

**THE RIGHT TO FAIR COMPENSATION AND
TRANSPARENCY IN LAND ACQUISITION,
REHABILITATION AND RESETTLEMENT ACT, 2013
(RFCTLARR Act)**

COMPARATIVE PRESENTATION WITH LA ACT 1894

Following are the core issues that could not be answered under Land acquisition Act of 1894

- Understanding of Public Purpose and its frequent application including for Land Acquisition for private projects
- Applicability of Emergency clause
- Consent of People
- Calculation of Fair compensation for the land and the fixed assets over it
- Rehabilitation and Resettlement of displaced families
- Addressing Livelihood issues and loss of Social and Economic disjoint due to displacement
- Timely payment of compensation
- Amicably address of the family share issues
- Acceptable Rehab Colony with all legal rights
- Stake Holders Management
- Creating a proper data base to address the grievances

Status of RFCTLARR Act. 2013

- The bill was introduced in Lok Sabha in India on 7 September 2011
- Out of the 235 members who voted on the bill, 216 backed it while 19 voted against it
- Lok Sabha on 29th August 2013 passed the Bill to replace the Land Acquisition Act 1894 as **“The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Bill 2012”** (Here we say **“ RFCTLARR Act”**)
- on 4 September 2013 the bill was passed in Rajya Sabha
- It has got presidential Assent on 26th September
- MoRD is on job to frame the rules there under. Draft Rule are placed in website for views of Public and comment
- The New Act of 2013 (RFCTLARR Act) is made effective from **01.01.2014**
- All state are asked to frame rules there under following the provisions of Sec 109 of the Act

Contents of RFCTLARR, 2013 in brief

- The Act has 13 no of Chapters and 114 no of Sections
- Chapter I- PRELIMINARY – SHORT TITLE , EXTENT AND COMMENCEMENT
- Chapter II- DETERMINATION OF SOCIAL IMPACT AND PUBLIC PURPOSE
- Chapter III- SPECIAL PROVISION TO SAFEGUARD FOOD SECURITY
- Chapter IV- PRELIMINARY NOTIFICATION AND ACQUISITION
- Chapter V- REHABILITATION AND RESETTLEMENT AWARD
- Chapter VI- PROCEDURE AND MANNER OF REHABILITATION AND RESETTLEMENT
- Chapter VII- NATIONAL MONITORING COMMITTEE FOR REHABILITATION AND RESETTLEMENT
- Chapter VIII - ESTABLISHMENT OF LAND ACQUISITION. REHABILITATION AND RESETTLEMENT AUTHORITY
- Chapter IX- APPORTIONMENT OF COMPENSATION
- Chapter X- PAYMENT
- Chapter XI- TEMPORARY OCCUPATION OF LAND
- Chapter XII - OFFENCES AND PENALTIES
- Chapter XIII- MISCELLANEOUS

IMPACT OF RFCTLARR ACT

- The New Act 2013 is a new legislation and repeals the LA Act, 1894.
- SIA and R and R are now integral part of the land acquisition.
- Transparency & Participatory approach at various stages of the land acquisition, R & R processes.
- To ensure sustainable livelihood of the affected families.
- Consent inbuilt to ensure participation of the affected families.
- Option of the lease to be explored and surrender of land possible, if not used.
- Dedicated Authority for disposal of disputes.
- No displacement before rehabilitation.

IMPORTANT PROVISIONS IN THE NEW ACT COMPARE TO OLD ACT

Provisions	Sec .in New Act	Remarks
SIA and SIA related studies	Sec. 4(1) to Sec. 9	This was not in the old Act.
Special Provision for Safeguard, Food Security	Sec 10	This was not in the old Act
Publication of Preliminary notification	Sec.11 to Sec.18	It is equivalent to Sec.4 and Sec. 5(a) of old Act expect notification with SIA Report
Publication of declaration and Summary of R&R Scheme	Sec.19 to Sec. 22	This was equivalent to Sec.6(1) of old Act. except R&R scheme which is a new concept
Land Acquisition Award	Sec. 23 to Sec. 30	This is equivalent to Sec. 11 of Old Act.
R&R Award	Sec. 31 to Sec. 37	As per R&R Policy not included in Old Act
Power to take possession of land	Sec. 38	Equivalent to Sec. 16 of old Act.

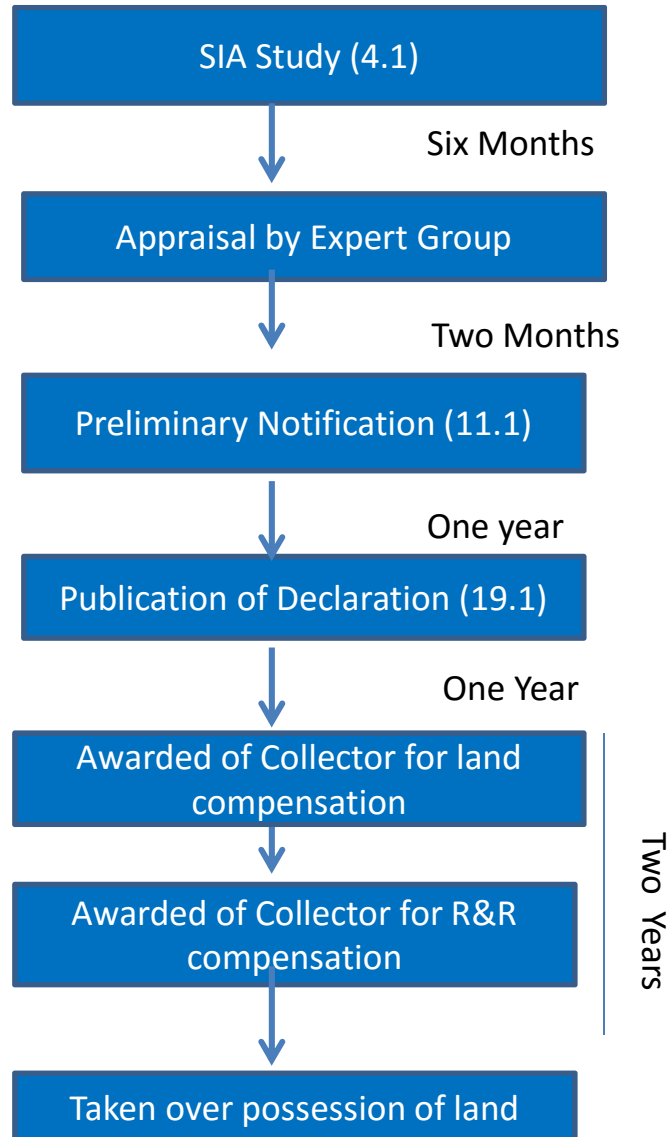
IMPORTANT PROVISIONS IN THE NEW ACT

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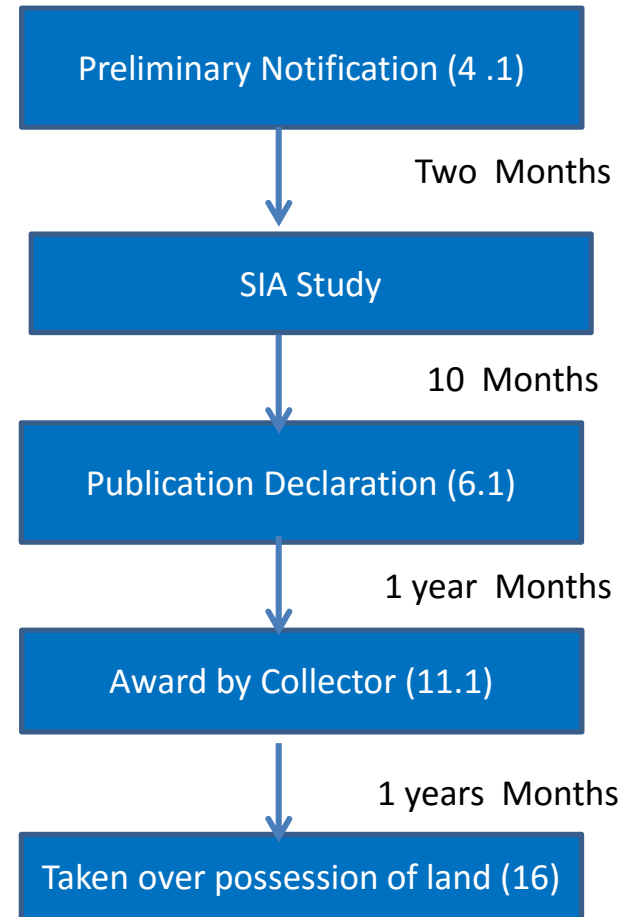
Provisions	Sec.in New Act	Remarks
Additional compensation in case of multiple displacement	Sec. 39	It is a new provision
Emergency provisions	Sec. 40	Equivalent to Sec. 17 of old Act.
Special provision of SC&STs	Sec. 41 to Sec. 42	No such provisions in old Act
Procedure and manner of R&R	Sec 43 to Sec 47	It is equivalent to the provision of R&R policy of the state government and centre. Was not in the old Act.
State & National Monitoring Committee for R&R	Sec. 48 to Sec 50	No such provisions in old Act
Establishment for Land Acquisition and Rehabilitation of the authority	Sec. 51 to Sec 74	Similar provisions was their in Sec. 18 and Sec. 30 in old Act but not such elaborated as in the new Act.

Comparative Timeline as defined in both the Acts

As per RFCTLARR Act 2013



As per LA Act, 1894



Retrospective Effect (Section 24)

- Where award under Section 11 of the Land Acquisition Act, 1894 has not been declared the LA compensation will jump to new act.
- Where award under Section 11 of the LA Act, 1894 has been made 5 years or more before the commencement of this Act but the physical possession of the land not taken or compensation not paid –jump to new act.
- If award has been made but compensation in case of majority of land holding is not been deposited in the account of beneficiaries then all notified land losers will be entitled to new compensation calculation. BCM1
- If any land Purchased on or after 5th Sept 2011 contrary to the provisions of sec46(1) or within three years from the date of commencement of the act i.e 1.1.2014, then 40% of the compensation paid for such land acquired shall be shared with the original land owners.

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BCM1

Odinance repealed it

Binod Chandra Mishra, 15/01/2015

Retrospective Effect (Section 24)

- The detailed explanation regarding the same retrospective effect can be referred to the R & DM Department letter No 1862 dated 24.01.2014.

By Fax/e-mail/Speed Post

GOVERNMENT OF ODISHA
REVENUE AND DISASTER MANAGEMENT DEPARTMENT

No. LA (A)-46/13 (Misc) 1862 /R&DM, Dated: 24.01.14

From: Dr. Taradatt, IAS
Additional Chief Secretary
Revenue & D.M Department

To: All Collectors/ Spl LAOs/ LAOs

Sub: Clarification on Section-24 of the "Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013".

Sir/Madam,

In inviting reference to the subject mentioned above, I am directed to say that the "Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013" has come into force from 01.01.2014 and after careful consideration, Government have been pleased to issue the following clarifications on the provisions laid down under Section -24 of the said Act. (RFCTLAR&R Act, 2013) for your information, necessary guidance and action.

Retrospective effect clause in the Section-24 of the RFCTLAR&R Act, 2013 (New LA R&R)	Corresponding action envisaged to be followed.
Section 24(1) (a)- LA proceedings where no award u/s-11 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 Government shall continue up to the stage u/s-7 under the old LA Act 1894; but from the stage of determination of compensation and award, all provision of the Right to Fair Compensation and Transparency in Land Acquisition Resettlement & Rehabilitation Act-2013 (new LA R&R Act) shall apply.
Section 24(1) (b)- LA proceedings where award u/s-11 has been made.	Payment of compensation continue under the provision of L.A. Act-1894 (2)
Section 24(2)- LA proceedings where award u/s-11 has been made five years or more prior to commencement of the new Act i.e. 1.1.2014, but compensation has not been paid or physical possession has not been taken.	Such LA proceedings shall be required to have lapsed. The Government shall initiate LA proceedings afresh under the provision of the new LA R&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. 1.1.2014 but compensation in respect of the majority of land holding has not been paid to the beneficiaries.	All awardes whose land is covered in 4(1) Notification under LA Act-1894 shall be entitled to compensation in accordance with the provision of the new LA R&R Act-2013.

Necessary follow up action may be taken accordingly.
This may be brought to the notice of all concerned.

Yours faithfully

Additional Chief Secretary

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BCM2

Odinance repealed it

Binod Chandra Mishra, 15/01/2015

Public Purpose

Section	Provision in RFCTLARR Act.	Provision in the Old Act
Sec. 2(1) Application of the Act for public purpose or govt. use	•For strategic purpose relating to defence of India or State Police or safety of the people •For infrastructure projects defined u/s I to VI of the Act, •Sec. III includes projects for industrial corridors , mining activities , national investment and manufacturing zone.	This is classified for the public purpose as will be accepted by collector.
Sec. 2 Provisions for declaring land to be acquired for Private Companies	(2) The provisions of this Act relating to land acquisition, consent, compensation. rehabilitation and resettlement, shall also apply, when the appropriate Government acquires land for the following purposes, namely:- (a) for public private partnership projects, where the ownership of the land continues to vest with the Government, for public purpose as defined in sub-section (1); SEC. 2 (b) for private companies for public purpose, as defined in sub-section (I): Provided that in the case of acquisition for- (i) private companies, the prior consent of at least eighty per cent. of those affected families, as defined in sub-clauses (i) and (v) of clause (c) of section 3; and (ii) public private partnership projects, the prior consent of at least seventy per cent. of those affected families, as defined in sub-clauses (i) and (v) of clause (c) of section 3, shall be obtained through a process as may be prescribed by the appropriate Government	Land for private companies or PPP projects were acquired by Govt with notification of Public purpose through IDCO/Infrastructure corporations of respective state govt who have the power to acquire land for Industry/industry related infrastructure and becomes automatically Public Purpose

Provision of Public Consent (Section 2)

- To ensure transparency and participation, consent of at least eighty/seventy percent of the land owners in the cases of land acquisition for Private/Public Private Partnership Projects
- In Scheduled Areas consent of the Gram Sabhas/Panchayats/autonomous district councils mandatory in all cases of land acquisition
- Consent to be obtained along with the process of SIA study

Definition of Affected family (Section 3)

- A family whose land or other immovable property has been acquired;
- A family which has lost its livelihood;
- A family of Tribes and other traditional forest dwellers that have lost any of their traditional rights recognized under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 due to acquisition of land;
- A member of the family who has been assigned land by the Govt.
- In Old act Affected family was limited to the land losers

Preliminary Steps at 4(1) stage

- To assess the impact of the projects, SIA to be carried out in all cases of land acquisition in consultation with Panchayat or Municipal corporation within six months
- Social Impact Management Plan (SIMP) to list out ameliorative measures to address adverse impact
- Summary of SIA Report to be issued along with preliminary notification under Section 11

SIA AS IN RFCTLARR ACT, 2013

Assessment as to whether the proposed acquisition serves the public purpose

Estimation of affected families and families likely to be displaced

Extent of lands, public and private, houses, settlements and other CPRs likely to be affected

Whether the extent of land proposed is absolutely bare minimum requirement.

Whether other alternative sites were considered and found not feasible

Study of social costs of the project vis-à-vis the benefits of the project

Expert Group to Appraise the SIA

- ✓ 2 non-official social scientists,
- ✓ 2 representatives of Panchayat, Gram Sabha,
- ✓ 2 experts on rehabilitation,
- ✓ 1 technical expert in the subject relating to the project.

Appraisal of SIA

- SIA Report to be evaluated by an independent multi-disciplinary Expert Group:-
 - (i) Two non-official social scientists
 - (ii) Two representatives of local bodies
 - (iii) two experts on rehabilitation
 - (iv) A technical expert in the subject relating to project
- To make recommendations within two months
- SIA Report valid for 12 months

SIA Criteria – Expert Committee

- Critical Assessment of Magnitude of Physical and Economic Displacement. This may include the number of affected households to be physically relocated as well as those rendered landless/with marginal unviable land holdings (marginal with 1 hectare of land holding).
- Critical Evaluation of Social Impact Management Plan and whether the ameliorative measures suggested will be adequate to effectively mitigate the adverse impact on individual and community assets, infrastructure and restoration of livelihood of affected families.
- Critical Assessment of Attitude of the community towards the project and the reasons for opposition, if any - nature of the project/timing/other specific characteristics etc - perceptions of the community about social well-being, neighbourhood cohesion or cultural differences among members of the community etc.
- Physical cost and benefits easy to arrive at the social costs but intangible emotional costs would vary depending on the value judgments/background of the evaluating team

Minimum Land Acquisition & Minimum Displacement (Section 8)

- Appropriate Government shall ensure that:-
 - a) There is a legitimate and bona fide public purpose for the proposed acquisition
 - b) The public purpose, in the long term, is in the larger public interest so as to justify the adverse social impact as determined by SIA
 - c) Only the minimum area of land required for the project is being acquired.
 - d) There is no unutilized Land that has been previously acquired in the area
 - e) The land, if any, acquired earlier and remain unutilized, is used for such public purpose
- SIA is exempted in case of projects acquiring land with application of emergency clause

Special provision to safeguard food security (Section 10)

- Irrigated multi-cropped land shall not be acquired except when land acquired does not exceed five percent (Flexibility to appropriate government) of total irrigated multi-crop area in that district or State.
- Whenever a multi-crop irrigated land is acquired, an equivalent area of culturable waste land shall be developed for agricultural purposes.
- In other cases the acquisition of agricultural land should not exceed for all projects in a district or State such limits of the net sown area of that district or State as may be notified by the appropriate government.
- State to make rule what percentage of Irrigated land can be acquired in special circumstances. B2

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B1

BMISHRA, 19/01/2015

B2

Ordinance introduced a new section 10 A

BMISHRA, 19/01/2015

Preliminary Notification u/s 11(1)

- Similar to the old Act. A notification relating to the land details to be acquired with the name of the land owners as well as the summary of the SIA report, reasons necessitating the displacement of affected persons is to be published (a) in official gazette, (b) in two daily newspapers circulating in the locality, at least one in the regional language , (c) in the panchayat or municipality, (d) uploaded in the website, (e) in the affected area.
- The cutoff date is the last date of the publication in any of the system.
- Land transaction is restricted u/s 11(4) and Collector to ensure updating of the land records within a period of two months u/s 11(5).
- This notification is valid for 12 months.
- In the old Act preliminary notification u/s 4(1) was confined to publication of the list of the land loser in similar manner as detailed at (a) to (c).

Activities during valid period of Notification u/s 11(1)

- Preliminary survey of land.
- Hearing of objections such as to the area and suitability of land, justification offered for public purpose, findings of SIA.
- The administrator shall prepare rehabilitation and resettlement scheme including the rehabilitation colony with details of public amenities and infrastructure facilities.
- The rehabilitation scheme shall be reviewed by the Collector as well as by R&R Committee constituted u/s 45.
- The scheme shall be submitted to the Commissioner R&R for approval of the government.
- After approval, it will be made available in the local language of the panchayat / municipality and uploaded in the website of the appropriate government.

Declaration u/s 19(1)

- Similar to the declaration provisions u/s 6(1) of the old Act. Government shall publish the declaration along with the area identified for resettlement site.
- The collector shall publish a summary of the R&R scheme and asked the requiring body, to deposit an amount full/part towards cost of acquisition of land.
- The old Act was confined to declaration of the land details intended to be acquired for public purpose as there was no mandatory provision for Rehab. Colony and Resettlement and Rehabilitation
- The validity of the declaration is 12 months from the date of the declaration of publication otherwise the entire proceedings will be lapsed.

Market Value(Section 26)

- Market value is higher of (a) minimum land value as per Indian Stamp Act, 1899 (b) average sale price for similar type of land in the vicinity (c) average sale price already paid or agreed to be paid in private or PPP projects
- Any price paid earlier as compensation for land acquired under this Act on an earlier occasion not to be taken into consideration
- Collector to take necessary steps to revise the market value of the land before initiating acquisition proceedings
- Further, to ensure adequate compensation to the land owners, the market value calculated shall be multiplied by a factor of two in the rural area and by a factor of one in the urban area as specified in the First Schedule.
- Solatium of one hundred percent of the compensation amount
- The calculation process is detailed in the first schedule.

THE FIRST SCHEDULE [30 (2)] COMPENSATION FOR LAND OWNERS

Serial No.	Component of compensation package in respect of land acquired under the Act	Manner of determination of value
1	2	3
1	Market value of land	To be determined as provided under section 26.
2	Factor by which the market value is to be multiplied in the case of rural areas	1.00 (One) to 2.00 (Two) based on the distance of project from urban area, as may be notified' by the appropriate Government.
3	Factor by which the market value is to be multiplied in the case of urban areas	One
4	Value of assets attached to land or building	To be determined as provided under section 29
5	Solatum	Equivalent to one hundred per cent. Of the compensation amount of land mentioned against serial number 1
6	Final award in rural areas	$\{(1 \times 2) + 4\} + 100\%$
7.	Final Award in Urban Area	$\{(1 \times 3) + 4\} + 100\%$

under the old Act, land compensation was calculated in a simple manner by taking the average of 3 years registration price added with 30% solatium and 12% interest over it. However, the cost of permanent objects existing over the land is also finally added at the time of making the award

Awards towards Compensation and Resettlement & Rehabilitation

- Sec. 27 empowered Collector to calculate the total compensation, including the damage of the standing crop and trees, incidental charges, cost incurred due to severing such land from his other land.
- Sec. 30 empowers the Collector to pass Resettlement & Rehabilitation Award that includes Resettlement and Rehabilitation amount, particulars housesite and houses to be included in case of displacement, after ensuring provisions of infrastructure amenities in the resettlement area as per the third schedule of the Act u/s 32.
- In the old Act, there is no provision of making award for resettlement and rehabilitation nor there is a provision for compensation double the amount of the original estimate incase of the double displacement.

Institutional mechanism for R&R

- Sec. 43—Administrator for Rehabilitation and Resettlement
-Formulation, execution and monitoring of R&R Plan
- Sec. 44—Commissioner for Rehabilitation and Resettlement
-Supervision of formulation, implementation of R&R Plan and post implementation social audit in consultation with Gram Sabha
- Sec.45—Rehabilitation and Resettlement Committee at project level (more than 100 acres) - monitor and review R & R
- Sec. 48—50 -National Monitoring Committee at central level & State Monitoring Committee at State level

Rehabilitation and Resettlement Benefits

- Schedule Two of the Act enlists R&R benefits for the affected families.
- In case of irrigation projects, as far as possible, each affected family is proposed to be given one acre of land in the command area. Persons belonging to SC or ST and losing their land will be provided two and a one-half acres of the land.
- If the land is acquired for urbanization purpose, twenty percent of the developed land will be reserved and offered to the land losers.
- Mandatory employment to at least one member per affected family. If it is not possible, then onetime payment of rupees five lakhs per affected family or annuity policy that pays rupees two thousand per month per family for twenty years.
- Onetime financial assistances like transportation cost, cattle shed/petty shop costs etc.

Important R & R Benefits

- **Resettlement and Rehabilitation benefits to all affected families (in addition to compensation)**
 - **R & R Package** - Choice of employment/5 lakhs/Rs. 2000 per month for 20 yrs
 - **One-time Resettlement Allowance:** Rs. 50,000/
 - **Cattle shed/petty shops** - Rs. 25,000/
 - **One time grant to artisan/traders/self employed** - Rs. 25,000/
 - **Fishing rights in reservoir**
 - **Land for land** – Irrigation projects (as far as possible) 1 acre of land (2.5 acres for SCs/STs in command area)

Displaced Families

- **Housing in case of displacement** – Rural Areas (IAY specifications); Urban areas (constructed house not less than 50 sq.mts in plinth area/min Rs. 1,50,000)
- **Subsistence grant for all displaced families** – Rs. 3000 per month for one year (additional Rs. 50,000/ for SCs/STs).
- **Transportation grant for all displaced families** - Rs. 50,000/
- *All monetary rehabilitation grants and benefits are adjusted based on the Consumer Price Index.*
- *Stamp duty/registration to be paid by the requiring body*

Infrastructure Facilities in Resettlement Areas

- Third Schedule lists amenities/facilities to be developed in the rural areas.
- These include roads, drainage, sources of safe drinking water for affected families, drinking water for cattle, grazing land, fair price shops, Panchayat Ghars, village level post office, Burial or Crimination Ground, Aanganwadi, community centres, sub health centres, playground etc.

Urgency Provision (Section 40)

- LA Act, 1894 empowers the appropriate Government to acquire land under urgency provision for any public purpose U/s 17 .
- However, in new Act urgency provision restricted to:
 - (a) acquisition of land for defence of India; or
 - (b) national security; or
 - (c) for any emergency arising out of natural calamities.
- An additional 75 percent of total compensation shall be paid which was not a provision in Old act

R&R in Private Purchases (Section 46)

- If private purchase is beyond certain limits as specified by the appropriate Governments then R&R benefits to be extended to the affected families
- R&R scheme to be approved by the Commissioner for the R&R
- No land use change permitted if R&R is not complied as per the award passed by collector
- Application to Collector has to include the purpose, particular of land to be purchased

Land Acquisition, Rehabilitation & Resettlement Authority (Sec. 51—75)

- Single member authority
- Reference to Authority within six weeks of the Collector's award
- Cases to be decided in six months
- Jurisdiction of civil courts barred
- Appeals to High Court within sixty days

Miscellaneous

- Land/House allotted to be in joint name
- Benefits indexed to CPI
- Ownership cannot be changed
- Purpose for which acquired cannot be changed
- 40% of the appreciated value to be shared with original owners
- Double compensation in case of multiple displacements
- Special provisions for SCs & STs

Return of Land

Section 101

If any land or part thereof acquired under the Act remains unutilized for a period of five years ^{B3} from the date of taking of the possession, the same shall return to the Land Bank/returned to the original land owners as specified by the appropriate Government

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B3

Ordinance empowered companies to retain land till scheduled time as per plan

BMISHRA, 19/01/2015

Exempted Legislations (Sec 105)

- The Fourth Schedule enlists thirteen legislations dealing with land acquisition which have been exempted from the purview of this Act. B4
- The Central Government may direct by a notification that any of the provisions of this Act dealing with First, Second and Third Schedules; shall apply to the cases of land acquisition under the enactments specified under the Fourth Schedule.
- One Year is the time limit within which all Acts to be extended the benefits of new legislation

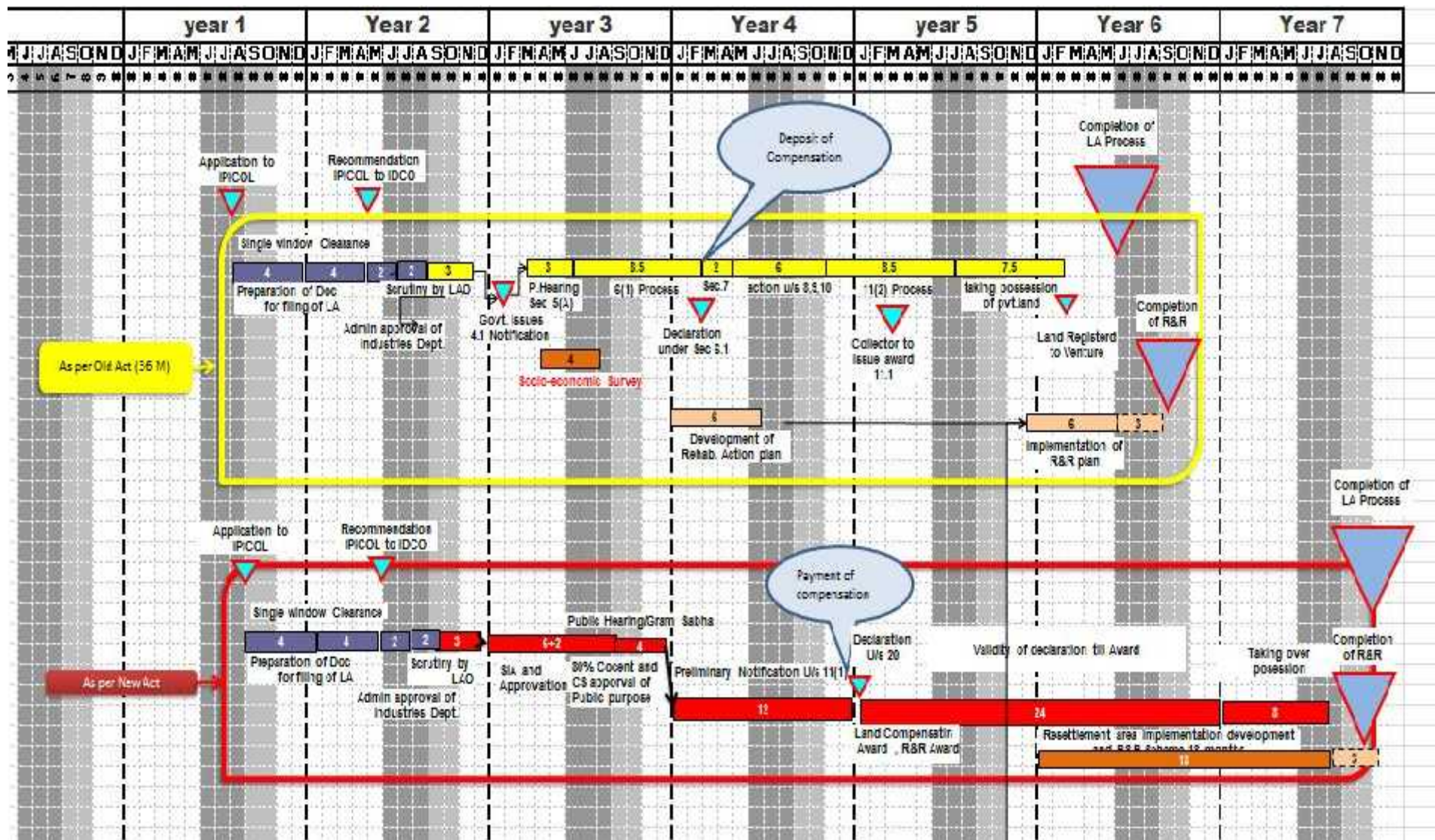
B4

Deleated through ordinance

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Comparison between time line for LA and RR in LA Act, 1894 and RFCTLARR Act, 2013

- 36 month Schedule from date of process at LAO in Old act as amended on 1984
- 60 months Schedule as per new Act 2013



Thank You