

FREQUENTLY ASKED QUESTIONS ON THE LAND ACQUISITION, RESETTLEMENT AND REHABILITATION BILL

1. HOW ARE STATES INTERESTS AND CONCERNS PROTECTED

- The Bill only provides the baseline for compensation and has devised a sliding scale which allows States to fix the multiplier (which will determine the final award) depending on distance from urban centres.
- While the Bill requires the discharge of obligations related to Resettlement and Rehabilitation (R&R) even in the case of private purchase provided the purchase exceeds a certain threshold, it leaves the said threshold to the discretion of the State Governments.
- While the Bill seeks to discourage acquisition of irrigated multi crop or agricultural land it gives the choice of earmarking how much of such lands should be reserved for protection against acquisition to the States.
- The procedure related to the functioning of the R&R Committee at project-level has been left to the State Government if the acquisition is by the State.
- The State governments are free to enact any law to enhance or add to the entitlements enumerated under the Bill which confers higher compensation than payable under the Bill or make provisions for rehabilitation and resettlement which are more beneficial than those provided under the Bill.

2. HOW DOES THE COMPENSATION MECHANISM WORK?

- ***In Urban Areas*** there is no multiplier. This means **no enhancement of the market value calculated occurs**. However a solatium of 100% (which currently exists at 30%) is imposed on this market value calculated. This 'solatium' amount is a compensation to ameliorate the pain of forcible acquisition.

- ***In Rural Areas*** the multiplier has been left entirely to the discretion of State Governments which may range on a sliding scale from 1 to 2 depending on the radial distance from urban centres.

ILLUSTRATIVE SLIDING SCALE

This multiplier factor will gradually rise from 1 to 2 as we move away from urban locations into rural areas.

The precise slabs will be left to respective State Governments.

Illustrative Sliding Scale

(precise scale to be determined by each State Government)

Radial Distance from urban area (km)	Multiplier Factor
0-10	1.00
10-20	1.20
20-30	1.40
30-40	1.80
40-50	2.00

3. HOW ARE INTERESTS AND CONCERNS OF SCHEDULED CASTES AND SCHEDULES TRIBES PROTECTED?

- A separate Chapter has been carved out to protect interests of tribals and those belonging to the Scheduled Castes.
- As far as possible no acquisition shall take place in the Scheduled Areas. And where such acquisition does take place it has to undertake comprehensive consultations with the local institutions of self-governance (including the autonomous councils where they exist).
- A Development Plan has to be prepared laying down the details of procedure for settling land rights due but not settled and restoring

titles of tribals on alienated land by undertaking a special drive together with land acquisition. The Plan must also contain a programme for development of alternate fuel, fodder and non-timber forest produce resources on non-forest lands within a period of five years sufficient to meet the requirements of tribal communities as well as the Scheduled Castes.

- In case of land being acquired from members of the Scheduled Areas Castes or the Scheduled Tribes, at least one-third of the compensation amount due shall be paid to the affected families at the outset as first instalment and the rest shall precede the taking over of the possession of the land.
- The Scheduled Tribes affected families shall be resettled preferable in the same Scheduled Area in a compact block so that they can retain their ethnic, linguistic and cultural identity.
- The resettlement areas predominantly inhabited by the Scheduled Castes and the Scheduled Tribes shall get land, to such extent as may be decided by the appropriate Government free of cost for community and social gatherings.
- Any alienation of tribal lands or lands belonging to members of the Scheduled Castes in disregard of the laws and regulations for the time being in force shall be treated as null and void: and in the case of acquisition of such lands, the rehabilitation and resettlement benefits shall be available to the original tribal land owners or land owners belonging to the Scheduled Castes.
- The affected Scheduled Tribes, other traditional forest dwellers and the Scheduled Castes families having fishing rights in a river or pond or dam in the affected area shall be given fishing rights in the reservoir area of the irrigation or hydel projects.
- Where the affected families belonging to the Scheduled Castes and the Scheduled Tribes are relocated outside of the district then they shall be paid an additional twenty-five per cent rehabilitation and resettlement benefits to which they are entitled in monetary terms along with a one-time entitlement of fifty thousand rupees

- In every project those losing land and belonging to the Scheduled Castes or Scheduled Tribes will be provided land equivalent to land acquired or two and a one-half acres, whichever is lower (this is higher than in the case of non-SC/ST affected families)
- In addition to a subsistence amount of rupees 3000 per month for a year (which all affected families get), the Scheduled Castes and the Scheduled Tribes displaced from Scheduled Areas shall receive an amount equivalent to rupees 50,000.

4. HOW ARE INVESTOR CONCERNS ADDRESSED?

- **Consent** shall be required from **two thirds of land losers only**. Earlier consent was required from 80 per cent of all project affected families, i.e., including both land losers and livelihood losers (those who did not own the land). Now consent is not required from livelihood losers and is only required from two thirds of land losers. However compensation and R&R will be given to both land losers and livelihood losers
- **Bill shall apply prospectively** only, i.e., for new acquisitions only, and not retrospectively. Earlier the Bill was to apply retrospectively, i.e., to ongoing land acquisitions where Award had not been made or possession not taken
- **Definition of Market Value** has been amended to ensure that acquisition price doesn't form the basis for compensation calculation in future acquisitions. Also power has been given to the Collector to not consider transactions which he feels are outliers and not indicative of true value while calculating market value. Earlier there was a danger of a price-spiral as (a multiple of) price of first acquisition in an area would go into calculation of land price for any subsequent acquisitions
- **States given large flexibility:** A **sliding scale** will give states flexibility to fix compensation in rural areas (between 2 and 4 times market value), depending on their distance from urban areas. Earlier Compensation in rural areas was to be 4 times market value

- Restrictions/**thresholds** on **amount of irrigated multi-crop land**

and net sown area per district or State available for acquisition **left to the discretion of States**. Earlier amount of irrigated multi-cropped irrigated land that could be acquired was capped at 5 per cent, and amount of net sown area that could be acquired was also capped.

- Land size **thresholds** on when R&R on **private purchase** of land becomes applicable has now been **left to the discretion of States**. Earlier R&R on private purchases was to apply to all acquisitions above 100 acres in rural areas and 50 acres in urban areas.

- **Payment for R&R costs by acquirer made a ‘one-off’** Acquirer to

put all monies in an escrow account, and ongoing commitments like annuities and benefits to be administered by agency established under this Act. Earlier the Buyer would have had to pay and be involved with R&R infrastructure building until complete, and R&R annuities to perpetuity

- Power to take possession upon payment of monetary components alone. Earlier possession could only be taken when all payments and infrastructural amenities had been provided. Now possession can be taken after the monetary amounts have been paid.

5. HOW ARE INTERESTS AND CONCERNS OF FARMERS PROTECTED?

- The acquisition of agricultural land and multi-crop land has to be carried out as a last resort. There will be definite restrictions on the

extent of acquisition of such land in every state to be determined by the States concerned.

- Furthermore given the way in which market value is to be calculated and the imposition of a solatium of 100 per cent over and above the amount, the farmers are guaranteed a fair price for their land.
- The Collector has to make sure that no other unutilised lands available before he moves to acquire farm land.
- The final award has to include damage to any standing crops which might have been harmed due to the process of acquisition (including the preliminary inspection).
- In case the their land is acquired for urbanisation purposes twenty per cent of the developed land will be reserved and offered to these farmers in proportion to the area of their land acquired and at a price equal to the cost of acquisition and the cost of development.
- In the case of irrigation or hydel projects, affected families may be allowed fishing rights in the reservoirs, in such manner as may be prescribed by the appropriate Government.
- Farmers are also entitled to the various rehabilitation and resettlement benefits which are enumerated under item (6).
- The Bill mandates a Social Impact Assessment of every project which must be completed within a period of six months.

6. WHAT ARE THE REHABILITATION AND RESETTLEMENT PROVISIONS FOR FARMERS, LANDLESS AND LIVELIHOOD LOSERS?

- All affected families are entitled to a house provided they have been residing in an area for 5 years or more and have been displaced. If they chose not to accept the house they are offered a one-time financial grant in lieu of the same.
- All affected families are given a choice of annuity or employment. If employment is not forthcoming they are entitled to a one time grant of 5 lakh rupees per family. Alternatively they will provided with an annuity payment of Rupees 2000 per month per family for twenty years (this will be adjusted for inflation).

- All affected families which are displaced from the land acquired shall be given a monthly subsistence allowance equivalent to rupees 3000 per month for a period of one year from the date of award.
- All affected families are also given training and skill development while being offered employment.
- All affected families are given multiple monetary benefits such as transport allowance of rupees 50,000 and resettlement allowance of rupees 50,000.
- Each affected family of an artisan, small trader or self-employed person shall get one-time financial assistance of such amount as the appropriate Government may, by notification, specify subject to a minimum of twenty-five thousand rupees.
- In case of acquisition of land for irrigation or hydel project the rehabilitation and resettlement shall be completed six months prior to submergence of the lands proposed to be so acquired.
- The Collector shall take possession of land only ensuring that full payment of compensation as well as rehabilitation and resettlement entitlements are paid or tendered to the entitled persons within such period as may be specified by the appropriate Government by notification for the compensation and for the a period of three months for the compensation and a period of six months for the a period of three months for the compensation and a period of six months for the monetary part of rehabilitation and resettlement entitlements commencing from the date of the award
- The components of the Rehabilitation and Resettlement Package in the Second and Third Schedules that relate to infrastructural entitlements shall be provided within a period of eighteen months from the date of the award.

7. HOW ARE INTERESTS AND CONCERNS OF PANCHAYATI RAJ INSTITUTIONS PROTECTED?

- The Social Impact Assessment has to be carried out in consultation with the representatives of the Panchayati Raj Institutions. In fact, the

appropriate Government is required by the law to ensure adequate representation of these institutions during the discharge of the process.

- Reports prepared under the Social Impact Assessment are to be shared with these individuals in their local language along with a summary.
- The Expert Group has to have two members belonging to the Panchayati Raj Institutions. This is a powerful body that has the power to reject a project.
- The Chief Secretary's Committee which is a high powered Committee further has to have representation from local Panchayati Raj institutions.
- In case where an affected area involves more than one Gram Panchayat or Municipality, public hearings shall be conducted in every Gram Sabha where more than twenty five per cent of land belonging to that Gram Sabha is being acquired.
- Consultation with the Gram Sabha in Scheduled Areas under the Fifth Schedule referred to in the Constitution shall be in accordance with the provisions of the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996.
- The Rehabilitation and Resettlement Committee at Project Level has to have the Chairpersons of the Panchayats located in the affected area or their nominees as representatives.
- Panchayat Ghars have to be provided as per the list of Infrastructural amenities given in the Third Schedule.