

KARNATAKA ACT NO. 16 OF 2019

THE RIGHT TO FAIR COMPENSATION AND TRANSPARENCY IN LAND ACQUISITION, REHABILITATION AND RESETTLEMENT (KARNATAKA AMENDMENT) ACT, 2019

Arrangement of Sections

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STATEMENT OF OBJECTS AND REASONS

The State Governments of Gujarat, Telangana, Tamilnadu, Maharashtra and Andhra Pradesh have made certain amendments to the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Central Act 30 of 2013) (hereinafter referred to as the Principal Act) its application to the concerned States.

The State of Karnataka aims to grow at very fast rate. For this purpose with the help of Government of India, various mega projects in the sectors of infrastructure, communications, constructions of national highways, new railway lines and drinking water projects etc., have been sanctioned. All these projects require that the land be made available immediately, otherwise there will be high escalation in the costs and also the benefits of development will be delayed considerably harming the interest of general public.

The State of Karnataka is facing difficulties in acquiring land under the provisions of the Principal Act. Therefore, in order to facilitate land acquisition for various development projects of Karnataka in the public interest, considered necessary to amend the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Central Act 30 of 2013) in its application to the State of Karnataka inter alia seeks to,-

- (i) exempt certain projects vital to national security, defence, irrigation, drinking water projects and other projects from the requirement of Chapter-II and III of the Principal Act;

- (ii) enable the Deputy Commissioner to pass an award for acquiring the land without making further enquiry;
- (iii) exclude the period during which land acquisition proceedings were held up on account of any proceedings of the Court from computing the period specified in sub-section (2) of Section 24;
- (iv) enable the State Government by entering into agreement voluntary acquisition of land for the public purpose;
- (v) enable the State Government to acquire the land specified for projects by paying lump sum amount in lieu of rehabilitation and resettlement;
- (vi) enable the State Government to recovery of the amount wrongfully paid to any person under the Principal Act;
- (vii) make a provision for prosecution for offences by Government officials, after getting sanction under the provisions of section 197 of the Code of Criminal procedure, 1973 (Central Act 02 of 1974);
- (viii) make a provision regarding the provisions of the Principal Act not to apply to certain Karnataka Acts or to apply with certain modifications;
- (ix) certain other amendments incidental to or consequential thereof are also made.

Hence the Bill.

[L.A. Bill No. 03 of 2019, File No. Samvyashae 03 Shasana 2019]

[Entry 6 and 42 of List III of the Seventh Schedule to the Constitution of India.]

[The provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Karnataka Amendment) Bill, 2019 were repugnant to the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Central Act 30 of 2013) and the Registration Act, 1908 (Central Act 16 of 1908) which are central Laws in force. Therefore the Hon'ble Governor reserved the said Bill for the consideration of His Excellency, the President of India under Article 200 of the Constitution of India as required by clause (2) of Article 254]

KARNATAKA ACT NO. 16 OF 2019

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**THE RIGHT TO FAIR COMPENSATION AND TRANSPARENCY IN LAND ACQUISITION,
REHABILITATION AND RESETTLEMENT (KARNATAKA AMENDMENT) ACT, 2019**

(Received the assent of President on the Sixteenth day of July, 2019)

An Act to amend the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 in its application to the State of Karnataka.

Whereas, it is expedient to amend the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Central Act 30 of 2013), in its application to the State of Karnataka for the purposes hereinafter appearing;

Be it enacted by the Karnataka State Legislature in the Seventieth year of the Republic of India as follows:-

1. Short title and commencement.- (1) This Act may be called the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Karnataka Amendment) Act, 2019.

(2) It shall come into force at once.

2. Amendment of section 2.- In the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as the Principal Act), in section 2, in sub-section (2), after the second proviso, the following proviso shall be inserted, namely:-

"Provided also that the acquisition of land for the projects listed in section 10A and the purposes specified therein shall be exempted from the provisions of the first proviso to this sub-section."

3. Insertion of new Chapter III-A.- In the principal Act, after Chapter III, the following new chapter III-A shall be inserted, namely:-

"CHAPTER III-A

Provisions of chapter II and chapter III not to apply to certain projects

10-A. Power of State Government to exempt certain projects.- The State Government may in the public interest, by notification in the Official Gazette, exempt any of the following projects from the application of the provisions of Chapter II and Chapter III of this Act, namely:-

- (a) such projects vital to national security or defence of India and every part thereof, including preparation for defence or defence production;
- (b) infrastructure projects including educational institutions, Hospitals, Government or Local Self Government Offices electrification, irrigation projects and drinking water projects; and
- (c) affordable housing and housing for the poor people."
- (d) industrial corridors set up by the State Government and its undertaking (in which case the land shall be acquired up to such distance on both sides of designated railway lines or roads and as specified by the State Government for specific projects from time to time and notified as such in State Gazette); and
- (e) infrastructure projects, including projects under public-private partnership where the ownership of the land continues to vest with the State Government:

Provided that, the State Government shall, before the issue of notification, ensure the extent of land for the proposed acquisition keeping in view the minimum land required for such project"

4. Insertion of new section 23-A.- In the principal Act, after section 23, the following section shall be inserted, namely:-

“23-A. Award of Deputy Commissioner without enquiry in case of agreement of interested persons:- (1) Notwithstanding anything contained in section 23, if at any stage of the proceedings, the Deputy Commissioner is satisfied that all the persons interested in the land who appeared before him have agreed in writing on the matters to be included in the award of the Deputy Commissioner in the form prescribed by rules made by the State Government, he may, without making further enquiry, make an award according to the terms of such agreement”.

(2) The determination of compensation for any land under sub-section (1) shall not in any way affect the determination of compensation in respect of other land in the same locality or elsewhere in accordance with the other provisions of this Act.

(3) Notwithstanding anything contained in the Registration Act, 1908(Central Act 16 of 1908), no agreement made under sub-section (1) shall be liable to registration under that Act.

5. Amendment of section 24.- In the principal Act, in section 24, in sub-section (2),-

(1) in the existing proviso for the words "where an award has been made" the words "where the said award has been made five years or more prior to the commencement of this Act" shall be substituted; and

(2) after the existing proviso, the following proviso shall be inserted, namely:-

“Provided further that in computing the period referred to in this sub-section, any period or periods during which the proceedings for acquisition of the land were held up on account of any order, stay, suspension or injunction issued by any Court or the period specified in the award of a Tribunal for taking possession or such period where possession has been taken but the compensation is lying deposited in a Court or in any designated account maintained for this purpose, shall be excluded.”

6. Insertion of new Chapter IV-A.- In the principal Act, after Chapter-IV, the following new Chapter IV-A shall be inserted, namely:-

“CHAPTER IV-A

Voluntary acquisition of land

30-A. Acquisition of land by the State Government by entering into agreement voluntary Acquisition of Land.- (1) Notwithstanding anything contained in this Act, or any other law, whenever it appears to the State Government that the land is needed in any area for any public purpose, the State Government or its Authorised Officer may enter into an agreement with the willing land owner to sell the land in favour of the State Government for the matters specified therein in a prescribed form.

(2) The State Government or its authorized officer shall pass an order in terms of agreement under sub-section (1) for acquisition, and the substance of the order shall be notified in the official Gazette. On such publication of notification, the title, ownership and all interests of the land owner who enters into agreement shall vest with the State Government free from all encumbrances.

(3) Notwithstanding anything contained in the Registration Act, 1908(Central Act 16 of 1908) no agreement entered under sub-section (1) shall be liable for registration under that Act.

(4) If any family, other than the family of the land owner who entered into an agreement, is affected by the acquisition of land under this section, the State Government shall pay a lump-sum amount towards rehabilitation and resettlement if any, as prescribed in the rules made thereunder:

Provided that, no agreement or the lump-sum amount towards rehabilitation and resettlement as may be prescribed, shall be abnormally at variance to the disadvantage of the land owners.

7. Insertion of new section 31-A.- In the principal Act, after section 31, the following section shall be inserted, namely:-

"31-A. Payment of Lump-sum amount by State Government.- Notwithstanding anything contained in this Act, whenever the land is to be acquired for any projects as notified in section 10-A, it shall be competent for the State Government to pay such lump sum amount as may be prescribed in the rules in lieu of Rehabilitation and Resettlement:

Provided that the payment of such lump-sum amount in lieu of Rehabilitation and Resettlement as may be prescribed, shall not be abnormally at variance to the disadvantage of the affected families.

8. Insertion of new section 33-A.- In the principal Act, after section 33, the following new section 33A shall be inserted, namely:-

"33-A. Recovery of the amount wrongfully paid.- Notwithstanding anything contained in any other law, the authority in a reference under section 64 or the High Court in appeal under-section 74, or any other authority in any legal proceedings find that the money has been wrongfully paid to any person under this Act, the State Government or its authorised person or the Deputy Commissioner shall recover the same as arrears of land revenue."

9. Amendment of section 46.- In the principal Act, in section 46, in sub-section (6), in the Explanation, in clause (b), the words "any person other than" shall be omitted.

10. Substitution of section 87.- In the Principal Act, for section 87 the following shall be substituted, namely:-

"87. Offences by Government Officials.- Where any offence under this Act has been committed by any person who is or was employed in the Central Government or the State Government, as the case may be, at the time of commission of such alleged offence, the Court shall take cognizance of such offence provided the procedure laid down in section 197 of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) is followed."

11. Amendment of Section 101.- In the principal Act, in section 101, for the words "a period of five years", the words "a period specified for setting up of any project or for five years, whichever is later," shall be substituted.

12. Amendment of Section 109.- In the principal Act in section 109, in sub-section (2), after clause (u) the following clause shall be inserted, namely:-

"(v) to give effect to the Right to Fair compensation and Transparency in Land Acquisition Rehabilitation and Resettlement (Karnataka Amendment) Act, 2019".

13. Act to override any Judgement, decree or order of any court or Authority.- The provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Karnataka Amendment) Act, 2019 shall have effect notwithstanding anything contained in any law of judgement or order of any Court or authority.

By Order and in the name of the Governor of Karnataka,

K.DWARAKANATH BABU
Secretary to Government
Department of Parliamentary Affairs