

THE SIKKIM LAND (REQUISITION AND
ACQUISITION) ACT, 1977

ACT NO. 1 OF 1978

(Received the assent of the President on the 11th day of January, 1978)

AN
ACT

to provide for the requisition and speedy acquisition of land for certain purposes.

[11th January, 1978]

WHEREAS it is expedient to provide for the requisition and speedy acquisition of land for public purposes as defined hereafter;

Be it enacted by the Legislature of Sikkim in the Twenty-eighth Year of the Republic of India as follows :—

1. (1) This Act may be called the Sikkim Land (Requisition and Acquisition) Act, 1977. *Short title, extent and Commencement.*
 - (2) It extends to the whole of Sikkim.
 - (3) It shall come into force on such date as the State Government may by notification appoint.
2. In this Act, unless there is anything repugnant in the subject or context,— *Definitions.*
 - (1) “Collector” means the Collector of the district where the land is situated and includes any other officer specially empowered by the State Government to perform the functions of a Collector under this Act;
 - (2) “Court” means a principal Civil Court of original jurisdiction and includes the Court of any Additional District Judge and also the Court of a Civil Judge whom the State Government may appoint, by name or by virtue of his office, to perform all or any of the functions of the Court under this Act within such local limits, if any, as may be specified and in the case of a Civil Judge, upto the limits of the pecuniary jurisdiction with which he is vested for the time being;
 - (3) “Cultivator” means a person who cultivates the land of another person on condition of delivering a share or any fixed quantity of the produce of any fixed amount to that person;

- (4) "incumbrance", in relation to any land, includes all rights or interests of whatever nature belonging to any tenant, licensee, cultivator or trespasser or any other person;
- (5) "land" includes benefits to arise out of land and things attached to earth or permanently fastened to anything attached to the earth and also includes any incumbrance in relation to such land;
- (6) "notification" means a notification published in the Official Gazette;
- (7) "person interested" includes all persons claiming an interest in the amount to be paid on account of the requisition or the acquisition of land under this Act; and a person shall be deemed to be interested in the land if he is interested in an easement affecting the land;
- (8) "prescribed" means prescribed by rules made under this Act;
- (9) "public purpose" shall mean and include—
 - (a) the provision for sanitary improvements of any kind, including reclamation;
 - (b) the provision for laying out of village sites, townships or the extension, planned development or improvement of existing village sites or townships;
 - (c) the provision of land for town or rural planning under any law relating to such planning;
 - (d) the provision of land,—
 - (i) for maintaining supplies and services essential to the life of the community;
 - (ii) for providing proper facilities for transport, communication, irrigation or drainage;
 - (iii) for carrying out any housing scheme, Health scheme or any development scheme relating to agriculture, animal husbandry, irrigational facilities or promotion of tourism, sponsored by the State Government or any local authority;
 - (iv) for the creation of better living conditions in rural or urban areas, by clearing slum areas, relieving congestion or otherwise;

- (v) for housing poor, landless or displaced persons or persons residing in areas affected by land slides floods or other similar natural calamities;
- (e) the provision of land for,—
 - (i) residential accomodation for any person serving under the Government where the provision of such accomodation is, in the opinion of the State Government, necessary in the interest of public service;
 - (ii) building for locating a Government or other public offices;
- (f) the provision of land for the establishment, extension or further development of any trade or industry or other concern owned, managed, controlled or nationalised by the Government;
- (g) the provision of land for establishing industrial estates by way of planned development from public funds and subsequent disposal thereof in whole or in part by lease, assignment or other modes of transfer;
- (h) the provision of land for corporation owned, managed or controlled by the Government or for any municipal corporation or other local authority or for the establishment or development of any educational institution;
- (i) the provision of land for a company, corporation or co-operative society for some work which, in the opinion of the State Government, is to be substantially useful for and beneficial for the public;
- (j) the provision of land for the relief of the poor, medical relief, education or advancement of any other object of general public utility.

3. (1) If the State Government is of the opinion that it is necessary so to do for any public purpose, the State Government may, by order in writing, requisition any land and may make such further orders as appear to it to be necessary or expedient in connection with the requisitioning:

Power to requisition.

Provided no land used for the purpose of religious worship or used by an educational or charitable institution shall be requisitioned under this section.

(2) A Collector, when authorised by the State Government

in this behalf, may exercise within his jurisdiction the powers conferred by sub-section (1).

- (3) An order under sub-section (1) or sub-section (2) shall be served in the manner prescribed on the owner of the land and where the land is in the occupation of an occupier, not being the owner of the land, also on such occupier.
- (4) If any person fails to comply with an order made under sub-section (1) or sub-section (2), the Collector or any other person authorised by him in writing in this behalf shall execute the order in such manner as he considers expedient and may,—
 - (a) if he is a magistrate, enforce the delivery of possession of the land in respect of which the order has been made, to himself, or
 - (b) if he is not a Magistrate apply to a Magistrate and such Magistrate shall enforce the delivery of possession of such land to him.

Acquisition of land.

4. (1) Where any land has been requisitioned under section 3, for any public purpose, the State Government may use or deal with such land for such public purpose or any other public purpose.

¹[2 If the State Government is of opinion that it is necessary to acquire for a public purpose any land requisitioned under section 3, it may acquire such land by publishing notification to the effect that such land is required to be acquired for such purpose and that the State Government has decided to acquire such land:

Provided that before issuing such notification, the State Government shall call upon the person interested or any other person who, in the opinion of the State Government, may be interested in such property to show cause why the property shall not be acquired and after considering the cause, if any, shown by the person interested in the land and after giving the party an opportunity of being heard, the State Government may pass such order as it deems fit].

(3) Where such a notification is published, the land requisitioned under section 3 shall, on and from the

1. Subs. by sec. 2 (a) of the Sikkim Land (Requisition and Acquisition) (Amd.) Act, No. 13 of 1978 (w. e. f. 22. 4. 1978).

beginning of the day on which the notification is published, vest absolutely in the State Government free from all incumbrances and the period of requisition of such land shall end forthwith.

5, (1) After the publication of a notification under sub-section (2) of section 4 the Collector shall cause public notice to be given at convenient places on or near the land acquired stating that the State Government has acquired the land and that claims to the amount payable for the acquisition of such land may be made to him.

Notice to persons interested.

(2) Such public notice shall state the particulars of the land so acquired and shall require all persons interested in the land to appear personally or by agent before the Collector at such place and on such date and at such time as may be mentioned therein, not being earlier than fifteen days after the publication of such notice and to state in writing and signed by such person or his agent the nature and particulars of their claims to the amount payable for the acquisition of such land.

(3) The Collector shall also serve notice in the manner prescribed on the occupier, if any, of such land and on all such persons known or believed to be interested therein or to be entitled to act for such occupier or person so interested, as reside or have agents authorised to receive service on their behalf, within the district within which the land is situated.

(4) In case any person so interested resides elsewhere and has no such agent, the notice shall be sent to him by registered post to his last known residence, address or place of business.

6. (1) Where any land requisitioned under section 3 is not acquired and is to be released from requisition, the State Government may, after making such inquiry as it considers necessary, specify, by order in writing, who appears to it to be entitled to the possession of such land.

Release from requisition.

(2) The delivery of possession of such land to the person specified in the order made under sub section (1) shall be a full discharge of any liability of the State Government for any claim for any amount payable for requisition or other claim in respect of such land

for any period after the date of delivery, but shall not prejudice any right in respect of such land which any other person may be entitled by due process of law to enforce against the person to whom possession of the land is so delivered.

(3) Where the person specified in the order made under sub-section (1) cannot be found or is not readily traceable or has no agent or other person empowered to accept delivery on his behalf, the State Government shall publish a notification declaring that such land is released from requisition and shall cause a copy of such notification to be affixed on some conspicuous part of the land.

(4) On the publication of such a notification under sub-section (3), the land specified in such notification shall cease to be subject to requisition on and from the date of such publication and shall be deemed to have been delivered to the person specified in the order made under sub-section (1) and the State Government shall not be liable to pay any amount or other claims in respect of such land for any period after the said date.

Amount payable for requisition.

7. (1) Whenever any land is acquired under section 4, there shall be paid to every person interested an amount which shall be determined by the Collector in the manner and in accordance with the principles of section 23 of the Land Acquisition Act, 1894, so far as they may be applicable:

1 of 1894.

Provided that the market value referred to in clause first of sub-section (1) of section 23 of the said Act shall, in respect of any land acquired under this Act, be deemed to be the price which such land would have fetched in the open market if it had remained in the same state and condition as it was on the date of the order of requisition under section 3 and been sold on the date of the publication of the notification referred to in sub-section (2) of section 4.

(2) When the amount has been determined under sub-section (1), the Collector shall, in accordance with the provisions of section 11 of Land Acquisition Act, 1894, so far as they may be applicable, make an award under his hand of-

- (i) the true area of the land;
- (ii) the amount determined as payable for the land; and
- (iii) the apportionment of the said amount among all the persons known or believed to be interested, of whom, or of whose claims, he has information, whether or not they have respectively appeared before him:

Provided that interest at the rate of six per centum per annum on the amount under the award from the date of the publication of the notification under sub-section (2) of section 4 until payment shall be included.

(3) (a) Such award shall be filed in the office of the Collector and shall, except as hereinafter provided, be final and conclusive evidence, as between the Collector and the persons interested in the land, whether they have respectively appeared before the Collector or not of the true area and value of the land and the apportionment of the amount among the persons interested;

(b) the Collector shall give, in the prescribed manner, immediate notice of his award to such of the persons interested in the land as are not present personally or by their representatives when the award is made;

(c) Upon an award being made under the foregoing provisions, the Collector shall proceed to make payment in accordance with the provisions contained in sections 31 to 33 of the Land Acquisition Act, 1894, so far as they may be applicable.

²[“8. (1) Where any land is requisitioned under section 3, there shall be paid to the person interested in respect of the requisitioning of the land an amount, if any, as may be fixed by agreement between the Collector and the person interested and approved by the State Government in the manner prescribed and the Collector shall make an award ordering payment of such amount;

*Amount payable
for requisition.*

(2) Where the Collector and the person interested do

2. Subs. by sec. 2 of the Sikkim Land (Requisition and Acquisition) Amd. Act. No. 13 of 1978 (w. e. f. 22. 4. 1978).

not agree as to the amount or where the agreement arrived at by and between them is not approved by the State Government or where the person interested cannot be traced or does not appear before the Collector when called upon to be present for the purpose of the determination of the amount, the amount payable for the requisitioning of the land shall consist of—

(a) a recurring payment, in respect of the period of requisition, of a sum which would have been payable for the use and occupation of the land, if it had been taken on lease for that period; and

(b) such sum or sums, if any, as may be found necessary to compensate the person interested for all or any of the following :—

- (i) pecuniary loss due to requisitioning;
- (ii) expenses on account of vacating the requisitioned land;
- (iii) expenses on account of reoccupying the land upon release from requisition, and
- (iv) damage (other than normal wear and tear or due to natural causes)-caused to the land during the period of requisition, including the expenses that may have to be incurred for restoring the land to the condition in which it was at the time of requisition;

and the Collector shall make an award ordering payment of the amount so determined and shall give in the prescribed manner immediate notice of his award to the person interested in the land if he is not present personally or by his representative when the award is made]

Reference to Court.

9. (1) The Collector shall, in every case, where any person interested being aggrieved by an award made under sub-section (2) of section 7 or "[* * *] sub-section (2) of section 8, makes an application requiring the matter to be referred to the Court, refer the matter for the decision of the Court.

(2) The application shall state the grounds on which objection to the award is taken and shall be made -

(a) If the applicant was present or represented

1. Omitted by sec. 2 of the Sikkim Land (Requisition and Acquisition) Amd. Act, No. 13 of 1978 (w. c. f. 22. 4. 1978).

before the Collector at the time when the award was made within six weeks from the date of making of the award;

(b) in other cases, within six weeks of the receipt of the notice from the Collector under clause (b) of sub-section (3) of section 7 or clause (b) of sub-section (2) of section 8, as the case may be, or within six months from the date of the making of the award by the Collector whichever period shall first expire.

(3) The provisions contained in sections 19 to 22 and sections 25 to 28 of the Land Acquisition Act, 1894, so far as they may be applicable and the principles set out in sub-section (1) and sub-section (2) of section 7 and ⁴[* * *] sub-section (2) of section 8 of this Act so far as they may be applicable, shall apply in respect of any reference made to the Court under sub-section (1).

(4) No person who has received any amount under the award otherwise than under protest shall be entitled to make any application under sub-section (1).

10. (1) Notwithstanding anything contained anywhere in this Act or any other law for the time being in force, if any land which is being cultivated by any cultivator is requisitioned or acquired under this Act, the cultivator shall be paid an amount determined in accordance with the principles set out in sub-section (2) out of the amount payable for the requisition or the acquisition of the land, as the case may be, to the person interested in such land.

Payment to Cultivators.

(2) The amount to be paid to the cultivator under sub-section (1) shall be determined according to the following principles, namely:—

(a) if the cultivator has been cultivating the land for a period of more than five years but not more than ten years on the date of the requisition or the acquisition of the land, as the case may be, fifteen per cent of the amount payable for the requisition or the acquisition of such land, as the case may be;

(b) if the cultivator has been cultivating the land for more than ten years but not more than fifteen years on the date of the requisition or the acquisition of the land, as the case may be, twenty per cent of the amount

4. Omitted by sec. 2 of the Sikkim Land (Requisition and Acquisition) Amd. Act, No. 13 of 1978 (w. e. f. 22. 4. 1978).

payable for the requisition or the acquisition of the land as the case may be;

(c) if the cultivator has been cultivating the land for more than fifteen years on the date of the requisition or the acquisition of the land, as the case may be, twenty five per cent of the amount payable for the requisition or the acquisition of the land, as the case may be.

Appeal.

11. The provisions of the Code of Civil Procedure, 1908, relating to appeals shall apply to an award made by the Court on a reference under section 9, if such award were an original decree passed by the Court in exercise of its civil jurisdiction. 5 of 1908.

Power to enter upon land, etc.

12. The State Government may, with a view to requisitioning or acquiring any land or for the purpose of determination by the Collector of the amount payable under this Act, by order,-

(a) require any person to furnish to such authority as may be specified in the order, such information in his possession relating to land as may be specified;

(b) authorise any person -

(i) to enter upon and survey and take levels of any land in such locality;

(ii) to dig or bore into the sub-soil;

(iii) to do all other acts necessary to ascertain whether the land is adapted for such purposes;

(iv) to set out the boundaries of the land proposed to be taken and the intended line of the work (if any) proposed to be made thereon;

(v) to make such levels, boundaries and line by placing marks and cutting trenches;

(vi) and, where otherwise the survey cannot be completed and the levels taken and the boundaries and line marked, to cut down and clear away any part of the standing crop, fence or jungle:

Provided that no person shall enter into any building or upon any enclosed court or garden attached to a dwelling house (unless with the consent of the occupier thereof) without previously giving such occupier at least seven days' notice in writing of his intention to do so.

Requisition or

13. If the State Government is of the opinion that it is neces-

sary to requisition or acquire any land for any of the public purposes as defined and specified in ⁵ [clause (9)] of section 2, all such requisition and acquisition shall be made under and in accordance with the provisions of this act and the rules made thereunder and not under any other law inconsistent with provision of this Act and the rules made thereunder.

Acquisition to be made under this Act.

14. If any person contravenes any order made under this Act, he shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to two thousand rupees or with both.

Penalty.

15. Save as otherwise provided in this Act, no decision or order or award made in exercise of any power conferred by or under this Act shall be called in question in any Court.

Saving.

16. No suit, prosecution or other legal proceeding shall lie against the State Government or any officer of the State Government or any other person for anything, or for any damage caused or likely to be caused by anything, which is in good faith done or intended to be done in pursuance of this Act or any order made thereunder.

Protection of action taken under this Act.

17. No award or agreement made under this Act shall be chargeable with any Stamp Duty, and no person claiming under any such award or agreement shall be liable to pay any fee for a copy thereof.

No Stamp Duty to be paid for award or agreement and no fees to be paid for copies thereof.

18. (1) The State Government may make rules for carrying out the purposes of this Act.

Power to make rules,

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely :—

(a) the manner of service of orders on the owner or occupier of land under sub-section (3) of section 3;

(b) the manner of service of notice on the persons referred to in sub-section (3) of section 5;

(c) the manner of service of notice of award under clause (b) sub-section (3) of section 7;

⁶ [(d) the manner of approval by the State Govern-

5. Subs. by sec. 2 of the Sikkim Land (Requisition and Acquisition) Amd. Act No 13 of 1971 (w.e.f. 22.4.1978).

6. Inserted by *ibid.*

ment of the amount fixed by agreement under sub-section (1) of section 8".]

⁷[(e) the manner of determination of and of giving notice of the award to the persons interested under ⁸[* * *] sub-section (2) of section 8.]

*Certain laws to
cease to apply.*

19. The provisions of the Sikkim Public Security (Requisitioning and Acquisition of Immovable Property) Rules, 1962, and any other law shall cease to apply and have any effect to any matter for which provision is made in this Act.

7. Subs. by sec 2 of the Sikkim Land (Requisition and Aquisition) Amd. Act, No. 13 of 1978 (w. e. f, 22. 4. 1978).

8. Omitted by *ibid.*

SIKKIM

GOVERNMENT



GAZETTE

EXTRAORDINARY
PUBLISHED BY AUTHORITY

No. 67

Gangtok, Saturday, May 6, 1978

LEGISLATIVE DEPARTMENT

NOTIFICATION

No. 13/LL/78

Dated Gangtok, the 6th May, 1978.

The following Act of the Sikkim Legislative Assembly having received the assent of the President on 20th day of April, 1978 is hereby published for general information.

SIKKIM ACT NO. 13 OF 1978

THE SIKKIM LAND (REQUISITION AND ACQUISITION)
AMENDMENT ACT, 1978

AN

ACT

to amend the Sikkim Land (Requisition and Acquisition) Act, 1977 (Act No. 1 of 1978.)

WHEREAS it is expedient to amend the Sikkim Land (Requisition and Acquisition) Act, 1977 (Act No. 1 of 1978) in the manner hereinafter appearing :

It is hereby enacted in the Twenty-ninth year of the Republic of India by the Legislature of the State of Sikkim as follows :—

- | | | |
|--|----|--|
| <i>Short Title and commencement</i> | 1. | (1) This Act may be called the Sikkim Land (Requisition and Acquisition) Amendment Act, 1978.
(2) It shall come into force at once. |
| <i>Amendments in the Sikkim Land (Requisition & Acquisition) Act, 1977 (Act No. 1 of 1978)</i> | 2. | In the Sikkim Land (Requisition and Acquisition) Act, 1977 (Act No. 1 of 1978) :—
(a) for sub-section (2) of section 4, the following shall be and shall always be deemed to have been substituted :— |

“(2) If the State Government is of opinion that it is necessary to acquire for a public purpose any land requisitioned under Section 3, it may acquire such land by publishing a notification to the effect that such land is required to be acquired for such purpose and that the State Government has decided to acquire such land :

Provided that before issuing such notification, the State Government shall call upon the person interested or any other person who, in the opinion of the State Government, may be interested in such property to show cause why the property shall not be acquired and, after considering the cause, if any, shown by the person interested in the land and after giving the party an opportunity of being heard, the State Government may pass such order as it deems fit."

(b) For Section 8, the following shall be and shall always be deemed to have been substituted :—

"8. (1) Where any land is requisitioned under Section 3, there shall be paid to the person interested in respect of the requisitioning of the land an amount, if any, as may be fixed by agreement between the Collector and the person interested and approved by the State Government in the manner prescribed and the Collector shall make an award ordering payment of such amount;

(2) Where the Collector and the person interested do not agree as to the amount or where the agreement arrived at by and between them is not approved by the State Government or where the person interested cannot be traced or does not appear before the Collector when called upon to be present for the purpose of the determination of the amount, the amount payable for the requisitioning of the land shall consist of —

(a) a recurring payment, in respect of the period of requisition, of a sum which would have been payable for the use and occupation of the land, if it had been taken on lease for that period; and

(b) such sum or sums, if any, as may be found necessary to compensate the person interested for all or any of the following:—

- (i) pecuniary loss due to requisitioning;
- (ii) expenses on account of vacating the requisitioned land;
- (iii) expenses on account of reoccupying the land upon release from requisition, and
- (iv) damage (other than normal wear and tear or due to natural causes) caused to the land during the period of requisition, including the expenses that may have to be incurred for restoring the land to the condition in which it was at the time of requisition;

and the Collector shall make an award ordering payment of the amount so determined and shall give in the prescribed manner immediate notice of his award to the person interested in the land if he is not present personally or by his representative when the award is made.

(c) in sub-section (1) and sub-section (3) of section 9, the words, brackets and letter "Clause (b) of" shall be and shall always be deemed to have been deleted.

(d) in Section 13, for the word, brackets and figure "Clause (7)", the word, brackets and figure "Clause (9)" shall be and shall always be deemed to have been substituted.

(e) after clause (c) in sub-section (2) of Section 18, the following clause shall be and shall always be deemed to have been inserted as clause (d):—

"(d) the manner of approval by the State Government of the amount fixed by agreement under sub-section (1) of Section 8".

(f) the existing clause (d) in sub-section (2) of Section 18 shall be and shall always be deemed to have been styled as Clause (e) and in the said Clause, the words, brackets, and letter "Clause (b) of" shall be and shall always be deemed to have been deleted.

Repeal

3. The Sikkim Land (Requisition and Acquisition) Amendment Ordinance, 1978, is hereby repealed.

By Order of the Governor,

B. R. PRADHAN,

Secretary to the Government of Sikkim
Law and Legislative Department.

F 16 (12) LL/77.