

48. INSTRUCTIONS ON THE LAND ACQUISITION ACTS

Extract from The Bengal Land Acquisition Manual, 1917, Part-II

REVISED LAND ACQUISITION RULES.

PRELIMINARY

The following is an abstract of the orders issued by the Government of India and the Railway Board from time to time regarding the acquisition, transfer, relinquishment and leasing of land on railways. These rules should be observed in future on all railways, whether constructed or worked by the State or by Companies.

NOTE - These rules do not apply to land taken up for tramways.

SECTION I

General Instructions

Land to be invariably acquired under the Act.

2. Whenever land which does not already vest in Government is required for railway purposes, it should be taken up under the Land Acquisition Act, Act I of 1894, as acquisition under the Act confers an indefeasible title. Land which is already public property and in which no interests of private persons exist should not form the subject of proceedings under the Land Acquisition Act.

Private negotiations with owners of land to be acquired for a public purpose.

3. In cases however where it is considered that appreciable economy would be effected, there is no objection to a Railway Administration entering into negotiation, either direct or through a deputy, agent or broker, with the owners of land about to be taken up for a railway purpose with the object of coming to an amicable settlement with them as to the price to be paid, previous to the initiation of proceedings under the Land Acquisition Act and with a view to guarding against subsequent exorbitant demands or awards. The terms of the settlement thus arrived at should be communicated to the Land Acquisition Officer who, though not bound to accept in his award the price agreed upon beforehand, will no doubt do so in ordinary cases.

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In all cases, however, it is necessary that the final acquisition should be effected under the Land Acquisition Act.

Arrangements for acquisition will be made by the Local Government.

4. All arrangements for the acquisition of land required by a railway will be made by the Local Government or Administration, as the case may be, of the Province in which the land required is situated. The local procedure to be followed and the information to be furnished for the purposes of acquisition should therefore be in conformity with the instructions prescribed by each Local Government or Administration.

All lands should be taken up as for permanent occupation.

5. All land for railway purposes, whether acquired temporarily or permanently, will ordinarily be taken up in the first instance as for permanent occupation and valued accordingly. In special circumstances, however, where land is needed for temporary purposes and where there is little likelihood of the land on the expiration of the term of temporary occupation being rendered unfit to be used for the purpose for which it had been utilised immediately before such occupation, temporary acquisition may be undertaken under section 35 of the Land Acquisition Act (Act I of 1894) provided that such procedure would result in economy. Waste or arable land can be occupied temporarily only for a period not exceeding three years from the commencement of occupation, vide section 35 (l) of the Land Acquisition Act (No. I of 1894).

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Railways under the administrative control of a Local Government or Administration

8. In the case of lines which, for administrative purposes, are under the control of a Local Government or Administration, the Railway Administration concerned should invariably, unless Imperial funds are involved, address such Local Government or Administration direct on matters pertaining to the acquisition of land. Should any technical advice be required by a Local Government or Administration in connection with the acquisition of land for such lines, the assistance of the Government Inspector of Railways of the Circle concerned may be taken.

SECTION II
Procedure for acquisition preliminary to putting the
Land Acquisition Act into force.

Particulars to be specified in the application for land.

9. Whenever land is required for railway purposes, an application should first be made direct to the Revenue Officer in charge of the district in which the land is situated, for a statement of the value of the land and a Draft Declaration for acquiring it. The application shall set forth clearly the purpose for which the land is required, and shall be accompanied by the following documents specifying the extent of the land and such other particulars necessary for its identification :-

- (a) A complete set of Land Plans prepared in accordance with the instructions given hereafter.
- (b) A complete set of Schedules prepared in the form given in Appendix B or in such other form as may be prescribed by each Local Government or Administration to suit local conditions.

10. When the work of 'acquisition extends to more than one district but lies within one division, application should be made to the Commissioner, when in more than' One division to the Chief Revenue Authority of the province.

11. For the better identification of land in cases where the areas to be taken up are extensive, the following further information should also be furnished by a Railway Administration to the Local Government or Administration in applying for the acquisition of land :-

- (a) The name of the railway.
- (b) The copy of the order of Government, when necessary, sanctioning the construction of the railway.
- (c) A brief general description of the route to be followed by the railway with the names of the more important villages or towns through or near which it is intended that the railway should pass.
- (d) A list of the Civil districts in which the land will be required for the purpose of the railway with the approximate area in acres of the land required in each.
- (e) For each Civil district, the name or description of the place or places at which the Land Plans for the District will be available for inspection by the public.

With the statement specified above should also be sent for the information of the Local Government or Administration a general Index Plan to a scale of 1 mile to 1 inch showing the route to be followed by the railway.

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SECTION III.
Procedure after the Act is put into force.

After publication of Declaration

23. After the publication of the Declaration under section 6 of the Land Acquisition Act, the Local Government or Administration will direct the Collector, or other officer specially appointed for the purpose, to proceed to acquire the land in the manner indicated in the Land Acquisition Act, and all subsequent proceedings will be taken by the Local Government or Administration. When the awards have been announced, the Railway Administration may enter into possession of the land but before doing so, the authority of the Land Acquisition Officer to its occupation should be obtained. When possession is taken, the acquisition is completed and the land then vests absolutely in Government. Up to the moment of taking possession under the Act, Government is at liberty to withdraw from the acquisition but not afterwards, It should be noted that withdrawal from acquisition entails liability for payment of compensation for any damage suffered by the owner in consequence of the notice or any proceedings thereunder (section 48 (2) of the Land Acquisition Act No. I of 1894).

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SECTION IV.

Transfer of lands between Railways, Departments of Government and other public bodies.

The general position of State lands and those held by Railways.

28. The general position of all State lands in India is as follows. Their ownership vests in His Majesty's Secretary of State for India and thus property in them appertains neither to a Local Government nor to any particular Department. They are ordinarily administered by the Local Government of the Province in which they are situated, subject to statutes or to any rules made or sanctioned by the Government of India, and to the general executive control of the Supreme Government. When State land is made over for occupation and management by any Department of Government for any particular purpose, it cannot be used for other purposes. The department has no property in the land, its interests being confined merely to a right of occupation and user, and when the land is no longer needed by the department concerned, it reverts to the administration of the Local Government. If in any case the Local Government considers that land should be withdrawn from the occupation of an Imperial Department and the head of the department does not agree, the Local Government should refer the matter for the orders of the Government of India. So also with respect to lands held by railways, the ownership vests in the Secretary of State, the interests of railways being confined to the rights of occupation and user, and when no longer required these lands should revert to the Secretary of State, i.e., the Local Government who are the proper custodians on his behalf. A Railway Administration is therefore not competent to transfer such rights in land direct, nor to come into possession of land except through the Secretary of State, i.e., the Local Government, who should be a party to any acquisition or relinquishment of land. Consequently when a Railway Administration requires land which is in the possession of Government or of another railway or public body, it should first obtain the consent of the Department of Government or of the body in whose possession the land is, to the land being so transferred. On obtaining this assent, the Local Government should be approached in accordance with the procedure referred to above with respect to Land to be taken up under the Land Acquisition Act; if the Local Government agree to the proposal they will make all arrangements for the transfer of the land and the assessment of its value. A Railway Administration is thus only concerned with receiving land or relinquishing land to the Secretary of State, i.e., beyond taking such steps as the Local Government may require in order to secure possession or relinquishment as the case may be, it is of no concern to a Railway administration what action a Local Government may take with respect to such land.

29. When a Railway Administration holding land from Government wishes to transfer Land to, or receive land from, an independent Corporation or Company, it should inform the Local Government of its intention, and Government, if they agree to the proposal, will execute the formal deed of transfer with the Corporation or Company concerned, or cause the Railway Administration to have such a deed drawn up for execution by Government, whichever procedure is more convenient. After executing the formal Deed of Transfer, the Local Government will hand over the land to the Railway Administration. A formal Deed of Transfer will however only be required when one of the parties to the transfer of the land is neither Government nor a Railway Company holding its land from Government. In the case of transfers of land between two Railway Companies each of which holds its lands from Government, no formal deed will be required but the consent of the Local Government to the transfer and a record of the transaction will be all that is necessary.

30. It should be noted that the rules and procedure laid down with respect to obtaining the approval of the Railway Board to lands taken up under the Land Acquisition Act apply equally to Government lands also; such approval, however, in the case of Government lands should only be applied for after the consent of the Department of Government or of the public body in whom the land to be transferred vests, has been obtained.

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32. All transfers of such land will be outright. When, however, it is desirable to retain rights over a plot of land, the Department of Government or Railway, before making it over to the Local Government for transfer, should obtain the written consent

of the Department of Government or the Railway, as the case may be, to whom the land is being transferred, to the retention of such rights. In no case however is a lease of land permissible between a Department of Government and a railway or between one railway and another.

33. With regard to the transfer or acquisition of land in Cantonments or in charge of the Military Authorities, and the construction of buildings and other works in the vicinity of Forts and Cantonments, the orders and procedure laid down in Railway Board's Circular letter No. 2650 R. G., dated the 2nd September 1913 (vide **Appendix C**), should be strictly followed.

SECTION V **Relinquishment of land**

Relinquishment of land held by a railway in excess of requirements.

34. When land which has been occupied for the purpose of a railway is no longer required, it should, as pointed out above, be made over to the Local Revenue Authorities who will arrange for its disposal; when the intention in relinquishing an area is to transfer it to any particular Department of Government or public body, this intention should be communicated to the Local Revenue Authorities, who will arrange for the disposal of the land accordingly. The sanction of the Railway Board is ordinarily not necessary to the relinquishment of railway land, except when a deviation from the rules laid down is contemplated. The disposal of lands held in excess of requirements will be governed by the following rules.

(1) Land which is likely to be required for the railway in the near future should remain in the custody of the Railway Authorities; and they should not be called upon to relinquish it. The term "near future" is to be liberally interpreted with reference to the probable requirements of the railway; and when there is any uncertainty, the benefit thereof should be given to the Railway Administration in favour of retention.

(2) Land which will probably be required in the distant future should not be relinquished, but be made over to the Revenue Authorities for safe custody. Land so transferred is not to be let or sold, except on such terms of temporary occupation as will not interfere with its being made available on short notice for railway purposes. These conditions may best be attained if the concurrence of the Railway Authorities is first obtained in any proposals that may be made for utilising the land from time to time.

(3) Land for which the railway is unlikely to have any further use should be relinquished outright to the Revenue Authorities for disposal.

When a reasonable price is not likely to be obtained by the immediate sale of the land outright, there is no objection to the Revenue Authorities retaining the land until an offer more commensurate with its value is obtained, provided that the sale is not delayed for a period disproportionate to the anticipated increase in the price. In such cases all that is necessary is to ensure that until sold, the land continues to be shown as belonging to the railway in the land registers of the Revenue Authorities.

SECTION VI. **Leasing of and grants of railway lands.**

General principles relating to the leasing of railway lands.

35. With a view to developing certain classes of traffic or to affording conveniences which are beneficial alike to trade and to railways, and also with a view to the utilisation of railway land not immediately required for railway purposes, Railway Administrations are permitted to grant to outsiders under a lease or license, rights and facilities with respect to plots of railway land subject to the rules and principles enunciated below.

36. Having regard to the provisions in the contracts between the Secretary of State for India and Railway Companies, which require a Company to go out of possession of such lands as are unnecessary to be retained for purposes of the Contract, it is not permissible for a Railway Company to lease any part of such lands without the concurrence of the Secretary of State, even in cases where the lands to be leased are to be utilised in connection with the carrying out of a railway purpose.

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38. A license may also be granted to outsiders for the laying of pipes, the installation of electric wires or such other necessary purpose and to railway servants for the purposes of cultivation, etc.

39. A sample copy of a license form is appended for information, vide **Annexure to Appendix N**. This applies to bulk oil depots only, but it may be adapted with legal advice to other classes of operations connected with a railway, and it is suggested that it should be used freely in preference to entering into a lease.

40. In cases, however, where application is made by outsiders for the lease of railway land for purposes *not* connected with the working of a railway—

- (i) If such land is no longer required for the purposes of the railway, or is required only in the distant future, the land should be relinquished to the Local Government concerned to be dealt with in accordance with the procedure laid down in rules (1) and (2) of paragraph 34 above for the relinquishment of railway land.
- (ii) If, on the contrary, the plot of railway land applied for will be required in the near future or is so situated that it would be inconvenient to relinquish it, the plot may be leased or a license granted for its use only with the approval of the Railway Board. In such circumstances the Local Government should be consulted by the Railway Administration before the proposed lease or license is submitted to the Railway Board. It should be noted that all leases and licenses should be prepared under the advice the Legal Advisers of a Railway Administration unless they have been drawn up in accordance with the standard forms prescribed by the Government of India or the Railway Board.

41. In no case is a lease of land between a Railway Administration holding land from Government and a Department of Government, or between two Railway Administrations holding land from Government permissible. The consent of the Local Government to the transfer, and a record of the terms on which the land is made over is sufficient in such cases.

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SECTION VII.

Amount of land to be acquired.

43. In estimating for the amount of land to be taken up for a railway, care should be taken to make provision not only for the land which will be required permanently for the purposes of the open line (such as those indicated on page 2 under "Permanent Land"), but also for such land as will be required during construction only, for spoil-banks, side-cuttings, quarries, stacking and preparation of material, temporary offices, workshops and quarters, and for temporary purposes generally, to be relinquished after the work is complete.

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SECTION IX.

Land Plans and Schedules.

59. To enable the Revenue Authorities to take action for the acquisition of land required for railway purposes, it is necessary that proper plans should be made for reference by all concerned

60. The scale for these Land Plans should, under ordinary circumstances, be 400 feet to 1 inch; but where this would not admit of sufficient detail being shown with clearness, the scale should be 100 feet to 1 inch. A scale of 50 feet to an inch may, however, be used in special cases for congested areas in large towns.

Note— (a) This rule may be waived when the land to be acquired forms an addition to that already previously acquired. In such cases the plans showing additions may be drawn to the same scale as the original plans.

(b) In cases where the existing Revenue maps are not on a smaller scale than 400 feet to an inch they may, with the consent of the Local Government, be used for the preparation of Land Plans.

63. The Land Plans are to be made up in sets for continuous portions of land, each set being complete for a revenue district or charge of a Collector or Deputy Commissioner (or length of Native State). On each end sheet (first and last) of every set of Land Plans, a sufficient portion of the continuation sheet of the next set should be repeated, to enable the two sheets to be connected or traced together, if required. For each set of Land Plans the sheets are to be numbered consecutively throughout, and the name of the revenue district (or Native State) to which the set belongs is to be marked conspicuously on each sheet.

64. The Schedules showing details of the land required may be drawn up in the forms numbered 1 to 3 printed in **Appendix B**; these however are not prescribed as standard forms for adoption on all railways, as it is recognised that land tenures vary in different parts of India and that each Local Government or Administration may desire Land Schedules to be prepared in a form and with particulars to suit local conditions and local land revenue procedure. Railway Administrations should therefore prepare the Land Schedules in the form that may be required by each Local Government or Administration.

65. The minimum number of sets of Land Plans and Schedules required is two—one for the Revenue authorities and one for the Railway.

68. A complete series of Land Plans for the whole line is to be kept in the office of the Chief Engineer of the Railway.

SECTION X
Adjustments of Charges, Establishment and
Capitalized Abatement of Land Revenue.

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Adjustments in the case of transfer and relinquishment of State Land.

71. The following rules regulate the adjustments as regards the value of State lands and buildings transferred from the Imperial Government to Local Government, or vice versa, and from one Department of the Imperial Government to another:-

(i) If any State land or building in the occupation of a Local Government is transferred to the Government of India or vice versa, the amount of compensation, if any, to be paid from Imperial to Provincial revenues or vice versa shall be determined with due regard to the circumstances in which the occupation of the property originated and to the expense which the transferring Government has to incur as a direct consequence of the transfer.

(ii) When any land or building is transferred from one Department of the Government of India to another, the transfer shall be free of all charge, save as provided for in the following sub-paragraph, *viz* —

If any land or building is transferred to or from a Commercial Department for which regular revenue and capital accounts are kept, the full market value of the land or building transferred shall be debited or credited, as the case may be, to such Department. It may be explained that by the term “Commercial Department” are understood the Railway and the Irrigation (Major Works) Department and Minor Irrigation Works for which regular capital and revenue accounts are kept.

72. With regard to land transferred by other Government Departments to Railways, it should be borne in mind that a Department of the Government of India has no property in land, its interest being confined merely to a right of occupation and user; consequently when land is no longer needed or is likely to be needed by the Department in whose possession it is, it reverts to the administration of the Local Government and therefore in no circumstances can a *quid pro quo* be claimed by the Department concerned for such lands. The full market value of such land will accordingly be debited to the capital account of the railway, to which it is transferred and in the case of Railway Companies receiving land free of cost., to the head “40.—Subsidised Companies- Land.” The necessary credit in such cases will be regulated in accordance with the schedule annexed to Government of India, Finance Department, Resolution No. 2816-A., dated the 10th May 1912 (*vide Appendix E*).

73. With regard to Railway land which is made over to the Revenue Authorities for disposal, the sale-proceeds of such land will be credited to the capital account of a Railway where the cost of the land was originally charged to the capital account of the Railway, and to the head "XXVIII—Subsidised Companies" where the cost of the land was originally charged to "40— Subsidised Companies—Land". For purposes of convenience, an abstract has been framed (*vide Appendix F*) and issued in Railway Board's Resolution No. 285-F.—17, dated 8th May 1918, which shows concisely the classification of Railways and the basis on which the adjustments in accounts referred to above should be carried out in connection with land acquired for, transferred, or relinquished by Railways. These instructions should be carefully observed in making the adjustments.

74. In this connection it may be explained that the term "market value" means the actual cost of acquiring the land; it includes compensation payable to the owners or occupiers of land acquired either permanently or temporarily for the purposes of the railway, including payments for houses, trees, crops or other property situated on such land, compensation for damage, loss or injury caused to adjacent property by operations incidental to the construction of the railway, salaries, fees, allowances, etc., of civil officers and other persons deputed for, or employed on, the valuation, transfer or demarcation of land where otherwise admissible under the rules ; also all charges connected with the temporary marks necessary to enable the Revenue Authorities to determine the boundaries. Permanent boundary marks should be estimated under V (a) "Fencing."

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Adjustment of rents accruing from Railway lands.

76. Rents accruing from Railway lands leased or granted under a license by a Railway should be credited to the revenues of the Railway in whose occupation the land is. In the case of Railway lands made over to the Revenue Authorities, any rent realised from the temporary lease of such lands should be treated as "Land Revenue."

Incidence of cost of land supplied by Local Governments free of cost to railways.

77. With regard to land which is supplied free of cost to Railway by a Local Government, the cost of all such land is chargeable to the head "40—Subsidised Companies—Land—Provincial" and all applications for sanction to such expenditure should be submitted to the Local Government concerned.

Capitalized value of the abatement of land revenue.

78. When land which is revenue-paying is taken up for a Railway, the capitalized value of the abatement of existing land revenue should be included in the estimate of cost only in the case of State Railways worked by Companies. Fuller instructions as to the inclusion or exclusion of the capitalized value of the abatement of land revenue will be found in the abstract of orders promulgated with Railway Board's Resolution No.285-F-17, dated 8th May 1918 (**Appendix F**).

Capitalized value of land revenue in lieu of abatement.

79. In cases in which any portion of the land acquired forms part of an estate, the Revenue Authorities,—in provinces in which the procedure is in vogue,—are competent, if the proprietor of the estate so desires it, to pay to the proprietor direct the computed value of the revenue deemed payable in respect of such portion, on condition that he continues to pay the revenue of the entire estate without abatement. The amount so paid to a proprietor direct in lieu of the abatement of land revenue should be included in the cost of the land, irrespective of the source from which the cost is met.

Establishment and Contingencies.

80. The entire cost of any special establishment which may be entertained under the orders of Government for the purposes of acquisition is included in the cost of the land when the Special Land Acquisition Officer acts as a Public Works Disburser. The "entire cost" includes not only the salary and allowances of the staff so employed but also the contributions for their pension, and leave allowances, the latter forming part of the "charges of, and incidental to, the acquisition" under Section 50 (1) of the Land Acquisition Act, I of 1894.

SECTION XI.

Acquisition of land for Railways traversing Native States and of land in British territory for Native State Railways.

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Procedure for acquisition of land in British territory for Native State Railways.

83. In the case of Railways constructed at the cost of Native States requiring land in British territory, application should be made direct to the Local Government, or Administration in whose territory the land is required, provided that the work for which the land is required has been duly sanctioned by the Government of India where such sanction is necessary. The Revenue Authorities will take the same steps for the acquisition of the land as are laid down with respect to land for Government State Railways or Companies' lines in British India.

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SECTION XII. Miscellaneous.

Demarcation of land

87. The following rules for the demarcation of land have been laid down by the Government of India under section 13(a) of the Indian Railways Act, IX of 1890 :-

- (a) All land permanently occupied for the purposes of a Railway shall have its boundaries defined on the ground in such a manner as to enable such boundaries to be readily ascertained and identified.
- (b) For this purpose the boundary of the Railway land may be defined by a continuous wall, fence or ditch, or by detached marks, posts or pillars.
- (c) Where the boundary mark is continuous, the boundary of the Railway land is to be on the outer edge of the wall, fence or ditch, that is to say, the wall, fence or ditch will be situated wholly on Railway land.
- (d) Where detached marks, such as isolated posts or pillars, are used, the boundary of the Railway land will pass along the outside of such posts and pillars. Between the marks the boundary will in each case be taken in a straight line from the outside of one mark to the outside of the next mark.
- (e) Detached marks are in no case to be at a greater distance apart (centre to centre) than one eighth of a mile (660 feet). They are to be of a substantial character, not easily destroyed or moved by accident or mischief, and are to be of such size and form as to be readily found and recognized.
- (f) Each detached boundary mark is to bear a number, and the position and corresponding number of each detached boundary mark is to be shown on the Land Plan.
- (g) Where a fence, wall, or ditch is situated at some distance within the boundary and does not mark the actual limit of the Railway land, it will be necessary that, in addition to such fence, wall, or ditch, the actual boundary of the Railway land shall be properly marked and defined in accordance with these rules.

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89. Each Railway Administration is responsible for the maintenance of proper records in connection with the demarcation of all Railway land in its possession.

Land for assisted sidings.

90. The land required for an assisted siding outside the Railway boundaries will be acquired under Land Acquisition Act by the Railway Administration which undertakes the construction of the siding at the cost of the applicants for the siding. An estimate of the cost of the land which will be prepared by the Railway Administration will be sent to the applicants who must deposit the amount before any steps are taken for the acquisition of the land. The applicants must also agree to pay on demand such excess cost, if any, as may be incurred in the acquisition of the land. Land so acquired will vest absolutely in the Secretary of State and the applicants for the siding will have no right or claims thereto.

Land for Railway cemeteries. 91. A State Railway or a Company requiring land in connection with the construction of a Railway cemetery, should apply to the Local Government or Administration, who will make the necessary arrangements to place the land required at the disposal of the Railway Administration. It is open to a Local Government or Administration to grant such land free of cost or to claim payment of the market value thereof from the Railway concerned. In no case should an application be made to a Local Government or Administration for land, until the cemetery for which the land is required has been approved and sanctioned by the Railway Board, and it is left to the discretion of a Local Government to determine the exact area of land that should be granted.

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Legal proceedings. 93. When a point of law is at issue in connection with any land acquisition proceedings, the Local Government or Administration should be consulted before legal proceedings are entered upon.

APPENDIX C

Acquisition of State Land in charge of the Military Authorities

[Railway Board's Circular No. 2650 R. G., dated 2nd September 1913.]

The accompanying summary of rules on the subject of the transfer or acquisition of land in Cantonments or other land in charge of the Military Authorities, and of the construction of buildings and other works in the vicinity of forts and cantonments, which has been brought up to date, is forwarded for information and guidance, in supersession of the rules communicated with Railway Board's circular letter No. R. C.-194-B.-10, dated the 8th October 1906.

(A) Rules relating to the acquisition of land.

I. No land, whether within Cantonment limits, forming part of an encamping ground, or otherwise held for military purposes, shall be entered upon or occupied for any purpose whatever, either by contractors or any other persons (official or non-official) acting under the orders of any Civil department of the State, until the sanction of the Government of India in the Army Department to the occupation or use of the land has first been obtained, and communicated to the General Officer Commanding the Division or independent Brigade. In all such cases, the sanction of the Government of India will be obtained by the General Officers Commanding Divisions or independent Brigades through the Quartermaster-General in India.

Proviso.—These orders do not affect the powers, exercised under section 263 of the Cantonment Code, 1912, by the General Officer Commanding the Division or independent Brigade, to sanction the grant of ordinary building sites in cantonments. For rules regarding land within defence zones, see Rules VII, VIII and IX.

II. Application for such land when within Cantonment limits should be made by the Officer in charge of the works to the Cantonment Authority, but in the case of a Military encamping ground or other State land in Military occupation, application should be made to the General Officer Commanding the Division or independent Brigade. The Military Authorities will then take the necessary steps to obtain (i) the sanction of His Excellency the Commander-in-Chief to enter into negotiations for the proposed transfer of land; when this is sanctioned (ii) the opinion of the Local Government which should invariably be recorded upon all applications ; and (iii) the sanction of the Government of India to the occupation of the required land. In all cases where the sanction of the Railway Board to the acquisition of such land by a Railway Administration is necessary, the application for such sanction should be made only after the sanction of the Government of India in the Army Department has been obtained.

III. The application referred to above should be accompanied by the usual land plans and schedules required by the rules relating to the acquisition of land for railways. The plans should be full and complete and should show all existing roads and buildings, land also rifle ranges if interfered with in any way ; and if any buildings are known to be used for public purposes, or by special departments, their purpose and ownership should be stated.

IV. On receipt by the local Military Authorities of the sanction referred to in II above they will at once transfer the land. In all cases however where the land is being transferred without the retention of rights over such land the transfer should be effected through the Revenue Authorities, who will also, when necessary, assess the value of such land, and the value according to such assessment should be debited

and credited to the proper Railway and Civil Accounts head respectively. No notification in the local Gazette is necessary.

Proviso.- The above rule does not apply to the adjustment of boundaries by mutual consent, which may be effected without the intervention of the Civil Authorities, but covers the exchange of separate plots of land.

V. In the case of privately owned land in Cantonments the provisions of the Land Acquisition Act should be applied, but it will be necessary in the first place for the officer applying to obtain the sanction of the Government of India in the Army Department to the occupation of the land as prescribed in II above.

VI. The procedure laid down in Chapter XXI of the Cantonment Code, 1912, for application for permission to occupy, for the purposes of a building site, land belonging to the Government in a Cantonment, applies to private Railway Companies and individuals only, and not to State Railways, including railways worked by Companies, who hold lands the ownership of which vests in Government, or to Departments of the State.

(B) Rules relating to restrictions on the use of land.

VII. The following orders control the construction of buildings, etc., on land in the charge of the Military Authorities or of Civil Departments, lying within the authorised zones of works of defence :—

(i) Clearance zones shall be prescribed and clearly demarcated in the vicinity of all the works of defence which are enumerated in paragraph 336 of Army Regulations, India, Volume II, and such other fortifications or places as the Government of India may decide.

(ii) In such zones all land will be dealt with in accordance with the Indian Works of Defence Act.

(iii) When a clearance zone has been notified, except in so far as the notification may authorise modifications, no infringement of the restrictions imposed under the Act shall be permitted by any official or private person without the previous sanction of the Officer Commanding or General Officer Commanding within their powers of exemption as specified in the Act, or by the Government of India.

(iv) Without the previous sanction of the Government of India, no State land within the prescribed clearance zone shall be transferred to, sold to, exchanged with, or permanently occupied by, any private person or Municipality or Corporation, not immediately subject to the executive orders of the Government of India.

VIII. When a zone has been prescribed, and contains land in occupation by a railway, the Officer Commanding shall inform the Railway Authorities, in whose charge the land may be, of the area of the land thus affected and of the restrictions which will be applied. Any modification of the original restrictions will be similarly communicated.

Proviso.—Rules VII and VIII do not apply to the defences of Fort William, Calcutta, and Fort St. George, Madras, nor to the Fortress of Aden, concerning which special regulation exist.

IX. In the case of private lands notified under section 3 of the Indian Works of Defence Act, VII of 1903, that is land which is to be kept clear of buildings and other obstructions, the procedure in regard to the construction of works etc., thereon is that laid down in section 7 of the Act (see Annexure).

(C) Summary of preceding rules.

X. The procedure laid down in the preceding paragraphs summarised briefly is as follows :—

(a) In all cases of land in Cantonments, camping grounds, in the vicinity of forts, or otherwise held for the Military purposes, the consent of the Military Authorities is necessary before it can be entered upon or occupied or before any work can be commenced thereon (Rules I, II, III and VII to IX).

Acquisition should first be sanctioned by the Government of India in the Army Department, then if necessary by the Railway Board.

(b) When land in the occupation of the Military Authorities is being acquired outright acquisition should be effected through the Revenue Authorities who will assess the value to be debited and credited to the proper Railway and Civil Accounts head respectively.

- (c) When the land is in the occupation of a Civil Department or belongs to a private owner, it must, after the consent of the Military Authorities has been obtained be, acquired in the usual manner through the Revenue Authorities (Rule V).
- (d) All plans submitted with an application should be full and complete, clearly showing sites of existing roads, buildings and rifle ranges (Rule III).

ANNEXURE TO APPENDIX C.

**Extracts from the Indian Works of Defence Act,
VII of 1903, as amended by Act V of 1909.**

* * *

3.(1) Whenever it appears to the Local Government that it is necessary to impose restrictions upon the use and enjoyment of land in the vicinity of any work of defence or of any site intended to be used or to be acquired for any such work, in order that such land may be kept free from buildings and other obstructions, a declaration shall be made to that effect under the signature of a Secretary to such Government or of some officer duly authorised to certify its orders.

(2) The said declaration shall be published in the local official Gazette and shall state the district or other territorial division in which the land is situated and the place where sketch plan of the land, which shall be prepared on a scale not smaller than six inches to the mile and shall distinguish the boundaries referred to in section 7, may be inspected; and the Collector shall cause public notice of the substance of the said declaration to be given at convenient places in the locality.

(3) The said declaration shall be conclusive proof that it is necessary to keep the land free from buildings and other obstructions.

* * *

7. From and after the publication of the notice mentioned in section 3, subsection (3), such of the following restrictions as the Local Government may, in its discretion, declare therein shall attach with reference to such land namely :—

(a) Within an outer boundary which, except so far as is otherwise provided in section 39, sub-section (4), may extend to a distance of two thousand yards from the crest of the outer parapet of the work :

(i) no variation shall be made in the ground level, and no building, wall, bank or other construction above the ground shall be maintained, erected, added to or altered otherwise than with the written approval of the General Officer Commanding the Division, and on such conditions as he may prescribe :

(ii) no wood, earth, stone, brick gravel, sand or other material shall be stacked, stored, or otherwise accumulated :

Provided that, with the written approval of the General Officer Commanding the Division, District or Brigade and on such conditions as he may prescribe, road ballast, manure and agriculture produce may be exempted from the prohibition:

Provided, also, that any person having control of the land as owner, lessee, or occupier shall be bound forthwith to remove such road ballast, manure or agriculture produce, without compensation, on the requisition of the Commanding Officer.

(iii) no surveying operation shall be conducted otherwise than by or under the personal supervision of a public servant duly authorised in this behalf, *in* the case of land under the control of the Military Authority, by the Commanding Officer and in other cases by the Collector with the concurrence of the Commanding Officer; and

(iv) where any building, wall, bank or other construction above the ground has been permitted under clause (i) of this sub-section to be maintained, erected, added to or altered, repairs shall not, without the written approval of the General Officer Commanding the Division, be made with materials different in kind from those employed in the original building, wall, bank or other construction.

(b) Within a second boundary which may extend to a distance of one thousand yards from the crest of the outer parapet of the work, the restrictions enumerated in clause (a) shall apply with the following additional limitations, namely :-

(1) no building, wall, bank or other construction of permanent materials above the ground shall be maintained or erected :

Provided that, with the written approval of the General Officer Commanding the Division and on such conditions as he may prescribe, huts, fences and other constructions of wood or other materials easily destroyed or removed, may be maintained, erected, added to or altered :

Provided, also, that any person having control of the land as owner, lessee or occupier shall be bound forthwith to destroy or remove such huts, fences or other constructions, without compensation upon an order in writing signed by the General Officer Commanding the Division, District or Brigade; and

(2) live hedges, rows or clumps of trees or orchards shall not be maintained planted, added to or altered otherwise than with the written approval of the General Officer Commanding the Division and on such conditions as he may prescribe.

(c) Within a third boundary which may extend to a distance of five hundred yards from the crest of the outer parapet of the work, the restrictions enumerated in clauses (a) and (b) shall apply with the following additional limitation, namely :-

No building or other construction on the surface, and no excavation, building or other construction below the surface, shall be maintained or erected :

Provided that, with the written approval of the Commanding Officer and on such conditions as he may prescribe, open railings and dry brush-wood fences may be exempted from this prohibition.

APPENDIX F (as revised up to date)
Adjustments necessary in accounts on acquisition or relinquishment of land

No. 412 F.-18, dated Simla, the 15th May 1919.

Resolution—By the Government of India, Railway Department (Railway Board).

No.712 R.C., dated 4th March 1909.

No.237 F.-16, dated 1st August 1916.

No. 285 F.-17, dated 8th May 1918.

No.412 F.-18, dated 20th August 1918.

Resolution :- Orders regarding adjustments in accounts, in connection with land acquired for or relinquished by Railways, have been issued from time to time vide abstract accompanying Government of India, Railway Department, Resolutions, etc., noted in the margin. It has now been decided by the Government of India that a debit for the capitalised value of the abatement of land revenue should be raised in the case of railways owned and worked by the State and also branch line railways provided with land free of cost by Government just as it is done in the case of railways worked by companies.

A revised abstract is accordingly issued in supersession of all previous orders on the subject.

**Annexure to Government of India, Railway Department,
Resolution No.412 F.-18, dated the 15th May 1919**

**Abstract of orders relating to the adjustments necessary
in accounts on acquisition or relinquishment of land.**

Items	Description of land	When the cost of land is to be debited to the Capital Account of the railway	When the cost of land is not to be debited to the Capital Account of the railway but is met by Government
	1	2*	3*
(a)	Land specially purchased for railways (i.e. land in which rights amounting to a full proprietary title adverse to Government exist).	Actual expenditure incurred on acquisition including charges for any special establishment, demarcation and contingencies, plus the capitalised value of the abatement of existing land revenue to be debited to the Capital Account of the railway.	Actual expenditure including charges for any special establishment, demarcation and contingencies, plus the capitalised value of the abatement of existing land revenue to be debited to "40-Subsidised companies - Land."

(b)	Land, whether waste, forest, culturable or otherwise, which is already vesting in Government and transferred to a Railway Administration (i.e. land in which no rights adverse to Government exist).	Full market value at the time of transfer, plus the capitalised value of the abatement of existing land revenue to be debited to the Capital Account of the railway.	Full market value at the time of transfer, plus the capitalised value of the abatement of existing land revenue to be debited to "40—Subsidised Companies Land."
(c)	Land in which rights short of a full proprietary title adverse to Government exist (i.e., rights are divided between Government and a private individual).	Cost of rights acquired from private individual to be circulated as in item (a) and of those owned by Government as in item (b) above.	Cost of rights acquired from private individual to be calculated as in item (a) and of those owned by Government as in item (b) above.
(d)	Land relinquished by railways.	(a) When sold :- Actual sale-proceeds, plus the capitalised value of the abatement of land revenue assessable at the time of sale to be credited to the Capital Account of the railway. (b) When transferred to a Government Department or a Railway Administration. Full market value at the time of transfer plus the capitalised value of the abatement of land revenue assessable at the time of transfer to be credited to the Capital Account of the railway.	(a) When sold :- Actual sale-proceeds, plus the capitalised value of the abatement of land revenue assessable at the time of sale to be credited to "XXVIII—Subsidised Companies" (a minor head "sale of land" to be opened). (b) When transferred to a Government Department or a Railway Administration. Full market value at the time of transfer, plus the capitalised value of the abatement of land revenue assessable at the time of transfer to be credited to "XXVIII—Subsidised Companies."

* Notes :-

(i) When it can be shown that the land is in immediate demand for non-agricultural purposes and there is, therefore, an immediate prospect of substantial increase in the revenue, the adoption of the prospective increased revenue rate is permissible.

(ii) Exceptions.—In the case of the Tirhoot Railway and of the Assam-Bengal Railway, for special reasons during the continuance of the existing contracts, the provisions of column 2 hereof should be read as if the words "plus the capitalised value of the abatement, etc., etc." did not appear in the orders.

APPENDIX L

Principles to regulate transfers of State lands and buildings.

[Government of India, Finance Department, Resolution No. 295A., dated the 19th January 1910.]

The Government of India have had under consideration the principles which should regulate the transfer of State lands and buildings between the Imperial and Local Government and from one department of the Imperial Government to another.

2. The general position of all State lands in India is as follows :—

Their ownership vests in His Majesty's Secretary of State, and thus the property in them appertains neither to a Local Government nor to any particular department. They are ordinarily administered by the Local Government of the Province in which they are situated, subject to law, to any

rules made or sanctioned by the Government of India and to the general executive control of the Supreme Government. When State land is made over to the occupation and management of any department of Government, it is made over for the purposes of that department and cannot be used by it for other purposes. The department has no property in the land, its interest being confined merely to a right of occupation and user; and, when the land is no longer needed as likely to be needed by the department concerned, it reverts to the administration of the Local Government. If in any case the Local Government considers that land should be withdrawn from the occupation of an Imperial Department, and the head of the department does not agree, the Local Government should refer the matter for the orders of the Government of India.

3. The existing rules regarding the adjustment of the value of buildings transferred from one department of Government to another, as laid down in paragraph 1508 of the Public Works Department Code, Volume II, are as follows:—

I. If the building is transferred from one Imperial Department or service to another, no charge is made.

II. If from Imperial to Provincial, or vice versa no charge is made, provided the transfer causes no expense to the transferring service.

4. The Governor General in Council considers that the foregoing rules regarding the transfer of State lands and buildings should be maintained in principle. Experience, however, has shown that they are not suitable for application to Commercial Departments for which regular capital and revenue accounts are kept. It has accordingly been decided that, if any land or building is transferred to or from such a department, the full market value of the land or building transferred shall be debited or credited, as the case may be, to the department; and effect has already been given to this decision in the case of land acquired for, or relinquished by, railways by the Railway Department Circular No. 712 R.C., dated 4th March 1909. Subject to this exception, the existing orders will continue to apply to transfers of lands or buildings between Imperial Departments, and such a department may not sell or otherwise part with State lands or buildings, unless specially authorized to do so by the Government of India. As regards transfer of lands or buildings between the Government of India and a Local Government, the existing rules will ordinarily apply. Cases may, however, arise in which the transferring Government may have an equitable claim to compensation. Such cases will be dealt with on their merits by the Government of India which will decide, with special reference to the circumstances in which the occupation of the property originated, and to the expense which the transferring Government has to incur as a direct consequence of the transfer, the amount of compensation, if any, which shall be paid.

5. The conclusions of the Government of India as set forth above are embodied in the rules appended to Resolution.

ENCLOSURE TO APPENDIX L

1. If any State land or building in the occupation of a Local Government is transferred to the Government of India, or vice versa, the amount of compensation, if any, to be paid from Imperial to Provincial revenues, or vice versa, shall be determined with due regard to the circumstances in which the occupation of the property originated, and to the expense which the transferring Government has to incur as a direct consequence of the transfer.

2. When lands or buildings in the possession of a department of the Government of India are no longer required for the purposes of that or any other department of the Government of India, they shall ordinarily be relinquished to the Local Government concerned on such conditions as may in each case be agreed to, and shall then be administered by that Government.

3. An Imperial Department in administrative possession of State lands or buildings may not sell or otherwise part with them except under such orders as the Government of India may frame in this behalf.

4. When any land or building is transferred from one department of the Government of India to another, the transfer shall be free of all charge, save as provided in the next rule following.

5. If any land or building is transferred to or from a Commercial Department, for which regular revenue and capital accounts are kept, the full market value of the land or building transferred shall be debited or credited, as the case may be, to such Department.

APPENDIX M

Conditions for grant of immovable public property to local authorities for public buildings.

[Resolution no. 914A., dated 19th February 1902. Government of India,
Department of Finance and Commerce.]

READ :-

Resolution in the Finance and Commerce Department, No. 4374, dated 23rd October 1891, directing that when any immovable public property is made over to a local authority for public purposes, the grant shall be made expressly on the condition, in addition to any others that may be settled, that, should the property be at any time resumed by Government, the compensation payable therefor shall in no case exceed the amount (if any) paid to Government for the grant, together with the cost or their present value, whichever shall be the less, of any buildings erected or other works executed on the land by the local authority.

Resolution—The Governor General in Council considers it desirable that the condition laid down in the Resolution read above, in the case of grants of immovable public property to local authorities for public purposes, should be attached generally to all grants of such property whether for public, religious, educational, or any other purposes. His Excellency in Council also considers that these grants should in all cases be made subject to the further condition that the property shall be liable to be resumed by Government if used for any purposes other than those for which the grants are made.

2. In future, therefore, whenever a grant is made of any immovable property, the property shall be granted expressly on the following conditions in addition to any others that may be settled in particular cases, viz-

- (1) that the property shall be liable to be resumed by Government if used for any other than the specific purpose or purposes for which it is granted ; and
- (2) that, should the property be at any time resumed by Government, the compensation payable therefor shall not exceed the amount (if any) paid to Government for the grant, together with the cost or their present value, whichever shall be the less, of any building erected or other works executed on the land by the grantees.

APPENDIX N.

Principles and procedure relating to the leasing of railway lands.

[Railway Board's Circular letter No. 3222 R. G., dated 26th November .1912.]

Leasing of railway lands.

I am directed to say that the Railway Board have been legally advised that, having regard to the provisions in the contracts entered into between the Secretary of State for India and Railway Companies, which require a Company to go out of possession of such lands as are unnecessary to be retained for purposes of the contract, it is not permissible for such Railway Company to lease any part of such lands without the concurrence of the Secretary of State even in cases where the lands to be leased are to be utilized in connection with the carrying out of a Railway purpose.

- (i)Erection of oil installations.
- (ii)Warehouses, wharfs, or other premises for storing goods after arrival or before dispatch by rail
- (iii)Shops for station vendors.

2. In cases where railway land may be required by outsiders for any purpose which can fairly be held to be a purpose of the undertaking such, for example, as those marginally-quoted, the Railway Board are advised that the necessity for obtaining their approval to a lease may be avoided only by the grant of a license permitting the use of railway lands for the purpose contemplated, while, at the same time, imposing such restrictions as may be necessary in the circumstances of the individual case.

3. A license may also be granted to outsiders for the laying of pipes, the installation of electric wires, or other such necessary purpose, and to Railway servants for the purposes of cultivation, etc.

4. A sample copy of a license form is attached for information. This form applies to bulk oil depots only, but it may be readily adapted with legal advice to suit other classes of operations connected with a railway, and I am to suggest that it should be freely used in future in preference to entering into a lease.

5. In cases however, where application is made by outsiders for the lease of railway land for purposes not connected with the working of a railway, the following principles should be observed :-

(i) If such land is no longer required for the purposes of the railway, or is required only in the distant future, the land should be relinquished outright to the Local Government concerned, to be dealt with in accordance with the procedure laid down in paragraphs 4 and 5 of Government of India, Public Works Department, letter No. 1628 R.C., dated 17th October 1904

(ii) If, on the contrary, the plot of railway land applied for will be required in the near future, or is so situated that it would be inconvenient to relinquish it, the plot may be leased or a license granted for its use only with the approval of the Railway Board. In these circumstances the Local Government should be consulted by the Railway Administration before the lease or license is submitted to the Railway Board.

6. In conclusion, I am to observe that the principles enunciated above should be strictly adhered to in dealing with future cases; these principles need not, however, be held to affect those leases which have already been executed.

●

**EXTRACT FROM THE LAND ACQUISITION (AMENDMENT) ACT, 1962
(31 OF 1962)**

* * * *

7. Validation of certain acquisitions.—Notwithstanding any judgement, decree or order of any court, every acquisition of land for a Company made or purporting to have been made under Part VII of the principal Act before the 20th day of July, 1962, shall, in so far as such acquisition is not for any of the purposes mentioned in clause (a) or clause (b) of sub-section (1) of section 40 of the principal Act, be deemed to have been made for the purpose mentioned in clause (aa) of the said sub-section, and accordingly every such acquisition and any proceeding, order, agreement or action in connection with such acquisition shall be, and shall be deemed always to have been, as valid as if the provisions of sections 40 and 41 of the principal Act, as amended by this Act, were in force at all material times when such acquisition was made or proceeding was held or order was made or agreement was entered into or action was taken.

Explanation.—In this section “Company” has the same meaning as in clause (e) of section 3 of the principal Act, as amended by this Act.

* * * *

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**EXTRACT FROM THE LAND ACQUISITION (AMENDMENT) ACT, 1984
68 OF 1984**

Transitional provisions

30. (1) The provisions of sub-section (1A) of section 23 of the principal Act, as inserted by Clause (a) of section 15 of this Act, shall apply, and shall be deemed to have applied, also to, and in relation to,—

(a) every proceeding for the acquisition of any land under the principal Act pending on the 30th day of April, 1982 (the date of introduction of the Land Acquisition (Amendment) Bill, 1982, in the House of the People), in which no award has been made by the Collector before that date;

(b) every proceeding for the acquisition of any land under the principal Act commenced after that date, whether or not an award has been made by the Collector before the commencement of this Act.

(2) The provisions of sub-section (2) of section 23 and section 28 of the principal Act, as amended by clause (b) of section 15 and section 18 of this Act respectively, shall apply, and shall be deemed to have applied, also to, and in relation to, any award made by the Collector or Court or to any order passed by the High Court or Supreme Court in appeal against any such award under the provisions of the principal Act after the 30th day of April, 1982, (the date of introduction of the Land Acquisition (Amendment) Bill, 1982, in the House of the People) and before the commencement of this Act.

(3) The provisions of section 34 of the principal Act, as amended by section 20 of this Act, shall apply, and shall be deemed to have applied, also to and in relation to,

(a) every case in which possession of any land acquired under the principal Act had been taken before the 30th day of April, 1982 (the date of introduction of the Land Acquisition (Amendment) Bill, 1982, in the House of the People), and the amount of compensation for such acquisition had not been paid or deposited under section 31 of the principal Act until such date, with effect on and from that date; and

(b) every case in which such possession had been taken on or after that date but before the commencement of this Act without the amount of compensation having been paid or deposited under the said section 31, with effect on and from the date of taking such possession.

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The Calcutta Gazette
Extraordinary
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ASVINA 16]

TUESDAY, OCTOBER 8, 1996

[SAKA 1918

**Government of West Bengal
Law Department
Legislative**

NOTIFICATION

No. 2226 – L – 8th October, 1996, - The following Act of the West Bengal Legislature, having been assented by the President of India, is hereby published for general information:-

West Bengal Act XXV of 1996

The West Bengal Land (Requisition and Acquisition) (Amendment) Act, 1996.

[Passed by the West Bengal Legislature]

[Assent of the President of India was published in the Calcutta Gazette, Extraordinary, of the 8th October, 1996.]

An Act to amend the West Bengal Land (Requisition and Acquisition) Act, 1948, as re-enacted by the West Bengal Land (Requisition and Acquisition) Re-enacting Act, 1977.

Whereas it is expedient to amend the West Bengal Land (Requisition and Acquisition) Act, 1948, as re-enacted by the West Bengal (Requisition and Acquisition) Re-enacting Act, 1977, for the purposes and in the manner hereinafter appearing;

It is hereby enacted in the Forty-seventh Year of the Republic of India, by the Legislature of West Bengal, as follows:-

Short title and commencement

1. (1) This Act may be called the West Bengal Land (Requisition and Acquisition) (Amendment) Act, 1996.

(2) It shall be deemed to have come into force on the 1st day of April, 1994.

Amendment of
Section 7 of
West. Ben. Act.
II of 1948

2. In section 7 of the West Bengal Land (Requisition and Acquisition) Act, 1948 (hereinafter referred to as the principal Act,) as re-enacted by the West Bengal Land (Requisition and Acquisition) Re-enacting Act, 1977,-

- (1) in sub-section (I)
 - (a) for the words, figures and brackets "in sub-section (1) of Section 23", the words, figures, letters and brackets "in sub-section (1), (1A) and (2) of section 23" shall be substituted, and
 - (b) the second proviso shall be omitted;
- (2) in clause (a) of sub-section (2), for the words, figures and brackets "in sub-section (2) of section 23", the words, figures, letter and brackets "in sub-section (1), (1A) and (2) of section 23" shall be substituted.

Insertion of
new section 7A

3. After section 7 of the principal Act, the following section shall be inserted;-

Award by
collector.

"7A. The Collector shall make an award under sub-section (2) of section 7 within a period of three years from the date of publication of the notice in the *official Gazette* under sub-section (1a) of the section 4 (hereinafter referred to as the said notice), and if such award is not made within the period as aforesaid, the said notice shall lapse;

Provided that in a case where the said notice has been published more than two years before the commencement of the West Bengal Land (Requisition and Acquisition) (Amendment) Act, 1994, the award shall be made within a period of one year from the date of commencement of the Act.

Explanation. - In computing the period of three years or one year, as the case may be, under this section, the period during which any action or proceeding to be taken in pursuance of the said notice is stayed by an order of the Court having jurisdiction, shall be excluded".

By order of the Governor,
S. Mitra
Special Officer & ex officio
Jt. Secy. to the Govt. of West Bengal

— ● —
The Calcutta Gazette
Extraordinary
Published by Authority

VAISAKHA 12]

FRIDAY, MAY 2, 1997

[SAKA 1919

Government of West Bengal
Law Department
Legislative
NOTIFICATION

No. 5559L – 2nd May, 1997 – The following Act of the West Bengal Legislature having been assented by the President of India is hereby published for general information

West Bengal Act VII of 1997
The Land Acquisition (West Bengal Amendment) Act, 1997,

[Passed by the West Bengal Legislature]

[Assent of the President of India was first published in the Calcutta Gazette Extraordinary of the 2nd May 1997]

An Act to amend the Land Acquisition Act, 1894 in its application to West Bengal

WHEREAS it is expedient to amend the Land Acquisition Act, 1894, in its application to West Bengal for the purpose and in the manner hereinafter appearing;

It is hereby enacted in the Forty-eighth Year of Republic of India, by Legislature of West Bengal, as follows:-

Short title and commencement

1. (1) This Act may be called the Land Acquisition (West Bengal Amendment) Act, 1997.

(2) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

Application of the Act

2. The Land Acquisition Act, 1894 hereinafter referred to as the principal Act shall, in its application to West Bengal, be amended for the purposes and in the manner hereinafter provided.

Amendment of section 9 of Act of 1894

3. In section 9 of the principal Act, after sub-section (3), the following sub section shall be inserted:-

“(3A) The Collector shall also serve notice to the same effect on all such persons known or believed to be interested in any land, or to be entitled to act for persons so interested the possession whereof has already been taken on requisition under section 3 of the West Bengal Land (Requisition and Acquisition) Act, 1948 (hereinafter referred to in this section as the said Act), as re-enacted by the West Bengal Land (Requisition and Acquisition) Re-enacting Act, 1977, and, in every such case, the provisions of sub-section (1) of section 4, section 5, section 5A, section 6, section 7 and section 8 of this Act shall be deemed to have been complied with:

Provided that the date of notice under this sub-section shall be the date of reference for the purpose of determining the value of such land under this Act:

Provided further that when the Collector has made an award under section 11 in respect of any such land, such land shall, upon such award, vest absolutely in the Government, free from all encumbrances.

(3B) The Collector shall also serve notice to the same effect on all such persons known or believed to be interested in any land, or to be entitled to act for persons so interested, the possession whereof has already been taken on requisition under section 3 of the said Act and notice for acquisition of such land has also been published under sub-section (1a) of section 4 of the said Act, and, in every such case, the provisions of section 4, section 5, section 5A, section 6, section 7, section 8, and section 16 of this Act shall be deemed to have been complied with;

Provided that the date of publication of notice under sub-section 1(a) of section 4 of the said Act shall be the date of reference for the purpose of determining the value of such land under this Act;

Provided further, that in every such case, the Collector shall make an award under section 11 in respect of such land only for the purpose of payment of due compensation to the persons interested in such land where such land has, upon the Collector taking possession thereof, already vested absolutely in the Government, free from all encumbrances.”

Amendment of section 11A

4. In section 11A of the principal Act, after the proviso, the following proviso shall be added:-

“Provided further that in respect of the acquisition of the land referred to in sub section (3A), and sub-section (3B), of section 9, the award shall be made within a period of two years from the date of the issue of the public notice under section 9.”

Amendment of Section 23

5. To sub-section (1A) of section 23 of the principal Act, the following proviso shall be added:-

“Provided that in respect of the acquisition of the land referred to in sub-section (3A) and sub-section (3B), of section 9, in addition to the market value of the land, the Court shall in every case award an amount calculated at the rate of twelve per centum per

annum on such market value for the period commencing on and from the date of taking possession of the land to the date of the award of the Collector.”

Insertion of section 54A

6. After section 54 of the principal Act, the following section shall be inserted:-

“Act to apply acquisition of land referred to in sub-section (3A) and (3B) of section 9.

54A. Save as otherwise provided in sub-section (3A), and sub-section (3B), of section 9, the second proviso to section 11A, and the proviso to sub-section (1A) of section 23, the provisions of this Act shall apply to the acquisition of the land referred to in sub-section (3A), and sub-section (3B), of section 9 mutatis mutandis.”

By order of the Governor

D. Paul

Principal Secretary (ex-officio) to Govt. & Secretary-in-charge, Law Department

— ● —
The Calcutta Gazette
Extraordinary
Published by Authority

ASVINA 25]

TUESDAY, OCTOBER 17, 2000

[SAKA 1922

**Government of West Bengal
Law Department
Legislative**

NOTIFICATION

No. 1916-L. – 17th October, 2000 – The following Act of the West Bengal Legislature, having been assented to by the President of India, is hereby published for general information:-

West Bengal Act XIX OF 1999

The Land Acquisition (West Bengal Amendment) Act, 1999

[Passed by the West Bengal Legislature]

[Assent of the President of India was First published in the Calcutta Gazette, Extraordinary of the 17th October, 2000]

An Act to amend the Land Acquisition Act, 1894, in its application to West Bengal

WHEREAS it is expedient to amend the Land Acquisition Act, 1894, in its application to West Bengal, for the purpose and in the manner hereinafter appearing;

It is hereby enacted in the Fiftieth Year of the Republic of India by the Legislature of West Bengal, as follows:-

Short title and commencement

1. (1) This Act may be called the Land Acquisition (West Bengal Amendment) Act, 1999

(2) It shall come into force on such date as the State Government may, be notification in the Official Gazette, appoint.

Application of the Act

2. The Land Acquisition Act, 1894 (hereinafter referred to as the principal Act), shall, in its application to West Bengal, be amended for the purpose and in the manner hereinafter provided.

Amendment of section 23 of Act I of 1894

3. for the proviso to sub-section (1A) of section 23 of the principal Act, the following proviso shall be substituted:-

“Provided that —

(a) in respect of the acquisition of the land referred to in sub-section (3A) of section 9, in addition to the market value of the land, the Court shall in every case award an amount calculated at the rate of twelve per centum per annum on the value of the land for the period commencing on and from the date of taking possession of the land to the date immediately before the date of issue

of the notice under sub-section (3A) of section 9 plus interest at the rate of twelve per centum per annum on the market-value of the land from the date of issue of the notice under sub-section (3A) of section 9 to the date of award of the Collector, and

- (b) in respect of the acquisition of the land referred to in sub-section (3B) of section 9, in addition to the market-value of the land, the Court shall in every case award an amount calculated at the rate of twelve per centum per annum on the value of land for the period commencing on and from date of taking possession of the land to the date immediately before the date of publication of the notice under sub-section (1a) of section 4 of the West Bengal Land (Requisition and Acquisition) Act, 1948 (hereinafter referred to in this proviso as the said Act), as re-enacted by the West Bengal Land (Requisition and Acquisition)) Re-enacting Act, 1977, plus interest at the rate of twelve per centum per annum on the market-value of the land for the period commencing on and from the date of publication of the notice under sub-section (1a) of section 4 of the said Act to the date of award of the Collector.

Explanation – For the purposes of this proviso, the expression “Value of the land” shall mean the market-value of the land determined with reference to date of taking possession of the land.”

By order of the Governor
S. Mitra
Special Officer & Ex-Officio Jt. Secy.
to the Govt. of West Bengal

●

**Extracts from Executive Instructions
Published in
West Bengal Land Acquisition Manual, 1991**

**CHAPTER — I
General**

Note - For the purposes of these instructions, the administrative department of Government is the department which sanctions the project necessitating the acquisition, or in the case of an acquisition on behalf of a local authority or a company is the department which controls or is concerned with the functions of the local authority or company.

Object of the Act. Para 1. By Act I of 1894 Government is empowered to acquire compulsorily any land which is not already the property of Govt. and which is required for a public purpose or, under the special circumstances described in part VII of the Act, for a company.

Acquisition for Central Government — Position under the Constitution. Para 2. Before the Constitution of India came into force, the provincial Government was competent to acquire land for all purposes including those of the Central Government. Under article 298(1) of the Constitution, the executive power to acquire land for the purposes of a State rests with the State Government concerned while power to acquire land for the purposes of the Union has been vested in the Central Government. The Land Acquisition Act, 1894 [Act I of 1894] which has been amended by the Adaptation of Laws Order, 1950, in keeping with the provisions contained in the aforesaid article of the Constitution, also empowers the Central Government to acquire land for the purposes of the Union and the State Government for all other purposes. The State Government has, therefore, no power under the law, as it stands, to acquire any land for the purposes of the Union. As, however, the Government of India, Ministry of Agriculture & Rural Development (Department of Rural Development) in their Notification No. S.O 782(E) dated 25-10-85 published at pages 1 to 3 part II Sec. 3 of the Gazette of India, Extraordinary of 25th idem, have entrusted their functions under the Land Acquisition Act, 1894, in relation to the

acquisition of land for the purposes of the Union, to the State Government under the provisions of article 258(1) of the Constitution, the State Government can also acquire land under the Act for all purposes including those of Central Government [vide Appendix I]. In cases of acquisition of land for the Central Government, the Notifications under section 4 and the declarations under section 6 of the Act have, however, to be published by the State Government in a modified manner, as indicated in Forms 2A, 3A and 5A of this Manual.

* * *

Cases of free gift.

Para 6. (1) Offers of free gift of land must be carefully, scrutinized in the light of the principles (a) that no man can give away what does not belong absolutely to him, (b) in particular, that no landlord can give away the rights of his tenants, (c) that no gift or waiver by a person holding a position of trust can have effect against the beneficiary owner.

(2) When any person offers to make a free gift of land in which other persons hold interests, the land should be acquired under the Land Acquisition Act and awards should be made to all the persons interested. For this purpose the person agreeing to make a gift shall put in a petition waiving his claim to compensation, provided that he has Sui Juris full powers of alienation.

(3) Where there is no room for doubt as to the validity of the gift of the entire interests the land may be acquired by registered deed of gift with the sanction of the Divisional Commissioner.

(4) Where the gift is saddled with conditions (e.g. that the land should revert to the donor when no longer required for the purpose for which it is given) proceedings under the Land Acquisition Act are not applicable, the donor has power to make a gift free from all encumbrances, and if the conditions are accepted by Government in the Land and Land Reforms Department, the land may be obtained by a registered deed of conditional gift.

(5) The cost of registering a deed of gift should in all cases be borne by the donee.

(6) The Court of Wards has no power to make a free gift of land belonging to a ward, nor can a valid gift or waiver of right be made by a minor, or a limited owner, a receiver, a trustee, an administrator or an executor.

(7) No valid acquisition can be made on payment of nominal compensation. Normally an award under the Land Acquisition Act must be computed following the provisions of sections 23 and 34 of the Act. But in case of urgency before taking possession of any land under sub-section (1) or sub-section (2) of section 17 of the Act, payment of eighty per centum of the compensation for the land is to be made or deposited as the case may be as per sub-section (3A) of section 17 of the Act.

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CHAPTER - V **General Principles of Valuation**

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Principles of determination of market value of land.

Para 68.(1) The primary consideration in determining the amount of compensation to be awarded in Land Acquisition proceedings, as laid down in section 23(1) of the Land Acquisition Act is 'the market value of the land at the date of publication of notification'. The last of the dates of such publications in the Calcutta Gazette and in two daily newspapers and the giving of such public notice by the Collector in the locality under section 4 shall be the date of publication of notification for the purpose of determination of such market value.

The expression 'market value' means the value which a parcel of land would realize if sold in market. There are three recognized modes of determining the market value; first, by ascertaining the price or prices at which the whole or any part or parts of the land acquired has or have been sold and purchased in recent years; second, by ascertaining the net annual income of the property and taking a certain number of

years' purchases of that income depending upon the nature of the property; and third, by ascertaining price at which the lands in the vicinity have been sold and purchased and making all due allowances for situation and the circumstances affecting each particular sale.

(2) In estimating the market value of the land the best method is to take the average of genuine sales which took place about the time of notification under section 4(1) of the Act of similar lands in the same locality or in the adjoining localities. Post notification transaction as well as transaction long prior to the notification will usually be discarded. Conveyance of land made in distress cannot be treated as a fair basis for calculating the market value of land acquired as it is well known that full value has never fetched at such transaction nor the transaction at which the price fetched might have been fully artificial be made the basis of such calculation.

(3) Sale notes with all particulars of deeds in **Form 4C**, executed on the aforesaid relevant date, if available, or deeds executed immediately prior to such date for similar class of land in the same mouza should be collected from the Sub-Registry Office concerned. Fifteen/twenty deeds executed on dates/months immediately preceding the relevant date will serve the purpose. Generally, the sales, which are interested or distressed and/or covering transactions of less than 0.10 of an acre of land (in case of agricultural land) should be excluded. Ten to fifteen transactions of the same class of land are to be taken into account for determination of average market price of that particular class of land.

(4) For the purpose of determination of land value of a particular class of land, the average rate per acre of that land is to be worked out calculating the price per acre for each of the eligible transaction of such class of land separately. The average price is calculated by addition of the prices per acre for the different transactions taken into account and dividing the sum by the number of transactions considered.

(5) There may be different classes of land in a particular land acquisition proceeding and the Collector is required to determine the market value of each class separately from the sale figures available in the local sub-registry office. Ordinarily sufficient number of sales are available for only one or two classes of land but adequate number of sales may not be available for other classes affected in the land acquisition proceedings. When sales of a particular class of land are not available in the mouza/adjacent mouzas, market value of a particular class of land whose transactions are frequent in the area may be worked out on the basis of the above principle and the market value of the required class may be fixed by allowing appreciation or depreciation as may be considered reasonable and fair on the basis of the local knowledge. The classification of land should be the classification recorded in the finally published record of rights unless it is converted to some other class in the manner as prescribed in the West Bengal Land Reforms Act, 1955 with its amendments. Any change made after publication of notification under section 4(1) cannot be considered for the purpose of determination of market value under the provision of section 24 of the Act.

(6) For this purpose it will be convenient if the average market price of a particular class of land whose sale figures are frequently available is derived first and taking it as a "comparable unit", the market price of other classes of land is worked out by allowing appreciation and depreciation as the case may be. As there are different classes of land in different districts of the State the rates of appreciation or depreciation will be different for different districts or even for different areas in some of the districts. **A Conversion Table** formulated by each Collector and approved by the Land and Land Reforms Deptt., will act as guide line in fixing the rates of depreciation and appreciation in a particular district and will help in minimizing confusion in the preparation of rate report and estimates thereof. Each Collector shall formulate **a Conversion Table** for his district covering all the classes of land existing in his district.

(7) Deviation from the Conversion Table may be made in very exceptional cases with the approval of the Collector of the district. The Conversion Table may be revised by the Collector after a period of five years with the approval of the Government in the Land and Land Reforms Department.

(8) Whenever sale-figures relating to a material date cannot be collected from the sub-registry offices, the market value may be determined from the available sale-figures of earlier period and then by allowing suitable premium depending on the trend in the rise in market prices. The rate of premium, if it exceeds 5% per annum, will require the approval of the Govt.

(9) When market value of a large chunk of land belonging to a big raiyat is determined on the basis of sale figures of small areas of land, a depreciation upto 20% may be given in consideration of the largeness of the area; but when areas belonging to individual small raiyats are acquired no such depreciation will be necessary.

Belting method of valuation of land.

(10) In cities and big towns where the values of lands largely depend on their shape, size, depth and road frontage, the method known as the belting system is adopted in determining their values in comparison with another plot of known value. Where the value of the most similar plots which have been sold in the neighbourhood has been ascertained it is sometimes found that the land under acquisition differs from the land which has been sold in having a greater or less portion of its area adjacent to a road. In order to eliminate the error which might arise from this difference the Collector in urban areas may make use of this method. For instance, the land from the road is divided into three belts, the first to a depth of 60, 80 or 100 feet, the 2nd belt which is 1½ times the depth of the first belt to a further depth of 90, 120 or 150 ft and the 3rd consisting of all the lands behind. The value of the 2nd belt is 2/3 of that of the 1st belt and that of the 3rd belt is 1/2 the value of the first belt or 3/4 of the value of the 2nd belt. With the aid of these relative values of the three belts the land under acquisition is valued by comparison with known value of a neighbouring land and the average land value is determined.

Capitalization of Net Annual Profit

(11) The principles underlying the practice of capitalization of the net annual profit should be clearly understood. A purchaser of agricultural or town land, other than a cultivator, ordinarily regards land as an investment yielding interest in the form of rent, and even the purchaser of house property who intends to reside in the house regards the property as an investment which will save him from the payment of a certain rent. The net annual profit (or saving as the case may be) obtained by such purchases therefore represents interests on capital invested and the rate of that interest is reasonably assumed to be equal to the rate of interest obtainable from other securities of similar safety. An investor in an uncertain security expects and obtains a higher rate of interest than an investor in a safe security. Land is a safe form of security, and consequently an investment in land does not ordinarily obtain a high rate of interest. But some kinds of land constitute safer securities than other, e.g., agricultural land is ordinarily the safest because it is least liable to undergo change and to remain vacant, and the safety of the security of house property depends on the condition of the buildings and the chances of the property remaining unlet. The number of years' purchase at which net annual profits of land are capitalized are generally 10, 11 or 12, 10 (ten) years' purchase means that the interest on the investment is treated being 10 per cent, 11 years' purchase means 9 per cent and 12 years' purchase means 8.33 per cent.

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CHAPTER - VI Notices, Enquiry and Award

Award to be made in all cases

Para 93-(1) It will be observed that the Collector is required by section 11 to make an award in all cases whether the claimants attend the enquiry or not and whether they agree or do not agree to the compensation fixed by him. If a dispute arises as to the apportionment of the award the Collector has the option of referring it for the decision of the court under section 30, but if he does not do this he must apportion the compensation, though he must take care not to make payment before the time for reference has expired. Every claim should be disposed of with a written order of the Collector. Anybody claiming interest in the compensation is an interested person under the Act and even if his claim is not substantiated a "nil" award should be made

in favour of such interested persons to give them an opportunity to move the appropriate Court to establish their claims in the compensation.

Municipal authorities to be compensated for arrear dues of municipal taxes.

(2) A Municipal authority should be made a party to the award whenever any premises, or a part of a premises within the municipal area is being acquired and the municipality should be compensated in respect of the arrear dues of municipal taxes.

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Approval of the award where necessary.

Para 95. (1) All awards not exceeding the limit of Rs.5,00,000.00 (Rupees five lakh) only in each case of land acquisition can be declared and filed by the Collector under section 12(1) of the Act without the approval of the State Government but for the awards exceeding Rs.5,00,000.00 in each of land acquisition case, the previous approval of the Government in the Land & Land Reforms Department will be necessary. The Government order issued in this respect is enclosed in **Appendix VI**. [Modified by G.O. No.: 1405-L.A. (II) dt: 19/5/92 of Land and Land Reforms Department, L.A. Branch. See **Appendix VIA**.

(2) The mere signing of the award by the Collector is not conclusive. It has to be filed in the Collector's Office under section 12(1) and then only it becomes final. The expression 'shall be filed' connotes the idea of permanent preservation as a public record. The meaning of the expression 'File' is to place in due manner among the records of a Court or public office. When the acquiring officer does not intend the award to be final, the mere signing does not prevent him from altering his opinion as to the amount to be given as compensation. If the formality prescribed in section 12 is fulfilled, namely filing in the office, then legally the award is final as it becomes part of the Office records. Till the award is set aside by Court it is final and valid. Hence, finality of the award under section 12 is subject to the decision by the Court under section 18 and by such decision of the Court in reference under section 30 of the Act.

(3) If the award with all requisite details is communicated to a person interested under sub-section (2) of section 12 of the Act, time will begin to run from the date of receipt of the communication and the period is six weeks from such date for filing a reference under section 18 of the Act.

(4) If the party is present before the Collector during the making of the award, the time will be reckoned from such date and the limitation is six weeks from such date. If he is not present the said limitation is six months.

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CHAPTER - VIII Abatement of Revenue

Mode of dealing with abatement of revenue.

Para 111. In every case of revenue-paying land, its acquisition under the Act entitles the raiyat to release from liability for any revenue charged upon the land and it is the duty of the Collector, before determining the amount of compensation to be allowed in the case of any such land which is under acquisition, to ascertain the amount of Government revenue which is to be deemed payable in respect of such land and to record this for the purpose of the subsequent proceedings.

The raiyat receiving the market value is also entitled to have his revenue abated by the amount of revenue to which his khatian or holding is liable if the land acquired be a whole khatian, assessed by the Collector upon the land acquired and assessed with specific amount of Revenue or by the amount this abatement must in every case be allowed. When a part of khatian is acquired the abatement of land revenue shall be done proportionately.

Submission of abatement statements to the District Land & Land Reforms Officer.

Para 112. The Land Acquisition Collectors shall send the Abatement Statements in respect of lands acquired either Land Acquisition Case- wise or Project-wise as will be suitable. The form prescribed for submission of the Abatement Statement is **Form No. 18**. The statement should be sent to the District Land and Land Reforms Officer, who will implement the abatements duly. The format prescribed envisages submission of the statement land Acquisition Case-wise.

Other documents to be sent to District Land & Land Reforms Officer and subsequent actions to be taken by him.

Para 113. (1) While sending the Abatement Statement to the District Land and Land Reforms Officer, the following documents should be sent in addition, so that his office can work on it and correct the Record of Rights and other registers duly. The documents to be sent are:

i) A copy of possession Certificate in **Form 21** (See Chapter XI) specifying the details of land absolutely vested to the State Government on taking over possession.

ii) A copy of the Land Acquisition Plan which accompanied the draft declaration under section 6 of the Act or a fresh Land Plan showing appropriately the lands covered by the Possession Certificate only.

(2) On receipt of these documents the District Land and Land Reforms Officer should issue necessary instructions to the Block Land and Land Reforms Officer concerned to correct the Record of Rights, Registers and other related documents necessarily to reflect absolute vesting of the acquired lands, free from all encumbrances in the Government.

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CHAPTER - X

Payment of Compensation

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Deposits of Establishment charges, Contingent charges, Law charges and Capitalized Value of Land Revenue.

Para 129.(1) In case of acquisition of lands for non-State government Organisations, the provisions of Establishment charges, Contingent Charges, Law Charges and Capitalized value of Land Revenue are invariably kept in the estimate in **Form 4A**. Such charges and the Capitalized Value of Land Revenue are computed in accordance with the norms prescribed by the Government (See Paragraph No. 28) and included in the estimates so that the funds for these items are placed to the Collector alongwith the compensation part of the estimate.

(2) Establishment charges and Contingent charges are to be assessed on the non-State Government Land Acquisition cases as per slabs prescribed in G.O. No. 1330(2)-L.A. (II) dated 15-3-85 and Law charges be similarly assessed as per G.O. No. 22(83)-L.A. (II) dated 6- 1-81 of the Land and Land Reforms Department, Government of West Bengal. Determination of the Capitalized Value of Land Revenue in such cases is guided by G.O. No. 5769 (59) L.A. (II) dated 29-10-88. (Vide Appendix VII, VIII, IX).

(3) Deposits of Establishment charges, Contingent charges, Law charges and Capitalized Value of Land Revenue be made in "0029-L.R. Head" duly and noted against the respective entries in the Award Statement mentioning details of the Chalan No. date etc. under the signature of the Land Acquisition Officer who deposits those. **T.R. Form No. 7** is used in triplicate normally for such deposits. A separate register in **Form 20B** shall be maintained for these deposits so that the deposits made may be worked out any time to prepare the quarterly return and to assess the income of the Government.

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CHAPTER - XI

Taking and Delivery of Possession

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Certificate of possession

Para 146. An inventory of the trees, structures and buildings etc. standing on the land, possession of which to be made over to the Requiring Authority, is to be prepared before making over possession of the land. The inventory should include the trees, structures and buildings, fixtures and fittings etc. for which payments have been made or to be made. The inventory should be signed by the representative who is authorised to take over possession on behalf of the Requiring Authority, as a token of possession of such trees, structures and buildings, fixtures and fittings etc. As soon as the land is made over to the Requiring Authority a certificate of possession should be obtained from them or their authorised representative, in **Form 21** and a copy of the possession certificate alongwith copies of inventory, if any, duly signed should be sent to the Government in the Land and Land Reforms Department.

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CHAPTER - XIII
Final Report and Disposal of Records

Final report of acquisition proceedings.

Para 150.(1) When land is permanently acquired, the Land Acquisition Officer will prepare a final report of his proceedings for each Land Acquisition case in **Form 22** for each project. This report, accompanied in all cases by **Form 23** and a certificate from the Land Acquisition Collector in the form prescribed below and also a certified copy of the final Surveyor's plan as prescribed in Chapter XIV and by **Form 25**, when necessary, should be submitted to the Commissioner for confirmation of the proceedings, excepting the cases of the Calcutta Municipal Corporation and the Calcutta Improvement Trust, the proceedings of which are to be confirmed by the Land and Land Reforms Department, of the State Government. The final report should also be accompanied by a consolidated completion report dealing with any important points in connection with the proceedings which should be briefly prescribed. A list should also accompany the report containing the details of the enclosures and each office through which the case passes should satisfy itself by a careful examination of the papers that the enclosures have been received in accordance with the details given in the list. The proforma of the certificate to be given by the land Acquisition Officer and to be enclosed with the report is :

“Certified after a careful examination of the Surveyor's plans/plan that they have/it has been drawn upon the scales prescribed in paragraph 55 of the Land Acquisition Manual and strictly in accordance with the instructions contained in paragraph 56”.

(2) When the proceedings have been confirmed by the Commissioner, the final report in **Form 22** will be returned to the Collector and **Form 23** will be recorded in the Office of the Commissioner. In addition, after such confirmation of the proceedings the final report in **Form 22** alongwith a copy of the final Surveyor's plan and a copy of the **Form 25**, if any, should be sent to the Government in the Land and Land Reforms Department and to the Administrative Department concerned, by the Commissioner.

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Special rules for Calcutta Land Acquisition Officers.

Para 152. The final reports of the proceedings of Land Acquisition Officers of Calcutta for the acquisition of land for the Calcutta Improvement Trust and the Calcutta Municipal Corporation will be submitted by them direct to Government in the Land and Land Reforms Department for confirmation of the proceedings. In cases of the Improvement Trust the reports will be in the special **Form 24** but in cases of the Calcutta Municipal Corporation they will be in the usual **Form 22**. In all other cases they will submit their final reports to the Commissioner in accordance with paragraph 150.

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CHAPTER - XIV
Supply of Certified Copies of Plans of Land Acquired

Supply of plans of lands acquired to officers on whose behalf such acquisition has been made.

Para 156.(1) In all cases of permanent acquisition of land, a copy of the Surveyor's plan showing the lands actually acquired, shall be prepared by the Land Acquisition Collector, and as soon as the awards have been made and possession of the lands has been taken, it shall be furnished to the authorities on whose behalf the lands are acquired, with the following certificate endorsed upon it, indelible black stamping ink being used whether the certificate is stamped or whether it is written by hand :—

“Certified that the lands in this plan were duly acquired under the provisions of the Land Acquisition Act I of 1894, and under declaration No. of the and in proceedings no. of 19, and that they were made over by A.B. on the [date] on behalf of the Collector of the district to C.D. on behalf of the (authority on whose behalf the proceedings were taken)”.

Collector,
Under Act I, 1894.

(2) A certificate of the nature contemplated in paragraph 156 cannot be given by a Land Acquisition Collector unless he has records to support it. When, however, certified plans are required in respect of lands actually in possession of Government such as compound containing public buildings, camping grounds and the like, in respect of which records relating to acquisition cannot be traced, a certificate regarding the possession of Government may properly be given by the Collector. Before it can be given the plan tendered should be verified on the spot by the Land Acquisition Collector or by some trustworthy officer, and in the latter case the Land Acquisition Collector may countersign the certificate given by such officer. The certificate should be in the following form :-

“Certified that the land demarcated by the boundary pillars shown in this plan is/was in the possession of Government in the (here state the name of department) on the (here state the date)”.

On the other hand the verification of the plan of a considerable length of road or similar lands never duly acquired would generally involve much trouble and would likely to stir up disputes. In such cases the Land Acquisition Officer may properly refrain himself from giving a certificate of possession.

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CHAPTER - XV Disposal of Surplus Lands

Surplus lands no longer required for public purposes how to be dealt with.

Para 162. (1) All lands which have been permanently acquired for public purposes by Government in any department whether by private purchase or compulsory acquisition, and which are no longer required for the purposes originally intended, shall be relinquished free from all encumbrances under the orders of the Government in the Administrative Department concerned, which will issue instructions to the Government in the Land and Land Reforms Department for the resumption of the lands and for their disposal in the manner hereinafter prescribed. On receipt of these instructions Government in the Land and Land Reforms Department will issue order to the Collector of the District concerned in order to give the effect to the orders of the Government.

(2) Lands acquired for a Municipality, Zilla Parishad or any other local authority legally entitled to or entrusted by Government with, the control or management of any municipal or local funds do not come within the scope of the above said rule.

(3) When the Land & Land Reforms Department is the administrative department concerned, the necessary orders for resumption and disposal of the land relinquished will be issued from that department to the Collector of the district.

Changes in land should be reported and entered in the records.

Para 163. All contemplated changes in the land-held for the purposes of different departments and agencies should be promptly reported by the Requiring Authority or Collector concerned to the District Land & Land Reforms Officers for such orders as will ensure the changes being entered by the Revenue Officers in the record and carrying out all further proceedings that are required on such an occasion.

Procedure showing how land in excess of requirements is to be dealt with.

Para 164. The disposal of land taken up by different departments of the State Government in case of immediate requirements is governed by following procedures. The lands taken up for a Railway project in cases of immediate requirements should also be dealt with in a similar way:-

(1) Land which is likely to be required in near future for the project/scheme for which it has been acquired, should remain in the custody of the requiring authority concerned and they should not be called on to relinquish it. The term "near future" is to be liberally interpreted with reference to the probable requirements of the project/scheme and when there is any uncertainty the benefit of doubt must be given to the requiring authority concerned in favour of retention.

(2) Land which may probably be required in the distant future should not be relinquished but may be made over to the revenue authorities for **safe custody**. Land so transferred is not to be let out or sold, except on such terms of temporary

occupation as will not interfere with its being made available on short notice. These conditions may best be attended if the concurrence of the administrative department concerned is first obtained to any proposals that may be made for utilizing the land from time to time. The net receipts from the land permitted for such temporary occupation i.e. the amount which remains after deducting 10 per cent of the gross receipts on account of the cost of management etc. should be credited to in the appropriate head of accounts of the administrative department concerned.

(3) Land for which the administrative department is unlikely ever to have any further use should be relinquished out-right to the Land and Land Reforms Department of the State Government for disposal. The Land & Land Reforms Department will first ascertain whether the land is likely to be required by any other department of the State Government or Local Authority or of the Government of India and, if so, it will deal with the land either according to following procedure in accordance with the principles laid down in clause (2) above or if it is not likely to be so required the land after verification should be transferred to the department requiring such land following the principles as detailed in the following paragraphs.

Para 165. When the land is declared as surplus and relinquished by administrative department concerned, on whose behalf the land was acquired for a specific purpose i.e. for a scheme or a project or otherwise, in favour of the Land & Land Reforms Department of the State Government, it may be transferred or leased out, as the case may be, to the department of the State Government or Government of India or local bodies or companies who subsequently require the land for other purposes than for the purpose for which the land was acquired under the provisions of the West Bengal Land Management Manual.

(1) When a department of the State Government requires a piece of surplus land from the Land and Land Reforms Department in whose favour another department of the State Government has relinquished the land as surplus, the transfer of such a piece of surplus land from one department to another Deptt. of the State Government can be done through the Collector of the district. When any land or building is transferred from one department to another under the same Govt. the transfer shall be free of all charges except when the property is transferred to or **from a commercial department in which case the full market value of it will be charged.** The Land & Land Reforms Department will issue an order to the Collector of the district for taking over possession from the local requiring body of the administrative department which has relinquished the land and will hand over it to the local requiring body of the department who now requires it. The administrative department should also be informed duly of such transfers.

(2) When any land declared surplus and relinquished in favour of the Land & Land Reforms Department of the State Government, is required by any department of Government of India for any purpose other than the purpose for which it was acquired, such land should permanently be transferred to that department of the Government of India. The effect of transfer may be given on payment of the market value of the land to be transferred **as on the date of transfer** alongwith the capitalized value of land revenue as per prevailing provisions of existing orders and circulars of the State Government. The payment may be made in the appropriate head of accounts of the department concerned of the State Government. Even it may be deposited in the appropriate head of accounts in favour of the Collector of the district on behalf of the Land & Land Reforms Department of the State Government. The amount is to be finally credited to the Head of Accounts of the Administrative Department concerned. After such payments have been made or deposited; the Land & Land Reforms Department will issue necessary orders to the Collector of the district for taking over possession from the local requiring body of the administrative department of the State Government and handing over the possession to the authorised representative of the present requiring department of the Government of India.

(3) When the surplus land, relinquished in favour of Land & Land Reforms Department by the administrative department of the State Government is required by

a local Authority or a company it may be transferred to them permanently or may be leased out to them according to the provisions of West Bengal Land Management Manual. Permanent transfer of surplus land to the local bodies or companies should be done after the market value of the land on the date of transfer alongwith the capitalized value of land revenue as per existing orders and circulars of the State Government, is paid or deposited in favour of the administrative department concerned who has relinquished the land in favour of the Land & Land Reforms Department of the State Government. On payment of the market value alongwith capitalized value of land revenue by the local body or the company, the land may be permanently transferred to them through the Collector of the district. The Land & Land Reforms Department should issue order for such transfer of land permanently by the Collector who should take over the possession of the land from the local requiring body of the administrative department relinquishing the land and hand over it to the local body or the company concerned. In case of long term lease settlement may be given in favour of the local body or company for such surplus land. The market value of the land in case of lease, is to be determined **on the date of execution of lease deed.**

(4) In all cases of permanent transfers excepting the case of transfers from one department to other of the State Government, a suitable deed of transfer is to be executed between the State Government in the Land & Land Reforms Department and the department of the Government of India or the local body or the company taking over the land. The forms prescribed in Chapter-I may be utilized after appropriate modification for execution of the above- said deed of transfer.

When the surplus land is not required by State Government, or, Government of India or others, the procedure for its disposal.

Para 166.(1) The surplus land relinquished in favour of the Land & Land Reforms Department of the State Government should be verified on the spot by the Collector for the purpose of disposal. After verification they may be classed under the following two heads :-

- i) Land situated within agricultural areas.
- ii) Land situated within urban areas and suitable for building sites.

(2) As regards the surplus lands falling in clause (i) above i.e. land situated within agricultural or pastoral areas which are no longer required by any Government or public body or company, their disposal be guided by the following general instructions :-

(a) All rights of land owners or occupiers which were extinguished by the acquisition of those lands should be first offered to the persons from whom they were acquired or to their heirs, if discoverable. In cases in which, at the time of acquisition, no abatement of land revenue was made the offer of restoration should be made subject to the express condition that the lands will be reabsorbed into the revenue roll of which they originally formed part. When an abatement of land revenue has been granted at the time of acquisition, the amount originally abated should be added to the revenue-roll of the person concerned as it stands at the time of restoration.

(b) No elaborate enquiries are necessary to find out the original owners or their legal heirs and the titles of claims should be determined summarily, as the above concession is made as the act of grace and is wholly within the pleasure of State Government to grant or to reduce in any particular case. It will be sufficient if a general notice is published locally and at the Collector and Munsif Offices and also at the offices of Panchayat bodies near the land.

(c) The price at which the rights above referred to, are to be offered should be the amount of compensation originally paid for them, less the additional amount paid under section 23(2) of the Act in excess of the market value of the land, should the acquisition have been compulsory. This price may be reduced, if necessary, on account of any deterioration that may have taken place in the fitness of the land for agricultural purposes, while it was in the occupation of the Government.

(d) The Collector will always retain and exercise discretion in the application of the rule about the charge of cost price. Special cases may occur where

exceptions will be justifiable. When the persons first entitled are remote descendants or relations of the original owners or when the rise in the market value of the land has been so exceptionally great as to take the case out of the general rule or in similar other cases the exception should be justifiable.

Agricultural lands not restored to the original owners or their legal heirs as well as urban lands, how to be disposed of.

Para 167. In the case of the surplus lands relinquished by different administrative departments the land situated within agricultural areas, of which the original owners or representatives cannot be found, or if found declined to take back their lands at the price offered, as well as the land situated within urban areas and suitable for building sites, will be kept at the disposal of the Land and Land Reforms Department of the State Government till it is suitably transferred or leased out for a public project or development scheme for upliftment of the community.

The original owners or their legal heirs or representatives should be given a deed of conveyance in Form 26 on restoration of the agricultural or pastoral lands.

Para 168. When agricultural lands are restored to the original owners or their legal heirs or representatives on payment of the offered price a deed of Conveyance should be executed by the Collector of the district on behalf of the Land and Land Reforms Department of the State Government in favour of the original owners or their legal heirs or representatives **individually** as the case may be. Before restoration, the appropriate share of each of the original owners or their legal heirs or representatives on the land to be restored is to be determined and separate deed of conveyance should be executed for each and every entitled original owner or his legal heirs or representatives. Each such deed of Conveyance should be registered in all cases. The cost of requisite ad-valorem stamp on the deed of conveyance should be borne by the party in whose favour the deed is being executed by the Collector. The registration fee should also be borne by the party concerned. An unstamped duplicate of the deed of Conveyance should be filed by the Collector with the record of the case.

In cases not covered by the above procedures of disposal of surplus land, the Land & Land Reforms Department have the authority to modify or amend the procedure in consultation with the Concerned Department.

* * *

CHAPTER - XVII

Accounts, Establishment, Recovery and Adjustments of Charges

* * *

Estimates and final charges for establishment and contingencies.

Para 182. (1) The Local authorities and Companies for whom land is acquired, are required to bear the charges of and incidental to acquisition. These charges should comprise the salaries, travelling allowances of the Land Acquisition Officer(s) and of the establishment, contingency charges including the forms and stationary, rent and municipal taxes for the rooms occupied by the Land Acquisition Office and Law charges incurred in conducting references and other litigations. Establishment charges and contingency charges are to be assessed on the non-State Government Land Acquisition cases as per slabs prescribed in G.O. No. 1330(2)-L.A. (II) dated 15-3-85. The cost of acquisition as mentioned in the said order means the total amount of compensation including each and every item of the estimate but does not include the Capitalized Value of Land Revenue. Law charges be similarly assessed as per G.O. No. 22(83)-L.A.(II) dated 6-1-91 of the Land and Land Reforms Department, Government of West Bengal. The term 'Valuation' mentioned in the order means the market value of land only of the estimate plus the 30% solatium. [See Appendix— VII and VIII].

(2) As prescribed in paragraph 129 of Chapter X, the establishment charges, contingency charges, law charges and also the capitalised value of land revenue incorporated in estimates in **Form 4A** are deposited in "0029-L.R. Head" duly. The Land and Land Reforms Department of the State Government will make allotments for both the permanent and temporary establishments of Land Acquisition Offices for meeting the expenditures on salaries, travelling allowances and contingency charges etc. of the Land Acquisition Offices.

* * *

Adjustment of cost of land required for a company or a local authority.	Para 184. Whenever land is required for a purpose which is not strictly a Government purpose, as for a company or a local authority, the whole cost of acquisition including the establishment charges, contingency charges and law charges and also the capitalised value of land revenue should be charged to such company or the local authority.
Payment of compensation and of costs of acquisition how to be made when Government accepts as a donation, the cost of a scheme.	Para 185. When Government accepts a donation from private body or individual or the purpose of acquiring land for a public purpose and it is intended that the land was to vest permanently to the Government, the donation will be credited to the Government as a receipt of the department concerned and the land will be acquired for Government and at the expense of Government. In such cases specific budget provision for the expenditure is required and accordingly the compensation is paid out of public revenues.
When proceeding for acquisition on behalf of local authority or company should commence and how the capitalized value of the land revenue should be accounted for.	Para 186. In cases of acquisition of land on behalf of a company or a local authority financially independent of Government, when it is directed by Government that the payments, instead of being made and audited in the same manner as the ordinary payments of such company or local authority, shall be made and audited as if the lands were being acquired for the Government, proceedings shall not be commenced till the amount of the estimated cost of acquisition including the establishment charges, contingency charges, law charges and the capitalised value of land revenue, has been paid either through Cheques or through Bank Drafts. In such cases, the capitalised value of land revenue should be calculated at thirty five times of the annual amount of land revenue assessed as per Government Order No. 5769(59)-L.A. (II) dated 20-10-88, even if the land is situated in rural areas. The calculation of establishment charges, contingency charges and law charges should be done in accordance with the existing Government Orders in vogue as prescribed in sub-paragraph (1) of paragraph 182.
Charges for temporary land acquisition establishment and capitalized value of land revenue recoverable from Central Govt.	Para 187. Charges on account of temporary Land Acquisition establishment including contingency charges and law charges and capitalized value of land revenue are payable by the Railway and other departments of the Central Government when the land is acquired for them. The estimates prepared in Form 4A should include the charges for establishment, contingencies, litigations and the capitalized value of land revenue in accordance with the Government Orders in vogue as prescribed above. Such charges should, therefore, be included in the estimates for acquisition of lands for the Central Government.
Establishment charges, contingency charges and capitalized value of land revenue not to be realized from private institutions in certain cases.	Para 188. The establishment costs, contingency charges and capitalized value of land revenue are not realized from private educational institutions, when land is acquired for them partly at their expense and partly at the expense of the Government in consideration of the fact that such educational institutions are not profit making concerns and that the land, after acquisition, vests absolutely in Government and is made over to the institution concerned only for occupation and use by means of a licence. All such charges mentioned above are also exempted in cases of similar acquisition on behalf of private medical institutions. This has, therefore, to be borne in mind while preparing estimates for the acquisition of land in such cases.
Payment of litigation costs from the contingent fund allocated for a land acquisition establishment in exceptional cases.	Para 189. Normally the law charges realized against a sanctioned estimate are to be deposited in favour of the Government and all the litigation costs in respect of Land Acquisition cases should be paid by the Collector from the allotment of his Revenue Munshikhana made by the Government. In exceptional cases only, the Collector may allow payment of litigation costs from the contingent fund allocated by the Government for the Land Acquisition Establishment.
Disbursement of costs under sections 4 and 8.	Para 190. The Collector should disburse all costs of measurements under section 8 and costs incurred in field works under Section 4 from the contingent fund allotted by the Government for the Land Acquisition Establishment concerned.

Adjustment of cost of Irrigation Department lands made over to Railways.

Para 191. When any land belonging to the Irrigation Department is made over to the Railway, its full market value at the time of transfer alongwith the capitalized value of land revenue should be credited by the Railway Authority in favour of the receipt head of accounts of the Irrigation and Waterways Department. The similar actions should be taken in case of transfer of lands of different departments of the State Government to the Railway Authority.

Procedure for the resumption of Government land leased out on terms providing for its resumption for a public purpose without payment of any compensation for the land itself.

Para 192. The following instructions are to be observed in resumption of Government land leased out on terms which provided for its resumption for a public purpose without payment to the lessee of any compensation for the land itself. When such land is required for a Railway or for any other commercial department for which regular Capital and Revenue Accounts are kept the full market value is to be realised from the railway or the department for which the land is required. The explanation "full market value" in these cases will be interpreted as including the value of all interests in the land other than the proprietary interest of Government. In such cases the lessee not being entitled to any compensation for the land under the terms of the lease, the whole of the valuation should be credited to the Government to that head to which the sale proceeds of such land would be creditable. When such land is required for any department of the State Government other than a commercial department, it will be resumed and transferred to the requiring department free of charge, unless compensation is due under the terms of the lease for any improvement made by the lessee in which case the requiring department will bear the cost of such compensation.

* * *

APPENDIX - I

(See Paragraph 2)

Ministry of Agriculture and Rural Development
(Department of Rural Development)
New Delhi, the 25th October, 1985

NOTIFICATION

S.O. 782(E) - In exercise of the powers conferred by clause (1) of article 258 of the Constitution of India and of all other powers enabling him in this behalf and in supersession of all previous notifications on the subject in so far as they relate to the State of Andhra Pradesh, Assam, Himachal Pradesh, Karnataka, Madhya Pradesh, Meghalaya, Orissa, Tamil Nadu, Tripura and West Bengal, the President, hereby entrusts to the Government of the aforesaid States, with their consent, the functions of the Central Government under:-

- (i) the Land Acquisition Act, 1894 (I of 1894), except the functions exercisable by the Central Government under the proviso to sub-section (1) of section 55 of the said Act; and
- (ii) the Land Acquisition (Companies) Rules, 1963, in relation to the acquisition of land for the purposes of the Union in these States subject to the following conditions, namely:-
 - (a) that in the exercise of such functions, the respective Governments shall comply with such general and special directions as the Central Government may, from time to time, issue; and
 - (b) that, notwithstanding the entrustment, the Central Government may itself exercise any of the said functions should it deem fit to do so in any case.

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Government of West Bengal
Land and Land Reforms Department
Land Acquisition Branch

No. 2030(34)-L.A./P.M./1M-112/'81

Calcutta, the 02nd March, 1982

To

- 1) The District Magistrate
- 2) The Addl. District Magistrate (L.R.)
- 3) The Special Officer, Damodar Valley Project (L.A.), Chinsurah.
- 4) The Special Land Acquisition Officer,

The undersigned is directed to say that vesting orders under the West Bengal Estates Acquisition Act, 1953 or under the West Bengal Land Reforms Act, 1955 are usually made with retrospective effect. It

has come to the notice of this Department that some lands acquired under Land Acquisition Act were subsequently made to vest in the State with effect from a date prior to the date of acquisition. In such cases payment of compensation has been made to owners although they are not entitled to receive the same. In order to avoid recurrence of such payment in future it has to be ascertained before finalizing the Land Acquisition Proceedings both under Land Acquisition Act I of 1894 and Act II of 1948 not only whether the lands have vested but also whether any proceedings under section 14T of the West Bengal Land Reforms Act are contemplated in respect of the raiyat/raiayats concerned.

It is accordingly requested that henceforth immediately after the initiation of the Land Acquisition proceedings both under the Land Acquisition Act I of 1894 and Act II of 1948 the aforesaid information should invariably be collected from his end from the concerned Charge Officer of the Settlement Camp as well as from the Junior Land Reforms Officer concerned, so as to avoid any wrong payment (80% on account compensation under Act II of 1948 and full amount of compensation both under Act II and Act I 1894). It may be helpful if the said information is collected well before making 80% on account payment and submission of draft notice under section 4(1a) under Act II of 1948 and preparation of estimate under Act I of 1894.

Sd/- Illegible
Deputy Secretary to the Govt. of
West Bengal

Memorandum No. 856/1261-68/C/'80,

Dated, Alipur, the 03rd/ 12th April, 1982.

Copy forward to :-

Shri P. Banerjee, W.B.C.S., Settlement Officer, Kochbihar – Jalpaiguri-Darjeeling for information. He is requested to kindly extend the desired cooperation to all concerned.

K. P. Sandilya.
For Director of Land Records & Surveys,
West Bengal

●

Government of West Bengal
Land and Land Reforms Department
Land Acquisition – II Branch.

No. 9446(22)-L.A.(II)

Dated, Calcutta, the 6th October, 1990.

File No. 3M-23/88 Pt.

To: 1) The Commissioner,
2) The Collector,
3) The Additional District Magistrate (L.R.),

Sub : Preparation of rate report and estimate for acquisition of land under the L.A. Act.

It has come to the notice of Government that while fixing value of land of different classes in L.A. Cases, no fixed norms are being followed by the Land Acquisition Collectors. Moreover, there is no fixed norm for allowing appreciation and depreciation when rates for other classes of lands are required to be calculated in reference to a particular class of land. Therefore, it is clarified that the following principles may be taken into consideration for fixing valuation of land in L.A. Cases :-

- i) No sale below 0.10 of an acre should ordinarily be taken into account while assessing value of any agricultural land in rural areas for transactions of land below 0.10 of an acre do not serve any purpose of agriculture and they do not in real terms the market value of agricultural land.
- ii) It is often required to determine the market value of different classes of land from the market value of a particular class of land for want of adequate sale figures of different classes of land under acquisition. For this purpose, the Collectors are requested to prepare a conversion table for different classes of land prevailing in his district. An illustrative case is annexed for guidance in this matter. It may be noted that this annexure is only an illustration and the Collectors of the district or the Additional District Magistrate who finally accepts the valuation report should exert himself to ensure that the rates of appreciation and depreciation for different classes of land are fair and reasonable. The conversation table prepared for a particular district or for some particular areas of a district (for large district) may be sent to the Divisional Commissioner and to the

Government. Any deviation from the accepted conversion table should be properly explained in the rate report.

- iii) As the current sale figures are in many cases not available in the local Sub-Registry Office, the Collectors are often required to assess the market value on the basis of figures of previous year. As the preparation of market value is the amount that a willing vendor is expected to fetch from a willing purchaser on the material date (last date of publication of notification for Act I cases and date of publication of notice for Act II cases) appropriate measures may be taken to ensure that realistic market value of land proposed to be acquired is arrived at by allowing suitable appreciation for general rise of market value of land. Such appreciation should however, be limited to 5% per year. But when any hither rate of appreciation is suggested that should be properly explained in the rate report with supporting facts and figures.

In some cases small plots are sold at higher rate than bigger plots and the price payable for the bigger plots does not compare favourable with the price paid for small plots. Therefore, when the market value of large area of land under acquisition is determined on the basis of Sale figures of smaller plots, the market value may be fixed by allowing a depreciation of 10% for the largeness of the area. Sufficient reasons should be ascertained while analyzing these types of cases.

Sd/-Illegible
Deputy Secretary
to the Government of West Bengal.

No. 9446(22)/1(25)-L.A. (II)

Dated, Calcutta, the 6th October, 1990

Copy forwarded to :

- 1) The Special Land Acquisition Officer,
- 2) The Special Land Acquisition Officer, Haldia Project,
P.O. – Tamluk, Dist. – Midnapore.
- 3) The Special Land Acquisition Officer,
Teesta Barrage Project, Siliguri,
P.O. – Siliguri, Dist.- Darjeeling.
- 4) The Special Land Acquisition Officer,
Teesta Barrage Project, Raygunj,
P.O. Raygunj, Dist. – West Dinajpur.
- 5) The Special Land Acquisition Officer,
Howrah Improvement Trust,
19, G. T. Road, (South),
Howra – 711001.
- 6) The Special Land Acquisition Officer,
Howrah – Amta Broad Gauge Railway Project,
P.O. & Dist. – Howrah.
- 7) The Special Land Acquisition Officer,
Damodar Valley Project (L.A.), Burdwan,
3, P.C. Mitra Lane, Burdwan.
- 8) The Special Land Acquisition Officer,
Damodar Valley Project (L.A.), Chinsurah,
P.O. – Chinsurah, Dist. – Hooghly.

for information and necessary action

Sd/-Illegible
Deputy Secretary
to the Government of West Bengal

- | | | |
|-----------------------|---|--|
| Classification | : | Norms to be followed for calculation of rate of market value |
| 1) Baid | : | On the basis of up-to date sale –data the current rate is to be derived. |
| 2) Kanali and Doe | : | On the basis of up-to date sale-data. If sales are not available, 50% above the rate of 'Baid' in sl. No. (1). |

- 3) Suna : Same rate as that of Kanali or doe class of land.
- 4) Sol, Sali & Bahal : On the basis of up-to date sale data. If sales are not available 75% above the rate of 'Baid' class of land in the Sl. No. (1).
- 5) Mana, Bagan, Panboraj, Kaja, Kaju Bagan, Nursery, Alluvial Land (Payasti) : On the basis of up-to date sale data. If sales are not available 25% above the rate of 'Baid' class of land in the Sl. No. (1).
- 6) Danga, Danga-Puratan patit, Tora, C.L.Patit, Danga-nutan Patit, Bans-bagan, Play ground, Gochar, Bhagar, Chhankhola, It-Khola, Jungle balu. : Half of the rate of 'Baid' class of land as in Sl. No. 1.
- 7) Bastu, Ud-bastu, Goal, Dokan, Dalan, School, Hat-Khola, Bariar Chala, Khamar, Mandir, Bhiti, Gola, Golabari, Hospital, College, Mill, Factory, Workshop, University, Dak-Bunglaow, Thana, Diary, Poultry, Piggery, Cold-storage, Hat & Bazar. : On the basis of up-to date sale data. If sales are not available 100% above the rate of 'Baid' class of land in the Sl. No. (1).
- 8) Pukur, Bandh (Pukur), Matsya-chaser-Jalasaya, Bil. : As per para 72 of the Executive Instruction of L.A. Manual (rate as per rate of 'Baid' class of land plus excavation cost).
- 9) Doba, Bandh (Abbad Rakkhar janya), Pukurparh, Bandhparh. : Half of the rate of 'Baid' class of land if the sale figures are not available.
- 10) Khal, nala, Khana, Jhor, Mota-Ail, Path, Rasta (Kancha & Pucca), Sikasthi Bhumi and nayam Jali. : Lump sum Rs. 1000/- per acre will be adopted.
- 11) Nala, Indara, Tube-well land : Same as Sl. No. (10).
- 12) Jal, Jal Awal, Dhani Awal, Jal Dal, Jal dun : On the basis of up-to-date sale data the current rate is derived.
- 13) Jal Doan, Dhani Doan, : 10% less than Jal etc. as at above.
- 14) Dhani soem, Jal Soem, Jal Jami : 20% less than jal, Jal Dhani.
- 15) Dhani Chaharam, Jal Chaharam : 30% less than Jal Land
- 16) Jal Dhuri, Jala : 40% less than Jal Awal.
- 17) Kala, Kala Awal, Pan Boraj, Arjun Bagan, Kala Bagan, Kaju bagan. : On the basis of up-to-date sales . If Sales are not available 15% above Jal Land
- 18) Kala Doem, Khari Ban : 10% less than kala etc.
- 19) Dhosa, Dhosa Awal : On the basis up-to-date sales. If Sales are not available 15% above Jal etc.
- 20) Dhosa Doem, Babui Danga, Sal-Bon, Ban, Jhau Ban, Banabhumi, Ban : 10% less than Dhosa etc.
- 21) Dhosa Soem : 20% less than Dhosa etc. above, in absence of adequate number of sale data of the class of land.
- 22) Dhosa Chaharam : 30% less than Dhosa etc. above in absence of adequate number of sale data of the class of land.
- 23) Dahi, Danga, Danga Puratan Patit, Danga Nutan Patit, Jhuri Jangal, Jhati Jangal, Balu, Bhagar, Itkhola, Bansbagan, Bansban, Banschatan, Jhauhab. : Half of the Jal-land etc.

- 24) Bastu, Udbastu, Coal, Dokan, Dalan, School, Chhankhola, Hat-khola, Bari or chala, Khamar, Mandir, Bhati, Chharabastu, Dangabastu, Gola, Golabari, Hamer, Hospital, College, Adalat, Mill, Factory, Karkhanan, Thana, Fanri, Dakbunglow, Pashu-Palan-Kshetra, Murgipalan - Kshetra, Dohan-Kshetra. : 20% of the above 'Jal' land if adequate sale-figures are not available for the class of land.
- 25) Doba : Half of Jal if sale figures are not available
- 26) Pukur, Bandh (Pukur) : If derelict half the rate of surrounding of land. If not derelict the rate may be fixed as per surrounding land.
- 27) Matsya Chasher Jalashay : As per 72 of the Executive Instruction of L.A. Manual.
- 28) Bandh-par, Pukurpar : Half of the Jal-class of land.
- 29) Khal, Nala or Gazri, Khana Khai, Bulan, Gar-layekpatit, Ghar, Balurana, Veri, Gram Veri, Mota Ail, Khan par, Garta or Garhi, Path or Kuli, Kancha-rasta, Hanri-paria, Sikasthi Bhumi, Bandh (embankment) Bank (pathway). : Lump sum Rs. 500/- per acre.
- 30) Nayanjuli : 1/3 of Jal land if paddy cultivation is done, otherwise Rs. 500/- per acre.

Example :- In a case where adequate sale-data related to 'Baid' class of land are available for 1981 and/or two months prior to it, but sufficient sale data for 'Bastu' class are not available, then to get the market-value of 'Bastu, class of land in 1989 from such sales the following steps be taken.

- i) The rate per acre of 'Baid' land for 1981 be arrived first from the sale-data collected.
- ii) Premium of 45% be added @5% per year for nine years to get the rate of market-value of 'Baid' land in 1989.
- iii) For the rate of market value of 'Bastu' land as in 1989, another 100% be added with the rate of market value of 'Baid' land in 1989, derived in the above paragraph.
- iv) The above said norms may vary in some exceptional cases with the approval of the Collector/Appropriate Authority, considering different aspects, i.e. situational advantage, potential value etc. In such cases the rate of appreciation may be higher than 5% may 10% to 15%.

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**Government of West Bengal
Land and Land Reforms Deptt.
L.A. (II) Br.**

NOTIFICATION

No. 1405-L.A.(II)/4P-1/84

Dated, the 19th May, 1992.

In exercise of the power conferred by the second proviso to sub-section (1) of section 11 of the Land Acquisition Act, 1894 (1 to 1894) (hereinafter referred to as the said Act), and in supersession of notification No. 6970-L.A.(II)/4P-1/84, dated the 5th December, 1984, the Governor is pleased hereby to direct that the Collector, as defined in clause (c) of section 3 of the said Act, may make an award under sub-section (1) of section 11 of the said Act without the previous approval of the State Government in such class of cases as is specified below :-

Class of cases

All awards upto a limit of Rs. 10,00,000 (Rupees ten lakhs) only in each case of land acquisition initiated on or after the date of coming into force of the Land Acquisition (Amendment) Act, 1984 (68 of 1984), that is, the 24th day of September, 1984.

By order of the Governor,
S.K. Gupta,
Dy. Secy. to the Govt. of W.Bengal

No. 1406(58) L.A.(II).

Dt. 19.5.92.

Copy forwarded to the :-

1. Collector,
2. Addl. Dist. Magistrate,
3. 1st Land Acquisition Collector, Calcutta,
4. Special Land Acquisition Officer,
5. Addl. Land Acquisition Officer,

For information.

2. The delegation of power conferred in the above Notification should be exercised in respect of the land acquisition proceedings under the Land Acquisition Act, 1894.

Sd/- Illegible
Dy. Secretary to the
Govt. of West Bengal

●

Government of West Bengal
Land and Land Reforms Deptt.
L. R. Branch

No. 901 (50)-L.R./ /90

Dated 9.11.92

To

1. The Commissioner, _____
2. The Collector, _____
3. The Special Land Acquisition Officer, _____
4. Ministry of the Govt. of India, _____
5. Board of Revenue, West Bengal,
6. The Dy. Accountant General (RA), Audit -II
Rabindra Sarani, Calcutta - 700001

Sub: Revision of the rate of Interest payable on the transfer value of a plot of land for non-payment of the same at the time of taking possession in respect of all cases of transfer by way of sale and Long/Short term settlement.

The undersigned is directed to say that the question of revision of the present rate of interest payable on the 'Transfer value' of a plot of land in all cases of transfer of land by way of sale or long / short term settlement to the Govt. of India and other statutory bodies, local or other public bodies or private individuals and public undertakings under the Land Transfer Rules has been under active consideration of this Govt. for sometime past.

2) After considering all factors pertinent to transfer and/ or settlement, the undersigned is directed by order of the Governor to say that the Governor has been pleased to direct that if the Transfer value of the plot of land is neither paid nor deposited at the time of taking possession of the land in question, in all cases of transfer of land by way of sale and long/ short term settlement, the Govt. of India and other statutory bodies, local or other public bodies or private individuals and public undertakings will be required to pay interest at the following rates:

(A) @ 9% per annum for the 1st year on the transfer value comprising market value and capitalized value of the land revenue or any part thereof, in case of transfer of land to the Govt. of India and 15% per annum during the subsequent years till such payment is paid in full.

(B) @ 9% per annum for the 1st year on the market value in case of sale and Selami with rent for the 1st year in case of long/ short term settlement or lease to the local or other public bodies, statutory bodies, private individuals and public undertakings and 15% per annum during the subsequent years till such payment is paid in full. The above rate of interest will also apply in case of arrear rent which will fall due in subsequent periods.

3) This order will take effect from 24.9.1981.

4) This order issues with the concurrence of the Finance Deptt. of this Govt. vide their unofficial No. Gr.D-II No. 157 dt. 25.9.92.

5) This order is issued in supersession of this Deptt. Memo No. 367(40)-L.R. dt. 24.1.91

Sd/-Illegible
Deputy Secretary to the
Govt. of West Bengal

Government of West Bengal
Land and Land Reforms Department
L.A. Branch

No. 5335-(35)-LA

dt. 4.9.95

To
The Land Acquisition Officer,

It has come to the notice of Government that many Land Acquisition Offices issue public notice of the substance of the notification under section 4(1) and the declaration under section 6 in the locality as well as to the individual land owners/ occupiers in terms of para 26(1) and 37(1) of the L.A. Manual, 1991. The Supreme Court has made it clear that personal service of notice is not contemplated by section 4(1) and declaration under section 6 of the said act. As such, issuance of notice of the substance of the notification and the declaration to individual persons is not necessary. But the requirement of issuance of public notice of the substance of the notification and declaration in the locality is mandatory and non-compliance thereof would vitiate the proceedings.

Sd/-Illegible
Deputy Secy. to the
Govt. of West Bengal.

●

Government of West Bengal
Land & Land Reforms Department
Land Acquisition- II Branch

No. 6724 -L.A. (II)
3M-6/92

Dated, Calcutta, the 24th November, '95

From: The Deputy Secretary,
Land & Land Reforms Department.

To: The Collector, North 24-Parganas,
P.O. – Barasat, Dist. – North 24-Parganas.

Sub: Clarification regarding production of Succession Certificate at different stage of L.A.
Proceedings.

The undersigned is directed to refer to his Memo. Nos. 1070-LA(N)BST dt. 16.5.95 and 2313-LA(N) BST dt. 20.11.95 on the above-noted subject and to send replies to the question as seriatim:

	Question	Replies
(1)	Whether production of Succession Certificate can be insisted upon if it is found that the recorded owner as per R.O.R. had died before verification of land Schedule to incorporate the name/names of the legal heir.	Yes, Correction of land Schedule in the name of legal heir may be made subject to the conditions as laid down in Govt. Order no. 2131-LA(II) dt. 25.7.94.
(2)	Whether necessary correction in regard to substitution of the name of the legal heirs for dead awardees in the award can be made by Land Acquisition Officer below the rank of Land Acquisition Collector at the time of award payment.	No. Correction should be made after declaration of award u/s 11 of the L.A. Act, 1894. Payment of legal heir should be made subject to conditions laid down in Govt. Order No. 2131-LA (II) dt. 25.7.94 as appended in para 199 of the Ex. Instructions of the L.A. Manual, 1991

Sd/-Illegible
Deputy Secretary to the
Government of West Bengal

No. 6724/1(53)-L.A. (II)
Copy forwarded for information and necessary action to:-

Dated, Calcutta, the 24th November, 1995

- 1) The Collector,
- 2) The Commissioner,
- 3) The Special Land Acquisition Officer,

Sd/- Illegible
Deputy Secretary to the
Govt. of West Bengal

Government of West Bengal
Land and Land Reforms Department
Estt. Branch

No. 1976-Estt./LL/N-5E-82/95

Dated 18-06-96

From: Shri S. C. Pahari, Deputy Secretary to the Govt. of West Bengal

To : The Accountant General, West Bengal (A & E),
Treasury Buildings, Calcutta – 700 001

Sir,

It has since been decided by the Govt. that in the L.A. set up of all the districts L.A. Kanungos will be replaced by officers belonging to the Special Revenue Officer, Grade – II Cadre. At present services of sufficient number of Special Revenue Officer, Gr. II are not available at the disposal of this deptt. and as such, all the posts of L.A. Kgos can not be converted at a time. So, the decision has been taken to the effect that the posts of L.A. Kgos. in different districts will be abolished in a phased manner with the induction of officers from the cadre of S.R.O.-II gradually. At the same time services of equal number of L.A. Kgos. will be replaced to the Integrated set-up.

Job specification of the officers in the cadre of S.R.O.-II who will be designated as Land Acquisition Special Revenue Officer after getting inducted in the set up and their functions will be as follows:

Over and above what will be assigned to them by the concerned Collectors depending on the need & exigencies the officers will be entrusted with the task of

- 1) Supervision of verification & preparation of land plan & checking of draft notices/notifications.
- 2) Preparation of Report under Sec. 5A of the L.A. Act
- 3) Checking of draft declaration.
- 4) Preparation of rate report on the basis of sale data collected by the Surveyors.
- 5) The collection of vesting reports from offices of District Land & Land Reforms Officer & Block Land & Land Reforms Officer.
- 6) Maintenance of scheme register in form 5.
- 7) Maintenance of registers of reference cases in Form No. 16, 17 & 17A.

Necessary amendments will be made in the West Bengal Land Acquisition Manual, 1991 in due course.

Yours faithfully
S. C. Pahari

No. 1976/1(40)_Estt./

Dated:18-06-96

Copy forwarded to :-

- 1) The Collector,
- 2) Director of Land Records & Surveys, West Bengal,
35, Gopal Nagar Road, Alipore,
Calcutta – 700027
- 3) The Treasury Officers,
- 4) 1st Land Acquisition Collector, Calcutta
5, Bankshall Street, Calcutta – 700001.
- 5) Pay & Accounts Officer, Calcutta
Calcutta Pay & Accounts Office,
81/2/2, Phears Lane, Calcutta – 700012.
- For information .

S.C. Pahari
Deputy Secretary to the
Government of West Bengal

Government of West Bengal
Land and Land Reforms Department
Estt. Branch

No. 266-Estt./5E-82/96

Calcutta, the 3rd February, 1997.

From: The Dy. Secy. to the Govt. of West Bengal

To: The Accountant General, West Bengal (A&E),
Treasury Buildings, Cal-1.

Sir,

In partial modification of this Deptt's letter No. 1976-Estt. dated 18.6.96, I am directed by order of the Governor to say that the Governor has been pleased to redesignate the post of "Land Acquisition Special Revenue Officer, Grade-II" as "Assistant Land Acquisition Officer" and their functions will be as follows:-

- a) Preparation of P.I.R. as & when required & supervision over the same, physical verification of the Land Schedule, involved in the L.A. proceedings.
- b) Verification of land plan, checking of notices, notifications & declarations under Section 4 & Section 6 of the L.A. Act I.
- c) Hearing of objection when authorized by the Collector & preparation of the report under Sec. 5A of the L.A. Act.
- d) Preparation of rate report on the basis of the sale data collected by the Surveyor, sample verification of the sale data, valuation reports and, as and when required, collection of vesting reports from the Office of the District Land & Land Reforms Officers.
- e) Checking of vesting reports.
- f) Checking of estimates in FORM 4A & 4B.
- g) Checking of awards & preparation of computerised awards wherever applicable.
- h) Supervision over maintenance of various registers connected with L.A. proceedings.
- i) Supervision of law Cell & preparation of S.F./A.O.s in court cases.
- j) All post-acquisition functions.
- k) Any other works as may be assigned to them by the concerned Collectors depending on the exigencies of the situations.

Necessary amendments will be made in the West Bengal Land Acquisition Manual, 1991 in due course.

Yours faithfully,
S. Banerjee

Dy. Secy. to the Govt. of West Bengal

No. 266/1(40)-Estt.

Cal., the 3rd Feb., '97

Copy forwarded for information to the :-

1. Collector, _____
2. 1st Land Acquisition Collector, Calcutta, 5, Bankshall Street, Cal-1.
3. Director of Land Records & Surveys, West Bengal,
35, Gopalnagar Road, Cal-27.
4. Treasury Officer, _____
5. Pay & Accounts Officer, Cal. Pay & Accounts Office,
81/2/2, Phears Lane, Cal-12.

S. Banerjee
Dy. Secy. to the Govt. of West Bengal

**Government of West Bengal
Land and Land Reforms Department
Land Acquisition (II) Branch**

MEMORANDUM

No. 5560(60)-L.A.(II)/3M-48/96

Dated Cal., the 22nd May, 1997.

To
The Secretary,
.....
Government of West Bengal

In order to finalising all the pending Land Acquisition Proceedings under the West Bengal Land Acquisition Act, II of 1948, the Land Acquisition Act, 1894 has been, inter-alia, amended for its application to the State of West Bengal.

2. The Land Acquisition (West Bengal Amendment) Act, 1997 (West Bengal Act, VII of 1997) having been assented to by the President of India was first published in the Calcutta Gazette, extraordinary, of the 2nd May, 1997 under notification bearing No. 1210-L. of the Law Department.

3. All Requiring Departments are requested to intimate us within 30th June, 1997 if they are still interested in the acquisition of land in which possession has been taken under section 3(1) of the West Bengal Act II of 1948 and no construction has been made upon such land.

4. In case where replies would not be received, possession of land under section 3(1) of the West Bengal Land Acquisition Act II of 1948 shall be deemed to have been inoperative and the possession of lands would be restored in favour of the ex-owners without any formal order of de-requisition but the Requiring Authorities have to pay requisition compensation on the market value of land on and from the date of taking over possession of land prior to the date of restoration.

P.K. Guha Roy
Deputy Secy. to the
Govt. of West Bengal.

No. 5560(60)/1(17)-LA(II)

Dated 22.05.1997

Copy forwarded to the –
Collector,

With the request to prepare a list of Land Acquisition proceedings originally initiated under the scope of the West Bengal Land Acquisition Act II of 1948 but subsequently stalled due to expiration of the said Act on 31st March, 1997 and send immediately in the following manner.

- A. (I) Total pending L.A. Cases:-
- (II) Number of L.A. cases where possession of Land under section 3(1) of the said Act have been taken but no construction has been made upon such land :
- (III) Number of L.A. cases where construction has been made after taking over possession and notice has been/ has not been / published:-
- (IV) Number of L.A. cases where award has not been made:-

B. Figures should be inserted with due consideration of the West Bengal Land (Requisition & Acquisition) (Amendment) Act, 1996 published in the Calcutta Gazette, extraordinary, dated the 8th October, 1996.

P.K. Guha Roy
Deputy Secy. to the
Govt. of West Bengal

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**Government of West Bengal
Land and Land Reforms Department
L.A. (II) Branch**

MEMORANDUM

No. 6246(18)-LA(II)

Dated :13th June, 1997.

To
The Collector,

In order to give effect of the Land Acquisition (W.B. Amendment) Act. 1997 on and from 01.04.97, Notification bearing No. 5559-LA dated 22.05.97 has been published in the extraordinary issues of the Calcutta Gazette dated 04.06.97.

Collectors are accordingly requested to prepare a List of pending L.A. cases initiated under the L.A. Act II of 1948 and send same to this Deptt, as already asked for under this Deptt. memorandum Np. 5560(60)/1(17)-LA(II) dated 22.05.97 and taking recourse to Sub-Sec. (3A) and (3B) of Section 9 of the Amendment Act, 1997, as the case may be prepare estimates accordingly. Thereafter, necessary action may be taken as per law.

Copies of the aforesaid notification and notification of the Law Deptt. bearing No. 1210-L dated 02.05.97 published in the Calcutta Gazette, extraordinary dated 02.05.97 are sent herewith.

P.K. Guha Roy
Dy. Secy. to the Govt. of West Bengal

No. 6246(18)/1(40)L.A. Dated; 13th June, 1997.

Copy with the copies of notification bearing no. 5559-LA dated 22.05.97 of this Deptt. and No. 1210-L dated 02.05.97 of the Law Deptt. both published in the extraordinary issue of the Calcutta Gazette dated 04.06.97 and 02.05.97 respectively forwarded to the Secretary. _____ in continuation of this Deptt. memorandum No. 5560(60)-LA(II)/3M-4B/96 dated 22.05.97 for taking necessary action.

P.K. Guha Roy
Dy. Secy. to the Govt. of West Bengal

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**Government of West Bengal
Land and Land Reforms Department
Land Acquisition (II) Branch.**

No. 9606-L.A.(II)/3M-38/97.

Dated : 29.10.1997

MEMORANDUM

Sub : Valuation of Trees/ Plants and semi-pucca/ Kutcha Structures

In paragraphs 69(3) and 70(3) of Chapter V of the Land Acquisition Manual, 1991, guidelines for assessment of the value of Trees/ Plants and Semi-Pucca/ Kutcha structures have been given with the stipulation that the rate chart so prepared in case of valuation of Trees/ Plants on the basis of the approved rate of the Forest Department prevailing in that district and in consultation with the Divisional Commissioner and the same in case of Semi-pucca/ Kutcha structure prepared under the approved rate of the Public Works Department Authorities in the district be revised once in every 4 (four) years and 5 (five) years respectively.

With a view to settling the problems experienced in recent times assessing valuation of the same for the purpose of land acquisition and that such rate charts have not been revised & sent to the Government from the Office of the Collectors or the Divisional Commissioners in the last few years. Collectors are hereby requested to prepare rate charts in consonance with the guidelines laid down in paragraphs 69(3) and 70(3) of the Land Acquisition Manual, 1991 and send the copies of the same to this Department immediately.

P. K. Guha Roy
Deputy Secy. to the
Govt. of West Bengal

No. 9607(40)-L.A. (II).

Dated Cal., the 29th October, 1997.

Copy forwarded for information and necessary action to the

1. Collector,
2. Special Land Acquisition Officer,
3. 1st Land Acquisition Collector, Calcutta,
5, Bankshall St., Cal-1
4. Commissioner, _____ Division,

P.K. Guha Roy
Deputy Secy. to the Govt. of West Bengal.

Government of West Bengal
Land and Land Reforms Department
Land Acquisition (II) Branch.

No. 10485(90)-LA(II)/3M-48/96.

Dated Cal., the 27th November, 1997.

To

- The
- 1) Collector,
 - 2) Special Land Acquisition Officer,
 - 3) 1st Land Acquisition Collector, Calcutta,
5, Bankshall St., Cal -1.
 - 4) Department of this Government.
 - 5) Additional District Magistrate,

In sending herewith a note relating to classification on the points arising out of several Land Acquisition Collectors on the Land Acquisition (West Bengal Amendment) Act, 1997 (West Bengal Act VII of 1997), the undersigned is directed to request him to take necessary steps for finalizing the land acquisition cases pending under the Land Acquisition Act II of 1948 taking recourse to the Amendment Act; 1997.

All the Requiring Departments are requested to advise their local officials to take up the matter with the Collector of the district and give a detailed list of the lands/ holdings which were requisitioned under Act II & not utilized and require to be released as per their opinion so that the Collector may take forthwith necessary steps to release those.

The Collectors are requested to report on the development in a couple of months.

P.K. Guha Roy
Deputy Secy. to the Govt. of
West Bengal.

Probable questions as regards operation of the Land Acquisition (West Bengal Amendment) Act, 1997 and their clarification for ready reference.

(1) Whether cases where 4(1a) notice was published but lapsed due to the West Bengal Land (Requisition and Acquisition)(Amendment) Act, 1996 by introduction of Section 7A should be covered by Section 9 (3B) of the Amendment Act of 1997.

EXPLANATION : Notices under section 4(1a) of the L.A. Act. II of 1948 published on or before 31.03.1992 have lapsed if awards have not been made by 31.03.1995 and these lapsed L.A. cases will have to be dealt with under the provisions of section 9 (3A) of the Amendment Act, 1997.

In case of the L.A. cases where notices referred to above published after 31.03.1992 but award have not been made by 31.03.1997, the matter should be dealt with under the provisions of section 9(3B) of the Amendment Act, 1997.

(2) Whether provision of clause 5 dealing with section 23(1A) of the Amendment Act will be administered by the Collector.

EXPLANATION : Section 15 of the Act I of 1894 is applicable to all the cases covered by the Amendment Act mutatis-mutandis and the Collector will have to allow 12% additional compensation per annum on the market value of land to be determined as per provisions of section 9(3A) or section 9(3B) as the case may be, commencing on and from the date of taking over possession of land under section 3(1) of the L.A. Act II of 1948 to the date of award of the Collector.

(3) What should be the modality of dropping the cases where requisition was made but land is no longer required for the purpose, since there is no de-requisition provisions in the Amendment Act.

EXPLANATION : In case of L.A. cases where possession of land followed by requisition under section 3(1) of the L.A. Act, II of 1948 was taken but not finally used and also no longer required by the Requiring Authority, the subject land stands de-requisitioned on 31.03.1997 since the W. B. Land (Reqn. and Acqn.) Act of 1948 expired on 31.03.1997. The Collector will have to formally restore back the possession of the subject land to its ex-owner by serving de-requisition order (Form No. 5 of the L.A. Act II of 1948) as on 31.03.1997.

(4) What should be the compensation amount for the requisition period when such lands are restored back.

EXPLANATION : Since the date of such restoration is given effect to on 31.03.1997, the rate of such requisition compensation would be @ 6% per annum on the market value of land as prevailing on 31.03.1997. The period for such compensation should be computed from the date of taking over possession of land under section 3(1) of the W.B.L.A. Act, 1948 to the date of restoration.

(5) Whether section 23(1) of Act I of 1894 stands superseded by section 3 of the Amendment Act, 1997.

EXPLANATION : There is no contradiction between section 23(1) of the L.A. Act I of 1894 and section 3 of the Amendment Act, 1997. The amount of compensation to be paid as explained under section 23(1) of Act I is also applicable to all the cases covered by clause 3 of the Amendment Act. Only the market value of the land as warranted under 1st clause of section 23(1) of the Act I will have to be determined on the date of publication of notice under section 4(1a) of the W.B.L.A. Act, 1948 in the cases covered by section 9(3B) of the Amendment Act and in cases covered by section 9(3A), land value will have to be determined with reference to the date when notice under this clause is served.

(6) How 80% compensation as well as 6% requisition compensation per annum paid already in some Act II cases will be adjusted in these cases covered by the Amendment Act?

EXPLANATION : 12% of the market value per year with effect from the date of possession following the order of requisition under section 3(1) of the L.A. Act, 1948 till the payment will have to be given as additional compensation and not as interest. Therefore, all components as described in section 23(1), section 23(2) of the L.A. Act, 1894 will have to be computed along with the additional compensation as described under clause 5 of the Amendment Act and after that the amount paid as 80% compensation or 6% requisition compensation will have to be deducted from it for actual payment to land losers.

(7) What should be the date of switching over of the Act II cases?

EXPLANATION : The cut off date for switching over the cases pending under L.A. Act II of 1948 to the Amendment Act is the date of serving notice under section 9(3A) or 9(3B) of the amended Act, 1997 on all interested persons.

(8) How 12% additional compensation should be calculated?

EXPLANATION : 12% additional compensation per annum will have to be calculated from the date of taking over possession of land following requisition under section 3(1) of the L.A. Act, 1948 to the date of award under section 11 of the L.A. Act, 1894 for all L.A. cases covered under section 9 (3A) and 9 (3B) of the Amended Act, 1997.

(9) Whether any interest under section 34 is to be paid for the cases from the date of taking possession of the land to the date of making payment after declaration of award.

EXPLANATION : No interest will be paid under section 34 in the cases covered by the Amendment Act but the Collector is to ensure that there will be no delay in making payment in the cases after declaration of award.

(10) Whether all cases covered by section 9(3A) or 9(3B) award will have to be declared within 2-years from the date of serving notice.

EXPLANATION : Reply is affirmative, Only the cases where section 4(1a) notice was published before 31.03.1992 but award was not declared till 31.03.1995, will have to be dealt with under section 9 (3A) of the Amendment Act.

(11) Is there restriction between the date of issue of notice under section 9 and date of publication of notice under section 4(1a) ?

EXPLANATION : The date of switching over to the Amendment Act in the cases covered under section 9(3B) of Amendment Act is the date when notice under section 9(3B) on the land losers is served. So there is no such compulsion.

(12) Whether land-losers will have to be intimated the value of land at the time of enquiry under section 9.

EXPLANATION : Collectors will have to prepare estimates in the usual way taking the probable date of serving of notices to land-losers in each case covered by section 9(3A) of the Amendment Act. Otherwise estimates cannot be vetted and fund cannot be placed by the R.B. Without getting fund, it will not be wise to serve notice under section 9(3A) or 9(3B) on the land-losers. Therefore, there is no difficulty

for the Collector if he wants to intimate the probable land value to the land-losers. However, it is not necessary for the Collector to do so as in reply to the notice served under section 9 the land owners will have to indicate only their share of interest in the land and nature of their claims to compensation payable to them. It is not warranted that they will have to be informed of the exact compensation at the time of serving of notice under section 9.

(13) Whether the date of reference in the salvaged case will be the date of publication of fresh gazette notification under section 4(1a) of Act II.

EXPLANATION: Yes.

(14) How de-requisition of lands will be made ?

EXPLANATION: Modalities have been indicated in paragraphs (3) and (4).

(15) What will be the date of reference where notice under section 4(1a) is published afresh since that lapsed following the provisions of Amendment Act, 1996. [West Bengal Land (Requisition & Acquisition) Act, 1996] ?

EXPLANATION: Reference date should be the date of fresh publication of section 4(1a) notice done upto 31.03.1997.

P.K. Guha Roy
Deputy Secy. to the
Govt. of West Bengal.

●

**Government of West Bengal
Land and Land Reforms Department
Land Acquisition Branch.**

ORDER

No. 10935-L.A.(II)

Dated, the 16th December, 1997.

In view of the fact that the value of land involved in acquisition cases has gone up for the last few years in general, inconvenience is caused to pay the L.A. compensation to the legal heirs of the deceased awardee under the L.A. Act as per norms prescribed in this deptt. Order No. 2131-L.A. (II) dated 25.07.94.

2. In order to reduce the problems thus created, sub-paragraphs (i) and (ii) of the aforementioned order have been suitably amended by raising financial limit in the following manners:-

(A) On the basis of a certificate given by the M.L.A. or the Panchayat Pradhan or the Municipal Commissioner concerned, legal heir or heirs of the deceased awardee may get compensation upto Rs. 3,000/- instead of Rs. 200/- for each deceased awardee.

(B) On the basis of an affidavit affirmed by the legal heir/heirs being the sole heir/heirs of the deceased awardee, he/they may get L.A. compensation exceeding Rs. 3,000/- but not exceeding Rs. 6,000/- for each deceased awardee instead of the present limit of Rs. 200/- to Rs. 1,000/- in this regard.

3. This has the concurrence of the Finance Deptt. in terms of their un-official No.____ Gr. T. 28.11.97.

4. Presently upto 2,000/- the compensation is paid in cash to each awardee and over Rs. 2,000/- by A/c Payee Cheque. Since the land value has considerably enhanced, it has been decided that this cash limit may be raised to Rs. 5,000/- and over this amount payment may be made either by A/c Payee Cheque or by Demand Draft.

Cost of demand draft may be adjusted against the amount payable to awardee.

P. K. Guha Roy,
Deputy Secretary to the
Government of West Bengal.

No. 10936(45)-L.A.

Dated, the 16th December, 1997.

Copy forwarded for information and necessary action to the :-

1. The Collector, _____
2. The Divl. Commissioner _____
3. The Special Land Acquisition Officer, _____
4. The 1st Land Acqun. Collector, 5, Bankshall Street, Calcutta-1.
5. The A.D.M. , Tamluk, P.O. Tamluk, Dist. Midnapore.

P.K. Guha Roy
Deputy Secretary to the
Government of West Bengal.

●

Government of West Bengal
Land and Land Reforms Department
L. A. (II) Branch.

No. 195(45)-L.A. (II)/3M-41/98

Dated, 18.1.99

To
The District Magistrate & Collector,
The Commissioner,
The Special Land Acquisition officer,
The 1st L.A.C., Calcutta,
5, Bankshall Street, Cal-1.

District Magistrates in the State of West Bengal including the 1st Land Acquisition Collector, Calcutta being empowered under G.O. No. 6034-Estt. dated 10.11.1998 to exercise the functions of the "Appropriate Govt." as Joint Secretary (Ex-Officio) in sections 4, 5A and 6 of Part II of the L.A. Act, 1894 have already been directed to follow the procedure regarding post declaration stages of each case under the L.A. Act as contemplated in paragraph-2 of memorandum No. 7148 (18)-Estt. issued by this Deptt. on 20.11.98.

In order to give effect to the said orders and to avoid complications in the matter, it has been decided that the L.A. cases pending at any stage of the aforementioned sections of the L.A. Act. received at this end till date would be disposed of by the respective District Magistrate at their end if necessary by taking back the relevant papers from the Department.

District Magistrates are directed to follow the guidelines with strict compliance.

This will take immediate effect.

Sd/- Illegible
Deputy Secretary.

No. 195(45)/1(3)L.A. (II)

Dated, 18.1.99

Copy forwarded for information to the:-

- 1) Joint Secretary (LA), Land & Land Reforms Department.
- 2) Deputy Secretary (LA), Land & Land Reforms Department.
- 3) Survey Section of this Department.

Sd/- Illegible
Deputy Secretary.

●

Government of West Bengal
Land and Land Reforms Department
L.A. Branch

No. 762(21)-L.A./3M-6/99

Dated, Calcutta, the 23rd March, 1999

From : Deputy Secretary
to the Govt. of West Bengal
To: 1) The Commissioner, _____ Division,
2) The Collector, _____
3) The 1st Land Acquisition Collector, Calcutta
5, Bankshall Street, Calcutta - 700001

MEMORANDUM

The undersigned is directed to refer to this Department Order No. 1270-L.A.(II)/3M-13/97, dated 20.2.97 wherein it has been ordered proposal for acquisition of land exceeding 10 acres has to be placed before the Minister-in-Charge, Land and Land Reforms Deptt. for approval.

2. Now considering the urgency of acquisition of land relating to Indo-Bangladesh Border Road Project it is hereby ordered that proposal for acquisition of land exceeding 10 acres should not be placed before the Minister-In-Charge for approval. The Order No. 1270-L.A. (II) /3M-13/97, dated 20.02.97 stands partially modified to this extent.

3. Further in view of urgency of acquisition of land the Collectors are authorized to exercise the powers under Section 17(1) & (4) of Land Acquisition Act-I of 1894 in respect of acquisition of land for (1) Teesta Barrage Project, (2) Indo-Bangladesh Border Road Project, (3) Railway Projects and (4) Public Health Eng. Schemes concerning Arsenic Control only.

4. This will take immediate effect.

Sd/- Illegible
Deputy Secretary to the
Government of West Bengal.

No. 762(21)/1(21)-L.A./3M-6/99

Dated, Calcutta, the 23rd March, 1999.

Copy forwarded for information and necessary action to :-

1) The Special Land Acquisition Officer,

Sd/- Illegible
Deputy Secretary to the
Government of West Bengal.

●
Government of West Bengal
Land and Land Reforms Department
L. A. (II) Branch.

No. 2251-L.A. (II)/3M-35/96

Dated 9.9.99

MEMORANDUM

Instances have come to the notice of the Govt. that during enquiry under section 11 of the L.A. Act, 1894 field officers of different Collectorate have face difficulties in verifying right and title of the awardees in terms of the Record of Right, because the awardees often do not turn up personally or by their representatives at the time of inquiry. The Collectors have to note the award(s) unverified in his draft award. In such cases, statutory requirement is to resort to sub-section (2) of section 12 of the said Act where Collector shall have to give immediate notice of his award duly approved by the Govt. to all such persons interested as were not present personally or by their representatives at the time of award enquiry and on serving such notice, the Collector will take up the matter to dispose of such cases in the following ways:-

i) If it is found that no person interested turns up even after the service of notice as required in sub-section (2) of section 12 of the said Act, steps be taken for tendering payments for other awardees in terms of sub-section (1) of section 31 of the said Act after depositing the awarded amount of the absentees into the Treasury as "Revenue Deposit".

ii) If it is found that the awardees turn up in terms of section 12(2) and the Collector is satisfied with the documents produced by the awardees in support of their claim, payments of the L.A. award be made to such persons.

iii) If it is found that successive sale transactions have been made for the same land(s) but record of right has not yet been made up-to-date observing the provision of section 50 of the W.B.L.R. Act, 1955 for such land(s), Collectors if satisfied with the documents/ evidences to be produced by the persons claiming interests in the land make awards in respect of such persons after drawing proceedings in the matter.

iv) If it is found that the persons interested in the land(s) turn up in terms of section 12(2) of the L.A. Act but some disputes arise as regards title on the land or on the apportionment of compensation etc. and the Collector is not in position to dispose of such disputes satisfactorily, then the Collector would have to

take recourse to section 30 of the L.A. Act and deposit the amounts of compensation for those awardees in the court as "Civil Deposit" in terms of sub-section (2) of section 31 to which a reference under-section 18 of the L.A. Act would be submitted.

S. Banerjee
Joint Secretary

No. 2251(45)-L.A.

Dated : 9.9.99

- Copy forwarded for information and necessary action to the :-
- i) Collector,
 - ii) Commissioner,
 - iii) The 1st L.A.C., Calcutta
5, Bankshall Street, Calcutta – 1
 - iv) Special L.A.O.

S. Banerjee
Joint Secretary

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Government of West Bengal
Land and Land Reforms Department
L. A. Branch.

Memo No. 2825(21)-LA/3M-35/96

Dated, Calcutta, the 30th Nov. '99

From: The Joint Secretary, to the Govt. of West Bengal

- To :
- 1) The Collector,
 - 2) First Land Acquisition Collector, Calcutta.
5, Bankshall Street, Calcutta – 1.
 - 3) Spl. Land Acquisition Officer, H.I.T. Howrah,
P.O. & Dist. Howrah
 - 4) Spl. Land Acquisition Officer, Haldia
P.O. – Haldia, Dist. – Midnapore.
 - 5) Spl. Land Acquisition Officer, Siliguri,
Teesta Barrage Project, P.O. Siliguri, Dist.-Darjeeling.

A question has been raised whether all the land acquisition proceedings initiated under the W.B. Land (Requisition and Acquisition) Act 1948 i.e. Act – II in respect of which notices u/s 4(1a) of Act II of 1948 have been published, whatever may be the date of such publication come under the purview of Sec. 9(3B) of the Amendment Act, 1997. It has been examined in this department in consultation with the law officer. It appears that with the expiry of the W.B. Land (Requisition and Acquisition) Act 1948 i.e. Act II of 1948 with effect from 1st April, 1997, the Amendment Act 1994 and the Amendment Act 1996 ceased to be in force with effect from 1st April, 1997. The Land Acquisition (W.B. Amendment) Act 1997 introduces two sub sections viz. 9(3A) & 9(3B). There is hardly any rational to read this Amendment Act, 1997 with the Amendments Act 1994 and the Amendment Act 1996 which ceased to be in force w.e.f. 1st April, 1997 along with their principal act i.e. Act II of 1948. It is just and proper to interpret the entire acquisition proceeding as laid down in part II of the Act I of 1894 following the theory of harmonious construction.

2. It is therefore decided that all land acquisition proceedings initiated under Act II of 1948 and in respect of which notice u/s. 4(1a) of Act. II of 1948 have been published, whatever may be the date of such publication, shall come under the purview of Sec.9(3A) & 9(3B) of the Amendment Act 1997.

3. The Memo No. 10485(90) LA(II)/3M-48/96 dated 27.11.97 of this department stands modified to this extent.

4. All concerned will take action accordingly.

S. Banerjee
Joint Secretary to the
Government of West Bengal

Government of West Bengal
Land and Land Reforms Department
L. A- (II) Branch.

No. 3255-LA(II)/3M-43/2000

Dated, Calcutta the 21st Dec., 2000.

MEMORANDUM

The Land Acquisition (West Bengal Amendment) Act, 1999 (West Bengal Act XIX of 1999) having been assented to by the President of India has taken effect on and from the 24th day of October, 2000 by virtue of the notification bearing No. 2654-LA (II)/3M-43/2000, dated 24-10-2000 published in the extraordinary issue of the Calcutta Gazette dated 24-10-2000.

Collectors are, inter alia, requested to do the needful for immediate application of the amendment Act, 1999 for finalization of L.A. Cases initiated under the L.A. Act II of 1948 considering all provisions, of Section 3, 4 and 6 of the Land Acquisition (West Bengal Amendment) Act, 1997.

Copies of the Land Acquisition (W.B. Amendment) Act, 1999, notification published in the official Gazette dated 24-10-2000 are enclosed.

A. K. Dutta Roy
Deputy Secretary to the
Govt. of West Bengal

No. 3256(22)-LA-II

Dated : 21.12.2000.

Copy with the copies as stated above forwarded to the:-

- 1) Commissioner, Division
- 2) Collector,
- 3) 1st Land Acquisition Collector, Calcutta,
5, Bankshall Street, Calcutta – 700001.
- 4) Spl. Land Acquisition Officer, Haldia Project,
P.O. – Tamluk, Dist. – Midnapore.

Sd/- Illegible
Deputy Secretary to the
Govt. of West Bengal.

The Calcutta Gazette
Extraordinary
Published by Authority

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TUESDAY, OCTOBER 24, 2000

[SAKA 1922

Government of West Bengal
Land and Land Reforms Department

NOTIFICATION

No. 2654-LA(II)/3M-43/2000.

Calcutta, the 24th October, 2000

In exercise of the power conferred by sub-section (2) of Section 1 of the Land Acquisition (West Bengal Amendment) Act, 1999 (West Bengal Act-XIX of 1999) and in supersession of this Department's notification No. 1916-L-17th October, 2000/LA-3M-43/2000, dated 23.10.2000 published in the extraordinary issue of the Calcutta Gazette dated 23.10.2000. the Governor is pleased hereby to appoint the 24th day of October, 2000, as the date on which the said Act shall come into force.

By Order of the Governor,
S. N. Ghosh
Principal Secretary to the
Government of West Bengal

Government of West Bengal
Land and Land Reforms Department
L.A. Branch

No. 2412(18)-L.A./3M-45/98

Date : 19.08.2002

From: A.K. Dutta Roy,
Jt. Secy. to the Govt. of West Bengal,

To

The Collector,
Cooch Behar,
Darjeeling,
Jalpaiguri,
Maldah,
U. Dinajpur,
D. Dinajpur,
Murshidabad,
Nadia,
Purulia,
Bankura,
Birbhoom,
Burdwan,
Howrah,
Hooghly,
(N) 24 Pgs,
(S) 24 Pgs,
Midnapore (Paschim),
Midnapore (Purba),
First L.A.C. Kolkata

Sub : Preparation of rate report, estimate and award for acqn. of land under L.A. Act.

On examination the estimate/awards received from different districts are found to suffer from various weakness/ defects leading to queries and making corrections/ changes at the Govt.'s end sometimes to such extent as renders the Collector's estimates/awards unworkable. Such defects relate to right from collection of sale data, determination of rate of land value to preparation of estimate providing different components duly. With a view to minimizing such defects and ensuring that all the district L.A. authorities follow the same principles / norms in preparing estimates the undersigned is directed to advise as follows:

1 All the relevant sale data of the relevant classification of land and mouja are to be collected. A Certificate is to be recorded by the data-collector on the sale statement to the effect that the sale figures in the statement are the all relating to the period and mouja and nothing has been left out.

2.(a) Rates of different classes of land should be arrived at on the basis of their respective sale figures where available.

(b) Rate of a particular class of land must not be determined based on sales of different classes without appropriate rate modification.

(c) The sale figures of the plots close to the subject plot/ plots should be generally considered.

(d) In case of sale figures, before the relevant period, those close to that period should be taken into account.

(e) The high and too low rates which do not seem to be representative of the market value should be discarded.

(f) In assessing the rate of land value for a large tract of land, belonging to a big rayat/ owner the rate worked out on the value of small plots of land should be depreciated by 33.33% in terms of Hon'ble Supreme Court's Order dt. 15.2.84 passed in Civil Appeal nos. 2458-2467 & 2462 of 1981 (in the matter of Kausalya Debi Bogra & others - Vs - L.A. Officer Aurangabad report in AIR 1984 SC 892.

The para 68(9) of the L.A. Manual, 1991 will be revised in due course.

3. The consideration price of a deed is to be considered and not the one on which stamp duty requirement has been assessed.
4. In case of agricultural land sales involving less than 10 dec. should not be considered in terms of para 68(3) of the L.A. Manual 1991.
5. Of the identical sales (identical rates) only one should be accepted for consideration.
6. It should be ensured that the land rate assessed in a L.A. Case (present) does not become inconsistent with that in L.A. case/cases of the recent past provided the plots involved are comparable.
7. (a) Excavation cost and that of land of the tank which is used for irrigation/water supply or for drinking purpose are to be offered. The excavation cost is to be based on measurement of the tank. Such measurement should be indicated in the Rate Report along with the classifications of the surrounding land and their respective rates.
(b) The rate of derelict tank would be ½ of the rate of the surrounding land without excavation cost. In this case also the classification of surrounding land with their respective rates of land value must have a mention in the Rate Report.
8. For allowing appreciation and depreciation in the rates of land value portion of the relevant mouja map/sheet with indication of the considered plots is to be provided with the rate report as already requested in this department's no. 1375(19)-L.A./3M-45/98 (A-I) dated 10.5.2002.
9. (a) It is the responsibility of the PWD to assess the structure value with reference to the latest PWD schedule. In absence, the value is assessed by the Collector and vetted by Valuation Cell constituted under this department's no. 2010(II) dated 23.7.01. Detailed measurement of structure with calculation of value and proceeding of the meeting of such cell should accompany the Rate Report. Assessment of structure value by the R.B's Engineer does not absolve the valuation cell of its responsibility.
(b) As to the value of Kutcha/Semi pucca structures, this department's Circular no. 816-LA(II)/IR-17/2000 dt. 21.3.2002 should be followed.
10. The matter of recording barga right on land covered by L.A. proceeding should be guided by this Department's No. 01(17)GE/434/90 dtd. 1.1.99. Barga compensation is to be assessed on per acre yield and rate of crop to be obtained from PAO/DAO and the concerned Agricultural Marketing Officer vide this Deptt's Circular No.1667-LA(II)/3M-22/91 dt. 20.3.91. Copies of the Agricultural Officers' report should be a part of the Rate Report.
- 11.(a) Capitalized value of Land revenue is to be provided in the estimate in terms of this Department's No. 5769(59)-L.A.II dt. 29.10.88 and 548(65)-L.R. dt. 14.7.1992.
It may be noted that capitalized value of land revenue is not to be realized from the Development Authorities like KMDA, SJDA, SSDA, HDA under the U.D. Department, WBSEB, and the West Bengal Housing Board (for some specified housing projects).
(b) Establishment and contingent charges are to be assessed and provided in estimate as per Circular No. 1330 (23)(II)/ 3M-155/79 dt. 15.3.85.
For the local bodies like CMDA (now KMDA), SJDA, SSDA and ADDA, Establishment/ and Contingency charges are to be calculated on market value of land only and not on the acquisition cost as in usually done, in terms of G.O. No. 8273(42)-LA(II)/3M-20/97 dt. 27.8.97.
(c) Circular No. 22 (83)-L.A.(II)/3M-155/79 dt. 6.1.81 is to be followed for assessing the Law Charges to be provided in estimate.
12. Municipal dues as claimed should be shown in the estimate and award and deducted from the compensation payable to the awardees, in terms of this Department's No. 2035(20)-LA(II) dt. 15.7.92.
13. Deduction of tax at source from interest payments awarded by Courts of Law in cases of acquisition of Land under L.A. Act 1894 or West Bengal Land (Requisition and Acquisition) Act 1948, U/S 194A of the Income Tax Act, 1961, shall be made in terms of this department's circular No. 2940(57)-LA(II) dated 31.10.94.
14. When an estimate is revised or decretal dues are prepared on Court's order the calculation shall be made on reducing balances and copy of Court order enclosed with the decretal award etc.

A.K. Dutta Roy
Joint Secretary to the Government of
West Bengal

Government of West Bengal
Land and Land Reforms Department
Land Acquisition (Law) Branch

No. 1675(19)-LA/9R-248/02(Pt.-1)

Dated 01.08.2003.

From: Shri A. K. Dutta Roy, WBCS (Exe),
Joint Secretary to the Govt. of West Bengal.

To: The Collector,

The 1st Land Acquisition Collector, Kolkata.
5, Bankshall Street,
Kolkata – 700001

Sub: Interest payment under LA Act – ‘Deduction of Tax at source under Sec. 194A of the Income Tax Act, 1961 and deposit thereof.

In terms of letter no. 275/109/92-IT(B) dated 21.09.94 of the Ministry of Finance, Deptt. of Revenue, Govt. of India communicated under this Deptt.’s letter No. 2940(57)-LA(II) dated 21.10.94 all the LA Collectors are responsible to deduct tax at source from the amount of Interest forming part of the Compensation in pursuance of a judgment passed by Ld. LA Court resulting payment of higher compensation with interest; and deposit the remaining amount with the court of Law, for disbursement to the successful litigants. The LA Collectors are also responsible to issue the TDS Certificates to the concerned parties in the prescribed form (16A).

Deducting tax at source on interest amount is something new in Collectors’ LA set up. Sometimes the question of deducting tax at source from the amount of interest has been ignored at the time of payment of decretal dues or no interest at the source has been deducted at all. It has also come to the notice that the LACs, after deducting tax at source, has kept the amount in the PL Accounts without depositing it in the appropriate head in favour of the Income Tax Deptt. As a result the process of deduction Tax at source from the amount of Interest remains inconclusive which may invite further complexity in future. In view of the above Collectors are advised to follow the guidelines hereunder given:-

1.(a) Tax on the amount of interest payable in pursuance of a Court’s order as indicated in para 1 hereinabove shall be deducted at source @ Rs. 10% for Income Tax and @ .2% being Service Charge (total 10.2%) in case of resident in India and @ 20% and surcharge @ .4% (total 20.4%) in case of a Domestic Company, u/s 194A of Income Tax Act, 1961.

(b) Such income tax deduction at source is to be made provided amount of interest exceeds Rs. 2500/- during a financial year.

2. The tax deducted as above shall be shown in the calculation of decretal dues henceforth.

3. The LA Collectors deducting Tax at source shall issue a certificate of TDS to the Payee in the Prescribed form 16A. The Certificate enables the payee to get the credit of TDS in his return. Payees’ PAN should be quoted in a TDS certificate where available.

4. The TDS Certificate shall be issued within one month from the end of the month in which the sum is credited or payment made.

5. A copy of TDS Certificate may also be forwarded to the local Income Tax Department.

6. Failure to issue the TDS Certificate, attracts penalty u/s. 272A (2)(g) of Rs. 100/- for each day of default, which may please be noted.

7. LACs should contact the local Income Tax authorities for head of a/c. under which such tax is to be deposited.

The instructions should be followed with immediate effect.

A.K. Dutta Roy
Jt. Secy. to the Govt. of West Bengal

No. 1675(19)/1(3)-L.A.

Dated: 01.08.2003.

Copy forwarded for information and necessary action to :-

- 1) The Spl. L.A.O., P.O. : Haldia, Dist.: Purba Medinipur.
- 2) The Spl. L.A.O., H.I.T. Howrah, I, G. T. Road, Howrah – 1.
- 3) The Spl. L.A.O., T.B.P., Siliguri, Darjeeling.

A.K. Dutta Roy
Jt. Secy. to the Govt. of West Bengal

**Government of West Bengal
Land and Land Reforms Department
L.A. Branch**

No. 676-LA./9R-09/05.

Date : 08.03.2005.

CIRCULAR

It is hereby ordered that before start of any acquisition or requisition proceedings, a written agreement must be signed henceforth, between the Requiring Body/ Department and the Office of the L.A. Collector concerned (1st L.A. Collector in case of Kolkata), wherein such R.B. / Deptt. will promise to undertake the entire responsibility of making of future payment accrued as decretal dues or due to order of any higher Court.

This order will take immediate effect.

S.Das
Land Reforms Commissioner &
Pr. Secretary to the Govt. of West Bengal

No. 676/1(45)-L.A.

dt. 08.03.05

Copy forwarded for information & necessary action to the:-

1. Special Secretary, L. & L. R. Deptt.
2. Joint Secretary, L. & L.R. Deptt. , L.A. Branch.,
3. Dy. Secy., L.A. Branch, L. & L.R. Deptt.
4. Asstt. Secy., L.A. Branch, L. & L.R. Deptt.
5. Section Officer, L.A. Branch, L & L.R. Deptt.
6. Head Asstt., L. A. Branch, L. & L.R. Deptt.
7. Special Land Acqn. Officer,
8. Collector,

Sd/- Illegible
Deputy Secretary

**Government of West Bengal
Land and Land Reforms Department
Writers' Buildings, Kolkata-700001**

Memo No. 16/SS(S)-L.A./3M-43/2000 (Pt. III)

Dated, Kolkata , 21st July, 2005.

- To
- 1) The Divisional Commissioner/ Presidency/ Burdhaman/Jalpaiguri Division
 - 2) The Collector,
 - 3) The Special L.A.O.

Sub: Preparation of Rate Report and estimate for acquisition of Land under the L.A. Act.

Ref: This order is issued in cancellation of this Department's Circular No. 9446-L.A. dt. 06/10/1990

It has come to the notice of the Government that while fixing value of land of different classes in L.A. cases, no fixed norms are being followed by the Land Acquisition Collector. Moreover, there is no fixed norms for allowing appreciation and/or depreciation when rates for other classes of lands are required to be assessed with reference to a particular class of land. Therefore, it is clarified that following principles may be taken into consideration for fixing valuation of land in L.A. Cases :-

- 1) No sales below .05 of an acre should ordinarily be taken into account while assessing value of any agriculture land in urban/rural/semi-town area, as transaction of land below 5 decimals do not serve any purpose of agriculture and they do not in real terms reflect the market value of agricultural land.
- 2) No sale below 0.025 acre of land should ordinarily be taken into account while assessing value of any homesteaded land (viz Bastu/ Bhati/ Vit etc.) in urban, megacity or rural areas for transaction of land below 0.025 acre do not serve any purpose in real terms and does not reflect the actual market value of homestead land.

3) As the current sale figures are in many cases are not available in the office of the Local Sub-registrar/ Registrar, the Collectors often assess the market value of any lands on the basis of the figures of previous year. The market value is the amount that a willing vendor accepts from a willing purchaser on the material date. Appropriate measures may be taken to ensure that the realistic market value of land proposed to be acquired is arrived at by allowing suitable appreciation for general increase of market value of land. Such appreciation should, however, be limited to 5% per annum. But when any higher rate of appreciation (for locational advantage) is suggested that should be properly explained in the Rate Report with supporting facts and figures.

4) In some cases small plots are sold (below 0.05 acre for agri land and 0.025 acre for bastu land) at higher rates than bigger plots and the price payable for the bigger plots is not comparable with the price paid for smaller plots. Therefore, when the market value of a large chunk of land belonging to a particular raiyat is under acquisition and the market of the land is arrived at one the basis of sale figures of smaller plots, the market value for land acquisition may be assessed by allowing a depreciation of 33.33% for largeness of the area in pursuance of the order of the Hon'ble Supreme Court in the matter of Smt. Kausalya Devi Bogra – Vs. - Land Acquisition Collector, Aurangabad (A.I.R. 1984, page 892, Supreme Court).

5) A guideline prepared on the basis of this G.O. is enclosed.

Sd/- Illegible
Special Secretary

ANNEXURE – 1
AGRICULTURE AND PISCICULTURE LAND

G.O.NO. 16/SS(S)-LA/3M-43/2000 (PART – III)

Dated 21st July, '05

Sl. No.	Nomenclature	Character of the Land	Computation of Valuation
01.	First Class Agriculture	Jal, Sali, Suna, Bahal, Kanali, Sol, Aush, Aman, Dala, Dhanahar, Doem, Soem, Rupni, Jal-Awal, Sahari, Allkandar, Dhanidahala, Awal, Jaldal, Jaldan, Danga (for Hooghly, Kolkata, North and South 24 Parganas and Howrah).	Full price of the land is to be considered if sale data is available. If sale data is not available, the price of second –class agriculture land is to be enhanced by 20% for computing value of land.
02.	Second Class Agriculture	Doe, Tora, Khar, Math, Dhani, Doom, Kadar, Banshbagan, Chabagan, Jungle, Layek Jungle, Pan Boraj and Danga (Except Hooghly, Kolkata, North and South 24-Parganas and Howrah) and bansbagan for Howrah, Hooghly, both 24-Parganas and Kolkata as per current sale data, if not available, it will be same rate of sale at Sl. 1.	As per current sale data, if not available 80% of Sl. No. 1.
03.	Third Class Agriculture	Baid, Chan, Kahar, G.L.P., Layek Patit, Tunt-Abadi, Nona-Chatar, Hogla, Bansh, Gochar, Bhagar, Kashban, Puratan-patit, natun-patit, Puratan Danga, Palyground, Jungle, Balu, Dhani, Soem, Jalsoem, Jalajami, Dhosa, Dhosawal, Arjunbagan, Kalabagan, Kala, Awal, Kajubagan, Kaladoem, Kalasoem, Babuidanga, Jhauban, Shalban, Banabhumi, Khamar, Dhosa Chaharam, Itkhola.	As per current sale data, if sales are not available 60% of sale of Sl. No. 1 or 75% of sale of Sl. No. 2.
	Note;	The Valuation of agriculture land is to be increased by 25% for multi-crop land.	

04.	Non-agriculture Land.	Itkhola, Khamar, Mandir, Masjid, Pashupalan Khetra, Murgi Palan Khetra, Idgah, Pirsthan and Debasthan.	As per current sale data, if sale data is not available the rate of surrounding land or the land comparable to the surrounding land.
05.	Non-agriculture	Itkhola (for Calcutta including added area)	Same as Sl. No. 10
06.	Non-agriculture	Pukur, Doba, Dighi, Sayar, Jhil, Khal and like when excavated	Rate of surrounding land plus excavation cost (As per Para 72 of L.A. Manual, 1991) with drawing of excavation.
07.	Non-agriculture	Pukurpar, Khalpar and Bandh (in rural area) excluding that in Purulia and Bankura	Rate of surrounding land but no excavation cost will be allowed.
08.	Non-agriculture	Bandh, Pukur and Doba for Bankura and Purulia	Rate of surrounding land but no excavation cost
09.	Non-agriculture	Matsha Chaser jalasaya, Jal Jawar Nala, Beel and Bheri	Rate of surrounding land in respect of other character.
10.	Non-agriculture	Bastu, Bhiti, Vit, Vita, Bari, Udbastu, Dalan, Danga fit for Bastu and Home-Stead Land	On the basis of the updated sale data, if sales are not available, 50% above the rate of Sl. No. 1.
11.	Non-agriculture	School, College, Golabari, Mill, Factory, Workshop, Thana, Cold Storage, Hat, Bazaar, Bagan, Danga-Bastu, Adalat, Karkhana, Dokanghar and Bunglow.	80% of land value of Sl. No. 10 if sales are not available.
12.	Non-agriculture	Mana, Sikasti-bhumi and Payasti-bhumi	20% of land value of sale of Sl. No. 1 or 25% of the sale of Sl. 2 and 33% land value of sale of Sl. 3.
13	Non-agriculture	Khal (Natural) Nala, Khana, Jore (Natural), Mota Al, Path, Rasta (Kachha and Pucca) Nayanjuli, Bulan, Gazri, Kuli, Khana-khai etc.	Half of the rate of surrounding land, if sale data is not available.

Sd/-Illegible
Special Secretary

Duties and Responsibilities of the ISU of LR Wings of the Districts in LA matters

Government of West Bengal
Land and Land Reforms Department
Land Acquisition Branch

ORDER

G.O. No. 1511-LR/3M-39/04-GE[M]

Dated the 6th June, 2006

Whereas, a close deed and constant coordination between the Integrated LR set up of the district and the L.A. wing of the district Collectorates has become urgently necessary for systematic, time-bound and efficient disposal of land acquisition cases and post-activities, the Governor is hereby pleased to order as follows:-

[1] The Land Acquisition Collector shall send advance intimation to the DL & LRO giving the name of mouzas in any block of the district where land acquisition proposals are going or likely to be taken up by the Government within a foreseeable time with request that the concerned DL&LRO offices take special drive for updation of land records in the concerned mouzas, prepare the LR text data in such format as are useable by LA wing for LA proceedings from the beginning to end. The format of such text data shall include the following information:- viz (a) Plot number, (b) Classification of land (c) Khatian number (d) Name and address of the raiyat/lessee/Collector/bargader, as the case may be, (e) total area of land, (f)

share of each raiyat and share in area of each raiyat. The BL&LRO may also keep LR map, sheet-wise ready for those villages. The advance preparation of the BL&LRO will help the requiring body to collect land data and cadastral map for preparation of their proper LA proposal and the LAC will also get the benefit of procuring such data from the BL&LRO office through CD/floppy/certified copies of RORs while preparing various notifications, notices, etc for the purpose of land acquisition.

[2] The Land Acquisition Collector may also send an advance list of mouzas in each block of a district to the Director of Land Records & Surveys with request to prepare scanned copy of latest cadastral maps of all the sheets of the concerned mouzas proposed to be acquired, with request to supply the same to the RB as well as representative of the LA Collectors as and when they contact the office of DLR&S and take delivery of the same on payment of appropriate price prescribed by the Government.

[3] The Land Acquisition Collector shall give a copy of notification u/s 4 of the LA Act including the detailed land schedule to the DL&LRO and concerned BL&LRO, so that the DL&LRO can submit application for consent award to receive market value of Government land as an awardee on behalf of the Governor of West Bengal. With approval of the State Cabinet, appropriate Government orders have been already issued to the effect that, henceforth all Government land including vested land will come under the purview of LA Act and the DL&LRO will submit for compensation for the Government land to be acquired for the public purpose and in such circulars it has been specified that after acquisition, all land will be settled with RB on free-hold basis, except to private companies which is barred u/s 44A of the Land Acquisition Act, 1894.

[4] The DL&LRO of the concerned district shall apply to the concerned LA Collector in the form prescribed for this purpose to seek consent award from the Collector as regards to Khasmahal land and vested land not assigned, allotted or settled with anybody [100% LA cost admissible], Government land settled on long-term lease [with apportionment with the lessee as is prescribed in concerned Government orders], vested land retained by the industrial estates U/S 6[3] of WBEA Act, 1953 [apportionment of the LA compensation will be as decided by the Court of law] all Government land held by the various departments on behalf of the Governor of West Bengal [100% of the market value of land], public utility land, community-used land, common property resources, char land, usable old embankments, river beds, or any other land in Collectors' khatian [compensation may be claimed as per rational of each case and situation]. The DL&LRO shall send his competent representative at the time of hearing the concerned award applications in the matter of such Government lands.

[5] The Land Acquisition Collector may request DL&LRO to depute competent field officer from the office of the BL&LRO to remain present during hearing of consent award applications of the citizens for concerned mouzas falling within such BL&LRO offices, so that land related information can be verified from such field level officers of the LR set up. Similarly, the L.A. Collector may seek such assistance from the field level officers of the ADO office while hearing and disposal of consent award applications of the bargaders, where ascertaining the gross product and productivity of various crops in the case of land taking observation and inputs from such field level officers/staff/Agriculture Department.

[6] The Land Acquisition Collector may seek necessary cooperation and assistance from the DL&LRO in connection with opening of local camp office in the premises of BL&LRO or RI office, as the case may be, for receiving objections, consent award petitions and disposal of the same through open public hearing from such field level offices by deputing land acquisition officers of the LA wing for the convenience of the people in general particularly small and marginal farmers and bargadars.

[7] The Land Acquisition Collector may give such financial incentive, tiffin allowance or honorarium for securing the service of the field level officers of the BL&LRO office or ADO office in the matters as mentioned above and such expenditure may be incurred out the administrative cost levied @10% on and over the LA cost. The cost setting the local camp offices in the villages, cost of publicity and advertisement in this connection will also be borne out of the administrative cost fund.

[8] The Land Acquisition Collector shall install all necessary software in their computer unit of the LA wing so that CD/floppy received from BL&LRO office can be easily read and edited by the LA wing, ensure compatibility of both the systems of NIC should be taken as and when necessary.

[9] The Land Acquisition Collector shall send to DL&LRO and concerned BL&LRO a copy of the declaration u/s 6 after publication and a copy of the substance of the said declaration to the aforesaid offices so that during the period from the date of notification u/s 4 and within 15 days from the declaration u/s 6 of the Act, the BL&LRO offices may organize special camps in various villages to accomplish a special drive for mutation which are yet pending, collection of land revenue which are

pending so that, and such corrected and updated version of land records can be submitted [so mutation certificate, land revenue receipts etc.] by the landowners and persons having interest in land like bargadar [who may submit barga recording certificate] while they submit consent award applications and also appear for hearing of notice u/s 9 of the Act, as the case may be or at the time of hearing for disposal of consent award applications. This interaction, programming, mutual help of the two wings of land administration shall go a long way to help the right people to get right compensation without delay and confusion, which will reduce court cases and thus serve public interests from all angles; and hence this matter should be taken up earnestly, seriously and accomplished in time bound manner.

[10] After handing possession of the acquired land to the RB through "writ of possession", the Land Acquisition Collector has send a letter enclosing such writ of possession giving the detailed land schedule mouza-wise for information of the DL&LRO and with direction to the RB to immediately apply for mutation of the acquired land, and the BL&LRO shall, on receipt of the application of the RB along with requisite fees shall allow early mutation. The RB shall apply for mutation within 15 days from taking delivery of the acquired land from the LA Collector.

[11] Similarly, the RB shall apply to the BL&LRO with copy to DL&LRO for appropriate conversion of the land for the purpose for which it has been acquired and the DL&LRO, as Collector in this regard shall arrange early conversion of the land so that public purpose projects can be taken up without any delay for such technical reasons of mutation and conversion.

[12] The LAC may, if necessary seek all reasonable assistance from the integrated LR wing in the matter of physical resettlement of the evicted families in accordance with the guidelines issued under G.O. No. 1706-3M/06-07 dated 6th June, 2006.

This order shall come into effect from 6th June, 2006 and shall remain in force until further order.

By the order of the Governor
Sukumar Das
Land Reforms Commissioner &
Principal Secretary
Land & Land Reforms Department

G.O. No. 1511-LR/3M-39/04-GE[M]
Copy forwarded to all concerned.

Dated the 6th June, 2006

●

Government of West Bengal
Land and Land Reforms Department
L.A. Branch

No. 2992(19)-L.A./3M-65/06

Dated: 04.09.06

From: The Joint Secy, to the Govt. of W.B.

To: 1) The Land Acquisition Collector,

2) The 1st Land Acquisition Collector, Kolkata,
5-Bankshall Street, Kolkata - 700001.

Sub : Payment of Land revenue of the acquired land.

It has come to the notice of Government in the Land and Land Reforms Department that on many occasions compensation is paid by the Land Acquisition Collectors to the awardees without verifying up-to-date Rent Receipts (land revenue). As a result a large number of awardees escape payment of arrear Land revenue and Cesses depriving the Government exchequer on this account.

After careful consideration it has been decided that at the time of claim hearing u/s 9 of L.A. Act-I the land losers/ prospective awardees shall be asked to produce a certificate from the concerned B.L.&L.R.O., showing either (i) payment of up-to-date land revenue or (ii) the amount due to be paid.

In case the prospective awardee has no due towards land revenue the L.A.Collector will declare award of the total amount admissible. But in case he has any dues, the Collector will declare award after deduction the amount due as land revenue.

Sd/- Illegible
Joint Secretary to the
Government of West Bengal

No. 2992(19)/1-L.A.,

Dated 04.09.06

Copy forwarded for information to the Director of Land Records & Surveys and Joint Land Reforms Commissioner, West Bengal, 35-Gopal Nagar Road, Kolkata -27, with reference to his memo no. 134/2342-47/C/06, dt. 21.7.06.

He is also requested to issue instruction to all the B.L.&L.R.Os to issue necessary certificate on demand without delay.

Sd/- Illegible
Joint Secretary to the
Government of West Bengal

●

**Government of West Bengal
Land and Land Reforms Department
Writers' Building, Kolkata - 700001.**

No. 120-1S/LRC-2922/06

Date : 05.01.2007

From: Land Reforms Commissioner &
Principal Secretary, Land & Land Reforms Department

To: The District Magistrate,
Hooghly.

Sub : Payment of compensation to the unrecorded bargadars against acquisition of land.

It is to clarify that there is no distinction between recorded bargadar and unrecorded bargadar as per provision of WBLR Act, 1955. Whoever cultivates land of another person on condition of delivering a share of produce is a bargadar unless he is a relative of the land owner as per section 2(2) of the WBLR Act. It is, therefore, clear that a bargadar irrespective of whether his name is already recorded in the ROR or not, is entitled to get the compensation as per the provisions of section 23(4) of the LA Act, 1894.

If the unrecorded bargadar applies for compensation, his case will be considered provided he has applied before issuance of the notice under section 4(1) of West Bengal Land Acquisition Act. To be satisfied about the genuineness of a claim for getting compensation on account of barga cultivation, it would be necessary to have a certificate from the revenue official of the concerned area. The matter may, therefore, be taken up with the ADM and District Land and Land Reforms Officer so that the concerned BL &LRO may enquire in the field and issue certificates in favour of the unrecorded bargadars who are found to be genuine as per field enquiry. A copy of this letter is being endorsed to the ADM and District land and land Regorms Officer, Hooghly for immediate necessary action.

Crash programme may be drawn up in the districts where such acquisitions are in process or likely to take place soon.

P. K. Agrawal
Land Reforms Commissioner,
West Bengal

No. 120/1-1S

Date: 05.01.2007

Copy forwarded for information and necessary action to the ADM and DL &LRO, Hooghly.

Sd/-Illegible
Joint Secretary,
Land & Land Reforms Deptt.

No. 120/2-1S

Date:05.01.2007

Copy forwarded for information and necessary action to the DLR&S and Joint Land Reforms Commissioner, W.B. Since quite large area of land will be acquired by the Govt. for Industrial or other projects in near future in other districts too, the concerned ADMs may be suitably instructed to take up updation of records on a priority basis so as to reflect the current status of records by effecting all pending mutation cases, conversion cases and also by recording the cases of barga cultivation so that the Collector may not face any problem in releasing compensation against acquisition of land in those districts.

Primarily the districts to be affected are (i) North 24-Parganas, (ii) South- 24Parganas, (iii) Howrah, (iv) Purba Medinipur, (v) Paschim Medinipur in addition to Hooghly.

Sd/-Illegible
Joint Secretary,
Land & Land Reforms Deptt.

No. 120/3(11)-1S

Date: 05.01.2007

Copy forwarded for information to :

- 1) P.S. to MIC, L & LR with request to place it before MIC for his kind information.
- 2) District Magistrate, North 24-Parganas/ South 24 parganas/ Howrah/ Purba Medinipur/ Paschim Medinipur.
- 3) ADM & DL&LRO, North 24-Parganas/ South 24-Parganas/ Howrah/ Purba Medinipur/ Paschim Medinipur.

Sd/-Illegible
Joint Secretary,
Land & Land Reforms Deptt.

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**Government of West Bengal
Land and Land Reforms Department
Land Acquisition Branch**

No. 761(19)-L.A.
3M-59/06

Dated Kolkata, the 15th February, '07

From: Shri P.K. Agrawal,
L.R.C. & Principal Secretary to the Govt. of West Bengal
Land & Land Reforms Department.

- To:
- 1) 1st Land Acquisition Collector, Kolkata,
5, Bankshall Street, Kolkata – 700001
 - 2) The Collector (Land Acquisition),

Subject: Clarification on “Land Acquisition – A new Approach”.

Sir,

While putting into practice the ideas enshrined in the book “Land Acquisition- A New Approach”, the L.A. Collectors at field level have come across a few problems.

After careful consideration of the points to which they have drawn our attention, it is felt necessary to clarify ambiguities. Therefore, this instant corrigendum is issued.

1. Approval of Estimate and Award :

Pont (18) (vi) & (19) of G.O. No. 1701 at pages 28 & 29 would be read together. Estimate upto Rs. 30 lakh need not be sent to Government for sanction, but award of any amount requires approval of the Government before declaration by the Collector. [In case preparation of a revised estimate is necessitated due to delay in placement of fund by R.B., the revised estimate even exceeding Rs. 30 lakh need not be sent to Government if the original estimate got sanction of this Department earlier.]

2. Realization and Utilization of Administrative Cost as part of L.A. Cost :

The matter has been dealt with in G.O. No. 1704 at pages 58 to 61.

- i) Previously we used to realize 10% of the compensation amount as establishment and contingent charges from R.B.s other than State Government Departments. That element has been termed “Administrative Cost” in G.O. No. 1704. This is not an additional amount but is only change of nomenclature.
- ii) Henceforth all R.Bs including State Government Departments are liable to pay the administrative cost.
- iii) Collectors have been fully authorized to utilize such administrative cost for purposes related to completion of the project. No approval of Finance Department or any other Department is required.

- iv) After meeting up necessary expenditure related to the project out of the administrative cost realized for that project, the balance amount must be deposited in the receipt head of L & L.R. Department within three months after completion of the project.
- v) While the Administrative Cost realized from R.B.s as part of L.A. Cost should be credited in the existing P.L. A/c of the L.A. Collector [No separate P.L. A/c need to opened], for proper accounting of the Administrative cost, a separate subsidiary cash book for each project should be maintained.

3. **Emoluments to Contractual Extra Hands :**

In G.O. No. 1704 (at page 63), the amount payable to such contractual extra hands other than retired Government employees has been termed as “the recruitment level consolidation salary of the said category of officers and staff”. It means and includes only basic pay plus existing D.A. on the date of joining the concerned official/ officers.

4. **Assessment of Market Value of land :**

This most important subject has been dealt with in G.O. No. 1705 at pages 66 to 74. In para 6 of the said G.O., it is said that, “Normally more than 200%... may be discarded ...”. An example given below will perhaps help better appreciation of the point.

We have collected 20 sale figures of ‘Sali’ land in mouza out of which 15 figures range between 8 to 12 lakh per acre, one is 20 lakh per acre, one is 25 lakh per acre, one is 5 lakh per acre, one is 4 lakh per acre and one is 3 lakh per acre.

Primarily we shall work out average of the 15 sale ranging between 8 and 12 lakh. The average figure may be 9, 10 and 11 lakh [any figure between 8 and 12 lakh]. If it is 11 lakh, 200% higher means 22 lakh and 200% lower means 5.5 lakh. In that case we will discard the sale figure of 25 lakh per acre as fancy sale and also discard all 3 sales of 5 lakh, 4 lakh and 3 lakh per acre as distress sale. Then averaging the rest 16 sales, we will arrive at the reasonable rate.

But if the average of the 15 sales come Rs. 9 lakh per acre, we will discard both sales of 20 and 25 lakh per acre as fancy sale, because 200% more of 9 lakh per acre is 18 lakh per acre; while 200% less of 9 lakh being 4.5 lakh, we will discard sales of 4 lakh and 3 lakh per acre as distress sale, but take into consideration the sale of 5 lakh per acre for determining the reasonable market value.

A certificate may however should be obtained and kept on record by Spl. L.A. O. that all sales without exceptions have been collected.

5. **Acquisition of vested Land and payment of compension thereof :**

This point has been dealt with in G.O. No. 1111 dated 04-04-2006 at pages 87 & 88 though also discussed at pages 37 & 38 in G.O. No. 1701 dated 06-06-2006.

The guidelines of G.O. No. 1111 should be strictly followed ignoring the G.O. No. 1701 in case of contradiction.

6. **Depositing 50% L.A. Cost by R.B.s :**

Para 3 (f) of G.O. No. 1701 dt. 06.06.06 should be followed. Anything inconsistent therewith stated anywhere else should be ignored. R.B.s should deposit 50% of the L.A. cost assessed by them at the time of submitting the L.A. proposal before the L.A. Collector. This L.A. cost should include (i) market value of land, (ii) 30% solatium on (i), (iii) 12% p.a. additional compensation on (i) for six months, (iv) amount of compensation payable to bargadars, if any (v) cost of rehabilitation, if any and (vi) 10% of total amount of (i) + (ii) + (iii) + (iv) + (v) as administrative cost.

7. Report under section 5A should be sent to L. & L.R. Department by Collectors along with draft declaration u/s. 6.

8. First para of the Form No. 666-LA-02, 03 and 04 [application for consent award by land owners/ Bargadars] changed in the following manner;

“Sir,

I/We hereby beg to state that if the lands covered by your notification u/s 4 of L.A. Act – I published in (Newspaper dt.) are finally acquired, I/We hereby claim the following amounts as L.A compensation and the following resettlement and rehabilitation support as applicable as

per Govt. Policy. Self assessed details of the claims are specified below with supporting relevant documents for your kind consideration, acceptance and early payments.”

P.K. Agrawal
L.R.C. & Principal Secretary to the
Government of West Bengal
Land & Land Reforms Department.

No. 761/1(100)-LA

Dated Kolkata, 15th February, 2007

Copy forwarded for information to :-

- 1) The Chief Secretary,
Government of West Bengal, Writers' Bldgs., Kolkata – 700001.
- 2) The Principal Secretary/ Secretary,

- 3) The M.D./C.E.O.

- 4) Sri
Joint Secretary/ Dy. Secretary/ Asstt. Secretary,
Section Officer, Land & Land Reforms Department.
- 5) P.S. to Minister-in-charge, L & L.R. Department.

Sd/- Illegible

Joint Secretary to the Government of West Bengal
Land & Land Reforms Department

●

**Government of West Bengal
Land and Land Reforms Department
Land Acquisition Branch**

No. 1774(18)-LA/3M-12/07

Dated: 9th April, 2007.

From: The Joint Secretary to the Govt. of West Bengal.

To: The Collectors,

Sub. : Exemption from payment of land revenue.

Sir,

I am directed to draw your attention on the following points:

1. After acquisition of raiyati land under Land Acquisition Act the land stands vested to the Government of West Bengal. Thereafter possession of the acquired land is handed over to the Requiring Body by the Collector concerned on behalf of the Government of West Bengal.
2. At the time of acquisition the Central Government departments and under-takings as well as some State Government under –takings /local authorities are required to pay capitalized value of land revenue as part of L. A. cost which is 25 times of ratable value of land revenue.
3. Such Requiring Bodies who pay capitalized value of land revenue as part of L.A. cost are not liable to pay revenue for that land in future.
4. After acquisition is complete and possession is handed over to the Requiring Body the L.A. Collector shall send a copy of the possession certificate where details of plots acquired and handed over to the Requiring Body has been noted along with a certificate that capitalized value of land revenue has been realized from the concerned Requiring Body to the concerned B.L.L.R.O.
5. The concerned B.L.L.R.O. shall upon receiving the documents mentioned at 4 above mutate the name of the R.B. in respect of the plots of land realizing processing fee only as per norms but without charging any amount of land revenue from the R.B.

This is issued clarifying point (24) of G.O. No. 1701-L.A.-3M-07/2006 dated 6th June, 2006 of this Department.

Yours faithfully,
K. Banerjee
Joint Secretary to the
Government of West Bengal

No. 1774/1(20)-LA

Dated: 9th April, 2007.

Copy forwarded for information & necessary action to the;

1. D.L.R.S., W.B., 35, Gopalnagar Road, Alipore, Kolkata – 27
2. D.L.L.R.O.
3. Additional Secretary, D.V.C.
D.V.C. Towers, V.I.P. Road, Kolkata – 700 054.

This has reference to his memo no. WL-1/520(Con)/ 87 (Pt. V)/109 dated 2.2.2007.

K. Banerjee
Joint Secretary to the
Government of West Bengal

●

Government of West Bengal
Land and Land Reforms Department
L. A. Branch

Memo No. 1802(18)-L.A.
3M-59/06

Kolkata, Dated : 10.4.2007.

From: The Joint Secretary
to the Govt. of West Bengal.

To: The Collector,

Sub : Submission of P.I.R. with L.A. proposal and incorporation of schedule in Form -14
of the West Bengal Land Acquisition Manual, 1991.

The undersigned is directed to advice that it should be ensured while forwarding any land acquisition proposal that field verification in respect of each proposal has been made from his end and P.I. report must be included when L.A. proposal is submitted by Collector to this Department, for administrative approval. Not more than 10 working days should be taken to complete the P.I.R. in a single L.A. case. Point (3) of G.O. No. 1701 dated 06.6.2006 stands modified accordingly.

2. The report u/s 5A should be enclosed at the time of submission of authentication of declaration u/s 6 after hearing objections and if the objections are serious in nature, he should hear objections personally and settle at his level and if it is not possible, he should send his report to this Department u/s. 5A of L.A. Act, 1894.

3. It is to be further advised that the line “as per schedule given below:” is to be included in the third line after the sum payable to you is Rs.” of Form-14 of the West Bengal Land Acquisition Manual, 1991, that is, the form prescribed for issuing notice of Collector’s award as per section 12(2) of L.A. Act, 1894.

SCHEDULE

PLOT NO.	AREA ACQUIRED	SHARE OF THE AWARDEE	RATE PER ACRE	12% ADDL. COMP. for Month	30% Solatium

K. Banerjee
Joint Secretary to the
Government of West Bengal

No. 1802/1(2)-L.A.

Dated : 10.04.2007

Copy forwarded to Shri T. K. Chakraborty, Joint Secretary of this Department for information.

- 2) Shri
for information.

K. Banerjee
Joint Secretary to the
Government of West Bengal

**Government of West Bengal
Land and Land Reforms Department
Land Acquisition Branch**

No. 2476(19)-LA
3M-59/06

Dated 14.5.07

From: The Joint Secretary to the
Government of West Bengal.

To: 1) Collectors,
2) The 1st Land Acquisition Collector, Kolkata

Subject : Issue of notification U/s. 4 of L.A. Act – use of old format.

Sir,

I am directed to inform you that the Governor has been pleased to decide that henceforth all L.A. proceedings shall be started by issuing notification U/S-4 of the L.A. Act – 1 of 1894 in the form prescribed in L.A. manual 1991. Therefore, L.A. Collectors are hereby advised not to use the form printed in the book “Land Acquisition-A New Approach”.

This order shall take immediate effect.

Yours faithfully,
K. Banerjee
Joint Secretary
Land and Land Reforms Department.

●
**Government of West Bengal
Land and Land Reforms Department
L. A. Branch**

Memo No. 2954(40)-L.A.
5C-134/06.

Dated : Kolkata, the 7th June, 07

From: The Joint Secretary to the
Government of West Bengal.

To: 1) The Collector,
2) District Land & Land Reforms Officer
3) The C.E.O./M.D. Development Authority/
W.B.I.D.C./W.B.I.I.D.C.

As per existing Government Order No. 8514-L.A.(II)/3M-61/88 dated 05-09-1997 exemption was given to the different Development Authorities and such other bodies constituted through statute from paying Capitalized Value of Land revenue against acquisition of land for its own purpose.

2. But it is found that the Development Authorities and such other Requiring Bodies have been settling the acquired land with industrial units/ companies of private sector for ultimate implementation of the project.

3. After considering all the aspects, the Governor is pleased to direct that in the event of acquisition of land for development authorities or local bodies, as usual capitalized value of land revenue shall not be taken into account at the time of assessing the cost of acquisition of land but in the event of transfer of the said land by the development authorities or local bodies to private companies, a condition is to be incorporated in the lease deed to be executed in between the development authorities or local bodies and private companies that the company shall be liable to pay the lease rent to State Government in the L. & L.R. Department which shall not be less than the amount of revenue payable for commercial use of the land.

4. This will have immediate effect including the cases where transfers of land have already been done in favour of private companies.

K. Banerjee
Joint Secretary
to the Government of West Bengal
Land and Land Reforms Department.

Government of West Bengal
Land and Land Reforms Department
L. A. Branch

No. 2979(19)-LA
3M-59/06

Date : 08.06.07

From: The Jt. Secy. to the Govt. of W.B.

To: 1) The Collector,
2) The 1st Land Acquisition Collector, Kolkata
5, Bankshall Street, Kolkata – 1.

Sub: Publication of declaration U/s 6 of L.A. Act — use of Old format.

Sir,

I am directed to inform you that the Governor has been pleased to decide that henceforth old form of declaration U/s 6 as prescribed in the L.A. Manual, 1991 be used at the time of publication of declaration U/s. 6 of the L.A. Act-I in respect of all L.A. cases. Therefore, L.A. Collectors are hereby advised not to use the form printed in the book “Land Acquisition – New Approach”.

This order shall take immediate effect.

Yours faithfully,
K. Banerjee
Joint Secretary
Land and Land Reforms Department.

●

Government of West Bengal
Land and Land Reforms Department
L. A. (Law) Branch

No. 2993(37)-LA/9R-122/06.

Dated : Kolkata, the 11th June, 07

To:

- 1) The Collector,
- 2) The 1st LAC, Kolkata
5, Bankshall Street, Kolkata – 1.
- 3) The Special Land Acquisition Officer,

Sub : Initiating joint field verification before making payment of LA Compensation or making commitment to pay LA Compensation as per Hon'ble High Court's Order.

It has come to the notice of the Govt. that the Hon'ble High Court, Calcutta in any Writ Petition arising out of Act-II LA cases generally passes orders directing the Collectors of the Dists to pay LA Compensation to the Writ Petitioner/ Land owner in accordance with Law within a scheduled period. It is also noticed that the LA Collectors of the dists. , immediately after receipt of the said High Court's orders, prepare the estimate u/s 9(3A) or 9(3B) or de navo under Act 1 of 1894, as the case may be, without joint field verification and request the R.B. for placement of the above fund and even file A/O before the Hon'ble High Court with due observation that payment is not made due to non-placement of the fund by the R.B. In some cases it has been noticed that the suit land for which compensation is to be paid has neither been requisitioned nor acquired nor even possession has been taken over or alignment has been changed for the project etc. So, all the Collectors ought to be alert on those problems and initiate joint field verification within the time framed by the Hon'ble Court before being assured that the suit land is under acquisition and Compensation is to be paid or that no compensation is payable since the land was not under acquisition, as the case may be. All the LA Collectors shall do the above field verification to avoid any hazard of the Court proceedings (contempt) and other problems relating to the LA Cases so that a quick Solution is found.

It is again reiterated that LA Collectors will see henceforth that no payment on the direction of the Hon'ble Court should be made without joint field verification with RB.

Sd/-Illegible
Joint Secretary
Land and Land Reforms Department.

Government of West Bengal
Land and Land Reforms Department
L. A. Branch

Memo No. JS-621(19)/LA/3M-09/98(Part),

Dated: 14.06.07

From: The Joint Secretary to the Government of West Bengal.

To: 1) The Collector,
2) The 1st L.A. Collector, Kolkata,
5, Bankshall Street, Kolkata – 700001

Sub: Publication of 'Notification' and 'Erratum to the Notification' u/s 4 of the L.A. Act-I of 1894 in Bengali in the 'Ganasakti' and 'Aajkal'.

The undersigned is directed to inform that with effect from 1.07.2007.

2. All Bengali publication of 'Notification' and 'Erratum to the Notification' in connection with the L.A. Act I of 1894 will be published in two Bengali newspapers 'Ganasakti' and 'Aajkal' and English version of the same will be published as usual and the concerned project must be mentioned in the forwarding memo addressed to the newspaper for publication of the above.
3. All 'Draft Declaration' and 'Draft Erratum to the Declaration' u/s. 6 of the L.A. Act I of 1894 are to be furnished in triplicate to this Department with a forwarding memo citing the concerned project from which publication in the newspapers both in English and Bengali version is required.
4. The charges of the publication in the Bengali newspapers will be Rs. 110/- per col. cm. and the charges will be met up from the administrative cost received from the respective project.

Sd/- Illegible
Joint Secretary to the
Government of West Bengal
Dated:14.06.07.

No. JS-621/(19)/1(2)-L.A.

Copy forwarded to the 1) Advertisement Manager, Ganasakti Patrika, 74A, A.J.C. Bose Road, Kolkata – 700001.

2. Advertisement Manager, Aajkal Patrika, BP-7, Sector -V, Salt Lake, Kolkata – 700091.

It is requested to collect all authenticated 'Notification' and authenticated 'Erratum to the Notification' from all Collectors of the District and also to collect the authenticated 'Declaration' and authenticated 'Erratum to the Declaration' from this Department on and from 1.07.2007 and submit the project wise bill to this Department for payment.

Sd/- Illegible
Joint Secretary to the
Government of West Bengal

●
Government of West Bengal
Land and Land Reforms Department
Land Acquisition Branch

Memo No. JS-648(19)/LA/2P-44/07

Date:28.06.2007

From: Shri S.K.Mukherjee
Joint Secretary to the
Government of West Bengal

To: The Collector,
..... District/ 1st L.A. Collector, Kolkata

Sub : Procedural guideline for completion of incomplete LA proceedings under Act II of 1948

Sir,

You must be aware that for the above noted subject West Bengal Amendment of Land Acquisition Act I of 1894 was made in 1997 followed by the subsequent amendment in 1999.

The incomplete LA proceedings under Act II as on 31st March, 1997 were of two categories –

- 1) Cases where requisition and possession under section 3 of Act II was done but vesting of the land by publication of notice under section 4 of that Act was not done.
- 2) Where both the actions under section 3 and section 4 of Act II were completed.

For accommodating these two types of incomplete cases sections 9(3A) and 9(3B) respectively were included by the West Bengal Amendment Act of 1997. It was stipulated that by issuing notice under section 9(3A) or 9(3B) as the case may be the lapsed Act II proceeding can be revived. It was also stipulated that the revived proceedings must be completed by declaration of award within two years from the date of issuing such notice.

The Amendment Act of 1997 read with Amendment Act of 1999 remained silent about the fate of the revived LA proceedings in case of failure to declare the award within the timeframe of two years. But it should not be overlooked that the Amendment Act of 1997 specifically stated that actions under sections 4, 5, 5A, 6, 7, 8 and in some cases section 16 of the LA Act I of 1894 shall be deemed to have been complied with. That means the Amendment Act recognized the factual position that in all complete and thereby lapsed LA proceedings under Act II possession of land was taken over and made over to the RB even though in some such cases the land did not technically vest in the state.

In respect of land possession of which has already been taken over by the Govt. through some land acquisition proceedings starting of de novo proceeding under Act I by publishing notification under section 4 is not legally tenable. Therefore, this Department's Memo No. 1961 dated 16.09.2004 stands cancelled with immediate effect.

However, Collectors are hereby advised not to revive any lapsed Act II proceeding by issuing notice under section 9(3A) or 9(3B) as the case may be without obtaining required fund or at least a definite assurance regarding placement of fund from the RB. For this purpose, it is suggested that where revival of any lapsed Act II LA proceeding is considered necessary the following steps may be taken:-

[A] A probable date of award should be fixed at least six months later. The estimate has to be prepared as quickly as possible fixing the date of issuing notice under section 9(3A) or 9(3B) [which will be the reference date for determining market value in cases under section 9(3A)] at least four months later. 12% additional compensation up to the probable date of award should be included in the estimate.

[B] Requiring Body should be moved by sending copy of estimate for placement of fund. The more fund placement will be delayed the more issuing notice under section 9(3A) or 9(3B) should be deferred.

[C] Notice of hearing under section 9(3A) or 9(3B) may be kept ready but shall not be issued before obtaining fund from RB.

[D] Award must be declared within two months from the date of issuing notice under section 9(3A) or 9(3B).

Thus, the Collectors are requested to see that revived LA proceedings are completed within the statutory period of two years by declaration of award. In no such case a situation should arise that a revived LA proceeding again getting lapsed for failure to declare award which in turn depends upon receipt of necessary fund from the RB.

Yours faithfully,
S.K. Mukherjee
Joint Secretary to the
Government of West Bengal

●

Government of West Bengal
Land and Land Reforms Department
PAC Branch

No. 3889-PAC/2A-13/2008 Part II

Kolkata, 26-08-2008

NOTIFICATION

It has been brought to the notice of the Government that huge amounts of Land compensation award have been lying undisbursed for a very long time in the P.L. Accounts of the L.A. Collectors due to various reasons other than court cases. According to Paragraph No. 127(1) of the Executive Instructions in W.B. Land Acquisition Manual, 1991 and Paragraph No. 22 of the Land & Land Reforms Department's

Order No. 1701-L.A.-3M-07/06 dated 06.06.06 read with Paragraph No. 8 of appendix -12 of W.B. Treasury Rules, 2005, these undisbursed amount should be deposited into Treasury as Revenue Deposits. But that has not been done by the L.A. Collectors due to various reasons.

After careful consideration of the matter and in order to ensure proper management and maintenance of the fund at the P.L. Accounts of the L.A. Collector, the Governor has been pleased to frame following guidelines in this matter:

“Guideline for deposit of undisbursed amount of Land Acquisition Compensation award lying at the P.L. Accounts of the L.A. Collectors.”

1. (a) Any amount of compensation award in any Land Acquisition Case, neither received by awardees/ their authorized representatives nor subjected to any litigation, shall be credited to Government Receipt after a period of three financial years from the year of declaration of the award.

(b) In the month of April in each year the Land Acquisition Collector shall prepare a list of such ‘Unclaimed Awards’, whose awards had been sanctioned three years ago and who have not received their Land Compensation awards and for which no litigation is pending. [Example: list of Unclaimed Awards shall be prepared in the month of April 2009 in respect of the Award Amount sanctioned during the Financial year April 2005-06 and remained unclaimed up to the end of the Financial Year 2008-09]. The name of such awardees along with details of their award reference shall also be recorded in the ‘Unclaimed Award Register’.

(c) Such amount shall be withdrawn from Personal Ledger Account of the L.A. Collector by issuing cheque and shall be deposited to the Head “0075- Miscellaneous General Service-00-101-Unclaimed Deposits-002-Receipt due to unclaimed deposit from the P.L. Account of L.A. Collector-27-Other Receipt” in Challan in T.R. Form No. 7 along with the statement of Unclaimed Awards in the following proforma :

STATEMENT OF THE UNCLAIMED AWARDS WITHDRAWN FROM P.L. ACCOUNT OF L.A. COLLECTOR
IN THE MONTH OF APRIL _____
FOR THE PERIOD FROM _____ TO _____

Sl. No.	Name of Awardees	Award Reference Number	Amount of Award (Rs.)	Amount Deposited (Rs.)	Date of deposit with Cheque No. & Challan No.	For use in AG. (A&E) Office			Remarks
						No. & date of refund order	Amount of refund sanctioned (Rs.)	Initial of S.O./A.A.O. & O.O.	
1	2	3	4	5	6	7	8	9	10

Total: Rs. (In words Rupees)

L.A. Collector/
Special L.A.O.

As the detailed account of the deposit shall be maintained by the L.A. Collector, a copy of the Lapsed Deposit Statement shall also be furnished to the Accountant General (A&E) West Bengal as provided under Rule 6.16(2) of the West Bengal Treasury Rules 2005 for taking necessary action by the Accountant General (A&E) West Bengal.

2. Any amount of deposit credited to Government account as unclaimed deposit under the provision, mentioned in 1(a) above, shall be repayable to the person or persons entitled to receive the amount, subject to observance of the following procedures:

(i) When a payment is claimed for an amount, already transfer credited to Government Account under head “0075- Miscellaneous General Service-00-101-Unclaimed Deposit-002-Receipt due to unclaimed deposit from the P.L. Account of L.A. Collector-27-Other Receipt” on the basis of lapsed Deposit Statement and remained unclaimed, a petition shall be made by the Claimant for withdrawal of the same. The L.A. Collector or Special L.A.O., as the case may be, shall examine the entitlement of the claim and the identity of the Claimant. After full satisfaction, he shall fill up the Application Form, as prescribed at Annexure-1, and send the Application Form duly filled in, to the Account General (A&E), West Bengal for sanction. Several deposit number may be included in a single application, if they are payable to the same person.

(ii) The Accountant General (A&E), West Bengal, shall authorize payment on ascertaining that the deposit(s) was/were really received and credited to the Government as unclaimed deposits and that the claimant's identity and the title to the money are certified by the L.A. Collector / Special L.A.O.

(iii) After receiving the authorisation form the Accountant General (A&E), West Bengal, the L.A. Collector/ Special LAO shall present the bill under the appropriate head of account, as mentioned in the authority issued by the Accountant General (A&E), West Bengal or under head of account "0075-Miscellaneous General Service-00-900-Deduct Refund-001-Refund of Lapsed Deposits-20-Refund:", as the case may be, to the concerned Treasury for the refund of the Unclaimed Deposit. Payment shall be made by the L.A. Collector/ Special L.A.O. after receiving the Cheque/ Cheques from the treasury.

(iv) Application for refund of unclaimed deposits shall be entered in a separate 'Refund of Unclaimed Award Register' in the proforma given below before submission to the Accountant General (A&E), West Bengal for sanction:-

Sl. No.	Date of Application	Name of Petitioner/Awardee	L.A. Case No. and award Sl. No.	Challan No. and date of deposit with Treasury Name	Amount Claimed (Rs.)	No. and date of A.G. (A&E) W.B.'s Authority	Date of Payment	Dated Signature of Awardee
1	2	3	4	5	6	7	8	9

L.A. Collector/
Special L.A.O.

Note: Dated signature of the person receiving the authority shall be taken in the remarks column.

(v) The repayment of unclaimed award shall be noted in against the appropriate record in the 'Unclaimed Awards Register' as well as in the 'Refund of Unclaimed Award Register', so as to guard against second payment. If repayment is claimed after the 'Unclaimed Awards Register' has been destroyed, the responsibility for verifying the claimant's title to the refund shall devolve on the authority who signs the Application Form.

(vi) If no payment could be made within twelve months from the date of issue of letter of authority from the Accountant General (A&E), West Bengal, it shall be refunded to the Accountant General (A&E), West Bengal.

3. The unclaimed award which have already been transferred to 'Revenue Deposit' Account as per existing procedure may be guided by the same procedure.

4. There shall be only one P.L. Account in the L.A. Office of the district. The L.A. Collectors and the Treasury shall maintain Scheme/ Project-wise accounts of the P.L. Account and shall reconcile the same at the end of each quarter of the year.

5. The amount realized as 'Administrative Cost' shall be kept in a separate Scheme head under the same P.L. Account. The surplus, if any, after meeting up the necessary expenditure relating to the particular project as per guideline issued vide G.O. No. 1704-LA-3M-.07-06, dated 6th June, 2006 of the L & L R Department, shall be deposited under the revenue head of account '0029-Land Revenue-00-800-Other Receipts-025-Recoveries on account of Land Acquisition Establishment 10-Recoveries".

6. Necessary amendment in the W.B. Land Acquisition Manual, 1991 shall be made in due course.

7. This Order issues with the concurrence of the Accountant General (A&E) West Bengal vide their U.O. No. A.M.-1/03 dated 27.05.08 and the Finance Department vide their u/o No. 506- Group-t, dated 14-08-2008.

G.C. Nemo
Joint Secretary
to the Government of West Bengal
Land & Land Reforms Department.

Copy forwarded for information and necessary action to:-

1. The Account General (A& E), West Bengal, Treasury Buildings, Kolkata – 700001.
2. The Accountant General (Audit), West Bengal, Treasury Buildings, Kolkata – 700001.
3. The Principal Secretary/ Secretary
..... Department.
4. The Director of Treasuries & Accounts, West Bengal, New India Assurance Building, 4, Lyons Range, Kolkata – 700001.
5. The District Magistrate, District
6. The L.A. Collector, District
7. The Treasury Officer, Treasury,
..... District.

G.C. Nemo
Joint Secretary
to the Government of West Bengal
Land & Land Reforms Department.

ANNEXURE TO L & LR DEPARTMENT NOTIFICATION NO. 3889-PAC/2A-13/2008 PART-II DATED 26-08-2008

ANNEXURE – I
Application Form

[For Refund of Unclaimed Land Compensation Award deposited in the Treasury]

To
The Accountant General (A&E),
West Bengal
Sir,

The following refunds of unclaimed deposits arising out of Land Acquisition cases, aggregating Rs. _____ (Rupees _____) have been claimed by _____ of whose identify and title to the money I have satisfied myself. I request your sanction to the refund.

Sl. No.	Name of petitioner / Awardee	L.A. Case No. and Award Sl. No.	Amount of award to be refunded (Rs.)	Particulars of original deposit			Remarks
				Challan No.	Date	Amount Deposited	
1	2	3	4	5	6	7	8
The 20.....				L.A. Collector/ Special L.A.O.			
Accountant General (A&E), W.B.'s Office No. _____				Sanctioned Accountant General (A&E), W.B			
Examined Accountant Pay Rs.(Rupees) only				L.A. Collector/ Special L.A.O.			
The 20.... Received Payment Dated _____ (Receipt stamp/claimant)							
Signature of Recipient							

Note: The signature of the claimant should be obtained on this form and the form should be preserved as a voucher in support of the claim.

Government of West Bengal
Land and Land Reforms Deptt.
L. A. Branch,

No. 1326-(19)/L.A.
3M-41/08(pt.II)

Dated: Kol. the 19th March, 2009.

From: The Joint Secretary to the Govt. of West Bengal.

To
The Collector,
&
1st Land Acquisition Collector, Kolkata

The undersigned is directed to draw his attention to the various land acquisition cases initiated under the provision of W.B. Land Acquisition Act-II of 1948 for implementation of state as well as central projects, but in many cases the L.A. proceedings under that Act could not be completed by declaration of award & payment thereof to the land losers before 31.03.97.

2. In order to accommodate such incomplete L.A. proceedings under Act-II amendment of the LA Act-I of 1894 a Central Act was made in the year 1997 followed by another amendment in 1999. Even after a decade the situation has not been improved due to non availability of fund from the requiring bodies/ Deptts.

3. Delay on the part of the Government machinery has not been favourably viewed by the Hon'ble High Court and sometimes the High Court has imposed more penalty over and above lawful amount of compensation and sometimes issuing direction upon the Land & Land Reforms Deptt. to arrange required fund for payment of L.A. compensation.

4. Under the circumstances as advised by the Ld. Advocate General, the undersigned is directed to request to take up those incomplete L.A. Act-II proceedings as per this Deptt. guidelines issued under Memo No. JS-648(19)/LA/2P-44/07 dated 28.06.07, and move the concerned R.Bs for placement of requisite fund at his disposal so that L.A. proceedings by way of declaration of award and payment of compensation these pending cases can be made at an early date.

5. Cases where other than State Govt. deptts/ undertakings are the R.Bs should be taken up first.

6. Whenever such R.Bs will be asked for placement of fund the Land and Land Reforms Deptt. must be informed along with a copy of the estimate for pursuation from this end.

K. Banerjee
Joint Secretary to the
Government of West Bengal

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—————
Government of West Bengal
Land and Land Reforms Department
L. A. (Law) – Branch

No. 1765-LA
1D-47/07

Dated, Kolkata, the 16th April, 2009.

From: The Officer-on-Special Duty and
Ex-Officio Joint Secretary,
Land & Land Reforms Department,
Government of West Bengal.

To
The Collector,
South-24-Parganas,
LA Department (Law Cell),
New Treasury Building,
5th Floor, Alipore,
Kolkata – 700 027

Sub: Instruction regarding Computation of estimate including Administrative Cost of Total LA Case.

The undersigned is directed to refer to his Memo No.LA-648 dt. 20.3.09 on the subject mentioned above and to request him to follow the answers given below with reference to his questionnaire in regards preparation of estimate and computation of 10% Administrative cost etc.

1. Administrative cost and Law charge should be shown in the estimates and realized from the R.B. in all types of cases where estimate is being prepared after 06.06.2006.

Administrative cost and Law charge should also be shown in the award and also while sending the same to this Department for approval.

2. Award of only that amount will be declared which has been approved by the Govt. in the Land & Land Reforms Department. Law charges along with Capitalized value, if any and Compensation against vacant vested land, if any (G.O. No. 1111-LA dt. 4.4.06) should be awarded in favour of Collector and deposited in the receipt head of Land & Land Reforms Department by drawing cheque on P/L Account.

3. Administrative cost realized from R.B. should be kept in P/L Account, utilized as per G.O. No. 1704 dt. 06.06.06 and balance (after meeting necessary expenditure) should be deposited in the receipt head of L & L.R. Department by drawing cheque on P/L A/c.

Sd/- Illegible
Officer-on Special Duty and Ex-Officio
Joint Secretary, Land & Land Reforms Department,
Government of West Bengal

Government of West Bengal
Land and Land Reforms Department
Land Acquisition Branch

No. 3368(37)-LA
3M-55/09

Dated Kolkata, the 23rd July, 2009

From: The O.S.D. and Ex-Officio Joint Secretary to the Govt. of West Bengal

To: 1. The Collector _____
2. The Spl. Land Acquisition Officer _____

3. 1st L.A.C. Kolkata, 5, Bankshal Street, Kolkata – 1

Sub : Regarding incomplete L.A. proceedings of L.A. Act, - II of 1948 and payment thereof U/s 9(3A) or 9(3B) of L.A. Act. -I, 1894.

It has come to the notice of this Deptt. that L.A. Authorities of some districts has been taking steps of initiating off-shoot L.A. proceedings u/s 9(3A) or 9(3B) of L.A. Act, I for writ affected land only for complying with Hon'ble High Courts orders and avoiding contempt L.A. proceedings keeping aside from acquisition proceedings rest plot of land involved in a particular L.A. Case initiated under L.A. Act – II of 1948. This type of practice is against the provisions of law and creates many problems in regard to valuation of land etc. in respect of rest plots of land in future. Besides, it creates administrative problems in keeping records of different off-shoot L.A. proceeding arising out of a particular L.A. proceeding as well as of the proceedings u/s 18 of L.A. Act – I. As such, no off-shoot L.A. proceedings u/s 9(3A) or 9(3B) of L.A. Act- I, 1894 for suit land only arising out of any L.A. Case initiated under L.A. Act-II shall be initiated henceforth.

Hon'ble High Court has also taken serious exception to such incidents of declaring part award by some of the Collectors.

L.A. proceeding of entire land involved in any L.A. proceeding initiated under L.A. Act-II of 1948 including the writ effected land shall be started u/s 9(3A) or 9(3B), as the case may be under the provisions of L.A. Act-I, 1894 following this Deptt. instructions vide Memo No. JS-648(19)LA/2P-44/07 dated 28.6.2007.

L.A. Collectors of the Districts are requested to follow strictly the guidelines as noted above with immediate effect.

Sd/- Illegible
O.S.D. & Ex-Officio Joint Secretary to
the Govt. of West Bengal,
Land and Land Reforms Deptt.

Government of West Bengal
Land and Land Reforms Department
LA(Law)- Branch,

No. 4747-L.A.
3M-53/09

Dated: Kol, the 20th Oct. 2009.

From: The O.S.D. & ex-Officio Jt. Secretary to the Govt. of W.B.

To : The Collector, South 24-Parganas,
LA (Law) Deptt.
New Treasury Building, 5th Floor,
Alipore, Kolkata – 27.

Sub: Instruction/Clarification regarding maintainability of ref. petition U/s 18 of LA Act, 1894.

Ref: Memo.No.LA 466 dated 26.02.2009 of ADM(LA), South 24-Parganas.

The undersigned is directed to refer to the subject noted above and to request him to follow the guidelines in disposing the Ref. petition U/S 18 of LA Act, I, placed seriatim in accordance with his queries.

1 & 2. Collector shall consider and dispose of the ref. petition U/S 18 of LA Act, I, 1894 at the very moment of receiving it following this Deptt.'s Order No. 959-LA dated 27.03.01. But if there has been any delay in disposing the ref. petition at the Collector's Level, he shall follow the guidelines communicated under order No. 352-LA dated 17.02.04 and send all the ref. petitions, whether they are time-barred or not, to the concerned LA court recording therein its maintainability/non-maintainability.

2. The word "Under Protest" shall be written in the acquittance roll itself by the awardee concerned and any other separate protest letter filed on any day after the payment shall not be allowed.

3. Whenever any Ref. petition is lying pending for a long period at the end of the Collector, whether it is maintainable or not, shall be sent to the concerned LA Court with his remarks therein under intimation to the concerned awardee.

4. Whenever any ref. petition shall be sent to the concerned LA Court, the Requiring Body shall be informed of with a copy of such ref. petition with a request therein for being added as a party in the proceedings of Ref. petition before the concerned LA court.

5. Since a huge no. of ref. petitions have been kept pending at the Collectors, end which is a serious lapse of their part, the Collector shall clear all such pending petitions within 31.12.09 as per guidelines above.

Let it be treated as extremely urgent.

Sd/- Illegible
O.S.D. & Ex-Officio Jt. Secretary to the
Government of West Bengal

No. 4747/1(37)-LA.

Dated: Kol, the 20th Oct, 2009

Copy forwarded for information and necessary action to the :-

- 1) Collector, _____
- 2) Special Land Acquisition Officer-_____
- 3) 1st Land Acquisition Collector, Kolkata, 5, Bankshall Street, Kolkata – 1.

Sd/- Illegible
O.S.D. & Ex-Officio Jt. Secretary to the
Government of West Bengal

●

Government of West Bengal
Land and Land Reforms Deptt.
L. A. Branch

No. 2825-LA/9R-138/10

Date : 26.05.2010

CIRCULAR

It has come to the notice of this Department that the Special Land Acquisition Officer & Additional Land Acquisition Officer of the District concerned and Land Acquisition Collector, Kolkata have been sending proposals frequently for filing appeal / review /modification/ recalling petition against judgment/ order passed by Dist. Land Acquisition Count in LA Ref. Case arising out of any Land

Acquisition Case or against judgment & order passed in Writ Petition arising out of any Land Acquisition Case or filing S.L.P. before the Hon'ble Supreme Court against order of Hon'ble Division Bench, without views/ recommendation of the DM & Collector of the Dist. concerned and of the 1st Land Acquisition Collector, Kolkata, which are not desirable at all.

It has also come to the notice of the Department that the aforesaid Land Acquisition Officers of the District concerned have been sending proposals for vetting of the decretal estimate under section 18 & 28A, as the Case may be, of Land Acquisition Act 1, 1894 without recommendation of the DM & Collector of the district concerned and 1st Land Acquisition Collector, Kolkata and without all the information required for vetting.

It has also been observed that even the proposal of administrative approval of the Acquisition proceeding for any public purpose, proposal for publication of declaration under section 6, approval of estimate & award etc. have been received in the Department from the Special Land Acquisition Officer or Additional Land Acquisition Officer of the District concerned or Land Acquisition Collector of the Office of the 1st Land Acquisition Collector, Kolkata, directly, which also are not maintainable.

In view of above and after careful consideration, the Government in this department has taken the following decisions, which shall be strictly followed henceforth and with immediate effect:-

1. In case of Court matters, every proposal for filing appeal/review/modification/recalling petition before the Hon'ble High Court and for filing S.L.P. before the Hon'ble Supreme Court against judgement & order passed in LA Ref. Case under section 18 of LA Act-1 or passed in the Writ Petition arising out of any LA Case or passed by the Hon'ble Division Bench in appeal case shall be sent to this Department by DM & Collector of the District concerned and the 1st Land Acquisition Collector, Kolkata, with his views /recommendation. This includes engagement of Ld. S/A in any writ Petition and proposal for payment of litigation cost of the Ld. State Advocate.
2. In case of vetting of decretal estimate under section 18 and sec. 28A of LA Act-1, 1894, every such proposal shall also be sent by the DM & Collector of the District concerned and the 1st Land Acquisition Collector, Kolkata with his views/recommendation and reasons for vetting of the same and all the information/ papers required for vetting.
3. The estimate in any acquisition proceeding and the decretal estimate under section 18 & 28 A of LA Act-I, each in triplicate, duly countersigned by the DM & Collector of the District concerned and 1st Land Acquisition Collector, Kolkata shall be sent to this Department for necessary vetting. Date shall be mentioned in the estimate by all the reporting & approving aughorities.
4. In case of Administrative approval of any LA proceeding for any public purpose or proposal for publications of declaration under section 6 of LA Act-1, 1894 or in case of approval of estimate & award in any LA case or proposal for relinquishment of any land surplus to the requirement of project, every such proposal shall be sent by the DM & Collector of the District concerned and 1st Land Acquisition Collector, Kolkata to this Department with his views/ recommendation.
5. The Special Land Acquisition Officer and Additional LAO of the District concerned and the Land Acquisition Officer of the office of the 1st Land Acquisition Collector, Kolkata are responsible to send only the report/information/paper sought for by this Department for any proposal arising out of any LA Case.

G.C. Nemo
Joint Secretary to the
Government of West Bengal

No. 2825/1(37)-LA/9R-138/10

Date: 28.05.2010

Copy forwarded for information & necessary action to the :-

1. District Magistrate & Collector,
2. 1st LAC, Kolkata
5, Bankshall Street, Kolkata – 700001.
3. Special Land Acquisition Officer,

G.C. Nemo
Joint Secretary to the Government of
West Bengal

**Government of West Bengal
Land and Land Reforms Department
LA Branch,**

Memo No. JS-1456/L.A./3M-83/2009

Date:05.08.2010

From: Sri G. C. Nemo, W.B.C.S. (Exe.), Joint Secretary to the Government of West Bengal.

To The Secretary,
Urban Development Department,
"Nagarayan", DF-8, Sector - I,
Bidhannagar,
Kolkata - 700 064

Sub: Circulation of Standard form of Deed of transfer.

The undersigned is directed to send herewith the copy of the Standard form of Deed of Transfer to be executed between the Governor of the State of West Bengal and any Development Body of the State of West Bengal for taking necessary action.

G.C. Nemo
Joint Secretary to the
Government of West Bengal

**Standard form of Deed of Transfer to be executed between the Governor of the State of West Bengal
and Development Authority**

This indenture is made this day of 20 between the GOVERNOR OF THE STATE OF WEST BENGAL hereinafter called the "GOVERNOR" (which expression unless excluded by or repugnant to the context shall be deemed to include his successor - in office and assigns) of the ONE PART.

AND DEVELOPMENT AUTHORITY established under West Bengal Town and Country (Planning & Development) Act 1979 having its office at hereinafter called the "TRANSFEREE" (which expression unless excluded by or otherwise appears from the context shall be deemed to include his successor - in interest and permitted assigns) of the OTHER PART.

Whereas the TRANSFEREE applied to the GOVERNOR for acquisition under the provisions of the Land Acquisition Act, 1894 (Act I of 1894) (hereinafter called the said Act) of the land hereinafter mentioned and described in part I of the Schedule hereunder written for the public purpose namely

And whereas the GOVERNOR after examination of the proposal of the TRANSFEREE as well as the report of Collector of the District, was satisfied that the proposed acquisition was for public purpose as defined in sub-clause (iii) of clause (f) of section 3 of the said Act.

And whereas it was agreed inter alia that the TRANSFEREE should pay to the GOVERNOR all compensation to be awarded and all costs charges and expenses to be made for acquisition of the said land and the GOVERNOR should after acquisition execute and do all acts and deeds for transferring the said land to the TRANSFEREE subject to the terms and conditions hereinafter provided.

And whereas the GOVERNOR proceeded for acquisition of the said land and notification under Section 4 of the said Act bearing number Dated followed by declaration under section 6 of the said Act bearing number dated in respect of the said land were duly published in the Kolkata Gazette, Extraordinary dated and dated respectively.

And whereas the Collector of the district having duly held an enquiry made an award under section 11 of the said Act for payment of necessary compensation for acquisition of the said land.

And whereas the TRANSFEREE deposited with the Collector of the district a sum of Rs. as cost of acquisition and Rs. as administrative cost for acquisition of the said land.

And whereas the Collector of the district has accordingly made payment of compensation to the Awardees concerned and taken possession of the said land under section 16 of the said Act which thereupon vest absolutely in the Government of West Bengal, free from all encumbrances.

And whereas the TRANSFEREE admits its liability to pay any further sum or sums as may hereafter be required to be paid as compensation and any sum as may be payable in future in connection with acquisition of the said land.

And whereas the TRANSFEREE has now requested the GOVERNOR to execute these presents for transferring the said land in favour of the TRANSFEREE for the purpose of for which it has been acquired.

NOW THIS INDENTURE WITNESSETH that in pursuance of the request so made by the said TRANSFEREE and in consideration of the payment of a sum of Rs. towards the cost of acquisition by the said TRANSFEREE on or before execution of these presents, the GOVERNOR doth hereby grant, transfer, convey and assign unto the said TRANSFEREE all that piece and parcel of land more particularly delineated in the plan thereunto annexed and described in Part I of the schedule hereunder written TO HAVE AND TO HOLD the same unto the said TRANSFEREE, free from all encumbrances, on the terms, conditions and covenants contained in Part – II of the schedule hereunder written.

Part-I

Particulars of Land :

District	Police Station	Mouza with J.L. No.	Plot No.	Total area of the plot (in acre)	Area of the plot acquired in acre)
(1)	(2)	(3)	(4)	(5)	(6)

Part-II

1. The said TRANSFEREE shall be liable to pay land revenue, cesses and other charges as may be payable in terms of the provisions of any law for the time being in force. In case of default of making such payment the same shall be recoverable as public demand under the Public Demands Recovery Act, 1913.
2. The said TRANSFEREE shall not use nor be permitted to use the said land for any purpose other than the purpose for which the land had been acquired without prior written permission of the State Government in the Land and Land Reforms Department.
3. The said TRANSFEREE shall utilize the land within a period of 3 (three) years from the date of execution of these presents failing which the State Government may re-enter upon and take possession of the said land together with all structures thereon which shall thereupon vest upon the State Government absolutely free from all encumbrances. The TRANSFEREE shall be given structure value as may be standing thereon at the time of re-entry and possession to be determined by the Collector of the District and the decision taken by the Collector in this regard shall be final and binding upon the said Transferee. However, the said Transferee is entitled to received back the market value of the land as was paid at the time of acquisition.
4. The said TRANSFEREE is liable to pay any further sum or sums as may be required to be paid as compensation in future in connection with acquisition of the said land for any reason whatsoever.
5. The said TRANSFEREE shall be entitled to deal with the said land in terms of the condition of sub-clause (iii) of clause (f) of section 3 of the Land Acquisition Act, 1894 (Act I of 1894).
6. If the said TRANSFEREE subsequently transferred the land by way of lease, such lease should not be in any case be exceeding 99 (Ninety Nine) years with the option of renewal of such lease for the like period on the same terms and conditions and to such other terms and conditions as may be considered to be imposed and included in such renewal lease deed. If, however, the Lessee concerned transfer the lease held land to others the concerned transferee shall have to take fresh lease after expiry of the unexpired period of the transferred lease from the TRANSFEREE herein. For such transfer the lessee concerned should have to obtain prior permission in writing of the said TRANSFEREE.

IN WITNESS WHEREOF the parties to these presents have hereunto set and subscribed their respective hands and seal the day, month and year first above written.

Signed, Sealed and Delivered by:-

(Name and Designation)

Signature (with seal)

for and on behalf of the GOVERNOR OF THE
STATE OF WEST BENGAL in presence of :-

1. _____

(Signature & Address of witness)

Signed, Sealed and Delivered by :-

(Name and Designation)

Signature (with seal)

For and on behalf of the TRANSFEREE in presence of:-

1. _____

(Signature & Address of witness)

2. _____

(Signature & Address of witness)

●
Government of West Bengal
Land and Land Reforms Department
LA Branch,

No. 4342-LA/3M-53/2010

Dated : 11.08.2010

MEMORANDUM

A question has arisen as to the procedure to be adopted on the issue of free gifting of land by an individual / a person to the State Government.

Considering different legal aspects and the field reality, the entire matter has been examined in detail and it has been decided that any raiyat who is willing to gift any piece of land within the state to the State Government, may be advised to do so in favour of the concerned Collector of the district i.e., raiyat should gift the piece of land to the Collector concerned by way of executing a registered deed of transfer so that the plot of land so gifted can be transferred to the Collector's Khatian of the mouza and the subsequent management of the said land may be done as per norms prescribed in the W.B.L.R. Act and the rules framed thereunder.

In this context, instruction as laid down in paragraph-6 of the L.A. Manual, 1991 may be strictly followed by all concerned.

In this connection it may be mentioned that the stamp duty and Registration fees for gifting a piece of land or a piece of land with building or structure thereon by a raiyat in favour of the State Government has been waived in terms of the Finance Department's Order No. 3260-F.T. dated 25.11.1999.

G.C. Nemo
Joint Secretary to the
Government of West Bengal

No. 4342/1(40)-LA

Dated: 11.08.2010

Copy forwarded for information and taking necessary action to the:

- (1) D.L.R.S & Jt. L.R.C., W.B., 35, Gopal Nagar Road, Alipore, Kolkata - 27.
- (2) Commissioner
- (3) D.M. & Collector
- (4) D.L. & L.R.O.

G.C. Nemo
Joint Secretary to the
Government of West Bengal

●

Government of West Bengal
Land and Land Reforms Department
LA (Law) - Branch,

No. 4440(55)-L.A.
9R-258/10

Dated Kol. the 18th Aug., 2010.

From: G. C. Nemo, W.B.C.S. (Exe.), Jt. Secretary to the Govt. of W.B.

- To :
- 1) The District Magistrate & Collector,
 - 2) 1st Land Acquisition Collector, Kolkata
5, Bankshall Street, Kolkata – 1.
 - 3) District Land & Land Reforms Officer,
 - 4) Special Land Acquisition Officer,

Sub : Mutation and Conversion of acquired land for any project under the provisions of L.A. Act-I, 1894

The undersigned is directed to say that in pursuance to G.O. No. 3614-LR/1A-02/09 GE/(M) dt. 05.08.2009, the mutation and conversion of the acquired land are not being done properly, which is to be taken seriously for maintaining the Record of Rights in order. In view of above the undersigned is directed to request him to take appropriate necessary actions towards mutations and conversion of the acquired land immediately after finalization of any LA proceedings within the time specified in the aforesaid G.O. along with G.O. No. 4402-LR dt. 28.12.2005, 4403-LR dated 28.12.2005, 643-LR dt. 06.02.2009 and 644-LR dt. 06.02.2009 (copies enclosed) respectively.

In addition to directions contained in G.O. No. 3614-LR/1A-02/09 GE(M) dt. 05.08.2009 the following instructions and directions shall have to be followed in this connection.

1. The requisite fees towards application fee, processing fee and conversion fee in respect of the land involved in any LA Cases shall be assessed at the rate specified in circular No. 4402-LA dated 28.12.2005 and No. 4403-LR dt. 28.12.2005 and shall be included in the estimate in form 4A of any LA Case.
2. After finalization of any LA proceedings for any public purpose, Collector shall send (1) copy of declaration u/s-6 (Gazette copy) of L.A. Act, 1, 1894 (2) copy of certified copy of final LA plan; (3) copy of final report of LA proceeding; (4) copy of possession certificate; (5) mutation and conversion Applications (in original) of the acquired land (6) fees for mutation and conversion and processing fees in cheque to the BL&LRO concerned. The information along with the papers mentioned above (Sl. No. 1 to 4) shall also to be sent to the Requiring Bodies.
3. Collector shall withdraw the requisite fees for mutation/ conversion and processing fee from his P/L account for this said project by a cheque in the name of BL&LRO concerned and send the said cheque to the concerned BL&LRO.
4. For surplus land after project is completed, if the land is transferred to any Department of State Govt./ Central Government and/or development Authorities/ or leased out to any company/individual/Co-operative Societies that transferee/ lessee shall apply for mutation and conversion of land with all the requisite fees.

G.C. Nemo
Joint Secretary,
to the Govt. of West Bengal
Land & Land Reforms Deptt.

●

Government of West Bengal
Land and Land Reforms Department
L.A. Branch,

No. 6216(2)-LA/II-103/10(AILA)

Date – 23.11.10

From : The Joint Secretary to the
Government of West Bengal

- To:
- 1) The D.M. & Collector, South 24-Pgs.,
Alipore, Kolkata – 27.
 - 2) The D.M. & Collector, North 24-Pgs.,
Barasat, Dist. North 24-Pgs.

Sub : Preparation of estimate for acquisition of land for AILA Project and incorporating special financial assistance therein.

BANGLA SCRIPT

[Bengali Setout]

[See Separate Pagemaker File]

<http://www.roa.in>

Government of West Bengal
Irrigation & Waterways Department
Jalasampad Bhavan, Western Block, 3rd floor
Bidhannagar, Kolkata - 700091

To:

.....

MENTION CASE FOR THE CABINET

Brought by the Irrigation & Waterways Department
for consideration in the next meeting of the Cabinet

A. K. Chatterjee
Secretary to the
Government of West Bengal

No.1618/SIW

Dated: 19.10.2010

Sub : Adoption of Policy regarding financial rehabilitation packages to be provided to various categories of affected people during acquisition of land for the Project "Reconstruction, Remodelling and Improvement of embankments in Sundarban and adjoining areas in the districts of North & South 24-Parganas, damaged by severe cyclone 'Aila'".

Proposal for acquisition of total 14,209 acre of land on urgent basis for public purpose in exercise of Section 17 of L.A. Act-I of 1894 for reconstruction of 'Aila' affected Sundarban embankments, out of which more or less 5969 acre in 200 Mouzas spread over 19 Blocks in North & South 24-Parganas is to be procured in the 1st Phase, has been approved in the meeting of the Cabinet held on 29th October 2009. The process of acquisition is presently going on. It was decided in that Cabinet that the rehabilitation scheme would be critically examined by the MIC, Irrigation & Waterways Department, MIC, Land & Land Reforms Department and MIC, Finance Department and a report would be prepared early.

2. Accordingly, the rehabilitation package prepared by this Department has been placed before the group of Ministers stated above and got recommended by them after incorporating necessary modifications suggested by them following threadbare discussions. The package has also been endorsed by the MIC, Commerce & industry Department and the Chief Minister finally desired to place the policy for 'Cabinet Mention'. Objectives and specifics of the policy are elaborated below:

3. Objective of the policy

- i. To provide benefit to the registered and unregistered share croppers solely dependent on land, to the possible extent, for compensating the future loss of earning, which would have been derived by them from the land that would be acquired.
- ii. To minimize the gap between the compensation payable to the landowner, and the share cropper, who may not own the land but has acquired a sense of stakeholdership on the land, which he may have been cultivating for decades by himself in most cases.
- iii. To extend some financial assistance by the way of providing a nominal relocation grant to all categories of families, having household properties and similar structures within the land that would be acquired.
- iv. To provide additional financial assistance for house building to the BPL families, wherever required.

Note: It has already been stated that share croppers, particularly unregistered ones cultivate the land of their own in most of the cases in Sundarbans area and necessity of engaging agricultural labourers does not normally arise. Moreover, the acquisition is linear in nature and narrow strips of land will be acquired in scattered stretches, so only a small part of land will come under acquisition in any mouza, that too not in continuous stretch. As such, the issue of affecting livelihood of agricultural workers, even if they are engaged, certainly does not call for major consideration in the instant case. Identification of genuine claimants solely dependent on such narrow strips of land would be rather difficult, if not impossible. Accordingly, no separate provision has been made for the agricultural workers.

4. Specific of the policy -

(1) Share Croppers

i. Registered share croppers shall be entitled to get 50% of the compensation amount payable to the landowner, which includes market value of land as may be determined for acquisition of such land, 30% solatium and additional compensation @ 12% per annum (for the period between publication of notice Under Section 4 and declaration of award Under Section 11 of the Land Acquisition Act-I of 1894) plus additional financial assistance in the form of wage of unskilled labour as per MGNREGA (presently Rs.100.00 per day) for 340 days, per acre of land to be acquired, the entire sum to be provided in one lump, before taking possession of land.

ii. Unregistered share croppers will be allowed to get themselves registered by applying to the BL & LRO within a period of one and half months from the date of issuance of notification Under Section 4 of the LA Act-I and awareness campaign will be made for this purpose in the locality through wide publicity. Upon registration, they shall be entitled to the compensation package, stated in paragraph 4.1.(i) above.

However, any unregistered share cropper not being able to avail himself of such opportunity of getting himself registered due to some reason or the other, shall, subject to the findings of local enquiry by the competent authority, to be designated by the Collector of the district, be entitled to get 50% of the amount payable to the registered share croppers on account of land (i.e. 50% of 50% of the compensation amount for land value including solatium and additional compensation, as stated in paragraph 4.1.(i) above) plus additional financial assistance in the form of wage of unskilled labour as per MGNREGA (presently Rs. 100.00 per day) for 340 days, per acre of land to be acquired, the entire sum to be provided in one lump, before taking possession of land.

(2) Affected families having household properties or similar structures

i. Each affected family having house or similar structure within the land proposed to be acquired, shall be entitled to get one time relocation grant of Rs.2000.00 for shifting of the structures, irrespective of the financial status of the family and the number of such structures.

ii. Each affected BPL family, in addition to the relocation grant stated in paragraph 4.2.(i) above, shall further be entitled to get an additional one time house building grant admissible under Indira Abas Yojana.

iii. Financial assistances stated in 4.2.(i) and (ii) above shall be considered in addition to the compensation payable as per general provisions of LA Act-I of 1894, stated under "A. Acquisition of Land" and are to be provided before taking possession of land.

5. State Finance Department has concurred to provide the additional budgetary support to the Irrigation & Waterways Department, so as to make the fund available to the Collector or his authorized representatives required for acquisition of land as well as implementation of the rehabilitation packages, out of State's Share payable for such centrally assisted scheme, vide their Group-N U.O. No. 1182 dated 16.10.09 and Group- F U.O. No.389 dated 20.10.09. Administrative approval to the whole Project, estimated to cost Rs.5032.00 crore containing various provisions including acquisition of land along with financial rehabilitation package stated above, has recently been accorded, with concurrence of the Finance Department, vide Group-F U.O. No.415 dated 27.09.10. Incidentally, the project is implemented under joint Centre-State effort with sharing of cost between the Gol and the GoWB in the ratio of 75:25.

6. In the context of above, the policy for financial rehabilitation is placed in the next meeting of the cabinet as a 'mention case', as per direction of the Hon'ble Chief Minister.

— ● —
The Calcutta Gazette
Extraordinary
Published by Authority

ASADHA 2]

THURSDAY, JUNE 23, 2011

[SAKA 1933

**Government of West Bengal
Land and Land Reforms Department**

NOTIFICATION

No. 3307-L.A. – the 23rd June, 2011 – In exercise of the power conferred by section 9 of the Singur Land Rehabilitation and Development Act, 2011 (West Ben. Act IV of 2011), the Governor is pleased hereby to make the following rules, namely :-

RULES

1. Short title and commencement. – (1) These rules may be called the Singur Land Rehabilitation and Development Rules, 2011.

(2) They shall come into force with effect from the date of their publication in the Official Gazette.

2. Definitions – In these context, unless otherwise requires,

(1) “Act” means the Singur Land Rehabilitation and Development Act, 2011.

(2) “Committee” means the High Power Committee constituted under rule 4:

(3) “Unwilling owner” means owner of plot of land within the Schedule to the Act whose land was sought to be acquired and who has not accepted compensation;

(4) Words and expressions used and not defined but defined in the Act, shall have the same meanings as respectively assigned to them in the Act.

3. Transfer of land to unwilling owners. – The State Government shall, by way of grant under the Government Grants Act, 1895 (15 of 1895), give equivalent quantum of land to unwilling owners who have not accepted the compensation out of the land mentioned in the Schedule to the Act, which need not on the specific plot of land of any unwilling owner or award compensation, on the basis of decision taken by the High Power Committee.

4. High Power Committee - (1) For the purpose of effective implementation of rule 3 above, the State Government hereby constitute a High Power Committee comprising following members:-

1	Minister-in-Charge, Department of Commerce and Industries, Government of West Bengal	Chairman
2	Minister-in-Charge, Law & Judicial Department	Vice-Chairman
3	Member of Parliament, Hooghly Parliamentary Constituency	Member
4	Sabhadhipati Zilla Parishad, Hooghly	Member
5	Member of Legislative Assembly, Singure Assembly Constituency	Member
6	Member of Legislative Assembly, Haripal Assembly Constituency	Member
7	Land Reforms Commissioner and Principal Secretary, Land and Land Reforms Department, Government of West Bengal	Member
8	Director of Land Records and Surveys, West Bengal	Member
9	Member, Zilla Parishad, Singur	Member
10	Additional District Magistrate (L.A.), Hooghly	Member
11	Additional District Magistrate and District Land and Land Reforms Officer, Hooghly	Member
12	Sabhapati, Singur Panchayat Samiti	Member
13	Block Development Officer, Singur Block	Member
14	Block Land and Land Reforms Officer, Singur Block	Member
15	Pradhan Gram Panchayat, Beraberi	Member
16	Pradhan Gram Panchayat, Gopalnagar	Member
17	Pradhan Gram Panchayat, KGD	Member
18	Pradhan Gram Panchayat, Singur	Member
19	District Magistrate and Collector, Hooghly	Member – Secretary

(2) The Member Secretary shall convene the meeting of the Committee under the direction of the Chairman or Vice-Chairman.

(3) The quorum for the meeting of the Committee shall be ten. In absence of Chairman, the Vice Chairman shall chair the meeting of the Committee. The decision of the majority of the members present shall prevail.

- (4) All documents / evidence in support of any claim of right or interest or objection in respect of plot within the schedule shall be submitted to the Committee within thirty days from the date of commencement of these rules.
- (5) The Committee shall decide all claims, counter claims and objections, if any, and after hearing the parties, make order for grant of land and/or compensation as may be decided in respect of the parties before it subject to such conditions, restriction and directions, as the Committee may consider to be just and equitable or in public interest.
- (6) the Committee shall also see the interest of the land less labourers and others like bargadar/ non-bargadar etc.
- (7) The Committee shall act as expeditiously as possible.
- (8) The decision of the Committee with respect for grant of land and/or compensation to the unwilling owners shall be final.

By order of the Governor,
R. D. Meena.
Pr. Secy, to the Govt. of West Bengal

Resolution of the High Power Committee formed under rule 4 of rules framed under sec. 9 of SLRD Act, 2011 on 25/06/2011 at 6 pm at meeting hall, New Circuit House, Chuchura, Hooghly;

Members Present: Separate sheet enclosed

The District Magistrate, Hooghly & Member-Secretary, High Power Committee welcomed the dignitary members of the Committee and requested the Chairman of the High Power Committee & Hon'ble MIC, Commerce & Industries Department to take chair & initiate discussion.

Hon'ble MIC, Commerce & Industries Department, Hon'ble MIC, Law & Justice Department, Hon'ble MIC, School Education Department, Sri Becharam Manna, Honble MLA & the Principal Secretary, L & LR Department took active part in the discussion.

Chairman & Hon'ble MIC, Sri Partha Chatterjee declared in the opening speech that about 407 acres of vacant land in mouzas of Gopalnagar, Beraberi & Khaserbheri has been identified for carving out 244.19 acres land for unpaid awardees & 51.62 acres of land for awardees involved u/s 30 of L.A. Act, 1894.

After threadbare discussion the important decisions resolved in the committee are as follows:

- Special camp office will be set up at the office of the BDO, Singur for monitoring & facilitating the receipt of claim petitions from the unwilling farmers/ owners including those who could not receive the claim for want of title verification.
- The Camp Office would have two types of cells comprising the officials from DLLRO, Land Acquisition, BLLRO set up-one for verifying those category of land records of claimants having no dispute (clear cases) and the other for verifying category of land records having dispute (disputed cases) & verification of status of recorded bargadars under the unwilling owners for payment of compensation.
- Both the cells will verify the title/ownership of claimants & place before the Collector, Hooghly for taking final decision on claims.
- LRC, West Bengal & Principal Secretary, L&L.R. Department impressed upon the verification of the title/ownership of the unwilling farmers/owners expeditiously & for detailed survey / demarcation of the plot of lands to be handed over to the unwilling farmers.
- Hon'ble MIC, Law & Justice Department emphasized on issuance of notice for inviting claims & format of claim petitions to be given immediately, to the unwilling farmers/ owners for presenting the claims.
- District Magistrate, Hooghly stated that ADM(LR) & DLLRO, Hooghly will be the Nodal Officer for monitoring the land return (verification & survey) to the unwilling farmers at Singur Site & ADM(LA), Hooghly will coordinate & supervise the process at the district hqr.
- DLR&S, West Bengal will send special teams of technical personnel for undertaking survey & demarcation of lands identified for return to the unwilling farmers.

- The deed of Grant/Settlement will be prepared & finalized by the L & LR Department.
- The decisions of the Committee with respect to grant of land and / or compensation to the unwilling owners shall be final.

The meeting ended with thanks to & from the chair.

Partha Chatterjee
Chairman, High Power Committee

●

**Government of West Bengal
Land and Land Reforms Department
L.A. Branch
Writers' Buildings, Kolkata-700001**

Memo No. 3106(19)/L.A./3M-150/11(Pt.II)

Date : 06.06.2012

From : L.R.C. & Principal Secretary,
Land & Land Reforms Department

To : i) The Collector,
ii) The 1st L.A.C., Kolkata
5, Bankshall Street, Kolkata-700001.

Sub : The West Bengal Land Acquisition Laws (Amendment & Validation) Act, 2011

Sir/Madam,

I am to send herewith a copy of the West Bengal Land Acquisition Laws (Amendment & Validation) Act, 2011 published in the Kolkata Gazette dated 29.05.2012 and to request you to take necessary steps towards conclusion of the L.A. cases pending under the West Bengal Land (Requisition and Acquisition) Act, 1948, as re-enacted by the West Bengal Land (Requisition and Acquisition) Re-enacting Act, 1977 with due observance to the following instruction :-

- i) Collector shall also serve notice u/s. 9(3B) of the LA (WB Amdt.) Act, 1997 for such notices u/s. 4(1a) of the WB L.A. Act II of 1948 which were published on or before 31.03.1992 but LA awards were not declared on or before 31.03.1995.
- ii) Collector shall move the Hon'ble Court for modification of the order(s) already passed in favour of issuing notices u/s 9(3A) instead of notice u/s 9(3B).
- iii) My instruction issued under no. LRC/15/12 dated 06.02.2012 is hereby withdrawn.

You are further requested to communicate this Department immediately in case of confusion, if any, towards implementation of the West Bengal Land Acquisition Laws (Amendment & Validation) Act, 2011.

Encl : As stated.

Yours faithfully,
R.D. Meena
L.R.C. & Principal Secretary
Land & Land Reforms Department

Memo No.3106(19)/1(80)/L.A.

Date : 06.06.2012

Copy with a copy of the said Act (West Bengal Act XXI of 2011) forwarded for information to the :-

- 1) (All Deptt.)
- 2), Additional Secretary, L&L.R. Department
- 3), Joint Secretary, L&L.R. Department
- 4), Assistant Secretary, L&L.R. Department
- 5), O.S.D., L&L.R. Department
- 6) Survey Section of this Deptt.

Sd/-Illegible
Joint Secretary to the
Government of West Bengal

Government of West Bengal
Law Department
Legislative

NOTIFICATION

No. 722-L.— 29th May, 2012. — The following Act of the West Bengal Legislature, having been assented to by the President of India, is hereby published for general information —

West Bengal Act XXI of 2011
The West Bengal Land Acquisition Laws
(Amendment and Validation) Act, 2011.

[Passed by the West Bengal Legislature.]
[Assent of the President of India was first published in the Kolkata Gazette,
Extraordinary, of the 29th May, 2012.]

An Act to amend the Land Acquisition Act, 1894, in its application to West Bengal and the Land Acquisition (West Bengal Amendment) Act, 1997 and to validate the action taken thereto.

Whereas it is expedient to amend the Land Acquisition Act, 1894, in its application to West Bengal and the Land Acquisition (West Bengal Amendment) Act, 1997 and to validate the action taken thereto and in the manner hereinafter appearing;

It is hereby enacted in the Sixty-second Year of the Republic of India, by the Legislature of West Bengal, as follows :-

Short title and commencement.

- 1.** (1) This Act may be called the West Bengal Land Acquisition Laws (Amendment and Validation) Act, 2011
(2) It shall be deemed to have come into force with effect from the 1st day of April, 1997.

Application and amendment of sub-section (3B) of section 9 of Act 1 of 1894

- 2.** (1) The Land Acquisition Act, 1894 (hereinafter referred to as the principal Act), shall, in its application to West Bengal, be amended for the purpose and in the manner hereinafter provided.
(2) In sub-section (3B) of section 9 of the principal Act, to the second proviso, the following proviso shall be added :-

“Provided also that in respect of acquisition of land made in accordance with the provisions of law in force prior to coming into force of the Land Acquisition (West Bengal Amendment) Act, 1997 (hereinafter referred to as the said Act) and subsequently notice issued and published under sub-section (1a) of section 4 of the West Bengal Land (Requisition and Acquisition) Act, 1948, as re-enacted by the West Bengal Land (Requisition and Acquisition) Act, 1948, as re-enacted by the West Bengal Land (Requisition and Acquisition) Re-enacting Act, 1977, but lapsed, such notice shall be deemed to be valid and the process of acquisition shall be concluded within the British Calendar year 2015 in accordance with the provisions of sub-section (3B) of this section”.

- (3) In section 11A of the principal Act, in the second proviso, for the words, figure, letter and brackets “and sub-section (3B)”, the words, figure, letter and brackets “and sub-section (3B) except cases mentioned in the third proviso,” shall be substituted.

Amendment of section 1 of West Bengal Act VII of 1997

- 3.** The Land Acquisition (West Bengal Amendment) Act, 1997, for sub-section (2) of section I, the following sub-section shall be substituted :-
“(2) It shall be deemed to have come into force on the 1st day of April, 1997”.

Validation

- 4.** (1) Notwithstanding anything contained in any judgement, decree or order of any court, tribunal or other authority —

- (i) the notices issued under the principal Act as amended by section 2 above, or
(ii) the notices issued under the principal Act as amended by section 3 above.

as the case may be, shall, for all purposes, be deemed to be and to have always been validly issued in accordance with the provisions of the Land Acquisition Act, 1894, as amended by the said Act and this Act, and accordingly —

- (a) No suit or other proceeding shall be maintained or continued in any court for claiming compensation;
(b) No court or other authority shall enforce any decree or order directing payment of compensation.
(c) Anything done or any action taken or purported to have been taken or done under the principal Act shall be deemed to be and to have always been for all purposes, as validly and effectively taken or done as if the said amendments had been in force at all material time.

(2) For the removal of doubts, it is hereby declared that nothing in sub-section (1) of this section shall be construed as preventing any person from claiming compensation in accordance with the provisions of section 23, read with first proviso to sub-section (3B) of section 9, of the principal Act, as amended by this Act.

By order of the Governor,
B.K. Srivastava
Secy.-in-charge to the Govt. of West Bengal
Law Department

●

**Government of West Bengal
Land and Land Reforms Department
Writers' Buildings, Kolkata-700001**

No. LRC/110/12
3M-18/12

Dated, the 3rd October, 2012

From: Shri R. D. Meena, IAS
Land Reforms Commissioner & Principal Secretary,

To: The Additional Chief Secretary/ Principal Secretary/ Secretary
Department of
Government of West Bengal.

Sir,

The Hon'ble Chief Minister and Minister-in-Charge of Land and Land Reforms Department has desired that as per stated policy of the present Government there should not be any forceful acquisition of land for any project. She further desires that all Departments should follow this policy strictly and in cases where land is not free from land acquisition due to certain reasons the factual position must be brought to her knowledge.

Your are, therefore, requested to kindly advice your department as well as subordinate offices for strict compliance of the above policy.

Yours faithfully,
R.D. Meena
LRC & Principal Secretary

No. LRC/110(19)/12

Dated, the 3rd October, 2012

Copy forwarded for information and necessary action to :-

1. The District Magistrate & Collector,
2. 1st Land Acquisition Collector, Kolkata

R.D. Meena
LRC & Principal Secretary