. One community centre for every hundred families.
21. Places of worship and chowpal/tree platform for every fifty 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 forest 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.

Application of R&R for purchasing land through private negotiations (Section 46)

- If private purchase is **beyond certain limits as specified by the appropriate Governments** than R&R benefits to be extended to the affected families
- R & R scheme to be approved by the Commissioner for the R & R
- No land use change permitted if R & R is not complied with in full

Land Acquisition, Rehabilitation & Resettlement Authority (Section 51)

- Single member authority
- Reference to Authority within **six weeks** of the Collector's award
- Cases to be decided in **six months**
- Jurisdiction of civil courts barred
- Appeals to High Court with in sixty days

Penalties (Section 84 to 90)

Stringent and Comprehensive Penalties Regime for Companies and Government:

- Punishment for false information, mala fide action, etc.
- Penalty for contravention of provisions of Act.

Thank You