



# LAND ACQUISITION FOR NATIONAL HIGHWAYS

Notes

A Compilation of Notes  
regarding Land Acquisition, Rules  
and Issues involved in India

**Keerthi Kiran Pujar**  
SDM Kinwat, Nanded,  
Maharashtra

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## NATIONAL HIGHWAYS ACT 1956 in Brief

- Extends to whole of India
- Compensation to be calculated as per Provisions of LARR Act 2013

### Section 2 - Declaration of certain highways to be national highways

The Central Govt can declare, add or omit any highway from the Schedule of National Highways

### Section 3A. Power to acquire land, etc.—

(1) Where the Central Government is satisfied that for a public purpose any land is required for the building, maintenance, management or operation of a national highway or part thereof, it may, by notification in the Official Gazette, declare its **intention to acquire such land**.

(2) Every notification under sub-section (1) shall give a **brief description of the land**.

(3) The competent authority shall cause the substance of the **notification to be published in two local newspapers**, one of which will be in a vernacular language.

KEYWORD under S 3A => **NOTIFICATION of INTENTION**

KEYWORD under S 3D => **DECLARATION of ACQUISITION**

### Section 3B— Power to enter for Survey etc —

After notification under Section 3A(1), the authorized person on behalf of Central Govt can do survey, fixing of boundaries etc

### Section 3C — Hearing of Objections

- (1) Objection to be filed in writing within 21 days from publication of 3A notification
- (2) Competent Authority to decide such objection and pass order
- (3) Order passed by such authority is FINAL

### Section 3D - Declaration of acquisition

- (1) If no objection or objection disallowed, then CALA to send report to Central Govt which in turn would notify such declaration in GAZETTE

- (2) After such declaration as per subsection 1, the land shall vest absolutely with Central Govt without any encumbrances
- (3) If no DECLARATION made within one year of Preliminary notification, then said notification would cases to have any effect
- (4) Declaration under subsection 1 shall not be called in question in any court or any other authority

### Section 3E - Power to take possession

If Declaration of Acquisition done (3D) + Compensation amount calculated by CALA (3G) + Such compensation amount deposited by Central Govt to CALA (3H) => then CALA to direct the land owners to handover possession to such authorized person

### Section 3F - Right to enter into the land where land has vested in the Central Government

### Section 3G – Compensation how to be calculated

### Section 3H - Deposit and payment of amount

### Section 3I - Competent authority to have certain powers of civil court

## Additional Notes

Land required for National Highways is acquired under Section 3 of the National Highways Act 1956. The enactment of RFCTLARR Act in 2013 extended some of the provisions of the 2013 act to NH Act also.

Department of Land Resources, Ministry of Rural Development is the Nodal agency for implementing the RFCTLARR Act 2013. Provisions of LARR Act applies to other Acts as mentioned in its 4th Schedule

So aspects like Compensation (1<sup>st</sup> Schedule), Rehabilitation & Resettlement (2<sup>nd</sup> and 3<sup>rd</sup> Schedule) etc under the New LARR Act can apply to other enactments also based on Central Govt Notification.

The provisions related to Compensation, Rehabilitation and Resettlement became applicable to NH Act from 01.01.2015

Section 24 of LARR Act is not applicable to the land acquisition cases under NH Act

## Date of Determination of Market Value of Land

**Section 26** of The LARR act says “the date for determination of market value shall be the date on which the notification has been issued under section 11 (Corresponding to Section 3 of NH Act)”. Same was the position under 1894 act

So the relevant date for determination of the Market Value of the land is the date on which Notification under **Section 3A** of NH act is 1956 is Published

Further it is clarified that

- (1) Where land acquisition process was initiated but Final Award under Section 3G not done as per NH Act, or where such awards were made but compensation was not paid as on 21.12.2014, then the compensation would be paid as per provisions of Schedule 1 of LARR Act
- (2) Land Acq process initiated, Award made but Full compensation not deposited to CALA as on 31.12.2014, then compensation to be paid as per Schedule 1 of LARR act
- (3) Land Acq process initiated, Award made, full compensation paid as on 31.12.2014, then that matter is closed

**NOTE- Land Acquisition under NH Act is exempted from Social Impact Assessment**

## 12% Additional Compensation

Payment of additional compensation calculated as 12% on market value as per Subsection 3 of Section 30 LARR ACT

LARR act says the date to be considered is the publication of SIA. Since NH act is exempted from SIA, the date to be considered for additional 12% compensation is the date of Notification as per Section 3A of NH Act till final award under Section 3G or taking possession of the land whichever is earlier

NOTE

1. **12% additional compensation is calculated from the DATE of preliminary notification (3A) to Final Award/Taking possession of land, whichever is earlier.**
2. 12% additional compensation is a standalone component, not to be considered for Multiplication factor and Solatium

## Issue of Multiplication Factor (MF)

Sl no	Area	MF	Comment
1	Urban	1	Urban area means area situated within the jurisdiction of a ULB
2	Rural	As notified by the State Govt	Such MF as notified by the State govt to be same for both state and central projects
3	Rrual in UTs except Puducherry	2	
4	Rural in Puducherry UT	As notified by UT govt Puducherry	

## Direct Purchase through Land owner's consent

Land acq for NHs under NH act is an independent activity not to be impeded by state govt legislations. However land for NH can be acquired through Direct Purchahse as per the concerned State Govt rules/legislations PROVIDED that

1. the total compensation under such Direct purchase rule to not to be more than that calculated as per LARR Act
2. State Govt to bear any incremental cost of such land acq from its resources

Ex – if total compensation calculated as per LARR act is Rs 1.5 cr/Ha including additional 12% compensation, but total compensation calculated as per Consent mechanism is Rs 1.75 cr/Ha, then the additional Rs 25lacs/Ha to be borne by the State Govt

**NOTE- Notification of a stretch as NH as per Section 2 of NH Act before land acq is not required**

## Competent Authority for Land Acquisition (CALA) & due diligence in determination of Compensation

- CALA is appointed by Central Govt as per Section 3a of NH Act
- Provisions meant for calculating the Compensation as mentioned from Section 26 to section 30 of LARR Act 2013 to be followed
- The nature of land to be considered as recorded in the Revenue records on the date of publication 3A Notification – if for ex a person has built a factory on the land meant to be acquired without taking land use change permission, then the nature of

land to be considered is the one recorded in Revenue records irrespective of land use change done

- Market Value to be determined as on the date of publication of Preliminary notification 3A
- Practices like land development, building a complex, plantation of trees after 3A notification can't be considered for calculation of compensation. That's why 12% additional compensation is given from the date of Preliminary notification to Final Award/Taking over possession of land whichever earlier
- CALA while issuing final award to append certificate that he has strictly followed the procedure as per the act

### Appointment of Arbitrator under Section 3G(5) of the NH Act 1956

- If the Compensation amount determined by the CALA is not acceptable to either of the parties, then an arbitrator appointed by Central Govt to decide such compensation.
- But if any dispute arises as to the apportionment of the compensation between two or more persons, the CALA to refer such matter to Principal Civil Court of original jurisdiction. Also such undisbursed amount of Compensation to be deposited by the CALA to the Principal Civil Court and go ahead with land possession activity

Disagreement wrt Compensation amount  
=>ARBITRATOR

Dispute regarding disbursement between  
two or more people => CIVIL COURT

### Administrative Charges for Land Acquisition for NH Projects

- 2.5% of the total compensation
- Different states charge different amounts