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## West Bengal Act XXI of 1948\*

### THE WEST BENGAL LAND DEVELOPMENT AND PLANNING ACT, 1948.<sup>1</sup>

AMENDED

[	West Ben. Act XXIX of 1951.
	West Ben. Act XXIII of 1955.
	West Ben. Act XXIX of 1957.
	West Ben. Act LXVII of 1978.

ADAPTED

The Adaptation of Laws Order, 1950.

[7th October, 1948.]

*An Act to provide for the acquisition and development of land for public purposes.*

WHEREAS it is expedient to provide for the acquisition and development of land for public purposes;

It is hereby enacted as follows:—

1. (1) This Act may be called the West Bengal Land Development and Planning Act, 1948.

Short title, extent and commencement.

(2) It extends to the whole of West Bengal; but it shall not apply to the Calcutta Municipality as defined in clause (b) of section 2 of the Calcutta Improvement Act, 1911, or to any area to which that Act has been extended under sub-section (3) of section 1 thereof before the commencement of this Act.

Ben. Act V of 1911.

<sup>2</sup>[*Explanation I.*—For the purpose of this Act, the Calcutta Improvement Act, 1911, shall not be deemed to have been extended under sub-section (3) of section 1 of that Act to any area if section 167 only of that Act has been extended to such area.]

<sup>2</sup>*Explanation II.*—Notwithstanding any amendment made, after the commencement of this Act, to clause (b) of section 2 of the Calcutta Improvement Act, 1911, this Act shall apply and be deemed always to have applied to the area which was comprised within the municipality of Tollygunge immediately before the issue of a notification under section 594 of the Calcutta Municipal Act, 1951.

West Ben. Act XXXIII of 1951. West Ben. Ord. II of 1948.

(3) It shall come into force on the date on which the West Bengal Land Development and Planning Ordinance, 1948, ceases to operate.

<sup>1</sup>This Act extended to Chandernagore with effect from the appointed day under section 8 of the Chandernagore (Assimilation of Laws) Act, 1955 (West Ben. Act IV of 1955).

<sup>2</sup>For Statement of Objects and Reasons. see the *Calcutta Gazette, Extraordinary*, dated the 23rd March, 1948, Part IV, pages 343-346; and for the Assembly Proceedings, see the Proceedings of the meeting of the West Bengal Legislative Assembly held on the 20th September, 1948.

<sup>2</sup>This *Explanation* which was added with retrospective effect by s. 2 of the West Bengal Land Development and Planning (Amendment) Act, 1951 (West Ben. Act XXIX of 1951), was renumbered as "*Explanation I*" and after that *Explanation* as so renumbered, "*Explanation II*" was added by s. 2 of the West Bengal Land Development and Planning (Amendment) Act, 1957 (West Ben. Act XXIX of 1957).

[West Ben. Act

(Sections 2-4.)

Definitions.  
2.

2. In this Act, unless there is anything repugnant in the subject or context,—

- (a) the expressions "land", "Collector" and "Company" respectively have the same meanings as in the Land Acquisition Act, 1894;
- (b) "development scheme" means a scheme for the development of land for any public purpose;
- (c) "notified area" means an area declared under subsection (1) of section 4 to be a notified area;
- (d) "public purpose" includes—
  - (i) the settlement of immigrants who have migrated into the <sup>1</sup>[State] of West Bengal on account of circumstances beyond their control,
  - (ii) the establishment of towns, model villages and agricultural colonies,
  - (iii) the creation of better living conditions in urban and rural areas, and
  - (iv) the improvement and development of agriculture, forestry, fisheries and industries;<sup>2</sup>[but does not include a purpose of the Union;]
- (e) "rules" means rules made under this Act.

1 of 1894.

Appointment  
of the  
prescribed  
authority.

3. The <sup>3</sup>[State] Government may appoint, in accordance with the rules, an authority (hereinafter referred to as the prescribed authority) for carrying out the purposes of this Act.

Declaration  
of notified  
area.

4. (1) The <sup>3</sup>[State] Government may, by notification in the *Official Gazette*, declare any area specified in the notification to be a notified area if it is satisfied that any land in such area is needed or is likely to be needed for any public purpose and the Collector shall cause public notice of the substance of such notification to be given at convenient places in the locality in such manner as he may think fit.

(2) Thereupon it shall be lawful for any person either generally or specially authorised by such Government in this behalf and for his servants and workmen,—

to enter upon and survey and take levels of any land in such area;

<sup>1</sup>The word "State" was substituted for the word "Province" by para. 4(1) of the Adaptation of Laws Order, 1950.

<sup>2</sup>These words within square brackets were added by s. 2 of the West Bengal Land Development and Planning (Amendment) Act, 1955 (West Ben. Act XXIII of 1955).

<sup>3</sup>The word "State" within square brackets was substituted for the word "Provincial" by para. 4(1) of the Adaptation of Laws Order, 1950.

<sup>4</sup>For notification relating to the appointment of the authority called the Land Planning Committee for carrying out the purposes of the Act, see notification No. 2568L. Ref. dated 2.3.51, published in the *Calcutta Gazette*, of 1951, Part I, page 594.

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(Sections 4A, 5.)

to dig or bore into the subsoil;

to do all other acts necessary to ascertain whether the land is suitable for such purpose;

to set out the boundaries of the land proposed to be taken and the intended line of the work (if any) proposed to be made thereon;

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

where otherwise the survey cannot be completed and the levels taken and the boundaries and line marked, to cut down and clear away any part of any standing crop, fence or jungle:

Provided that the person so authorised shall, at the time of such entry, pay or tender payment for all necessary damage to be done as aforesaid, and, in case of dispute as to the sufficiency of the amount so paid or tendered, he shall at once refer the dispute to the decision of the Collector \* \* \*, and such decision shall be final.

<sup>2</sup>4A. (1) Any person interested in any land within a notified area may, within thirty days from the date of issue of the notification specifying the area to be a notified area, object to the acquisition of the land in which he is interested.

Hearing of objections.

(2) Every objection under sub-section (1) shall be made to the Collector in writing and the Collector shall give the objector an opportunity of being heard and shall, after hearing all objections and making such further inquiry, if any, as he thinks necessary, submit the case to the State Government together with the record of the proceedings held by him and a report containing his recommendations on the objections.

5. (1) The <sup>3</sup>[State] Government may direct the prescribed authority, or, if it so thinks fit in any case, authorise any Company or local authority, to prepare, in accordance with the rules, a development scheme in respect of any notified area and thereupon such scheme shall be prepared accordingly and submitted, together with such particulars as may be prescribed by the rules, to the <sup>3</sup>[State] Government for its sanction:

Preparation and sanctioning of development scheme.

<sup>4</sup>[Provided that no scheme shall be necessary for acquisition of land for the public purpose specified in sub-clause (i) of clause (d) of section 2.]

<sup>1</sup>The words "or other chief revenue officer of the district" were omitted by s. 3 of the West Bengal Land Development and Planning (Amendment) Act, 1955 (West Ben. Act XXIII of 1955).

<sup>2</sup>Section 4A was inserted by s. 4, *ibid.*

<sup>3</sup>See foot-note 3 on page 72, *ante.*

<sup>4</sup>This proviso was added by s. 5(a) of the West Bengal Land Development and Planning (Amendment) Act, 1955 (West Ben. Act XXIII of 1955).

## (Section 6.)

(2) A development scheme submitted to the <sup>1</sup>[State] Government under sub-section (1) <sup>2</sup>{may after taking into consideration any report submitted under sub-section (2) of section 4A, be sanctioned} by it either without any modification or subject to such modifications as it may deem fit.

<sup>3</sup>(3) Notwithstanding anything contained in the foregoing sub-sections or any rules made under this Act or in any judgment, decree or order of any court, any development scheme prepared, approved or sanctioned by the State Government before the commencement of the West Bengal Land Development and Planning (Amendment) Act, 1957 shall be deemed to be and to have always been a scheme duly sanctioned under sub-section (2).

West Ben.  
Act XXIX  
of 1957.

Declaration  
of acquisition  
of land  
needed for  
development  
scheme.

6. (1) When a development scheme is sanctioned under sub-section (2) of section 5 and the <sup>1</sup>[State] Government is satisfied that any land in the notified area for which such scheme has been sanctioned is needed for the purpose of executing such scheme, a declaration to the effect that such land is needed for a public purpose shall, unless already made in pursuance of section 7, be made by the <sup>1</sup>[State] Government.

<sup>4</sup>(1a) When the State Government is satisfied, after taking into consideration any report submitted under sub-section (2) of section 4A, that any land in the notified area is needed for the public purpose specified in sub-clause (i) of clause (d) of section 2, a declaration to the effect that such land is needed for the said purpose shall <sup>5</sup>\* \* \* \* be made by the State Government.

(2) The declaration shall be published in the *Official Gazette*, and shall state the district or other territorial division in which the land is situate, the purpose for which it is needed, its approximate area, and, where a plan shall have been made of the land, the place where such plan may be inspected.

<sup>6</sup>(3) When the State Government makes a declaration under sub-section (1) or sub-section (1a), it may, if it thinks fit, insert in the declaration a statement that the mines of coal, iron-stone, slate or other

<sup>1</sup>See foot-note 3 on page 72, *ante*.

<sup>2</sup>These words within square brackets were substituted for the words "may be sanctioned" by s. 5(b) of the West Bengal Land Development and Planning (Amendment) Act, 1955 (West Ben. Act XXIII of 1955).

<sup>3</sup>Sub-section (3) was added by s. 3 of the West Bengal Land Development and Planning (Amendment) Act, 1957 (West Ben. Act XXIX of 1957).

<sup>4</sup>Sub-section (1a) was inserted by s. 6(a) of the West Bengal Land Development and Planning (Amendment) Act, 1955 (West Ben. Act XXIII of 1955).

<sup>5</sup>The words " , unless already made in pursuance of section 7." were omitted by s. 4 of the West Bengal Land Development and Planning (Amendment) Act, 1957 (West Ben. Act XXIX of 1957).

<sup>6</sup>Sub-section (3) was added by s. 6(b) of the West Bengal Land Development and Planning (Amendment) Act, 1955 (West Ben. Act XXIII of 1955).

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(Sections 7, 8.)

minerals lying under the land or any particular portion of the land are not needed for the purpose for which the land is being acquired.

7. In cases of urgency, if in respect of any notified area the <sup>1</sup>[State] Government is satisfied that the preparation of a development scheme is likely to be delayed, the <sup>1</sup>[State] Government may, at any time, make a declaration under section 6, in respect of such notified area or any part thereof though no development scheme has either been prepared or sanctioned under section 5.

Special provision in cases of urgency.

8. <sup>2</sup>[(1)] <sup>3</sup>[After making a declaration under section 6] the <sup>1</sup>[State] Government may acquire the land and thereupon the provisions of the Land Acquisition Act, 1894 (hereinafter in this section referred to as the said Act), shall, so far as may be, apply:

Application of Act I of 1894 subject to special provision for compensation.

Provided that—

(a) if in any case the <sup>1</sup>[State] Government so directs, the Collector may, at any time after a declaration is made under section 6, take possession, in accordance with the rules, of any *beel*, *baor*, tank or other watery area, or <sup>4</sup>[any waste or arable land] in respect of which the declaration is made and thereupon such land shall vest absolutely in the <sup>5</sup>[Government] free from all encumbrances;

\* \* \* \* \*

(b) in determining the amount of compensation to be awarded for land acquired in pursuance of this Act the market value referred to in clause *first* of sub-section (1) of section 23 of the said Act shall be deemed to be the market value of the land on the date of publication of the notification under sub-section (1) of section 4 for the notified area in which the land is included subject to the following condition, that is to say,—

if such market value <sup>7</sup>[in relation to land acquired for the public purpose specified in sub-clause (i) of clause (d) of section 2] exceeds by any

<sup>1</sup>See foot-note 3 on page 72, *ante*.

<sup>2</sup>Section 8 of the Act was renumbered as sub-section (1) of that section by section 7 of the West Bengal Land Development and Planning (Amendment) Act, 1955 (West Ben. Act XXIII of 1955).

<sup>3</sup>These words within square brackets were substituted for the words beginning with "A declaration" and ending with "such declaration" by s. 7(1)(a), *ibid*.

<sup>4</sup>These words within square brackets were substituted for the words "any other waste or arable land" by s. 7(1)(b) of the West Bengal Land Development and Planning (Amendment) Act, 1955 (West Ben. Act XXIII of 1955).

<sup>5</sup>The word within square brackets "Government" was substituted for the word "Crown" by para. 4(1) of the Adaptation of Laws Order, 1950.

<sup>6</sup>The *Explanation* to clause (a) of the proviso to sub-section (1) of section 8 was omitted by s. 7(1)(c) of the West Bengal Land Development and Planning (Amendment) Act, 1955 (West Ben. Act XXIII of 1955).

<sup>7</sup>These words within square brackets were inserted and shall be deemed always to have inserted by s. 7(1)(d), *ibid*.

*(Sections 9-11.)*

amount the market value of the land on the 31st day of December, 1946, on the assumption that the land had been at that date in the state in which it in fact was on the date of publication of the said notification, the amount of such excess shall not be taken into consideration.

<sup>1</sup>(2) When the amount of compensation has been determined under sub-section (1), the Collector shall make an award in accordance with the principles set out in section 11 of the said Act, <sup>2</sup>[and the amount referred to in sub-section (2) of section 23 of the said Act shall also be included in the award].

Power to dispose of land acquired under the Act.

<sup>3</sup>9. (1) Where the State Government decides to lease or sell any land acquired in pursuance of this Act, the person or persons from whom the land was so acquired shall, in such manner as the State Government may direct, be offered a prior right to take on lease or to purchase the land on such terms and conditions as may be determined by the State Government.

(2) If, in any case, two or more persons claim to exercise a right offered under sub-section (1), the right shall be exercisable by such of the claimants as the State Government may determine after such enquiry as it thinks fit.

Execution of development scheme and disposal of land.

10. (1) The <sup>4</sup>[State] Government may direct the prescribed authority to execute any development scheme sanctioned under sub-section (2) of section 5 or cause it to be executed in accordance with the rules and upon the execution of the scheme as so directed the lands comprised therein shall be disposed of by the Collector in such manner as may be directed by the <sup>4</sup>[State] Government.

(2) If the <sup>4</sup>[State] Government so thinks fit, it may also empower a Company or a local authority to execute, at its own cost, any such development scheme and to dispose of the lands comprised therein on such terms and conditions including conditions relating to the manner of disposal of land as may be settled by the <sup>4</sup>[State] Government and embodied in an agreement to be entered into by the <sup>4</sup>[State] Government and the Company or local authority, as the case may be.

Withdrawal of power from Company or local authority to execute development scheme or to dispose of land.

11. If, at any time, the <sup>4</sup>[State] Government is satisfied that any of the terms or conditions contained in an agreement referred to in sub-section (2) of section 10 is not being complied with, it may, by order

<sup>1</sup>Sub-section (2) was added by s. 7(2) of the West Bengal Land Development and Planning (Amendment) Act, 1955 (West Ben. Act XXIII of 1955).

<sup>2</sup>These words within square brackets were substituted for the words "but no amount referred to in sub-section (2) of section 23 of the said Act shall be included in the award" by s. 2 of the West Bengal Land Development and Planning (Amendment) Act, 1978 (West Ben. Act LXVII of 1978).

<sup>3</sup>This section 9 was substituted for the original section 9 by s. 8 of the West Bengal Land Development and Planning (Amendment) Act, 1955 (West Ben. Act XXIII of 1955).

<sup>4</sup>See foot-note 3 on page 72, *ante*.

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served in accordance with the rules on the Company or local authority, as the case may be, withdraw the power conferred on it to execute any development scheme or to dispose of the lands comprised therein or both and may thereafter make such arrangement in that behalf as it may deem fit and proper.

12. No suit, prosecution, or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

Protection of action taken under this Act.

13. The <sup>1</sup>[State] Government may, by notification in the *Official Gazette*, direct that any or all of the powers conferred upon it by this Act shall be exercisable also by such authority subject to such conditions, if any, as may be specified in the notification.

Delegation of powers.

14. (1) The <sup>1</sup>[State] Government may make <sup>2</sup>rules for carrying out the purposes of this Act.

Power to make rules.

(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 designation, constitution and manner of appointment of the prescribed authority;
- (b) the preparation of development schemes and the particulars to be submitted with development schemes referred to in sub-section (1) of section 5;
- (c) the manner of taking possession of land referred to in clause (a) of the proviso to section 8;
- (d) the execution of development schemes referred to in section 10;
- (e) the manner of service of orders referred to in section 11.

15. Any appointment or rules made or any notification issued or anything done or any action taken or any proceeding commenced in exercise of any power conferred by or under the West Bengal Land Development and Planning Ordinance, 1948, shall, on the said Ordinance ceasing to operate, be deemed to have been made, issued, done, taken or commenced in exercise of powers conferred by or under this Act as if this Act had commenced on the 27th day of April, 1948.

Continuance of action taken under West Bengal Ordinance II of 1948.

West Ben. Ord. II of 1948.

<sup>1</sup>See foot-note 1 on page 72, *ante*.

<sup>2</sup>The West Bengal Land Development and Planning Rules, 1948, made under s. 14 read with s. 15, was published under notification No. 9177L. Ref., dated 27.11.48, in the *Calcutta Gazette* of 1948. Part I, pages 1595-1598, as subsequently amended from time to time.