

## THE (EMERGENCY) REQUISITION OF PROPERTY RULES, 1948 ✓

1. (1) These rules may be called the (Emergency) Requisition of Property Rules, 1948.

(2) In these rules, unless there is anything repugnant in the subject or context—

- (i) "the Act" means the (Emergency) Requisition of Property Act, 1948 (East Bengal Act XIII of 1948) ;
- (ii) "section" means a section of the Act ;
- (iii) "compensation" means compensation payable under sections 6 and 7 of the Act ; and
- (iv) "form" means a form appended to these rules.

2. (1) A separate proceeding shall be started with each proposal for the requisition of any property under the Act.

(2) before making an order for the requisition of a property under section 3, the officer competent to make such order shall satisfy himself that the proposed requisition falls within the scope of the provisions of section 3.

3. An order of requisition referred to in sub-section (1) of section 4 shall be Form A.

4. The notice referred to in sub-section (1), (3) and (7) of section 5 shall be in Form B, in Form C and in Form D, respectively.

5. (1) In assessing the compensation payable for the requisition of any movable property under section 6, the District Magistrate shall take into consideration—

- (i) the nature and the condition of the property ;
- (ii) the prevailing letting value, if any, of similar property in the locality.
- (iii) the market value, or where any control or ceiling price has been fixed by Government for similar property, the control or ceiling price of the property in the locality immediately before the requisition ; and
- (iv) the compensation which would be payable if the rate were fixed at not more than ten per centum per annum of such market value.

(2) In assessing the compensation payable for the acquisition of any movable property under section 6, the District Magistrate shall take into consideration—

- (i) the nature and the condition of the property ;
- (ii) the market value or where any control or ceiling price has been fixed by Government for similar property, the control or ceiling price of the property in the locality immediately before the requisition ; and
- (iii) the depreciation that has been occasioned to the property by normal wear and tear.



6. In assessing compensation for requisition or acquisition of any immovable property under clause (a) of section 7, the officer making the assessment shall have regard to the principle laid down in clause (e) of that section.

6A. Where weighted average value is required to be calculated under clause (i) of the proviso to clause (e) of section 7—

- (i) All the available sale figures of the properties of a similar description and with similar advantages in the vicinity during 24 months preceding the date of service of notice under sub-section (1a) of section 5 shall be collected ;
- (ii) the sale figures which appear to be abnormally high or low with reference to the majority of sale figures shall be excluded ; and
- (iii) the weighted average value per acre of land transferred shall, after excluding abnormally high or low sale figures, if any, be calculated by giving due weightage to the total quantity of land transferred in each case.

### ILLUSTRATIONS

#### NO. I.

Sl. No.	Area in acre.	Value per acre.	sale price.	Remarks.
1	2	3	4	5
		Rs.	Rs.	
1	0.02	1,00,000.00	2,000.00	Sale figure in Sl. No. 1 is abnormally high and in Sl. No. 7 is abnormally low in relation to majority of sale figure and as such they shall be excluded.
2	1.25	50,000.00	62,500.00	
3	0.75	60,000.00	45,000.00	
4	2.10	40,000.00	85,000.00	
5	1.02	45,000.00	45,900.00	
6	0.85	55,000.00	46,750.00	
7	0.01	20,000.00	200.00	
Total	5.97	...	2,84,150.00	

Weighted average value per acre = Rs. 2,84,150.00 ÷ 5.97 = Rs. 47,600.00.

7. (1) When compensation has been assessed, it shall be paid to the person who is entitled to receive it unless there is any dispute as to the adequacy of the amount assessed or as to the title to receive the amount or any portion thereof.

(2) Where there is a dispute as to the adequacy of the amount of compensation payable to any person, the dispute shall be referred to arbitration as provided under section 7.

(3) If there is any dispute as to the title to receive the amount of any compensation or any portion thereof, the officer assessing the compensation shall after hearing the rival claimants decide the dispute and make an award.



the amount awarded may be kept in Revenue deposit pending the decision of the dispute by a competent Civil Court or, when so ordered by such court, remitted to that court.

8. (1) if the property acquired belongs to any person who has no power to alienate it the compensation payable in respect of the property shall be deposited in the Principal Civil Court of original civil jurisdiction in the district in which the said property is situated and the provisions of section 32 of the Land Acquisition Act, 1894, shall apply to such a deposit.

9. (1) The appointment of an Arbitrator under clause (b) of section 7 of the Act shall be made by the Government by an order.

(2) If the Arbitrator neglects or refuses to act, or is incapable of acting or dies, the Government shall appoint some other person in his place.

(3) Where the amount of compensation payable for the requisition of any property under section 7 of the Act cannot be fixed by agreement, the person or persons to be compensated shall submit an application to the officer making the assessment for referring the case to arbitration with necessary written statements of his or their claims. Such officer shall refer the case with all relevant papers to the Arbitrator and give notice of such reference having been made to the person or persons to be compensated, and inform the Government.

(4) The Arbitrator shall have the like powers and shall follow the like procedure as the Court has and follows in the exercise of its ordinary original civil jurisdiction under the Code of Civil Procedure, 1908 ;

Provided that the Arbitrator shall have the right to decide the points referred to arbitration summarily in non-appealable cases referred to in subrule (16).

(5) Where the Government nominates a person, having expert knowledge as to the nature of the property acquired, under clause (c) of section 7 to assist the Arbitrator, the Government shall inform the Arbitrator of such nomination. On receipt of the intimation, the Arbitrator shall inform the person or persons to be compensated about the nomination with a view to enabling such person to nominate an Assessor under the said clause. The nomination of an Assessor shall be made within thirty days of the receipt of the intimation.

(6) The person to be nominated by the Government under clause (c) of section 7 and the Assessor to be nominated thereunder by the person or persons to be compensated may be given such fees as may be fixed by the Government in such case.

(7) The person to be nominated by the Government and the Assessor to be nominated by the person or persons to be compensated under clause (c) of section 7 shall render such assistance to the Arbitrator in connection with the arbitration as may be required by the Arbitrator.

(8) If the person nominated by the Government to assist the Arbitrator or the Assessor nominated by the person or persons to be compensated neglects or refuses to act, or is incapable of acting or dies, the Arbitrator shall inform the



Government or the person or persons to be compensated, as the case may be, of such an event who may nominate another person or Assessor within fifteen days of the receipt of the information.

(9) On receipt of the reference, the Arbitrator shall inform the person or persons to be compensated as also the officer who referred the case, of the place and time of meeting and such other particulars relating to the appearance of the parties to the reference and their witnesses and lawyers, as may be deemed necessary by the Arbitrator. The Arbitrator shall also issue such instructions to the parties to the reference, from time to time as he may consider necessary.

(10) The parties may appear either in person or by their authorized agent and may produce such evidence as they desire to adduce in support of their respective cases and which the Arbitrator considers to be relevant and necessary for the purpose of making an award.

(11) The parties to the reference and all persons claiming under them shall submit to be examined by the Arbitrator on oath or affirmation in relation to the matters in difference and shall produce before the Arbitrator, all books, deeds, plans, papers, accounts, writings and other documents within their possession or power respectively, which may be required or called for, and do all other things which, during the proceedings on the reference, the Arbitrator may require.

(12) The Arbitrator shall keep a record of the proceedings but such record need not be a verbatim record.

(13) Every party to a reference shall do all the acts necessary to enable the Arbitrator to make a just award and shall not wilfully do or cause or allow to be done any act to delay or to prevent the Arbitrator from making an award.

(14) When the Arbitrator has made his award, he shall sign it and shall give notice in writing to the parties to the reference of the making and signing thereof. He shall also send a copy of the award to the person or persons to be compensated and forward to the officer who made the reference the award, in original, together with the records of the proceedings.

(15) The costs of the Arbitration including fees paid to persons nominated under clause (c) of section 7 shall be in the discretion of the Arbitrator, who made direct to and by whom, and in what manner, such part thereof shall be paid.

(16) Any appeal against the award of the Arbitrator shall be preferred within sixty days of the receipt by the parties of the notice referred to in sub-rule (14) :

Provided that no appeal shall lie against an award made under these rules where the amount of compensation awarded does not exceed Rs. 5,000 in lump or Rs. 250 per mensem.

(17) (a) The Arbitrator shall specify a time in the award within which it shall be satisfied ; and if the award is not satisfied within the time so specified the Arbitrator shall report the case for the orders of the Government.



- (b) Execution shall not be issued on any such award unless it remains unsatisfied for the period of three months computed from the date of such report.
- (c) The award of the Arbitrator shall be enforceable in the same manner and to the same extent as a decree of a Civil Court and may be filed for execution in the Civil Court which, if the subject-matter of the arbitration reference wherein the award was made were subject-matter of a civil suit, would have jurisdiction to try such suit.

Provided that where an appeal against an award has been filed no process shall be issued for the realisation of such amount of compensation awarded as is in excess of the amount of compensation assessed by the Deputy Commissioner.

**9A.** (1) The notice referred to in clause (aa) of section 7 shall be in Form J.

(2) The notice referred to in sub-section (1) of section 7A shall be in Form K.

**10.** (1) For the purpose of ascertaining the person or persons to whom a requisitioned property, on release, is to be restored, the officer competent to release the property shall give to all persons who are believed to be interested in such property a notice in Form E calling upon them to file within the time specified in such notice applications stating their claims to the restoration of the property. A copy of the notice shall be affixed to some conspicuous part of the property and also to the notice board of the Deputy Commissioner.

(2) The officer shall consider the application filed under sub-rule (1) and shall after giving the applicants an opportunity of being heard and after making such enquiry, if any, as he considers necessary, serve on the person or persons who appear to be considers necessary, serve on the person or persons who appear to be entitled to such restoration a notice in Form F for the release of the property and calling upon him or them to take delivery of the property on the date specified in such notice. A copy of the notice shall be affixed to some conspicuous part of the property to be released and to the notice board of the Deputy Commissioner.

**11A.** (1) In releasing a requisitioned property under section 8A, notice to that effect shall be published in the Official Gazette as required under subsection (1) of that section. The notice shall be in Form H.

(2) The officer competent to release the property shall also give to all persons who are believed to be interested in such property as well as to the allottees a notice in Form I informing them of the fact of released form requisition. A copy of the notice shall be affixed to some conspicuous part of the property to be released and to the notice board of the Deputy Commissioner.

**12.** A person authorised under clause (a) of section 9 to enter upon any land or into any premises shall not do so during the time from sunset to sunrise.

**13.** The order referred to in clause (b) of section 9 shall be served in the manner laid down in sub-section (1) of section 4.