

The 2016 Gujarat Bill

THE RIGHT TO FAIR COMPENSATION AND TRANSPARENCY IN LAND ACQUISITION, REHABILITATION AND RESETTLEMENT (GUJARAT AMENDMENT) BILL, 2016

GUJARAT BILL NO. 5 OF 2016

A BILL

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

It is hereby enacted in the Sixty-seventh Year of the Republic of India as follows:-

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| | 1. (1) This Act may be called the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Gujarat Amendment) Act, 2016. | Short title and commencement. |
| | (2) It shall come into force on such date as the State Government may, by notification in the <i>Official Gazette</i> , appoint. | |
| Amendment of section 2 of __ of 2013 | 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." | __ of 2013 |
| Insertion of new section 10A in __ of 2013 | 3. In the principal Act, after section 10, the following section shall be inserted, namely:- | |

Power of State Government to exempt certain projects

“10A. 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) Rural infrastructure including electrification;
- (c) Affordable housing and housing for the poor people;
- (d) Industrial corridors set up by the State Government and its undertakings (in which case the land shall be acquired up to one kilometre on both sides of designated railway line or roads for such industrial corridor); and
- (e) Infrastructure projects including projects under public-private partnership where the ownership of land continues to vest with the 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 bare minimum land required for such project.”

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

Insertion of new section 23A in 30 of 2013

Award of Collector without enquiry in case of agreement of interested persons.

“23A. (1) Notwithstanding anything contained in section 23, if at any stage of the proceedings, the Collector 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 Collector 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 lands in the same locality or elsewhere in accordance with the other provisions of this Act.

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

16 of 1908

5. In the principal Act, in section 24, in sub-section (2), after the existing proviso, the following proviso shall be inserted, namely:-

Amendment of section 24 of 30 of 2013.

“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 stay 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. In the principal Act, after section 31, the following section shall be inserted, namely:-

Insertion of new section 31A in 30 of 2013

Payment of

lump sum amount by State Government for its linear nature projects.

31A. Notwithstanding anything contained in this Act, it shall be competent for the State Government to pay, whenever the land is to be acquired for its own use amounting to less than one hundred acres or whenever the land is to be acquired in case of projects which are linear in nature as referred to in proviso to sub-section (4) of section 10, as Rehabilitation and Resettlement cost, such lump sum amount equal to fifty per cent of the amount of compensation as determined under section 27 to the affected families”.

Amendment of section 40 of 30 of 2013

7. In the principal Act, in section 40, in sub-section (2), after the words “approval of Parliament”, the words “or to comply with the directions given by the Central

Government to the State Government” shall be added.

Amendment of section 46 of 30 of 2013

8. In the principal Act, in section 46, in sub-section (6), in the Explanation, in clause (b), sub-clause (i) shall be deleted.

Substitution of section 87 of 30 of 2013

9. In the Act, for section 87, the following section shall be substituted, namely:-

Offences by Government Officials

87. 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 is followed.”

STATEMENT OF OBJECTS AND REASONS

The Central Government has enacted the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. Gujarat is an industrially progressive State and more and more investment is coming to the State. The State Government aims to provide all basic facilities and infrastructure to the entrepreneurs. However, it has been experienced that after coming into force of the said Act which has very stringent provisions for acquiring the land, land acquisition has become a very lengthy and difficult proposition. It is, therefore, considered necessary to make the procedural part of the land acquisition smooth and easy without interfering with the rights of the persons whatsoever whose lands are acquired.

Accordingly, it is proposed to exempt certain projects from the application of the provisions of the Chapter II of the Act which relates to determination of social impact and public purpose as also from the provisions of Chapter III of the Act which relates to special provision to safeguard food security. These projects *inter alia* include the projects which are vital to national security or defence of India, rural infrastructure including electrification, affordable housing and housing for the poor people, etc. It is also proposed to insert a provision to the effect that in case where the person interested in the land who have appeared before him have agreed in writing on the matters to be included in the award then the Collector may without making further inquiry, make an award according to the terms of agreement. Section 24 (2) of the said Act provides that where an award under the old Act that is Land Acquisition Act, 1894 has been made five years or more prior to the commencement of the Act of 2013 but the physical possession of the land has not been taken or the compensation has not been paid, the said proceeding shall be deemed to have lapsed. It is proposed to insert a provision to the effect that for computing the said period of five years, any period or periods for which the acquisition of land was held up on account of any stay or injunction of the court or such period where possession has been taken but the compensation has been lying deposited in any court for this purpose shall be excluded. It is also proposed to insert a provision to the effect that it would be competent for the State Government to pay where the land is to be acquired for its

own use amounting to less than one hundred acres or where the land is to be acquired for projects which are linear in nature, such lump sum amount equal to fifty per cent of the amount of compensation to the affected families as Rehabilitation and Resettlement cost.

This Bill seeks to amend the said Act to achieve the aforesaid objects.

NITIN PATEL

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves delegation of legislative powers in the following respect:-

Clause 1: Sub-clause (2) of this clause empowers the State Government to appoint, by notification in the *Official Gazette*, the date on which the Act shall come into force.

Clause 3: New section 10A proposed to be inserted by this clause empowers the State Government to exempt, by notification in the *Official Gazette*, certain projects from the applications of Chapter II and Chapter III of the Act.

Clause 4: New section 23A proposed to be inserted by this clause empowers the State Government to prescribe by rules, the form in which the Collector shall make an award without inquiry where the persons interested have agreed to the matters to be included in the award.

The delegation of legislative powers as aforesaid is necessary and is of a normal character.

Dated the 22nd February, 2016

NITIN PATEL.

