

THE ACQUISITION OF WASTE LAND ACT, 1950**CONTENTS**

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THE ACQUISITION OF WASTE LAND ACT, 1950

ACT NO. XIX OF 1950

[18th May, 1950]

An Act to provide for the acquisition for public purposes of waste land in Bangladesh.*

WHEREAS it is expedient to provide for the acquisition for public purposes of waste land in Bangladesh;

It is hereby enacted as follows:-

1. (1) This Act may be called the ¹[* * *] Acquisition of Waste Land Act, 1950. Short title and extent

(2) It extends to the whole of Bangladesh except any area constituted a municipality under the provisions of ²[the Paurashava Ordinance, 1977 (XXVI of 1977)].

2. In this Act, unless there is anything repugnant in the subject or context,- Definitions

(1) “Collector” includes Deputy Commissioner and such other officers as may be authorised by the Government to perform all or any of the functions of a Collector under this Act;

(2) “waste land” means any land including marshy tracts, water courses, and jungle areas, which has not grown any crop for five consecutive years or more immediately preceding the date of publication of the notification

* Throughout this Act, the words “Bangladesh” and “Government” were substituted for the words “East Pakistan” and “Provincial Government” respectively by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

¹ The words “East Bengal” were omitted by Article 6 of the Bangladesh (Adaptation of Laws) Order, 1972 (President’s Order No. 48 of 1972).

² The words, comma, brackets and figures “the Paurashava Ordinance, 1977 (Ordinance No. XXVI of 1977)” were substituted for the words, comma and figures “the Municipal Administration Ordinance, 1960” by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

under section 3 in respect of such land, but does not include-

- (i) any land which has been acquired before such date or has been held from before such date for industrial or building purposes or for the purposes of trade or business;
 - (ii) any land which has been held from before such date for purposes connected with the cultivation or manufacture of tea;
 - (iii) any land used for homestead purposes together with any garden appertaining to a homestead;
- (3) "person interested" includes all persons claiming an interest in compensation to be made on account of the acquisition of any land under this Act;
- (4) "public purpose" includes,-
- (a) the production of food; or
 - (b) the afforestation of land; or
 - (c) the carrying out of irrigation or drainage schemes; or
 - (d) the provision of sites for the setting up of model villages; or
 - (e) the reclamation of land for bringing it under cultivation; or
 - (f) the settlement of land with any person or persons, in order to provide them with a means of livelihood or with holdings of an economic size or in order to enable such person or persons to carry on large scale farming on a co-operative basis or otherwise by the use of power-driven mechanical appliances;
- (5) "prescribed" means prescribed by rules made under this Act.

Publication of preliminary notification and powers of officers on the issue of such notification

3. (1) Whenever it appears to the Government that any waste land (hereinafter in this Act referred to as land) is needed or is likely to be needed for any public purpose, a notification to that effect shall be published in the *official Gazette*, and the Collector shall cause public notice of the substance of such notification to be given at convenient places on or near the land.

(2) Thereupon it shall be lawful for any officer either generally or specially authorised by the Government in this behalf, and for his servants and workmen,-

- (a) to enter upon and survey and take levels of the land;
- (b) to dig or bore into the sub-soil;
- (c) to do all other acts necessary to ascertain whether the land is adapted for such purpose;
- (d) to set out the boundaries of the land proposed to be taken and the intended line of the work (if any) proposed to be made thereon;
- (e) to mark such levels, boundaries and line by placing marks and cutting trenches;
- (f) and where otherwise the survey cannot be completed and the levels taken and the boundaries and line marked, to cut down and clear away any fence or jungle.

4. (1) Any person interested in any land which has been notified under sub-section (1) of section 3, as being needed or likely to be needed for a public purpose, may, within fifteen days after the issue of the notification, object to the acquisition of the land. Objections

(2) Every objection under sub-section (1) shall be made to the Collector in writing, and the Collector shall, after giving the objector an opportunity of being heard and after making such inquiry, if any, as he thinks necessary, submit the case for the decision of the Government together with the record of the proceedings held by him and a report containing his recommendations on the objections. The decision of the Government on the objections shall be final.

(3) For the purpose of this section, a person shall be deemed to be interested in land who would be entitled to claim an interest in compensation if the land were acquired under this Act.

Declaration that land is required for a public purpose

5. (1) When the Government is satisfied, after considering the report, if any, made under sub-section (2) of section (4), that the land is needed for a public purpose, a declaration shall be made to that effect under the signature of a Secretary to ¹[the] Government or of some officers duly authorised to certify its orders.

(2) The declaration shall be published in the *official Gazette*, and shall state the district or other territorial division in which the land is situated, 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.

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

Order for acquisition

6. Whenever any land shall have been so declared to be needed for a public purpose, the Government, or some officers authorised by the Government in this behalf, shall direct the Collector to take order for the acquisition of the land.

Notice to persons interested

7. (1) The Collector shall then 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 compensation for all interests in such land may be made to him.

(2) 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 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, and their objections (if any) to the measurements of the land. The Collector may in any case require such statement to be made in writing and signed by the party or his agent.

¹ The word "the" was substituted for the word "such" by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

(3) 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 as reside or have agents authorised to receive service on their behalf, within the district in which the land is situated.

(4) In case any person so interested resides elsewhere, and has no such agent, the notice shall be sent to him at his last known residence, address or place of business.

8. (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, tenure-holder, mortgagee, tenant or otherwise, the nature of such interest and the rents and profits (if any) received or receivable on account thereof for three years next preceding the date of the statement.

Power to require and enforce the making of statements as to names and interests

(2) Every person required to make or deliver a statement under this section or section 7 shall be deemed to be legally bound to do so within the meaning of sections 175 and 176 of the ¹[* * *] Penal Code.

9. At any time after the expiration of fifteen days from the publication of the notice mentioned in sub-section (1) of section 7, the Collector may take possession of the land, which shall thereupon vest absolutely in the Government free from all encumbrances.

Power to take possession

10. (1) On the day fixed under sub-section (2) of section 7 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 7 to the measurements of the land and into the respective interests of the persons claiming the compensation and the amount and particulars of their claims, and shall make an award under his hand of-

Enquiry and award by Collector

- (i) the true area of the land;

¹ The word "Pakistan" was omitted by Article 6 of the Bangladesh (Adaptation of Existing Laws) Order, 1972 (President's Order No. 48 of 1972).

- (ii) the compensation which in his opinion should be allowed under section 12; and
- (iii) the apportionment of the said compensation among all the persons known or believed to be interested in the land, of whom, or of whose claims, he has information, whether or not they have respectively appeared before him.

(2) Such award 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 value of the land the apportionment of the compensation among the persons interested.

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

Power to
summon and
enforce
attendance of
witnesses and
production of
documents

11. For the purpose of enquiries under this Act the Collector shall have power to summon and enforce the attendance of witnesses, including the parties interested or 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.

Principles of
determining
compensation

12. In determining the amount of compensation the Collector shall be guided by the following provisions, namely:-

- (a) if the land does not yield any income, the immediate owner of the land shall receive compensation at the rate of rupees ten per acre;
- (b) if the land yields any income, the immediate owner of the land shall get compensation of an amount equivalent to five times the net annual income to be determined in the manner prescribed or ten times the annual rent paid by occupancy *rai-yats* for an equal area of cultivated land in the neighbourhood which the Collector may select as being appropriate for the purpose, whichever is greater;

- (c) in either case, the superior landlords shall get compensation of an amount equivalent to ten times their respective net annual incomes from such land determined in the prescribed manner on the basis of the rental value of such land.

13. (1) Where there are several persons interested, if such persons agree to 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.

Apportionment
of compensation

(2) When the amount of compensation has been settled under section 10, 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 shall decide such dispute subject to rules made under this Act before making the award under sub-section (1) of that section.

14. In cases of urgency, the Government may direct that the provisions of section 4 shall not apply, and, if it does not direct, a declaration may be made under section 5 in respect of the land at any time after the publication of the notification under sub-section (1) of section 3.

Special powers
in cases of
urgency

15. (1) Any person interested who has not accepted the award made by the Collector or the decision of the Collector regarding the amount of compensation payable under sub-section (2) of section 24 may, in the manner prescribed, prefer an appeal, within six weeks of the date of such award or decision, to the prescribed authority whether his objection be to the measurement of the land, the amount of the compensation, the persons to whom it is payable or the apportionment of the compensation among the persons interested or the decision under sub-section (2) of section 24.

Appeal

(2) The decision of the prescribed authority shall be final.

16. No Civil Court shall entertain any suit in respect of any matter arising out of any proceedings under this Act.

Bar to
jurisdiction of
Civil Courts

Modification of the award according to the decision of the appellate authority

17. When all appeals under section 15 against the award of the Collector have been disposed of, the decisions of the appellate authority together with the records of the cases shall be forwarded to the Collector who shall thereupon modify the award according to such decisions.

Payment of compensation

18. The compensation awarded shall be paid by the Collector subject to such rules as may be made in this behalf under this Act:

Provided that nothing contained in this Act or in any rules made thereunder 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.

Investment of money awarded in respect of land belonging to person incompetent to alienate

19. (1) If the land, in respect of which any money is awarded, belonged to any person who had no power to alienate the same, it shall be kept in deposit with the Collector and be invested in such manner as the Collector thinks fit; and the person or persons who would for the time being have been entitled to the possession of the said land shall be entitled to receive the interest or other proceeds arising from such investment and the said money shall remain so deposited and invested until the same be applied in payment to any person or persons becoming absolutely entitled thereto.

(2) In all cases of moneys deposited to which this section applies, the cost of such investment including all reasonable charges and expenses incidental thereto and such other costs as may be prescribed shall be paid by the Collector.

Payment of interest

20. When the amount of compensation awarded is not paid, or is not deposited under sub-section (1) of section 19, on or before the date on which possession is taken of the land, the Collector shall when paying or depositing such amount also pay or deposit, as the case may be, interest thereon at the rate of three *per centum per annum* from such date until the date on which such amount is paid or so deposited:

Provided that such interest shall not be payable in the case where the persons entitled to the amount of compensation do not consent to receive it or where there is any dispute as to the title to receive it or as to its apportionment.

21. The service of any notice under this Act shall be made in the manner prescribed.

Service of notices

22. Whoever wilfully obstructs any person in doing any of the acts authorised by section 3 or wilfully fills up, destroys, damages or displaces any trench or mark made under section 3, shall, on conviction before a Magistrate, be liable to imprisonment for any term not exceeding one month, or to a fine not exceeding fifty rupees or to both.

Penalty for obstructing acquisition of land

23. 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 and such Magistrate shall enforce the surrender of the land to the Collector.

Magistrate to enforce surrender

24. (1) The Government shall be at liberty to withdraw at any time from the acquisition of any land, before the award has been made under section 10.

Completion of acquisition not compulsory

(2) Whenever the Government withdraws from any such acquisition, the Collector shall determine the amount of compensation due for the damages, if any, suffered by the owner in consequence of the notice or of any proceedings thereunder, 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.

25. No award made under this Act shall be chargeable with stamp-duty, and no person claiming under any such award shall be liable to pay any fee for a copy of the same.

Exemption from stamp-duty and fees

26. (1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

Protection of action taken under the Act

(2) Save as otherwise expressly provided under this Act, no suit or other legal proceeding shall lie against the Government for any damage caused or likely to be caused by anything in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

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Power to make rules

27. (1) The Government may make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

- (a) the determination of net annual income under clauses (b) and (c) of section 12;
- (b) the decision of disputes under sub-section (2) of section 13 as to the apportionment of compensation;
- (c) the manner of preferring appeals under section 15, and the authority to whom such appeals are to be preferred;
- (d) the payment of compensation referred to in section 18;
- (e) the costs other than the costs of investment of the compensation money referred to in sub-section (2) of section 19;
- (f) the manner of service of notices under this Act.