

## The Land Acquisition (Maharashtra Extension and Amendment) Act, 1964

Act 38 of 1964

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Amendment appended: 24 of 1965

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**THE LAND ACQUISITION (MAHARASHTRA EXTENSION AND  
AMENDMENT) ACT, 1964.**

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**PREAMBLE.**

**SECTIONS.**

1. Short title, extent and commencement.
2. Extension of Act I of 1894 and rules thereunder as in force in Bombay area to other areas in Maharashtra State, subject to certain modifications.
3. Amendment of sections 3 and 18 of Act I of 1894 as extended .
4. Savings.

## MAHARASHTRA ACT No. XXXVIII OF 1964.<sup>1</sup>

[THE LAND ACQUISITION (MAHARASHTRA EXTENSION AND  
AMENDMENT) ACT, 1964.]

[6th October 1964]

An Act to extend the Land Acquisition Act, 1894, to the whole of the State of Maharashtra ; to provide as far as practicable for uniformity in the provisions of the Act in its application to the whole of the State ; and for those purposes further to amend the said Act.

**I of 1894** WHEREAS it is expedient to extend the Land Acquisition Act, 1894, to the whole of the State of Maharashtra ; to provide as far as practicable for uniformity in the provisions of the Act in its application to the whole of the State ; and for those purposes further to amend the said Act ; It is hereby enacted in the Fifteenth Year of the Republic of India as follows :—

1. (1) This Act may be called the Land Acquisition (Maharashtra Extension and Amendment) Act, 1964

Short title, extent and commencement.

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

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

**I of 1894, Bom. IV of 1948.** 2. On the commencement of this Act, the Land Acquisition Act, 1894 (hereinafter referred to as "the principal Act") and the rules made thereunder as in force in the Bombay area, except the Land Acquisition (Bombay Amendment) Act, 1948, shall extend and be in force throughout the State of Maharashtra ; and accordingly on such commencement,—

Extension of Act I of 1894 and rules thereunder as in force in Bombay area to other areas in Maharashtra State, subject to certain modifications.

(a) in section 1 of the principal Act,—

(i) in sub-section (2), after the words and letter "comprised in Part B States" the words, "other than the Hyderabad area of the State of Maharashtra" shall be inserted ;

(ii) in sub-section (3), after the figures "1894", the words, brackets and figures, "but in the Hyderabad area of the State of Maharashtra it shall come into force on such day as is appointed under sub-section (3) of section 1 of the Land Acquisition (Maharashtra Extension and Amendment) Act, 1964" shall be added ;

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**Hyd. IX of 1957.**

(b) the Land Acquisition Act as in force in the Hyderabad area of the State shall stand repealed ;

**Bom. XVII of 1960.**

(c) the Land Acquisition (Bombay Amendment) Act, 1960, shall stand repealed ;

<sup>1</sup> For Statement of Objects and Reasons, see *Maharashtra Government Gazette*, 1964, Part. V, p. 163.

- (d) (i) the amendments made in sections 28 and 34 of the principal Act, in its application to the Vidarbha region of the State, by the Central Provinces and Berar Land Acquisition (Amendment) Act, 1939 ; C.P. and Berar XXVII of 1939.
- (ii) the amendments made in sections 3 and 18 of the principal Act, in its application to the Vidarbha region of the State, by the Central Provinces and Berar Land Acquisition (Amendment) Act, 1949 ; and C.P. and Berar VII of 1939.
- (iii) the amendment made in section 17 of the principal Act, in its application to the Vidarbha region of the State, by the Central Provinces and Berar Land Acquisition (Second Amendment) Act, 1949 ; C.P. and Berar XXV-III of 1949.
- shall cease to have effect, and shall stand repealed ;
- (e) the amendments made in sections 28 and 34 of the principal Act by the Land Acquisition (Bombay Amendment) Act, 1938, and in force in the Bombay area of the State, shall be in force in the rest of the State ; Bom. XVIII of 1938.
- (f) the amendments made to the principal Act by—
- (i) sections 2 to 4 (both inclusive) of the Land Acquisition (Bombay Amendment) Act, 1945, Bom. XX of 1945.
- (ii) section 6 of the Bombay Land Acquisition Officers Proceedings Validation Act, 1949, Bom. XX-XV of 1949.
- (iii) section 2 of the Land Acquisition (Bombay Amendment) Act, 1950, Bom. XXV-II of 1950.
- (iv) sections 2 to 11 (both inclusive) of the Land Acquisition (Bombay Amendment) Act, 1953, Bom. XX-XV of 1953.
- (v) section 2 of the Land Acquisition (Bombay Amendment) Act, 1958, and Bom. XII of 1958.
- (vi) the notifications issued by the State Government under sub-section (4) of section 3 of the Bombay Commissioners of Divisions Act, 1957, for amending the principal Act in its application to the Bombay area of the State, Bom. VIII of 1958.
- shall extend and be in force throughout the State.

Amendments  
of sections  
3 and 18 of  
Act I of 1964  
as extended.

3. In the principal Act so extended and brought into force throughout the State of Maharashtra,—

(a) in section 3, in clause (d), for the words "the expression 'Court' means" the following shall be substituted, namely :—

"the expression 'Court' [except in sub-section (3) of section 18] means" ;

(b) to section 18, the following sub-section shall be added at the end, namely :—

"(3) Any order made by the Collector on an application under this section shall be subject to revision by the High Court, as if the Collector were a Court subordinate to the High Court within the meaning of section 115 of the Code of Civil Procedure, 1908." P of 1908.

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*Land Acquisition (Maharashtra  
and Amendment) Act, 1964*

Hyd. IX of 1309F. 4. The repeal, by clause (b) of section 2 of this Act, of the Land Acquisition Act, 1894, prevailing in the Hyderabad area of the State of Maharashtra shall not affect—

- (a) the previous operation of the Act so repealed ;
  - (b) any right, privilege, obligation or liability acquired, accrued or incurred under the Act so repealed ;
  - (c) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation or liability as aforesaid ;
- and any such investigation, legal proceeding or remedy may be instituted, continued or enforced as if this Act had not been passed :

Provided that, subject to the foregoing provision in this section, anything done or any action taken (including any appointment, authorization or delegation made, notice, notification, direction or order issued, survey, declaration or award made, enquiry held, agreement executed or published or possession taken, but excluding any rule framed) under the provisions of the repealed Act shall, in so far as it is not inconsistent with the provisions of the principal Act as extended and amended by this Act (hereinafter referred to as "the said Act"), be deemed to have been done or taken under the corresponding provisions of the said Act and shall continue in force, unless and until it is superseded by anything done or any action taken under the said Act.



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**THE LAND ACQUISITION (MAHARASHTRA AMENDMENT AND  
VALIDATION OF CERTAIN PROCEEDINGS FOR ACQUISITION OF LANDS)  
ACT, 1965.**

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**CONTENTS.**

**PREAMBLE.**

**SECTIONS.**

1. Short title and commencement.
2. Amendment of section 3 of Act I of 1894.
3. Amendment of section 6 of Act I of 1894.
4. Amendment of section 17 of Act I of 1894.
5. Validation of certain acquisitions and proceedings for acquisition of lands.
6. Repeal.

**MAHARASHTRA ACT No. XXIV OF 1965.<sup>1</sup>**

[THE LAND ACQUISITION (MAHARASHTRA AMENDMENT AND VALIDATION OF CERTAIN PROCEEDINGS FOR ACQUISITION OF LANDS) ACT, 1965.]

[26th March 1965]

**An Act further to amend the Land Acquisition Act, 1894 in its application to the State of Maharashtra and to validate certain acquisitions and certain proceedings for acquisition.**

WHEREAS by the Commissioner, Bombay Division's Notification No. LAQ-B. 7244-B, dated 5th January 1963 and No. LAQ-B. 7725, dated 20th March 1963 under the Land Acquisition Act, 1894 (I of 1894) (hereinafter referred to as "the principal Act") proceedings were taken for the acquisition of lands for the purposes specified in those notifications, namely, for development and utilisation of lands as an industrial area, and the former notification provided that as the Commissioner, Bombay Division, was of the opinion that the lands specified in the said notification were waste or arable, and that their acquisition was urgently necessary, the provisions of section 5A of the principal Act should not apply in respect of the said lands ;

AND WHEREAS, the High Court in Special Civil Application No. 1024 of 1963 (*S. S. Javeri vs. The State of Maharashtra*) has held that the proceedings for acquisition of lands initiated under the Commissioner, Bombay Division's notifications aforesaid were void on the ground that—

(a) the Commissioner, Bombay Division, before issuing his notification No. LAQ-B. 7725, dated the 20th March 1963 did not apply his mind to the question whether the lands specified in that notification were being acquired for a public purpose or for a Company, because under an admitted mistake as to the source from which the funds came, he could never have come to a correct decision as to whether or not there existed a public purpose ;

(b) as compensation was being paid by the Corporation constituted under the Maharashtra Industrial Development Act, 1961 (Mah. III of 1962) (hereinafter referred to as "the said Corporation") out of the sum advanced by way of loan by the State Government, the land was being acquired for the said Corporation which is a company within the meaning of the principal Act without following the provisions of Part VII of the principal Act ;

(c) possession of those lands was taken under the provisions of section 17 of the principal Act although the lands were cultivated lands, and therefore, not "arable" lands within the meaning of the said section 17, read with clause (aa) of section 3, of the principal Act ; and

(d) the Commissioner, Bombay Division did not apply his mind and state in the said notifications which lands were in fact arable, and which were in fact waste ;

AND WHEREAS, in pursuance of notifications under the principal Act, proceedings have been or are being taken for the acquisition of lands by following more or less the same procedure which was followed in connection with the acquisition of lands specified in the notifications of the Commissioner, Bombay Division, which

<sup>1</sup> For Statement of Objects and Reasons see *Maharashtra Government Gazette* 1965, Part V, Extra, page 24.

were held void by the High Court in Special Civil Application No. 1024 of 1963 aforesaid; and whereas, in certain acquisitions or proceedings for acquisition of lands, no statement has been made that the lands were waste or arable lands;

AND WHEREAS, after the date of the judgment in that case, certain lands were notified for acquisition and possession also taken, and those notifications have been cancelled and possession of the lands returned or is to be returned to the owners thereof in view of the judgment aforesaid;

AND WHEREAS, it is not possible to return the lands to the owners from whom they were taken in cases where the lands have already been developed, or have been disposed of with undertakings given for the development of those lands; and whereas in some cases although lands are neither developed nor disposed of as aforesaid, it is not possible to return the lands to the owners thereof as that would interfere with the planning and development of industrial areas;

AND WHEREAS, it is necessary further to amend the principal Act and validate certain acquisitions and proceedings for acquisition of lands; It is hereby enacted in the Sixteenth Year of the Republic of India as follows:—

Short title  
and  
commence-  
ment.

1. (1) This Act may be called the Land Acquisition (Maharashtra Amendment and Validation of Certain Proceedings for Acquisition of Lands) Act, 1965.

(2) It shall be deemed to have come into force on the 11th day of February 1965.

Amendment  
of section 3  
of Act I of  
1894.

2. In section 3 of the Land Acquisition Act, 1894 (hereinafter referred to as "the principal Act"), for clause (aa), the following shall be and shall be deemed always to have been substituted, namely:—

“(aa) the expression ‘arable land’ means land fit for cultivation, whether in fact cultivated or not; and includes garden land;”

Amendment  
of section 6  
of Act I of  
1894.

3. In section 6 of the principal Act, in sub-section (1), to the proviso, the following *Explanation* shall be and shall be deemed always to have been added, namely:—

“*Explanation.*—Where compensation to be awarded for such property is paid or to be paid out of any money provided by the State Government to a Company, being a corporation owned or controlled by the State, whether provided as loan, grant or otherwise howsoever, for the purpose of payment of the whole or part of the compensation, such compensation shall be deemed to be compensation paid or to be paid out of public revenues.”

Amendment  
of section 17  
of Act I of  
1894.

4. In section 17 of the principal Act, after sub-section (4), the following *Explanation* shall be and shall be deemed always to have been inserted, namely:—

“*Explanation.*—It shall not be necessary for the purpose of sub-section (1) for taking possession of any waste or arable land, to state separately which lands are waste and which are arable.”

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5. (1) Notwithstanding anything contained in any judgment, decree or order of any court, where any lands have been acquired or purported to be acquired, or where any proceedings have been taken or are being taken, for the acquisition of land for a public purpose or a Company, then subject to sub-section (2), every such acquisition or proceedings for acquisition shall be deemed to be valid and effectual, and shall not be invalid for any one or more of the following grounds, that is to say,—

(a) that any of the lands acquired or mentioned in any of the proceedings had been cultivated lands, and therefore were not "arable" lands ; or

(b) that in respect of lands which were in fact waste or arable, in any proceedings or notifications no statement was made that they were waste or arable lands or in any proceedings or notifications it was not specified which of the lands were arable and which waste, and that the authority issuing any notification did not apply its mind to the question whether the lands were arable or waste at all, or which of the lands were in fact arable, and which were in fact waste ; or

(c) that the whole or part of the compensation for such lands has been paid or is to be paid out of any sum provided, whether by way of loan, grant or otherwise howsoever by the State Government to a Company, such Company being a corporation owned or controlled by the State, and that since such sum had become part of the fund of the Company, and any part of the compensation was consequently not paid or to be paid out of public revenues, and that, therefore, Part VII of the principal Act should have been followed for the purposes of acquisition ; and that the authority issuing any notification in respect of such lands did not know correctly the source of the compensation awarded or to be awarded, and therefore, did not apply its mind to the question whether the lands acquired or to be acquired, were for a public purpose, or for a Company ;

and accordingly, the acquisition, purported acquisition, or proceedings, shall not be questioned in any court on any one or more of the grounds aforesaid, and any such lands acquired, or purported to be acquired shall be deemed to duly vest in the State Government, and such proceedings shall be deemed to be validly taken.

(2) The provisions of clause (c) of sub-section (1) shall not apply in respect of acquisitions or proceedings for acquisition of lands—

(i) in Special Civil Application No. 1024 of 1963 (*S. S. Jhaveri vs. The State of Maharashtra*) and Special Civil Application No. 1121 of 1963 (*Jogindarlal Shamlal vs. The State of Maharashtra*) ;

(ii) in respect of which notifications under sections 4 and 6 under the principal Act have been cancelled and the possession of lands has been returned or is to be returned by reason of the fact that the notifications under the principal Act were issued after the date of the judgment in Special Civil Application No. 1024 of 1963 (*S. S. Jhaveri vs. The State of Maharashtra*) and possession taken in pursuance thereof, and the lands were neither developed in any manner, nor disposed of.

6. The Land Acquisition (Maharashtra Amendment and Validation of Certain Proceedings for Acquisition of Lands) Ordinance, 1965, is hereby repealed ; and anything done or action taken by or under the Ordinance so repealed shall be deemed to have been done or taken under the principal Act as amended by this Act in so far as it is not inconsistent therewith.