

# West Bengal Act XXI of 1948

## THE WEST BENGAL LAND DEVELOPMENT AND PLANNING ACT, 1948.

[Passed by the West Bengal Legislature.]

[Assent of the Governor was first published in the *Calcutta Gazette, Extraordinary*, of the 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  
commence-  
ment.

Ben. Act  
V of 1911.

(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 subsection (3) of section 1 thereof before the commencement of this Act.

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.

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

Definitions.

I of 1894.

(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 Province 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;

(e) “rules” means rules made under this Act.

3. The Provincial 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.

Appoint-  
ment of the  
prescribed  
authority.

2 *The West Bengal Land Development and Planning Act, 1948.*

[West Ben. Act

(Sections 4—6.)

Declaration  
of notified  
area.

4. (1) The Provincial 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;

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 or other chief revenue officer of the district, and such decision shall be final.

Prepara-  
tion and  
sanction-  
ing of deve-  
lopment  
scheme.

5. (1) The Provincial 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 Provincial Government for its sanction.

(2) A development scheme submitted to the Provincial Government under sub-section (1) may be sanctioned by it either without any modification or subject to such modifications as it may deem fit.

Declaration  
for acqui-  
sition of land  
needed for  
develop-  
ment  
scheme.

6. (1) When a development scheme is sanctioned under sub-section (2) of section 5 and the Provincial 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 Provincial Government.

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(Sections 7, 8.)

(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.

7. In cases of urgency, if in respect of any notified area the Provincial Government is satisfied that the preparation of a development scheme is likely to be delayed, the Provincial 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. A declaration under section 6 shall be conclusive evidence that the land in respect of which the declaration is made is needed for a public purpose and, after making such declaration, the Provincial 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.

I of 1894.

Provided that—

- (a) if in any case the Provincial 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 any other waste or arable land in respect of which the declaration is made and thereupon such land shall vest absolutely in the Crown free from all encumbrances;

*Explanation.*—For the purposes of this clause the decision of the Provincial Government as to whether any land is or is not waste or arable land shall be final;

- (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 exceeds by any 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.

4. *The West Bengal Land Development and Planning Act, 1948.*

[West Ben. Act

(Sections 9—12.)

Power to dispose of land without development.

9. Notwithstanding anything elsewhere contained in this Act or in any rule or order made thereunder, the Provincial Government may, if it so considers expedient, retain, let on hire, lease, sell, exchange or otherwise dispose of any land acquired in pursuance of this Act:

Provided that—

- (a) where the Provincial 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 Provincial 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 Provincial Government;
- (b) if, in any case, two or more persons claim to exercise a right offered under clause (a), the right shall be exercisable by such of the claimants as the Provincial Government may determine.

Execution of development scheme and disposal of land.

10. (1) The Provincial 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 Provincial Government.

(2) If the Provincial 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 Provincial Government and embodied in an agreement to be entered into by the Provincial 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 Provincial 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 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.

Protection of action taken under this Act.

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.

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(Sections 13-15.)

13. The Provincial 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 Provincial Government may make 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.