

## Immovable Property Requisition Act, 2013 (1956)

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2013.5.16	2013.5.22
(31 Aug. 1956)	(6 Sept. 1956)

### Amendments

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|---|------------------------------|------------------------------|
| 1. Nepal Acts (Amending) Act, 2018 (1961)   | 2018.7.30<br>(15 Nov. 1961)  | 2018. 8.1<br>(16 Nov. 1961)  |
| 2. Some Nepal Laws (Amendment and Rearrangement) Act, 2020 (1964)                     | 2020.11.16<br>(28 Feb. 1964) | 2020.11.16<br>(28 Feb. 1964) |
| 3. Republic Strengthening and Some Nepal Laws Amendment Act, 2066 (2010) <sup>1</sup> |                              | 2066-10-7<br>(21 Jan. 2010)  |

Act Number 5 of the Year 2013 (1956)

### **An Act made in order to Requisition of Immovable Property**

**Preamble:** Whereas, it is expedient to make appropriate provisions in order to requisition of immovable property <sup>2</sup>for maintaining law and order as well as the convenience and economic interest of general public;

Now, therefore, be it enacted by His Majesty King on the advice of Council of Ministers.

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<sup>1</sup> This Act came into force on 15 *Jeshta* 2065 (2008), *Prasasti* and the word "kingdom" has been deleted.

<sup>2</sup> Amended by Some Nepal Laws (Amendment and Rearrangement) Act, 2020

1. **Short Title, extension and Commencement:** (1) This Act may be called “Immovable property Requisition Act, 2013 (1956)”.  
(2) This Act shall commence in *Kathmandu* Valley immediately and shall commence in other areas on such date as prescribed by the Government of Nepal upon publishing a Notification in Nepal Gazette<sup>3</sup>.
2. **Definition:** Unless the subject or context otherwise requires, in this Act,
  - (a) “Owner” means any person who is obtaining or entitles to obtain the rent of building or land in the time being for oneself or for any person or for the benefit of such person or as a trustee or custodian of any other person or such person who obtains or entitled to obtain the rent in case such building or land was rented
  - (b) In respect of any property the term “stakeholder” means all persons entitled to or authorized to claim the compensation to be given in consideration of requisition made pursuant to this Act.
  - (c) ‘Building and land’ means any structure or any part thereof, and;
    - (1) Any garden, land and hut, if any, situated in the surrounding of such structure or any part thereof.
    - (2) Goods adjoining with such structure, or with any part thereof for gaining maximum benefit.
    - (3) Any goods, property or equipment remained with in such structure or any part thereof.
  - (d) “Tenant” means including temporary tenant (*magani dar*) or the person living with permission.
3. **Power to requisition of immovable property:** (1) In case the Government of Nepal concludes that immovable property is needed or likely to be needed for any public purpose and requisition thereof is must than it-

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<sup>3</sup>. This Act came into force in remaining areas on 2016.12.10 as per the notification published in Nepal gazette in 2016.12.15

- (a) Shall issue a notification in writing to the property owner or any person having possession over the said property to submit the complaint, if any, to the Government of Nepal within a period of Thirty Five days from the date of service of the notification by setting out the reasons that the proposed requisition be not be carried out.
- (b) May issue an order to the owner of property or any other person in order to impose restriction on sale and size modification of such property and on providing in rent to tenant without the approval of the Government of Nepal unless a period of Thirty Five days completes from the date when such order is served.

(2) After considering the reasons, if any, mentioned by a person who has possession or claim over such property or by a stakeholder, the Government of Nepal, may, if it concludes that the requisition of such property is reasonable or necessary, requisition the said property by an order which is necessary and reasonable in respect of requisition.

Provided that, the following property or any part thereof shall not be requisitioned.

- (a) The residence which is, in the real sense, being used by the owner for him/herself or for his/her family members.
- (b) The place used for religious worship or school, hospital, public library, inn or orphanage or any public place being used by the person who manages thereof.

Provided that, in case the requisitioned property is being used by a tenant for his/her residence since two months from the date when a notification pursuant

to aforesaid Sub-section was served, the Government of Nepal shall, as far as possible, manage another such residence which it deems appropriate for such tenant.

(3) No question shall be raised in any court about the order of requisition issued pursuant to this Act.

4. **Power of the Government of Nepal over requisitioned property:** (1) In case any property requisitioned pursuant to Section 3, Government of Nepal may issue an order in the form of a notification in writing to the owner of such property or a person who holds thereof to transfer or handover the property to the officer as prescribed in the said notification within a period of Fifteen days from the date when the person received the said notification.

(2) In case a person denies to abide by an order issued pursuant to Sub-section (1) or violates thereof, the authorized officer may use necessary force to seize or cause to seize the property.

5. **To modify or maintain requisitioned property:** Upon requisition of property pursuant to Section 3, the Government of Nepal may issue an order to the owner of such property to make necessary maintenance of the property in such a manner and within such time as prescribed by the Government of Nepal in such order; and in case the owner fails to maintain the property as per the said order, the Government of Nepal may maintain the property itself by deducting the maintenance charge from compensation to be obtained by such person, if any.

The Government of Nepal may make reasonable modification of the building or land requisitioned in its own cost in order to use in easiest manner.

6. **Release of requisitioned property:** (1) The Government of Nepal may release the property requisitioned pursuant to this Act at any time and the

property so released shall be handed over in the same condition as it was at the time of requisition as far as possible.

Provided that, any reasonable loss incurred by the modifications and by the general possession made pursuant to <sup>4</sup>second paragraph of Section 5 or any *force majeure* shall not be taken into consideration.

(2) While releasing requisitioned property, the Government of Nepal may, if it deems necessary, hold or cause to hold inquiry, issue a notification in writing stating the name of the person who is entitled to obtain released property and the said property shall be returned to such person from whom the property was requisitioned as far as possible or his/her successor who entitles to claim thereof.

(3) After returning the requisitioned property to the person as mentioned in the order issued pursuant to sub-section (2), all liabilities of Government of Nepal in regards to the property shall be terminated. Provided that, any person who has entitlement to the property which was returned may proceed against the person who took the released property in order to enforce his/her entitlement as per the procedure established by law

(4) In case a person who is entitled to obtain the requisitioned property could not be founded and in the absence of his/her authorized agent or other person, the Government of Nepal shall publish a Notification in Nepal Gazette stating that the property has been released from requisition and after the issuance of such notice the said property shall be deemed to have been handed over to the stakeholder.

7. **Compensation:** In case any property is requisitioned pursuant to this Act, the Government of Nepal shall give compensation and the valuation of such compensation shall be calculated as per the principle prescribed in Section 8.

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<sup>4</sup> Amended by Some Nepal Acts (Amending) Act, 2018

Provided that, in case the Government of Nepal thinks or opines that the owner, a citizen of Nepal, generally is residing out side of Nepal or has made investment of his/her majority portion of movable property out side Nepal, no compensation shall be given to such owner.

8. **The principle and method to determine Compensation:** (1) The compensation as referred to in Section 7 shall be determined as per the following method-

- (a) In case the amount of compensation is fixed in an agreement, if any, such agreement prevails.
- (b) In the absence of agreement, the Government of Nepal shall appoint any judge either sitting or retired as an arbitrator and the compensation shall be given as per the award of the arbitrator.

(2) The compensation for requisitioned property shall be given as per the following;

- (a) In case a requisitioned property was given as lease hold, the compensation shall be given for the period of requisition as per the rent or amount which was to be paid for lease, and
- (b) During the period of requisition in case any reasonable loss incurred from the general possession or from any *force majeure* and from any modification made pursuant to <sup>5</sup>second paragraph of Section 5 shall not be taken into consideration for providing compensation ;and
- (c) Cost to be needed for creating the situation in which the property was remained in the time of requisition.

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<sup>5</sup>. Amended by Some Nepal Acts (Amending) Act, 2018

9. **Delegation of power:** The Government of Nepal may, by a notification in Nepal Gazette, delegate powers conferred to it pursuant to this Act to any government officer in such a way to be exercised such powers as per the terms and conditions as prescribed in the said notification.
10. **Penalty:** Whosoever contravenes this Act or Rules framed there under or hinders in the course of lawful exercising of powers granted by this Act, shall be liable to a fine up to One thousand Rupees or an imprisonment not exceeding Six months or the both.
11. **Power to frame Rules:** The Government of Nepal may frame Rules by publishing a Notification in Nepal Gazette to carry out the objective of this Act.