

Repealed

ASSAM ACT XXV OF 1948

* THE ASSAM LAND (REQUISITION AND ACQUISITION) ACT, 1948

[Received the assent of the Governor on the 14th November 1948]

[Published in the Assam Gazette of the 24th November 1948]

An

Act to provide for the requisition and speedy acquisition of premises and land for certain purposes

Preamble.

WHEREAS it is expedient to provide for the requisition and speedy acquisition of premises and land for certain purposes.

It is hereby enacted as follows :—

Short title, extent and commencement.

1. (1) This Act may be called the Assam Land (Requisition and Acquisition) Act, 1948.

(2) It shall come into force on such date¹ as the [State]³ Government may, by notification in the official Gazette, appoint in this behalf, and shall remain in force for [ten years]⁴ * * *

(3) It shall extend to such areas in Assam² as the [State]³ Government may, from time to time, by notification in the official Gazette direct.

Definitions.

2. In this Act unless there is anything repugnant in the subject or context—

(a) "Collector", "land" and "person interested" have the same meanings as in the Land Act I of Acquisition Act, 1894 ; 1894.

Explanation :—

Land for the purpose of this Act includes trees, buildings and standing crops on it, and easement.

* For statement of objects and reasons see Assam Gazette, page 124, Part V, 1948.

¹ 26th November 1948 vide Notification No.RRQ.25/48/58-A, dated 26th November 1948.

² Extended to E. Areas under section 92 of G.I. Act, 1935 vide Notification No.Ex/Misc/157/48-Ad., dated 24th January 1949. Extended to Kamrup, Goalpara, Darrang, Nowgong, Sibsagar, Lakhimpur Districts, Cachar district excluding North Cachar Hills, and Shillong Municipality and Cantonment areas vide No.RRQ.25/48/58-B., dated 26th November 1948.

³ Substituted by A.O., 1950 for "Provincial".

⁴ Amended by the Assam Land (Requisition and Acquisition) (Amendment) Act, 1949 (Act XVI of 1949), and the Assam Land (Requisition and Acquisition) (Amendment) Act, 1953, to read as above for the original words "one year from the date of its enforcement".

⁵ The words "provided that the Government may from time to time by notification in the official Gazette extend the operation of the Act for such further period or periods not exceeding one year at a time and to a total of two years as it may deem fit." omitted by Assam Act XVI of 1949.

(b) "Court" means a principal Civil Court of original jurisdiction, and includes the Court of any Additional Judge, Subordinate Judge or Munsif whom the [State]³ Government may appoint, by name or by virtue of his office, to perform, concurrently with any such principal Civil Court, all or any of the functions of the Court under this Act within any specified local limits and, in the case of Munsif, up to the limits of the pecuniary jurisdiction with which he is vested under section 19 of the Bengal, Agra and Assam Civil Courts Act, 1887 ; and

Act XII of
1887.

(c) "Owner" means proprietor or patta holder and his co-sharer ; and

(d) "prescribed" means prescribed by rules made under this Act.

¹[(e) 'displaced person' means—

(i) any person, who on account of the setting up of the two Dominions of India and Pakistan or on account of civil disturbances or the fear of such disturbances in any area now forming part of Pakistan has been compelled to leave his place of residence in such area after the 1st day of March 1947 and who has subsequently been residing in India and is in distress,

or

(ii) a person who has been displaced due to various acquisition proceedings relating to the land in Assam since 1943.]

Power to re-
quisition.

3. (1) If in the opinion of the [State]³ Government or any person authorised in this behalf by the [State]³ Government it is necessary so to do for maintaining supplies and services essential to the life of the community or for providing proper facilities for accommodation, transport, communication, irrigation or drainage ¹[or for providing land individually or in groups to landless, flood-affected or displaced persons, or to a society registered under the Indian Co-operative Societies Act, 1912 (with such statutory re-enacted or modification thereof as shall from time to time be made) or a company incorporated under the Indian Companies Act, 1913, formed for the benefit and rehabilitation of landless, flood-affected or displaced persons] the [State]³ Government or the person so authorised, as the case may be, may, by order in writing, requisition any land and may make such further orders as appear to it or to him to be necessary or expedient in connection with the requisitioning:

Act II of
1912.

Act VII of
1913.

²[Provided that no land used for the purpose of religious worship or for charitable purposes and no building or part

¹ Inserted by Assam Act XVI of 1949.

² Substituted by the Assam Land (Requisition and Acquisition) (Amendment) Act, 1950 (Act XX of 1950), for the original proviso.

³ Substituted for "Provincial" by A.O., 1950.

thereof wherein the owner, has actually resided for a continuous period of one year immediately preceding the date of the order shall be requisitioned under this section.

Explanation.—'Charitable purpose' includes relief of the poor, education and medical relief and the advancement of any other object of general public utility ;]

(2) An order under sub-section (1) shall be served in the prescribed manner on the owner of the land and where the order relates to land in occupation of a tenant also on such tenant.

(3) When the order for requisition is made by any authority other than the [State]¹ Government, any person interested in the land, within 30 days from the date of [service]² of the order, may appeal to the [State]¹ Government and the decision of the [State]¹ Government in such appeal shall be final.

Acquisition
of land.

4. (1) Where any land has been requisitioned under section 3, the [State]¹ Government may use or deal with it in such manner as may appear to it to be expedient and may acquire such land by publishing in the official Gazette, a notice to the effect that the [State]¹ Government has decided to acquire such land in pursuance of this section.

(2) Where a notice as aforesaid is published in the official Gazette, the requisitioned land and premises shall, on and from the beginning of the day on which the notice is so published, vest absolutely in the [State]¹ Government free from all encumbrances and the period of requisition of such land shall end.

³(3) On such vesting the State Government shall be empowered to apply to such land any of the provisions of the Land Acquisition Act, 1894 (Act I of 1894), with the rules framed thereunder.]

Notice to
persons in-
terested.

5. (1) After the publication of a notice under sub-section (1) of section 4, the Collector shall cause public notice to be given at convenient places on or near the land to be taken, stating that the [State]¹ Government has acquired 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 acquired, 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 claim to compensation for such interests. The Collector may in any case require such statement to be made in writing and signed by the party or his agent.

¹ Substituted for "Provincial" by A.O., 1950.

² Substituted for "issue" by the Assam Land (Requisition and Acquisition) (Amendment) Act, 1953.

³ Inserted by the above mentioned Act.

(3) The Collector shall also serve notice in the manner prescribed on the occupier (if any) of such land and on all such persons known or believed to be interested therein, or to be entitled to act for persons so interested, as reside or have agents authorised to receive service on their behalf, within the revenue district in which the land is situate.

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

Release
from requi-
sition.

6. (1) Where any land requisitioned under section 3 is not acquired and is to be released from requisition, it will revert to the owner and the Collector will deliver the possession of the land to such owner or interested person who was recognised under section 7(3).

(2) The delivery of possession of such land to the person specified in the order made under sub-section (1) shall be a full discharge of any liability of the [State]³ Government to deliver possession to such person as may have rightful claim to possession thereof but shall not prejudice any right in respect of such land which any other person may be entitled by due process of law to enforce against the person to whom possession of the land is so delivered.

(3) Where the person to whom the possession of any land requisitioned under section 3 is to be delivered cannot be found or is not readily traceable or has no agent or other person empowered to accept delivery on his behalf, the [State]³ Government shall publish in the Official Gazette a notice declaring that such land is released from requisition and shall cause a copy thereof to be affixed on some conspicuous part of such land.

(4) When a notice referred to in sub-section (3) is published in the Official Gazette, the land specified in such notice shall cease to be subject to requisition on and from the date of such publication and shall be deemed to have been delivered to the person entitled to possession thereof; and the [State]³ Government shall not be liable for any compensation or other claims in respect of such land for any period after the said date.

Compensa-
tion.

7. (1) [Subject to the provisions of sub-section (1-A)] wherever any land is acquired under section 4 there shall be paid compensation the amount of which shall be determined by the Collector in the manner and in accordance with the principles set out in sub-section (1) of section 23 of the Land Acquisition Act, 1894: Act 1 of 1894.

Provided that the market value referred to in clause first of sub-section (1) of section 23 of the said Act shall, in respect of any land required under this Act be deemed to be the market value of such land on the date of publication of the notice referred to in sub-section (1) of section 4:

* * *

¹ Inserted by Assam Act XXXIV of 1950.

² Second proviso omitted by the Assam Land (Requisition and Acquisition) (Amendment) Act, 1953.

³ Substituted for "Provincial" by A.O., 1950.

¹ [(1A) In the case of land included in any grant or settlement made for special cultivation, if such land is lying fallow or uncultivated or is not utilised for the purpose for which the grant or settlement was made or for the purposes incidental thereto, then the compensation payable for acquisition of such land together with trees (if any) standing on it shall be an amount equal to ten times the annual land revenue which, on the date of publication of the notice referred to in sub-section (1) of section 4, is or would have been payable if such land is or had been assessable to revenue at full rates :

Provided that where any amount was originally paid to Government by the grantee as price or premium for the land, an additional amount equal to the amount originally paid by the grantee shall also be payable.

Explanation.—“Special cultivation” means cultivation which involves, either owing to the nature of the crop or owing to the process of cultivation, a much larger expenditure of capital per acre than is incurred by most of the cultivators in the State, and includes cultivation of tea.]

(2) When the compensation has been determined under sub-section (1) [and sub-section (1A)]¹ the Collector shall make an award in accordance with the principles set out in section 11 of the Land Acquisition Act, 1894, and no amount referred to in sub-section (2) of section 23 of that Act, shall be included in the award.

(3) Where any land is requisitioned under section 3, there shall be paid [subject to the provisions of sub-section (4) below]² to every person interested such compensation as may be agreed upon in writing between such person and the Collector, [or in the absence of agreement reasonable compensation]³ in respect of:—

(a) the requisition of such land ; and

(b) any damage done during the period of requisition to such land other than what may have been sustained by natural causes.

[(4) Notwithstanding the provisions of sub-section (2) of section 8, in the case of land included in any grant or settlement made for special cultivation or other purposes which is lying fallow or uncultivated and which is requisitioned for the purpose of cultivation, the annual compensation payable under clause (a) of sub-section (3) shall in no case be more than double the annual land revenue which, on the date of order of requisition, is or would have been payable if such land is or had been assessable to revenue at full rates.]⁴

Reference to Court.

8. (1) The Collector shall in every case—

(a) where any person aggrieved by an award made under sub-section (2) of section 7 makes an application requiring the matter to be referred to the Court ; or

¹ Inserted by Assam Act XXXIV of 1950.

² Inserted by Assam Act XX of 1950.

³ Inserted by Assam Act XXXIII of 1953.

⁴ Inserted by Assam Act XX of 1950.

(b) where there is any disagreement with regard to the compensation payable under sub-section (3) of section 7 ¹[on the application of the person entitled to compensation requiring the matter to be referred to Court,] refer the matter to the decision of the Court.

(2) The provisions of the Land Acquisition Act, 1894, Act I of 1894, shall *mutatis mutandis* apply in respect of any reference made to the Court under sub-section (1).

Power to enter upon land, etc.

9. The [State]² Government may, with a view to requisitioning any land or for the purpose of determination by the Collector of the amount of compensation payable under this Act, by order—

(a) require any person to furnish to such authority as may be specified in the order such information in his possession relating to the property as may be specified ;

(b) direct that the owner or occupier of the land shall not dispose of it or alter it without permission from the Government till the expiry of such period as may be specified in the order ;

(c) authorise any person to perform in respect of any land all or any of the functions referred to in sub-section (2) of section 4 of the Land Acquisition Act, 1894.

Act I
1894.

Penalty.

10. If any person contravenes any order made under this Act he shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to two thousand rupees or with both.

Saving.

11. Save as otherwise expressly provided in this Act, no decision or order made in exercise of any power conferred by or under this Act shall be called in question in any Court.

Protection of action taken under this Act.

12. (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 order made thereunder.

(2) Save as otherwise expressly provided in this Act, no suit or other legal proceeding shall lie against the [State]² 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 order made thereunder.

Power to make rules.

13. (1) The [State]² Government may make rules³ for carrying out the purpose of this Act.

¹Substituted by Assam Act XXXIII of 1953 for the words "between the collector and the person to whom possession of any land is delivered under section 6".

²Substituted by the A. O., 1950 for "Provincial".

³For Rules see Notification No.RRO.25/48/61, dated 20th December 1948.

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

(a) the manner of service of orders on the owner or occupier of land referred to in sub-section (2) of section 3 ; and

(b) the manner of service of notice on the persons referred to in sub-section (3) of section 5.

¹ [(c) the manner and the conditions and terms on which land will be settled or disposed of by Government.]

² [(d) the manner of disposal of any structure or tree standing on the land]

Recovery of money payable to Government. ³ [14. Any money payable to Government under this Act shall be recoverable as arrears of land revenue.]

¹ Inserted by Assam Act XVI of 1949.

² Inserted by Assam Act XXXIII of 1953.

³ Inserted by Assam Act XXXIV of 1950.