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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 25th March, 1997/Chaitra 4, 1919 (Saka)

The following Act of Parliament received the assent of the President on the 25th March, 1997, and is hereby published for general information:—

THE NATIONAL HIGHWAYS LAWS (AMENDMENT) ACT, 1997

ACT NO. 16 OF 1997

[25*th March*, 1997.]

An Act further to amend the National Highways Act, 1956 and the National Highways Authority of India Act, 1988.

BE it enacted by Parliament in the Forty-eighth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title and commencement.

1. (*1*) This Act may be called the National Highways Laws (Amendment) Act, 1997.

(*2*) It shall be deemed to have come into force on the 24th day of January, 1997.

CHAPTER II

AMENDMENT OF THE NATIONAL HIGHWAYS ACT, 1956

Amendment of section 2.

48 of 1956.

2. In section 2 of the National Highways Act, 1956 (hereinafter referred to as the National Highways Act), in sub-section (*1*), the words "except such parts thereof as are situated within any municipal area" shall be omitted.

Substitution of new sections for section 3.

3. For section 3 of the National Highways Act, the following sections shall be substituted, namely:—

Definitions.

'3. In this Act, unless the context otherwise requires,—

(*a*) "competent authority" means any person or authority authorised by the Central Government, by notification in the Official Gazette, to perform the functions of the competent authority for such area as may be specified in the notification;

(*b*) "land" includes benefits to arise out of land and things attached to the earth or permanently fastened to anything attached to the earth.

Power to acquire land, etc.

3A. (*1*) Where the Central Government is satisfied that for a public purpose any land is required for the building, maintenance, management or operation of a national highway or part thereof, it may, by notification in the Official Gazette, declare its intention to acquire such land.

(*2*) Every notification under sub-section (*1*) shall give a brief description of the land.

(*3*) The competent authority shall cause the substance of the notification to be published in two local newspapers, one of which will be in a vernacular language.

Power to enter for survey, etc.

3B. On the issue of a notification under sub-section (*1*) of section 3A, it shall be lawful for any person, authorised by the Central Government in this behalf, to—

(*a*) make any inspection, survey, measurement, valuation or enquiry;

(*b*) take levels;

(*c*) dig or bore into sub-soil;

(*d*) set out boundaries and intended lines of work;

(*e*) mark such levels, boundaries and lines by placing marks and cutting trenches; or

(*f*) do such other acts or things as may be laid down by rules made in this behalf by that Government.

Hearing of objections.

3C. (*1*) Any person interested in the land may, within twenty-one days from the date of publication of the notification under sub-section (*1*) of section 3A, object to the use of the land for the purpose or purposes mentioned in that sub-section.

(*2*) Every objection under sub-section (*1*) shall be made to the competent authority in writing and shall set out the grounds thereof and the competent authority shall give the objector an opportunity of being heard, either in person or by a legal practitioner, and may, after hearing all such objections and after making such further enquiry, if any, as the competent authority thinks necessary, by order, either allow or disallow the objections.

Explanation.—For the purposes of this sub-section, "legal practitioner" has the same meaning as in clause (*i*) of sub-section (*1*) of section 2 of the Advocates Act, 1961. 25 of 1961.

(*3*) Any order made by the competent authority under sub-section (*2*) shall be final.

Declaration of acquisition.

3D. (*1*) Where no objection under sub-section (*1*) of section 3C has been made to the competent authority within the period specified therein or where the competent authority has disallowed the objection under sub-section (*2*) of that section, the competent authority shall, as soon as may be, submit a report accordingly to the Central Government and on receipt of such report, the Central Government shall declare, by notification in the Official Gazette, that the land should be acquired for the purpose or purposes mentioned in sub-section (*1*) of section 3A.

(2) On the publication of the declaration under sub-section (1), the land shall vest absolutely in the Central Government free from all encumbrances.

(3) Where in respect of any land, a notification has been published under sub-section (1) of section 3A for its acquisition but no declaration under sub-section (1) has been published within a period of one year from the date of publication of that notification, the said notification shall cease to have any effect:

Provided that in computing the said period of one year, the period or periods during which any action or proceedings to be taken in pursuance of the notification issued under sub-section (1) of section 3A is stayed by an order of a court shall be excluded.

(4) A declaration made by the Central Government under sub-section (1) shall not be called in question in any court or by any other authority.

Power to take possession.

3E. (1) Where any land has vested in the Central Government under sub-section (2) of section 3D, and the amount determined by the competent authority under section 3G with respect to such land has been deposited under sub-section (1) of section 3H, with the competent authority by the Central Government, the competent authority may by notice in writing direct the owner as well as any other person who may be in possession of such land to surrender or deliver possession thereof to the competent authority or any person duly authorised by it in this behalf within sixty days of the service of the notice.

(2) If any person refuses or fails to comply with any direction made under sub-section (1), the competent authority shall apply—

(a) in the case of any land situated in any area falling within the metropolitan area, to the Commissioner of Police;

(b) in case of any land situated in any area other than the area referred to in clause (a), to the Collector of a District;

and such Commissioner or Collector, as the case may be, shall enforce the surrender of the land, to the competent authority or to the person duly authorised by it.

Right to enter into the land where land has vested in the Central Government.

3F. Where the land has vested in the Central Government under section 3D, it shall be lawful for any person authorised by the Central Government in this behalf, to enter and do other act necessary upon the land for carrying out the building, maintenance, management or operation of a national highway or a part thereof, or any other work connected therewith.

Determination of amount payable as compensation.

3G. (1) Where any land is acquired under this Act, there shall be paid an amount which shall be determined by an order of the competent authority.

(2) Where the right of user or any right in the nature of an easement on, any land is acquired under this Act, there shall be paid an amount to the owner and any other person whose right of enjoyment in that land has been affected in any manner whatsoever by reason of such acquisition an amount calculated at ten per cent. of the amount determined under sub-section (1), for that land.

(3) Before proceeding to determine the amount under sub-section (1) or sub-section (2), the competent authority shall give a public notice published in two local newspapers, one of which will be in a vernacular language inviting claims from all persons interested in the land to be acquired.

(4) Such notice shall state the particulars of the land and shall require all persons interested in such land to appear in person or by an agent or by a legal practitioner referred to in sub-section (2) of section 3C, before the competent authority, at a time and place and to state the nature of their respective interest in such land.

(5) If the amount determined by the competent authority under sub-section (1) or sub-section (2) is not acceptable to either of the parties, the amount shall, on an application by either of the parties, be determined by the arbitrator to be appointed by the Central Government.

(6) Subject to the provisions of this Act, the provisions of the Arbitration and Conciliation Act, 1996 shall apply to every arbitration under this Act. 26 of 1996

(7) The competent authority or the arbitrator while determining the amount under sub-section (1) or sub-section (5), as the case may be, shall take into consideration—

(a) the market value of the land on the date of publication of the notification under section 3A;

(b) the damage, if any, sustained by the person interested at the time of taking possession of the land, by reason of the severing of such land from other land;

(c) the damage, if any, sustained by the person interested at the time of taking possession of the land, by reason of the acquisition injuriously affecting his other immovable property in any manner, or his earnings;

(d) if, in consequences of the acquisition of the land, the person interested is compelled to change his residence or place of business, the reasonable expenses, if any, incidental to such change.

Deposit and payment of amount.

3H. (1) The amount determined under section 3G shall be deposited by the Central Government in such manner as may be laid down by rules made in this behalf by that Government, with the competent authority before taking possession of the land.

(2) As soon as may be after the amount has been deposited under sub-section (1), the competent authority shall on behalf of the Central Government pay the amount to the person or persons entitled thereto.

(3) Where several persons claim to be interested in the amount deposited under sub-section (1), the competent authority shall determine the persons who in its opinion are entitled to receive the amount payable to each of them.

(4) If any dispute arises as to the apportionment of the amount or any part thereof or to any person to whom the same or any part thereof is payable, the competent authority shall refer the dispute to the decision of the principal civil court of original jurisdiction within the limits of whose jurisdiction the land is situated.

(5) Where the amount determined under section 3G by the arbitrator is in excess of the amount determined by the competent authority, the arbitrator may award interest at nine per cent. per annum on such excess amount from the date of taking possession under section 3D till the date of the actual deposit thereof.

(6) Where the amount determined by the arbitrator is in excess of the amount determined by the competent authority, the excess amount together with interest, if any, awarded under sub-section (5) shall be deposited by the Central Government in such manner as may be laid down by rules made in this behalf by that Government, with the competent authority and the provisions of sub-sections (2) to (4) shall apply to such deposit.

Competent authority to have certain powers of civil court

3-I. The competent authority shall have, for the purposes of this Act, all the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:— 5 of 1908

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of any document;

(*c*) reception of evidence on affidavits;

(*d*) requisitioning any public record from any court or office;

(*e*) issuing commission for examination of witnesses.

3J. Nothing in the Land Acquisition Act, 1894 shall apply to an acquisition under this Act.'. Land Acquisition Act 1 of 1894 not to apply.

4. Section 8 of the National Highways Act shall be omitted. Omission of section 8

5. In section 9 of the National Highways Act, in sub-section (*2*), after clause (*a*), the following clause shall be inserted, namely:— Amendment of section 9.

"(*aa*) the manner in which the amount shall be deposited with the competent authority under sub-sections (*1*) and (*6*) of section 3H;".

CHAPTER III

AMENDMENT OF THE NATIONAL HIGHWAYS AUTHORITY OF INDIA ACT, 1988

68 of 1988.

6. For section 13 of the National Highways Authority of India Act, 1988 (hereinafter referred to as the National Highways Authority Act), the following section shall be substituted, namely:— Substitution of new section for section 13.

"13. Any land required by the Authority for discharging its functions under this Act shall be deemed to be land needed for a public purpose and such land may be acquired for the Authority under the provisions of the National Highways Act, 1956.". Compulsory acquisition of land for the Authority.

48 of 1956.

7. In section 16 of the National Highways Authority Act, in sub-section (*2*), for clause (*h*), the following clause shall be substituted, namely:— Amendment of section 16.

"(*h*) engage, or entrust any of its functions to, any person on such terms and conditions as may be prescribed;".

8. For section 17 of the National Highways Authority Act, the following section shall be substituted, namely:— Substitution of new section for section 17

"17. The Central Government may, after due appropriation made by Parliament by law in this behalf,— Additional capital and grants to the Authority by the Central Government.

(*a*) provide any capital that may be required by the Authority for the discharge of its functions under this Act or for any purpose connected therewith on such terms and conditions as that Government may determine;

(*b*) pay to the Authority, on such terms and conditions as the Central Government may determine, by way of loans or grants such sums of money as that Government may consider necessary for the efficient discharge by the Authority of its functions under this Act.".

9. In section 34 of the National Highways Authority Act, in sub-section (*2*), after clause (*d*), the following clause shall be inserted, namely:— Amendment of section 34.

"(*dd*) the terms and conditions subject to which the functions of the Authority may be entrusted to any person under clause (*h*) of sub-section (*2*) of section 16;".

Repeal and saving.

10. (*1*) The National Highways Laws (Amendment) Ordinance, 1997 is hereby repealed. Ord. 9 of 1997.

(2) Notwithstanding the repeal of the National Highways Laws (Amendment) Ordinance, 1997, anything done or any action taken under the National Highways Act and the National Highways Authority Act as amended by the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of those Acts, as amended by this Act. Ord. 9 of 1997.

K.L. MOHANPURIA,
Secy. to the Govt. of India.

IndiaCode

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