

Government of Jammu and Kashmir
Revenue Department,
Civil Secretariat, Jammu/Srinagar

Notification

Srinagar, the 24th August, 2023

S.O 440—Whereas, draft rules namely The Jammu and Kashmir Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Social Impact Assessment and Consent) Rules, 2022 were notified vide notification S.O 313 dated 24.06.2022 and published in the Jammu and Kashmir official Gazette, extra ordinary, Vol. 135 dated 24.06.2022 as required under section 112 of "The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Act 30 of 2013)", for inviting objection(s) /suggestion(s) from the persons likely to be affected thereby within a period of 15 days from the date of the publication of the said notification in the official Gazette;

AND WHEREAS suggestions received in respect of the said draft notification have been considered by the Government;

Now, therefore, in exercise of the powers conferred by section 109 of "The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Act 30 of 2013)", the Government of Jammu & Kashmir hereby makes the following rules; namely:-

CHAPTER – I

General

1. Short title, extent and commencement.— (1) These rules may be called "The Jammu and Kashmir Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Social Impact Assessment and Consent) Rules, 2023."
(2) They shall extend to the whole of the Union territory of Jammu and Kashmir.

(3) They shall come into force on and from the date of their publication in the official Gazette.

2. Definitions.— (1) In these rules, unless the context otherwise requires,-
(a) "Act" means The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Central Act No.30 of 2013);

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- (b) **"Award"** means statement of compensation, Rehabilitation and re-settlement and its apportionment among rightful claimants passed by the Collector in respect of the entire land for which Indent has been placed by the requiring body;
- (c) **"Collector"** means an officer designated by the Government under section 3(g) of the Act to carry out the functions of Collector Land Acquisition under the Act;
- (d) **"District Collector"** means Deputy Commissioner of the District performing the functions of the Government for an extent of area as notified by the Government from time to time;
- (e) **"Form"** means forms appended to these rules;
- (f) **"Government"** means the Government of Union territory of Jammu and Kashmir;
- (g) **"Gram Panchayat"** and **"Gram Sabha"** have the same meanings as assigned to them under the Jammu and Kashmir Panchayati Raj Act, 1989;
- (h) **"Rural Area"** means any area in the Union territory except the areas covered by any urban local body or a cantonment board established or constituted under any law for the time being in force;
- (i) **"Revenue Officer"** means the officer as defined in the Jammu and Kashmir Land Revenue Act svt. 1996;
- (j) **"Section"** means section of the Act;
- (k) **"Social Impact Assessment (SIA)"** means an assessment study being made under sub section (1) of section 4 of the Act;
- (l) **"SIA Unit"** means a Department or an agency appointed by the Government to carry out the Social Impact Assessment Study and prepare Social Impact Management Plan;
- (m) **"Social Impact Management Plan"** means the plan prepared as part of Social Impact Assessment Study under sub-section (6) of section 4 of the Act;
- (n) **"TOR"** means Terms of Reference;
- (o) **"Urban Area"** means any area in the Union territory covered by any local body or a cantonment board established or constituted under any law for the time being in force.

(2) All words and expressions used but not defined in these rules shall have the same meanings assigned to them in the Act.

CHAPTER II Request for land Acquisition

3. Request of Land Acquisition.— (1) Whenever land in any area is required or likely to be required for public purpose, the Requiring Body or its authorized representative, for whom land is to be acquired shall file the request to the concerned District Collector in **Form-I** alongwith annexure (I, II & III) appended to these rules, alongwith the following documents:

- i. Detailed project report;
- ii. Sanction letter of the project;

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- iii. Details of the land required alongwith map of the area;
- iv. Information about the classification of land i.e, irrigated multi-cropped, single cropped, wasteland, etc (if available);
- v. Any other information required by the Collector.

(2) A copy of requisition shall be endorsed to the Rehabilitation and Resettlement Commissioner if any rehabilitation plan is involved.

(3) In case of acquisition for Government departments (Central & UT) the requisition shall be filed by the Administrative Secretary or authorized representative (Not below the rank of HoD) of the concerned department/Ministry. In case of Public Sector Undertaking (PSU) by the Administrative Secretary of the department dealing with such undertaking.

(4) The District Collector shall diarize the requisition on the data base of the district and forward it to concerned Collector designated by the Government under section 3 (g) of the Act.

(5) The Requiring Body shall also deposit Administrative cost of acquisition of land with the Collector alongwith the requisition.

4. Action by Collector Land Acquisition.— (1) On receipt of the requisition under sub rule (1) of rule 3, the Collector shall constitute a committee consisting of officers from Revenue, Agriculture, Forest, Jal Shakti, Irrigation & Flood Control, Horticulture, Rural Development, PW (R&B), Departments or any other Department as the Collector deems necessary to visit the spot alongwith the representatives of Requiring Body to make a preliminary enquiry regarding-

- a. Availability of State/Government land/common land, waste or arid land which may be suitable for the public purposes to be given preference and first priority;
- b. Correctness of the particulars furnished in the requisition under sub-rule (1) of rule 3;
- c. Bare minimum land required for the project; and
- d. Whether the request is consistent with the provisions of the Act.

(2) The Committee shall submit a report to the Collector, comprising of the following; namely:-

- a. That the indenting department was offered State/Government land at various locations for the proposed acquisition and have not found any suitable land and has agreed to the proposed land which serves the public purpose ;
- b. That the extent of land proposed for acquisition is absolute bare minimum needed for the purpose/project;
- c. That the acquisition of land at an alternative place has been considered and found not feasible;
- d. That there is no sufficient/suitable unutilized land which has been previously acquired in the area;

- e. That there is no State/Government/common land available which would serve the public purpose and there is only option to acquire the proposed patch of land which also include private land;
- f. That the land, if any, acquired earlier and remained unutilized, may be used for such public purpose;
- g. That the requisition is consistent or contrary to the provisions contained in section 10 or other provisions of the Act; and
- h. The recommendations of the committee.

(3) The Collector shall give priority for acquisition of State/Government land and while examining the above report satisfy himself and record a certificate that there is no State land/ Government land /common land available which would serve the public purpose. If, the Collector on the basis of the report of the committee referred to in sub rule (1), other information available with him and instructions issued by the Government in this regard, is satisfied that the request is in consonance with the provisions of the Act, he shall make a preliminary estimate of the cost of the acquisition as defined in clause (i) of section 3 of the Act. The Collector shall also submit report alongwith composition of team to the District Collector for issuing notification for commencement of consultation and conduct of SIA.

(4) The Collector shall also issue directions to revenue field staff to prepare and submit revenue papers (copy of jamabandi, Girdawari and Shajra kat) in triplicate alongwith site map duly attested by Tehsildar concerned. The revenue papers shall be authenticated by the authorized Officer of the Requiring Body in token of acceptance:

Provided that the revenue papers shall be prepared by the revenue field staff for the entire area for which indent has been placed by the Requiring Body and subsequently the award shall be passed for the entire area required.

5. Administrative cost of acquisition of lands.— (1) The administrative cost in terms of paragraph (A) of sub clause (vi) of clause (i) of section 3 of the Act for acquisition of land for the Requiring Body to be deposited to the Collector shall be equal to 2.5 percent of the amount of compensation which shall be deposited by the Requiring Body alongwith the requisition/indent to the Collector.

(2) The administrative cost shall be utilized by the offices of the Revenue officers associated with the land acquisition for conducting ground survey of the land to be acquired including hiring of vehicle/expenditure on POL, updating the land records by the Revenue field staff, purchase of equipments/infrastructure, hiring of computer data operator, expenses on litigations, travelling & daily allowances of non-official members of Rehabilitation & Resettlement Committee, State Monitoring Committee, stationary and other contingency expenses related to the said acquisition, with the prior approval of the District Collector.

6. Manner of depositing cost of acquisition by Requiring Body.— (1)

The Collector will inform the Requiring Body to deposit the estimated cost of acquisition in his office within a period as may be specified by him (preferably within 30 days) and the Requiring Body shall deposit the same within the period specified by the Collector without which the process under the Act may not continue. The Requiring Body shall deposit the balance cost of acquisition after final estimation is prepared by the Collector and if any excess amount is awarded by the authority or a Competent Court, the same shall be deposited by the Requiring Body to the Collector as and when so required. The Collector shall deposit the cost of acquisition in the relevant Account.

(2) The Requiring Body shall also deposit the amount calculated for Rehabilitation and Resettlement at the appropriate time as specified by the Collector before the displacement of affected families in the same manner.

(3) The Requiring Body shall also deposit processing fee as assessed with the Collector for conducting of Social Impact Assessment Study.

CHAPTER III
Social Impact Assessment (SIA)

7. Acquisition under Urgency Provisions and Exemption from Social Impact Assessment Study.—

Where any land is proposed to be acquired by Requiring Body by invoking urgency provisions under section 9 read with section 40 of the Act and if it is considered expedient to do so and if such urgency falls within the purview of section 40 (2), the Collector shall submit a report to the Government seeking permission to invoke the urgency provisions giving cogent reasons and for exemption from undertaking Social Impact Assessment study in such acquisition. On examining the proposal and if satisfied that urgency provisions may be resorted to, communicate its decision to the concerned Collector, who shall proceed to issue preliminary notification and further with the acquisition proceedings in accordance with provisions of the Act and these Rules.

8. The report of the committee shall be as SIA Report if no displacement or rehabilitation is involved.— Where no involuntary displacement of persons due to acquisition of land with no adverse impact, and no rehabilitation is involved, then the Collector shall obtain report of the committee as constituted under sub-rule (1) of rule 4 alongwith the consent of the interested persons (atleast 70%) which shall be considered as SIA Report and in such cases the Collector shall proceed for issuance of preliminary notification under section 11 of the Act within seven days.

9. Social Impact Assessment Study.— (1) Upon receipt of the report of Collector under sub rule (3) of rule (4), a notification shall be issued by the District Collector as per **Part-A of Form-II** appended to these Rules

regarding the commencement of the SIA study and same shall be made available in the local language to the Panchayat/Municipality or Municipal Corporation as the case may be and in the office of District Collector, Sub Divisional Magistrate, Collector, Tehsil and affixing in the affected area. The notification shall also indicate date/time, venue and the details of the team/agency to carry out SIA study. Till such unit/agency is notified by the Government, a team of the following officers/officials may be constituted for conducting SIA:-

- a. Block Development Officer.
- b. Two officials from the government institutions/educational institutions having expertise in SIA study/Social studies.
- c. One officer/official from each of the following departments:-
 - i. Horticulture Department.
 - ii. Forest, Ecology and Environment Department.
 - iii. Agriculture Department.
 - iv. PW (R&B) Department/Mechanical Engineering Department.
 - v. Jal Shakti Department.
 - vi. Social Welfare Department.
 - vii. Labour & Employment Department.
 - viii. Housing and Urban Development Department.
 - ix. Officer/official of any other department as the Collector may deem fit.

Provided that such notification shall be issued within a period of 07 days from the date of deposit of the processing fee/expenses for carrying out the SIA study by the Requiring Body, which shall be determined in accordance with sub-rule (1) of Rule 11.

(2) The SIA study shall be conducted in consultation with the concerned Panchayat, Municipality, Municipal Corporation as the case may be, at village level and ward level in the affected area for the purpose of section 4 of the Act.

(3) The SIA Report shall be submitted in **Form-III** appended to these rules to the Government with a copy to Commissioner, Rehabilitation and Resettlement (if applicable) within a period of Six months from the date of commencement and shall include the views of the affected families recorded in writing.

(4) The SIA report including summaries shall be prepared and divided into two parts; (i) the Social Impact Assessment Report; and (ii) the Social Impact Management Plan (SIMP).

(5) The Social Impact Management Plan listing the ameliorative measures required to be undertaken for addressing the impact of the project under sub-section (6) of section 4 of the Act shall also be submitted as per **Form-IV** appended to these rules with a copy to Commissioner, Rehabilitation and Resettlement (if applicable) alongwith the SIA Report.

(6) The Social Impact Assessment Report and the Social Impact Management Plan shall be made available in the local language to the concerned Gram Panchayat, Municipality or Municipal Corporation, at the village level or ward level in the affected areas and in the Offices of the District Collector, Sub-Divisional Magistrate/Collector and Tehsildar concerned. It shall also be published by way of a public notice by affixing at some conspicuous places in the affected areas and shall be uploaded on the website of the District Collector concerned.

(7) Environmental Impact Assessment Study where required shall be carried out simultaneously taking into consideration the impact of project likely on each component of environment & ecology. The provisions related to the said study as contained in section 4 and 6 of the Act shall be adhered to.

10. Institutional support and facilitation for SIA.— (1) The Government may identify or establish an independent organization which shall be responsible for ensuring that Social Impact Assessments are commissioned and conducted as per the provisions of the Act and Rules. The Government may also nominate J&K Institute of Management, Public Administration and Rural Development (IMPARD) to provide institutional support and facilitation for conducting of SIA.

(2) The Social Impact Assessment Unit shall undertake the following tasks namely:-

- a. To build and continuously expand a UT Database of Qualified Social Impact Assessment Resource Partners and Practitioners, which will serve as a network of individuals and institutions with the required skills and capacities to conduct Social Impact Assessments for land acquisition and Rehabilitation and Resettlement.
- b. To respond immediately to the Government or Collector's request for any Social Impact Assessment to be conducted by preparing a project-specific ToR;
- c. To conduct training and capacity building programs for the SIA team and community surveyors and make available manuals, tools, comparative case study reports and other materials required for the analysis;
- d. To provide ongoing support and corrective action, as required during the Social Impact Assessment process;
- e. To ensure that the transaction based web-based workflow for Social Impact Assessments and MIS for Land Acquisition and Rehabilitation and Resettlement as specified in rule 18 is maintained and that all relevant documents are disclosed as per the provisions of the Act;
- f. Maintain catalogue of all SIAs and associated primary material; and

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- g. Continuously review, evaluate and strengthen the quality of SIAs and the capacities available to conduct them across the Union territory.

11. Project-specific Terms of Reference and Processing Fee for the Social Impact Assessment.—(1) The District Collector shall send proposal of land acquisition alongwith all the relevant documents to the Social Impact Assessment Unit/Team for the purpose to :-

- a Prepare a detailed project-specific ToR for each proposal of land acquisition, listing all the activities that must be carried out indicating the appropriate team size (and number of field teams) and profile of the team members, and stipulate the schedule and deadlines for key deliverables for the SIA as detailed in **Part-B of Form-II** appended to these rules;
- b Determine estimated SIA fee based on the ToR with clear break-up of costs for each item or activity. The fee amount shall be based on defined parameters including area, type of project and number of affected families.

(2) Ten percent of the SIA fee shall be allocated to Social Impact Assessment Unit as administrative expenses for preparing the ToR and estimated SIA fee report.

(3) The Requiring Body shall deposit the SIA fee in the scheduled Bank Account of the Collector for the purpose.

12. Selection of the Social Impact Assessment Team.—(1) The Social Impact Assessment Unit (SIAU) shall select the SIA team for each project from the individuals and institutions registered or empanelled in the UT Database of Qualified Social Impact Assessment Resource Partners and Practitioners.

(2) The Requiring Body shall not be involved in any way in the appointment of the Social Impact Assessment team being appointed to carry out the SIA.

(3) The size and selection criteria for the SIA team shall be as per the project-specific ToR developed by the UT Social Impact Assessment Unit.

(4) The SIA team may be constituted by appointing individuals or an organization with experience in conducting SIAs or related field-based assessments and the team may include-

- a) a combination of independent practitioners, qualified social activists, academics, technical experts, who are not directly connected with the Requiring Body; and
- b) at least one woman member;

(5) A team leader shall be appointed from amongst the SIA team to liaison with the SIA Unit and the Collector throughout the assessment period.

(6) While selecting the SIA team, it is to be ensured that there is no conflict of interest involving the team members appointed to assess the concerned project.

(7) If at any stage, it is found that any team member or any family member of the team member directly or indirectly receives any benefit from the Requiring Body or any other stakeholder in the project, the said member shall be disqualified apart from other legal proceedings being initiated against him in accordance with law. The team member shall submit undertaking to SIAU in this regard.

13. Process of conducting the Social Impact Assessment.—(1) The SIA team shall collect and analyze a range of quantitative and qualitative data, undertake detailed site visits, use participatory methods such as focused group discussions, participatory rural appraisal techniques and informant interviews in preparing the Social Impact Assessment report.

(2) All relevant project reports and feasibility studies shall be made available to the SIA team throughout the SIA process, as required. Any request for information from SIA team shall be met at the earliest by the concerned department/agency of the Government but not exceeding seven days.

(3) A detailed assessment based on a thorough analysis of all relevant land records and data, field verification, review and comparison with similar projects shall be conducted by the Social Impact Assessment team. The assessment shall determine the following, namely:-

- a. area of impact under the proposed project, including both land to be acquired and the areas that will be affected by environmental, social or other impacts of the project;
- b. area and location of land proposed to be acquired for the project;
- c. the land proposed for acquisition is the bare minimum required;
- d. possible alternative sites for the project and their feasibility;
- e. whether the land proposed for acquisition is irrigated multi-cropped land and if so, whether the acquisition is a demonstrable last resort;
- f. land, if any, already purchased, alienated, leased or acquired, and the intended use for each plot of land required for the project;
- g. the possibility of use of any public, unutilized land for the project and whether any of such land is under occupation;
- h. nature of the land, present use and classification of land and if it is an agricultural land, the irrigation coverage for the said land and the cropping pattern;
- i. the special provisions with respect to food security have been adhered to in the proposed land acquisition;

- j. size of holdings, ownership patterns, land distribution, number of residential houses, and public and private infrastructure and assets; and
- k. land prices and recent changes in ownership, transfer and use of lands over the last three years.

(4) Based on the land assessment, land records and field verification, the SIA team shall provide an accurate estimate of the number of affected families and the number of displaced families among them and ensure that, as far as possible, all affected families are enumerated:

Provided that where enumeration is not possible, a representative sample assessment shall be done by SIA team/unit.

(5) A socio-economic and cultural profile of the affected area must be prepared, based on available data and statistics, field visits and consultations as per **Form-III**:

Provided that in projects where resettlement is required, the identified resettlement sites shall be visited and a brief socio-economic profile of the land and its current resident population shall be indicated.

(6) Basing on the data collected in processes listed above and in consultation with the affected communities and key stakeholders, the SIA team shall identify and assess the nature, extent and intensity of the positive and negative social impacts associated with the proposed project and land acquisition as per **Form-III**.

- (7) (i) The SIA process includes the preparation of a Social Impact Management Plan as per **Form-IV**, which will present the ameliorative measures to be undertaken to address the social impacts identified in the course of the assessment.
- (ii) The SIA team must assess the viability of impact mitigation and management strategies with clear indication of costs, timelines and capacities.
- (iii) The Social Impact Management Plan shall include the following measures-
- a. that have been specified in the terms of Rehabilitation and Resettlement and compensation for all the categories of affected families as mentioned in the Act;
 - b. that the Requiring Body has stated that it will undertake in the project proposal and other relevant project documents; and
 - c. that additional measures being undertaken by the Requiring Body, which has been undertaken by it in response to the findings of the SIA process and public hearings.
- (8) The SIA must provide a conclusive assessment of the balance and distribution of the adverse social impacts and social costs and benefits of the proposed project and land acquisition, including the mitigation measures, and provide an assessment as to whether the benefits from

the proposed project exceed the social costs and adverse social impacts that are likely to be experienced by the affected families or even after the proposed mitigation measures, the affected families remained at risk of being economically or socially worse, as a result of the said land acquisition and resettlement.

- 14. Process for conducting public hearings.—** (1) Public hearings shall be held in the affected areas to bring out the main findings of the SIA, seeking feedback on the findings and to seek additional information and views for incorporating the same in the final documents.
- (2) Public hearings shall be conducted in Gram Sabha where the members are directly or indirectly affected by the acquisition of the land.
- (3) The date and venue of the public hearing must be announced and publicized by the Social Impact Assessment Unit/Team with assistance of Collector one week in advance through public notifications affixed at some conspicuous places in all the villages where the land is proposed to be acquired through direct communication with Gram Panchayat or Municipal Ward representatives, through Lambardar/Chowkidar of the village and by uploading the information on the website of the concerned district; and publication in newspapers having wide publicity in the area.
- (4) The draft Social Impact Assessment report and Social Impact Management Plan shall be published in the local language one week prior to the public hearing and distributed to all affected Gram Panchayats and Municipal offices. One copy of the draft report shall be made available in the offices of the District Collector, the Collector and the Tehsildar concerned.
- (5) The Requiring Body may also be served with a copy of the draft report. Adequate copies of the report and summaries shall be made available on the day of the public hearing. Accessible displays and other visual shall be used to share the findings of the Social Impact Assessment report.
- (6) A member of the Social Impact Assessment team shall facilitate the public hearing, which shall be organized through local administration and the concerned Revenue Officer, Police Officer shall also be present to assist the SIA team.
- (7) The Gram Panchayat or Municipal Ward representatives shall also be involved in all the decisions regarding the arrangements for the public hearings in their respective areas.
- (8) All the proceedings shall be held in the local language with effective and credible translators to ensure that all the participants could understand and express their views.
- (9) Representatives from the Requiring Body, Collector and Administrator shall also attend the public hearing and address the questions and concerns raised by the affected parties.
- (10) Public representatives, local voluntary organizations and media shall also be invited to attend the public hearings.
- (11) The proceedings of the public hearing shall be video recorded and transcribed accordingly. This recording and transcription shall be

submitted along with the final Social Impact Assessment report and Social Impact Management Plan to the Collector.

(12) After the conclusion of the public hearings, the Social Impact Assessment team shall analyze the entire feedback received and information gathered in the public meetings and incorporate the same along with their analysis, in the revised Social Impact Assessment report accordingly.

(13) Every objection raised in the public meeting shall be recorded and the Social Impact Assessment team shall ensure that the every objection shall be considered in its report.

15. Submission of Social Impact Assessment Report and Social Impact Management Plan and its publication.—The final Social Impact Assessment Report and Social Impact Management Plan shall be prepared in the local language and submit to the Government. The said report shall be published in affected area in the Gram Panchayat, Municipality or Municipal Corporation, as the case may be, and the offices of the District Collector, Collector, the Tehsildar and propagated in the affected area through lamberdar/chowkidar concerned and shall be uploaded on the website of the District Collector concerned.

16. Appraisal of Social Impact Assessment report by an Expert Group.— (1) Upon receipt of SIA and SIMP report under rule 15, an independent multi-disciplinary Expert Group shall be constituted under sub-section (1) of section 7 of the Act, consisting of:-

- a. two non-official social scientists;
- b. two representatives of Panchayat, Gram Sabha, Municipality or Municipal corporation as the case may be;
- c. two experts on Rehabilitation;
- d. a technical expert in the subject relating to the project.

(2) The experts may be drawn from Government departments/NGOs/ but shall not include members belonging to Requiring Body. The senior member shall be nominated as Chairperson of the Expert Group.

(3) The Expert Group shall evaluate the Social Impact Assessment report and shall make its recommendation as provided under sub-section (4) & (5) of section 7 to that effect within a period of two months from the date of its constitution.

(4) The recommendations of the Expert Group shall be made available in the local language to the concerned Gram Panchayat, Municipality or Municipal Corporation, as the case may be, at village level or ward level in the affected areas and in the Offices of the District Collector, Collector and the Tehsildar and shall be published in the form of posters circulated in the affected areas and by affixing them in conspicuous places in the affected areas and shall be uploaded on the website of the District Collector.

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- 17. Consideration of the Social Impact Assessment report, recommendations of the Expert Group etc.—** (1) The Government shall examine the Social Impact Assessment report, the recommendations of the Expert Group and the report of the Collector, as provided in sub-section (1) & (2) of section 8 of the Act and decide such area for acquisition which would ensure minimum displacement of people, minimum disturbance to the infrastructure, environment, ecology and minimum adverse impact on the individuals affected.
- (2) The decision under sub-rule (1) shall be made available in the local language to the concerned Panchayat, Municipality or Municipal Corporation, as the case may be, at village level or ward level in the affected areas and in the Offices of the District Collector, Collector, Tehsildar and shall give wide publicity in the affected areas by affixing at the conspicuous places and shall also be uploaded on the website of the District Collector:
- Provided that where land is sought to be acquired for the purposes as specified in sub-section (2) of section 2 of the Act, the Collector shall also ascertain as to whether the prior consent of the affected families as required under the proviso second to sub-section (2) of section 2 of the Act has been obtained in **Form-V (Part-A)** appended to these rules by conducting Gram Sabha.
- (3). The Collector shall proceed for issuance of preliminary notification within 07 days of the consideration of the SIA report.

- 18. Web-based Work Flow and Management Information System (MIS) for Land Acquisition and Rehabilitation and Resettlement.—** There shall be a dedicated, user-friendly website of the District Collector that may serve as a public platform on which the entire work flow of each acquisition case will be hosted, beginning with the notification of the Social Impact Assessment and tracking each step of decision-making, implementation and audit.

- 19. Inventory of Waste, Barren and Un-utilized Lands.—** To ensure acquisition of minimum amount of land and to facilitate the utilization of un-utilized public lands, the District Collector may prepare a district-level inventory report (Village wise) of waste, barren and unutilized public land, and land available in the Government land bank and that may be made available to the Social Impact Assessment team and Expert Group. The inventory report shall be updated from time to time.

Chapter-IV Consent

- 20. Consent Requirements.—**(1) The Collector, shall obtain prior consent of the affected land owners in **Form-V (Part-A)** alongwith the SIA study.
- (2) The Collector may constitute a team of officers under his control to assist him in the process of obtaining the prior consent.

(3) The Collector shall take necessary steps for updating the records relating to land rights, title in the land and other revenue records in the affected areas, so that the names of land owners, occupants of the land and individuals be identified for initiating the prior consent process and land acquisition.

21. Consent of the Gram Sabha.— (1) The Collector shall in consultation with the representatives of the Gram Panchayats or District Development Councils notify the date, timing and venue for holding special Gram Sabha in the affected areas one week in advance and conduct public awareness campaigns to motivate members of the Gram Sabha to participate in the Gram Sabha.

(2) The names and signatures of all the members who attended the meeting of the Gram Sabha shall be taken and kept in the records.

(3) The quorum shall be at least one third of the total members of the Gram Sabha for considering the consent as valid:

Provided that one third of the total women members of the Gram Sabha shall also be present in the Gram Sabha meeting.

(4) Printed copies with the proposed terms and conditions for compensation, rehabilitation and resettlement shall be made available in the local language at least one week prior to the Gram Sabha meeting.

(5) For public private partnership projects and projects by private companies, representatives of the Requiring Body, who are competent to take decision and negotiate terms of Rehabilitation and Resettlement and compensation shall be present at all such Gram Sabha meetings and respond to the queries raised by the Gram Sabha members.

(6) The terms and conditions, Rehabilitation and Resettlement, compensation committed by the Requiring Body shall be explained to the Gram Sabha members in the local language and signatures of the members as well as the representative of Requiring Body shall be obtained on such terms and conditions.

(7) After deliberations, the Gram Sabha shall pass a resolution with majority in **Form-V (PART-B)** giving or withholding consent for the proposed acquisition and the resolution shall contain the negotiated terms and conditions for Rehabilitation and Resettlement, compensation, impact management and mitigation that the Requiring Body has committed and which have been signed by the Collector or designated officer and the representative of the Requiring Body.

(8) The Gram Sabha resolution once received shall be counter signed by the Collector or a designated Officer and a signed copy shall be handed over to all the Panchayat representatives.

(9) Any resolution that does not explicitly contain a statement of consent to the project, a statement of the negotiated terms of compensation and Rehabilitation and Resettlement shall be invalid.

(10) All the proceedings of the Gram Sabha shall be video recorded, documented in writing and shall be made available in the office of Collector, Panchayat offices.

(11) Members of the Social Impact Assessment team shall be present to assist the Gram Sabha meetings.

- 22. Consent of the Affected Land owners.—**(1) In Public Private Partnership projects and projects by private companies, a list of all affected land owners from whom consent is required to be obtained shall be drawn up by Collector in consultation with the Social Impact Assessment team.
- (2) The list shall be made available in the affected area, in the form of posters and handouts and by displaying the list in conspicuous places of the affected areas for at least seven days before obtaining consent.
- (3) In case of any objection, the views of the objector shall also be taken, and the reasons for doing so shall be recorded in writing and conveyed to the concerned person within seven days.
- (4) The Collector in consultation with representative of Panchayat, Municipality, Municipal Corporation as the case may be, shall notify the date, time and venue at least one week in advance, for holding the affected land owners meetings at the village or ward level.
- (5) The proposed terms and conditions agreed to by the Requiring Body shall also be made available in local language at least one week in advance of the meeting of the affected land owners to each and every affected land owner.
- (6) For public private partnership projects and projects by private companies, representatives of the Requiring Body, who are competent to take decision and negotiate terms of Rehabilitation and Resettlement and compensation shall be present at all such affected land owners meetings and respond to the queries raised by the affected land owners.
- (7) The terms and conditions, Rehabilitation and Resettlement, compensation committed by the Requiring Body shall be explained to the members in the local language and signatures of the members as well as the representative of Requiring Body shall be obtained on such terms and conditions.
- (8) At the conclusion of the meeting, each individual land owner shall be asked to indicate in the signed declaration whether he or she gives or withholds consent for the acquisition of land involved.
- (9) A copy of this declaration with the attached terms and conditions shall be given to the land holder concerned.
- (10) Arrangements shall be made for those who could not attend the land owners meeting for enabling them to submit their signed declarations to the Collector within 07 days from the date of land owners meeting.
- (11) The declaration form shall be counter-signed by the Collector or designated officer on its receipt and a copy of the declaration, with the attached terms and conditions shall be handed over to the affected landowner.
- (12) Consent procedure shall be determined on the basis of the signed or thumb impression, written declarations of land owners.
- (13) All proceedings of taking affected land owner's consent during land owners meetings shall be recorded in video and all the proceedings must be documented in writing.

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(14) The outcome of the consent process shall be made available in the office of Collector and Panchayat offices.

(15) Members of the Social Impact Assessment team shall be present to assist the affected land owners meeting.

23. Roles and responsibilities of the appropriate Government for consent processes.— (1) To notify and publish the date, time and venue of Gram Sabha, Panchayat etc and affected land owners meetings for obtaining the consent and organize public awareness campaigns to encourage participation of the affected land owners in the consent processes.

(2) To ensure that the following are provided at least one week in advance to every member from whom consent is sought, in the local language, namely:-

- a. A copy of the draft Social Impact Assessment report (if applicable) in the local language;
- b. Initial package being offered for compensation and Rehabilitation and Resettlement;
- c. A list of the rights currently enjoyed by the village and its residents under revenue laws, Forest Rights Act and other legislations;
- d. Contact details of the officer or authority alongwith official telephone number to be contacted in case of any attempt to coerce for signing the declaration of consent process. It shall be ensured no coercive steps be taken for getting consent of affected persons, any such attempt shall be illegal.

(3) The Collector or any official appointed by the Collector shall attend the Gram Sabha, Panchayat etc and land owners meetings.

(4) To ensure that all the documents relating to SIA are made available to the affected land owners and all requests for information are provided within seven days.

24. Roles and responsibilities of the Requiring Body for consent processes.—

(1) The Requiring Body shall appoint representatives competent to take decisions and negotiate terms and condition of compensation and Rehabilitation and Resettlement, who shall be present in the meetings of affected land owners for obtaining the consent and reply to the queries raised by the land owners.

(2) The Requiring Body shall provide all the information on the project, prior to the taking of consent as well as any additional information, if required.

CHAPTER-V
Notification of Acquisition

25. Publication of Preliminary Notification.—(1) The preliminary notification referred to in section 11 of the Act shall be issued in **Form-VI** appended to these rules.

(2) The preliminary notification shall be published in the manner provided in sub-section (1) of section 11 of the Act.

(3) A copy of the notification shall be affixed at conspicuous places in the affected areas and shall also be informed to the public through Lumbardar/Chowkidar of the village and shall be published in Official Gazette.

(4) After issuing the preliminary notification, the Collector shall ensure completion of the exercise of updating land records within a period of two months as specified here under:-

- a. Delete the entries of dead persons;
- b. Enter the names of the legal heirs of the deceased persons;
- c. Enter the registered transactions of the rights in land such as sale, gift, partition, etc;
- d. Make all entries of the mortgage in the land records;
- e. Delete the entries of mortgage in case the lending agency issues letter towards full payment of loans taken;
- f. Update entries in respect of all prevalent forest laws;
- g. Update entries in case of the Government land;
- h. Update entries in respect of assets in the land like trees, wells, etc;
- i. Update entries of share croppers in the land;
- j. Any other entries or up-dating in respect of land acquisition, rehabilitation and resettlement.

(5) The Collector and Revenue field staff and the officers associated with the acquisition are authorized for conducting of survey of land as provided under section 12 of the Act.

(6) The Collector after hearing all objections and making enquiry as provided in sub-section (2) of section 15 of the Act shall submit a report along with his recommendations on the objections to the Government for decision. The report of Collector shall, inter-alia include:-

- a. Assessment as to whether the proposed acquisition serves public purpose;
- b. Whether the extent of land proposed for acquisition is the absolute bare-minimum extent needed for the project;
- c. Whether land acquisition at an alternate place has been considered and found not feasible;
- d. There is no unutilized land which has been previously acquired in the area and there is no Government common land available in the area;
- e. The land, if any, acquired earlier and remained unutilized, is used for such public purpose and make recommendations in respect thereof;
- f. Classification of land and soil type;

- g. Recommendations on the objections;
- h. Record of proceedings; and
- i. Approximate cost of land acquisition.

CHAPTER-VI
Rehabilitation and Resettlement Scheme

26. Appointment, power, duties and responsibilities of the Administrator.—

(1) Under sub section (1) of section 43 of the Act, the Government appoints the Additional Deputy Commissioner (stationed at District Headquarter) of every district in the Union territory to be the Administrator for Rehabilitation and Resettlement, in respect of the projects located within the jurisdiction of the district, where the Government is satisfied that there is likely to be involuntary displacement of persons due to acquisition of land.

(2) The Administrator shall have the following powers, duties and responsibilities; namely:-

- a. To conduct a survey and undertake a census of the affected families in the manner and within time as provided under rule 27;
- b. To prepare a draft Rehabilitation and Resettlement Scheme;
- c. To publish the draft scheme by the mode provided under these Rules;
- d. To make the draft scheme available to the concerned persons and authorities;
- e. To organize and conduct public hearings on the draft scheme;
- f. To provide an opportunity to the Requiring Body to make suggestions and comments on the draft scheme;
- g. To submit the draft scheme to the District Collector;
- h. To publish the approved Rehabilitation and Resettlement Scheme in the affected area;
- i. To help and assist the Collector in preparing the Rehabilitation and Resettlement award;
- j. To monitor and supervise the implementation of the Rehabilitation award;
- k. To assist in post-implementation audit of Rehabilitation and Resettlement, and
- l. Any other work required to be done for Rehabilitation and Resettlement.

27. Preparation of Rehabilitation and Resettlement Scheme and Public Hearing.—

(1) Upon publication of the preliminary notification under sub-section(1) of section 11 by the Collector, the Administrator for Rehabilitation and Resettlement shall conduct a survey and undertake a census of the affected families within a period of two months from the date of publication of such preliminary notification.

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(2) The survey and census of the affected families shall include the particulars mentioned in sub-section (1) of section 16 of the Act.

(3) In the survey conducted and the census of the affected families so undertaken by the Administrator, he shall collect the data based on the SIA report as well as collect the data from the secondary sources such as Panchayat, Municipality, Municipal Corporation, Government records and verify that data by door visit of the affected families and by site visits in case of infrastructure in the affected area.

(4) The draft Rehabilitation and Resettlement Scheme prepared by the Administrator shall in addition to the particulars mentioned in the sub section (2) of section 16 of the Act, contain the following:

- a. List of likely to be displaced families;
- b. List of infrastructure in the affected area;
- c. List of land holdings in the affected area;
- d. List of trades/business in the affected area;
- e. List of landless people in the affected area;
- f. List of persons belonging to disadvantageous groups like persons belonging to Scheduled Castes or Scheduled Tribes, handicapped persons in the affected area;
- g. List of landless agricultural labourers in the affected area;
- h. List of unemployed youths in the affected area.

(5) The Administrator shall prepare a comprehensive and detailed draft Rehabilitation and Resettlement Scheme. The Administrator shall give wide publicity to the draft Rehabilitation and Resettlement Scheme in the affected area through publication in the following manner:-

- (a) In two daily newspapers being circulated in the locality of such area of which one shall be in the regional language.
- (b) To be made available in the office of Panchayat/Municipality or Municipal Corporation as the case may be at the Ward/Village level.
- (c) In the office of District Collector, Collector, Tehsil and Block Development Office.
- (d) To affix at the conspicuous place in the affected area.

(6) The Administrator or an officer authorized by him shall conduct a public hearing in the affected areas on such date, time and venue as decided by giving advance notice of one week. The provisions of rule 14 relating to the public hearing shall, mutatis mutandis, apply to the public hearing in this case also.

(7) The Administrator shall, on completion of public hearing submit the draft scheme for Rehabilitation and Resettlement alongwith a specific report on the claims and objections raised in the public hearing, to the District Collector as provided in sub-section (6) of the section 16 of the Act.

(8) Thereafter, the District Collector shall review the draft scheme as provided in sub-section (1) of section 17 of the Act and shall submit the draft Rehabilitation and Resettlement Scheme with his suggestions to the Commissioner of Rehabilitation and Resettlement for approval as provided in sub section (2) of section 17 of the Act.

28. Appointment of Commissioner for Rehabilitation and Resettlement, Approval and publication of the Rehabilitation and Resettlement Scheme.—

(1) Under sub-section (1) of section 44 of the Act, the Government appoints the Divisional Commissioner, Kashmir and Divisional Commissioner, Jammu as the Commissioner for Rehabilitation and Resettlement (R&R) in their respective jurisdiction for the purpose of rehabilitation and resettlement of affected families under this Act.

(2) The Commissioner for Rehabilitation and Resettlement upon receipt of the draft Rehabilitation and Resettlement Scheme from the District Collector, after examining it in the light of the provisions of the Act, accord approval to the scheme.

(3) The Commissioner for Rehabilitation and Resettlement by way of public notice shall publish the approved Scheme as finalized by him under section 18 of the Act, in the affected area by affixing at conspicuous places, circulating through Lambardar/Chowkidar in the area and shall publish in the two local daily news papers one in English and other in regional language having wide circulation in the area.

(4) The copies of the approved scheme shall also be made available in the offices of the Municipal Corporation/Village Panchayat, District Collector, Sub-Divisional Magistrate/Collector, concerned Tehsildar and Administrator (Rehabilitation and Resettlement) of the concerned area by public affixture and shall also be uploaded on the official website of the District Collector.

(5) The Commissioner for Rehabilitation and Resettlement shall be responsible for supervising the formulation of rehabilitation and resettlement schemes or plans and proper implementation of such schemes or plans.

(6) The Commissioner for Rehabilitation and Resettlement shall be responsible for the post-implementation social audit in consultation with the Gram Sabha in rural areas and municipality in urban areas.

29. Development Plan for Scheduled Castes or Scheduled Tribes Families.—

Subject to the provisions of section 41 of the Act, in case of displacement of Scheduled Castes or Scheduled Tribes families due to acquisition, a Development Plan in **Form-VIII** shall be prepared by the Administrator (Rehabilitation and Resettlement) in consultation with the affected families and the said plan shall be read out and discussed during the public hearing of Rehabilitation and Resettlement Scheme and finalized.

CHAPTER-VII
Declaration, Award and Compensation

- 30. Publication of Declaration for Acquisition.**— (1) Upon receipt of report of the Collector under sub-rule (6) of rule 25 (sub-section (2) of section 15 of the Act), after examining and considering the report that particular land is needed for public purpose, the declaration referred to under sub-section (1) of section 19 of the Act shall be made to that effect, in **Form VII** appended to these rules:

Provided that no such declaration shall be made unless the requiring body has deposited 50% towards the cost of acquisition of the land as per the procedure provided in rule 6. The Requiring Body shall deposit the amount promptly so as to enable to publish the declaration within a period of twelve months from the date of publication of preliminary notification under section 11 of the Act.

- (2) The Collector shall publish a summary of the Rehabilitation and Resettlement Scheme alongwith declaration referred in sub-section (1):

Provided that no declaration under this sub section shall be made unless the summary of the Rehabilitation and Resettlement Scheme is published alongwith such declaration.

- (3) The said declaration shall be published in the manner as prescribed under sub-section (4) of section 19 of the Act. In the affected areas the declaration shall be published by way of affixing copy at conspicuous places in the Panchayat, Ward, as the case may be, under which the affected area falls.

- 31. Notice to the persons interested.**— Upon the declaration issued under section 19 of the Act, the Collector shall issue a public notice under section 21 of the Act and cause public notice to be given at convenient places stating that the Government intends to take possession of the land and claims to compensation and rehabilitation and resettlement for all interests in such land.

- 32. Land Acquisition Award.**— (1) The Collector after enquiry into and disposal of the objections, if any, raised by the interested persons in pursuance of the public notice published and given under sub section (1) of section 21 of the Act, shall make a draft award of compensation strictly calculated as per the provisions laid down under section 26 to 30 of the said Act.

- (2) Date for determination of market value shall be the date on which the notification has been issued under section 11 of the Act.

Explanation 1.- Market value means latest value of land as notified in terms of The Jammu and Kashmir Preparation and Revision of Market Value Guideline Rules, 2011 by the District Valuation Committees of the concerned District under the Stamps Act 1977.

Explanation 2.- Any transaction of small patches of land at higher/exorbitant value shall not be taken into consideration in any way for determination of market value and in such cases the market value

given at Explanation 1 shall be the basis to determine the value of the land for drawing up of the tentative award.

(3) The Collector shall refer the proposed rates to District Collector to hold Collectors meeting to discuss the proposal and decide the tentative rates.

(4) Under sub-section (2) of section 26 and sub-section (2) of section 30 read with provisions against serial No. 2 in column 3 of the First Schedule of the Act, the Government notifies that in case of rural areas, the factor by which the market value is to be multiplied shall be 2.00 (two).

(5) The District Collector shall hold Collectors meeting on regular basis to discuss and decide the rates of compensation prepared by the Collector. The record note of each meeting shall be maintained in District Collector's office and copy attached with the each case.

(6) Where the amount of compensation tentatively assessed exceeds the pecuniary jurisdiction of the Collector, he shall refer the record of the case alongwith the statement of tentative assessment of compensation for approval of the competent authority empowered under sub-rule (1) of rule 34. The competent authority shall satisfy itself that the assessment of compensation is as per the provisions laid down under section 26 to 30 of the Act and convey the approval within 07 days from the date of receipt of the case.

(7) The Collector shall make the land acquisition award after receipt of approval of competent authority referred to under section 23 of the Act in **Form IX** appended to these rules.

33. Rehabilitation and Resettlement Award.—(1) The Collector shall also make Rehabilitation and Resettlement Award for each affected family in accordance with the Second Schedule of the Act in **Form X** appended to these rules and handover family wise awards to each affected family.

(2) The Collector shall also ensure provisions of infrastructure facilities and basic amenities are provided for every resettlement area as per description in **Form XI**.

34. Pecuniary Jurisdiction for approval of the Land Acquisition and Rehabilitation Award.— (1) The Government empowers the following authorities shown in the column 2 to the extent of pecuniary competence to accord approval for the amount shown against each in column 3 within their respective territorial jurisdiction:

S.No.	Authority	Amount of Land Acquisition
1	Collector Land Acquisition	Upto 1.00 crore
2	District Collector/Deputy Commissioner	Upto 20.00 crore
3	Divisional Commissioner	Upto 40.00 crore
4	Financial Commissioner, Revenue	Upto 60.00 crore
5	Government (In Revenue Department)	Beyond 60.00 crore

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