

**THE RIGHT TO FAIR COMPENSATION AND
TRANSPARENCY IN LAND ACQUISITION,
REHABILITATION AND RESETTLEMENT
ACT , 2013 –
AN OVERVIEW**

Ministry of Rural Development
Government of India
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Agenda

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- **Why a Combined Law?**
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Why a New Law

Public Concern

- Heightened public concern on Land Acquisition issues
- Absence of a national law to provide for the rehabilitation & resettlement and compensation for loss of livelihoods

Outdated Law

- While multiple amendments have been made to the Original Act, the principal law continued to be the same i.e. the British enacted Land Acquisition Act of 1894

Need for Balance

- Addressing concerns of farmers and those whose livelihoods are dependent on the land being acquired
- While facilitating land acquisition for industrialisation, infrastructure and urbanisation

Why a Combined Law

1. Land Acquisition and Rehabilitation & Resettlement need to be seen necessarily as two sides of the same coin
2. Rehabilitation and Resettlement must necessarily follow after acquisition of land
3. Not combining the two – R&R and land acquisition – within one law, risks neglect of R&R. This has, indeed, been the experience thus far
4. This is the first National/ Central Law on the subject of Rehabilitation & Resettlement of families affected and displaced as a result of land acquisition

Scope of the New Law

Both LA and R&R Provisions will apply when:

1. Government acquires land for its own use, hold and control
2. Government acquires land with the ultimate purpose to transfer it for the use of private companies for stated public purpose
3. Government acquires land for Public Private Partnership Projects

Note I: *Public purpose for 2. & 3. above, once stated, cannot be changed*

Note II:

- ***Land Acquisition under 2. can take place provided that the consent of 80% of the affected families is obtained.***
- ***Land Acquisition under 3. can take place provided consent of 70 % of affected families is obtained.***

Only R&R provisions will apply when:

- Private companies purchase land for a project, and the same exceeds the area thresholds set by the State Governments for such purchase

Salient Features of the New Law

Definition of Public Purpose

1. Land for strategic purposes relating to armed forces, national security or defence, police, safety of the people;
2. Land for infrastructure:
 - (i) items listed in circular of Government of India, Department of Economic Affairs (Infrastructure Section) number 13/6/2009-INF dated the 27th March, 2012 excluding private hospitals, private educational institutions and private hotels
 - (ii) projects involving agro-processing, supply of inputs to agriculture, warehousing, cold storage facilities, marketing infrastructure for agriculture and allied activities such dairy, fisheries, and meat processing as set up or owned by the appropriate
 - (iii) project for industrial corridors or mining activities, national investment and manufacturing zones as designated in the national manufacturing Policy;
 - (iv) project for water harvesting and water conservation structures, sanitation;
 - (v) project for Government administered and government aided educational and research schemes or institutions;
 - (vi) project for sports, health care, tourism, transportation, space programme,
 - (vii) any infrastructure facility as may be notified in this regard by the Central Government and after tabling of such notification in Parliament;
3. Land for the project affected people
4. Land for planned development or improvement of village or urban sites or for residential purpose to weaker sections;
5. Land for persons residing in areas affected by natural calamities or displaced

Salient Features of the New Law

Urgency Clause

The Urgency Clause can only be invoked in the following cases:

1. National defense and security purposes
2. Resettlement & Rehabilitation needs in the event of natural calamities such as floods or earthquakes

In case there is double displacement of any individual they will receive an **additional compensation of up to 75%** of the compensation already provided for under the new law.

Salient Features of the New Law

Definition of 'Affected Families'

- **Land Owners:**

1. Family or company whose land/other immovable properties have been acquired;
2. Those who are assigned land by the Governments under various schemes;
3. Right holders under the Forest Rights Act, 2006

- **Livelihood Losers:**

1. Over the last three years, a family whose livelihood is primarily dependent on the land being acquired, **including agriculture labourers, tenants or sharecroppers**
2. Over the last three years, families which are dependent on forests or waterbodies for their livelihoods when these are acquired; including forest gatherers, hunters, fisher folk and boatmen
3. Over the last three years, any family whose livelihood is dependent primarily on the land being acquired in the urban areas or any family who is residing on the land being acquired in the urban areas

Salient Features of the New Law

Safeguarding Food Security

1. Multi-crop irrigated land will not be acquired except as a demonstrably last resort measure, which in no case should lead to acquisition of more than such limits as have been set by the State Government under this law.
 2. Wherever multi-crop irrigated land is acquired an equivalent area of culturable wasteland shall be developed for agricultural purposes (or an amount equivalent to the value of the land acquired shall be deposited with the appropriate Government for investment in agriculture for enhancing food-security).
 3. States are also required to set a limit on the area of agricultural land that can be acquired in any given district.
- 1. and 2. above shall not apply in the case of linear projects (such as railways, highways, major district roads, power lines, and irrigation canals)**

Salient Features of the New Law

Minimum Compensation for Land Acquisition

A Comprehensive Compensation Package (First Schedule)

1. Market value of the land:

- a) the minimum land value, if any, specified in the Indian Stamp Act, 1899 for the registration of sale deeds in the area, where the land is situated; or
- b) the average of the sale price for similar type of land situated in the immediate areas adjoining the land being acquired, ascertained from fifty per cent of the sale deeds registered during the preceding three years, where higher price has been paid; or

whichever is higher:

PROVIDED THAT THE MARKET VALUE SO CALCULATED FOR RURAL AREAS SHALL BE MULTIPLIED BY A MULTIPLIER FACTOR OF UP TO 'TWO'.

- 2. Value of the assets attached to land:** Building/Trees/Wells/Crop etc as valued by relevant govt. authority;

Total compensation = 1+2

- 3. Solatium:** 100% of total compensation

- 4.** Where land is acquired for urbanisation, 20% of the developed land will be reserved and offered to land owning project affected families, in proportion to their land acquired and at a price equal to cost of acquisition and the cost of development. In case the project affected family wishes to avail of this offer, an equivalent amount will be deducted from the land acquisition compensation package payable to it

- 5.** The Company for whom land is being acquired may offer shares limited to 25% of the Compensation amount . In case the project affected family wishes to avail of this offer, an equivalent amount will be deducted from the land acquisition compensation package payable to it.

Salient Features of the New Law

Minimum Compensation for Land

ILLUSTRATIVE SLIDING SCALE

This multiplier factor will gradually rise from 1 to 2 as we move away from urban locations into rural areas.

The precise slabs will be left to respective State Governments.

Illustrative Sliding Scale

(precise scale to be determined by each State Government)

Radial Distance from urban area (km)	Multiplier Factor
0-10	1.00
10-20	1.20
20-30	1.40
30-40	1.80
40-50	2.00

Salient Features of the New Law

Minimum R&R Entitlements

A Comprehensive R&R Package

(Second Schedule)

1. Subsistence allowance at Rs. 3000 per month per family for 12 months;
2. The affected families shall be entitled to:
 - (a) Where jobs are created through the project, mandatory employment for one member per affected family
 - or**
 - (b) Rupees 5 lakhs per family;
 - or**
 - (c) Rupees 2000 per month per family as annuity for 20 years, with appropriate index for inflation;

The option of availing (a) or (b) or (c) shall be that of the affected family

3. If a house is lost in rural areas, a constructed house shall be provided as per the Indira Awas Yojana specifications. If a house is lost in urban areas, a constructed house shall be provided, which will be not less than 50 sq mts in plinth area.

In either case the equivalent cost of the house may also be provided in lieu of the house as per the preference of the project affected family;

4. *One acre of land* to each family in the command area, if land is acquired for an irrigation project if possible BUT the same shall be in lieu of Compensation;

5. Rs 50,000 for transportation;

6. A one-time 'Resettlement Allowance' of Rs 50,000;

Salient Features of the New Law

Special Provisions for SCs/STs

In addition to the R&R package, SC/ST families will be entitled to the following additional benefits:

1. Land to be given to each family in every project even in the case of irrigation projects;
2. One time financial assistance of Rs. 50,000 per family;
3. Families settled outside the district shall be entitled to an additional 25% R&R benefits;
4. Payment of one third of the compensation amount at very outset;
5. Preference in relocation and resettlement in area in same compact block;
6. Free land for community and social gatherings;
7. In case of displacement, a *Development Plan* is to be prepared.
8. Continuation of reservation and other Schedule V and Schedule VI area benefits from displaced area to resettlement area.

Salient Features of the New Law

Enhanced Role for Panchayati Raj Institutions esp. Gram Sabhas

SIA in consultation with PRIs: The Social Impact Assessment has to be carried out in consultation with the representatives of the Panchayati Raj Institutions.

SIA Reports To Be Shared: Reports prepared under the Social Impact Assessment are to be shared with these individuals in their local language along with a summary.

Representation in Expert Group: The Expert Group has to have two members belonging to the Panchayati Raj Institutions. This is a powerful body that has the power to reject a project.

Hearings in All Gram Sabhas: In case where an affected area involves more than one Gram Panchayat or Municipality, public hearings shall be conducted in every Gram Sabha where more than twenty five per cent of land belonging to that Gram Sabha is being acquired.

Consent of Gram Sabha : The Consent of Gram Sabha is mandatory for acquisitions in Scheduled Areas under the Fifth Schedule referred to in the Constitution

Representation of Panchayat Chairpersons on R&R Committee at Project Level: The Rehabilitation and Resettlement Committee at Project Level has to have the Chairpersons of the Panchayats located in the affected area or their nominees as representatives.

Panchayat Ghars have to be provided as per the list of Infrastructural amenities given in the Third Schedule.

Salient Features of the New Law

Special Provisions for Farmers

Acquisition only if necessary: The Collector has to make sure that no other unutilised lands are available before he moves to acquire farm land.

Enhanced Compensation: All farmers in rural areas will get up to 4 times the highest sales prices in a given area.

Strict Restrictions on Multi-Crop Acquisition: The acquisition of agricultural land and multi-crop land has to be carried out as a last resort.

Consent: shall be prior-consent required from 70 per cent of land losers and those working on government assigned lands only in the case of Public-Private Partnership projects and 80 per cent in the case of private companies. This consent also includes consent to the amount of compensation that shall be paid.

Return of Unutilised land: Land not used can now be returned to the original owners if the State so decides.

Share in Sale of Acquired Land Increased: The share that has to be distributed amongst farmers in the increased land value (when the acquired land is sold off to another party) has been set at 40%.

Income Tax Exemption: All amounts accruing under this act have been exempted from Income tax and from Stamp duty.

Salient Features of the New Law

Special Safeguards for Farmers

Damage to crops to be included in price: The final award has to include damage to any standing crops which might have been harmed due to the process of acquisition (including the preliminary inspection).

Share in Developed Land: In case their land is acquired for urbanisation purposes twenty per cent of the developed land will be reserved and offered to these farmers in proportion to the area of their land acquired and at a price equal to the cost of acquisition and the cost of development.

Fishing Rights: In the case of irrigation or hydel projects, affected families may be allowed fishing rights in the reservoirs, in such manner as may be prescribed by the appropriate Government.

Salient Features of the New Law

Reduced Role for Collector

There has been a significant reduction of the powers that the Collector enjoyed under the 1894 Act:

Under the 1894 Act, the Collector had complete authority to decide what activity constituted 'public purpose'. Under the new law he has been completely stripped of this function. Public purpose must fall strictly within the parameters prescribed under this law. The Collector cannot add or subtract to the list given.

Under the 1894 Act, the Collector could decide what quantum of compensation could be paid to those displaced. Under the new law, there is a formula that does not require the Collector to exercise any discretion. All he has to do is make sure that the rate is calculated as directed.

Under the 1894 Act, the Collector could decide when to take possession. He could dispossess any family by giving a moments notice. Now possession can only be taken once all the requirements under the law relating to the payment of compensation, rehabilitation and resettlement have been discharged.

Under the 1894 Act, the Collector had sweeping powers to invoke the urgency clause. What constituted an urgent situation was entirely a function of the Collector's interpretation. This loophole has been plugged conclusively by limiting urgency to only two cases- natural disasters and national defence. The Collector can no longer acquire land citing 'urgent' reasons.

Salient Features of the New Law

Benefits for Tenants and Sharecroppers

The Law also covers all **Tenants** who may not own any land but are engaged in any form of tenancy or holding a usufructury right and;

Share-croppers Artisans who have been working in the affected area for three years prior to the acquisition and whose primary source of livelihood stands affected by the acquisition of land shall .

They will receive not jus the Rehabilaitation and Resettlement Benefits but also a share in the compensation to be provided.

Salient Features of the New Law

Infrastructural Amenities under R&R

(Third Schedule)

25 infrastructural amenities to be provided in the Resettlement area, including:

- Schools and playgrounds;
- Health Centres;
- Roads and electric connections;
- Assured sources of safe drinking water for each family as per Govt. norms;
- Panchayat Ghars as appropriate;
- Anganwadi's providing child and mother supplemental nutritional services as per Govt norms;
- Places of worship and burial and/or cremation ground depending on the caste-communities at the site and their practices;
- Village level Post Offices, as appropriate, with facilities for opening saving accounts;
- Fair price shops and seed-cum-fertilizer storage facilities if needed

Salient Features of the New Law

Retrospective Effect Clause

Retrospective operation:

- Where no award under Section 11 of the 1894 Act has been made, the new law will apply with regard to compensation;
- Where an award has been made but the affected individuals have not accepted compensation or have not yet given up possession, and the proceedings have been pending for 5 years or more, provisions of the new law will apply.
- Where a majority of individuals in an affected area have not received compensation then the new law will apply.

Salient Features of the New Law

Compliance with other Laws

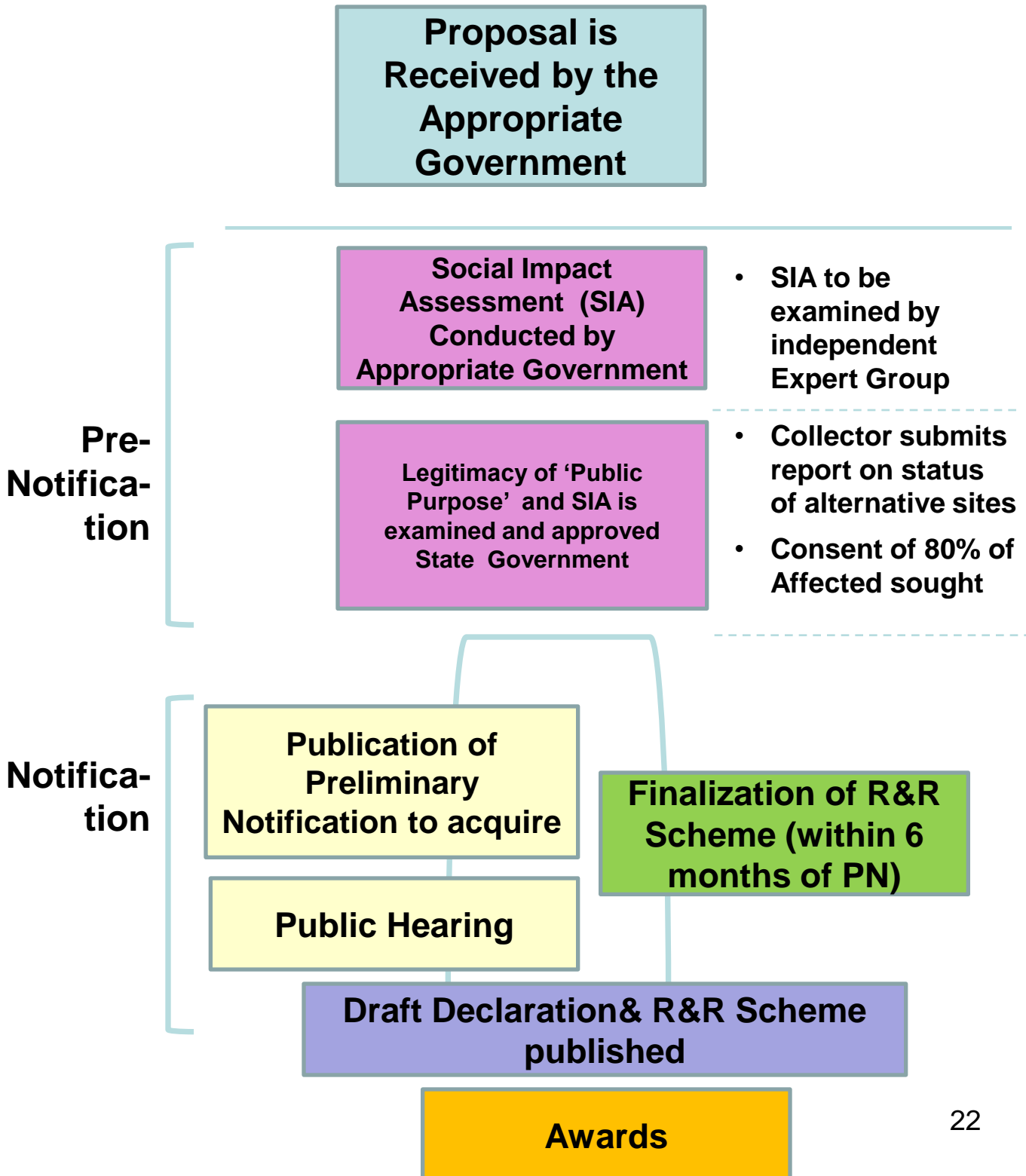
The Provisions of the New Law shall be fully compliant with other laws such as:

- The Panchayats (Extension to the Scheduled Areas) Act, 1996;
- The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006;
- Land Transfer Regulations in Schedule V Areas.

In fact, while the above legislations provide for 'consultation' with Gram Sabhas, the new law goes one step ahead and provides for 'consent'.

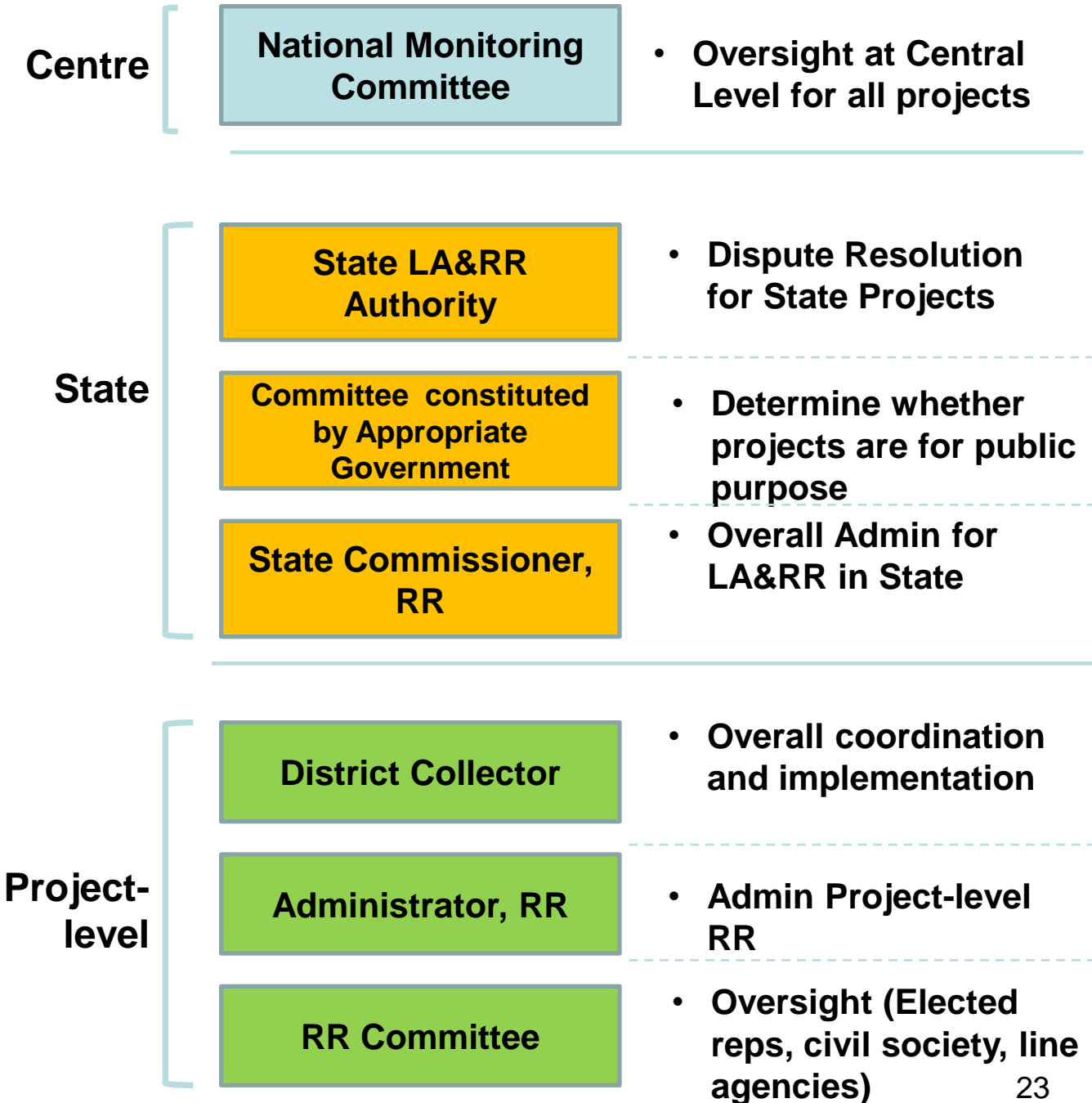
Salient Features of the New Law

Process Flow



Salient Features of the New Law

Institutional Structure



Salient Features of the New Law

Safeguards against indiscriminate acquisition

- **Social Impact Assessment** made mandatory except for Irrigation Projects. To be concluded in 6 months;
- **Draft Notification** to include:
 - Summary of SIA
 - Particulars of Administrator for R&R who prepares R&R scheme
- **Draft Declaration** to include:
 - Summary of R&R package
- **No Change of Purpose:** No change from the purposes specified in the Land Use Plan submitted at the time of land acquisition will be allowed.
- **Change of Ownership:** No change of ownership without specific permission of Appropriate Government is allowed;
- **Land not Used:** Land that is not used within 5 years in accordance with the purposes for which it was acquired at the time of acquisition, shall be transferred to the State Government's Land Bank OR to the original land owner.
- **Sharing appreciated value:** Upon every transfer of land without development, 40% of the appreciated land value shall be mandatorily shared with the original owner whose land has been acquired

Salient Features of the New Law

Transparency Provisions

- **Social Impact Assessment**
 - Gram Sabha to be consulted
 - Summary of SIA notified along with Draft Notification
 - SIA document made available for public scrutiny
- **R&R Scheme**
 - Summary notified along with Draft declaration
 - Made available for public scrutiny
- **Individual Awards passed**
- **Public Disclosure**
 - All documents mandatorily to be made available in the public domain and on the website

Salient Features of the New Law Penalties

Stringent and Comprehensive Penalties Regime for Companies and Government:

- Punishment for false information, mala fide action, etc.
- Penalty for contravention of provisions of Act.

Salient Features of the New Law Awards

Collector passes 2 types of Awards:

1. Award for Land Acquisition

- Award made in respect of every affected family whose land is being acquired (this will include landless tenants as well) and containing details of LA compensation as listed in the First Schedule;

2. Award for R&R

- Award made in respect of every affected family, regardless of whether they may be losing land or not, containing details of R&R entitlements as listed in the Second Schedule.

Salient Features of the New Law

Timelines

1. Compensation will be given within a period of **three months** from the date of the award;
2. Monetary R&R entitlements will be provided within a period of **six months** from the date of the award;
3. Infrastructure R&R entitlements will be provided within a period of **eighteen months** from the date of the award;
4. **No involuntary displacement will take place without completion of R&R;**
5. In irrigation or hydel projects, R&R shall be completed **six months** prior to submergence

Salient Features of the New Law

Impact of the new law on Existing Legislations related to Land Acquisition

1. There are 13 Acts of the Central Government in force that allow for land acquisition. These are listed in the Fourth Schedule of the Act (and include legislations relating to National Defence, National Highways, Railways etc). The new law does not apply to the activities covered under these Acts.
2. However, within one year, the provisions of the new Law which relate to compensation, rehabilitation and resettlement will be applied to the 13 Acts by a notification of the Central Government.

Salient Features of the New Law

Flexibility given to States

1. The sliding scale on the basis of which compensation is to be calculated (2-4 times market value) has been left to the discretion of the State Governments
2. Thresholds for multi-crop irrigated lands
3. Thresholds at which R&R provisions apply to private purchases
4. States are encouraged to adopt the option of “lease” instead of acquisition.
5. States are also empowered by this law to provide for benefits and safeguards that go over and above the provisions of this law.