



The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013

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THE RFCTLARR ACT, 2013

The Background

LA RELATED

- Involuntary Acquisition
- Public Purpose
- Compensation to only title holders
- Market value determination
- Misuse of urgency clause
- Non/Under utilization of land
- Lack of transparency
- Historical injustice in LARR
- Regressive redistribution

MACRO-ECONOMY RELATED

- Skewed distribution of national income
- Agriculture still the livelihood base
- Infrastructure deficit
- Time/Cost Overruns

OTHERS

Information Revolution
Political parties-Inconsistent/ Opportunistic
Media
Civil Society Organisations
International Institutions



Displacement and LARR

A MINING PROJECT requires 175 acres of land; including 120 acres of private land. Let us assume that you are one of the land owners. The government decides to acquire land for the project.

- *Would the government have to take your consent for acquiring your land. Would you have the right to object?*
- *Would you have any say in the price of your land and how would this determined?*
- *You earn your livelihood by selling milk. Incidentally, the grazing land would also be taken for the project. Would your losses be compensated?*
- *Your land is only acquired partially and yet the left over land becomes non-viable. Does the law mandate compensation in lieu of the impact on productivity*
- *The government decides that the project is very important and land needs to be acquired urgently. Can the government go ahead ??*
- *As an agriculturist, you earn a net income of Rs 6000 per month. Would he be entitled to the same income after his entire land is acquired.*
- *My neighbour's land will not be acquired. But he fears the activities in the adjoining areas will harm his crops as has happened in the adjacent project.*
- *The land is acquired but there is no guarantee that it is utilized for the purpose for which it was utilized? Will the land be returned to you.*



THE RFCTLARR ACT-THE BACKGROUND

Land Use and Distribution

	In Million Hectare	Share
Total Land Area	328.7	100
Forests	69.6	21.8 % of total land area
Not Available for Cultivation	43.2	13.1% of total land area
Other Uncultivated Land (Including Fallow)	51.9	15.8% of total land area
Net Cropped Area	143.0	43.5% of total land area
Multi-crop Area	55.0	39.1% of Net Cropped area
Net Irrigated Area	62.3	44.2% of Net Cropped area

Source: Land use data from Agricultural Statistics at a Glance, 2010....



THE RFCTLARR ACT-THE BACKGROUND

Size of Land Holdings and Distribution

States	Marginal Holdings(<1 ha) - %	Small Holdings(1-2 ha)- %
A P	61.6	21.9
Assam	63.7	21.5
Bihar	89.6	6.7
Chhatisgarh	55.4	22.0
Gujarat	34.0	28.0
Haryana	47.7	19.4
Karnataka	48.2	26.6
Kerala	95.6	3.1
MP	40.5	27.2
Maharashtra	44.6	30.3
Odisha	59.6	26.5
Punjab	13.4	18.2
Rajasthan	33.5	21.4
Tamil Nadu	76.0	15.1
UP	78.0	13.8
WB	81.2	14.4
INDIA	64.8	18.5

International Comparisons –
Not very meaningful.

Average land holding size of
3 acres nation-wide, -
about 0.6 acres in Kerala,
1 acre in Bihar and 2
acres in WB.

A 1000 acre: Land Owners

France: 9

US: 2

Canada:1

India: 333

West Bengal: 500

Bihar: 1000

Kerala: 1700



THE RFCTLARR ACT-THE BACKGROUND

Crisis and Triggers

- **Inclusive Growth Vs infrastructure deficit** can be overcome (Land acquisition and environmental issues are the two largest sources of delay (IDR, 2011).
- **Time/Cost Overruns due to Protest Induced Delays**
 - Compensation in Court Judgments in the 1960s – 1-2 times; 15-20 times (2000s)
 - Not less than 5-7 years and as long as 2-3 decades

Information Revolution, role of media, civil society (3.3 million) and contradictory role of political parties (inconsistent and opportunistic).

- **Universal recognition of Development as a “Win-Win” situation for all/ Resettlement as a Development Opportunity**



The RFCTLARR ACT- Journey

STANDING COMMITTEE RECOMMENDATIONS – CHAIRPERSON-SUMITRA MAHAJAN

- Government should not acquire land for PPP or private company
- SIA should be completed with consent of Gram Sabha, Representatives from the affected area.
- Beyond merely consulting Gram Sabhas, consensus or atleast consent by majority of Gram Sabha members should be obtained in all the matters pertaining to LARR.
- Separate Chapter on SAs, no alienation of land in SAs, Consent by GS
- All provisions regarding irrigated multi-crop land to be replaced by any land under agriculture cultivation to ensure safeguard for food security. Limits to be decided by SG
- If the Central and State Governments continue to enforce their existing Acts, what would be the fate of the proposed legislation?. The proposed legislation should be implemented in letter and spirit.
- No central legislation should be exempted from the purview of the LARR Act
- Urgency clause provisions should be retained as such.
- Limits of land purchase to be fixed by the State Governments



THE RFCTLARR ACT, 2013 –THE JOURNEY

2007 - The National Rehabilitation and Resettlement Policy (NRRP), 2007

Land Acquisition (Amendment) Bill, 2007 to amend the Land Acquisition Act, 1894

Feb 2009 -Bills passed by Lok Sabha, referred to Rajya Sabha-Lapses due to the dissolution of the Lok Sabha.

5th September 2011 - LARR Bill, 2011 approved by the Cabinet.

7th September, 2011 - Introduced in the Lok Sabha, on.

13th September, 2011 - Referred to the Parliamentary Standing Committee.

17th May, 2012 - Committee gives Report .

28th August, 2012 -Cabinet refers the matter to the Group of Ministers (GOM)

13.12.2012- Cabinet approved the amendments.

09.04.2013, 18.04.2013 & 05.08.2013 - Three All Party Meetings.

08.08.2013 - Official amendments to the LARR Bill approved on by the Cabinet.

29th August, 2013- Lok Sabha, approves the Bill.

4th September, 2013 - Rajya Sabha approved with certain amendments **5th September, 2013** - Lok Sabha, agrees to the amendments to it on.

26th September 2013 – Presidential Assent.

1st January 2014- RFCTLARR Act becomes effective .

December 2014 -RFCTLARR (Amendment) Ordinance, 2014 (Effective from 1st Jan 2015)

March 2015 - 2014-RFCTLARR (Amendment) Bill, 2015 passed by Lok Sabha

April 2015 - 2014-RFCTLARR (Amendment) Ordinance, 2015

May 2015: RFCTLARR (Amendment) Second Ordinance 2015

August 2015: RFCTLARR Removal of Difficulties Order, 2015 (Effective from 1st September 2015)

RFCTLARR (Amendment) Bill pending with the Joint Parliamentary Committee

THE RFCTLARR ACT, 2013 - Preamble

An Act to ensure, in **consultation with institutions of local self-government and Gram Sabhas** established under the Constitution, a humane, **participative, informed and transparent process** for land acquisition for industrialisation, development of essential infrastructural facilities and urbanisation with the least disturbance to the owners of the land and other affected families and provide **just and fair compensation to the affected families** whose land has been acquired or proposed to be acquired or are affected by such acquisition and make adequate provisions for such affected persons for their **rehabilitation and resettlement** and for ensuring that the cumulative outcome of compulsory acquisition should be that **affected persons become partners in development** leading to an improvement in their post acquisition social and economic status and for matters connected therewith or incidental thereto.

(Effective from 1st day of January, 2014)



The RFCTLARR Act, 2013

- **4 Schedules**
- **13 Chapters**
- **114 Sections**



The RFCTLARR Act, 2013 – CHAPTERISATION

CHAPTERS	TITLE
Chapter I	Preliminary
Chapter II	Determination of Social Impact and Public Purpose
Chapter III	Special Provision to Safeguard Food Security
Chapter IV	Notification and Acquisition
Chapter V	Rehabilitation and Resettlement Award
Chapter VI	Procedure and Manner of Rehabilitation and Resettlement
Chapter VII	National Monitoring Committee for R & R
Chapter VIII	Establishment of Land Acquisition, Rehabilitation and Resettlement Authority
Chapter IX	Apportionment of Compensation
Chapter X	Payment
Chapter XI	Temporary Occupation of Land
Chapter XII	Offences and Penalties
Chapter XIII	Miscellaneous



THE RFCTLARR Act, 2013 – SCHEDULES

SCHEDULES	CONTENT
FIRST	Calculation Formula for Compensation to Land Owners Section 26-30
SECOND	List of 11 Compulsory R&R Benefits Section 31(1); 38 (1)
THIRD	List of 25 Compulsory Items of Infrastructure Sections 32, 38(1), 105(3); New ones may be added by Notification of the Central Government.
FOURTH	List of 13 Acts under Section 105 including the: •National Highways Act, 1956; 48 of 1956. •The Coal Bearing Areas Acquisition and Development Act, 1957 The RFCTLARR (Amendment), 2014 has extended the compensation/R & R norms as specified under the Act to all the above Acts from January 2015



THE RFCTLARR Act, 2013 (1/1/2014)

Progressive Provisions

- Social Impact Assessment prior to LA Process – **Consultation/Minimising LARR**
- Compensation-Upto 4 times the determined market value –**More Monetary Benefit**
- R & R to be an integral Part of the Land Acquisition -**Mandatory & Timebound**
- R & R for Livelihood Losers- **Benefit to Non-Titleholders also**
- Consent in case of private (80%)/PPP(70%)-**Right to Dissent**
- Mandatory R & R Package Beyond Acquisitions-Beyond State fixed limit
- Timelines for Payment/No Displacement before R & R – **Timebound Benefits**
- Demonstrable Last Resorts – SAs/Multi-crop Irrigated land- **Due diligence**
- Transparency & Participatory Approach
- Un-utilised Land /Change of Purpose/Change of Ownership- **Curb misuse**
- Option of the Lease-**An alternative**
- Limited Use of Urgency Clause – **Curb misuse**
- Institutional Mechanisms- National/State Monitoring Authorities/LARR Authority for Disposal of Disputes/Commissioner R & R/Administrator.
- Schedule IV-13 Legislations- **Compensation/R & R-1/1/2015- Min. Benchmarks**₁₃



THE RFCTLARR Act – PRE NOTIFICATION PROCEDURES

- **Mandatory Social Impact Assessment/Mandatory Analysis of alternatives to minimize LA and displacement and Expert Committee Review, S.4 to 9.**
 - Proposed acquisition serves the public purpose
 - Estimation of affected families
 - Extent of land, public and private properties, settlements are likely to be affected
 - absolutely bare minimum requirement.
 - other alternative sites were considered
 - Social costs and benefits of the project
- Appraisal of Recommendations of Expert Group – 2 Non-Official Social Scientists, 2 Experts on Rehabilitation, 2 representatives of the panchayats/municipality/Gram Sabha
- **Consent Process along with the SIA**

Exceptions

- Urgency clause (S.9)
- Irrigation projects where EIA is required (S.6 (2))
- Schedule IV legislations unless notified.



THE RFCTLARR Act - Land Compensation

- **Determination of Market Value (S. 26) and Compensation (S 27-30), First Schedule**
- **Market Value- Higher of the following three:**
 - minimum land value as per Indian Stamp Act, 1899 for registration of sale deeds
 - 50% of the higher sale proceeds of land during the last three years in nearest vicinity,
 - consented amount of compensation incase of acquisition for private companies/PPP project
- Multiplier between 1 and 2 in rural areas
- Solatium – 100% of compensation amount
- In Additional to Market Value -12% from PN/SIA

Final Land Award in rural areas = A + B,

Where

A = (Market Value* Multiplier) plus Value of Assets attached to land.

B = Solatium (100 % of A)



THE RFCTLARR Act - Land Compensation

Determination of Compensation in Rural Areas (multiplier = 1.5)

- Market Value as Determined in Section 26 (1) = Rs 150
- To be multiplied by 1.5 = Rs 225
- Cost of Structure = Rs. 50
- Cost of Trees = Rs. 25

Total (for other projects) = $225+50+25 = \text{Rs. } 300$
 Solatium = Rs. 300

Total Compensation = $300 + 300 = \text{Rs. } 550$

Additional Market Value = 12% from date of SIA/PN to date of award/taking possession whichever is earlier.

Market Value as per Stamp Duty (Rs.)	Average Price in Vicinity (Rs.)	Consented Amount
100 per acre	<ul style="list-style-type: none"> •There are 10 transactions •Top five transactions are: 1 – 150 per acre 2 – 80 per acre 3 – 200 per acre 4 – 125 per acre 5 – 110 per acre 	Rs. 120 per acre
	Average = 150	

Exclusions:

- Any price not indicative of the actual prevailing market value (in the opinion of the Collector).
- Any price paid as compensation for land acquired on an earlier occasion in the district.



THE RFCTLARR Act – R & R

R & R Provisions (in addition to LA Compensation) - S.31 & 32, Schedule II and III

- First legislated relief for non-title holders
- Covers all land acquisition projects irrespective of sector/number of persons affected
- Extends to land purchases by private entities beyond fixed limits.

Exceptions

- Urgency clause, S.40 (3)
- Land lease (S.104)
- Temporary occupation (S.81 and S.82)
- Land purchases by private organizations below the fixed limits (S.46)
- For ongoing projects where proceedings have been initiated under LAA, 1894 where award has not been made (S.24(1) (a))
- Schedule IV legislations till a Central Government Notification within one year (S.105)



THE RFCTLARR Act – R & R

- **Resettlement and Rehabilitation benefits to all affected families (in addition to compensation) – Schedule II**
 - **R & R Package** - Choice of employment/5 lakhs/Rs. 2000 per month for 20 yeears
 - **One-time Resettlement Allowance:** Rs. 50,000/
 - **Cattle shed/petty shops** - Rs. 25,000/
 - **One time grant to artisan/traders/self employed** - Rs. 25,000/
 - **Fishing rights in reservoir**
 - **Land for land** – Irrigation projects (as far as possible) 1 acre of land (2.5 acres for SCs/STs in command area)
 - **Land for Urbanization Purposes**-20% of the developed land will be reserved and offered to the land losers.

Displaced Families

- **Housing in case of displacement (those without homestead land and staying for 3 years)** – Rural Areas (IAY specifications/costs); Urban areas (constructed house not less than 50 sq.mts in plinth area/min Rs. 1,50,000)
- **Subsistence grant for all displaced families** – Rs. 3000 per month for one year (additional Rs. 50,000/ for SCs/STs).
- **Transportation grant for all displaced families** - Rs. 50,000/
- *All monetary rehabilitation grants and benefits are adjusted based on the Consumer Price Index.*



THE RFCTLARR Act – R & R

Infrastructural Entitlements to Displaced families in Resettlement Colonies – Schedule III

- **Third Schedule** lists amenities/facilities to be developed in the rural areas.
- These include 25 amenities including roads, drainage, sources of safe drinking water for affected families, drinking water for cattle, grazing land, fair price shops, Panchayat Ghars, village level post office, Burial or Cremation Ground, Aanganwadi, community centres, sub health centres, playground etc.



Applicability - Land Compensation/R & R

Affected Family	Land Compensation	R & R
Owner of Land/Immovable Property	Yes	Yes
Scheduled Tribes and Other Traditional Forest Dwellers – losing forest rights recognised under Recognition of Forest Rights Act, 2006	Yes	Yes
Owners of Assigned Land/Entitled to be granted Patta rights	Yes	Yes
Primary Source of Livelihood Affected – Agricultural labourers, tenants, share-croppers, artisans etc	No	Yes
Primary Source of Livelihood Affected – forests or water bodies – gatherers of forest produce, hunters, fisher folk, boatmen and other livelihood affected	No	Yes
Primary Source of Livelihood Affected – residing in Urban area	No	Yes
Family: A person, his or her spouse, minor children, minor brothers/sisters dependent on him		



THE RFCTLARR Act –CONSIDERATIONS FOR FOOD SECURITY

Acquisition of Multi-crop Irrigated Land- S.10

- Should be a demonstrable last resort
- Aggregate of such lands for all projects in a district or state shall not exceed such limits notified by appropriate government
- Equivalent area (of such lands acquired) shall be developed for agricultural purposes/amount equivalent to the value of the land acquired shall be deposited with the appropriate government for investment in agriculture for enhancing food security
- Acquisition of agricultural land in aggregate for all projects in a district or state, shall in no case exceed the limits of net sown area of that district or state as notified by the appropriate government

Exceptions

- Linear Projects – railways, highways, major district roads, irrigation canals, power lines etc.
- Schedule IV legislations unless notified



THE RFCTLARR Act – Consent Provisions

Mandatory Consent Provisions

- Land owners - Public Private Partnership projects (70%); Private Projects (80%), S.2. (2) (b) (i) and (ii).
- Consent from Gram Sabha for all Projects in Scheduled Areas/Consent by Panchayats/Autonomous District Councils incase Gram Sabha is not constituted, 41(3) proviso
- *Majority by Gram Sabha in Scheduled Areas (including acquisition incase of urgency), S.41(3).*
- *Quorum to be 50% of the total members of the Gram Sabha and one third of the total women members of the Gram Sabha also present (Rules).*

Schedule V Areas: Andhra Pradesh, Gujarat, Chhatisgarh, MP, HP, Jharkhand, Maharashtra, Odisha and Rajasthan

Schedule VI Areas: Assam, Meghalaya, Tripura and Mizoram

<http://www.tribal.gov.in/Content/StatewiseListofScheduleAreasProfiles.aspx>



THE RFCTLARR Act – Provisions for SC/STs

Special Provisions for Scheduled Castes and Scheduled Tribes, S.41

- Acquisition of land in the Scheduled Areas only as a demonstrable last report
- Prior consent of the concerned Gram Sabha including in case of urgency Clause
- Prior Consent of Panchayats/Autonomous District Councils (where GS does not exist or has not been constituted).
- Development Plan – development of alternate fuel, fodder and non-timber forest produce within 5 years
- Resettlement to the extent possible in the same Scheduled area in a compact block and higher monetary benefits if relocated outside the district.
- All benefits including reservation to be extended in resettlement area



THE RFCTLARR Act – Transparency Provisions

■ Transparency and Consultation Provisions

In addition to existing provisions of publication of notification & final declaration in the official gazette and newspapers, the Act also mandates publishing in:

- Local language in the panchayat/municipality/offices of DC, SDM and Tehsil
- Website created for the purpose

■ When should this be done ???

- Commencement of SIA study, S.4 (1)
- SIA Report and SIMP, S.5
- Recommendations of the Expert group, S.7(6)
- Decision of the appropriate government on SIA Report and SIMP, S. 8(3)
- Preliminary Notification, S.11
- Draft R & R Scheme, 16, (4), (5) (6),
- Approved R & R scheme, S.18

Immediately after PN notification, meeting with Gram Sabha at village level/municipalities



THE RFCTLARR Act – Transparency Provisions

Mandatory consultations and public hearing: Gram Sabhas or Panchayats/Municipalities/Municipal Corporations must be consulted

- Time of SIA study, S.4(1)
- Draft R & R scheme, S.16(4)
- Post-implementation social audit, S.44(3)

A public hearing must be held on

- Draft SIA and SIMP, S.5
- Draft R & R Scheme, S.16(5)



THE RFCTLARR Act – Transparency Provisions

Transparency Provisions

- Limitation to Urgency Clause, S.40(2)

Defence of India

National security; or

Emergencies arising out of natural calamities.

An additional 75 percent of total compensation (except one that affects the sovereignty and integrity of India), 40(5)

- No change from the purposes specified in the Land Use Plan, S.99
- No change in ownership without permission, S.100
- Unutilized land for a period of 5 years to return to the State Land Bank/Land loser, S. 101
- Land when transferred (*without any development having taken place on such land*) for higher consideration – 40% of difference in price of land to be shared with the original landowners in the same proportion to the value at which their lands were acquired, S.102



THE RFCTLARR Act – The New Institutions

- Expert Group - assessing SIA & SIMP, S. 7 (1) and (2)
- An Administrator -formulation, execution & monitoring R & R, S. 43(1).
- Commissioner (R & R) – supervising formulation of R & R schemes and their proper implementation, post implementation social audit (in consultation with Gram Sabha in rural areas and municipality in urban areas, S. 44(1).
- An R&R committee (for projects > 100 acres) to monitor and review progress of R & R scheme and post-implementation social audits, S.45 (1) and (2).
- National Monitoring Committee/ State Monitoring Committees – for reviewing and monitoring the implementation of R & R scheme, S. 48(1) and S.50(1).
- LARR Authority – For disputes relating to LARR, S.51(1), Chapter VIII



Retrospective Application (S. 24)

- I Award under Section 11 of the Land Acquisition Act, 1894 has not been declared– ***All provisions of the Act relating to the determination of Compensation***

- II Award made 5 years or more before the commencement of this Act but the physical possession of the land not taken or compensation not paid – ***Said proceedings shall deemed to have lapsed and the appropriate government if it so chooses, shall initiate the proceedings afresh in accordance to this Act.***

If compensation in respect of a majority of landholdings has not been deposited in the accounts of beneficiaries – **compensation in accordance with the provisions of this Act.**

- III If any land purchased by a person on or after 5th September, 2011 (above specified limits) and the same land is acquired within three years of this new Act then 40% of the compensation amount will be shared with the original owners

THE RFCTLARR ACT, 2013– Unchanged Processes

- Power of Eminent Domain and Acquisition of Land for Public Purpose – **Only Additions** of (1) Obligation to Resettle and Rehabilitate the people affected by land acquisition; and (2) Obligation to elicit Participation, Consultation, and Consent of the affected people
- Procedures of LA - Preliminary Notification, Final Declaration, Award Enquiry etc.
- Time lines from PN to Award except the Time Limit between FD and Award REDUCED to One Year from Two years in the LA Act.
- Rate of additional market value at 12 per cent - from the date of SIA/PN
- Rates of interest at 9 per cent and 15 per cent to be paid for the delay in defraying compensation up to one year and more than one year respectively.
- Methods of valuation of crops and trees / valuation method for buildings
- Solatium Exists - Increased the rate to 100% of Compensation
- Reference to Civil Court – Only changed to reference to LA &RR Authority



EXTERNAL ENVIRONMENT- IMPLICATIONS FOR SCHEDULE IV LEGISLATIONS

RFCTLARR Provisions	Applicability	Implication
SIA	No	Yes. Will be much beneficial
Consultation and Transparency Mechanisms	No	Yes. Progressive
Integration of LA and R & R Award	No	Progressive to reduce the timeline
R & R for Livelihood Losers	Yes	Revised Entitlement Matrix may be planned
R & R for Land Purchases	No	May influence negotiations
Retrospective Clause	No (LAA, 1894)	Integration of CSR
Addl compensation-Multiple displacements	No	-
Timelines. R & R Completion	No	Progressive to reduce the timeline
Consent by Gram Sabha in SA Development Plan	Yes	Yes/Progressive. Changes may be made in the amended Law
Monitoring Mechanisms	No	Concurrent monitoring and adaptive management critical
Return of Unutilised Land – 5 years	No	Mine Closure Plans. Productive use of existing land
Multi-crop land restrictions	No	Due Diligence

MORE ON THE ACT - CONCERNS/ERRORS

CONCERNS -THE PRE-NOTIFICATION PROCEDURE

- Social Impact Assessment (SIA) – Misinterpreted and Misunderstood – Need to demystify
- Already initiated by project authorities because of its benefits
- Information asymmetry induced land selling will decrease
- The transparent mechanisms likely to aid the process and ensure that the opposition to the well-meaning development programmes does not arise.
- Positive impact likely on minimizing land requirement, minimizing displacement, utilization of existing unutilised land apart from designing mitigation mechanisms.
- Has been made less stringent – No CS Committee, Exemption to Irrigation Sector, Collectors Report Not Mandatory, Final decision with the government

The RFCTLARR ACT, 2013 – Clarity

Solatium

- S. 28: Five considerations for arriving at total compensation, besides market value as determined under S. 26.
- S.30: Solatium is equivalent to one hundred percent of the compensation amount.
- S.69(3) ...Solatium of 100 percent over the total compensation amount.
- The first Schedule in S. No. 5 defines solatium as one hundred percent of market value (multiplied by multiplier) plus the value of assets attached to land or building

Addition to Market Value @ 12%

- S. 30(3) – *From date of SIA Notification*
- S. 69(2) - *From date of Preliminary Notification*
- **Land for Land:** The second schedule mentions that in case of irrigation project, as far as possible and in lieu of compensation to be paid for land acquired, each affected family owning agricultural land in the affected area and whose land has been acquired or lost, **or who has**, as a consequence of the acquisition or loss of land, been reduced to the status of a marginal farmer shall be allotted... a minimum of one acre of land in the command area of the project...

The RFCTLARR ACT, 2013 – Clarity

Lack of Thresholds for R & R Entitlement: Under the New Act, each affected family (owner of land or immovable structure or whose primary source of livelihood has been affected by the acquisition of land) is entitled to an R & R package. The Act however does not specify the differential limits for quantum of losses, for deciding the R & R entitlements.

Lack of thresholds for setting up of Resettlement Colony:

There is no triggering point for setting up resettlement colony and for establishing the infrastructure facilities

Compensation Payment to SC/STs:

- *Section 38 (1) The Collector shall take possession of land after ensuring that full payment of compensation as well as rehabilitation and resettlement entitlements....*
- *Section 41(6) - In case of land being acquired from members of the Scheduled Castes or the Scheduled Tribes, at least one-third of the compensation amount due shall be paid to the affected families initially as first installment and the rest shall be paid after taking over of possession of the land*

The RFCTLARR ACT, 2013 – Clarity

Massive Potential for Reaping of R & R Entitlements by Non-Genuine Claimants (land fragmentation/New Structures)

- The definition of affected family includes the owner of land or other immovable property, without specifying the quantum of loss. The period between the initiation of SIA under S.4 and Preliminary Notification under S.11, after which the census for preparation of draft R & R scheme could extend to 1.8 years or more.

Definition of Affected Family and Persons Interested – Applicability to Encroachers on Government Land

- Section 2 (1) and 2 (2) defines the applicability of the Act across sectors/projects and in Section 3 (c) (i) to (vi) provides the definition of affected family These sections specifically mention the applicability of the Act incase of acquisition of land. However, S. 3 (x) (v) defines persons interested as “any person whose primary source of livelihood is likely to be affected”.
- **Mandatory R & R in case of Land Purchases by Government , Section - 46. (/)**

COMPARISON

1. RFCTLARR, 2013 Vs LAA, 1894

2. RFCLARR, 2013 Vs. LAA, 1894 + NRRP,
2007

THE RFCTLARR ACT, 2013 - A Comparison of Processes

LAA-1894

RFCTLARR-2013

No Pre-Notification provision

Section 4 - Pre Notification Activities

SIA Study for LA projects (except in Urgency Clause/Irrigation Projects with mandatory EIA)

proposed acquisition serves the public purpose

Estimation of affected families

Extent of land, public and private properties, settlements are likely to be affected

absolutely bare minimum requirement.

other alternative sites were considered

- Consultation with Local Bodies
- Consent – Scheduled Areas, Public Private Partnership Projects (70%), Private Projects (80%)
- Public Hearing
- Appraisal of Recommendations of Expert Committee

Where the appropriate government, in spite of such recommendations (EC) proceeds with the acquisition, it shall ensure that its reasons for doing so are recorded in writing.

THE RFCTLARR ACT, 2013 - A Comparison of Processes

LAA-1894	RFCTLARR-2013
Preliminary Notification (S. 4 (1)) Only details of lands required for Public interest	Preliminary Notification (S. 11) – <u>Within one year of date of appraisal of SIA report by Expert Committee</u> (power of appr. Govt. to extend) Land details summary of SIA nature of public purpose reasons necessitating displacement of affected persons details of Administrator
Land Records Updation - No timeline	11 (5) Complete up-dation of land records within a period of <u>2 months of 11(1)</u>
Hearing of Objections (Section 5A) – •Within 30 days of Publication of Notification. •Objection to the acquisition of land	Hearing of Objections Section 15 (1) •Within <u>60 days</u> of Publication of the Notification • <u>Objection</u> to the 1.area and suitability of land •Justification offered for public purpose •Findings of the SIA Report

THE RFCTLARR ACT, 2013 - A Comparison of Processes

LAA-1894	RFCTLARR-2013
<p>Between PN and Declaration Preliminary survey of land Hearing of Objections (5 A)</p>	<p>Between PN and Declaration Preliminary survey of land, S.12 Hearing of Objections , S.15 (1) Census of all PAFs, infrastructure and CPRs, S.16 (1) Preparation of draft R & R Scheme, S.16 (2) Public hearing & Raising of objections, S. 16 (5) Review and approval of draft of R & R Scheme by Collector and Commissioner, S.17 Finalization and publication of approved R & R Scheme in the Gazette/made available in local language in local bodies, S. 18</p>
<p>Final Declaration S.6 within one year of s.4 (1) notification</p>	<p>Section 19 – within one year of S.11 Publication of Declaration and <u>Summary of R & R.</u> Demarcated details of lands with particulars of all interest holders details of land required for ‘resettlement area’ Summary of R&R Scheme Deposit of funds compulsory before final notification</p>
<p>Notices to land owners for compensation, S..9</p>	<p>Notices to persons interested for Compensation and R & R, 21</p>
<p>Award Enquiry ss. 11 and 12.LA Award S. 12 - within two years of s.6(1) notification.</p>	<p>Section 23 within <u>ONE year</u> of S.19 Award shall comprise of two components, namely, LAQ and R&R</p>

THE RFCTLARR ACT, 2013 - A Comparison of Processes

LAA-1894

Award , S.11 and 12

LA Award S. 12 - within two years of S.6(1) notification.

11(2) Consent Award

Six Conditions for determining Land Compensation – Six, s.23

RFCTLARR-2013

Award, S.23 within ONE year of S.19

Award shall comprise of two components, viz.LA and R&R

- Section-23 Enquiry and Land Acquisition Award by Collector
- Section-30 Individual Award with respect to land
- Section-31 (1) R & R Award by Collector

No Provision for Consent Award

Seven Conditions for determining Land Compensation, S.28

7th Condition-“**any other ground which may be in the interest of equity, justice and beneficial to the affected families**”

THE RFCTLARR ACT, 2013 - A Comparison of Processes

LAA-1894	RFCTLARR-2013
Land Compensation – Rural and Urban 1. Market Value of land + Value of structures and assets + 30% solatium + 12% interest from PN to Award/Possession No consideration for Multiple Displaced	Land Compensation - Rural Land Compensation Market Value of land as determined in S.26 (1) X Multiplier (sliding scale) Urban - Market Value of land +Value of structures and assets + 100 solatium + 12% interest from SIA/PN to Award/Possession No Multiplier in Urban Areas Double Compensation for Multiple Displaced

THE RFCTLARR ACT, 2013 - A Comparison of Processes

LAA-1894	RFCTLARR-2013
<p>Power to take Possession of Land after Award, S.16</p>	<p>Power to take possession after full payment of compensation (3 months) as well as monetary part of R & R (6 months) from the date of Award, S. 38</p> <p>Irrigation projects/hydel projects – R & R to complete 6 months before submergence.</p>
<p>Urgency Clause, s.17 – Expiry of 15 days from s. 9, though no award is passed</p>	<p>Urgency Clause, S.40</p> <p><u>Expiry of 30 days</u> from S. 21, though no award is passed (defence, national security, emergencies arising out of natural calamities)</p> <p>Additional compensation of 75% of the market value</p> <p>No additional compensation if land is taken for security and strategic interests</p>

THE RFCTLARR ACT, 2013 - A Comparison of Processes

LAA-1894	RFCTLARR-2013
Solatiums 30% of market value.	Solatium - 100% of compensation.
Scope for Consent Award	No provision of Consent Award per se
Additional Market Value 12% - PN to Award/Possession	Additional Market Value 12% - SIA/PN to Award/Possession
No multiplier in determination of market Value	Multiplier of 1-2 in Rural Areas
No consideration for Multiple Displaced	Double Compensation for Multiple Displaced



THE RFCTLARR ACT & CIL POLICY

COMPARISON OF PROVISIONS

CBA, 1957 + CIL R & R POLICY

RFCTLARR Act, 2013

Landowners: Compensation

Rural and Urban
Market Value of land
+ Value of structures and assets
+ 30% solatium
+ 12% interest-PN to
Award/Possession

Urban - Market Value of land/Rural -Market
Value of land X 2 (sliding scale)
+Value of structures and assets
+ 100 solatium
+ 12% interest-SIA/PN to
Award/Possession

Landowners: R & R

Employment: Based on Land
Acquired-
Two Options
• One employment for two acres
• ₹ 5 lakhs per affected family (lumpsum
or annuity – Upto 60 yrs/Life of project,
whichever is earlier).

I R & R Package
1. Three Options
• Employment: Based on Affected Families:
One member per affected family
• ₹. 5 lakhs per affected family;
• annuity policies-₹. 2000/-per month per
family for 20 years
II Resettlement Allowance: ₹ 50,000/-



THE RFCTLARR ACT & CIL POLICY

COMPARISON OF PROVISIONS

CBA, 1957 + CIL R & R POLICY

RFCTLARR Act, 2013

Displaced Families: R & R

- | CBA, 1957 + CIL R & R POLICY | RFCTLARR Act, 2013 |
|--|--|
| 1. Compensation for homestead as per valuation by Govt. | House: Rural: Constructed house as per IAY (house of 25 sq.mt). (Maharashtra Rules- construction cost of ₹. 600 per sq.ft)or 1.65 lakhs in lieu of house. If a house is lost in urban area, a constructed house of 50 sq.mt plinth area or 5.5 lakhs (house of 25 sq.mt). |
| 2. ₹ 3 lakhs – In lieu of alternate House site | |
| 3. Shifting Allowance, Construction of cattle shed, work shed etc – Amount not specified | 2. Resettlement Colony with 25 Infrastructural entitlements. |
| 4. Subsistence allowance: 25 days MAW per month for one year. | 3. R & R Package: Employment/Annuity/ Lumpsum
4. Subsistence Grant: ₹. 3000/- for one year from date of award
5. Displaced Family owning non-agricultural land or structure/artisan/small trader/self-employed: ₹. 25000/-
6. Displaced Family owning cattle shed: ₹ 25000/-
7. Resettlement Allowance: ₹ 50,000/- |



THE RFCTLARR ACT & CIL POLICY

COMPARISON OF PROVISIONS

CBA, 1957 + CIL R & R POLICY

RFCTLARR Act, 2013

Livelihood Losers-Sharecropper, Land Lessees, Tenants and Labourers

- | | |
|--|--|
| <ol style="list-style-type: none">1. Assistance for non-farm employment through petty contracts or formation of co-operatives2. Contractors may be persuaded to give jobs on preferential basis | <ol style="list-style-type: none">1. House in Resettlement Colony with 25 Infrastructural entitlements (if without homestead land and staying in the area for more than 3 years.2. R & R Package: Employment/Annuity/ Lumpsum3. Resettlement Allowance: ₹ 50,000/- |
|--|--|

Tribals Landless/Dependent on Forest Produce

- | | |
|---|--|
| <ol style="list-style-type: none">1. Assistance for non-farm employment through petty contracts or formation of co-operatives2. Contractors may be persuaded to give jobs on preferential basis3. Shift tribal community as a unit.4. 500 days MAW for loss of customary rights5. 25% higher compensation for shifting out of the district. | <ol style="list-style-type: none">1. R & R Package: Employment/Annuity/ Lumpsum.2. If displaced, additional Rs/ 50000, beyond Subsistence allowance.3. 25% higher compensation for shifting out of the district.4. Resettlement Allowance: ₹ 50,000/-5. Special provisions: S. 41 and 42 |
|---|--|

THE RFCTLARR ACT, 2013 – A COMPARISON WITH LAA, 1894 + NPRR, 2007

Comp/R & R	LAA-1894 + NRRP, 2007	RFCTLARR-2013	NTPC, 2010
Land for Land	<p>Land for land may be an option for landless and those rendered marginal in all projects</p> <p>To the extent of actual loss subject to a maximum of 1 ha (irrigated) & 2 ha (unirrigated)</p> <p>Hydel Projects – preference in the command area or monetary compensation at replacement cost basis</p> <p>STs -Preference in allotment of land</p>	<p>Irrigation projects (as far as possible) 1 acre of land in the command area (land acquired or 2.5 acres for SCs/STs)</p> <p>20% of land to be reserved in projects where land is acquired for urbanization purposes</p>	<p>Land for land for all categories of land losers and occupiers – As per NPR - 2007, subject to availability</p> <p>Land upto two Ha on “willing buyer willing seller basis – Land price to be fixed in consultation with SG on the basis of market price of good agricultural land in vicinity</p>

THE RFCTLARR ACT, 2013 – A COMPARISON WITH LAA, 1894 + NRRP, 2007

Comp/R & R	LAA-1894 + NRRP, 2007	RFCTLARR-2013	NTPC, 2010
House Site/House Construction Allowance	<p>House owners – House site /Not more than 250/150 sqm in rural/urban areas</p> <p>Urban – House of 150 sqm carpet area</p> <p>BPL family without homestead land – House of 100/50 sqm in rural/urban areas</p> <p>No provision for self relocation</p>	<p>House owners Affected Family staying in the area for atleast 3 years</p> <p>Rural - Indira Awaas Yojana Urban –Constructed house not less than 50 Sqm in plinth area/house in a multi-storeyed building</p> <p>Self Relocation - Rs 1.5 lakhs (urban)/Equivalent cost (rural)</p>	<p>Homestead Oustees residing in the area and owning the house since 3 years before Sec-4</p> <p>Min 200 sq.mtr. plot in RC. In case of LO's losing more than 200 sq.mtr. then 250 sq.mtr.</p> <p>Plus Rs. 47000/- for construction of house/-</p> <p>Self Relocation - Min of Rs 0.78 lakhs to max of Rs 1.5 lakh.</p>

THE RFCTLARR ACT, 2013 – A COMPARISON WITH LAA, 1894 + NPPR, 2007

Compensation/ R & R	LAA-1894 + National Policy, 2007	RFCTLARR-2013	NTPC, 2010
R & R Package	<p>Land for Land /employment, if possible Otherwise, RG</p> <p>Resettlement Grant of 750 days MAW for one year if employment/land is not provided</p>	<p>Mandatory provision for employment (where jobs are created to one member per affected family)/ Annuity (Rs. 2000 per month/lumpsum Rs. 5 lakhs</p> <p>Plus</p> <p>RG of Rs. 50,000 in addition to employment in addition to employment/annuity</p>	<p>Land for Land /employment, if possible Otherwise, RG</p> <p>Payable to land losers only if land/employment is not provided.</p> <p>Land losers - 1000 days MAW</p> <p>Others (Agricultural and non agricultural labourers - 750 MAW.</p> <p>RG flexible/in lieu of employment</p>

THE RFCTLARR ACT, 2013 – A COMPARISON WITH LAA, 1894 + NPRR, 2007

Compensation/ R & R	LAA-1894 + National Policy, 2007	RFCTLARR- 2013	NTPC, 2010
Transportation Grant	Rs. 10,000	Rs. 50,000 to displaced families	Actual Cost within 25 Kms or Rs. 25,000/-
Subsistence Allowance for displaced families	25 days per month MAW for one year	Rs. 3000 per month for one year	25 days per month MAW for one year
Land Development Agr. Production/ Input subsidy	Rs. 15,000 + Rs. 10000 per ha	-	Rs. 16,000 + 12000 per Ha
Cattle Shed	Rs. 15,000	Rs. 25,000	Rs. 15,000/-
Artisan/Trader/ Self Employed	Rs. 25,000	Rs. 25,000	Rs. 31,000/-

RFCTLARR (Amendment) Ordinances-Gist



The RFCTLARR (Amendment) Bill, 2015 (Passed by LS on 10th March 2015)

Section 10 A Projects

1. Exempted from 70%/80% Consent of Landowners
 2. The appropriate Government may, in the public interest, by notification, exempt from SIA (Chapter II) and Special Provision to Safeguard Food Security (Chapter III)
 - Projects vital to national security or defence of India
 - Rural infrastructure including electrification
 - Affordable housing and housing for the poor people
 - Industrial corridors set up by the appropriate Government and its undertakings (in which case the land shall be acquired up to one km on both sides of designated railway line or roads for such industrial corridor)
 - Infrastructure projects including projects under public-private partnership where the ownership of land continues to vest with the Government.":
 3. Appropriate Government shall, before the issue of notification, ensure the extent of land for the proposed acquisition keeping in view the bare minimum land required for such project.
- 10 A (2) *The appropriate Government shall undertake a survey of its wasteland including arid land and maintain a record containing details of such land, in such manner as may be prescribed by the appropriate Government.*



The RFCTLARR (Amendment) Bill, 2015 (Passed by LS on 10th March 2015)

Retrospective Clause

"Provided further that in computing the period referred to in this sub-section, any period or periods during which the proceedings for acquisition of the land were held up on account of any stay or injunction issued by any court or the period specified in the award of a tribunal for taking possession or such period where possession has been taken but the compensation lying deposited in a court or in any designated account maintained for this purpose shall be excluded."

Schedule IV Legislations

For Schedule IV legislations, the provisions of this Act shall apply relating to

- the determination of compensation in accordance with the First Schedule
- Rehabilitation and resettlement in accordance with the Second Schedule
- Infrastructure amenities in accordance with the Third Schedule

(with effect from 1st January, 2015)



The RFCTLARR (Amendment) Bill, 2015 (Passed by LS on 10th March 2015)

In the principal Act, in section 31

- Sub-section (2), *in clause (h), after the words*
- 'affected families', the words 'including compulsory employment to at least one member of such affected family of a farm labourer' shall be inserted.

RFCTLARR, 2013 Act:

31. (2) The Rehabilitation and Resettlement Award shall include all of the following families namely,
(h) details of mandatory employment to be provided to the members of the affected families.

- Section 46, in sub-section (6), *in the Explanation, in clause (b), the words "any person other than" shall be omitted.*



The RFCTLARR (Amendment) Bill, 2015

In the principal Act, in section 101, for the words, "a period of five years", the words "a period specified for setting up of any project or for five years, whichever is later," shall be substituted.

RFCTLARR Act, 2013

101: When any land acquired under this Act remains unutilized for a period of five years from the date of taking over the possession, the same shall be returned to the original owner or owners or their legal heirs, as the case may be, or to the Land Bank of the appropriate Government by reversion in the manner as may be prescribed by the appropriate Government.

“Private company” to be substituted by the words “private entity” in 2013 Act
private entity means any entity other than a Government entity or undertaking and includes a proprietorship, partnership, company, corporation, non-profit organization or other entity under any law for the time being in force”