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TO BE INTRODUCED IN LOK SABHA

Bill No. 98 of 2007

THE REHABILITATION AND RESETTLEMENT
BILL, 2007

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TO BE INTRODUCED IN LOK SABHA

Bill No. 98 of 2007

THE REHABILITATION AND RESETTLEMENT BILL, 2007

A

BILL

to provide for the rehabilitation and resettlement of persons affected by the acquisition of land for projects of public purpose or involuntary displacement due to any other reason, and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-eighth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Rehabilitation and Resettlement Act, 2007.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different States and any reference in this Act to the commencement of this Act shall, in relation to a State, be construed as a reference to the coming into force of this Act in that State.

Short title,
extent and
commencement.

Act to apply
cases of land
acquisition or
other
involuntary
displacement
of people.

2. The provisions of this Act shall apply to the rehabilitation and resettlement of persons affected by acquisition of land under the Land Acquisition Act, 1894 or any other Act of the Union or a State for the time being in force; or involuntary displacement of people due to any other reason. 1 of 1894.

Definitions.

3. In this Act, unless the context otherwise requires,—

(a) “Administrator for Rehabilitation and Resettlement” means an officer appointed for the purpose of rehabilitation and resettlement of affected persons under sub-section (1) of section 9.

(b) “affected family” means—

(i) a family whose primary place of residence or other property or source of livelihood is adversely affected by the acquisition of land for a project or involuntary displacement due to any other reason;

(ii) any tenure holder, tenant, lessee or owner of other property, who on account of acquisition of land (including plot in the *abadi* or other property) in the affected area or otherwise, has been involuntarily displaced from such land or other property;

(iii) any agricultural or non-agricultural labourer, landless person (not having homestead land, agricultural land, or either homestead or agricultural land), rural artisan, small trader or self-employed person; who has been residing or engaged in any trade, business, occupation or vocation continuously for a period of not less than five years in the affected area preceding the date of declaration of the affected area, and who has been deprived of earning his livelihood or alienated wholly or substantially from the main source of his trade, business, occupation or vocation because of the acquisition of land in the affected area or being involuntarily displaced for any other reason;

(c) “affected area” means area of village or locality notified by the appropriate Government under sub-section (1) of section 20;

(d) “agricultural labourer” means a person primarily resident in the affected area for a period of not less than five years immediately before the declaration of the affected area, who does not hold any land in the affected area but who earns his livelihood mainly by manual labour on agricultural land therein immediately before such declaration and who has been deprived of his livelihood;

(e) “agricultural land” means lands being used for the purpose of—

(i) agriculture or horticulture;

(ii) dairy farming, poultry farming, pisciculture, sericulture, breeding of livestock or nursery growing medicinal herbs;

(iii) raising of crops, grass or garden produce; and

(iv) land used by an agriculturist for the grazing of cattle, but does not include land used for cutting of wood only;

(f) “appropriate Government” means—

(i) in relation to acquisition of land for the purposes of the Union, the Central Government;

(ii) in relation to a project which is executed by a Central Government agency or undertaking or by any other agency on the orders or directions of the Central Government, the Central Government;

(iii) in relation to acquisition of land for purposes other than (i) and (ii) above, the State Government; and

(iv) in relation to rehabilitation of persons displaced due to any other reason, the State Government;

(g) "below poverty line or BPL Family" means below poverty line families as defined by the Planning Commission of India, from time to time, and those included in a BPL list for the time-being in force;

(h) "Commissioner for Rehabilitation and Resettlement" means the Commissioner for Rehabilitation and Resettlement appointed by the State Government under sub-section (1) of section II;

(i) "DDP block" means a block identified under the Desert Development Programme of the Government of India;

(j) "family" includes a person, his or her spouse, minor sons, unmarried daughters, minor brothers, unmarried sisters, father, mother and other relatives residing with him or her and dependent on him or her for their livelihood; and includes "nuclear family" consisting of a person, his or her spouse and minor children;

(k) "holding" means the total land held by a person as an occupant or tenant or as both;

(l) "land acquisition" or "acquisition of land" means acquisition of land under the Land Acquisition Act, 1894, as amended from time to time, or any other Act of the Union or a State for the time being in force;

(m) "marginal farmer" means a cultivator with an unirrigated land holding up to one hectare or irrigated land holding up to half hectare;

(n) "non-agricultural labourer" means a person who is not an agricultural labourer but is primarily residing in the affected area for a period of not less than five years immediately before the declaration of the affected area and who does not hold any land under the affected area but who earns his livelihood mainly by manual labour or as a rural artisan immediately before such declaration and who has been deprived of earning his livelihood mainly by manual labour or as such artisan in the affected area;

(o) "notification" means a notification published in the Gazette of India, or as the case may be, the Gazette of a State;

(p) "occupier" means a member of a Scheduled Tribes community in possession of forest land prior to the 13th day of December, 2005;

(q) "Ombudsman" means the person appointed under section 14 for redressal of grievances;

(r) "prescribed" means prescribed by rules made under this Act;

(s) "project" means a project involving involuntary displacement of people, irrespective of the number of persons affected;

(t) "requiring body" means a company, a body corporate, an institution, or any other organisation for whom land is to be acquired by the appropriate Government, and includes the appropriate Government, if the acquisition of land is for such Government either for its own use or for subsequent transfer of such land in public interest to a company, body corporate, an institution, or any other organisation, as the case may be, under lease, licence or through any other mode of transfer of land;

(u) "resettlement area" means an area so declared under section 25 by the appropriate Government;

(v) "small farmer" means a cultivator with an un-irrigated land holding up to two hectares or with an irrigated land holding up to one hectare, but more than the holding of a marginal farmer.

CHAPTER II

SOCIAL IMPACT ASSESSMENT OF PROJECTS

Social impact assessment study in certain cases.

4. (1) Whenever, it is desired to undertake a new project or expansion of an existing project, which involves involuntary displacement of four hundred or more families en masse in plain areas, or two hundred or more families en masse in tribal or hilly areas, DDP blocks or areas mentioned in the Fifth Schedule or Sixth Schedule to the Constitution, the appropriate Government shall ensure that a social impact assessment study is carried out in the proposed affected areas in the manner as may be prescribed.

(2) While undertaking a social impact assessment under sub-section (1), the appropriate Government shall, *inter alia*, take into consideration the impact that the project will have on public and community properties, assets and infrastructure; particularly, roads, public transport, drainage, sanitation, sources of drinking water, sources of water for cattle, community ponds, grazing land, plantations, public utilities, such as post offices, fair price shops, food storage godowns, electricity supply, health care facilities, schools and educational or training facilities, places of worship, land for traditional tribal institutions, burial and cremation grounds.

(3) The appropriate Government may specify that the ameliorative measures, which will need to be undertaken for addressing the said impact for a specific component, may not be less than what is provided under a scheme or programme, in operation in that area, of the Central Government or, as the case may be the State Government.

Independent multi-disciplinary expert group to examine the social impact assessment report.

5. (1) The social impact assessment report shall be submitted to the appropriate Government for its examination by an independent multi-disciplinary expert group, as may be notified by the appropriate Government.

(2) The expert group shall consist of the following persons, namely—

(a) two non-official social scientist and rehabilitation experts, to be nominated by the appropriate Government;

(b) the Secretary of the departments of the appropriate Government concerned with the welfare of the Scheduled Castes and the Scheduled Tribes or his nominee, *ex officio*; and

(c) a representative of the requiring body, to be nominated by the appropriate Government.

Concurrent social impact assessment study in cases requiring environmental impact assessment study.

6. (1) Wherever it is required, as per the provisions of any law, rules and guidelines issued thereunder, to undertake environmental impact assessment, the social impact assessment study shall be carried out simultaneously with the Environmental Impact Assessment study.

(2) The public hearing undertaken in the project affected area for the environmental impact assessment shall also cover issues relating to social impact assessment.

(3) A copy of the social impact assessment report shall be made available to the Impact Assessment Agency authorised in respect of environmental impact assessment by the Central Government in the Ministry of Environment and Forests, and a copy of the environmental impact assessment report shall be shared with the expert group notified under section 5.

Social impact assessment clearance.

7. (1) The social impact assessment clearance shall be granted in such manner and within such time as may be prescribed.

(2) The conditions laid down in the social impact assessment clearance shall be followed by all concerned, including the Administrator for Rehabilitation and Resettlement while preparing and implementing the rehabilitation and resettlement plan.

(3) The concealment of any factual data or submission of false or misleading data or reports, may lead to the social impact assessment clearance being rejected and clearance, if any granted on the basis of data which subsequently found to be false, may be revoked.

8. The projects involving emergency acquisition of minimum area of land by the Central Government in for the purpose of defence or national security shall be exempted from the provisions of this Chapter, subject to such institutional safeguards as may be prescribed for protecting the interests of the affected families.

Exemption
from social
impact
assessment.

CHAPTER III

AUTHORITIES FOR REHABILITATION AND RESETTLEMENT

9. (1) Where the appropriate Government is satisfied that there is likely to be involuntary displacement of large number of persons due to acquisition of land for any project or due to any other reason, and where there is likely to be displacement of—

Administrator
for
Rehabilitation
and
Resettlement.

(a) four hundred or more families *en masse* in plain areas; or

(b) two hundred or more families *en masse* in tribal or hilly areas, DDP blocks or areas mentioned in the Fifth Schedule or Sixth Schedule to the Constitution,

then the State Government shall, by notification, appoint in respect of that project, an officer not below the rank of District Collector to be the Administrator for Rehabilitation and Resettlement:

Provided that if the appropriate Government in respect of such project is the Central Government, the appointment shall be made in consultation with the Central Government:

Provided further that in case of projects involving displacement of less than four hundred families *en masse* in plain areas, or less than two hundred families *en masse* in tribal or hilly areas, DDP blocks or areas mentioned in the Fifth Schedule or Sixth Schedule to the Constitution, the State Government may, by notification, appoint in respect of that project, an officer not below the rank of Deputy Collector or Sub-Divisional Officer to be the Administrator for Rehabilitation and Resettlement.

(2) The Administrator for Rehabilitation and Resettlement shall be assisted by such officers and employees as the State Government may decide.

10. (1) Subject to the superintendence, directions and control of the appropriate Government and the Commissioner for Rehabilitation and Resettlement, the Administrator for Rehabilitation and Resettlement shall take all measures for the rehabilitation and resettlement of the affected families.

Powers and
functions of
Administrator.

(2) The formulation, execution and monitoring of the rehabilitation and resettlement plan shall vest in the Administrator for Rehabilitation and Resettlement.

(3) Subject to any general or special order of the appropriate Government, the Administrator for Rehabilitation and Resettlement shall perform the following functions, namely:—

(i) minimise displacement of persons and to identify non-displacing or least displacing alternatives in consultation with the requiring body;

(ii) hold consultation with the affected persons while formulating a rehabilitation and resettlement scheme or plan;

(iii) ensure that the interests of the adversely affected persons of the Scheduled Tribes and weaker sections are protected while formulating the rehabilitation and resettlement scheme or plan;

(iv) prepare a scheme or plan of rehabilitation and resettlement as required under Chapter V;

(v) prepare a budget including estimated expenditure of various components of acquisition of land, rehabilitation and resettlement activities or programmes in consultation with representatives of the affected families and the requiring body;

(vi) arrange land for rehabilitation and resettlement of the affected families;

(vii) allot land and ensure providing of benefits to the affected families; and

(viii) perform such other functions as the appropriate Government may, from time to time, by order in writing, assign.

(4) The Administrator for Rehabilitation and Resettlement may, by order in writing, delegate such of the functions conferred on him by or under this Act to any officer not below the rank of *Tehsildar* or equivalent as he may consider appropriate for smooth implementation of the rehabilitation and resettlement scheme or plan.

(5) All officers and staff appointed by the State Government under this Chapter to assist the Administrator for Rehabilitation and Resettlement shall be subordinate to him.

Commissioner
for
Rehabilitation
and
Resettlement.

11. (1) The State Government shall appoint an officer of the rank of Commissioner or Secretary of that Government for rehabilitation and resettlement of affected families under this Act, to be called the Commissioner for Rehabilitation and Resettlement.

(2) The Commissioner shall be responsible for supervising the formulation of rehabilitation and resettlement schemes or plans and proper implementation of such schemes or plans.

Rehabilitation
and
Resettlement
Committee at
project level.

12. (1) For each project which involves involuntary displacement of four hundred or more families *en masse* in plain areas, or two hundred or more families *en masse* in tribal or hilly areas, DDP blocks or areas mentioned in the the Fifth Schedule or Sixth Schedule to the Constitution, the appropriate Government shall constitute a Committee under the chairpersonship of the Administrator for Rehabilitation and Resettlement, to be called the Rehabilitation and Resettlement Committee, to monitor and review the progress of implementation of scheme or plan of rehabilitation and resettlement of the affected families, and to carry out post-implementation social audits.

(2) The Rehabilitation and Resettlement Committee constituted under sub-section (1) shall include, apart from officers of the appropriate Government, the following members, namely:—

(i) a representative of women residing in the affected area;

(ii) a representative each of the Scheduled Castes and the Scheduled Tribes residing in the affected area;

(iii) a representative of a voluntary organisation working in the area;

(iv) a representative of a nationalised bank;

(v) the Land Acquisition Officer of the project;

(vi) the Chairpersons of the *panchayats* or municipalities located in the affected area, or their nominees;

(vii) the Member of Parliament and Member of the Legislative Assembly of the concerned area; and

(viii) a representative of the requiring body.

(3) The procedure regulating the business of the Rehabilitation and Resettlement Committee, its meetings and other matters connected thereto shall be such as may be prescribed.

13. (1) The State Government shall in every district constitute a standing Rehabilitation and Resettlement Committee under the chairpersonship of the District Collector or, as the case may be, Deputy Commissioner of the district, to monitor and review the progress of rehabilitation and resettlement of the affected families in the district excluding those covered by the Rehabilitation and Resettlement Committee at the project level as specified in section 12.

Rehabilitation and Resettlement Committee at district level.

(2) The composition, powers, functions and other matters relating to the functioning of the Rehabilitation and Resettlement Committee at the district level shall be such as may be prescribed by the State Government.

14. (1) The appropriate Government shall appoint, in such manner as may be prescribed, an ombudsman for time-bound disposal of the grievances arising out of the matters covered under this Act.

Ombudsman.

(2) Any affected person, if aggrieved, for not being offered the benefits admissible, may move a petition for redressal of his grievances to the ombudsman.

(3) The form and manner in which and the time within which petitions under sub-section (2) may be made to the ombudsman and be disposed of in such manner as may be prescribed.

(4) The ombudsman shall have the power to consider and dispose of all petitions relating to resettlement and rehabilitation against the decision of the Administrator for Rehabilitation and Resettlement or Resettlement and Rehabilitation Committee and issue such directions to the requiring body, the Administrator for Rehabilitation and Resettlement, the District Collector or Deputy Commissioner of the districts, as he may deem proper for the redressal of such grievances.

15. (1) In case a project covers an area in more than one State or Union territory where the project affected families are or had been residing, or proposed to be resettled, the Central Government shall, in consultation with the concerned States and Union territories, appoint the Administrator for Rehabilitation and Resettlement, the Commissioner for Rehabilitation and Resettlement, a common Rehabilitation and Resettlement Committee, and the Ombudsman for the purposes of this Act.

Inter-State projects.

(2) The method of implementation of the schemes or plans for rehabilitation and resettlement shall be discussed by the State Governments and the Union territory Administrations, and a common scheme or plan agreed to by them shall be notified by the Administrator for Rehabilitation and Resettlement in the States or Union territories in accordance with the procedure laid down in this Act.

(3) If any difficulty arises in the implementation of the schemes or plans, the matter shall be referred to the Central Government for its decision.

16. (1) The Central Government shall constitute a National Monitoring Committee for reviewing and monitoring the implementation of rehabilitation and resettlement schemes or plans under this Act.

National Monitoring Committee.

(2) The Committee may, besides having representation of the concerned Ministries and Departments of the Central and State Governments, associate with it eminent experts from the relevant fields.

(3) The procedures to be followed by the Committee and the allowances payable to the experts shall be such as may be prescribed.

(4) The Central Government shall provide officers and other employees to the Committee necessary for its efficient functioning.

Disclosure of informaton. **17.** The States and Union territories shall provide all the relevant information on the matters covered under this Act, to the National Monitoring Committee in a regular and timely manner, and also as and when required.

Oversight Committee. **18.** (1) For every major project covered under this Act, there shall be an Oversight Committee for Rehabilitation and Resettlement in the Ministry or the Department of the appropriate Government.

(2) The composition, functions and procedures of the Committee referred to in sub-section (1) shall be such as may be prescribed.

National Rehabilitation Commission. **19.** (1) **A National Rehabilitation Commission shall be set up by the Central Government with the power to supervise and exercise general oversight over rehabilitation and resettlement of the affected families covered under this Act.**

(2) The terms and conditions of appointment of the Chairperson and Members and the composition, powers and the procedure for transaction of business of the National Rehabilitation Commission shall be such as may be prescribed.

CHAPTER IV

SCHEMES OR PLANS FOR REHABILITATION AND RESETTLEMENT

Declaration of affected areas. **20.** (1) Where the appropriate Government is of the opinion that there is likely to be involuntary displacement of four hundred or more families *en masse* in plain areas, or two hundred or more families *en masse* in tribal or hilly areas, DDP blocks or areas mentioned in the Fifth Schedule or Sixth Schedule to the Constitution, due to acquisition of land for any project or due to any other reason, it shall, declare, by notification in the Official Gazette, area of villages or lands as an affected area.

(2) Every declaration made under sub-section (1) shall be published in at least three daily newspapers, two of which shall be in the local vernacular, having circulation in villages or areas which are likely to be affected, and also by affixing a copy of the notification on the notice board of the concerned gram panchayats or municipalities and other prominent place or places in the affected area as well as the resettlement area, or by any other method as may be prescribed in this regard by the appropriate Government.

Survey and census of affected families. **21.** (1) Upon publication of a declaration under sub-section (1) of Section 20, the Administrator for Rehabilitation and Resettlement shall undertake a baseline survey and census for identification of the persons and families likely to be affected.

(2) Every survey under sub-section (1) shall contain the following village-wise information of the affected families, namely:—

(i) members of the family who are permanently residing, engaged in any trade, business, occupation or vocation in the affected areas;

(ii) families who are likely to lose, or have lost, their house, agricultural land, employment or are alienated wholly or substantially from the main source of their trade, business, occupation or vocation;

(iii) agricultural labourers and non-agricultural labourers;

(iv) families belonging to the Scheduled Caste or Scheduled Tribe categories;

(v) vulnerable persons such as the disabled, destitute, orphans, widows, unmarried girls, abandoned women, or persons above fifty years of age, who are not provided or cannot immediately be provided with alternative livelihood, and who are not otherwise covered as part of a family;

(vi) families that are landless (not having homestead land, agricultural land, or either homestead or agricultural land) and below poverty line, but residing continuously for a period of not less than five years in the affected area preceding the date of declaration of the affected area; and

(vii) the Scheduled Tribes families who are or were in possession of forest lands in the affected area prior to the 13th day of December, 2005.

(3) Every survey undertaken under sub-section (1) shall be completed within a period of ninety days from the date of declaration made under sub-section (1) of Section 20.

(4) On completion of the survey under sub-section (3), or on expiry of a period of ninety days, whichever is earlier, the Administrator for Rehabilitation and Resettlement shall, by notification, publish a draft containing details of the findings of the survey conducted under sub-section (1), in such manner as may be prescribed, and invite objections and suggestions from all persons likely to be affected thereby.

(5) On the expiry of a period of thirty days from the date of publication of the draft containing details of survey and after considering the objections and suggestions received under sub-section (4), the Administrator for Rehabilitation and Resettlement shall submit his recommendations thereon along with the details of the survey to the appropriate Government.

(6) Within a period of forty-five days from the date of receipt of the details of the survey and recommendations of the Administrator for Rehabilitation and Resettlement, the appropriate Government shall publish the final details of survey in the Official Gazette.

22. (1) The Administrator for Rehabilitation and Resettlement shall draw up a list of lands that may be available for rehabilitation and resettlement of the affected families.

Assessment of land available for rehabilitation and resettlement.

(2) The list of lands drawn up under sub-section (1) shall consist of—

- (a) land available or acquired for the project and earmarked for the purpose;
- (b) Government wastelands and any other Government land available for allotment to the affected families;
- (c) lands that may be available for purchase or acquisition for the purposes of rehabilitation and resettlement scheme or plan; or
- (d) a combination of one or more of the above.

23. (1) After completion of baseline survey and census of the affected families under section 21, and assessment of the requirement of land for resettlement under section 22, the Administrator for Rehabilitation and Resettlement shall prepare a draft scheme or plan for the rehabilitation and resettlement of the affected families after consultation with the representatives of the affected families including women and the representative of the requiring body.

Draft schemes or plans for rehabilitation and resettlement.

(2) The draft rehabilitation and resettlement scheme or plan shall be made known locally by wide publicity in the affected area and the resettlement area in such manner as may be prescribed by the appropriate Government which shall also be discussed in the concerned gram sabhas and in public hearings in urban and rural areas where gram sabhas do not exist:

Provided that the consultation with the Gram Sabha or the Panchayats at the appropriate level in Scheduled Areas under the Vth Schedule shall be in accordance with the provisions of the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996:

Provided further that, in cases of involuntary displacement of two hundred or more Scheduled Tribes families from the Scheduled Areas, the concerned Tribes Advisory Councils shall also be consulted.

(3) The draft rehabilitation and resettlement scheme or plan shall contain the following particulars, namely:—

- (a) the extent of land to be acquired for the project or lost otherwise and the names of the affected villages;
- (b) a village-wise list of the affected persons, family-wise, the extent and nature of land and immovable property owned or held in their possession in the affected area, and the extent and nature of such land and immovable property which they are likely to lose or have lost, indicating the survey numbers thereof;

(c) a list of agricultural labourers in such area and the names of such persons whose livelihood depends on agricultural activities;

(d) a list of persons who have lost or are likely to lose their employment or livelihood or who have been or likely to be alienated wholly or substantially from their main sources of trade, business, occupation or vocation consequent to the acquisition of land for the project or involuntary displacement due to any other cause;

(e) a list of non-agricultural labourers, including artisans in such area;

(f) a list of affected landless families, including those without homestead land and below poverty line families;

(g) a list of vulnerable affected persons, as specified in clause (v) of sub-section (2) of section 21;

(h) a list of occupiers, if any;

(i) a list of public utilities and government buildings which are affected or likely to be affected;

(j) details of public and community properties, assets and infrastructure;

(k) a list of benefits and packages which are to be provided to the affected families;

(l) details of the extent of land available in the resettlement area for resettling and for allotment of land to the affected families;

(m) details of the amenities and infrastructural facilities which are to be provided for resettlement;

(n) the time schedule for shifting and resettling the displaced families in the resettlement area; and

(o) such other particulars as the Administrator for Rehabilitation and Resettlement may consider necessary.

(4) While preparing a draft scheme or plan in case of a project involving land acquisition on behalf of a requiring body, the Administrator for Rehabilitation and Resettlement shall ensure that the entire estimated cost of rehabilitation and resettlement scheme or plan is included in the cost of the project for which the land is being acquired on behalf of the requiring body; and the entire expenditure of rehabilitation and resettlement benefits including the expenditure incurred on rehabilitation and resettlement of the affected families are borne by the requiring body.

(5) The Administrator for Rehabilitation and Resettlement shall communicate to the requiring body for incorporation in the project cost, the entire cost of rehabilitation and resettlement benefits and other expenditure for rehabilitation and resettlement of the affected families.

24. (1) The Administrator for Rehabilitation and Resettlement shall submit the draft scheme or plan for rehabilitation and resettlement to the appropriate Government for its approval.

(2) In case of a project involving land acquisition on behalf of a requiring body, it shall be the responsibility of the appropriate Government to obtain the consent of the requiring body, to ensure that the necessary approvals as required under this Act have been obtained, and to make sure that the requiring body has agreed to bear the entire cost of rehabilitation and resettlement benefits and other expenditure for rehabilitation and resettlement of the affected families as communicated by the Administrator for Rehabilitation and Resettlement, before approving it.

(3) The approved scheme or plan for rehabilitation and resettlement shall be published in the Official Gazette by the appropriate Government.

(4) On the final publication of notification of the rehabilitation and resettlement scheme or plan, it shall come into force.

CHAPTER V

REHABILITATION AND RESETTLEMENT OF AFFECTED FAMILIES

- 25.** The appropriate Government may, by notification, declare any area or areas as a resettlement area or areas for the purposes of rehabilitation and resettlement of the affected families. Declaration of resettlement areas.
- 26.** (1) The affected families may, wherever possible, be settled in a group or groups. Affected families to be settled in group.
- (2) In case the entire population of the village or area to be shifted belongs to a particular community, such population or the families may, wherever possible, be resettled *en masse* in the resettlement area.
- (3) In the case of resettlement of the Scheduled Castes affected families, such families may, wherever possible, be resettled in the areas close to the villages.
- 27.** The Administrator for Rehabilitation and Resettlement may, on behalf of the appropriate Government, and subject to such rules as may be prescribed, enter into an agreement with any person for the purchase or exchange of any land required for the purposes of the rehabilitation and resettlement scheme or plan. Purchase or exchange of land for rehabilitation and resettlement.
- 28.** (1) In case of a project involving land acquisition on behalf of a requiring body, it shall be the responsibility of the requiring body to provide requisite funds to the administrator for Rehabilitation and Resettlement for proper implementation of the rehabilitation and resettlement scheme or plan for the affected families. Funds for rehabilitation and resettlement.
- (2) In case of a project involving land acquisition on behalf of a requiring body, as soon as the rehabilitation and resettlement scheme or plan is finalised, the requiring body shall deposit one-third cost of the rehabilitation and resettlement scheme or plan with the Administrator for Rehabilitation and Resettlement.
- (3) The Administrator for Rehabilitation and Resettlement shall keep proper books of accounts and maintain records of the funds placed at his disposal, in such manner as may be prescribed, and submit periodical returns to the appropriate Government in this behalf.
- 29.** In case of a project involving land acquisition on behalf of a requiring body, the compensation award, full payment of compensation, and adequate progress in rehabilitation and resettlement shall precede the actual displacement of the affected families. Compensation and rehabilitation and resettlement ahead of displacement.
- 30.** (1) In case of involuntary displacement of four hundred families or more *en masse* in plain areas, or two hundred families or more *en masse* in tribal or hilly areas, DDP blocks or areas mentioned in the Fifth Scheduled or Sixth Schedule to the Constitution, comprehensive infrastructural facilities and amenities notified by the appropriate Government shall be provided in the resettlement area. Infrastructural facilities and amenities in resettlement areas.
- (2) If relocation takes place in an existing settlement area, the same infrastructure shall also be extended to the host community.
- (3) In case of involuntary displacement of less than four hundred families *en masse* in plain areas, or less than two hundred families *en masse* in tribal or hilly areas, DDP blocks or areas mentioned in the Fifth Schedule or Sixth Schedule to the Constitution, all affected families shall be provided basic infrastructural facilities and amenities at the resettlement area as per the norms specified by the appropriate Government.
- 31.** The appropriate Government shall ensure that the resettlement area forms part of a panchayat or a municipality. Local self-government institutions in resettlement areas.

Special provisions for rehabilitation and resettlement in case of urgency.

32. If land is acquired in cases of urgency, under the Land Acquisition Act, 1894, as amended from time to time, or any other Act of the Union or a State for the time being in force, each affected family shall be provided with transit and temporary accommodation, pending rehabilitation and resettlement scheme or plan, in addition to the payment of monthly subsistence allowance and other rehabilitation and resettlement benefits due to them under this Act. 1 of 1894.

Periphery development.

33. In case of a project involving land acquisition on behalf of a requiring body—

(i) the requiring body shall contribute to the socio-economic development of such geographic area on the periphery of the project site as may be defined by the appropriate;

(ii) the requiring body shall earmark a percentage of its net profit or, in case no profit is declared by the requiring body in a particular year, for that year, such minimum alternative amount as may be determined by the appropriate Government after consultation with the requiring body, to be spent for the purpose and within the area referred to in sub-section (1); and

(3) the requiring body shall coordinate with the Commissioner for Rehabilitation and Resettlement while carrying out the developmental activity under this section.

CHAPTER VI

REHABILITATION AND RESETTLEMENT BENEFITS FOR THE AFFECTED FAMILIES

Rehabilitation and resettlement benefits available to eligible affected families.

34. The rehabilitation and resettlement benefits shall be extended to the affected families who are eligible as affected families on the date of publication of the declaration under sub-section (1) of section 20, and any division of assets in the family after the said date shall not be taken into account.

Housing benefits.

35. (1) Any affected family owning house and whose house has been acquired or lost, shall be allotted land for house, without requiring him to pay the price for such land, to the extent of two hundred and fifty square metre of land in rural areas or, as the case may be, one hundred and fifty square metre of land in urban areas to each family within the affected family, subject to the actual area acquired or lost:

Provided that, in urban areas, a house of up to one hundred square metre carpet area may be provided in lieu thereof.

(2) Each below poverty line affected family which is without homestead land and which has been residing in the affected area continuously for a period of not less than five years preceding the date of declaration of the affected area and which has been involuntarily displaced from such area, shall be provided with a house having at least fifty square metre carpet area in rural areas or, as the case may be, twenty-five square metre carpet area in urban areas, in the resettlement area:

Provided that any such family which opts not to take the house offered, shall get a one-time financial assistance for house construction, and the amount shall not be less than what is given under any programme of house construction by the Government of India.

Explanation.—The houses in urban areas may, if necessary, be provided in multi-storied building complexes.

Allotment of agricultural land.

36. (1) Each affected family owning agricultural land in the affected area and whose entire land has been acquired or lost, or who has, as a land consequence of the acquisition or loss of land, been reduced to the status of a marginal farmer, shall be allotted, in the name of each person included in the records of rights with regard to the affected family, agricultural land or cultivable wasteland to the extent of actual land loss by the affected family subject to a ceiling of one hectare of irrigated land or two hectares of un-irrigated land or cultivable wasteland, if Government land is available in the resettlement area.

(2) In the case of irrigation or hydel projects, the affected families shall be given preference in allotment of land-for-land in the command area of the project:

Provided that such lands may be consolidated and plots of suitable sizes allotted to the affected families, who could be settled there in groups:

Provided further that, in case an affected family cannot be given land in the command area of the project or the family opts not to take land there, such a family may be given monetary compensation on replacement cost basis for the lands lost, for purchase of suitable land elsewhere.

(3) In case of allotment of agricultural land in lieu of the acquired land, each person whose name is included in the records of rights with regard to the affected family shall be given a one-time financial assistance of such amount as may be prescribed by the appropriate Government subject to a minimum of ten thousand rupees.

(4) In case of allotment of wasteland in lieu of the acquired land, each person whose name is included in the records of rights with regard to the affected family shall be given a one-time financial assistance of such amount as may be prescribed by the appropriate Government subject to a minimum of fifteen thousand rupees per hectare of land allotted.

37. (1) In case of a project involving land acquisition on behalf of a requiring body, the stamp duty and other fees payable for registration of the land or house allotted to the affected families shall be borne by the requiring body.

Registration, etc., of land or other property allotted.

(2) The land or house allotted to the affected families shall be free from all encumbrances.

(3) The land or house allotted may be in the joint names of wife and husband of the affected family.

38. Each displaced affected family having cattle shall get one-time financial assistance of such amount as the appropriate Government may prescribe subject to a minimum of fifteen thousand rupees for construction of cattle shed.

Financial assistance for cattle shed.

39. Each affected family which is displaced shall get one-time financial assistance of such amount as the appropriate Government may prescribe subject to a minimum of ten thousand rupees as transportation cost for shifting of the family, building materials, belongings and cattle.

Transportation cost.

40. Each affected person who is a rural artisan, small trader or self-employed person and who has been displaced shall get one-time financial assistance of such amount as the appropriate Government may prescribe subject to a minimum of twenty-five thousand rupees for construction of working shed or shop.

Financial assistance for working shed or shop.

41. In case of a project involving land acquisition on behalf of a requiring body—

Employment and skill development.

(i) the requiring body shall give preference to the affected families in providing employment in the project, at least one person per family, subject to the availability of vacancies and suitability of the affected person for the employment;

(ii) wherever necessary, the requiring body shall arrange for training of the affected persons, so as to enable such persons to take on suitable jobs;

(iii) the requiring body shall give preference to the affected persons or their groups or cooperatives in the allotment of outsourced contracts, shops or other economic opportunities coming up in or around the project site;

(iv) the requiring body shall give preference to willing landless labourers and unemployed affected persons while engaging labour in the project during the construction phase;

(v) the requiring body shall offer the affected persons the necessary training facilities for development of entrepreneurship, technical and professional skills for self-employment;

(vi) the requiring body shall offer scholarships and other skill development opportunities to eligible persons from the affected families, as per such criteria as may be fixed by the appropriate Government.

Rehabilitation grant and option for allotment of shares.

42. In case of a project involving land acquisition on behalf of a requiring body, the affected families which have not been provided agricultural land or employment shall be entitled to a rehabilitation grant equivalent to seven hundred and fifty days minimum agricultural wages:

Provided that if the requiring body is a company authorised to issue shares and debentures, then, it shall give an option to the affected families of taking up to fifty per cent., but in any case not less than twenty per cent., of their rehabilitation grant amount in the form of shares or debentures, in such manner as may be prescribed.

Land development projects.

43. In cases involving land acquisition for land development projects, in lieu of land-for-land or employment, the affected families shall be given developed land or built-up space within the development project, in proportion to the land acquired, but subject to limits as may be prescribed.

Fishing rights.

44. In cases of irrigation or hydel projects, the affected families may be allowed fishing rights in the reservoirs, in such manner as may be prescribed by the appropriate Government.

Subsistence allowance.

45. In case of a project involving land acquisition on behalf of a requiring body, each affected family which is involuntarily displaced shall get a monthly subsistence allowance equivalent to twenty-five days minimum agricultural wages per month for a period of one year from the date of displacement.

Monthly pension to vulnerable affected persons.

46. The project authorities shall, at their cost, arrange for annuity policies that will pay a pension for life to the vulnerable affected persons as specified in clause (v) of sub-section (2) of section 21, of such amount as may be prescribed by the appropriate Government subject to a minimum of five hundred rupees per month.

Linear projects.

47. In case of linear acquisitions, in projects relating to railway lines, highways, transmission lines, laying of pipelines and such other projects wherein only a narrow stretch of land is acquired for the purpose of the project or is utilised for right of way, each person whose name is included in the records of rights with regard to the affected family shall be offered by the requiring body an ex-gratia grant of such amount as may be prescribed by the appropriate Government subject to a minimum of twenty thousand rupees, in addition to the compensation and any other benefits due under the Act or programme or scheme under which the land, house or other property is acquired:

Provided that, if as a result of such land acquisition, the land-holder becomes landless or is reduced to the status of a small or marginal farmer, other rehabilitation and resettlement benefits available under this Act shall also be extended to such affected family.

Option for a lump-sum payment in lieu of benefits.

48. The affected families shall have the option to take a lump-sum amount, in lieu of one or more of the benefits specified in sections 35 to 47 (both inclusive), as may be determined by the appropriate Government in consultation with the requiring body.

Special provisions for rehabilitation and resettlement of members of the Scheduled Tribes and the Scheduled Castes.

49. (1) In case of a project involving land acquisition on behalf of a requiring body which involves involuntary displacement of two hundred or more Scheduled Tribes families, a Tribal Development Plan shall be prepared, in such form as may be prescribed, laying down the details of procedure for settling land rights due but not settled and restoring titles of tribals on alienated land by undertaking a special drive together with land acquisition.

(2) The Tribal Development Plan shall also contain a programme for development of alternate fuel, fodder and non-timber forest produce resources on non-forest lands within a period of five years sufficient to meet the requirements of tribal communities who are denied access to forests.

1 of 1894. (3) The concerned Grams Sabhas or the Panchayats at the appropriate level in the Scheduled Areas under the Fifth Schedule or, as the case may be, Councils in the Sixth Schedule Areas shall be consulted in all cases of land acquisition in such areas, including acquisition under the urgency clause, before issue of a notification under the Land Acquisition Act, 1894, as amended from time to time, or any other Act of the Union or a State for the time being in force as per the Provision of the Panchayats (Extension to the Scheduled Areas) Act, 1996 and other relevant laws.

(4) Each affected family of Scheduled Tribe followed by Scheduled Caste categories shall be given preference in allotment of land-for-land, if Government land is available in the resettlement area.

(5) In case of land being acquired from members of the Scheduled Tribes, at least one-third of the compensation amount due shall be paid to the affected families at the outset as first instalment and the rest at the time of taking over the prosession of the land.

(6) In case of a project involving land acquisition on behalf of a requiring body, each Scheduled Tribes affected family shall get an additional one-time financial assistance equivalent to five hundred days minimum agricultural wages for loss of customary rights or usages of forest produce.

(7) The Scheduled Tribes affected families shall be resettled preferably in the same Schedule Area in a compact block, so that they can retain their ethnic, linguistic and cultural identity.

(8) The resettlement areas predominantly inhabited by the Scheduled Tribes shall get land, to such extent as may be decided by the appropriate Government, free of cost for community and social gatherings.

(9) In case of a project involving land acquisition on behalf of a requiring body, the Scheduled Tribes affected families resettled out of the district will get twenty-five per cent. higher rehabilitation and resettlement benefits in monetary terms in respect of the benefits specified in sub-sections (3) and (4) of section 36, sections 38, 39, and 40.

(10) Any alienation of tribal lands in disregard of the laws and regulations for the time being in force shall be treated as null and void; and in the case of acquisition of such lands, the rehabilitation and resettlement benefits shall be available to the original tribal land-owners.

(11) The affected Scheduled Tribes, other traditional forest dwellers and the Scheduled Castes families having fishing rights in a river or pond or dam in the affected area shall be given fishing rights in the reservoir area of the irrigation or hydel projects.

(12) All benefits available to the affected families in the affected areas, shall continue in the resettlement area.

50. The affected Scheduled Tribes families, who were in possession of forest lands in the affected area prior to the 13th day of December, 2005, shall be eligible for the benefits of rehabilitation and resettlement under this Act. Benefits to occupiers.

CHAPTER VII

MISCELLANEOUS

Indexation of rehabilitation grant and other monetary benefits.

51. The rehabilitation grant and other benefits expressed in monetary terms in this Act shall be indexed to the Consumer Price Index with reference to the date to be notified, and the same shall also be revised by the appropriate Government from time to time.

Punishment for false information.

52. If a person, in connection with a requirement or direction under this Act, provides any information or produces any document that the person knows is false or misleading, he shall be liable to be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to five lakh rupees, or with both.

Duty to assist Administrator for Rehabilitation and Resettlement.

53. The officers of the Central Government, State Governments or Union territory Administrations and the officers or staff of the local bodies or other statutory authorities shall assist the Administrator for Rehabilitation and Resettlement or any other officer duly authorised under this Act, as and when required, for carrying out the purposes of this Act.

Bar of jurisdiction of civil courts.

54. No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which the Administrator for Rehabilitation and Resettlement, the Commissioner for Rehabilitation and Resettlement, or the Ombudsman is empowered by or under this Act to determine, and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

Officers to be public servants.

55. The Administrator for Rehabilitation and Resettlement, the Commissioner for Rehabilitation and Resettlement and the Ombudsman, appointed under this Act shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

Indemnity for acts done in good faith.

56. No Suit, prosecution or other legal proceedings shall lie against the appropriate Government, local body or authority or any officer of the appropriate Government or local body or authority acting under this Act for anything which is in good faith done or purposed to be done under this Act or the rules, scheme or plan made thereunder.

Overriding effects of Act over all land related laws.

57. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force (except the Provision of the Panchayats (Extension to the Scheduled Areas) Act, 1996) or in any instrument having effect by virtue of any law other than this Act.

40 of 1996.

Power to make rules.

58. (1) The appropriate Government may, after previous publication, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the manner in which social impact assessment study is to be carried out under sub-section (1) or section (4);

(b) the manner of granting social impact assessment clearance under sub-section (1) or section 7;

(c) emergency acquisition of land for the purpose of defence or national security, and its institutional safeguards under section 8;

(d) rules of procedure regulating the business of the Rehabilitation and Resettlement Committee under sub-section (3) of section 12; and composition, powers and functions relating to the Rehabilitation and Resettlement Committee under sub-section (2) of section 13;

(e) the manner of appointment of ombudsman, form and manner in which complaints may be made and disposed by the ombudsman under sub-section (1) and (3) of section 14; and

(f) procedures to be followed by the National Monitoring Committee under sub-section (3) of section 16; and composition powers and procedure of transaction of business of the National Rehabilitation Commission under sub-section (2) of section 19;

(g) the method of notifying affected areas under sub-section (2) of section 20;

(h) the manner in which the Administrator for Rehabilitation and Resettlement shall publish a draft details of findings of the survey conducted under sub-section (4) of section 21; and the manner of giving publicity to draft rehabilitation and resettlement scheme or plan under sub-section (2) of section 23;

(i) the method of entering into an agreement with any persons under rehabilitation and resettlement scheme or plan under section 27;

(j) the manner of keeping books of accounts and records of the funds for rehabilitation and resettlement by the Administrator under sub-section (3) of section 28;

(k) specify assistant to affected family under sub-section (3) and (4) of section 36;

(l) rules for giving financial assistance to construct cattle shed under section 38; transportation cost for shifting of the family under section 39; construction of working shed for shop under section 40 and the manner in which rehabilitation grant shall be provided under section 42;

(m) the manner of providing fishing rights of the reservoirs to the affected families under section 44;

(n) the amount of pension payable to vulnerable persons under section 46; and the determination of ex-gratia amount under section 47, the necessary forms for the purposes specified in section 49; and

(o) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be, or may be, made by the rules.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

(4) Every rule made by a State Government under this Act shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses or where such State legislature consists of one House, before that House.

59. Notwithstanding anything contained in this Act, a scheme or plan for rehabilitation or resettlement of affected persons or families formulated by the requiring body, may provide for benefits higher than the extent and the amount of benefit laid down under this Act. Savings.

60. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as may appear to be necessary, for removing the difficulty: Power to remove difficulties.

Provided that no order shall be made under this section after the expiry of the period of three years from the date of commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

STATEMENT OF OBJECTS AND REASONS

Provision of public facilities or infrastructure often requires the exercise of powers by the State for acquisition of private property leading to displacement of people, depriving them of their land, livelihood and shelter, restricting their access to traditional resource base and uprooting them from their socio-cultural environment. These have traumatic, psychological and socio-cultural consequences on the affected population which call for protecting their rights, in particular of the weaker sections of the society including members of the Scheduled Castes, the Scheduled Tribes, marginal farmers and their families.

2. There is an imperative need to recognise rehabilitation and resettlement issues as intrinsic to the development process formulated with the active participation of affected persons and families. Additional benefits beyond monetary compensation have to be provided to families affected adversely by involuntary displacement. The plight of those who do not have rights over the land on which they are critically dependent for their subsistence is even worse. This calls for a broader concerted effort on the part of the planners to include in the displacement, rehabilitation and resettlement process framework, not only those who directly lose land and other assets but also all those who are affected by such acquisition of assets. The displacement process often poses problems that make it difficult for the affected persons to continue their old livelihood activities after resettlement. This requires a careful assessment of the economic disadvantages and the social impact of displacement. There must also be a holistic effort aimed at improving the all-round living standards of the affected people and families.

3. A National Policy on Resettlement and Rehabilitation for Project Affected Families was formulated in 2004, which came into force with effect from February, 2004. Experience gained in implementation of this policy indicates that there are many issues addressed by the policy which need to be reviewed. There should be a clear perception, through a careful quantification of the costs and benefits that will accrue to society at large, of the desirability and justifiability of each project. The adverse impact on affected families-economic, environmental, social and cultural-must be assessed in participatory and transparent manner. A national rehabilitation and resettlement framework thus needs to apply to all projects where involuntary displacement takes place.

4. The aim is to minimise large-scale displacement, as far as possible. However, where large numbers of families are affected, it must be mandatory to do social impact assessments and provide all required infrastructural facilities and amenities in the resettlement area. More particularly, where the Scheduled Tribes people are being displaced in sizeable numbers, a well thought out Tribal Development Plan must be put in place. Furthermore, such a policy must specify clear timeframes within which the implementation of the rehabilitation package as well as utilisation of the land shall be accomplished. Also, it should lay down an effective monitoring and grievance redressal mechanism.

5. The National Rehabilitation and Resettlement Policy, 2007 has been formulated on these lines to replace the National Policy on Resettlement and Rehabilitation for Project Affected Families, 2003. The new policy has been notified in the Official Gazette and has become operative with effect from the 31st October, 2007. Since the inception of the Land Acquisition Act, 1894 for the first time a legislation namely, the Rehabilitation and Resettlement Bill, 2007 has been developed on the lines of the provisions of the new policy, so as to give a statutory backing to them and provide for Social Impact Assessment, making of scheme and plans well defined Rehabilitation and Resettlement benefits for the affected families.

6. Many State Governments have their own rehabilitation and resettlement policies. Many Public Sector Undertakings or agencies also have their own policies in this regard.

The Rehabilitation and Resettlement Bill, 2007 provides for the basic minimum requirements that all projects leading to involuntary displacement must address. The Bill contains a saving clause to enable the State Governments, Public Sector Undertakings or agencies, or other requiring bodies to continue to provide or put in place greater benefit levels than those prescribed under the Bill.

The Rehabilitation and Resettlement Bill, 2007 will be primarily applicable to the rehabilitation and resettlement of persons adversely affected by the acquisition of lands for projects. However, involuntary displacement of people may be caused by other factors also, and the provisions of the Bill may apply to the rehabilitation and resettlement of persons involuntarily displaced permanently due to any reasons.

8. In brief, the Rehabilitation and Resettlement Bill, 2007 will provide for the basic minimum that all projects leading to involuntary displacement must address the grievances of the affected persons. A social impact assessment of proposals leading to displacement of large populations through a participatory, informed and transparent process involving all stake-holders, including the affected persons will be necessary before these are acted upon. The rehabilitation process would augment income levels and enrich quality of life of the displaced persons, covering rebuilding sociocultural relationships, capacity building and provision of public health and community services. Adequate safeguards have been proposed for protecting rights of vulnerable sections of the displaced persons.

9. The Bill seek to achieve the above objectives.

NEW DELHI;
Dated the 30th November, 2007.

RAGHUVANSH PRASAD SINGH.

NOTES ON CLAUSES

Clause 4.—seeks to provide for social impact assessment study in certain cases in the proposed affected areas taking into consideration the impact that the project will have on public and community properties etc., and specify the ameliorative measures.

Clause 5.—seeks to provide submission of the SIA Report by an independent multi-disciplinary expert group for examination by the appropriate Government; it also seeks to provide for constitution of the expert group.

Clause 6.—seeks to provide for concurrent SIA Studies with Environmental Impact Assessment Study.

Clause 7.—seeks to provide for the manner of SIA clearance and conditions laid down in SIA clearance to be followed by all concerned, etc.

Clause 8.—seeks to exempt, from the provisions of Chapter-II, projects involving emergency acquisition in for the purpose of defence or national security.

Clause 9.—seeks to provide for appointment of Administrator for Rehabilitation and Resettlement by the State Government.

Clause 10.—seeks to provide for the functions of administrator in relation to rehabilitation and resettlement, formulation and execution and monitoring of rehabilitation and resettlement plan, etc.

Clause 11.—seeks to provide for appointment of a Commissioner for Rehabilitation and Resettlement for supervising the formulation of rehabilitation and resettlement schemes/plans and implementation thereof.

Clause 12.—seeks to provide for constitution of Rehabilitation and Resettlement Committee for each project involving involuntary displacement of certain No. of families in plain/tribal or hilly areas, etc.

Clause 13.—seeks to provide for constitution of a Standing Rehabilitation and Resettlement Committee under the Chairmanship of District Collector/Dy. Commissioner.

Clause 14.—provides for appointment by the appropriate Government of an ombudsman for time bound disposal of grievances, etc.

Clause 15.—seeks to provide for appointment by the Central Government of Administrator for Rehabilitation and Resettlement, Commissioner for Rehabilitation and Resettlement, a Common Rehabilitation and Resettlement Committee, and the ombudsman, in a case where the project covers an area in more than one State or Union Territory; method of implementation of the schemes/plans to be discussed by the State Governments and Union Territory Administrations and a common scheme/plan to be agreed upon; and in case of any difficulty, the matter to be referred to the Central Government for decision.

Clause 16.—seeks to provide for constitution by the Central Government of a National Monitoring Committee for reviewing and monitoring the implementation of schemes or plans under the Bill.

Clause 17.—seeks to provide that the States and Union Territories shall provide relevant information on matters covered under the Bill to the National Monitoring Committee on a regular basis and also as and when required.

Clause 18.—provides for an Oversight Committee for Rehabilitation and Resettlement in the Ministry or Department of the appropriate Government, with the compositions, functions and procedures to be prescribed.

Clause 19.—seeks to provide for setting up of National Rehabilitation Commission by the Central Government to exercise external oversight over rehabilitation and resettlement of affect persons; the composition, powers and procedure of transaction of business to be precribed.

Clause 20.—seeks to provide for declaration of the area of village or lands as affected areas in cases where involuntary displacement of more than certain number of families in plain areas or tribal or hilly areas, DDP blocks or areas mentioned in the Fifth Schedule or sixth Schedule to the Constitution are to be acquired for any project; such declaration to be published in newspapers, etc.

Clause 21.—seeks to provide for undertaking, after declaration under clause 20, a baseline survey and census for identification of families, etc. by the Administrator for Rehabilitation and Resettlement; provides for village-wise information of affected families in the survey; completion of the survey within 90 days from the date of declaration, publication of draft of the details of findings/survey by the Administrator for Rehbailitation and & Resettlement in the prescribed manner, inviting objections and suggestions; the Administrator for Rehabilitation and Resettlement to submit his recommendations along with details of survey after considering the objections, etc. to the appropriate Government; and the appropriate Government to publish the final details fo the survey within 45 days of the receipt of the details of survey and recommendations.

Clause 22.—seeks to provide that the Administrator for Rehabilitation and Resettlement to draw up the list that may be available for rehabilitation and resettlement etc., the list to include land available or acquired, Government wastelands, lands that may be available fur purchase or acquisition, etc.

Clause 23.—seeks to provide that the Administrator for Rehabilitation and Resettlement shall prepare, after completion of survey or census and assessment of requirement of land, draft scheme of plan for rehabilitation of affected families, draft to be given wide publicity, to be discussed in the concerned Gram Sabhas and publics hearnings, etc.; the draft rehabilitation and resettlement scheme/plan to contain the extent of land to be acquired, village-wise list of affected persons etc., list of agricultural labourers, list of persons who have lost or are likely to lose employment, list of non-agricultural labourers, list of affected landless families, list of vulnerable affected persons, list of occupiers, list of public utilities and Government buildings, details of public community properties, details of extent of land available in the resettlement area, amenities and infrastructure facilities, time schedule for shifting and resettling etc.; the Administrator to ensure inclusion of the estimated cost of rehabilitation and resettlement; and the communication to the requiring body for incorporation in the project cost the entire cost of rehabilitation and resettlement benefits, etc.

Clause 24.—seeks to provide for submission by the Administrator for Rehabilitation and Resettlement to the appropriate Government; the approved scheme or plan for rehabilitation and resettlement to the published in the Official Gazette by the appropriate Government and the plan or scheme to come into force on final publication.

Clause 25.—seeks to provide for declaration by the appropriate Government of any area as resettlement area for rehabilitation and resettlement.

Clause 26.—seeks to provide for settlement of affected families; wherever possible, in a group or groups.

Clause 27.—seeks to authorize the Administrator for Rehabilitation and Resettlement to enter into agreement on behalf of appropriate Government, with any person for purchase or exchange of land required for rehabilitation and resettlement scheme/plan subject to the prescribed rules.

Clause 28.—seeks to make it the responsibility of the requiring body to provide requisite funds to the Administrator for Rehabilitation and Resettlement for implementation

of the scheme/plan for affected families; the requiring body to deposit 1/3rd cost of the scheme or plan with the Administrator for Rehabilitation and Resettlement on finalization of the scheme or plan.

Clause 29— seeks to provide that the compensation award, full payment of compensation etc. shall precede actual displacement of affected families where land acquisition is on behalf of a requiring body.

Clause 30—seeks to provide that in case of involuntary displacement of certain number of families in plain areas/tribal or hilly areas, DDP blocks etc., comprehensive infrastructure facilities shall be provided in the resettlement area.

Clause 31—seeks to provide that the resettlement area forms part of a panchayat or municipality.

Clause 32—seeks to provide that where land is acquired because of urgency under the Land Acquisition Act, 1894 the affected families to be provided with transit and temporary accommodation pending rehabilitation and resettlement scheme or plan in addition to monthly subsistence allowance, etc.

Clause 33—seeks to provide for peripheral development by the requiring body like socio-economic development, earmarking percentage of net profit to be spent for the purpose, and coordination with the Commissioner for Rehabilitation and Resettlement while carrying out development activities.

Clause 34—seeks to provide for extension of rehabilitation and resettlement benefits to the affected families.

Clause 35—seeks to provide for housing benefits to an affected family, owning house and whose house has been acquired, in the form of land or house.

Clause 36—seeks to provide for allotment of agricultural land to an affected family whose agricultural land has been acquired or who has been reduced to the status of marginal farmer; each person whose name is included in the records of rights with regard to the affected family to be given a one time financial assistance subject to a minimum of 10,000 rupees; and in case of allotment of wastelands, each such person to be given one time financial assistance subject to a minimum of 15,000 rupees, etc.

Clause 37.—seeks to provide that the stamp duty etc. for registration of land or hosue to be borne by the acquiring body; such land to be free from all encumbrances land to be in the names of wife and husband of the affected family.

Clauses 38, 39 and 40—seek to provide that displaced affected families having cattle to get one time financial assistance; one time transportation cost for shifting of family etc.; and the affected person where he is rural artisan, small trader or self employed, to get one time financial assistance prescribed by the appropriate Government subject to a minimum of 20,000 rupees for construction of working shed or shop.

Clause 41.—seeks to provide that the acquiring body shall give preference to the affected families in providing employment in the project; where necessary, to arrange for traning of affected persons, to give preference to affected persons or their groups or cooperatives in the allotment of outsourced contracts, shops etc., give preference to willing landless labourers while engaging labourers in the project; and offer scholarships and other skill development opportunities.

Clause 42.— seeks to provide for rehabilitation grant to the affected families or where the acuring body is a company authorized to issue shares etc., such families to be given shares or debentures, as may be prescribed.

Clause 43 and 44.—seek to provide that in the case of acquisition for land development projects, in lieu of land-for-land or employment, the affected families to be given land or built up space; in case of irrigation of hydel projects the affected families may be allowed fishing rights in the reservoirs in the prescribed manner.

Clause 45.—seeks to provide that where the project involves land acquisition on behalf of acquiring body, the involuntary displaced affected family shall get a monthly subsistence allowance equivalent to 25 days minimum agricultural wages per month for one year.

Clause 46.—seeks to provide for payment of pension for life by the project authorities to the affected persons covered under clause (v) of sub-clause 2 of clause 21 to be prescribed by the appropriate Government subject to a minimum of 500 rupees per month.

Clause 47.—seeks to provide that in the case of linear acquisitions, that is, project relating to railway lines, highways laying of pipelines, etc. each person included in the records of rights with regard to the affected family to be offered by requiring body ex-gratia grant as may be prescribed in addition to the compensation and benefits under the Bill or programme or scheme; where that land holder becomes landless or reduced to be "small" or "marginal" farmer, other rehabilitation and resettlement benefits under the Bill shall also be extended to such affected family.

Clause 48.—seeks to provide for affected families to have the option to take lump-sum amount in lieu of benefits specified in clauses-35 to 47 to be determined by the appropriate Government in consultation with the requiring body.

Clause 49. —seeks to make special provisions for rehabilitation and resettlement of members of the Scheduled Tribes and Scheduled Castes, such as, tribal development plan to be prepared, laying down of procedure for settling land rights; such affected families to be given preference in allotment of land for land; at least one-third of compensation amount to be paid to the affected families at the outset etc.; where such affected families are re-settled out of district, to get 25% higher rehabilitation and resettlement benefits specified in sub-clauses (3) and (4) of clause 36, clauses 38, 39 and 40; and such affected families if enjoying reservation benefits in the affected areas shall get such benefits at the resettlement area, etc.

Clause 50.—seeks to provide for the affected Scheduled Tribe families, who were in possession of forest land prior to 13th December, 2005 to be eligible for benefits of rehabilitation and resettlement under the Bill.

Clause 51.—provides for indexation of rehabilitation grant and other monetary benefits.

Clause 52.—provides for punishment for false information.

Clause 53.—seeks to cast a duty on the officers of the Central Government, State Governments, etc., to assist the Administrator for Rehabilitation and Resettlement for carrying out the purposes of the Bill.

Clause 54. — seeks to bar the jurisdiction of civil courts to entertain suits or proceedings in matters which the Administrator for Rehabilitation and Resettlement, Commissioner for Rehabilitation and Resettlement or the Ombudsman is empowered to determine, etc.

Clause 55. — seeks to provide that officers (Administrator for Rehabilitation and Resettlement, Commissioner for Rehabilitation and Resettlement and Ombudsman) appointed under the Bill, acting in pursuance of the provisions of the Bill, to be deemed to be public servants.

Clause 56. — seeks to indemnify against any suit, prosecution or legal proceedings, the appropriate Government, local body or authority etc. for acts done or purported to be done under the Bill or rules etc. made thereunder.

Clause 57. — seeks to provide that the Central Government may remove any difficulty that arises in giving effect to the provisions of the Bill by an order not inconsistent with the provisions of the Bill up to a period of 3 years from the commencement of the Bill and such order to be laid before each House of Parliament.

Clause 58. — seeks to provide for over-riding effect of the Bill cover all land related laws {except the Provisions of the Panchayats (extension to scheduled areas) Act}, 1996 etc.

Clause 59. — seeks to empower the appropriate Government to make rules for carrying out the functions and duties etc. under the Bill.

Clause 60.—seeks to provide that a scheme or plan for rehabilitation may provide for benefits higher than the extent and the amount of benefit laid down under the Bill.

FINANCIAL MEMORANDUM

Clause 14 of the Bill provides for the appointment of an Ombudsman by the appropriate Government, in such manner as may be prescribed for time-bound disposal of grievances arising out of the matters covered under this Bill; to consider and dispose of all complaints relating to resettlement and rehabilitation against the decision of the Administrator for Rehabilitation and Resettlement or Resettlement and Rehabilitation Committee and issue such directions to the Administrator for Rehabilitation and Resettlement, the District Collector or Deputy Commissioner of the district, as he may deem proper for the redressal of such grievances.

Clause 15 of the Bill provides that in case a project covers an area in more than one State or Union Territory where the project affected families are or had been residing, or proposed to be resettled, the Central Government shall, in consultation with the concerned States and Union Territories, appoint the Ombudsman for the purpose of the Bill.

Appointment and functioning of the office of the Ombudsman will involve both recurring and non-recurring expenditure, which would be a part of the administrative expenditure of the Ministry.

Clause 16 of the Bill provides for constitution of a National Monitoring Committee by the Central Government for reviewing and monitoring the implementation of rehabilitation and resettlement schemes or plans under the Bill. The Committee may, besides having representatives of the concerned Ministries and Departments of the Central and State Governments, associate with it eminent experts from the relevant fields. The Central Government shall provide officers and other employees to the Committee as may be necessary for its efficient functioning. The terms and conditions subject to which the Committee members and other staff may be appointed and the time, place and procedure of the meetings shall be as may be prescribed by the Central Government. The Central Government may also envisage to create a National Monitoring Cell in the Ministry of Rural Development to service the National Monitoring Committee. This may involve payment of allowances to the experts, salary and other expenses for the officers and staff provided to the committee. These expenditure would be of a recurring as well as non-recurring in nature.

Clause 19 of the Bill provides for setting up of a National Rehabilitation Commission by the Central Government with the power to exercise external oversight over rehabilitation and resettlement of the affected persons covered under the Bill and the terms and conditions subject to which the Chairperson and other members of the Commission may be appointed. This would involve expenditure of a recurring and non-recurring nature, which would be a part of the administrative expenditure of the Ministry.

The exact expenditure which will be involved under the proposed Bill will depend upon the composition/appointment of the above mentioned Committee, Commission and Ombudsman. Hence, it is not possible to visualise the exact estimate of the recurring and non-recurring expenditure for the purpose at this stage.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (1) of clause 4 seeks to prescribe by rules, the manner in which Social Impact Assessment study is to be carried out in the proposed affected area. Sub-clause (1) of clause 7 of the Bill seeks to provide that Social Impact Assessment clearance shall be granted in such manner and within such time as may be prescribed by rules. Clause 8 of the Bill provides that projects involving emergency acquisition of minimum area of land by the Central Government for the purpose of defence national security may be exempted, subject to such institutional safeguards as may be prescribed by rules. Sub-clause (3) of clause 12 of the Bill seeks to provide by rules the procedure regulating the business of the Rehabilitation and Resettlement Committee, its meetings and other matters connected thereto.

2. Sub-clause (2) of clause 13 of the Bill seeks to provide, by rules, the composition, powers, functions and other matters relating to the functioning of the Rehabilitation and Resettlement Committee at the district level by the State Government.

3. Sub-clause (1) of clause 14 of the Bill seeks to provide, by rules, the manner of appointment of ombudsman by the appropriate Government for time-bound disposal of grievances arising out of the matters covered under the Bill. Sub-clause (3) of said clause provides for making rules in respect of form and manner in which and the time in which complaints may be made and disposed of by him.

4. Sub-clause (3) of clause 16 of the Bill seeks to empower the Central Government to prescribe by rules, the procedures to be followed by the National Monitoring Committee. The composition functions and procedure of the Oversight Committee under sub-clause (2) clause 18 shall be such as may be prescribed by rules. Sub-clause (2) of clause 19 of the Bill seeks to provide for the composition, terms and conditions powers and the procedure of transaction of business of the National Rehabilitation Commission.

5. Sub-clause (2) of clause 20 of the Bill seeks to empower the appropriate Government to prescribe by rules, the method in which a copy of notification of notice of declaration of effected areas may be affixed. Sub-clause (4) of clause 21 seeks to provide for making rules in regard to manner in which the Administrator for Rehabilitation and Resettlement shall, by notification, publish a draft of the details of the findings of the survey conducted. Sub-clause (2) of clause 23 of the Bill seeks to provide that the draft rehabilitating and resettlement scheme of plan shall be made known locally by wide publicity in the affected area and the resettlement area in such manner as may be prescribed by rules by the appropriate Government.

6. Clause 27 of the Bill seeks to provide that the Administrator for Rehabilitation and Resettlement may, on behalf of the appropriate Government, and subject to such rules as may be prescribed, enter into an agreement with any person for the purpose of the rehabilitation and resettlement scheme of plan.

7. Sub-clause (3) of clause 28 seeks to provide the manner to be prescribed by rules in which the Administrator for Rehabilitation and Resettlement shall keep proper books of accounts and records of the funds for rehabilitation and resettlement.

8. Sub-clause (3) and (4) of clause 36 seeks to provide one time financial assistance to affected family of such amount as the appropriate Government may prescribe by rules.

9. Clause 38 of the Bill seeks to provide by prescribing rules one-time financial assistance to the affected family to construct cattle shed. Clause 39 of the Bill seeks to provide by rules, one-time financial assistance for transportation cost for shifting of the family, etc. Clause 40 of the Bill seeks to provide by prescribing rules one-time financial assistance for construction of working shed or shop. Clause 42 of the Bill seeks to prescribe by rules the manner in which rehabilitation grant shall be provided.

10. Clause 43 of the Bill seeks to provide, by rules, the limits of land for the purposes of said clause. Clause 44 of the Bill seeks to provide manner in which fishing rights in the reservoirs shall be given to the affected families by the appropriate Government by prescribing

rules. Clause 46 of the Bill seeks to provide, by rules, the amount which shall be payable as monthly pension for life to the vulnerable affected persons. Clause 47 of the Bill seeks to provide an *ex-gratia* grant of amount as the appropriate Government may prescribe by rules. Sub-clause (1) of clause 49 seeks to prescribe, by rules, the forms for the purposes of the said clauses.

11. Sub-clause (2) of clause 58 enumerates the matters on which rules may be made by the appropriate Government. Sub-clause (2) and (3) of clause 58 provide that rules made under the Bill are required to be laid before Parliament or the State Legislature, as the case may be.

The aforesaid matters in respect of which rules may be made by the Central Government or the State Government relate to matters of procedure or administrative details and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

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to provide for the rehabilitation and resettlement of persons affected by the
acquisition of land for projects of public purpose or involuntary
displacement due to any other reason, and for matters
connected therewith or incidental
thereto.

(Shri Raghuvansh Prasad Singh, Minister of Rural Development)