

INSIDE RFCTLARR ACT, 2013

**STATEWISE ANALYSIS
OF
STATE LAND ACQUISITION RULES,
NOTIFICATIONS,
DRAFT LAND ACQUISITION RULES, &
NEW STATE LAND ACQUISITION BILLS**

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STATEWISE ANALYSIS OF STATE LAND ACQUISITION RULES / DRAFT LAND ACQUISITION RULES / NOTIFICATIONS / NEW LAND ACQUISITION BILLS

Presently, Out of 29, 11 States have made the Rules or published the clarification on some sections with notifications published as per the powers given to the appropriate government (State) for acquisition of land in their state as per the provisions of Right to Fair Compensation and Transparency in Land Acquisition, Resettlement and Rehabilitation Act, 2013 [RFCTLARRA, 2013]. At the same time, 08 States have drafted the Rules among which, Rajasthan has made a new separate land acquisition bill for the state. There are no draft rules available for the rest 10 states till now.

The summary includes the compilation of state wise analysis of their Rules/Notifications/Draft Rules. The major powers are given to states for making rules in the following areas in different sections of RFCTLARRA, 2013.

1. Compensation
2. Limits to acquisition of land through private negotiations
3. SIA and Consent Rules
4. Objection Procedure
5. Penalty
6. Role of the Local Institutions
7. Ceiling on acquisition of agricultural land
8. Return of acquired land if remains unutilized

1. Acquisition through Private Negotiation

Compensation and Hidden Factors

As per the RFCTLARRA, 2013, the compensation is widely conceived as 04 times the market value for acquisition in rural areas and 02 times the market value in urban areas along with value of assets as determined in the Act. The compensation and final award is calculated as per the given below formula.

$$\text{Final Award} = [\{\text{Compensation}\} + \{\text{Solatium (100\% of the calculated compensation)}\}]$$

$$\text{Compensation} = [\{\text{Market Value (determined as per the section 26)}\} * \{\text{Multiplication factor (1.00 to 2.00 for rural areas depending upon the distance from urban areas and 1.00 for urban areas)}\} + \{\text{Value of assets (to be determined as per the section 29)}\}]$$

Here, Solatium means a gift or added compensation. The Act has given the powers to state for fixing the multiplication factor and procedure to calculate the market value to determine the Final Award under section 30(2) followed by the First Schedule. While analyzing the state rules/notifications/draft rules, it has been evident that different states have showed their stand differently. **Except few of them, no states touched the maximum multiplication factor of 2.00, which they could as per their discretionary powers.**

How much Land Can Be Acquired through Private Negotiations?

It will be important to note that the limit of acquisition of land through private negotiations with the owners of land in different states is alarmingly kept high in which the R&R will also not be applicable. The power to define the limit has been given to individual state under section 2(3) and further in detail under section 46 of the RFCTLARRA, 2013. Some of the states have also shown very clear and firm stand to implement the R&R in the case of displacement by keeping the limits very less along with inclusion of the provision for application of R&R wherever any habitation will be there on the land acquired.

Table 1: Multiplication Factor and limits for acquisition of land through private negotiation with the owners of land

S. No	Name of the State	Multiplication Factor	Limits for land acquisition through private negotiations
1.	ANDHRA PRADESH*	Rural – 1.25 Scheduled (Tribal areas) – 1.50	Rural – 5000 acres [2023.43 ha] *R&R will apply wherever any habitation is part of such land.
2.	ASSAM*	Rural – 2.00 (Beyond 10 Km from urban areas) Rural – 1.50 (Upto 10 Km of radial distance from urban areas)	Will be notified by the State Govt.
3.	BIHAR*	NA	1000 ha
4.	CHHATTISGARH*	Rural – 1.00	Rural – 04 ha Urban – 02 ha
5.	HARYANA*	Rural – 1.00 Urban – 1.00	NA
6.	HIMACHAL PRADESH~	NA	NA
7.	JHARKHAND*	NA	2000 ha
8.	KARNATAKA~	TMC/CMC/City Corporation Areas – 1.00 Upto 5 Km of radial distance from the above municipal areas – 1.50 Rural (Other than above two category) – 2.00	For Industrial purpose: Dry Land – 500 acres [202.34 ha] Irrigated land – 50 acres [20.23 ha] For housing, education etc. purpose: Dry Land – 100 acres [40.46 ha]
9.	KERALA~	NA	Urban – 40.47 ha Rural – 101.17 ha
10.	MADHYA PRADESH*	Rural – 1.00	NA
11.	MAHARASHTRA~	Rural – 1.01	NA

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		Urban – 1.01	
12.	MANIPUR*	NA	NA
13.	ODISHA~	NA	Rural – 200 acres [80.93 ha] Urban – 50 acres [20.23 ha]
14.	PUNJAB*	NA	NA
15.	RAJASTHAN (New State Land Bill introduced in 2014)~	Rural: 1) 5 Kms from urban agglomeration or municipal limits – 1.25 to 2.5 2) Beyond the above limits and classified in revenue land as waste land, barani or banjar – 2.25 to 4.5 3) Beyond the above limits and classified in revenue land as irrigated or double cropped land – 2.5 to 4.5 Urban – 1.0	NA
16.	SIKKIM~	NA	NA
17.	TELANGANA*	Scheduled (Tribal) areas – 2.00 Rural – 1.5	2000 acres [809.37 ha]
18.	TRIPURA*	Rural – 2.00 Rural areas upto 10 kms from urban areas – 1.50 Urban – 1.00	Urban – 03 acres [1.21 ha] Rural – 10 acres [4.04 ha]
19.	UTTAR PRADESH~	Rural – NA Urban – 1.0	NA

* – States, who have published their Rules/Notifications; ~ – States, who have drafted the Rules

Special Attention – Rajasthan Govt. planning to discard the Social Aspects

Rajasthan Govt. has done away with the very important aspect of R&R by making provisions for compensating all in monetary terms. Some specific details of **Monetized**

compensation for Resettlement and Rehabilitation of persons affected by acquisition of land are stated below.

- a) The land acquired by the State Government for public purpose – a lump sum amount equal to 10% of the amount of compensation determined as per the state law.
- b) If the land is acquired by state government for any other purpose, excluding in case of acquisition for a private company, a lump sum amount equal to 30% of the amount of compensation shall be paid as R&R cost to the PAFs. (if the acquisition process displaces an entire village, or a number of villages, the state government shall endeavour to resettle such villages if the PAFs so desire and it is possible to do so, at any alternative land, preferably in command area of a river or a canal, or on land which is as near as possible and feasible to the original village of the PAFs.
- c) Land acquired for a private company – the PAFs will have option to choose either to receive a lump sum amount equal to 30% of the amount of compensation as R&R cost or to receive an annuity of Rs. 3000 per month for 20 years or a onetime settlement of Rs. 750,000 per person.

Madhya Pradesh Govt. has formulated “Consent Land Purchase Policy” in which land can be purchased with mutual consent for development projects by giving the two times the compensation amounted by calculating the price of land and the structures built on that.

Chhattisgarh Govt. has put the minimum limit for compensation as Rs. 6.00 lakhs per acre for barren land; Rs. 8 lakhs per acre for non irrigated single cropped land; and Rs. 10 lakhs per acre for irrigated double cropped land as per the provision of the Rehabilitation Policy, 2007 of the state.

2. SIA and Consent Rules, Objections Procedure, Penalty and Role of Local Institutions

Social Impact Assessment and Consent Rules

Mostly, the SIA Rules are as per the provisions of the central Act of the year 2013, with assigned responsibilities and accountability. Some states have given the task to their SIA team constituted as per the central Act, whereas others focused on recognizing the agencies for carrying out the same. **Tripura**, exceptionally, has given powers to local bodies to select representatives to associate with the study team during SIA study. **Jharkhand**, has put an additional clarification that ‘if at any stage, the SIA team or Unit is unable to complete the SIA process and prepare the SIA report or SIMP (Social Impact Management Plan) due to in-capacity or otherwise, the appropriate govt. shall black list the SIA team or unit and may allot the SIA study to another SIA unit or constitute another SIA team to complete the SIA process’. On the other hand, **Karnataka** has limited the consent of Gram Sabhas to Scheduled areas only. The state has given otherwise the choice of annuity or employment to eligible project affected persons in all group C and group D category of services with reservation quota for them. After that **Madhya Pradesh** government has shockingly made the Collectors sole authority for constituting the Expert group separately in respect of each project, having 07 members, within their respective Districts for evaluating the SIA report. **[two non official social scientists nominated by the Collector; two representatives (one woman) of Gram panchayat, municipality or municipal corporation nominated by the collector from the affected area; two experts on rehabilitation nominated by the Collector; and a technical expert in the subject relating to the project nominated by the Collector in consultation with the requiring body.** The Chairman will also be nominated by the Collector among the members of the expert group. The power to Collector limits the involvement of local institutions and freedom to nominate people as per the resolution of Gram Sabha, hence silenced the voice of project affected people.

As **Rajasthan** has made a draft of new state land acquisition bill, there are numerous differences as compared to central Act, 2013 which can cause even more damage if get passed. In the bill, the govt has done away with the very important SIA aspect and has also reduced the consent for PPP projects to 60% which further excluded infrastructure Analysis is based on secondary data available online. For more details or verification of data, email at amit@napm-india.org

projects. The infrastructure projects includes road (all kinds), highway project, a port, airport, inland waterway or port, water supply project, irrigation project, storm water drainage system, sanitation and sewerage system or solid waste management system, telecommunication infrastructure, **an industrial park or SEZ, generation or generation and distribution of power, transmission lines**, construction relating to projects involving agro-processing and supply of inputs to agriculture, godowns, educational institutions and hospitals, **housing projects**, oil and gas pipelines and terminals, project for sports and tourism and any other infrastructure facility of similar nature needed for social and economic operation and development of state. Thus, at one end reducing the consent is against interest of people and community whereas at the other end, by excluding a wider defined infrastructure projects, the Rajasthan government has excluded almost everything from the consent clause and intentionally benefitted the corporate against the interest of farmers and people of that state.

Objections Procedure

The objections procedure are largely similar with difference in number of days to hear objections and responding to the same.

Offences and Penalties

Offences and Penalties are described in detail for govt. officers, companies and other persons responsible under Chapter XII of the central Act. States have only stated the provision for non refusal of consent once given by the owner of the land or collective consent to the acquisition of land in scheduled areas by the competent Gram Sabhas/Autonomous District Councils. **Rajasthan Govt.** has however defined that if any person wilfully obstructing any person in doing any of the acts authorized by section 4 or section 8, or wilfully fills up, destroys, damages or displaces any trench or mark made under section 4 shall be liable to imprisonment for not less than 3 months and may extend to 6 months, or to a fine between a range of Rs. 10,000 to Rs. 300,000 or to both after conviction before a Magistrate and contrastingly given edge to companies or representatives for acquisition process with in depth scrutiny and examined under different allegations where a limited allegations have been made punishable.

Role of Local Institutions

Role of local institutions becomes important during SIA, Consent, public hearing and raising objections. All the states have recognized it but limited the same with putting quorum i.e. minimum number of people required to present for Gram Sabha for any meeting and for considering the consent valid, where, if the quorum is not available in the first meeting then it will not be necessary in further subsequent meetings. This made the particular clause important to make the involvement of local institutions count for their self governance and development, which is the primary base of the existence of these local institutions.

Table 2: State wise details of necessary quorum (minimum number of people present) for any meeting of the Gram Sabha

S. No.	Name of the State	Quorum (minimum number of people present) 1. To consider the consent valid for acquisition in Scheduled areas – [C] ; 2. For public hearing – [PH] ; 3. For R&R – [RR]
	RFCTLARRA, 2013	[PH] – Mandatory, in all Gram Sabhas or wards where more than 25% of the families are going to be directly or indirectly affected by the acquisition of land. [RR] – At least 25% of adult members of Gram Sabha or Ward shall constitute the quorum for the meeting; and if the quorum is not available in the first meeting, then in subsequent meeting, the quorum is not necessary.
1.	ANDHRA PRADESH*	As per the RFCTLARRA, 2013
2.	ASSAM*	As per the RFCTLARRA, 2013
3.	BIHAR*	[C] – 50% of the total members of the Gram Sabha (1/3 rd of women members of total women members need to be present)
4.	CHHATTISGARH*	NA
5.	HARYANA*	NA
6.	HIMACHAL PRADESH~	[C] – Quorum will be as prescribed in Himachal Pradesh Panchayati Raj Act, 1994; the Himachal Pradesh Municipal Corporation Act, 1994; or the Himachal Pradesh Municipal

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		Act, 1994.
7.	JHARKHAND*	[C] – 1/3 rd of the total members of Gram Sabha (1/3 rd of women members of total women members need to be present)
8.	KARNATAKA~	As per the RFCTLARRA, 2013
9.	KERALA~	NA
10.	MADHYA PRADESH*	NA
11.	MAHARASHTRA~	NA
12.	MANIPUR*	[C] – 50% of the total members of Gram Sabha or Autonomous District council [1/3 rd of the total women members needs to be present]
13.	ODISHA~	[PH] – 25% of the total members of Gram Sabha. [C] – Prior consent of Gram Sabha or Autonomous district councils is necessary in all cases of acquisition or alienation of any land in scheduled areas.
14.	PUNJAB*	NA
15.	RAJASTHAN~	NA [Reduced the consent requirement to 60% to acquire land for PPP projects]
16.	SIKKIM~	[C] – 50% of the total members of the Gram Sabha [1/3 rd of the total women members needs to be present] [PH] [RR] – 25% of adult members of Gram Sabha or Ward.
17.	TELANGANA*	As per the RFCTLARRA, 2013
18.	TRIPURA*	As per the RFCTLARRA, 2013
19.	UTTAR PRADESH~	As per the RFCTLARRA, 2013

* – States, who have published their Rules/Notifications; ~ – States, who have drafted the Rules

3. Ceiling on Acquisition of Irrigated Multi Cropped Land / Agricultural Land

RFCTLARRA, 2013 says,

- a. No irrigated multi cropped land can be acquired.

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- b. In aggregate for all projects in a district or state, in no case shall exceed such limits of the total net sown area (means not more than 50% of the net sown area can be acquired in aggregate in a district or state).
- c. If multi crop irrigated land is acquired then develop an equivalent area of culturable wasteland for agricultural purposes or deposit an amount equivalent to the value of the land with the state govt. for investment in agriculture for enhancing food security. The above provisions are not applicable in the case of projects that are linear in nature as those relating to railways, highways, major district roads, irrigation canals, power lines and the like.

And the State has picked some with convenience...

Table 3: State wise details of Ceiling on Acquisition of Irrigated Multi Cropped Land / Agricultural Land

S. No.	Name of the State	Ceiling on Acquisition of Irrigated Multi Cropped Land [IMCL] / Agricultural Land [AL]
1.	ANDHRA PRADESH*	NA
2.	ASSAM*	<p>[IMCL] Limits to acquisition of multi crop irrigated agricultural land will be notified by the State Government.</p> <p>1. When multi cropped irrigated land will be acquired, The requiring body will provide the equal extent of alternative land to Collector and deposit the reclamation cost with agricultural department to develop the land for food security.</p> <p>2. If requiring body fails to provide the equal extent of land, he will be supposed to deposit the market price of the land with the collector who will deposit the same in appropriate head of account of agriculture department.</p>
3.	BIHAR*	NA
4.	CHHATTISGARH*	<p>[IMCL] 2% (in no case exceed this limit) for all projects in state.</p> <p>[AL] 1% of total net sown area (in no case exceed this limit) for all projects in state.</p>

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5.	HARYANA*	NA
6.	HIMACHAL PRADESH~	NA
7.	JHARKHAND*	[IMCL] – 2% of total irrigated multi crop land of the state and same for each of the districts. Need prior consent from state govt. in case of requirement of land exceeding the limit. [AL] – 25% of total net sown area available in the state and in each of the districts. Need prior consent from state govt. in case of requirement of land exceeding the limit.
8.	KARNATAKA~	** [IMCL] – 5% of total irrigated multi cropped land of the state and 1% for each districts. The limit will be revised based on experts consisting of representatives of agriculture, farmers, industry etc. once every three years constituted by the State Government.
9.	KERALA~	** [IMCL] – 2% of the aggregate net sown area in a district and 5% of the same within the state. No irrigated multi cropped land shall be acquired unless the government are satisfied that the land is absolutely necessary for public purpose. The above limit will not apply to projects which are linear in nature as decided by the government.
10.	MADHYA PRADESH*	[ICML] – “The area of irrigated multi-cropped land, and aggregate acquired for all projects in a district, shall in no case, exceed the highest of such area in an agricultural year during last ten years in that District.” [AL] – “The area of agricultural land, in aggregate acquired for all projects in a district, shall in no case, exceed fifty [50%] percent of the highest net sown area in an agricultural year during last ten years in that District.”
11.	MAHARASHTRA~	NA
12.	MANIPUR*	NA
13.	ODISHA~	[ICML] [AL] – (Rule 48) Agriculture Dept. can fix up and separately notify the limits and percentage of the limits of

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		<p>net sown area.</p> <p>(Rule 49) If the multi cropped irrigated land is under acquisition, the requiring body can provide equal extent of alternative land to the District Collector by way of registered transfer deed and deposit the reclamation cost for investment in agriculture which will be further transferred to the Agriculture Department for investment to enhance food security.</p> <p>The land transferred will be brought to the record of Agriculture department and specially mention regarding transfer of land for food security be made in remarks column of record of rights.</p> <p>And, if the requiring body is unable to provide equal extent of land, they can deposit the market value of the land which will be deposited in the head of account of Agriculture Department.</p>
14.	PUNJAB*	NA
15.	RAJASTHAN~	NA
16.	SIKKIM~	NA
17.	TELANGANA*	[ICML] [AL] – The land acquisition shall not exceed 15% of the net present cultivable area in the state and the limits in the districts shall be prescribed by the District Collectors (Rules 31).
18.	TRIPURA*	NA
19.	UTTAR PRADESH~	NA

***/Green** – States, who have published their Rules/Notifications; **~/Yellow** – States, who have the Draft Rules

****** The limits for each of the districts and state altogether seem mathematically incorrect and not feasible.

4. Return of Acquired Unutilized Land

As per the RFCTLARRA, 2013, if any land acquired remains unutilized for a period of five years from the date of taking over the possession, the land will be returned to,

- a. Original owners of the land or,
- b. The legal heirs of the original owner of the land or,
- c. To the land bank of the state govt.

The central Act has left to the state government to decide on whether to return the land to original owners, or their legal heirs or the state land bank, which has been grabbed by the state to further deprive the original land owners by either maintaining the confusion or putting impractical conditions to take back the land. Since people lose on both their land and the promises of development, they should be returned their land along with additional compensation.

Only the provisions set by the **Tripura** State seems promising as the people have to refund only the money which they have received as the value of the land. Otherwise, other states either have not described the procedure and keep all the options open for them or; they have straight way gone with the provision of depositing the unutilized acquired land to the Sate Land bank.

Table 4: State wise details of provisions of returning acquired unutilized land.

S. No.	Name of the State	Return of acquired unutilized land
1.	ANDHRA PRADESH*	As per the RFCTLARRA, 2013
2.	ASSAM*	As per the RFCTLARRA, 2013
3.	BIHAR*	As per the RFCTLARRA, 2013
4.	CHHATTISGARH*	NA
5.	HARYANA*	NA
6.	HIMACHAL PRADESH~	NA
7.	JHARKHAND*	To Land Bank of the State
8.	KARNATAKA~	- To Original land owners or their legal heirs by the payment of current market value less the amount received as compensation after the notice given by the deputy

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		commissioner or; - To Land Bank of the State.
9.	KERALA~	NA
10.	MADHYA PRADESH*	NA
11.	MAHARASHTRA~	NA
12.	MANIPUR*	NA
13.	ODISHA~	To Land Bank of the State automatically.
14.	PUNJAB*	NA
15.	RAJASTHAN~	NA
16.	SIKKIM~	To Land Bank of the State automatically
17.	TELANGANA*	- To Original land owners or their legal heirs subject to payment of current market value as fixed by the District Collector or Award amount received including enhancements made by court with 9% interest from date of payment whichever is higher (Rule 34) or; - To Land Bank of the State.
18.	TRIPURA*	- To Original land owners or their legal heirs, subject to refund of the money to the government which they have received only as value of the acquired land or; - To Land bank of the State.
19.	UTTAR PRADESH~	As per the RFCTLARRA, 2013

* – States, who have published their Rules/Notifications; ~ – States, who have drafted the Rules

Annexure 1: Status of Rules/Notifications/Draft Rules in States.

1. Andhra Pradesh	–	Rules
2. Arunachal Pradesh	–	None
3. Assam	–	Rules
4. Bihar	–	Rules
5. Chhattisgarh	–	Notifications
6. Goa	–	None
7. Gujarat	–	None
8. Haryana	–	Rules
9. Himachal Pradesh	–	Draft Rules [SIA and Consent Rules Only]
10. Jammu and Kashmir	–	None
11. Jharkhand	–	Rules
12. Karnataka	–	Draft Rules
13. Kerala	–	Draft Rules
14. Madhya Pradesh	–	Notifications
15. Maharashtra	–	Draft Rules
16. Manipur	–	Rules [SIA and Consent Rules Only]
17. Meghalaya	–	None
18. Mizoram	–	None
19. Nagaland	–	None
20. Odisha	–	Draft Rules
21. Punjab	–	Notifications
22. Rajasthan	–	New State Land Acquisition Bill
23. Sikkim	–	Draft Rules
24. Tamilnadu	–	None
25. Telangana	–	Rules
26. Tripura	–	Rules
27. Uttar Pradesh	–	Draft Rules
28. Uttarakhand	–	None
29. West Bengal	–	None