



THE ASSAM GAZETTE

অসাধাৰণ

EXTRAORDINARY

প্ৰাপ্ত কৰ্তৃত্বৰ দ্বাৰা প্ৰকাশিত

PUBLISHED BY THE AUTHORITY

নং 256 দিশপুৰ, মঙ্গলবাৰ, 5 এপ্ৰিল, 2022, 15 চ'ত, 1944 (শক)
No. 256 Dispur, Tuesday, 5th April, 2022, 15th Chaitra, 1944 (S. E.)

GOVERNMENT OF ASSAM
ORDERS BY THE GOVERNOR
REVENUE AND DISASTER MANAGEMENT (L.R.) DEPARTMENT

NOTIFICATION

The 24th March, 2022

No.RLA.300/2013/Pt/159.- Whereas Chapter XI (section 81 to section 83) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (30 of 2013) provides for temporary occupation and use of any waste or arable land needed for public purpose, compensation for such occupation, power to enter and take possession, restoration and payment of compensation for damage caused to the land.

Now, therefore, the procedure to be followed by the Deputy Commissioners / Collectors for temporary occupation of land for public purpose in the State of Assam is prescribed below.

1. Procedure for temporary occupation of land in preliminary stages:

- (i) Unlike permanent acquisition of land, no preliminary notification or declaration is needed to be published.
- (ii) A plan of the land, of which temporary occupation is desired, will be furnished to the Collector with a statement of the reasons for which the occupation is required, the length of time for which the land is wanted, and with a request that an estimate may be furnished of the probable cost of the occupation.
- (iii) On receipt of the estimate endorsed by the District Officer to the effect that there is no general or specific objection to the occupation of the land

being obtained for the purpose specified, the requiring department should forward it with the plan to Government for orders through the prescribed channel of the department concerned.

- (iv) When the project has been sanctioned by Government in the administrative department concerned and the necessary funds have been allotted, the Revenue Department, as in the case of the permanent acquisition of land, will issue order under section 81 of the RFCTLARR Act, 2013 authorizing the Collector concerned to procure the temporary occupation and use of the land.

2. Procedure for taking possession of land required for temporary occupation:

In procuring temporary occupation of land, there must be an agreement in writing between the Collector and the parties interested as to the amount of compensation, and if the Collector and the parties disagree as to the sufficiency of the compensation or its apportionment, the Collector must refer the matter to the Land Acquisition, Rehabilitation and Resettlement Authority. In case of reference, the Collector will abstain from making any award but will explain clearly in his reference the awards which he proposed to make and the grounds on which it was based.

It may sometimes happen that the parties interested do not appear before the Collector after the issue of the notice under section 81 (2). It then becomes difficult to comply with the provisions laid down in section 82 (1) before entering upon and taking possession of the land. The following procedure will best meet such a case: -

It should be stated in the notice issued under section 81 (2) that on the failure of the party to attend in person or by agent at the appointed time, the Collector will award compensation ex-parte and will enter upon and take possession of the land. This notice will be in **Form -A**. This will probably result in the parties appearing before the Collector. If they still do not, the Collector should record his finding as to the proper sum payable as compensation and proceed to take possession of the land. If the parties subsequently appear, he can pay them according to his finding, if they agree, if they do not agree, he can refer the case to the Authority under section 81 (3). The Collector should, however, endeavour to obtain the agreement of the parties to the compensation awarded and if they do agree, to pay them. If payment cannot be made within a reasonable time, the amount awarded should be kept as Revenue Deposit.

A sample copy of the Notice of deposit of compensation as Revenue Deposit is enclosed as **Form -B**.

3. Final report in the case of temporary occupation of land:

In cases of temporary occupation, two reports should be submitted. The first as soon as all compensation under section 81 (2) has been paid or placed in deposit, and the second as soon as the land has been restored to the parties interested under section 82 (2).

The first report should contain particulars of the area occupied, the date of the service of notices, the amount of compensation awarded, the date of making payment or executing agreement or making a reference to the Authority, as the case may be and the date of the occupation of the land.

The second report should show the date of which the land is restored and the total payments including payments of compensation for damage under section 82 (2) together with the particulars of any payments which may have been made subsequent to the submission of the first report.

4. Restoration or permanent acquisition of land occupied temporarily:

On the expiry of the period of three years provided for in section 81 (1) for temporary occupation of land, the Collector must either restore the land to the parties interested under section 82 (2) or take steps for its permanent acquisition.

5. Principle for assessing compensation for temporary occupation:

The principle to be adopted in assessing the compensation to be offered to persons interested in land to be temporarily occupied, is that its party should receive the value of that of which he is temporarily deprived.

It is to be noted that section 81 makes no provision for the payment of an additional amount of 100 percent on the market value as provided by section 30 (1) in cases of permanent acquisition. When an arrangement is made by which the land lord is to receive the usual rent; or its equivalent, he is ipso facto fully compensated and is entitled to no additional payment.

In the case of an occupant, who in view of the terms of section 81 will generally be a cultivator, the Collector should offer the net value of the produce of the land, or not less than half of the gross value. In this case the occupant is subject to a compulsory process by which he is materially affected in his' means of livelihood. His position is different from that of the landlord who, at the most, will receive his rent from Government instead of from his tenant. The cultivator should therefore be treated with reasonable liberality in the assessment of the produce of his land.

The Collector should ascertain what arrangement the parties interested desire to make as regards the payment of rent, and he should be careful to record this arrangement in the written agreement with a view to the protection of both parties, and to frame his proposals for compensation accordingly. Ordinarily the minimum disturbance will be caused if the tenant continues to pay rent to the land lord, and in the absence of any valid objection such an arrangement should be encouraged. When the conditions of temporary occupation make it necessary to remove trees from the land, compensation for the trees should be assessed and offered as in the case of permanent acquisition and in the case of trees which produce income but will not be removed compensation should be offered for the loss of income.

Compensation should always be offered for standing crops which were grown before notice of intending occupation was delivered unless it is possible for the occupants to cut them in a ripe condition. When compensation has been assessed for standing crops it should be considered in assessing the loss of net profits for the first year of occupation whether the harvest of another crop in addition to the standing crop will fall within the first year of occupation, and if it will not, no further compensation for loss of profits should be offered for the first year.

Form-A

(See paragraph 2)

**FORM OF NOTICE TO BE ISSUED UNDER SUB-SECTION 2 OF SECTION 81, RIGHT
TO FAIR COMPENSATION AND TRANSPARENCY IN LAND ACQUISITION,
REHABILITATION AND RESETTLEMENT ACT, 2013**

**TO THE PERSONS INTERESTED IN THE LAND TO BE OCCUPIED AND USED
TEMPORARILY.**

Notice is hereby given thatacres, more or less, of land situated, in or near the village of, district bounded as below and recently marked out, are required for temporary occupation and use under sub section 1 of section 81 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, in accordance with Government order No dated, for a period of for (here specify the purpose). If you have any interest in this land or are entitled to act for persons so interested you are hereby called upon to appear personally or by agent on the (enter the date fixed) at the office of at, to state the nature of your interest in the land and the amount and particulars of any claim for compensation which you may wish to prefer. If you fail to put in an appearance as required above, compensation will be awarded ex parte and the land will be entered upon and occupied for the purpose specified above.

BOUNDARY

North

South

East

West

Dated the

Collector

Form-B

(See paragraph 2)

FORM OF NOTICE OF DEPOSIT OF COMPENSATION AS REVENUE DEPOSIT

Project

Number of Case of 20.....

To

Notice is hereby given that Rs. due to you on account of compensation awarded under Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 in the above case have been placed in Revenue Deposit in the Treasury.

Dated

Collector

AVINASH JOSHI,

Principal Secretary to the Government of Assam,
Revenue & Disaster Management Department.