

**THE ACQUISITION AND REQUISITION OF
IMMOVABLE PROPERTY ORDINANCE, 1982**

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**¹THE ACQUISITION AND REQUISITION OF
IMMOVABLE PROPERTY ORDINANCE, 1982**

ORDINANCE NO. II OF 1982

[13th April, 1982]

An Ordinance to consolidate and amend the law relating to acquisition and requisition of immovable property.

WHEREAS it is expedient to consolidate and amend the law relating to acquisition and requisition of immovable property and to provide for matters connected therewith and ancillary thereto;

NOW, THEREFORE, in pursuance of the Proclamation of the twenty-fourth day of March, 1982, and in exercise of all powers enabling him in that behalf, the Chief Martial Law Administrator is pleased to make and promulgate the following Ordinance:-

PART I

PRELIMINARY

- | | |
|-------------|---|
| Short title | 1. This Ordinance may be called the Acquisition and Requisition of Immovable Property Ordinance, 1982. |
| Definitions | <p>2. In this Ordinance, unless there is anything repugnant in the subject or context,-</p> <p>(a) “Arbitrator” means an Arbitrator appointed under section 27;</p> <p>²[(b) “Deputy Commissioner” includes an Additional Deputy Commissioner and any other officer authorised by the Deputy Commissioner to exercise any power conferred, or perform any duty imposed, on the Deputy Commissioner by or under this Ordinance;]</p> <p>(c) “owner” includes the occupier;</p> |

¹ The Ordinance was declared void by the Appellate Division of the Supreme Court of Bangladesh in Civil Appeal No. 48 of 2011 and subsequently the Ordinance has been made effective as an Act of Parliament by ১৯৮২ সনের ২৪ মার্চ হইতে ১৯৮৬ সালের ১১ নভেম্বর তারিখ পর্যন্ত সময়ের মধ্যে জারীকৃত কতিপয় অধ্যাদেশ কার্যকরণ (বিশেষ বিধান) আইন, ২০১৩ (২০১৩ সনের ০৭ নং আইন), ধারা ৪।

² Clause (b) was substituted by section 2 of the Acquisition and Requisition of Immovable Property (Amendment) Ordinance, 1984 (Ordinance No. XL of 1984).

- (d) “person interested”, in relation to any property, includes all persons claiming, or entitled to claim, an interest in the compensation payable on account of the acquisition or requisition of that property under this Ordinance;
- (e) “prescribed” means prescribed by rules made under this Ordinance;
- (f) “property” means immovable property and includes any right in or over such property; and
- (g) “requiring person” means any person for whom any property is, or is proposed to be, acquired under this Ordinance.

PART II

ACQUISITION

3. 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:

Publication of preliminary notice of acquisition of property

Provided that no property used by the public for the purpose of religious worship, graveyard and cremation ground shall be acquired.

4. (1) Any person interested in any property which has been notified under section 3 as being needed or likely to be needed for a public purpose or in the public interest may, within fifteen days after the publication of the notice, object to the acquisition of the property.

Objections against acquisition

(2) Every objection under sub-section (1) shall be made to the Deputy Commissioner in writing, and the Deputy Commissioner shall give the objector an opportunity of being heard either in person or by an agent and shall, after hearing all such objections and after making such further inquiry, if any, as he thinks necessary, prepare a report¹[within thirty days following the expiry of the period specified under sub-section (1)] containing his opinion on the objections.

¹ The words, brackets and figure “within thirty days following the expiry of the period specified under sub-section (1)” were inserted by section 2 of the Acquisition and Requisition of Immovable Property (Amendment) Ordinance, 1994 (Ordinance No. XX of 1994).

¹[(3) The Deputy Commissioner shall then-

- (a) if the property exceeds ²[fifty] standard *bighas* of land, submit the record of the proceedings held by him, together with his report, for the decision of the Government; and
- (b) if the property does not exceed ³[fifty] standard *bighas* of land, submit the record of the proceedings held by him, together with his report, for the decision of the Divisional Commissioner ⁴[:

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 ⁵[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] about the acquisition of the property and such decision of the Deputy Commissioner shall be final.]]

Final decision
regarding
acquisition

5. (1) The ⁶[Government or, as the case may be, the Divisional Commissioner], after considering the report submitted by the Deputy Commissioner under section 4(3),

¹ Sub-section (3) was substituted by section 2 of the Acquisition and Requisition of Immovable Property (Amendment) Ordinance, 1983 (Ordinance No. XV of 1983).

² The word “fifty” was substituted for the word “ten” by section 2 of the Acquisition and Requisition of Immovable Property (Amendment) Act, 1994 (Act No. XX of 1994).

³ The word “fifty” was substituted for the word “ten” by section 2 of the Acquisition and Requisition of Immovable Property (Amendment) Act, 1994 (Act No. XX of 1994).

⁴ The colon (:) was substituted for the full-stop (.) and the proviso was added thereafter by section 2 of the Acquisition and Requisition of Immovable Property (Second Amendment) Ordinance, 1983 (Ordinance No. XXX of 1983).

⁵ The words and commas “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” were inserted by section 2 of the Acquisition and Requisition of Immovable Property (Amendment) Act, 1994 (Act No. XX of 1994).

⁶ The words and commas “Government or, as the case may be, the Divisional Commissioner” were substituted for the word “Government” by section 3 of the Acquisition and Requisition of Immovable Property (Amendment) Ordinance, 1983 (Ordinance No. XV of 1983).

shall make a decision about the acquisition of the property and such decision of the ¹[Government or, as the case may be, the Divisional Commissioner] shall be final ²[:

Provided that-

- (a) where the decision is to be made by the Divisional Commissioner, it shall be made within fifteen days from the date of submission of the report, or within such further time but not exceeding one month, as he may think fit for reasons to be recorded by him in this behalf ;
- (b) where decision is to be made by the Government, it shall be made within a period not exceeding ninety days from the date of submission of the report.]

³[(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) or the proviso to section 4(3)(b), 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.]

6. (1) When the ⁴[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 4(3)(b), as the case may be], the Deputy

Notice to
persons
interested

¹ The words and commas “Government or, as the case may be, the Divisional Commissioner” were substituted for the word “Government” by section 3 of the Acquisition and Requisition of Immovable Property (Amendment) Ordinance, 1983 (Ordinance No. XV of 1983).

² The colon (:) was substituted for the full-stop (.) and the proviso was added thereafter by section 3 of the Acquisition and Requisition of Immovable Property (Amendment) Act, 1994 (Act No. XX of 1994).

³ Sub-section (2) was substituted by section 3 of the Acquisition and Requisition of Immovable Property (Second Amendment) Ordinance, 1983 (Ordinance No. XXX of 1983).

⁴ The words, commas and figure “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 4(3)(b), as the case may be” were substituted for the words, commas and figure “or, as the case may be, the Divisional Commissioner has made a decision for acquisition of any property under section 5” by section 4 of the Acquisition and Requisition of Immovable Property (Second Amendment) Ordinance, 1983 (Ordinance No. XXX of 1983).

Commissioner shall cause public notice to be given in the prescribed manner at convenient places on or near such property stating that the Government ¹[, the Divisional Commissioner or the Deputy Commissioner, as the case may be,] has decided to acquire the property and intends to take possession thereof and that claims to compensation for all interests in such property may be made to him.

(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, not being earlier than fifteen days after the date of publication of the notice, and place mentioned therein and to 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).

Award of
compensation
by Deputy
Commissioner

7. (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 6 and into the

¹ The commas and words “, the Divisional Commissioner of the Deputy Commissioner of the Deputy Commissioner, as the case may be,” were inserted by section 4 of the Acquisition and Requisition of Immovable Property (Second Amendment) Ordinance, 1983 (Ordinance No. XXX of 1983).

value of the property at the date of the publication of the notice under section 3, 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.

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

¹[(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 person.

(4) The requiring person shall deposit the estimated amount of the award of compensation with the Deputy Commissioner in the prescribed manner within sixty days from the date of receipt of the estimate.]

8. (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-

Matters to be considered in determining compensation

- (a) the market value of the property at the date of publication of the notice under section 3:

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 3;

¹ Sub-sections (3) and (4) were substituted for former sub-section (3) by section 4 of the Acquisition and Requisition of Immovable Property (Amendment) Act, 1994 (Act No. XX of 1994).

- (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 taking possession thereof by the Deputy Commissioner;
- (c) the damage that may be sustained by the person interested, at the time of taking possession of the property by the Deputy Commissioner, by reason of severing such property from his other property;
- (d) the damage that may be sustained by the person interested, at the time of taking possession of the property by the Deputy Commissioner, by reason of the acquisition injuriously affecting his other properties, movable or immovable, in any other manner, or his earnings;
- (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; and
- (f) the damage that may be resulting from diminution of the profits of the property between the date of service of notice under section 6 and the date of taking possession of the property by the Deputy Commissioner.

(2) In addition to the market value of the property as provided in sub-section (1), the Deputy Commissioner shall, in every case award a sum of ¹[fifty *per centum*] on such market value in consideration of the compulsory nature of the acquisition.

Matters not to be considered in determining compensation

9. 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;

¹ The words “fifty per centum” were substituted for the words “twenty per centum” by section 2 of the Acquisition and Requisition of Immovable Property (Amendment) Act, 1993 (Act No. XXV of 1993).

- (d) any damage which is likely to be caused to the property to be acquired, after the date of service of notice under section 6, 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 when acquired; 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 3.

10. (1) On making an award under section 7, the Deputy Commissioner shall, before taking possession of the property, tender payment of the compensation awarded by him to the persons entitled thereto according to the award, and ¹[shall, unless prevented by some-one or more of the contingencies mentioned in sub-section (2), pay it to them within sixty days from the date of deposit by the requiring person of the estimated amount of compensation under section 7(3)].

Payment of compensation

(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:

¹ The words, commas, brackets and figures “shall, unless prevented by some-one or more of the contingencies mentioned in sub-section (2), pay it to them within sixty days from the date of deposit by the requiring person of the estimated amount of compensation under section 7(3)” were substituted for the words, brackets and figure “shall pay it to them unless prevented by some-one or more of the contingencies mentioned in sub-section (2)” by section 5 of the Acquisition and Requisition of Immovable Property (Amendment) Act, 1994 (Act No. XX of 1994).

Provided further that no person who has received the amount otherwise than under protest shall be entitled to make any application under section 28:

Provided further that nothing herein contained shall affect the liability of any person, who may receive the whole or any part of any compensation awarded under this Part, to pay the same to the person lawfully entitled thereto.

Payment of
compensation
to *bargadar*

¹[**10A.** Notwithstanding anything contained in this Ordinance, 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* in cash.

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.]

Acquisition and
possession

11. (1) When the compensation mentioned in the award has been paid or is deemed to have been paid in pursuance of section 10, 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*.

Abatement or
revocation of
acquisition
proceedings

12.²[(1) Notwithstanding anything contained in this Ordinance, 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 7(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*.

¹ Section 10A was inserted by section 6 of the Acquisition and Requisition of Immovable Property (Amendment) Act, 1994 (Act No. XX of 1994).

² Sub-sections (1) and (2) were substituted by section 7 of the Acquisition and Requisition of Immovable Property (Amendment) Act, 1994 (Act No. XX of 1994).

(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.

13. The provisions of this Part shall not be applied for the purpose of acquiring a part only of any house, manufactory or other building, if the owner desires that the whole of such house, manufactory or building should be so acquired:

Acquisition of part of a house or buildings

Provided that the owner may, at any time, before the Deputy Commissioner has made his award under section 7, by notice in writing withdraw or modify his expressed desire that the whole of such house, manufactory or building should be so acquired:

Provided further that, 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.

14. 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.

Acquisition of property at the cost of a person other than the Government

15. (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 3 is published.

Transfer of acquired land to the requiring person other than the Government

(2) When the property in respect of which an agreement has been entered into with a person under sub-section (1) is acquired under section 11, the Government shall, on the performance by such person of his part of the agreement, transfer the property to the person by executing a deed in such form as may be prescribed and in accordance with the law for the time being in force.

Recovery of
compensation
in certain cases

16. 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.

Use of acquired
property

17. (1) No property acquired under this Part shall, without the prior approval of the Government, be used for any purpose other than the purpose for which it is acquired.

(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.

PART III

REQUISITION

Requisition of
property

18. (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 no such approval shall be necessary in the case of emergency requirement of any property:

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-

- (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,

and may use the property for the purpose for which it has been requisitioned.

(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.

19. The Government may, of its own motion or on application filed by an aggrieved person, revise an order made under section 18 (1):

Revision

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

20. (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.

Award of compensation by Deputy Commissioner

(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).

Payment of
compensation

21. (1) On making an award under section 20, 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 someone or more 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 28:

Provided further that nothing herein contained shall affect the liability of any person, who may receive the whole or any part of any compensation awarded under this Part, to pay the same to the person lawfully entitled thereto.

22. 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.

Recovery of money from allottees of requisitioned property

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

Repair of 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.

24. (1) Where any requisitioned property is to be released from requisition, the Deputy Commissioner may 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.

Release from requisition

(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:

Provided that when the person to whom the requisitioned property is to be restored on release from requisition wilfully neglects or 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.

(3) 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*.

(4) When a notice referred to in sub-section (3) 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.

Eviction of
allottees

25. Notwithstanding anything contained in any other law for the time being in force, if any property under requisition, which has been allotted to any person or is in unauthorised occupation of any person, is required by the Deputy Commissioner for any other use or purpose during the period of requisition or for restoring the property under section 24 on its release from requisition or if the allottee of such property has defaulted in payment of any sum due from him in respect of such property, 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, and if such person or allottee does not vacate the property by the date so specified, 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.

26. Nothing in this Part shall apply to any property within the limits of a Cantonment.

Part not to apply to Cantonment

PART IV

ARBITRATION

27. For the purposes of this ¹[Ordinance], the Government shall, by notification in the *official Gazette*, appoint a Judicial Officer, not below the rank of Subordinate Judge, to be Arbitrator for such area as may be specified therein.

Appointment of Arbitrator

28. (1) Any person interested who has not accepted any award made by the Deputy Commissioner under this Ordinance 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.

Application to Arbitrator

(2) The application shall state the grounds on which objection to the award is taken.

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

29. The Arbitrator shall, on receipt of an application under section 28, 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:-

Notice for hearing

- (a) the applicant;
- (b) all persons interested in the objection;

¹ The word "Ordinance" was substituted for the word "Act" by section 6 of the Acquisition and Requisition of Immovable Property (Amendment) Ordinance, 1983 (Ordinance No. XV of 1983).

² Sub-section (3) was added by section 8 of the Acquisition and Requisition of Immovable Property (Amendment) Act, 1994 (Act No. XX of 1994).

(c) the Deputy Commissioner; and

(d) the requiring person.

Scope of
proceedings

30. The scope of the enquiry in every proceeding before the Arbitrator shall be restricted to a consideration of the interests of the persons affected by the objection.

Arbitrator to be
guided by
sections 8, 9
and 20

31. In determining the amount of compensation to be awarded for any property acquired or requisitioned under this Ordinance, the Arbitrator shall be guided by the provisions of sections 8, 9 and 20, as the case may be ¹[:

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*.]

Form of award
of Arbitrator

32. (1) Every award under this Part shall be in writing signed by the Arbitrator, and shall specify the amounts awarded under different clauses of section 8(1) or section 20(5), as the case may be, 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).

Costs

33. Every such award shall also 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.

¹ The colon (:) was substituted for the full-stop (.) and the proviso was added thereafter by section 9 of the Acquisition and Requisition of Immovable Property (Amendment) Act, 1994 (Act No. XX of 1994).

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

Appeal against
the award of
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 ¹]:

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*.]

²[**34A.** Where additional compensation is required to be paid in pursuance of an award under this Part, such compensation shall be paid to the persons entitled thereto immediately after the said additional amount is deposited by the requiring person with the Deputy Commissioner:

Payment of
additional
compensation

Provided that the requiring person shall deposit the additional amount with the Deputy Commissioner within one month from the date of receipt of notice in this behalf from the Deputy Commissioner:

¹ The colon (:) was substituted for the full-stop (.) and the proviso was added thereafter by section 10 of the Acquisition and Requisition of Immovable Property (Amendment) Act, 1994 (Act No. XX of 1994).

² Section 34A was inserted by section 11 of the Acquisition and Requisition of Immovable Property (Amendment) Act, 1994 (Act No. XX of 1994).

Provided further that 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, as the case may be, decision of the Arbitration Appellate Tribunal.]

Act X of 1940
not to apply

35. Nothing in the Arbitration Act, 1940 (X of 1940), shall apply to arbitrations under this Part.

PART V
MISCELLANEOUS

Deputy
Commissioner
and Arbitrator
to have certain
powers of Civil
Court

36. The Deputy Commissioner and the Arbitrator, while holding any enquiry or proceedings under this Ordinance, 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.

Power to enter
and inspect

37. (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 Ordinance, 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.

38. 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 Ordinance.

Power to obtain information

39. (1) Save as otherwise expressly provided in this Ordinance and subject to rules made thereunder, every notice or order issued or made under this Ordinance 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 Ordinance.

Service of notices and orders

(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.

Penalty

40. Any person who contravenes or attempts to contravene or abets or attempts to abet a contravention of any order made under this Ordinance or who wilfully obstructs any person in doing any of the acts authorised or permitted under this Ordinance 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 one thousand Taka, or with both.

Enforcement of surrender

41. If the Deputy Commissioner is opposed or impeded in taking possession of any property under this Ordinance, 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.

Exemption from stamp duty and fees

42. No award made under this Ordinance 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.

Indemnity

43. 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 Ordinance or any order or rule made thereunder.

Bar to jurisdiction of Court

44. Save as otherwise expressly provided in this Ordinance, no Court shall entertain any suit or application against any order passed or any action taken under this Ordinance, 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 Ordinance.

45. The Government may, by order notified in the *official Gazette*, direct that any power conferred or any duty imposed on it by this Ordinance 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.

Delegation of powers

46. (1) The Government may, by notification in the *official Gazette*, make rules for carrying out the purposes of this Ordinance.

Power to make rules

(2) In particular, and without prejudice to the generality of the foregoing power, 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 Ordinance;
- (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 41;
- (d) any other matter which has to be or may be prescribed.

47. Notwithstanding the cesser of the Emergency Requisition of Property Act, 1948 (E.B. Act XIII of 1948), on the expiry of the period of its operation, all proceedings and matters, including all notices, notifications and orders, relating to requisition or acquisition of any property or compensation or award in respect of any property requisitioned or acquired and all applications and appeals pending before any authority, arbitrator or Court under that Act shall be continued, enforced, heard or disposed of as if that Act had not ceased to have effect and were continuing in operation.

Special savings relating to expired E.B. Act XIII of 1948

48. (1) The Land Acquisition Act, 1894 (I of 1894), is hereby repealed.

Repeals and savings

(2) Notwithstanding such repeal, all proceedings and matters, including all notices, notifications and orders, relating to requisition or acquisition of any property or compensation or

award in respect of any property requisitioned or acquired and all applications and appeals pending before any authority, arbitration or Court under the said Act shall be continued, enforced, heard or disposed of as if this Ordinance had not been made and promulgated.

(3) Subject to the provisions of sub-section (2), the provisions of the General Clauses Act, 1897 (X of 1897), shall apply to the repeal and re-enactment of the said Act by this Ordinance.
