

THE ACQUISITION AND REQUISITION OF IMMOVABLE PROPERTY ACT, 2017

(Act No. of 2017) [10th July, 2017]

Whereas in the judgment pronounced by the Appellate Division of the Supreme Court in the Civil Appeal No. 48/2011, Martial Law has been declared unconstitutional, the validating Constitution (7th Amendment) Act, 1986 (Act No. I of 1986) has been nullified; and Ordinances enacted, from 24th March 1982 to 11th November 1986, by the Martial Law Proclamations, have lost their validity by the dissolution of the Article 19 of the 4th Schedule of the Constitution of People's Republic of Bangladesh, by the Constitution (Fifteenth Amendment) Act, 2011 (Act No. XIV of 2011) which previously authorized and legally supported their validity; and

Whereas some of these Ordinances have been kept effective by the Act No. VII of 2013; and

Whereas after reviewing the necessity and relevancy of these Ordinances, Government has taken the decision to enact new laws in Bengali, by taking the opinions of all the Stake-holders and all related Ministries or Departments, by amending and modifying Ordinances those have been deemed necessary; and

Whereas in accordance with the abovementioned decision, it is expedient and necessary to repeal the Acquisition and Requisition of Immovable Property Ordinance, 1982 (Ordinance No. II of 1982) and re-enact in timely manner;

It is hereby, enacted as follows:

Chapter 1 PRELIMINARY

1. Short title and Enactment: 1) This Act shall be called the Acquisition and Requisition of Immovable Property Act, 2017.

(2) This Act shall be in effect immediately.

2. Definitions: In this Act, unless there is anything repugnant in the subject or context,-

(1) **'Acquisition'** means acquiring the ownership and possession of any immovable property for any requiring person or organization in exchange for compensation or rehabilitation or both;

(2) **'Arbitrator'** means an Arbitrator appointed under section 29;

(3) **'Commissioner'** means and includes Divisional Commissioner and Additional Divisional Commissioner;

(4) **'Nationally Important Project'** means any project declared by the Government as Nationally Important Project;

(5) **'Deputy Commissioner'** means and includes Deputy Commissioner and Additional Deputy Commissioner or where applicable any officer authorized by the Deputy Commissioner;

(6) **'Code of Civil Procedure'** means Code of Civil Procedure, 1908 (Act No. V of 1908);

(7) **'Prescribed'** means prescribed by rules;

(8) **'Requiring Person or Organization'** means any person or organization who proposed for the acquisition or requisition of the immovable property;

(9) **'Owner'** means and includes the owner or a person who is legally in possession of the immovable property;

(10) **'Joint List'** means the list with the description of the ownership or rights over the property and any infrastructure built therein, crops and trees in the proposed immovable property for acquisition or requisition;

(11) **'Immovable Property'** means any land and any permanent thing affixed therein;

(12) **'Person Interested'** means any person who is capable of claiming compensation or rehabilitation or both due to acquisition or requisition of his immovable property;

(13) **'Requisition'** means acquiring, by Requiring persons or organization, the possession of any immovable property for a specific time period by providing compensation.

3. Savings of this law: Notwithstanding anything contained in any other law for the time being in force, the provisions of this law shall prevail.

Chapter 2 ACQUISITION

4. Publication of preliminary notice of acquisition of immovable property:(1) Whenever it appears to the Deputy Commissioner that any property in any locality is needed or is likely to be needed for any public purpose or in the public interest, he shall cause a notice to be published at convenient places on or near the property in the prescribed form and manner stating that the property is proposed to be acquired.

(2) In case of acquisition of immovable property for any non-governmental person or organization, whatever be the amount of the immovable property, sanction of the government must be taken before the initiation of acquisition proceeding.

(3) The Deputy Commissioner, under sub-section (1)-

(a) before the publication of notice, in the prescribed manner and form, shall record the real nature, condition and infrastructures built therein, crops and trees of the proposed immovable property in video or still picture or any other technology and thereafter prepare a report accordingly; and

(b) after the publication of notice, in the prescribed manner and form, shall prepare a joint-list of Requiring persons or organizations and persons interested.

(4) If the nature of land is changed in reality from its recent record of rights, the Deputy Commissioner, at the time of preparation of the joint list, shall decide about the change of the nature of the land.

(5) The Deputy Commissioner shall mention in the joint list, in the prescribed manner, if any house or infrastructure is built or is being built in the proposed immovable property for acquisition, in contravention of public purpose for illegal gain.

(6) The joint list prepared sub-section 3(b) shall be affixed in the notice board of the local land office and in the convenient place of the project.

(7) The Deputy Commissioner shall not record the change of the nature of land in the joint list, if after the initiation of proceeding under sub-section 3(a), the nature of the land is changed by building houses or infrastructures in bad motive.

(8) If any person is aggrieved by the decision of the Deputy Commissioner under sub-section 7, he may file an appeal to the Commissioner within the next 7 working days.

(9) The Commissioner, in the prescribed manner, shall hear the appeal under sub-section 8 and shall provide with the decision within next 15 working days and in case of a nationally important project, shall provide with the decision within the next 10 working days.

(10) The decision of the Commissioner under sub-section 9 shall be deemed to be final.

(11) If there is any disposal of appeal under sub-section 9 or no appeal is preferred within the prescribed period in sub-section 8, within the next 24 hours, the concerned persons shall in his own cost remove the houses or infrastructures from the proposed immovable property, otherwise the Deputy Commissioner shall take steps to evict those in accordance with the existing provisions of law.

(12) The Deputy Commissioner may, after choosing the place for nationally important project, by order, impose control over the sale of plots and building of infrastructures thereon.

(13) Generally religious places, graves or crematoriums can be taken into acquisition;

Provided that, if it essential in public purpose or public interest, by relocating and rebuilding, in the own money of the requiring persons or organizations, it may be taken into acquisition.

Explanation: The term 'purpose in contravention of public interest' in this section means the purpose for obstructing in the implementation of the project, creating hindrance or doing anything that retards the implementation of a project or doing something to get monetary benefit by compensation.

5. Objections against acquisition: (1) Any person concerned may file an objection against the acquisition proceeding to the Deputy Commissioner within 15 working days.

(2) The Deputy Commissioner shall, speedily hear the objection filed under sub-section 1 in the presence of the appellant or an agent, after hearing all such objections and after making such further inquiry, if any, as he thinks necessary, prepare a report within thirty working days, and in case of a nationally important project within 15 working days, following the expiry of the period specified under sub-section (1) containing his opinion on the objections.

(3) The Deputy Commissioner-

(a) if the property exceeds 50 [fifty] standard bighas (or 16.5 acre) of land, submit the record of the proceedings held by him, together with his opinion, for the decision of the Ministry of Land; and

(b) if the property does not exceed 50 [fifty] standard bighas (or 16.5 acre) of land, submit the record of the proceedings held by him, together with his opinion, for the decision of the Commissioner:

Provided that if no objection is raised within the period specified in sub-section (1), the Deputy Commissioner shall, instead of submitting the records of the proceedings to the Divisional Commissioner, make a decision within ten days of the expiry of the aforesaid period, or within such further period but not exceeding thirty days, as the Divisional Commissioner permits on the request of the Deputy Commissioner in writing] and in case of a national important project within 15 days, about the acquisition of the property and such decision of the Deputy Commissioner shall be final.

6. Final decision regarding acquisition: (1) Under section 5(3), after considering the report of the Deputy Commissioner, as the case may be-

(a) The government shall, not exceeding 60 days after the submission of the report, and

(b) within 15 days of the submission of the report of the Commissioner or recording the report of delay within not exceeding 30 days-

shall take final decision.

(2) When the Government, the Divisional Commissioner or the Deputy Commissioner, as the case may be, makes a decision for acquisition of the property under sub-section (1) of this section or section 5(3), as the case may be, such decision shall be conclusive evidence that the property is needed for a public purpose or in the public interest.

7. Notice to persons interested: (1) When the Government, the Divisional Commissioner or the Deputy Commissioner, as the case may be, has made a decision for acquisition of any property under section 5 or the proviso to section 6, as the case may be, the Deputy Commissioner shall cause public notice to be given in the prescribed manner at convenient places on or near such property stating that the Deputy Commissioner, has decided to acquire the property and intends to take possession thereof.

(2) Such notice shall state the particulars of the property to be acquired and taken possession of, and shall require all persons interested in the property to appear personally or by agent before the Deputy Commissioner at a time, fifteen days after the date of publication of the notice or in case of a nationally important project after 7 days, and such notice shall also contain the time and place to be present and state the nature of their respective interests in the property and the amount and particulars of their claims to compensation for such interests.

(3) The Deputy Commissioner shall also serve notice to the same effect in the prescribed form on the occupier, if any, of such property and on all persons known or believed to be interested therein.

(4) The Deputy Commissioner may also, by notice, require any such person to make or deliver to him at a time, not being earlier than fifteen days after the date of service of the notice, and place mentioned therein a statement containing, so far as may be practicable, the name of every other person possessing any interest in the property or any part thereof as co-

sharer, mortgagee or otherwise, and of the nature of such interest and profits, if any, received or receivable on account thereof.

(5) Every person required to make or deliver a statement under this section shall be deemed to be legally bound to do so within the meaning of sections 175 and 176 of the Penal Code (XLV of 1860).

8. Award of compensation by Deputy Commissioner:(1) On the date so fixed, or on any other date to which the enquiry has been adjourned, the Deputy Commissioner shall proceed to enquire into the statement, if any, which any person has made pursuant to a notice given under section 7 and into the value of the property at the date of the publication of the notice under section 4, and into the respective interests of the persons claiming the compensation and shall make an award of

(a) the compensation which, in his opinion, shall be allowed for the property; and

(b) the apportionment of the said compensation among all the persons known or believed to be interested in the property, of whom, or of whose claims, he has information from the latest record of the proposed *mouja* for acquisition.

(2) The award made by the Deputy Commissioner shall, except as hereinafter provided, be final.

(3) The Deputy Commissioner shall, within seven days from the date of making award of compensation,-

(a) give notice of his award to the person interested;

(b) send the estimate of the award of compensation to the Requiring persons or organizations.

(4) The Requiring persons or organization shall pay the estimated amount within 120 working days after receiving the estimation under sub-section 3 to the Deputy Commissioner.

(5) within 30 working days of the publication of notice under section 7 or in case of a national important project 15 working days, as the case may be, the preparation of the estimated amount of the award of compensation shall be complete.

9. Matters to be considered in determining compensation: (1) In determining the amount of compensation to be awarded for any property to be acquired under this Part, the Deputy Commissioner shall take into consideration-

(a) the market value of the property at the date of publication of the notice under section 4:

Provided that in determining such market value, the Deputy Commissioner shall take into account the average value, to be calculated in the prescribed manner, of the properties of similar description and with similar advantages in the vicinity during the twelve months preceding the date of publication of the notice under section 4;

(b) the damage that may be sustained by the person interested, by reason of the taking of any standing crops or trees which may be on the property at the time of the making of the joint list;

(c) the damage that may be sustained by the person interested by reason of severing such property from his other property;

(d) the damage that may be sustained by the person interested by reason of the acquisition injuriously affecting his other properties, movable or immovable, in any other manner, or his earnings; and

(e) if in consequence of the acquisition of the property, the person interested is likely to be compelled to change his residence or place of business, the reasonable expenses, if any, incidental to such change.

(2) While the government is acquiring land, it shall provide the persons interested with compensation of 200 per centum of the market price as defined in sub-section 1(a):

Provided that if the government acquires the land for any non-government person then the amount of compensation shall be 300 per centum.

(3) In cases of injuries made under sub-section 1(b), (c), (d) and (e), additional 100 per centum compensation shall be provided.

(4) Notwithstanding any compensation provided under this section, necessary steps may be taken to rehabilitate evicted persons due to acquisition in the prescribed form.

10. Matters not to be considered in determining compensation: In determining the amount of compensation to be awarded for any property to be acquired under this Part, the Deputy Commissioner shall not take into consideration-

(a) the degree of urgency which has led to the acquisition;

(b) any disinclination of the person interested to part with the property to be acquired;

(c) any damage that may be sustained by him which, if caused by a private person, would not render such person liable to a suit;

(d) any damage which is likely to be caused to the property to be acquired, after the date of service of notice under section 7, by or in consequence of the use to which it will be put;

(e) any increase to the value of the property to be acquired likely to accrue from the use to which it will be put after the publication of notice under section 7; or

(f) any alteration or improvement in, or disposal of, the property to be acquired, made or effected without the sanction of the Deputy Commissioner after the date of publication of the notice under section 4.

11. Payment of compensation: (1) On making of an award under section 8, before taking possession of the property, after the submission of the estimated amount of compensation by the Requiring persons, the Deputy Commissioner shall pay the aforesaid compensation within not exceeding 60 days from the date of deposit by the Requiring persons under sub-section 2.

(2) If the persons entitled to compensation do not consent to receive it, or if there be no person competent to receive the compensation, or if there be any dispute as to the title to receive the compensation or as to the apportionment of it, the Deputy Commissioner shall keep the amount of the compensation in a deposit account in the Public Account of the Republic which shall be deemed payment for the purpose of taking over possession of the property without any prejudice to the claim of the parties to be determined by the Arbitrator:

Provided that any person admitted to be interested may receive such payment under protest as to the sufficiency of the amount:

Provided further that no person who has received the amount otherwise than under protest shall be entitled to make any application under section 30.

(3) The Deputy Commissioner shall, realizing the compensation from the recipient, who may have received the whole or any part of the compensation awarded under this Part, take measures to give to pay the same to the person lawfully entitled thereto.

12. Payment of compensation to bargadar: Notwithstanding anything contained in this Act, when the property acquired under this Part contains standing crops cultivated by *bargadar*, such portion of the compensation as may be determined by the Deputy Commissioner for the crops shall be paid to the *bargadar*.

Explanation. In this section “*bargadar*” means a person who under the system generally known as *adhi, barga* or *bhag* cultivates the land of another person on condition of delivering a share of produce of such land to that person.

13. Acquisition and possession: (1) When the compensation mentioned in the award has been paid or is deemed to have been paid in pursuance of section 11, the property shall stand acquired and vest absolutely in the Government free from all encumbrances, and the Deputy Commissioner shall thereupon take possession of the property.

(2) Immediately after the acquisition of the property under sub-section (1), a declaration by the Deputy Commissioner in the prescribed form to that effect shall be published in the official Gazette.

14. Abatement or revocation of acquisition proceedings:(1) Notwithstanding anything contained in this Act, where in any case the estimated amount of the award of compensation has not been deposited by the requiring person for acquisition of any property under section 5 within the period specified in section 8(4), all proceedings in respect of such acquisition shall, on the expiry of that period, stand abated and a declaration by the Deputy Commissioner to that effect shall be published in the official Gazette.

(2) The Deputy Commissioner may, with the prior approval of the Government, by notification in the official Gazette, revoke all proceedings in respect of acquisition of any property at any time before the payment of compensation.

(3) When any proceedings stand abated or are revoked, the Deputy Commissioner shall make an award determining the amount of compensation due for the damage suffered by the owner in consequence of the notice or of any proceedings thereunder and the costs reasonably incurred by him in the prosecution of the proceedings under this Part relating to the said property and shall pay the compensation accordingly.

15. Acquisition of part of a house or buildings:(1) an acquisition cannot be made if the owner desires that the whole of such house, manufactory or building should be so acquired:

Provided that the owner may, at any time, before the Deputy Commissioner has made his award under section 8, by notice in writing withdraw or modify his expressed desire that the whole of such house, manufactory or building should be so acquired.

(2) If any question arises as to whether any property proposed to be taken under this Part does or does not form part of a house, manufactory or building within the meaning of this section, the decision of the Deputy Commissioner shall be final.

16. Acquisition of property at the cost of a person other than the Government: Where the provisions of this Part are applied for acquiring any property at the cost of any fund controlled or managed by a person other than the Government, the charges of an incidental to such acquisition shall be defrayed from or by such fund or person.

17. Transfer of acquired land to the requiring person other than the Government: (1) When any property is proposed to be acquired for any person other than the Government, such person shall enter into an agreement with the Government in such form as may be prescribed before a notice under section 4 is published.

(2) When the property, in respect of which an agreement has been entered into with a person under sub-section (1), is acquired, the Deputy Commissioner shall, transfer the property to the Requiring person or organization by executing a deed in such form as may be prescribed.

18. Recovery of compensation in certain cases: When any compensation paid is in excess of the amount payable or when any compensation is paid to a person other than the rightful owner, the amount of such excess or wrong payment shall be recoverable as a public demand.

19. Use of acquired property: (1) No property acquired under this Part shall, without the prior approval of the Ministry of Land, be used for any purpose other than the purpose for which it is acquired or be leased or gift or in any other mode of transfer.

(2) If any requiring person uses any acquired property in contravention of the provision of sub-section (1), or does not use it for the purpose for which it is acquired, he shall be liable to surrender the property to the Deputy Commissioner on being directed by him to do so.

(3) If any Requiring person or organization violates sub-section (1) or (2), the Deputy Commissioner, giving him an opportunity of being heard, with previous approval of the government, shall resume the property so given and by a gazette notification shall include it in the khas land’s *khatiyan*.

PART III REQUISITION

20. Requisition of immovable property: (1) When any property is required temporarily for a public purpose or in the public interest, the Deputy Commissioner may, with the prior approval of the Government, by order in writing, requisition it: Provided that if there is a reasonable ground for not being possible to take prior approval of the government, the approval of the government may be taken with retrospective effect:

Provided further that, save in the case of emergency requirement for the purpose of maintenance of transport or communication system, no property which is bona fide used by the owner thereof as the residence of himself or his family or which is used either for religious worship by the public or as an educational institution or orphanage or as a hospital, public library, graveyard or cremation ground shall be requisitioned.

(2) Where an order made under sub-section (1) has been served, the Deputy Commissioner may take possession of the requisitioned property and use it for the purpose for which it was requisitioned-

- (a) in the case of emergency requirement for the purpose of maintenance of transport or communication system, at any time after the date of service of the order;
- (b) in any other case, after the expiry of thirty days from the date of service of the order
- (3) Except with the prior approval of the Government, no property shall be kept under requisition for a period exceeding two years from the date of taking over possession of such property.

21. Correction of order: The Government may, of its own motion or on application filed by an aggrieved person, revise an order made under section 20(1):

Provided that no such application shall be entertained unless it is filed within thirty days from the date of service of the order.

22. Award of compensation by Deputy Commissioner: (1) Where any property is requisitioned under this Part, there shall be paid compensation the amount of which shall be determined in the manner and in accordance with the principles set out in this section.

(2) The Deputy Commissioner shall, after giving the persons interested an opportunity of being heard in respect of their respective interests in the property and the amount and particulars of their claims to compensation for such interests and having regard to the provisions of sub-section (5), make an award of

(a) the compensation in the manner as may be prescribed; and

(b) the apportionment of the said compensation among all the persons known or believed to be interested in the property, of whom, or of whose claims, he has information.

(3) The award made by the Deputy Commissioner shall, except as hereinafter provided, be final.

(4) The Deputy Commissioner shall give immediate notice of his award to the persons interested.

(5) The amount of compensation payable for the requisition of any property shall 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, if any, as may be found necessary to compensate the persons interested for all or any of the following matters, namely:-

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

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

(iii) 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 in which it was at the time of requisition.

(6) Where any property is kept under requisition for more than two years, the Deputy Commissioner shall revise his award regarding the amount payable as compensation under sub-section (5)(a).

23. Payment of compensation: (1) On making an award under section 22, the Deputy Commissioner shall tender payment of the compensation awarded by him to the persons entitled thereto according to the award, and shall pay it to them unless prevented by any of the contingencies mentioned in sub-section (2).

(2) If the persons entitled to compensation do not consent to receive or if there be no person competent to receive the compensation, or if there be any dispute as to the title to receive the compensation or as to the apportionment of it, the Deputy Commissioner shall keep the amount of the compensation in a deposit account in the Public Account of the Republic which shall be deemed payment of the compensation for the requisitioned property without any prejudice to the claim of the parties to be determined by the Arbitrator:

Provided that any person admitted to be interested may receive such payment under protest as to the sufficiency of the amount:

Provided further that no person who has received the amount otherwise than under protest shall be entitled to make any application under section 30.

(3) The person receiving the compensation in whole or in part shall be liable to pay back the compensation to the lawfully entitled person and the Deputy Commissioner shall take measures to recover the said money and pay it to the lawfully entitled person.

24. Recovery of money from allottee of requisitioned property: Where any requisitioned property is allotted to, and placed in possession of, any person, the Deputy Commissioner may recover from such person such amount of money and in such manner as may be prescribed.

25. Maintenance of requisitioned property: (1) During the period of requisition, the Deputy Commissioner shall be responsible for the proper maintenance of a requisitioned property.

(2) If the Deputy Commissioner is satisfied that repairs are necessary to prevent deterioration of the property, he may, after giving the owner an opportunity of making the repairs himself, cause the repairs to be made at a cost not exceeding one-sixth of the compensation payable to the owner and such cost shall be recovered out of such compensation.

26. Release from requisition: (1) Where any requisitioned property is released from requisition, the Deputy Commissioner shall restore it to the person from whom the property was requisitioned or to his successor-in-interest or to such other person as may appear to the Deputy Commissioner to be entitled to such restoration.

(2) The delivery of possession of the requisitioned property to the person referred to in sub-section (1) shall be a full discharge of the Deputy Commissioner from all liability in respect of such delivery, but shall not prejudice any right in respect of the property which any other person may be entitled by the process of law to enforce against the person to whom possession of the property is so delivered.

(3) when the person to whom the requisitioned property is to be restored on release from requisition does not wilfully take delivery or wilfully refuses to take delivery of the requisitioned property on being directed in writing to take possession of such requisitioned property by the Deputy Commissioner, such requisitioned property shall be deemed to have been restored to such person within the meaning of this sub-section with effect from the date and time specified in the aforesaid direction.

(4) Where the person to whom possession of any requisitioned property is to be delivered cannot be found and has no agent or other person empowered to accept delivery on his behalf, the Deputy Commissioner 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 the notice in the official Gazette within 90 days of the affixation of notice to the property.

(5) When a notice referred to in sub-section (4) is published in the official Gazette, the property specified in such notice shall cease to be subject to requisition from the date of such publication and be deemed to have been delivered to the person entitled to possession thereof; and the Deputy Commissioner shall not be liable for any compensation or other claim in respect of the property for any period after the said date.

27. Eviction of allottee:(1) Notwithstanding anything contained in any other law for the time being in force, if the property is used for another purpose other than the purpose for which the immovable property is requisitioned or the allottee person fails to pay the compensation for that property or any reason arises for releasing from requisition, the Deputy Commissioner, may, at any time, by order in writing, direct such person or allottee to vacate the property by such date as may be specified in such order.

(2) If the order of the Deputy Commissioner under sub-section (1) is not maintained or is violated, the Deputy Commissioner may evict such person or allottee from such property and may use or cause to be used such force for the purpose as may be necessary.

28. Non-application of this part in Cantonment area: Nothing in this Part shall apply to any immovable property within the limits of a Cantonment.

PART IV ARBITRATION

29. Appointment of Arbitrator: For the purposes of this Act, the Government shall, by notification in the official Gazette, appoint a Judicial Officer, not below the rank of Joint District Judge, to be Arbitrator for such area as may be specified therein.

30. Application to Arbitrator: (1) Any person interested who has not accepted any award made by the Deputy Commissioner under this Act may, within forty-five days from the date of service of notice of the award, make an application to the Arbitrator for revision of the award.

(2) The application, submitted under sub-section (1), shall state the grounds on which objection to the award is made.

(3) The Requiring person shall be made a necessary party in the application made under sub-section (1), along with the Deputy Commissioner.

31. Notice for hearing:(1) The Arbitrator shall, on receipt of an application under section 30, cause a notice specifying the date on which he will proceed to hear the application, and directing their appearance before him on that day, to be served on the following persons, namely:-

- (a) the applicant;
- (b) all persons interested in the objection;
- (c) the Deputy Commissioner; and
- (d) the Requiring persons.

(2) The Arbitrator shall, within 90 days of the receipt of the application, upon hearing of the application give his order.

32. Scope of proceedings:The scope of the enquiry in every proceeding before the Arbitrator shall be restricted to a consideration of the interests of the persons affected mentioned in the objection.

33. Working Procedure of the Arbitrator in the assessment of award: In determining the amount of compensation to be awarded for any property acquired or requisitioned under this Act, the Arbitrator shall be guided by the provisions of sections 9, 10 and 22:

Provided that the compensation determined by the Arbitrator in respect of each owner shall not exceed the amount specified in the award of the Deputy Commissioner by more than ten per centum.

34. Award determined by the Arbitrator: (1) Every award under this Part shall be in writing and signed by the Arbitrator, and shall specify the amounts awarded under different clauses of section 9(1) or section 22(5), as the case may be, and the Arbitrator shall inform the Deputy Commissioner together with the grounds of awarding each of the said amounts.

(2) Where the amount of compensation determined by an Arbitrator is higher than the amount specified in the award of the Deputy Commissioner, an additional compensation at the rate of ten per cent per annum on such additional amount shall, subject to the decision of an Appellate Arbitration Tribunal, if any, be payable till that amount is paid or offered for payment.

(3) Every such award shall be deemed to be a decree and the statement of the grounds of every such award a judgment within the meaning of section 2(2) and section 2(9) respectively of the Code of Civil Procedure, 1908 (V of 1908).

35. Costs: Every such award shall also specifically state the amount of costs incurred in the proceedings under this Part, and by what persons and in what proportions they are to be paid.

36. Appeal against the award of Arbitrator: (1) An appeal shall lie to the Arbitration Appellate Tribunal constituted under sub-section (2), against an award of the Arbitrator.

(2) The Government shall, by notification in the official Gazette, constitute one or more Arbitration Appellate Tribunals for such areas as may be specified therein.

(3) An Arbitration Appellate Tribunal shall consist of a member who shall be appointed by the Government from among persons who are or have been District Judges.

(4) A decision of the Arbitration Appellate Tribunal shall be final.

(5) Where the amount of compensation determined by an Arbitration Appellate Tribunal is higher than the amount specified in the award of the Arbitrator, an additional compensation at the rate of ten per cent per annum on such additional amount shall be payable till that amount is paid or offered for payment:

Provided that the compensation determined by the Arbitration Appellate Tribunal in respect of each land owner shall not exceed the amount specified in the award of the Arbitrator by more than ten per centum.

(6) The Arbitration Appellate Tribunal shall dispose of the appeal within 60 days and inform the Deputy Commission thereof in writing.

37. Payment of additional compensation:(1) Where additional compensation is required to be paid in pursuance of an award by the Arbitrator or, in cases the Arbitration Appellate Tribunal, the Deputy Commissioner shall send the notice to deposit the amount of additional compensation within one month from the date of the award of the Arbitrator or, the Arbitration Appellate Tribunal, as the case may be, and the Requiring person or organization shall, after the receipt of the notice or within 1 month of the award, whichever is earlier, pay the additional compensation.

(2) The Deputy Commissioner shall pay the additional compensation to the persons interested immediately after the submission of the additional compensation by the Requiring person or organisation based on the award of the Arbitrator or the Arbitration Appellate Tribunal, as the case may be.

(3) The Requiring person or organization shall be liable to pay the additional compensation in pursuance of the award granted by the Arbitrator, or the Arbitration Appellate Tribunal, as the case may be.

38. Act No. I of 2001 not to apply: Nothing in the Arbitration Act, 2001 (Act No. I of 2001), shall apply to arbitrations under this Part.

PART V MISCELLANEOUS

39. Deputy Commissioner and Arbitrator to have certain powers of Civil Court: The Deputy Commissioner and the Arbitrator, while holding any enquiry or proceedings under this Act, shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (V of 1908) for the purpose of -

- (a) summoning and enforcing the attendance of any person, and examining him on oath;
- (b) compelling the production of any document or record;
- (c) reception of evidence on affidavit;
- (d) issuing commission for examination of witnesses;
- (e) requisitioning any public record from any Court or office.

40. Power to enter and inspect: (1) With a view to acquiring or requisitioning any property or determining the compensation payable in respect thereof or securing compliance with an order made under this Act, the Deputy Commissioner or any officer, generally or specially authorised by the Deputy Commissioner in this behalf, and any of the assistants and workmen may-

- (a) enter upon and survey and take levels of any property;
- (b) inspect any property or anything therein;
- (c) measure and set out the boundaries and prepare a plan of any property and the intended line of the work, if any, proposed to be made thereon;
- (d) mark such levels, boundaries and line by placing marks and cutting trenches, and, where otherwise the survey cannot be completed and the levels taken and the boundaries and line marked, cut down and clear away any part of any standing crop, tree or jungle:

Provided that no person shall enter upon any property without the consent of the occupier thereof unless at least twenty-four hours' previous notice in writing of his intention to do so has been given.

(2) The Deputy Commissioner or the officer authorised by him under sub-section (1) shall, at the time of entry upon any property, pay or tender payment for all necessary damage to be done in such property, and, in case of dispute as to the sufficiency of the amount so paid or tendered, the decision of the Deputy Commissioner shall be final.

(3) The Deputy Commissioner shall, recover the money of compensation from the Requiring person or organization on the spot or as conveniently early as possible and pay it to the injured person or organization.

41. Power to obtain information: With a view to acquiring or requisitioning any property or determining the compensation payable in respect thereof, the Deputy Commissioner may, by order in writing, require any person to furnish to such officer or authority, as may be specified in the order, such information in his possession as may be specified relating to any property which is acquired or requisitioned, or intended to be acquired or requisitioned, under this Act.

42. Service of notices and orders: (1) Save as otherwise expressly provided in this Act and subject to rules made thereunder, every notice or order issued or made under this Act shall be served by delivering or tendering it to the person named therein or the person on whom it is required to be served under this Act.

(2) When such person cannot be found or the notice or order cannot be so delivered or tendered, the service of the notice or order may be made by delivering or tendering it to any officer or such person or to any adult male member of the family of such person residing with him or, if no such officer or member can be found, by affixing a copy thereof on the outer door or on some conspicuous part of the premises in which that person ordinarily resides or carries on business or personally works for gain, and also by affixing a copy thereof in some conspicuous place in the office of the authority or officer issuing or making it and, where possible, in some conspicuous part of the property to which it relates:

Provided that, if such authority or officer so directs, the notice or order may be sent by registered post in a letter addressed to the person named therein, or on whom it is required to be served, at his last known residence, address or place of business or work.

43. Penalty: Any person who contravenes or attempts to contravene or abets or attempts to abet a contravention of any order made under this Act or who wilfully obstructs any person in doing any of the acts authorised or permitted under this

Act or any rule made thereunder shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to ten thousand Taka, or with both.

44. Enforcement of surrender: If the Deputy Commissioner is opposed or impeded in taking possession of any property under this Act, he shall enforce the surrender of the property to himself, and may use or cause to be used such force for the purpose as may be necessary.

45. Exemption from stamp duty and fees: No award made under this Act shall be chargeable with stamp duty, and no person claiming any interest under any such award shall be liable to pay any fee for a copy of the same.

46. Indemnity for acts done in good faith: No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any order or rule made thereunder.

47. Bar to jurisdiction of Court: Save as otherwise expressly provided in this Act, no Court shall entertain any suit or application against any order passed or any action taken under this Act, and no injunction shall be granted by any Court in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

48. Delegation of powers: The Government may, by order notified in the official Gazette, direct that any power conferred or any duty imposed on it by this Act shall, in such circumstances and under such conditions, if any, as may be specified in the order, be exercised or discharged also by such officer or authority as may be so specified.

49. Power to make rules: (1) The Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power of sub-section (1), such rules may provide for all or any of the following matters, namely:-

(a) the procedure to be followed in taking possession of any property acquired or requisitioned under this Act;

(b) the procedure to be followed by the Arbitrators and the Arbitration Appellate Tribunals;

(c) the manner of enforcement of surrender of any property under section 44;

(d) issuance of file and things to be considered and procedure to be followed in determining the compensation in case of acquisition or requisition; and

(e) any other matter which has to be or may be prescribed.

50. Repeals and savings: (1) The Acquisition and Requisition of Immovable Property Ordinance, 1982 (Ordinance No. I of 1982) is hereby repealed.

(2) Notwithstanding such repeal,

(a) any act done or any measure taken or procedure under the foregoing Ordinance shall be deemed to be done under this Act;

(b) all notices, notifications, orders, compensation or award shall be deemed to be made under this Act; and

(c) all applications and appeals pending before any authority, Arbitrator or Arbitration Appellate Tribunal under the said Ordinance shall be continued as if this Act had not been promulgated.

51. Publication of authentic English Text: (1) After the promulgation of this Act, the Government may, by a notice in the Gazette, publish an Authentic English Text of this Act.

(2) If there is any conflict between the Bangla and English reading, the Bangla reading shall get priority.