



# *Land Acquisition: The Act, The Ordinance and The Bill*



**June 2015**



## Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act (RFCT-LARR): *Understanding the Amendments*

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Land for any nation has always been a key factor for infrastructure development. It is an obligation for the governments to acquire land for public purposes, be it for strategic needs or for industrialization or for providing public amenities. In India the process was governed by the Land Acquisition Act of 1894 for long, until the Right to fair compensation and transparency in land acquisition, rehabilitation and resettlement Act 2013 (RFCT-LARR) was formulated. Further, amendment to this new legislation was brought by the new central government in December 2014 in the form of ordinance.

Meanwhile, at Public Policy Research Centre (PPRC), we tried to understand the amendments brought through ordinance 2014 to the principal act of 2013. PPRC's monograph '*Infrastructure development- expediting land acquisition: Understanding RFCT-LARR Amendment 2014 against the 2013 Act*' presented to the panel set-up reconsider the amendments proposed through the 2014 ordinance, appreciated the change brought by the Act of 2013 in the interest of landholders but also highlighted the complexities in the act that are delaying the land acquisition. The Monograph then analyzed the changes brought by the amendments in the ordinance and found that it meets requirements from both ends of welfare and development. It is indeed one step taken to fulfill the vision of smart cities & smart villages, expanding the demographic dividend by creating more employment opportunities and ensuring better quality of life. But in light of criticism, the monograph also tried to suggest future roadmap. Further, this Monograph is the compilation of all the recent developments in amendment process to RFCT-LARR Act (from the ordinance of 2014 to the pending bill 2015) with implied rationale of each amendment presented systematically. Hence it is named '*RFCT-LARR: Understanding the amendments*'.

The new central government has undertaken responsibility to address the issues that unnecessarily delayed the land acquisition process in light of the 2013 Act while it was considering to meet the requirement of the Act to extend its provisions to 13-other exempted central laws. The Amendment has primarily excluded 5-projects related to defence-national security, rural infrastructure, industrial corridors, infrastructure and affordable housing for poor, from the clauses of impact assessments and consent seeking (govt owned land). And, it motivates the bureaucrats for fast-clearance by protecting them from direct accountability while also excludes litigation issues from the retrospective clause and extends the time period for return of unutilized land to consider period specified to set up the project.

## Summary of the legislation:

**1. Current legislation under Consideration:** Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation & Resettlement Act (Second Amendment) Bill, 2015.

**2. Status:** PENDING (till the end of Budget Session 2015)

**3. Course of events<sup>1</sup>:**

- **December 31, 2014:** RFCT-LARR Act 2013 Amendment Ordinance promulgated (No 9 of 2014).
- **February 24, 2015:** RFCT-LARR (Amendment) Bill 2015 introduced in Lok Sabha (No 20 of 2015)
- **March 10, 2015:** Bill Passed by Lok Sabha
- **March 13, 2015:** Notice for Motion for consideration and passing of the Bill given to Secretary General of Rajya Sabha.
- **April 3, 2015:** RFCT-LARR (Amendment) Ordinance 2015 promulgated (No 4 of 2015).
- **May 11, 2015:** RFCT-LARR (Second Amendment) Bill 2015 Text introduced (No 152 of 2015).
- **May 30, 2015:** RFCT-LARR (Second Amendment) Ordinance 2015 promulgated (No 5 of 2015).

SI	<u>RFCT-LARR 2013</u>	<u>RFCT-LARR (Amendment) Ordinance 2014</u>	<u>RFCT-LARR (Second Amendment) Bill 2015<sup>1</sup></u>	<u>Rationale &amp; Implications</u>
1	Mandatory 70% consent for PPP projects. Mandatory 80% consent for private projects. Mandatory Social impact assessment (SIA) for every project.	These mandatory clauses are no longer required for 5 types of projects: 1. National security and Defense Production 2. Rural infrastructure, Rural electrification 3. Infrastructure and Social infrastructure 4. Industrial corridors 5. Housing for Poors.	Further amendments brought through this Bill gives <i>power to appropriate govt</i> to act in public interest and exempt by notification projects of these 5-categories and limits the exemption for industrial corridors to those set-up by govt/govt undertakings (upto 1km on either side of road/railway) and removes the social infrastructure projects for exemption.	Industry suffers due the complex and elongated process introduced under LARR 2013. Getting consent from landowners before acquisition was difficult even for basic infrastructural projects. Hence, the amendment implies to facilitate easy land acquisition for 5 identified key sectors.

<sup>1</sup> On February 24, 2015 RFCT-LARR (Amendment) Bill 2015 was introduced in the Lok Sabha. The RFCT-LARR (Second Amendment) Bill 2015 includes further changes to the principal Act of 2013 coming through the discussions in the Lok Sabha on the RFCT-LARR (Amendment) Bill 2015.

2	Social Impact Assessment (SIA) and provisions safeguarding <u>food security</u> mandatory for every type of project.	SIA & food security provisions not needed for 1. Those five categories listed above 2. PPP projects, if Government owns the land.	The Bill provides for exemption provisions to land acquisition of multicropped irrigated land, adding that the <i>appropriate govt</i> , before issuing the required notification for acquisition must ensure that the extent of such land acquired is minimum land required for such a project.	Provision of Social Impact Assessment and then SIA report appraisal by expert panel, delayed the land acquisition process for projects, by approx 4years. While food security provisions were already exempted for projects of linear nature relating to basic infrastructure in the Act. Hence, the amendment implies simplicity in land acquisition process meant for <i>public purpose</i>
3	NA	NA	Added that the govt must conduct survey of its <u>wasteland</u> including arid land, and maintain a record as prescribed by the govt.	This provision shall help the govt to maintain database of the land not in use and pool them for development projects.
4	Private “ <b>companies</b> ” can acquire land for public purpose.	Private “ <b>entities</b> ” can acquire land for public purpose.	<i>-changes brought through the ordinance carried forward-</i>	Meaning private companies, NGOs, trusts, foundations, charity bodies, proprietors etc. too can acquire land for <i>public purpose</i> . Hence, encouraging participation of all entities other than Govt for basic infrastructure development, while also covering land acquisitions by all entities under one canvass.
5	Infrastructure projects shall exclude private hospitals, educational institutions & hotels.	Building private hospitals and private educational institutes will also count as <i>public purpose</i> .	The new bill doesn't include Private hospitals, private educational institutions within the definition of public purpose.	Means, private entities can acquire land for hospitals and educational purpose too if 80% affected families give consent.
6	Applied to companies defined under Companies Act 1956	Applied to companies defined under Companies Act 2013	<i>-changes brought through the ordinance carried forward-</i>	Updating & removal of drafting errors of the Act.

7	If any mischief played on Government's part then head of the department will be responsible.	Head of the department can't be prosecuted without prior sanction of government (under CrPC Section 197).	The Bill clarifies that prior sanction of govt is required prior prosecuting a public servant as per Section 197 of Code of Criminal Procedure 1973.	This <i>immunity</i> is given to ensure bureaucrats don't sit on the files, fearing media-trials and judicial activism. Again, to facilitate fast track clearance.
8	Land acquired if unutilized for 5years, will be returned to original owners.	Land acquired if unutilized for 5years or any period specified at the time of setting up the project, whichever is later, will be considered.	<i>-changes brought through the ordinance carried forward-</i>	Considering the long gestation period of projects meant for <i>public purpose</i> . Hence, updating and removing drafting errors of the Act.
9	<u>Time for retrospective application:</u> If acquisition was done 5years ago or more (since the Act came into effect) but compensation has not been paid, LARR 2013 shall be applicable.	<u>Time for retrospective application:</u> If acquisition was done 5years ago or more (since the Act came into effect) but compensation has not been paid, LARR 2013 shall be applicable, but shall exclude any judicial delay ( <i>'compensation is lying deposited in a court or any account'</i> ).	The bill continues with the amendments brought by the ordinance, and only elaborates it further and changes the definition of compensation account to ' <i>designated account</i> ' making it specific.	There were reports of settled cases being re-opened and provision for opening cases older than 5years didn't seem practical for projects of importance.  Hence, eliminating unnecessary burden on the exchequer due to litigation issues.
10	Required its provisions to be extended to land acquisition provisions under 13 central laws mentioned, within 1year through a notification.	Brings compensation, resettlement & rehabilitation provisions of 13 other enactments mentioned in consonance with LARR Act 2013	<i>-changes brought through the ordinance carried forward-</i>	Meeting the requirements of the Act in time and extending benefits of fair compensation, rehabilitation & resettlement to land acquisitions under all principle central laws.
11	If any difficulty arises in implementation, the GOI by an order can give directions (consistent with the Act) to remove the difficulty, upto 2years from	The period for exercising this power has been extended to 5years from the commencement of this Act.	<i>-changes brought through the ordinance carried forward-</i>	Considering the lost gestation period of concerned projects within the purview of the Act, time frame of 2years is very small to evaluate and remove the impediments. Hence, amendment implies extension of the period for more vigilance on the implementation of the Act.

	commencement of this Act.			
12	Mentions to provide mandatory employment for the members of affected families.	NA	The bill changes the provision to ensure compulsory employment to atleast one member of ' <i>such affected family of a farm labour</i> '	In order to ensure livelihood security of farm labourer, whose dependency on land is much higher than other landholders. Hence, adding weightage to landholders as per their dependency on land.
13	The Act mentions the LARR authority to consider the interest of persons affected by the objection raised in case of dissatisfaction with the award.	NA	The bill adds that the LARR authority must hold a hearing in the dist where land acquisition is under process, after receiving a reference from the Collector & giving notice of this reference to all concerned parties, while pursuing the case of objection on account of dissatisfaction with the award.	When the principal Act made the legislation one-sided in order to eliminate the exploitation concerns only, it could not foresee the imbalance & confusion created by imposing restriction to consider the interest of affected persons to the scope of proceedings. The Amendments have made the procedure more participative and democratic to resolve the conflicts arising with award under the Act.
<p><i>Sources: Gazette of India: RFCT-LARR 2013(No 30 of 2013), Gazette of India: RFCT-LARR Amendment Ordinance 2014 (No 9 of 2014), RFCT-LARR (Amendment) Bill 2015 (Bill No 20 of 2015), RFCT-LARR (Second Amendment) Bill 2015 (No 152 of 2015), <a href="http://www.rlarrdc.org.in/images/The_RFCTLARR_Amendment_Bill_2015_passed_by_Lok_Sabha.pdf">http://www.rlarrdc.org.in/images/The_RFCTLARR_Amendment_Bill_2015_passed_by_Lok_Sabha.pdf</a>, PRS, <a href="http://mrunal.org/2015/01/polity-land-ordinance-features-criticism-land-acquisition.html">http://mrunal.org/2015/01/polity-land-ordinance-features-criticism-land-acquisition.html</a></i></p>				

**REFERENCES:**

<sup>1</sup> LIST OF SOURCES:

1. Press Information Bureau (MoRD: Print releases)
2. PRS Bill Track (<http://www.prsindia.org/billtrack/pending/>)



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