

THE LAND ACQUISITION (MINES) ACT, 1885

(Act XVIII of 1885)

C O N T E N T S

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<sup>1[1]</sup>THE LAND ACQUISITION (MINES) ACT, 1885

(Act XVIII of 1885)

[16 October 1885]

An Act to provide for cases in which mines or minerals are situate under land which it is desired to acquire under the Land Acquisition Act, 1870<sup>2[2]</sup>

WHEREAS it is expedient to provide for cases in which mines or minerals are situate under land which it is desired to acquire under the Land Acquisition Act, 1870<sup>3[3]</sup>;

It is hereby enacted as follows:-

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<sup>1[1]</sup>For the statement of objects and reasons, see Gazette of India, 1885, Pt. V, p. 145; for Report of the Select Committee, see *ibid.*, Pt. IV, p. 264; and for Proceedings in Council, see *ibid.*, Supplement, pp. 336 and 1520, and *ibid.*, Extra. Supplement, dated 14th March, 1885, p. 41.

<sup>2[2]</sup>X of 1870, subsequently replaced by the Land Acquisition Act, 1894 (I of 1894).

<sup>3[3]</sup>*Ibid.*

1. Short title, commencement and local extent.— (1) This Act may be called the Land Acquisition (Mines) Act, 1885; and

(2) It shall come into force at once.

(3) <sup>4[4]</sup>[It extends in the first instance to <sup>5[5]</sup>[East Pakistan]]; but <sup>6[6]</sup>[the Provincial Government of <sup>7[7]</sup>[the Punjab]] may, from time to time, by notification in the Official Gazette, extend this Act to the whole or any specified part of the territories under its administration.

2. Saving for mineral rights of the Government.— Except as expressly provided by this Act, nothing in this Act shall affect the right of <sup>8[8]</sup>[the Government] to any mines or minerals.

3. Declaration that mines are not needed.— (1) When the <sup>9[9]</sup>[Provincial Government] makes a declaration under section 6 of the Land Acquisition Act, 1870<sup>10[10]</sup>, that land is needed for a public purpose or for a Company, it may, if it thinks fit, insert in the declaration a statement that the mines of coal, iron stone, slate or other minerals lying under the land or any particular portion of the land, except only such parts of the mines or minerals as it may be necessary to dig or carry away or use in the construction of the work for the purpose of which the land is being acquired, are not needed.

(2) When a statement as aforesaid has not been inserted in the declaration made in respect of any land under section 6 of the Land Acquisition Act, 1870<sup>11[11]</sup>, and the Collector is of opinion that the provision of this Act ought to be applied to the land, he may abstain from tendering compensation under section 11 of the said Land Acquisition Act in respect of the mines, and may—

(a) when he makes an award under section 14 of that Act, insert such a statement in his award;

(b) when he makes a reference to the Court under section 15 of that Act, insert such a statement in his reference; or

(c) when he takes possession of the land under section 17 of that Act, publish such a statement in such manner as the <sup>12[12]</sup>[Provincial Government] may, from time to time, prescribe.

(3) If any such statement is inserted in the declaration, award or reference, or published as aforesaid, the mines of coal, iron stone, slate or other minerals under the land or portion of the land specified in the statement, except as aforesaid, shall not vest in <sup>13[13]</sup>[the Government] when the land so vests under the said Act.

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<sup>4[4]</sup>Substituted by the Adaptation of Central Acts and Ordinances Order, 1949 (G.G.O. 4 of 1949). Schedule, for “It extends in the first instance to the territories administered by the Governor of Madras in Council and the Lieutenant-Governor of Bengal”.

<sup>5[5]</sup>Substituted by the Central Laws (Adaptation) Order, 1961 (P.O. 1 of 1961), Article 2 for “East Bengal” (with effect from the 23rd March, 1956).

<sup>6[6]</sup>Substituted by the Central Laws (Statute Reform) Ordinance, 1960, (XXI of 1960), section 3 and 2nd Schedule, for “any other [Provincial Government]” (with effect from the 14th October, 1955). The words in crotchets were substituted by the Government of India (Adaptation of Indian Laws) Order, 1937, as amended by the Government of India (Adaptation of Indian Laws) Supplementary Order, 1937, for “Local Government”.

<sup>7[7]</sup>Substituted by Punjab Laws (Adaptation) Order, 1974 (Pb A.O. 1 of 1974).

<sup>8[8]</sup>The original word “Government” has successively been amended by the Government of India (Adaptation of Indian Laws) Order, 1937, as amended by the Government of India (Adaptation of Indian Laws) Supplementary Order, 1937, and the Central Laws (Adaptation) Order, 1961 (P.O. 1 of 1961), Article 2 (with effect from the 23rd March, 1956), to read as above.

<sup>9[9]</sup>Substituted by the Government of India (Adaptation of Indian Laws) Order, 1937, as amended by the Government of India (Adaptation of Indian Laws) Supplementary Order, 1937, for “Local Government”.

<sup>10[10]</sup>X of 1870, subsequently replaced by the Land Acquisition Act, 1894 (I of 1894).

<sup>11[11]</sup>*Ibid.*

<sup>12[12]</sup>Substituted by the Government of India (Adaptation of Indian Laws) Order, 1937, as amended by the Government of India (Adaptation of Indian Laws) Supplementary Order, 1937, for the words “Local Government”, which had been substituted for “G.G. in C.” by the Devolution Act, 1920 (XXXVIII of 1920), section 2 and Schedule I.

<sup>13[13]</sup>The original word “Government” has successively been amended by the Government of India (Adaptation of Indian Laws) Order, 1937, as amended by the Government of India (Adaptation of Indian Laws) Supplementary Order, 1937, and the Central Laws (Adaptation) Order, 1961 (P.O. 1 of 1961), Article 2 (with effect from the 23rd March, 1956), to read as above.

4. Notice to be given before working mines lying under land.— If the person for the time being immediately entitled to work or get any mines or minerals lying under any land so acquired is desirous of working or getting the same, he shall give the <sup>14[14]</sup>[Provincial Government] notice in writing of his intention so to do sixty days before the commencement of working.

5. Power to prevent or restrict working.— (1) At any time or times after the receipt of a notice under the last foregoing section and whether before or after the expiration of the said period of sixty days, the <sup>15[15]</sup>[Provincial Government] may cause the mines or minerals to be inspected by a person appointed by it for the purpose; and

(2) If it appears to the <sup>16[16]</sup>[Provincial Government] that the working or getting of the mines or minerals, or any part thereof, is likely to cause damage to the surface of the land or any works thereon, the <sup>17[17]</sup>[Provincial Government] may publish <sup>18[18]</sup>[\* \* \*] a declaration of its willingness, either—

(a) to pay compensation for the mines or minerals still unworked or ungotten, or that part thereof, to all persons having an interest in the same; or

(b) to pay compensation to all such persons in consideration of those mines or minerals, or that part thereof, being worked or gotten in such manner and subject to such restriction as the <sup>19[19]</sup>[Provincial Government] may in its declaration specify.

(3) If the declaration mentioned in case (a) is made, then those mines or minerals, or that part thereof, shall not thereafter be worked or gotten by any person.

(4) If the declaration mentioned in case (b) is made, then those mines or minerals, or that part thereof shall not thereafter be worked or gotten by any person save in the manner and subject to the restrictions specified by the <sup>20[20]</sup>[Provincial Government].

<sup>21[21]</sup>(5) Every declaration made under this section shall be published in such manner as the <sup>22[22]</sup>[Provincial Government] may direct].

6. Mode of determining persons interested and amount of compensation.— When the working or getting of any mines or minerals has been prevented or restricted under section 5, the persons interested in those mines or minerals and the amounts of compensation payable to them respectively shall, subject to all necessary modifications, be ascertained in the manner provided by the Land Acquisition Act, 1870<sup>23[23]</sup>, for ascertaining the persons interested in the land to be acquired under that Act, and the amounts of compensation payable to them, respectively.

7. If Provincial Government does not offer to pay compensation, mines may be worked in a proper manner.— (1) If before the expiration of the said sixty days the <sup>24[24]</sup>[Provincial Government] does not publish a declaration as provided in section 5, the owner, lessee or occupier of the mines may, unless and until such a declaration is subsequently made, work the mines or any part thereof in a manner proper and necessary for the

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<sup>14[14]</sup>Substituted by the Government of India (Adaptation of Indian Laws) Order, 1937, as amended by the Government of India (Adaptation of Indian Laws) Supplementary Order, 1937, for “Local Government”.

<sup>15[15]</sup>*Ibid.*

<sup>16[16]</sup>*Ibid.*

<sup>17[17]</sup>*Ibid.*

<sup>18[18]</sup>The words, “in such manner as the G.G. in C. may, from time to time, direct” repealed by the Devolution Act, 1920 (XXXVIII of 1920), section 2 and Schedule I.

<sup>19[19]</sup>Substituted by the Government of India (Adaptation of Indian Laws) Order, 1937, as amended by the Government of India (Adaptation of Indian Laws) Supplementary Order, 1937, for “Local Government”.

<sup>20[20]</sup>*Ibid.*

<sup>21[21]</sup>Inserted by the Devolution Act, 1920 (XXXVIII of 1920).

<sup>22[22]</sup>Substituted by the Government of India (Adaptation of Indian Laws) Order, 1937, as amended by the Government of India (Adaptation of Indian Laws) Supplementary Order, 1937, for “Local Government”.

<sup>23[23]</sup>X of 1870, subsequently replaced by the Land Acquisition Act, 1894 (I of 1894).

<sup>24[24]</sup>Substituted by the Government of India (Adaptation of Indian Laws) Order, 1937, as amended by the Government of India (Adaptation of Indian Laws) Supplementary Order, 1937, for “Local Government”.

beneficial working thereof, and according to the usual manner of working such mines in the local area where the same are situate.

(2) If any damage or obstruction is caused to the surface of the land or any works thereon by improper working of the mines, the owner, lessee or occupier of the mines shall at once, at his own expense, repair the damage or remove the obstruction, as the case may require.

(3) If the repair or removal is not at once effected, or, if the <sup>25[25]</sup>[Provincial Government] so thinks fit, without waiting for the same to be effected by the owner, lessee or occupier, the <sup>26[26]</sup>[Provincial Government] may execute the same and recover from the owner, lessee or occupier the expense occasioned thereby.

8. Mining Communications.— If the working of any mines is prevented or restricted under section 5, the respective owners, lessees and occupiers of the mines, if their mines extend so as to lie on both sides of the mines the working of which is prevented or restricted, may cut and make such and so many airways, headways, gateways or water-levels through the mines, measures or strata, the working whereof is prevented or restricted, as may be requisite to enable them to ventilate, drain and work their said mines; but no such airway, headway, gateway or water-level shall be of greater dimensions or section than may be prescribed by the <sup>27[27]</sup>[Provincial Government] in this behalf, and, where no dimensions are so prescribed, not greater than eight feet wide and eight feet high, nor shall the same be cut or made upon any part of the surface or works, or so as to injure the same, or to interfere with the use thereof.

9. Provincial Government to pay compensation for injury done to mines.— The <sup>28[28]</sup>[Provincial Government] shall, from time to time, pay to the owner, lessee or occupier of any such mines extending so as to lie on both sides of the mines, the working of which is prevented or restricted, all such additional expenses and losses as may be incurred by him by reason of the severance of the lands lying over those mines or of the continuous working of those mines being interrupted as aforesaid, or by reason of the same being worked in such manner and under such restrictions as not to prejudice or injure the surface or works, and for any minerals not acquired by the <sup>29[29]</sup>[Provincial Government] which cannot be obtained by reason of the action taken under the foregoing sections; and if any dispute or question arises between the <sup>30[30]</sup>[Provincial Government] and the owner, lessee or occupier as aforesaid, touching the amount of those losses or expenses, the same shall be settled as nearly as may be in the manner provided for the settlement of questions touching the amount of compensation payable under the Land Acquisition Act, 1870<sup>31[31]</sup>.

10. And also for injury arising from any airway or other work.— If any loss or damage is sustained by the owner or occupier of the lands lying over any such mines, the working whereof has been so prevented or restricted as aforesaid (and not being the owner, lessee or occupier of those mines), by reason of the making of any such airway or other works as aforesaid, which or any like work it would not have been necessary to make but for the working of the mines having been so prevented or restricted as aforesaid, the <sup>32[32]</sup>[Provincial Government] shall pay full compensation to that owner or occupier of the surface lands for the loss or damage so sustained by him.

11. Power of officer of Provincial Government to enter and inspect the working of mines.— For better ascertaining whether any mines lying under land acquired in accordance with the provisions of this Act are being worked, or have been worked, or are likely to be worked so as to damage the land or

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<sup>25[25]</sup>Substituted by the Government of India (Adaptation of Indian Laws) Order, 1937, as amended by the Government of India (Adaptation of Indian Laws) Supplementary Order, 1937, for “Local Government”.

<sup>26[26]</sup>*Ibid.*

<sup>27[27]</sup>*Ibid.*

<sup>28[28]</sup>*Ibid.*

<sup>29[29]</sup>Substituted by the Government of India (Adaptation of Indian Laws) Order, 1937, as amended by the Government of India (Adaptation of Indian Laws) Supplementary Order, 1937, for “Local Government”.

<sup>30[30]</sup>*Ibid.*

<sup>31[31]</sup>X of 1870, subsequently replaced by the Land Acquisition Act, 1894 (I of 1894).

<sup>32[32]</sup>Substituted by the Government of India (Adaptation of Indian Laws) Order, 1937, as amended by the Government of India (Adaptation of Indian Laws) Supplementary Order, 1937, for “Local Government”.

the works thereon, an officer appointed for this purpose by the <sup>33[33]</sup>[Provincial government] may after giving twenty-four hours' notice in writing, enter into and return from any such mines or the works connected therewith; and for that purpose the officer so appointed may make use of any apparatus or machinery belonging to the owner, lessee or occupier of the mines, and use all necessary means for discovering the distance from any part of the land acquired to the parts of the mines which have been, are being or are about to be worked.

12. Penalty for refusal to allow inspection.— If any owner, lessee or occupier of any such mines or works refuses to allow any officer appointed by the <sup>34[34]</sup>[Provincial Government] for that purpose to enter into and inspect any such mines or works in manner aforesaid, he shall be punished with fine which may extend to two hundred rupees.

13. If mines worked contrary to provisions of this Act, Provincial Government may require means to be adopted for safety of land acquired.— If it appears that any such mines have been worked contrary to the provisions of this Act, the <sup>35[35]</sup>[Provincial Government] may, if it thinks fit, give notice to the owner, lessee or occupier thereof to construct such works and to adopt such means as may be necessary or proper for making safe the land acquired, and the works thereon, and preventing injury thereto; and if, after such notice, any such owner, lessee or occupier does not forthwith proceed to construct the works necessary for making safe the land acquired and the works thereon, the <sup>36[36]</sup>[Provincial Government] may itself construct the works and recover the expense thereof from the owner, lessee or occupier.

14. Construction of Act when land acquired has been transferred to a local authority or company.— When a statement under section 3 has been made regarding any land, and the land has been acquired by the Government, and has been transferred to, or has vested, by operation of law, in a local authority or company, then sections 4 to 13, both inclusive, shall be read as if for the words “the <sup>37[37]</sup>[Provincial Government]”, wherever they occur in those sections <sup>38[38]</sup>[except in section 5, sub-section (5), and section 8], the words “the local authority or company, as the case may be, which has acquired the land,” were substituted.

15. [Pending cases] Rep. by the Repealing and Amending Act, 1937 (XX of 1937), s. 3 and Schedule II.

16. Definition of local authority and company.— In this Act—

(a) “local authority” means any municipal committee, district board, body of port commissioners or other authority legally entitled to, or entrusted by the government with the control or management of any municipal or local land; and

(b) “Company” means a company registered under any of the enactments relating to Companies from time to time in force in <sup>39[39]</sup>[Pakistan], or formed in pursuance of an Act of Parliament or by Royal Charter or Letters Patent.

17. This Act to be read with Land Acquisition Act, 1870.— This Act shall, for the purposes of all enactments for the time being in force, be read with and taken as part of the Land Acquisition Act, 1870<sup>40[40]</sup>.

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<sup>33[33]</sup>Substituted by the Government of India (Adaptation of Indian Laws) Order, 1937, as amended by the Government of India (Adaptation of Indian Laws) Supplementary Order, 1937, for “Local Government”.

<sup>34[34]</sup>*Ibid.*

<sup>35[35]</sup>*Ibid.*

<sup>36[36]</sup>*Ibid.*

<sup>37[37]</sup>Substituted by the Government of India (Adaptation of Indian Laws) Order, 1937, as amended by the Government of India (Adaptation of Indian Laws) Supplementary Order, 1937, for “Local Government”.

<sup>38[38]</sup>Inserted by the Devolution Act, 1920 (XXXVIII of 1920).

<sup>39[39]</sup>Substituted by the Central Laws (Statute Reform) Ordinance, 1960 (XXI of 1960), section 3 and 2nd Schedule (with effect from the 14th October, 1955), for “the Provinces and the Capital of the Federation” which had been Substituted by Adaptation Order, 1949, Articles 3(2) and 4, for “British India”.

<sup>40[40]</sup>X of 1870, subsequently replaced by the Land Acquisition Act, 1894 (I of 1894).

