

Land Acquisition Act, 2034 (1977)

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Amendments

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| 1. Administration of Justice Act, 2048 (1977) | 2048.2.16 |
| 2. The Act Amending Some Nepal Acts, 2048 (1992) | 2049.1.8 |
| 3. The Act Amending Some Nepal Acts, 2055 (1998) | 2055.4.26 |
| 4. Republic strengthening and Amending Some Nepal Acts, 2066 (2010) | 2066.10.7 |

Act No. 25 of the year 2034 B.S. (1977)

A Law Enacted to Amend and consolidate Current Nepal law Pertaining to Land Acquisition

Preamble : Where it is expedient to amend and consolidate current Nepal law pertaining to land acquisition, now therefore, His majesty's King Birendra Bir Bikram Shah Dev has enacted this law with the advice and approval of the *Rastriya Panchayat*.

- Short Title, Extent and commencement:** (1) This Act may be called "Land Acquisition Act, 2034 (1977).
(2) It shall be applicable throughout Nepal
(3) It shall come into force immediately.
- Definitions:** In this Act, unless the subject or the context otherwise requires,
 - "Land" means any land belonging to any person, and walls, buildings, trees, etc., permanently installed thereon.

- (b) "Public Purposes" means undertaken in the interest of or for the benefit or use of the general public, or functions to be undertaken by Government of Nepal and the term also included the following:
 - (1) Project approved by Government of Nepal.
 - (2) Project undertaken by local bodies in different levels.
 - (c) "Local Officer" means an officer designated by Government of Nepal and where no such officer is designated, the Chief District Officer.
 - (d) "Concerned person" means the person who is entitled to the compensation payable for lands acquired under this Act.
 - (e) "Institution" means a Company, Development, Board, or Corporation established or formed pursuant to the prevailing law.
3. **Power of Government of Nepal to Acquire Lands for Public Purpose :** Government of Nepal may, if it so deems necessary, acquire any land at any place for any public purpose, subject to compensation under this Act.
4. **Power to Acquire Land for Institution :** (1) In case institution requests Government of Nepal for the acquisition of land for any of the following purposes, subject to payment of compensation and all other expenses under this Act, Government of Nepal may decide to have the land acquired for such institution:-
- (a) To construct residential quarters for the staff, workers or labourers of the institution, or otherwise provide for their welfare, or undertake any function in the interest of the general public.
 - (b) To operate a project connected with an institution fully owned by Government of Nepal, or to construct a go

down for the storage of any commodores or material connected with or manufactured by any such institution.

(2) Proceeding regarding the acquisition of land under this Act shall not be initiated unless the institution requesting for land acquisition has executed a deed in respect to the following matters:

- (a) Payment to Government of Nepal of all the expenses incurred or likely to be incurred for the acquisition of the land.
- (b) If the land is meant for the construction of residential quarters for workers or technical personnel, or for any function intended for their comfort, the period required for the completion of such building, the design or type thereof, and the such building, the design or type thereof, and the period for which it will be maintained.
- (c) If any other construction purpose, the estimated time for construction and mode of for use.

(3) Notwithstanding anything contained pursuant to Sub-section (1), Government of Nepal shall not acquire the land except practical purpose of agricultural for research, if the institution requires the land for agriculture.

5. **Decision of Acquiring Land and Officer for Preliminary Action:** (1) At least Gazetted Class Three Officer or Head of the Office in case Gazetted Officer is not available at that Office acquiring the land and the Project Chief in case of a project may initiate preliminary action to confirm the place and land after the decision made by the Government of Nepal to acquire the land for the purpose of Section 3 and 4.

(2) Notwithstanding anything contained in Sub-section (1), Government of Nepal may order at least Officer level employee of the institution, if such institution requests to nominate an employee to initiate preliminary action pursuant to Sub-section (1).

6. **Preliminary action relating to Acquire Land:** (1) The officer initiating preliminary Action pursuant to Section 5 shall put a copy of notice in following office or place for the purpose of stakeholder,

- (a) A place where people mostly move near by the concerned land,
- (b) Concerned Village Development Committee and Municipality Office,
- (c) House door or compound wall, if house and compound wall has to be acquired.

(2) The officer initiating preliminary action may enter into the concerned land or house a compound along with employee and workers for the purpose of following works after three days of Notification pursuant to Sub-section (1).

- (a) To survey or mapping of such land,
- (b) To collect the sample of the soil, stone etc, to dig or boring for to find out whether the land is appropriate or not to acquire.
- (c) Erect pillars, etc., or otherwise demarcate lands considered suitable for acquisition,
- (d) Install any equipment for any of the operations mentioned in Clause (a) or (b).

(3) In case it becomes necessary to cut or uproot any crop or tree on the land which is to be acquired, or to remove or demolish any wall or obstruction located therein in the course of any of the operations indicated in Clause (a to d) of Sub-Section (2), any person may do so with the approval of the officer responsible for preliminary Action, and such functions shall be performed as far as possible in the presence of the concerned person.

7. **Compensation for Losses** : (1) Compensation shall be paid for losses resulting from clearing of crops and trees, and of demolition of walls, etc., or for damage, if any, suffered as a result of the removal or digging of earth, stone, ditches, or boring.

(2) The officer responsible for preliminary Action shall determine the amount of compensation payable under Sub-Section (1) and pay the same to the concerned person.

(3) In case the concerned person is not satisfied with the amount of compensation determined under Sub-Section (2), he/she may file a complaint with the chief District Officer on which he/she receives information thereof, and in such cases the decision of the Chief District Officer shall be final.

8. **Report to be Submitted in Respect to Findings of preliminary Action:** (1) The officer responsible for preliminary Action shall complete such Action within fifteen days from the starting of it, determine whether the land is suitable for acquisition, and then submit a report containing necessary information in respect to such Action to the local office as early as possible .

(2) The report to be submitted under Sub-Section (1) shall also mention the amount of compensation determined under Sub-Section (2) of Section 7, and contain full particulars of losses.

9. **Notification of Land Acquisition** : (1) After receiving a report of preliminary Action submitted under Section 8, the local officer shall issue a notification containing the following particulars in respect to the land.

- (a) The purpose for which the land is to be acquired,
- (b) Whether only the land is to be acquired, or whether it is to be acquired along with the houses and walls located thereon,
- (c) The name of the Village Development Committee and Municipality and ward number in which the land is located,
- (d) The plot number, if the land has already been surveyed and measured,
- (e) If the land has not already been surveyed and measured, such particulars as will help to identify it, and particulars regarding the boundaries thereof,
- (f) Area of the land,
- (g) Other necessary particulars,

(2) One copy of the notice mentioned in Sub-Section (1) shall be affixed at each of the following offices or places:

- (a) The local office of the project for which land is to be acquired,
- (b) District government office,
- (c) The appropriate Village Development Committee or Municipality Office,
- (d) The Land Revenue Office,
- (e) Thoroughfares Located around the concerned land,

(f) Such other place as the local officer may deem appropriate.

(3) In case the local officer is satisfied that the concerned person will not be able to know (about the land acquisition) notwithstanding the publication of a notice under Sub-Section (1), he/she may, if he/she so deems appropriate and feasible, personally send a notice to such person. In case the amount of compensation has already been determined by the time such notice is delivered to such person, the local officer shall also indicate in such notice the period within which he/she should appear for receiving the compensation, and the name of the office from where he/she should do so.

(4) After the notice mentioned in Sub-Section (1) has been affixed, the appropriate Land Revenue Office of documents relinquishing title to the concerned land in any manner. The suspension shall be lifted in case the local officer directs the Land Administration or Revenue Office in writing to that effect.

10. **Particulars to be Given in Notices Relating to Land Acquisition** : The notice to be issued under Sub-Section (1) of Section shall also indicate the following particulars for the information of the concerned person:

- (a) Particulars to the effect that the concerned person shall submit an application claiming compensation within a minimum time-limit of fifteen days, along with documentary evidence of his/her title to the land,
- (b) The time-limit within which the concerned person will be allowed to fell trees or corps grown by him/her on the land, and demolish houses or walls located therein, if he/she is permitted to do so.

11. **Right of Landowner to File complain** : (1) Within a time-limit of seven days from the date of the publication of a notice under Section 9, plus the time required for the journey involved, the concerned landowner may file a complaint with the *Ministry of Home Affairs, the Government of Nepal through the local officer, explaining the reasons, if any, why his/her land should not be acquired. If the tenant has built any brick-house on the land with the consent of the landowner, such tenant may also file a complaint under this Sub-Section with respect to such house and the land occupied by it.

(2) Before taking a decision on the complaint filed under Sub-Section (2), *Ministry of Home Affairs, the Government of Nepal shall consult the officer responsible for preliminary Action, and, if necessary, the local officer as well.

(3) For the purpose of taking decision in respect to the complaint filed under Sub-Section (1), the *Ministry of Home Affairs, the Government of Nepal hearing complains under this Section shall exercise the powers vested in a district court in respect to conducting local investigations (*sarjameen*), summoning witnesses, recording statements or procuring document.

(4) Decision on complaints to be made under Sub-Section (2), shall be pronounced ordinarily within fifteen days from the date of receipt of such complaint.

* Amendment by Amending Some Nepal Acts, 2048 (1992)

12. **Power to Occupy Land** : (1) The local officer shall take possession of the concern land and hand it over to the office or institution for which it is acquired after a decision has been made on complaint, if any, filed under Sub-Section (1) of Sub-Section 11 after the publication of the notice under Sub-Section (1) of Section 9, or at any time after the expiry of the time limit for filing a complaint, if no complaint has been received. Such land may then utilized for the purpose for which it is acquired. After taking possession of the land in this manner, the local officer shall notify Government of Nepal accordingly.

(2) Notwithstanding anything contained in Sub-Section (1), in case any house is to be acquired along with the land, and if it is being occupied personally by the owner thereof, it shall not be taken possession of (by the local officer) unless (the owner thereof) is paid 50 percent of the amount of compensation payable to him/her, if such compensation has already been determined, or reasonable expenses in advance as required to enable him/her to shift his residence, if the amount of compensation has not already been determined.

13. **Form of Compensation and Officer powered to Determine It:** (1) Compensation payable under this Act shall be paid in cash.

(2) There shall be a committee consisting of the following officers to determine the amount of compensation payable under Sub-Section (1):

- (a) Chief District Officer,
- (b) Land Administrator or Chief of the Land Revenue Office,

(c) The Project-in-chief, if the land has been acquired for a project, and if it has been acquired for any other purpose, an officer designated by the *Chief District Officer,

(d) A representative of the District Development Committee .

(3) Notwithstanding anything contained in Sub-Section (1), the amount of compensation may be determined separately in the case of persons whose land is wholly acquired, and of those whose land is partially acquired.

14. **Allotment of Other Lands in Exchange** : In case any person whose land is wholly acquired under this Act wants to obtain compensation in the form of land elsewhere, Government of Nepal may, in exchange for such land, allot him/her any waste land, or land belonging to itself, or any other land which it is going to allot or sell in accordance with prevailing Nepal law, if available.

15. **Compensation for Guthi lands** : In the case of Guthi lands acquired under this Act, compensation shall be paid in accordance with the provisions of the Guthi Corporation Act, 1976.

16. **Criteria to be Considered While Determining Compensation**: (1) The Compensation Fixation Committee shall take the following criteria into consideration while determining compensation for lands to be acquired for Government of Nepal, Local Bodies, and institutions fully owned by Government of Nepal.

(a) The guidelines issued by Government of Nepal from time to time in respect to the fixation of compensation and,

* Amendment by Amending Some Nepal Acts, 2048 (1992)

- (b) The losses suffered by the concerned person as a result of his having been required to shift the residence or the place of his/her business by reason of acquisition of the land.

(2) While determining the amount of compensation for land to be acquired for institutions other than Local Bodies, and institutions fully owned by Government of Nepal, the compensation Fixation committee shall take the following criteria into consideration:

- (a) The price of the land at the time of the publication of a notice of land acquisition under Section 9,
- (b) The Value of the crops, houses, walls, sheds, etc, if any, acquired along with the land,
- (c) The losses which the concerned person will suffer as a result of shifting his/her residence, or the place of his/her business, by reason of the acquisition of his/her land.

17. **Determination of compensation for Land Acquired Out of Surplus**

Land : Notwithstanding anything contained in Section 16, in case the land to be acquired for Government of Nepal, Local Bodies, or institutions fully owned by Government of Nepal happens to be part of the land taken excess of the ceiling on landholding prescribed in the Lands Act, 1964 the amount of compensation therefor shall not exceed the amount payable under the Lands Act, 1964.

18. **List of Persons Entitled to Compensation and Complaints against it :**

(1) On the basis of the applications received within the time-limit prescribed in the notification issued under Section 9, the local officer shall prepare a list of persons entitled to compensation, and issue a notice accordingly for the information of the concerned persons.

(2) A person who is not satisfied with the list contained in the notification issued under Sub-Section (2) may file a complaint with the *Ministry of Home Affairs, the Government of Nepal within fifteen days after the publication of such notification.

(3) In case any complaint filed under Sub-Section (2) relates to questions other than those involving a dispute over ownership or possession, the *Ministry of Home Affairs, the Government of Nepal shall dispose of the same ordinarily within fifteen days. But in case such complaint concerns a dispute over ownership or possession, no Action shall be taken thereon, and a notice stating that compensation shall be paid to the person who establishes his/her title through the final decision of the court shall be served on to the concerned persons. Such notice shall also indicate the name of the office which will hold custody of the amount of compensation.

(4) The person who establishes his/her claim on the basis of the final decision pronounced by the court on a case relating to dispute over ownership or possession, shall receive the amount kept in custody, under Sub-Section (3) within two years after such final decision. In case such person fails to receive the amount kept in custody after the expiry of that time-limit, it shall be credited to the Consolidated Fund.

19. **Notice to be Given After Fixation of Compensation** : After the Compensation Fixation committee has determined the amount of compensation, the Chief District Officer shall notify Government of Nepal accordingly.

* Amendment by Amending Some Nepal Acts, 2048 (1992)

20. **Compensation to be Obtained by Tenants** : In case the land to be acquired under this Act is a tenancy holding, [^]fifty percent of the amount of compensation payable for such land shall be obtained by the tenant. Provided that in case a house constructed by the tenant with the consent of the landowner is also acquired, the tenant shall receive the entire amount of compensation paid for such house.
21. **Arrears Due to the Government may be Deducted from compensation** : In case any amount of land or other tax levy is due from the concerned person at the time of payment of compensation for his/her land, it may be deducted from such compensation.
22. **Devolution of Ownership** : After any land has been taken possession of (by the local Officer) under Section 12, the ownership thereof shall accrue to Government of Nepal or to any institution for which the land has been acquired.
23. **Transfer of Title and Adjustment in Land of Record Revenue Register:** (1) Within fifteen days after taking possession of land ownership of which has accrued to Government of Nepal or any institution under Section 22, the local officer shall write to the office possessing records of such land to effect the transfer thereof to Government of Nepal, or to the concerned institution, as the case may be, after removing entries thereof in the land Revenue records and such office shall do so, and notify the local officer and the outgoing landowner accordingly as early as possible.

[^] Amendment by Amending Some Nepal Acts, 2055 (1998)

(2) Adjustment in records and transfer of title to the land shall be deemed to have been effected from the date of accrument of ownership thereof, irrespective of the date on which removal or transfer has been Actually been effected.

(3) In case the records of lands acquired under Nepal law in force immediately before the commencement of this Act do not appear to have been adjusted, those shall be deemed to have been *ipso facto* adjusted after the commencement of this Act.

24. **No Effect on Circumstances Existing Prior to transfer of Ownership :**

(1) In case any land or other tax is due from the expropriated landowner still the day preceding the accrument of ownership of his land to Government of Nepal or to any institution under this Act, this section shall not adversely affect to recover such arrears from him/her even after the trans of ownership of his/her land.

(2) In case any tenancy holding is acquired, nothing contained in this section shall be deemed to have affect the right of the expropriated landowner to initiate Action to recover arrears of *kut* rent due from the tenant for the period preceding the acquisition.

25. **Special Powers to Acquire Land in Special Circumstance:**

(1) In case it becomes urgently necessary for Government of Nepal to acquire any land to maintain transport or communication facilities, or to ensure safety of life and property against extensive damage, or to protect any other public property in the event of sudden diversion of the course of any river, or any natural disaster, or any other extraordinary circumstances, it may, notwithstanding anything contained elsewhere in this Act, order the local officer to initiate Action for the acquisition of such land after making a decision to that effect.

(2) In relation to the land to be acquired for the purpose of as mentioned in Clause (1), the local officer shall issue a notice for the information of the concerned person, containing such particulars as mentioned in Sub-Section (1) as are available. Such notice may be issued in any form he/she may deem appropriate, after being satisfied that the concerned persons will be informed of it as early as possible.

(3) The local officer may occupy land at any time after the issue of a notice under Sub-Section (2), and the ownership of Government of Nepal over such land shall be effective from the date of the occupation of such land.

(4) In case any crop, tree, house, or wall standing on the land to be acquired under this Section is acquired along with the land, the concerned person shall be paid compensation therefor.

(5) Compensation for land to be acquired under this Section shall be determined by the Compensation fixation committee formed under Section 13.

(6) Except in case relating to the amount of compensation, no complaint against the acquisition of land shall be entertained.

(7) Any person who is not satisfied with the amount of compensation may file a complaint with the *Ministry of Home Affairs, the Government of Nepal within fifteen days from the date of the issue of the notice of fixation of compensation, and, in such cases, the decision of the *Ministry of Home Affairs, the Government of Nepal shall be final.

(8) In regard to the removal of entries in the land revenue records of lands acquired under this Section, the local officer shall take Action on the

* Amendment by Amending Some Nepal Acts, 2048 (1992)

basis of the procedure indicated in Section 23. The provisions of Section 24 shall also be applicable to such lands.

26. **Consent of Landowner** : In case Government of Nepal has already used any land for any public purpose, compensation payable for such land, even if it has not been acquired in accordance with the provisions of this Act, may be determined under this Act, provided that the concerned landowner gives his consent to do so. Such land shall be deemed to have been acquired under this Act after compensation has been determined in this manner.
27. **Acquisition of Land Through Negotiations** : Notwithstanding anything contained elsewhere in this Act, Government of Nepal may acquire any land for any purpose through negotiations with the concerned landowner. It shall not be necessary to comply with the procedure laid down in this Act while acquiring lands through negotiations.
28. **Power to Acquire Land for Diplomatic Missions and International Agencies** : (1) lands may be acquired under this Act for the use of diplomatic missions, including consulates, and of international agencies.
- (2) Compensation for lands to be acquired under Sub-Section (1) shall be determined in accordance with Sub-Section (2) of Section 16.
29. **Acquisition of Land Along with Buildings, etc** : In case the concerned person submits an application requesting that all crop, trogon, walls, buildings, etc., located on the land which is to be acquired under this Act also be acquired, Action shall be taken accordingly .
30. **Power of Government of Nepal to Take Decision Not to Acquire Lands**: (1) At any stage of the proceedings already started for the acquisition of land under this Act, Government of Nepal may decide not to acquire the

same, and, in such case, the local officer shall affix a notice under Sub-Section (2) of Section for the information of the concerned persons.

(2) Irrespective of whether proceedings in respect to the acquisition of lands are staged, if any losses are suffered as a result of preliminary Action initiated under Section 6, the officer responsible for such Action shall determine the amount of compensation under Section 7, where it has not already been paid.

31. **No Tenancy Right on Land Given to Others for Cultivation:**

Government of Nepal or any institution may let any land acquired under this Act for cultivation to any person on contract until it is used for the purpose for which it has been acquired. Such cultivator shall not be entitled to the tenancy rights according to current Nepal law by virtue of cultivation of such land .

32. **Confiscation of Building constructed or crops Grown Without Permission** :

(1) After the ownership of land acquired under this Act by the Government of Nepal, or any institution, no person shall construct any building, shed, wall, etc, on such land, or cultivate without the written approval of Government of Nepal or the concerned institution.

(2) In case any person constructs any building, shed, wall, etc., or cultivates the land in contravention of Sub-Section (1), Government of Nepal or the concerned institution, may confiscate such structure, or the crop grown on the land, without paying compensation.

33. **Land Acquired for Purpose may be used for Another purpose :**

In case the land, acquired for the Government of Nepal or on institution fully owned by the Government of Nepal pursuant to this Act, is not required for that purpose as it was acquired or there remains surplus land upon using it for that purpose, the Government may use such land for public purpose and the

institution may use such land in of the activity as mentioned in Sub-section (1) of Section 4.

34. **Land found Unnecessary to be Returned to Expropriated**

Landowner: (1) If any land acquired pursuant to this Act is found unnecessary for the purpose for which it has been acquired, or there remains surplus land upon using for such purpose, it shall be returned to the expropriated land-owner, unless it is otherwise utilized by Government of Nepal or an institution fully owned by it under Section 33.

(2) In case any land, acquired under this Act for any institution other than one fully owned by Government of Nepal is not utilized for the purpose mentioned in the agreement executed under Sub-Section (2) of Section 4, such land shall be returned to the expropriated landowner.

(3) Notwithstanding anything contained in Sub-Sections (1) and (2), no land shall be returned under this Section unless the expropriated landowner has refunded the amount of compensation paid for such land under this Act.

(4) The local officer shall return the land on refund of compensation and additional amount by the expropriated landowner under this Section.

(5) After land has been returned to the expropriated landowner, the local officer shall direct the appropriate office in writing to update the record accordingly in the name of the landowner, and the appropriate office shall then Act and notify the same to the local officer.

35. **Power to Sell Land Which Has Been Acquired** : In case the expropriated landowner refuses to get back the land under Section 34, or is not traced, it may be sold to any other person.

36. **Goods Not to be Returned If Not Lifted Within prescribed Time-Limit** : In case the person permitted to lift the crop, tree or building or wall constructed on the land in accordance with the different provisions of this Act fails to do so with the prescribed time limit, the local officer may impound the same, and no claim by such person to such crops, trees, house, or wall shall be entertained.
37. **Compensation to be Received within prescribed Time-Limit** : In case the concerned person fails to receive compensation within the time limit prescribed for the purpose under the different provisions of this Act, or refuses to accept it, the local officer shall issue a notice prescribing a final time-limit of three months for receiving such compensation. In case the concerned person fails to receive compensation even within such time-limit, he/she shall not be entitled to any compensation.
38. **Local Officer to Provide Assistance** : Any officer who is empowered under this Act to perform any Action may request[×] the chief district officer, or the police for assistance in the course thereof, and in that event,[×] the Chief District Officer, or the police shall provide assistance.
39. **Penalties** : (1) In case any person opposes or obstructs any Action being taken under Section 6, or uses force the persons who are taking such Action, or assaults them, or destroys any equipment installed or erected, or erases or damages any marker or map installed or made in the course of such Action,

[×] Deleted by Amending Some Nepal Acts, 2048 (1992)

he/she shall be punished with a fine not exceeding one thousand rupees, or with imprisonment for a term not exceeding one month, or with both.

(2) In case any person opposes or obstructs or creates disturbances which affixing the Notice he/she shall be punished with fine not exceeding Rs. 1,000.

(3) In case any person opposes or obstructs or creates disturbances while occupying the land by the local officer under Sub-Section (3) of Section 25, he/she shall be punished with a fine not exceeding Rs. 1,000, or with imprisonment for a term not exceeding one month, or with both.

40. **Authority to Hear Cases and Appeals** : (1) The original jurisdiction in respect to offenses punishable under this Act shall be in the Chief District Officer.

(2) Appeals against any decision made by the Chief District Officer under Sub-Section (1) shall be entertained *in Court of Appeal within thirty-five days.

41. **Government of Nepal to be the Plaintiff** : Government of Nepal shall be the plaintiff the in all case filed under this Act.

42. **Power to Frame Rules** : Government of Nepal may frame Rules to implement the objectives of this Act.

♣ Amendment by Amending Some Nepal Acts, 2048 (1992)

43. **Repeal and Saving** : (1) The Land Acquisition Act, 1961 has been repealed.
- (2) Any Action taken for the purpose of acquisition of land under the Land Acquisition Act, 1961 at the time of commence of this Act shall be deemed to have been taken under this Act after the commencement thereof and may be continued as if it was started under this Act.
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Note :

1. The words changed by the District Development Committee Act, 2048 :-
 - (a) Instead of "District Assembly" to "District Council"
 - (b) Instead of "District Panchayat" to "District Development Committee "
2. The words changed by Local Administration (Third amendment) Act, 2048
Instead of "District Office " to "District Administration Office "