

**THE GOA REQUISITION AND ACQUISITION OF PROPERTY BILL,
2017**

(Bill No.18 of 2017)

A

BILL

to provide for the requisition and speedy acquisition of property for certain purposes, not being purposes of the Union.

BE it enacted by the Legislative Assembly of Goa in the Sixty-eighth Year of the Republic of India as follows:—

1. Short title, extent and Commencement.- (1) This Act may be called the Goa Requisition and Acquisition of Property Act, 2017.

(2) It extends to the whole of the State of Goa.

(3) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint.

2. Definitions.- In this Act, unless the context otherwise requires, -

(a) "*award*" means an award made by an arbitrator under section 7;

(b) "*Collector*" means the Collector of the district where the property to be requisitioned or acquired is situated and includes any other officer specially authorised by the Government by notification to perform the functions of a Collector under this Act;

(c) "*Court*" means the Court of the principal District Judge of original jurisdiction and includes the Court of any Additional District Judge or the Court of Civil Judge having pecuniary jurisdiction, as may be specified by the Government by notification, as a Court;

(d) "*Government*" means the Government of Goa;

(e) "*land*" includes benefits to arise out of land and things attached to earth or permanently fastened to anything attached to the earth;

(f) "*landlord*" means the owner of the property and includes any person who for the time being is receiving or is entitled to receive, the rent of any property, whether on his own account, or on account or on behalf of for the benefit, of any other person or as a trustee, guardian or receiver for any other person, or who would so receive the rent or be entitled to receive the rent if property is let to a tenant ;

(g) "*notification*" means a notification published in the Official Gazette;

(h) "*Official Gazette*" means the Official Gazette of the Government;

(i) "*person interested*" includes all persons claiming, or entitled to claim, compensation payable on account of the requisitioning or acquisition of that property under this Act;

(j) "*premises*" means any building or part of a building and includes, –

(i) the garden, grounds and outhouses, if any, appertaining to such building or part of a building,

(ii) any fittings affixed to such building or part of a building for the more beneficial enjoyment thereof;

(k) "*prescribed*" means prescribed by rules made under this Act;

(l) "*property*" means immovable property of every kind and includes any right in or over such property :

(m) "*public purpose*" shall mean and include the following purposes, namely, -

(a) sanitary improvements of any kind including reclamation;

(b) laying out of village sites, townships or the extension, planned development or improvement of existing village sites or townships;

(c) town or rural planning under any law relating to such planning;

(d) the provision of land for, -

(i) maintaining supplies and services essential to the life of the community;

(ii) providing proper facilities for transport, communication, irrigation or drainage;

(iii) carrying out any housing scheme, health scheme or any development scheme relating to agriculture, animal husbandry irrigational facilities or promotion of tourism, sponsored by the Government or any local authority;

(iv) creation of better living conditions in rural or urban areas, by clearing slum areas, relieving congestion or otherwise;

(v) for housing poor, landless or displaced persons or persons residing in areas affected by landslides, floods or other similar natural calamities;

(vi) residential accommodation for persons serving under the Government where the provision of such accommodation is, in the opinion of the Government, necessary in the interest of public service;

(vii) locating Government or other public offices;

(viii) establishment, extension or further development of any trade or industry or other concern owned, managed, controlled by the Government;

(ix) establishment of industrial estates by way of planned development from public funds and subsequent disposal thereof in whole or in part by lease, assignment or other mode of transfer;

(x) corporation owned, managed or controlled by the Government or for any municipal corporation or other local authority or for the establishment or development of any educational institution;

(xi) a company, corporation or co-operative society for such work which, in the opinion of the Government, is substantially useful for and beneficial for the public;

(xii) medical, education or advancement of any other object of general public utility;

(xiii) creation of any infrastructure or development of bus stand, airport, truck terminus.

3. Power to requisition.- (1) Where the Government is of the opinion that any property is needed or likely to be needed for any public purpose, not being a purpose of the Union, the Government may, by order published in the Official Gazette and two local newspapers, requisition such property:

Provided that no property used for the purpose of religious worship or used by an educational or charitable institution shall be requisitioned under this section.

(2) An order under sub-section (1) shall be served in such manner as may be prescribed on the owner of the property and where such property is in occupation of an occupier, not being the owner, also on such occupier.

(3) If any person fails to comply with an order of requisition made under sub-section (1), the Collector or any other person authorized by him by Order in writing in this behalf shall execute the order of requisition in such manner as he considers expedient and may,-

(a) if he is a magistrate, enforce the delivery of possession of the property in respect of which the order has been made, to the Government, or

(b) if he is not a magistrate, he shall apply to a magistrate and such magistrate shall enforce the delivery of possession of such property to the Government.

4. Rights over requisitioned property.- (1) The whole of the property requisitioned shall be used only for such purpose as may be mentioned in the order of requisition issued under sub-section (1) of section 3.

(2) Where any premises is requisitioned under section 3, the Collector may order the landlord to execute such repairs as may be necessary and are usually made by the landlords in that locality and as may be specified in the order, within such reasonable time as may be mentioned therein, and if the landlord fails to execute any repairs in pursuance of such order, the Collector may cause the repairs specified in the order to be executed at the expense of the landlord and the cost thereof may, without prejudice to any other mode of recovery, be deducted from the compensation payable to the landlord.

5. Release of requisitioned property.- (1) When the purpose for which any requisitioned property was being used, ceases to exist, and if such property is not acquired under section 6, the Government may by order published in the Official Gazette release any property requisitioned under this Act and shall, as far as possible, restore such property in as good condition as it was when possession thereof was taken, subject to the changes caused by reasonable wear and tear and irresistible force.

(2) Notwithstanding anything contained in sub-section (1), the Government shall release the property requisitioned under this Act, within a period of six months from the expiry of a period of fifteen years from the date on which possession of such property was surrendered or delivered or taken by, the Government under section 3, unless such property is acquired under section 6 within the said period of fifteen years.

(3) Where any requisitioned property is to be released under sub-section (1) or sub-section (2), the Collector may, after such inquiry, as he may consider necessary to make, specify by order in writing the person to whom possession of the property shall be given and such possession shall, as far as practicable, be given to the person from whom the possession was taken at the time of the requisition or to the successors-in-interest of such person.

(4) The delivery of the possession of the property to the person specified in an order under sub-section (3) shall be a full discharge of the Government from all liabilities in respect of the property, but shall not prejudice any rights in respect of the property which any other person may be entitled by due process of law to enforce against the person to whom possession of the property is given.

(5) Where any person to whom the possession of any requisitioned property is to be given is not found and has no agent or other person empowered to accept delivery of possession on his behalf, the Collector shall cause a notice declaring that the property is released from requisition to be affixed on some conspicuous part of the property and shall also publish such notice in the Official Gazette and two local newspapers.

(6) When a notice referred to in sub-section (5) is published, the property specified in such notice shall cease to be subject to requisition on and from the date of such publication and shall be deemed to have been delivered to the person entitled to the possession thereof and the Government shall not be liable for any compensation or other claim in respect of the property for any period after the said date.

(7) Where any property requisitioned under this Act or any material part thereof is wholly destroyed or rendered substantially and permanently unfit for the purpose for which it was requisitioned by reason of fire, earthquake, tempest, flood or violence of any army or of a mob or other irresistible force, the requisition shall be void.

6. Power to acquire requisitioned property.- (1) The Government may, if it is of the opinion that it is necessary to acquire the property requisitioned under this Act for a public purpose, acquire such property by publishing a notice to that effect in the Official Gazette and two local newspapers, that the Government has decided to acquire the property in pursuance of this section, in the following circumstances, namely :-

(a) where any works have been carried out, during the period of requisition, in or over, the property wholly or partially at the expense of the Government and the Government decides that the value of, or the right to use, such works should be secured or preserved for the purposes of the Government; or

(b) where the cost of restoration of the property to its condition as it was at the time of its requisition would, in the opinion of the Government, be excessive and the owner declines to accept release from requisition of the property without payment of compensation for restoration of such property:

Provided that before issuing such notice, the Government shall call upon the person interested to show cause why the property should not be acquired; and after considering the cause, if any, shown by him and after giving him an opportunity of being heard, the Government may pass such order as it deems fit, which shall be published in the Official Gazette.

Explanation: For the purposes of clause (a) of sub-section (1), “works” includes buildings, structures and improvements of every description.

(2) Where an order as aforesaid is passed, the requisitioned property shall, on the day on which such order is passed, vest absolutely in the Government free from all encumbrances and the period of requisition of such property shall end.

(3) Notwithstanding anything contained in this section, the Government may acquire the land specified in sub-section (1), under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Central Act No. 30 of 2013).

7. Principles and method of determining compensation.- (1) Where any property is requisitioned or acquired under this Act, there shall be paid compensation which shall be determined in the manner and in accordance with the principles hereinafter set forth, namely:-

(a) where the amount of compensation can be fixed by an agreement, it shall be paid in accordance with such agreement ;

(b) where no agreement can be reached, the Government shall, by notification appoint as arbitrator a person who has been or is qualified for appointment as, a judge of a High Court;

(c) the Government may, in any particular case, nominate a person having expert knowledge as to the nature of the property requisitioned or acquired, to assist the arbitrator and where such nomination is made, the person interested may also nominate an assessor for the same purpose;

(d) at the commencement of the proceedings before the arbitrator, the Government and the person interested shall state what in their respective opinion is a fair amount of compensation.

(e) the arbitrator shall, after hearing the parties make an award determining the amount of compensation which appears to him to be just and specifying the person or persons to whom such compensation shall be paid; and in making the award, he shall have regard to the circumstances of each case and the provisions of sub-sections (2) and (3), so far as they are applicable;

(f) when there is any dispute as to the person or persons who are entitled to the compensation, the arbitrator shall decide such dispute and if the arbitrator finds that more persons than one are, entitled to compensation, he shall apportion the amount thereof amongst such persons;

(g) nothing contained in the Arbitration and Conciliation Act, 1996 (Central Act 26 of 1996) shall apply to the arbitration proceedings under this section.

(2) The amount of compensation payable for the requisitioning of any property shall, subject to the provisions of sub-sections (3) and (4), consist of -

(a) a recurring payment, in respect of the period of requisition, of a sum equal to the rent which would have been payable for the use and occupation of the property, if it had been taken on lease for that period; and

(b) such sum or sums, if any, as may be found necessary to compensate the person interested for all or any of the following matters, namely :-

(i) pecuniary loss due to requisitioning ;

(ii) expenses on account of vacating the requisitioned property;

(iii) expenses on account of re-occupying the property upon release from requisition; and

(iv) damages (other than normal wear and tear) caused to the property during the period of requisition, including the expenses that may have to be incurred for restoring the property to the condition as it was at the time of its requisition.

(3) The recurring payment, referred to in clause (a) of sub-section (2), in respect of any property shall, unless such property is released from requisition under section 5 or acquired under section 6, be revised in accordance with the provisions of sub-section (4) in the following manner:-

In a case where such property has been subject to requisition under this Act for a period of five years or more,-

(i) first, with effect from the date of expiry of five years from the date on which possession of such property has been surrendered or delivered or taken under section 3, and

(ii) secondly, with effect from the date of expiry of five years, from the date on which the revision made under sub-clause (i) takes effect.

(4) The recurring payment referred to in clause (a) of sub-section (2) shall be revised by re-determining such payment in the manner and in accordance with the principles set out in sub-section (1) read with clause (a) of sub-section (2), as if such property is being requisitioned under this Act on the date from which such revision takes effect.

(5) The compensation payable for the acquisition of any property under section 6 shall be paid,-

(a) where the amount of compensation can be fixed by an agreement, in accordance with the provisions specified in the Policy on Procurement of land under Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement

Act, 2013 for Direct Procurement of land to set up public purposes projects on priority basis;

(b) where no agreement can be reached, in accordance with the award made by the arbitrator. The provisions of sections 26, 27, 28, 29 and 30 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Central Act No. 30 of 2013) so far as they may be applicable, shall apply in respect of such award.

8. Reference to Court.- (1) Any person interested who is aggrieved by an award may, by written application to the Arbitrator, require that the matter be referred by the Arbitrator for the determination of the Court:

Provided that the Arbitrator shall, within a period of thirty days from the date of receipt of application, make a reference to the Court:

Provided further that where the Arbitrator fails to make such reference within the period so specified, the applicant may apply to the Court, requesting it to direct the Arbitrator to make the reference to it within a period of thirty days.

(2) The application shall state the grounds on which objection to the award is taken:

Provided that every such application shall be made –

(a) if the person making it was present or represented before the Arbitrator at the time when he made his award, within six weeks from the date of the Arbitrator's award;

(b) in other cases, within six months from the date of the Arbitrator's award:

Provided further that the Arbitrator may entertain an application after the expiry of the said period, within a further period of one year, if he is satisfied that there was sufficient cause for not filing it within the period specified in the first proviso.

(3) No person who has received any amount under the award otherwise than under protest shall be entitled to make an application under subsection (1).

(4) The provisions contained in the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Central Act No. 30 of 2013) so far as they may be applicable, shall apply in respect of any reference to the Court under this section.

9. Payment to Tenant.- Notwithstanding anything contained in this Act or any other law for the time being in force, if any land which is being cultivated by a tenant is requisitioned or acquired under this Act, the tenant shall be paid only half of the total compensation amount payable, if he is cultivating the land at the time of requisition/acquisition.

10. Appeals from orders of requisitioning.- (1) Any person aggrieved by an order of requisition made under section 3 may, within thirty days from the date of service of the order, prefer an appeal to the Government:

Provided that the Government may entertain the appeal after the expiry of the said period, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) On receipt of an appeal under sub-section (1), the Government may, after calling a report from the Collector and giving an opportunity to the parties of being heard and after making such further inquiry, if any, as may be necessary, pass such order as it thinks fit and such order shall be final.

(3) Where an appeal is preferred under sub-section (1), the Government may stay the enforcement of the order referred in sub-section (1) for such period and on such conditions as it thinks fit.

11. Appeal from award in respect of compensation.- Any person aggrieved by an award of the arbitrator made under section 7 may, within thirty days from the date of such award, prefer an appeal to the High Court within whose jurisdiction the requisitioned or acquired property is situated:

Provided that the High Court may entertain the appeal after the expiry of the said period of thirty days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

12. Power to obtain information.- The Government or the Collector may, with a view to carrying out the purposes of sections 3, 6 and 7, by order require any person to furnish to such officer, as may be specified in the order, such information in his possession as may be specified relating to any property which is requisitioned or acquired, or intended to be requisitioned or acquired, under this Act.

13. Power to enter and inspect.- The Collector or any officer authorised by him in this behalf, by general or special order, may enter and inspect any property for the purposes of determining in what manner, an order under this Act should be made in relation to such property or with a view to secure compliance of an order made under this Act.

14. Service of notice and orders.- Save as otherwise provided in this Act and any rules that may be made under this Act, every notice or order issued or made under this Act shall,-

(a) in the case of any notice or order of a general nature or affecting a class of persons, be published in the Official Gazette and

(b) in the case of any notice or order affecting an individual, corporation or firm be served in the manner provided for the service of summons in rule 2 of Order XXIX or rule 3 of Order XXX, as the case may be, in the First Schedule of the Code of Civil Procedure, 1908 (5 of 1908); and

(c) in the case of any order affecting an individual person (not being a corporation or firm), be served on such person-

(i) by delivering or tendering it to that person;

(ii) if it cannot be so delivered or tendered, by delivering or tendering it to any adult male member of the family of such person, or by affixing a copy thereof on the outer door or on some conspicuous part of the premises in which that person is known to have last resided or carried on business or personally worked for gain; and failing service by both these means,

(iii) by post.

(d) in case, the ownership of the property is in dispute or the persons interested in the property are not readily traceable and the notice or order cannot be served without undue delay, the notice or order may be served by publishing it in the Official Gazette and two local newspapers and where possible, by affixing a copy thereof on any conspicuous part of the property to which it relates.

15. Easement not to be disturbed.- No person interested in any property requisitioned or acquired under this Act shall, without the previous written consent of the Collector except for the purpose of effecting repairs or for complying with a requirement of the local authority, willfully disturb any convenience or easement attached to such property or remove, destroy or render unserviceable anything provided for permanent use therewith or discontinue or cause to be discontinued any supply or service provided for the property.

16. Penalty.- If any person contravenes the provisions of this Act, he shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to two thousand rupees or with both.

17. Jurisdiction of civil courts barred.-No civil court (other than High Court or the Supreme Court) shall have jurisdiction to entertain any dispute relating to land acquisition in respect of which the arbitrator or the Government is empowered by or under this Act, and no injunction shall be granted by any Court in respect of any such matter.

18. Protection of action taken under this Act.-No suit, prosecution or other legal proceedings shall lie against the Government or any officer of the Government or any other person authorized under this Act for anything, which is in good faith done or intended to be done under this Act or the Rules or any order made thereunder.

19. Power to make rules.- The Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

20. Act to have overriding effect.- The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

21. Power to remove difficulties.- (1) If any difficulty arises in giving effect to the provisions of this Act, the Government may by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removal of the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the date of the commencement of this Act.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before the State Legislature.

STATEMENT OF OBJECTS AND REASONS

This Bill seeks to provide for requisition and speedy acquisition of immovable property for certain public purposes, not being purposes of the Union.

The Bill seeks to achieve the above Object.

FINANCIAL MEMORANDUM

Financial implications would arise as and when the Government decides to requisition and/or acquire land and the same cannot be quantified at this stage.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 1(3) of the Bill empowers the Government to issue notification for appointing the date to bring into force the Act.

Clause 2(c) of the Bill empowers the Government to issue notification to authorize any officer to perform the functions of the Collector.

Clause 2(d) of the Bill empowers the Government to issue notification to specify the Court for the purposes of the Act.

Clause 3(1) of the Bill empowers the Government to issue an order for requisitioning any immovable property for public purpose.

Clause 3(2) of the Bill empowers the Government to frame rules to specify the manner of serving an order on the owner or occupier of the property.

Clause 3(3) of the Bill empowers the Collector to authorize any person by order in writing to execute the order of requisition of any immovable property.

Clause 5(1) and 5(2) of the Bill empowers the Government to issue an order for releasing an immovable property requisitioned under the Act.

Clause 6(1) of the Bill empowers the Government to issue an order for acquiring an immovable property which is requisitioned under the Act.

Clause 7(1)(b) of the Bill empowers the Government to appoint an Arbitrator for determining the amount of compensation payable to the interested person and also to apportion such amount if he finds that more than one person are entitled to such amount.

Clause 13 of the Bill empowers the Collector to issue an order for authorizing any officer to enter and inspect any property.

Clause 19 of the Bill empowers the Government to make rules to carry out the purposes of the Act.

Clause 21 of the Bill empowers the Government to issue an order for the removal of any doubt or difficulty which arises in giving effect to the provisions of the Act.

These delegations are of normal character.

Porvorim-Goa
____ July, 2017

(Rohan Khaunte)
Minister for Revenue

Assembly Hall,
Porvorim-Goa.
____ July, 2017

(Shri Nilkant Subhedar)
Secretary to the
Legislative Assembly of Goa

Governor's Recommendation under Article 207 of the Constitution of India

In pursuance of Article 207 of the Constitution of India, I, Smt. Mridula Sinha, the Governor of Goa, hereby recommend to the Legislative Assembly of Goa, the introduction and consideration of the Goa Requisition and Acquisition of Property Bill, 2017.

RAJ BHAVAN
Date:

MRIDULA SINHA
Governor of Goa

