

ACT No. XVII OF 1947

[PASSED BY THE INDIAN LEGISLATURE]

(Received the assent of the Governor General on the 24th March, 1947.)

An Act to provide for the continuance of certain emergency powers in relation to requisitioned land.

XXXV of 1939
WHEREAS it is expedient to provide, in relation to land which, when the Defence of India Act, 1939, expired, was subject to any requisition effected under rules made under that Act, for the continuance of certain powers theretofore exercisable under the said Act or the said rules :

XIX of 1946
AND WHEREAS the Requisitioned Land (Continuance of Powers) Ordinance, 1946, provided for the continuance of such powers, as the Indian Legislature was not in session :

and 10
No. 6, c. 39
AND WHEREAS the Indian Legislature has been empowered by section 3 of the India (Central Government and Legislature) Act, 1946, to make laws with respect to the matters aforesaid ;

It is hereby enacted as follows :—

1. (1) This Act may be called the Requisitioned Land (Continuance of Powers) Act, 1947. Short title, extent and duration.

(2) It extends to the whole of British India.

and 10
No. 6, c. 39
of 1937
(3) It shall cease to have effect on the expiration of the period mentioned in section 4 of the India (Central Government and Legislature) Act, 1946, except as respects things done or omitted to be done before the expiration thereof, and section 6 of the General Clauses Act, 1897, shall apply upon the expiry of this Act as if it had then been repealed by a Central Act.

2. In this Act, unless there is anything repugnant in the subject or context,— Definitions.

(1) "appropriate Government" means, in relation to any requisitioned land, the Central or Provincial Government by which or under the authority of which the land has been requisitioned ;

of 1946
(2) "Ordinance" means the Requisitioned Land (Continuance of Powers) Ordinance, 1946 ;

(3) "Provincial Government" means, in relation to a Chief Commissioner's Province, the Chief Commissioner ;

of 1937
(4) "requisitioned land" means immovable property which at the commencement of this Act is subject to any requisition effected under the rules made under the Defence of India Act, 1939.

Price anna 1 or 1½d.

Continuance of
requisitions.

3. Notwithstanding the expiration of the Defence of India Act, 1939, and the rules made thereunder and the repeal of the Ordinance, all requisitioned lands shall continue to be subject to requisition until the expiry of this Act and the appropriate Government may use or deal with any requisitioned land in such manner as may appear to it to be expedient:

Provided that the appropriate Government may at any time release from requisition any requisitioned land.

Release from
requisition.

4. (1) Where any requisitioned land is to be released from requisition, the appropriate Government may, after making such inquiry, if any, as it considers necessary, specify by order in writing the person to whom possession of the land shall be given.

(2) The delivery of possession of the requisitioned land to the person specified in an order made under sub-section (1) shall be a full discharge of the Government from all liability in respect of such delivery, but shall not prejudice any rights in respect of the 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 to whom possession of any requisitioned land is to be given cannot be found and has no agent or other person empowered to accept delivery on his behalf, the appropriate Government shall cause a notice declaring that the land is released from requisition to be affixed on some conspicuous part of the land and publish the notice in the official Gazette.

(4) When a notice referred to in sub-section (3) is published in the official Gazette, the land specified in such notice shall cease to be subject to requisition on and from the date of such publication and be deemed to have been delivered to the person entitled to possession thereof; and the Government shall not be liable for any compensation or other claim in respect of the land for any period after the said date.

Power to acquire
requisitioned land.

5. (1) Subject to the provisions of sub-section (3), the appropriate Government may, at any time when any requisitioned land continues to be subject to requisition under section 3, acquire such land by publishing in the official Gazette a notice to the effect that such Government has decided to acquire such land in pursuance of this section.

(2) When a notice as aforesaid is published in the official Gazette, the requisitioned land, shall on and from the beginning of the day on which the notice is so published, vest absolutely in the appropriate Government free from all encumbrances and the period of requisition of such land shall end.

(3) No requisitioned land shall be acquired under this section except in the following circumstances, namely:—

(a) where any works have during the period of requisition been constructed on, in or over the

land wholly or partly at the expense of Government and the appropriate Government decides that the value of, or the right to use, such works should be preserved or secured for the purposes of Government; or

(b) where the cost of restoring the land to its condition at the time of its requisition would, in the determination of the appropriate Government, be excessive having regard to the value of the land at that time and the owner declines to accept the release from requisition of the land without payment of compensation from Government.

(4) Any decision or determination of the appropriate Government under sub-section (3) shall be final, and shall not be called in question in any Court.

(5) For the purposes of clause (a) of sub-section (3) "works" includes buildings, structures and improvements of every description.

6. (1) In respect of the continued subjection of requisitioned land to requisition under this Act or the Ordinance, compensation shall be determined and paid in accordance with the provisions of section 19 of the Defence of India Act, 1939, and of the rules made thereunder:

Provided that all agreements and awards under the said section in respect of the payment of compensation for the period of requisition before the expiry of the said Act shall continue to be in force and shall apply to the payment of compensation for the period of requisition after such expiry.

(2) In respect of any acquisition of requisitioned land under this Act or the Ordinance, the amount of compensation payable shall be such sum as would be sufficient to purchase at the market rate prevailing on the date of the notice under section 5 a piece of land equal in area to, and situated within a distance of three miles from, the acquired land, and suitable for the same use as that to which the acquired land was being put immediately before the date of its requisition, or a sum equivalent to twice the market value of the acquired land on the date of its requisition, whichever is less; and such amount shall be determined and paid in accordance with the procedure set out in the aforesaid section 19 and the rules made thereunder.

(3) For the purposes of sub-section (1) all the provisions of the aforesaid section 19 and of the rules made thereunder, and for the purposes of sub-section (2) such of those provisions as relate to matters of procedure, shall be deemed to be continuing in force.

7. (1) The appropriate Government may, with a view to carrying out the purposes of sections 3 to 6, by order require any person to furnish to such authority as may be specified in the order such information in his possession relating to any requisitioned land as may be specified.

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(2) Every person required to furnish such information as is referred to in sub-section (1) shall be deemed to be legally bound to do so within the meaning of sections 176 and 177 of the Indian Penal Code. XLV of 1860

Delegation of functions

8. The Central Government or any Provincial Government may, by order notified in the official Gazette, direct that any power conferred or any duty imposed on it by this Act shall, in such circumstances and under such conditions, if any, as may be specified in the direction, be exercised or discharged by such officer as may be so specified.

Protection of action taken under the Act.

9. (1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any order made thereunder.

(2) No suit or other legal proceeding shall lie against the Crown for any damage caused or likely to be caused by anything in good faith done or intended to be done in pursuance of this Act or any order made thereunder.

Repeal of Ord. XIX of 1946.

10. The Requisitioned Land (Continuance of Powers) Ordinance, 1946, is hereby repealed; and anything done in exercise of any power conferred by or under the said Ordinance shall be deemed to have been done in exercise of powers conferred by or under this Act, as if this Act had commenced on the 1st day of October, 1946.