

Uttar Pradesh Roadside Land Control Act, 1945**10 of 1946****CONTENTS**

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SCHEDULE 1 :- THE SCHEDULE**Uttar Pradesh Roadside Land Control Act, 1945****10 of 1946**

Whereas it is expedient to regulate in the United Provinces, the use of the roadside land; And whereas by the Proclamation dated the third day of November, 1939, promulgated under Section 93 of the Government of India Act, 1935, the Governor of the United Provinces has assumed to himself all power vested by or under the aforesaid Act in the Provincial Legislature; And whereas the said Proclamation is still in force; Now, therefore, the Governor, in exercise of the powers aforesaid, is pleased to make the following Act:

1. Short Title, Extent And Commencement :-

(1) This Act may be, called the Uttar Pradesh Roadside Land

Control Act, 1945

(2) It extends to the whole of Uttar Pradesh except cantonment areas.

(3) It shall come into force on such date as the State Government may, by notification in the official Gazette, appoint.

2. Interpretation :-

In this Act, unless there is anything repugnant in the subject or context-

(1) agriculture includes horticulture and the planting and upkeep of orchards;

(2) building" means a house, but shed or other roofed structure, for whatsoever purpose and of whatsoever material constructed, and every part thereof, and includes a wall of masonry platform of masonry ditch or drain, but does not include a tent or other such portable and merely temporary shelter;

(3) Collector include any authority appointed by the State Government by notification in the official Gazette to perform all or any of the functions of the Collector under this Act;

(4) place of worship includes a temple, church. mosque imambara. dargha, karbala, takya, idgah, samadhi, math, sati ka than or gurdwara;

(5) prescribed means prescribed by rules made under this Act; and

(6) road means a metalled road maintained by the State Government, the Government of India or by a local authority or, a route demarcated by the State Government of India or a local authority with a view to constructing along it a metalled road. and includes a national highway.

3. Declaration Of Controlled Area :-

(1) The State Government may, by notification in the official Gazette, declare any land within a distance of four hundred and forty yards from the centre line of any road to be a controlled area for the purpose of this act :

Provided that in the case of national highway. the highway itself shall not be a controlled area.

(2) Not less than three months before making a declaration under, Sub-section(1), the State Government shall cause to be published in the official Gazette and in at least two newspapers printed in a language other than English, notification stating that they propose of making such a declaration and specifying therein the boundaries

of the land in respect which the declaration is proposed to be made, and copies of every such notification or of the substance thereof shall be published by the Collector in such manner as he thinks fit at his office and at such other places as he considers necessary within the said boundaries.

(3) Any person interested in any land included within the said boundaries may, at any time before the expiration of thirty days from the last date on which a copy of such notification is published by the Collector, object to the making of the declaration or to the inclusion of his land or any part of it within the said boundaries.

(4) Every objection under Sub-section (3) shall be made to the Collector, in writing, and the Collector shall give to every person so objecting an opportunity of being heard either in person or through a legal practitioner, and shall, after all such objections have been heard and after such further inquiry, if any, as he thinks necessary, forward to the State Government record of the proceedings held by him together with a report setting forth his recommendations on the objections.

(5) If before the expiration of the time allowed by Sub-section (3) for the filing of objections no objection has been made, the State Government may proceed at once to the making of a declaration under Sub-section (1). If any such objections have been made, the State Government shall consider the record and the report referred to in Sub-section (4) and may either-

(a) abandon the proposal to make a declaration under Sub-section (1), or

(b) make such a declaration in respect of either the whole or a part of the land included within the boundaries specified in the notification under Sub-section (2).

(6) For purpose of Sub-section (3) a person shall be deemed to be interested in land if he is a person interested as defined in Clause (b) of Section 3 of the Land Acquisition Act, 1894 for the purposes of that Act or, where land is occupied by or for the purposes of a place of worship, tomb, cenotaph, graveyard, grave or marghat, If he is a member of the faith to which such building pertains.

(7) A notification published in the official Gazette purporting to be made under Sub-section (1) shall be conclusive proof that the declaration contained in such notification has been duly made in accordance with the provisions of this Act, and unless and until such declaration is withdrawn, that area to which it relates is a controlled area.

(8) Any notification issued or declaration made under this section

with reference to a road which subsequently becomes a national highway under the National Highways Act, 1956, shall notwithstanding the road so becoming a national highway, continue to be valid and to be in force.

4. Plans Of Controlled Area To Be Deposited At Certain Offices :-

(1) The Collector shall deposit at his office and at such other places as he considers necessary, plans showing all lands declared to be controlled areas for the purposes of this Act, and setting forth the nature of the restrictions applicable to the land in any such controlled area

(2) The plans so deposited shall be available to the public for inspection free of charges at all reasonable times.

5. Restrictions On Building, Etc. In A Controlled Area :-

Notwithstanding anything contained in any other law for the time being in force, no person shall erect or re-erect any building, or make or extend any excavation, or lay-out any means of access to a road in a controlled area except with the previous permission of the Collector in Writing.

6. Application For Permission To Build, Etc. And The Grant Or, Refusal Of Such Permission :-

(1) Every person desiring to obtain the permission referred to in Section 5 shall make an application in writing in the Collector in such form and containing such information in respect of the building, excavation or means of access to which /the application relates as may be prescribed. -

(2) On receipt of such application, the Collector after making such inquiry, as he considers necessary, shall, by order in writing either-

(a) grant the permission, subject to such conditions if any, as may be specified in the order; or

(b) refuse to grant such permission.

(3) When the Collector grants permission subject to conditions under Clause (a) of Sub-section (2) or refuses to grant permission under Clause (b) of Sub-section (2), the conditions imposed or the grounds of refusal shall be such as are reasonable having regard to the circumstances of each case.

(4) The Collector shall not refuse permission to the erection or re-

erection of a building, not being a dwelling house. If such building is required for purposes subservient to agriculture, nor shall the permission to erect or re-erect any such building be made subject to any conditions other than those which may be necessary to ensure that the, building will be used solely for the purposes specified in the application for permission.

(5) The Collector shall not refuse permission to the erection or re-erection of a building which was in existence on the date on which the declaration under Sub-section (1) of Section 3 was made, nor shall he impose any conditions in respect of such erection or re-erection unless it involves the addition of one or more storeys to the building or the extension of the plinth area of the building by more than one-eighth of the original plinth area, or there is a probability that the building will be used for a purpose other than that for which it was used on the date on which the said declaration was made.

(6) If at the expiration of a period of three months after an application under Sub-section (1) has been made, to the Collector no order in writing has been passed, the Collectors permission shall be deemed to have been given without the imposition of any conditions.

(7) The Collector shall maintain a register with sufficient particulars of all permissions given by him under this section and the register shall be available for inspection without charge by all persons interested and such persons shall be entitled to take extracts therefrom.

7. Right Of Appeal :-

(1) Any person aggrieved by an order of the Collector under Sub-section(2) of Section 6 granting permission subject to conditions or refusing permission may within thirty days from the date of such order prefer an appeal to the State Government.

(2) The order of the State Government on appeal shall be final.

8. Compensation :-

(1) No person shall be entitled to claim compensation under this or any other Act for any injury, damage or loss caused or alleged to have been caused by an order-

(a) refusing permission to make or extend an excavation, or granting such permission but imposing conditions on the grant, or

(b)refusing permission to lay-out a means of access to a road, or

granting such permission but imposing conditions on the grant., or
(c) granting permission to erect or re-erect a building but imposing conditions on the grant.

(2) When an order has been made refusing permission to erect or re-erect a building any person who has exercised the right of appeal given by Sub-section (1) of Section 7 may, within three months of the date of the order of the State Government make to the State Government a claim for compensation on the ground that his interest in the land concerned is injuriously affected by the said order.

(3) On receipt of a claim under Sub-section (2), the State Government shall either proceed to acquire the land concerned under the Land Acquisition Act, 1894, or transfer the claim for disposal to an officer, exercising the powers of a Collector under the said Act:

(4) Nothing in this section shall be deemed to preclude the settlement of a claim by mutual agreement.

9. Compulsory Acquisition :-

If the State Government decide to acquire the land under the Land Acquisition Act, 1894 then, notwithstanding anything contained in that Act,--

- (i) proceeding under Section 5-A of the Act shall not be required;
- (ii) the notification under Section 6 of that act shall be published within six months from the date of institution of the claim failing which the claim shall be transferred for disposal to an officer exercising the powers of a Collector under that Act;
- (iii) the market value of the land shall be assessed in accordance with the provisions of the Land Acquisition act, 1894 (1 of 1894), which shall, for the purpose of this act, be deemed to be modified as indicated in the Schedule annexed to this Act.

10. Amount Of Compensation How Determined :-

(1) When a claim is transferred for disposal under Section 8 or Section 9 to an officer exercising the powers of a Collector under the Land Acquisition act, 1894. Such officer shall make an award determining the amount of compensation, if any, payable to the claimant.

(2) The amount of compensation awarded under Sub-section (1) shall in no case exceed--

- (a) the amount that would have been payable if the land had been

acquired under Section 9, or

(b) the difference between the market value of the land in the existing condition having regard to the restrictions actually imposed upon its use and development by the order refusing permission to erect or re-erect a building, thereon, and its market value immediately before the publication under Sub-section (2) of Section 3 of the notification in pursuance of which the area in which it is situated was declared to be a controlled area, and no compensation shall be awarded under Sub-section (1)--

(i) unless the claimant satisfied the officer making the award that proposals for the development of the land which at the date of the application under Sub-section (i) of Section 6 are immediately practicable, or would have been so, if this Act had not been passed, or prevented or injuriously affected by the restriction imposed under this Act, or

(ii) if and insofar as the land is subject to substantially similar restrictions in force under some other enactment which were so in force at the date when the restrictions were imposed under this Act, or

(iii) if compensation in respect of the same restrictions in force under this Act or of substantially similar restrictions in force under some other enactment has already been paid in respect of the land to the claimant or to any predecessor-in-interest of the claimant.

(3) The provisions of Part III as modified by Section 9, Clause (iii) and the Schedule annexed to this Act, and Parts IV, V and VIII of the Land Acquisition Act, 1894 (1 of 1894), shall so far as may be applied to an award made under Sub-section (1) as though it were an award made under that Act.

11. Saving For Other Enactments :-

Nothing in this Act shall affect the power of any authority to acquire land or to impose restrictions upon the use and development of land under any other, enactment for the time being in force.

12. Prohibition Of Use Of Any Land As A Brick-Field, Etc :-

without licence

(1) Notwithstanding anything contained in any other law for the time being in force, no-land within a controlled area shall be used for the purposes of a charcoal-kiln, pottery-kiln or lime-kiln and no land within a controlled area shall be used for the purposes of brick-field or brick-kiln except under, and in accordance, with the

conditions of. a licence from the Collector which shall be renewed annually.

(2) The State Government may charge such fees for the grant and renewal of such licences and may impose such conditions in respect thereof as may be prescribed.

(3) No person shall be entitled to claim compensation under this or any other Act for an injury, damage or loss caused or alleged to have been caused by the refusal of a licence under Sub-section (1).

13. Offences And Penalties :-

(I) Any person who-

(a) erects or re-erects any building or makes or extends any excavation or lays but any means of access to a road in contravention of the provisions of Section 5 or in the contravention of any conditions imposed by an order under Section 6 or Section 7 or

(b) uses any land in contravention of the provisions of Sub-section (1) of Section 12 shall be punishable with fine which may extend to five hundred rupees and. in the case of continuing contravention. with a further fine which may extend to fifty rupees for every day after the date of the first conviction during which he is proved to have persisted in the contravention.

(2) Without prejudice to the provisions of Sub-section (1), the Collector may order any person who has committed, a breach of the provisions of the said sub-section to restore to its original state or to bring into conformity with the conditions which have been violated, as the case may be any building or land in respect of which a contravention such as is described in the said sub-section has been committed, and if such person fails to do so within there months of the order, may himself take such measure as may appear to him to be necessary to give effect to the order, and the cost of such measures shall be recoverable from such person as arrear of land revenue.

14. Trial Of Offences :-

No Court inferior to that of a Magistrate of the first class shall try any offence punishable under this Act.

15. Protection Of Persons Acting Under This Act :-

No suit, prosecution or other legal proceeding shall lie against any

person for anything which is an good faith done or intended to be done under this Act.

16. Savings :-

Nothing in this Act shall apply to-

(a) the erection or re-erection of buildings upon land included in the inhabited site of any village as entered and demarcated in the revenue records or upon sites in municipal, notified or town area that are already built up on the date of the issue of the notification under Sub-section (2) of Section 3 of this Act.

(b) the erection or re-erection of a place of worship or a tomb, cenotaph, grave, graveyard, or marghat or of a wall enclosing a place of worship. tomb cenotaph, grave, graveyard, or marghat on land which is at the time a notification under Sub-section (2) of Section 3 is published by the State Government, occupied by or for the purposes of such place of worship. tomb, cenotaph, grave, graveyard. or marghat;

(c) excavations (including well) made in the ordinary course of agricultural operations;

(d) the construction of an unmetalled road intended to give access to land solely for agricultural purposes.

17. Power To Make Rules :-

(1) The State Government may make rules to carry out the purpose of this Act.

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

(a) the form in which applications under Sub-section (1) of section 6 shall be made and the information to be furnished in such applications;

(b) principles according to which applications under Sub-section (1) of Section 6 shall normally be disallowed by the Collector.

(c) the regulation of the laying out of means of access to roads:

(d) the fees to be charged for the grant and renewal of licences under Section 12 and the conditions governing such licences.

(3) All rules made under this section shall be subject to the condition of previous publication in the official Gazette and the date to be specified under Clause(3) of Section 23 of the United Provinces General Clauses Act, 1904, shall not be less than two months from the date on which the draft of the proposed rules was

published.

SCHEDULE 1

THE SCHEDULE

[Referred to in Section 9 (iii)]

Modification in the Land Acquisition Act, 1894 (1 of 1894)

(hereinafter called The said Act,)

1. Amendment of Section 15

In Section 15 of the said Act, for the word and figures and 24 the figures. word and the letter 24 and 24-A, preceded by a comma, shall be deemed to be substituted.

2. Amendment of Section 17

In Sub-section (3) of Section 17 of the said Act, after the figures 24 the words, figures and letter or Section 24-A, shall be deemed to be inserted.

3. Amendment of Section 23

(1) In clause first and clause sixty of sub-Section (1) of Section 23 of the said Act for the word publication of the notification under Section 4, Sub-section (1) and the words publication of the declaration under Section 6, the following words shall be deemed to be substituted, namely:

"publication of the notification under Sub-section (2) of Section 3 of the United Provinces Roadside Land Control Act., 1945,"

(2) At the end of Section 23 of the said Act. the following shall be deemed to be added namely :

"(3) For the purposes of Clause (1) of Sub-section (1) of this section--

(a) the market value of the land shall be the market value according to the use to which the land was put at the date with reference to which the market value is to be determined under that clause;

(b) if it be shown that before such date the owner of the land had in good faith taken active steps and incurred expenditure to secure a more profitable use of the same, further compensation based on his actual loss may be paid to him.

(c) if any person, without the permission of the Collector required by Section 5 of the United Provinces Roadside Land Control Act. 1945, has erected, re-erected, added to or altered any building, then any increase in the market value resulting from such erection. re-erection, addition or alteration shall be disregarded.

(d) if the market value has been increased by means of any improvement made by the owner of his predecessor-in-interest without two years before the aforesaid date, such increase shall be disregarded unless it be proved that the improvement so made was made in good faith and not in contemplation of proceedings for the acquisition of the land being taken under this Act;

(e) if the market value is specially high in consequence of the land being put to a use which is unlawful or contrary to public policy, that use shall be disregarded and the market value shall be deemed to be the market value of the land if put to ordinary uses; and

(f) when the owner of the land or building has after passing the United Provinces Roadside Land Control Act, 1945, and within two years preceding the date with reference to which the market value is to be determined, made a return under Section 158 of the (U.P.) Municipalities Act, 1916, of the rent of the land or building the rent of the land or building shall not in any case be deemed to be greater than the rent shown in the latest return so made, save as the Court may otherwise direct and the market value may be determined on the basis of such rent :

Provided that where any addition to, or improvement of the land or building has been made after the date of such latest return and previous to the date with reference to which the market value is to be determined, the Court may take into

consideration any increase in the letting value of the land due to such addition or improvement.

4. Amendment of section 24

For clauses seventhly of Section 24 of the said Act, the following shall be deemed to be substituted, namely:

"seventhly, any outlay or additions or improvements to land acquired which was incurred after the date with reference to which the market value is to be determined, unless such additions or improvement were necessary for the maintenance of any building in a proper state of repair ."

5. New Section 24-A

After Section 24 of the said Act, the following shall be deemed to be inserted, namely:

"24-A. Further provision for determining compensation- In determining the amount of compensation to be awarded for any land acquired under this Act, the Court shall also have regard to the following provisions, namely-

(1) when any interest in any land acquired under this Act has been acquired after the date with reference to which the market value is to be determined. no separate estimate of the value of such interest shall be made so to increase the amount of compensation to be paid for such land;

(2) if, in the opinion of the Court, any building is in a defective state. from a sanitary point of view, or is not in a reasonably good state of repair, the amount of compensation for such building shall not exceed the sum which the Court considers the building would be worth if it were put into a sanitary condition or into a reasonably good state of repair, as the case may be minus the estimated cost of putting it into such condition or state;

(3) if, in the opinion of the Court. any building which is used or is intended or is likely to be used for human habitation, is not reasonably capable of being, made fit for human habitation. the amount of compensation for such building shall not exceed the value of the materials of the building, minus the cost of demolishing the building."