

**GOVERNMENT OF ODISHA
REVENUE AND DISASTER MANAGEMENT DEPARTMENT**

No. LA(A)-23/2014 ^{9068*****} /R&D.M Dated the 19th March, 2016

From

Dr. Mona Sharma, IAS
Principal Secretary to Government

To

All Collectors,
All RDCs

Sub: Instructions/ clarifications of implementation of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013

Sir,

I am directed to say that after coming into force of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (RFCTLAR&R) Act, 2013 w.e.f. 01.01.2014, doubts and confusions have been raised by different Departments, field functionaries and Project Proponents on different provisions of the new Act.

2. This Department has issued clarifications on issues raised by different Collectors from time to time. Clarifications have been issued vide this Department letter No.1862 dated 24.01.2014, No.4030 dated 07.02.2014 and No.33405 dated 3.12.2015. Promulgation of Ordinance under the Act to suspend the operation of Chapter-II & III in respect of certain projects and subsequent lapse of the Ordinance w.e.f. 31.08.2015 has necessitated further clarification on certain issues. Hence it is felt necessary to issue a comprehensive guideline covering all relevant issues, so that implementation of the provisions of the Act shall be smooth and transparent.

3. In supercession of all earlier clarifications/ guidelines issued by this Department order to overcome the difficulties, the Government after careful consideration, have been pleased to issue following guidelines for smooth implementation of the Act.

4. As regards, applicability of the new Act to the proceedings continuing under the Old Act, it is to mention that Section 24 of the RFCTLAR&R Act, 2013 provides for the same and doubts have arisen in different levels as regards its interpretation. It is clarified as below;

Stage of LA Proceeding and provision of the new Act	Interpretation and corresponding action envisaged to be followed
Section-24(1)(a)- LA Proceedings where no Award u/s 11 of the old Act has been made, then all provision of the new Act relating to determination of compensation shall apply.	4(1) Notification and 6(1) Declaration issued by the Government shall continue upto stage u/s -7 under the old LA Act,1894; but from the stage of determination of compensation and award, all provisions of the RFCTLAR&R Act,2013shall apply. The cutoff date for determination of market value shall be the date of preliminary Notification.
Section 24(1) (b)-LA Proceedings where award u/s 11 has been made	Payment of compensation shall continue under the provisions of the L.A Act, 1894. (old Act)
Section-24 (2)- LA Proceedings where award u/s-11 has been made 5 years or more prior to commencement of the new Act i.e. 01.01.2014, but compensation has not been paid or physical possession has not been taken	Such LA Proceedings shall be deemed to have lapsed. The Requiring Body if it so chooses shall apply for fresh LA Proceedings under the provisions of RFCTLAR&R Act, 2013.
Section 24(2) proviso- LA Proceedings where award u/s 11 has been made 5 years or more prior to commencement of the new Act, i.e. 01.01.2014, but compensation in respect of the majority of land holding has not been paid to the beneficiaries	All awardees whose land is covered in 4(1) Notification under LA Act 1894 shall be entitled to compensation in accordance with the provisions of the RFCTLAR&R Act, 2013.

5. In case of Irrigation projects, where Environmental Impact Assessment has been done as per any other Law, the provisions of Chapter-II shall not apply. The DoWR or the concerned Executive Engineer should furnish the EIA clearance copy and a certificate to the effect that “ As EIA has been conducted for this irrigation project, no SIA study is required” along with the proposal for 11(1) Notification.

In case of linear projects like railways, highways, major District roads, irrigation canals, power lines and the like, the Chapter –III shall not apply.

6. A sliding scale has been adopted to determine the factor in a scale (between 1 to 2) by which the market value will be multiplied as per the First Schedule of the Act basing on the radial distance from the Urban area.

Rdial Distance from Urban area in KM	Multiplier factor
From 0 km up to 10	1.00
More than 10 up to 20	1.20
More than 20 up to 30	1.40
More than 30 up to 40	1.80
More than 40	2.00

The radial distance shall be calculated from the outskirts of the nearest urban area.

7. As regards timing of preparation and timeline for implementation of R&R benefits, it is to clarify that;

(a) a declaration of an area identified as the "resettlement area" for the purpose of rehabilitation and resettlement of the displaced families, where required and the summary of Rehabilitation and Resettlement scheme shall be published along with the Declaration u/s 19 of the RFCTLAR&R Act.

(b) Before Declaration u/s 19(1), the rehabilitation area should be earmarked, plot-wise demarcated and shown to the supposed displaced persons. The land may be provided to the displaced persons within 6 months of the award i.e with the monetary part of the R&R Benefits, so that they can properly utilize the compensation and R&R Entitlements money received.

(c) Award for compensation and Award for Rehabilitation and resettlement for each affected family may be passed separately but simultaneously.

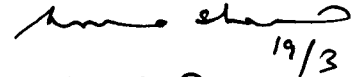
(d) Possession of land shall be taken over by Collector u/s 38 of the Act after ensuring that full payment of compensation as well as R& R entitlements are paid or tendered to the entitled persons within a period of;

Compensation amount	Within 3 months of the date of Award u/s 30
Monetary part of R&R Entitlements and possession of resettlement plots to displaced persons	Within 6 months of the Award
R&R benefits relating to Infrastructural entitlements	Within 18 months of the Award
For Irrigation or hydel projects, R&R shall be completed	6 months prior to the submergence of the land acquired
All R&R works to be completed	Before displacement

8. For conduct of SIA Study, following timeline is proposed.

On receipt of requisition from Requiring Body, Collector shall submit the proposal to NCDS with a copy to R&DM Department	Within 7 days
NCDS to prepare ToR and estimate and intimate Requiring Body, Collector and R&DM Dept	Within 10 days
Requiring Body to deposit money with NCDS	Within 15 days
NCDS will intimate R&DM Department	Within 3 days of receipt of estimated cost
SIA notification by R&DM Dept	Within 7 days of intimation

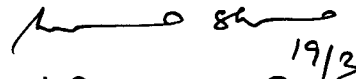
Yours faithfully



Principal Secretary to Government.

Memo No. 9069 /RDM dated 19-03-2016

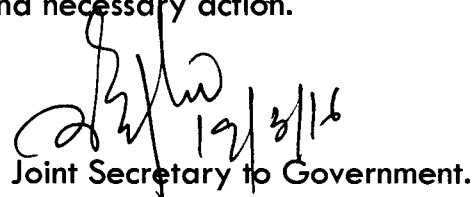
Copy forwarded to all Departments of Government/Secretary, Board of Revenue, Odisha, and Cuttack/ NCDS, Bhubaneswar information and necessary action.



Principal Secretary to Government.

Memo No. 9070 /RDM dated 19-03-2016

Copy forwarded to Under Secretary to Govt. (in charge of IMU Cell)/LR &GE (A)/(B)/(C)/LA(A)/(B)/(C)/R&R Cell/LR(A)/(B)/Registration Branch/CH&S Branch of Revenue &DM Department for information and necessary action.



Joint Secretary to Government.