

Ordinance Summary

The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Ordinance, 2015

- The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Ordinance, 2015 was promulgated on April 3, 2015. The Ordinance amends the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. The Act regulates the acquisition of land for public purposes, in the country.
- The Ordinance will be deemed to have been in force from December 31, 2014. The major features of the Ordinance are:
 - **Exemption of five types of projects from certain provisions:** The Ordinance exempts the following five types of projects from certain provisions of the Act: (i) defence; (ii) rural infrastructure; (iii) affordable housing; (iv) industrial corridors (set up by the government); and (v) infrastructure projects.
 - The provisions of the Act which will not apply to these five types of projects are: (i) obtaining the consent of 80% of land owners when land is acquired for a private project and the consent of 70% of land owners when land is acquired for the public-private partnership project; (ii) conducting a Social Impact Assessment; and (iii) limits on acquiring agricultural and multi-cropped land.
 - The government is required to issue a notification before exempting a project from the Social Impact Assessment, and limits on acquiring agricultural and multi-cropped land. Before issuing this notification, the government must ensure that the amount of land proposed to be acquired is in keeping with the minimum land required.
 - **Compensation and R&R provisions of 13 other laws:** The Act exempted 13 other laws (such as the National Highways Act, 1956 and the Railways Act, 1989) from its purview. The Ordinance brings the compensation and rehabilitation and resettlement (R&R) provisions of these 13 laws in consonance with the Act.
 - **Definitions:** The Act was applicable for the acquisition of land for private companies. The Ordinance changes this to acquisition for 'private entities'. A private entity is defined as an entity other than a government entity, and could include a proprietorship, partnership, company, corporation, non-profit organisation, or another entity under any other law.
- **Return of unutilised land:** The Act required that if land acquired under it remained unutilised for five years, it be returned to the original owners or the land bank. The Ordinance states that the period after which unutilised land will need to be returned will be the later of: (i) five years; or (ii) any period specified at the time of setting up the project.
- **Time period for retrospective application of Act:** The 2013 Act states that the Land Acquisition Act, 1894 will continue to apply in those cases where an award has been made under the 1894 Act. However, if the award was made five years or more before the enactment of the 2013 Act, and the possession of land has not been taken or compensation has not been paid, the 2013 Act will apply.
- The Ordinance states that in calculating this time period, the following will not be included: (i) any period during which the process of acquisition was held up due to an order of a court; (ii) a period specified by a Tribunal for taking possession; and (iii) any period where possession was taken but the compensation was lying deposited in a court/designated account.
- **Offences by the government:** The Act stated that if an offence was committed by the government, the head of the department would be deemed guilty unless he could show that the offence was committed without his knowledge, or that he had exercised due diligence to prevent the offence. The Ordinance removes this provision. It requires that the prior sanction of the government be obtained before prosecuting a public servant.
- **Other changes:** The Ordinance mandates that employment be provided to at least one member of a family of farm labourers as a part of the R&R entitlements provided under the Act. It also requires that the government conduct a survey of wasteland, and maintain a record of this land.
- The Act establishes a Land Acquisition, Rehabilitation and Resettlement (LARR) Authority to dispose disputes related to awards made under the Act. The Ordinance mandates that the hearing of the LARR Authority be held in the district where land is proposed to be acquired.

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