

The Land Acquisition (Gujarat Unification and Amendment) Act, 1963

20 of 1965

Keyword(s):

Land, Acquisition, Accommodation, Injunction

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PART IV

Acts of the Gujarat Legislature and Ordinances promulgated and Regulations made by the Governor.

The following Act of the Gujarat Legislature, having been assented to by the President on the 4th July 1965 is hereby published for general information.

B. V. PARANJAPE,
Joint Secretary to Government,
Legal Department.

GUJARAT ACT NO. 20 OF 1965.

(First published, after having received the assent of the President in the "Gujarat Government Gazette" on the 9th July 1965).

An Act to provide for uniform application of the Land Acquisition Act, 1894 in the whole of the State of Gujarat and to amend that Act for that purpose and certain other purposes.

It is hereby enacted in the Fourteenth Year of the Republic of India as follows:—

1. (1) This Act may be called the Land Acquisition (Gujarat Unification and Amendment) Act, 1965.

(2) It extends to the whole of the State of Gujarat.

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

2. (1) The Land Acquisition Act, 1894 as amended in its application to the Bombay area of the State of Gujarat by the enactments specified in the Schedule is hereby extended to and shall be in force in, the Saurashtra area of the State of Gujarat.

Short title, extent and commencement.

Uniform application of Act I of 1894 throughout the State of Gujarat.

(2) The amendments made to the Land Acquisition Act, 1894 in its application to the Bombay area of the State of Gujarat by the enactments specified in the Schedule are hereby extended to, and shall be in force in, the Kutch area of the State of Gujarat and the Land Acquisition Act, 1894 shall, from the commencement of this Act be deemed to be amended accordingly also in that area.

Amendment
of section 1
of Act I of
1894.

3. In the Land Acquisition Act, 1894 in its application in accordance with the provisions of section 2 to the State of Gujarat (hereinafter referred to as "the principal Act"), in section 1, after sub-section (3) the following sub-section shall be inserted, namely:—

"(4) On and from the commencement of the Land Acquisition (Gujarat Unification and Amendment) Act, 1963, this Act shall also extend to, and be in force in, the Saurashtra area of the State of Gujarat."

Amendment
of section 3
of Act I of
1894.

4. (1) In clause (f) of section 3 of the principal Act,

(a) the word "and" occurring after sub-clause (1) shall be deleted;

(b) after sub-clause (2), the following shall be added, namely:—

"and

(3) a housing scheme which the State Government may from time to time undertake for the purpose of increasing accommodation for housing persons and shall include any such scheme undertaken from time to time with the previous sanction of the State Government by a local authority or company; "

(2) Nothing in sub-section (1) shall affect the provisions of the Land Acquisition (Bombay Amendment) Act, 1948.

Amendment
of section 3A
of Act I of
1894.

5. In section 3A of the principal Act,

(1) for clause (ii), the following shall be substituted, namely:—

"(ii) to dig or bore into the subsoil;";

(2) for the word "and" at the end of clause (iii) and for clause (iv), the following shall be substituted, namely:—

"(iv) to set out the boundaries of the land likely to be needed and the intended line of the work (if any) likely to be done thereon;

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

(vi) to measure the land so likely to be needed; and

(vii) where otherwise the survey cannot be completed and the levels taken or the boundaries or lines marked, to cut down and clear away any part of any standing crop, fence or jungle;".

Insertion of
new section
3C in Act
I of 1894.

6. After section 3B of the principal Act, the following new section shall be inserted, namely:—

"3C. In the case of the whole of a survey number or sub-division of a survey number, as defined in the Bombay Land Revenue Code, 1879 as in force in the Bombay area, the Saurashtra area or, as the case may be, the Kutch area of the State of Gujarat, the area of such survey number or, as the case may be, sub-division as entered in the land records shall be deemed to be the measurement of the land comprising such survey number or sub-division."

Measurement
of land Com-
prising Survey
number or
sub-division.

7. In section 4 of the principal Act,—

(1) in sub-section (1), after the words "for any public purpose" the words "or for a Company" shall be inserted;

Amendment
of section 4 of
Act I of 1894.

(2) in sub-section (2), for the words beginning with words "to mark such levels" and ending with words "trenches; and" the following shall be substituted, namely:—

"to mark such levels, boundaries and line by placing marks and cutting trenches; to measure the land likely to be needed, and".

8. In section 8 of the principal Act, for the words "cause it to be measured" the words, brackets, figures and letters "cause the land (unless it has already been measured under section 3A or 4 or deemed to be measured under section 3C) to be measured" shall be substituted.

Amendment
of section 8
of Act I of
1894.

9. In section 9 of the principal Act, in sub-section (2), for the words and figure "measurements made under section 8" the words, figures and letters "measurements according to section 3C or made under section 3A, 4 or 8" shall be substituted.

Amendment
of section
9 of Act I of
1894.

10. Section 11 of the principal Act shall be renumbered as sub-section (1) of that section and

Amendment
of section 11
of Act I of
1894.

(1) in sub-section (1) so renumbered for the proviso, the following provisos shall be substituted, namely:—

"Provided that no award shall be made by the Collector under this section without the previous approval of the State Government or of such superior officer as the State Government may authorise in this behalf :

Provided further that it shall be competent to the State Government to direct that the Collector or such class of officers specially appointed by the State Government to perform the functions of a Collector under this Act may make such award without such approval in such class of cases as the State Government may specify in this behalf."

(2) after sub-section (1), the following sub-sections shall be inserted, namely:—

"(2) Notwithstanding anything contained in sub-section (1), if at any stage of the proceedings, the Collector is satisfied that all the persons interested in the land who appear before him are agreeable to the award which he proposes to make under this section, the Collector may without making further enquiry, require such persons to execute an agreement in the form prescribed by the State Government and make an award according to the terms of such agreement.

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

(4) Notwithstanding anything contained in the Indian Registration Act, 1908 no agreement made under sub-section (2) shall be liable to registration under that Act."

XVI
of
1908.

11. After section 11 of the principal Act, the following section shall be inserted, namely :—

Insertion of
section 11A
in Act I. of
1908.

Sums payable to Government to be specified in award.

"11A. If the land in respect of which an award is made under section 11 is land which according to the terms of its tenure is not transferable or partible by metes and bounds without the sanction of the State Government or any other competent Officer, then out of the amount of compensation awarded therefor a sum, which would have been payable to the State Government under any law for the time being in force, had the land been otherwise transferred, shall be payable to the State Government and the Collector shall specify in the award the sum so payable to the State Government."

Amendment of section 17 of Act I of 1894.

12. In section 17 of the principal Act, in sub-section (1), the words "waste or arable" shall be deleted.

Insertion of new section 17A in Act I of 1894.

13. In part II of the principal Act, after section 17 the following new section shall be inserted, namely:—

Use of land for any public purpose permitted.

"17 A. When any land vests in the State Government or in a corporation owned or controlled by the State Government under the provisions of this Act, it shall be lawful, with the previous sanction of the State Government, to use such land also for any public purpose other than that for which its possession was taken."

Amendment of section 23 of Act I of 1894.

14. In section 23 of the principal Act, in sub-section (1)—

(i) in clause "fourthly" the following shall be added at the end, namely:—

"and where the person interested is a tenant of the land, only the damage sustained by him by reason of the acquisition injuriously affecting his right as a tenant;"

(ii) at the end of clause *fifthly* the word "and" shall be deleted and after clause *sixthly* the following shall be added, namely:—

"and *seventhly*, in the case of any land which according to the terms of the tenure on which it is held is not transferable or partible by metes and bounds without the sanction of the State Government or any competent officer, the market value of similar land held without such restriction."

Amendment of section 28 of Act I of 1894.

15. In section 28 of the principal Act, for the word "four" the words "four and a half" shall be substituted.

Amendment of section 34 of Act I of 1894.

16. In section 34 of the principal Act, for the word "four" the words "four and a half" shall be substituted.

Amendment of section 35 of Act I of 1894.

17. In section 35 of the principal Act, in sub-section (1) the words "waste or arable" shall be deleted.

Amendment of section 39 of Act I of 1894.

18. In section 39 of the principal Act, for the figure "6" the figure "4" shall be substituted.

Amendment of section 40 of Act I of 1894.

19. In section 40 of the principal Act, in sub-section (1), the words, figure, letter and brackets "either on the report of the Collector under section 5A sub-section (2), or" shall be deleted.

20. In section 41 of the principal Act, the words, figures, brackets and letter "after considering the reports, if any, of the Collector under section 5A, sub-section (2) or" shall be deleted.

Amendment of section 41 of Act I of 1894.

21. After section 47 of the principal Act, the following section shall be inserted namely :—

Insertion of section 47A in Act I of 1894.

"47 A. (1) In the application of this Act, to the State of Gujarat, for section 47 the provisions of sub-sections (2) and (3) of this section shall be substituted.

Executive Magistrate or Commissioner of Police to enforce surrender of land or closure of easement.

(2) If the Collector is opposed or impeded in taking possession under this Act of any land or in preventing enjoyment of any easement extinguished under this Act, he shall, if a District Magistrate, enforce the surrender of the land to himself, or the closure of such easement and if not such Magistrate, he shall apply in any area for which a Commissioner of Police has been appointed to the Commissioner of Police and elsewhere to any Executive Magistrate and such Commissioner or Magistrate shall enforce the surrender of the land to the Collector, or as the case may be, the closure of such easement.

(3) Any action taken by a Collector, Magistrate or Commissioner of Police under sub-section (2) shall not be questioned in any Civil Court and no injunction shall be issued by such Court for restraining such action, but the aggrieved party shall be entitled in such Court to reasonable compensation for any damage suffered by him by reason of the powers under this section being exercised by any such officer wrongfully or without authority."

22. After section 49 of the principal Act, the following section shall be inserted, namely :—

Insertion of section 49A in Act I of 1894.

"49 A. (1) Where the owner has expressed a desire under sub-section (1) of section 49 that the whole of the house, manufactory or building shall be acquired, the provision of that sub-section shall have effect only when the Collector is satisfied that the acquisition of a part of such house, manufactory or building shall so adversely affect the use of the remaining part for the purpose for which it was being used, as to justify the acquisition of the whole of the house, manufactory or, as the case may be, building.

Additional circumstances in which section 49 shall have effect.

(2) Where under the proviso to sub-section (1) of section 49, the owner withdraws or modifies the desire expressed by him it shall be lawful for the Collector to put in force the provisions of this Act for the acquisition of such part of the house, manufactory or building as may be in conformity with such withdrawal or modification."

23. In section 50 of the principal Act, in sub-section (2) for the words "may appear and adduce evidence" the words "shall be called upon to appear and adduce evidence, if any," shall be substituted.

Amendment of section 50 of Act I of 1894.

24. Section 52 A of the principal Act shall be renumbered as sub-section (1) of that section and after that sub-section the following sub-section shall be inserted, namely :—

Amendment of section 52A of Act I of 1894.

"(2) The State Government may, by notification in the *Official Gazette*, direct that the powers exercisable by it under this Act, except the power to make rules

under section 55, shall in such circumstances and under such conditions, if any, as may be specified in such notification be exercisable also by an officer subordinate to it not below the rank of a Collector."

Repeal
and
saving.

25. (1) On the commencement of this Act, the Land Acquisition Act, 1894 (Adaptation and Application) Ordinance, 1948, as in force in the Saurashtra area of the State of Gujarat immediately before such commencement shall stand repealed. Sau.
Ord.
XXI of
1948.

(2) The repeal of the Ordinance under sub-section (1) shall not affect,—

- (a) the previous operation thereof;
- (b) any right, privilege, obligation or liability acquired, accrued or incurred thereunder;
- (c) any penalty, forfeiture or punishment incurred in respect of any offence thereunder; or
- (d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment, and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed under the corresponding provisions of the principal Act.

(3) Anything done or any action taken under the provisions of the Ordinance so repealed shall, in so far as it is not inconsistent with the provisions of the principal Act be deemed to have been done or taken under the corresponding provisions of the principal Act and shall continue to be in force, unless and until superseded by anything done or any action taken under the principal Act.

Saving.

26. Nothing in this Act shall be deemed to affect the acquisition of land for which the appropriate Government is the Central Government.

SCHEDULE

(See section 2)

Enactments amending the Land Acquisition Act, 1894 in its application to the Bombay area of the State of Gujarat.

Year.	No.	Short title of the enactment.	Sections providing for amendment of the Land Acquisition Act, 1894.
1938	XVIII	The Land Acquisition (Bombay Amendment) Act, 1938.	2
1945	XX	The Land Acquisition (Bombay Amendment) Act, 1945.	2 to 4 (both inclusive)
1949	XXXV	The Bombay Land Acquisition Officers Proceedings Validation Act, 1949.	6
1950	XXVII	The Land Acquisition (Bombay Amendment) Act, 1950.	2
1953	XXXV	The Land Acquisition (Bombay Amendment) Act, 1953.	2 to 11 (both inclusive)
1958	XII	The Land Acquisition (Bombay Amendment) Act, 1957.	2