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EXTRAORDINARY

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Separate paging is given to this Part in order that it
may be filed as a Separate Compilation.

PART - IV

Acts of the Gujarat Legislature and Ordinances promulgated
and Regulations made by the Governor.

The following Act of the Gujarat Legislature, having been assented to
by the Governor on the 14th March, 2000 is hereby published for general
information.

KUM. H. K. JHAVERI,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 5 OF 2000.

(First published, after having received the assent of the Governor in the
Gujarat Government Gazette, on the 14th March, 2000).

AN ACT

to provide for the acquisition of right of user in land for laying water pipelines
and gas pipelines in the State of Gujarat and for the matters connected
there with.

It is hereby enacted in the Fifty-first Year of the Republic of India as follows :—

1. (1) This Act may be called the Gujarat Water and Gas Pipelines (Acquisition
of Right of User in Land) Act, 2000.
- (2) It extends to the whole of the State of Gujarat.
- (3) It shall come into force on such date as the State Government may by
notification in the *Official Gazette*, appoint.
2. In this Act, unless the context otherwise requires,—
 - (a) "competent authority" means any person or authority authorised by the
State Government by notification in the *Official Gazette*, to perform the
functions of the competent authority under this Act ;

Short title,
extent and
commencement.

Definitions.

- (b) "corporation" means any body corporate established under any Gujarat Act and includes —
- (i) a Company formed and registered under the Companies Act, 1956; 1 of 1956. and
 - (ii) a Company formed and registered under any law relating to companies formerly in force in any part of India ;
- (c) "gas" means a matter in gaseous state which predominantly consists of methane;
- (d) "prescribed" means prescribed by rules made under this Act .

Publication of notification for acquisition.

3. (1) Whenever it appears to the State Government that it is necessary in the public interest that for the transport of water or, as the case may be, gas from one area to another area, pipelines may be laid by the State Government, or, the Corporation and that for the purpose of laying such pipelines, it is necessary to acquire the right of user in any land under which such pipelines may be laid, it may, by notification in the *Official Gazette*, declare its intention to acquire the right of user therein.

(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 at such places and in such manner as may be prescribed.

Hearing of objections.

4. (1) Any person interested in the land may, within thirty days from the date of the publication of notification under sub-section (1) of section 3, object to the laying of the pipelines under the land.

(2) Every objection shall be made to the competent authority in writing and shall set out the grounds thereof and the competent authority shall give the objector an opportunity of being heard either in person or by a legal practitioner and may, after hearing all such objections and after making such further inquiry, if any, as that authority thinks necessary, by order either allow or disallow the objections.

(3) Any order made by the competent authority under sub-section (2) shall be final.

Power to enter, survey, etc.

5. On the issue of a notification under sub-section (1) of section 3, it shall be lawful for any person authorised by the State Government or, as the case may be, the Corporation which proposes to lay pipelines for transporting water or, as the case may be, gas and its servants and workmen—

- (a) to enter upon and survey and take levels of any land specified in the notification;
- (b) to dig or bore into the sub-soil;
- (c) to set out the intended line of work;
- (d) to mark such levels, boundaries and line by placing marks and cutting trenches;
- (e) where otherwise survey cannot be completed and levels taken and the boundaries and line marked, to cut down and clear away any part of any standing crop, fence or jungle; and
- (f) to do all other acts necessary to ascertain whether pipelines can be laid under the land:

Provided that while exercising any power under this section, such person or any servant or workman of such person shall cause a little damage or injury as possible to such land.

Declaration of acquisition of right of user.

6. (1) Where no objection under sub-section (1) of section 4 has been made to the competent authority within the period specified therein or where the competent authority has disallowed the objections under sub-section (2) of that section, that authority shall, as soon as may be, submit a report accordingly to the State Government and upon

receipt of such report, the State Government shall declare, by notification in the *Official Gazette*, that the right of user in the land for laying the pipelines shall be acquired.

(2) On the publication of the declaration under sub-section (1), the right of user in the land shall vest absolutely in the State Government free from all encumbrances.

(3) Where in respect of any land, a notification has been issued under sub-section (1) of section 3, but no declaration under this section has been published within a period of one year from the date of that notification, that notification shall cease to have effect on the expiration of the said period.

(4) Notwithstanding anything contained in sub-section (2), the State Government may, on such terms and conditions as it may think fit, to impose, direct by order in writing that the right of user in the land for laying the pipelines shall, instead of vesting in the State Government, vest, either on the date of publication of the declaration or, on such other date as may be specified in the order, in the Corporation proposing to lay the pipelines and thereupon the right of such user in the land shall, subject to the terms and conditions so imposed, vest in that Corporation free from all encumbrances.

7. (1) Where the right of user in any land has vested in the State Government or, as the case may be, the Corporation under section 6—

Laying of pipelines.

- (i) it shall be lawful for any person authorised by the State Government or, as the case may be, the Corporation, and its servants and workmen to enter upon the land and lay pipelines or to do any other thing necessary for the laying of pipelines:

Provided that no pipeline shall be laid under —

- (a) any land which, immediately before the date of the publication of notification under sub-section (1) of section 3, was used for residential purposes; or
- (b) any land on which there stands any permanent structure which was in existence immediately before the said date; or
- (c) any land which is appurtenant to a dwelling house; or
- (d) any land at a depth which is less than one metre from the surface; and
- (ii) such land shall be used only for laying the pipelines and for maintaining, examining, repairing, altering or removing any such pipelines or for doing any other thing necessary for any of the aforesaid purposes or for the utilisation of such pipelines.

(2) If any dispute arises with regard to any matter referred to in paragraph (b) or (c) of the proviso to clause (i) of sub-section (1), the dispute shall be referred to the competent authority whose decision thereon shall be final.

8. For maintaining, examining, repairing, altering or removing any pipeline, or for doing any other thing necessary for the utilisation of the pipelines or for the making of any inspection or measurement for any of the aforesaid purposes, any person authorised in this behalf by the State Government or, as the case may be, the Corporation may, after giving reasonable notice to the occupier of the land under which the pipeline has been laid, enter therein with such workmen and assistants as may be necessary:

Power to enter land for inspection, etc.

Provided that, where such person is satisfied that an emergency exists, no such notice shall be necessary:

Provided further that, while exercising any powers under this section, such person or any workmen or assistants of such person, shall cause as little damage or injury as possible to such land.

9. (1) The owner or occupier of the land with respect to which a declaration has been made under sub-section (1) of section 6, shall be entitled to use the land for the purpose for which such land was put to use immediately before the date of the notification under sub-section (1) of section 3:

Restrictions regarding the use of land.

Provided that such owner or occupier shall not after the declaration under sub-section (1) of section 6—

- (i) construct any building or any other structure;
 - (ii) construct or excavate any tank, well, reservoir or dam; or
 - (iii) plant any tree,
- on that land.

(2) The owner or occupier of the land under which any pipeline has been laid shall not do any thing or permit any thing to be done which will or is likely to cause any damage in any manner whatsoever, to the pipeline.

(3) Where the owner or occupier of the land with respect to which a declaration has been made under sub-section (1) of section 6,—

- (a) constructs any building or any other structure, or
- (b) constructs or excavates any well, tank, reservoir or dam, or
- (c) plants any tree,

on that land, the Collector within the local limits of whose jurisdiction such land is situate may, on an application made to it by the competent authority and after holding such inquiry, as it may deem fit, cause the building, structure, reservoir, dam or tree to be removed or the well or tank to be filled up, and the costs of such removal or filling up shall be recoverable from such owner or occupier.

Compensation. 10. (1) Where in the exercise of the powers conferred by section 5, 7 or 8 by any person, any damage, loss or injury is sustained by any person interested in the land under which the pipeline is proposed to be, or is being, or has been laid, the State Government or, as the case may be, the Corporation shall be liable to pay compensation to such person for such damage, loss or injury, the amount of which shall be determined by the competent authority in the first instance.

(2) If the amount of compensation, determined by the competent authority under sub-section (1) is not acceptable to either of the parties, the amount of compensation shall, on application by either of the parties to the Collector within the limits of whose jurisdiction the land or any part thereof is situated, be determined by that Collector.

(3) The competent authority or, as the case may be, the Collector while determining the compensation under sub-section (1) or, as the case may be, sub-section (2), shall have due regard to the damage or loss sustained by any person interested in the land by reason of—

- (i) the removal of trees or standing crops, if any, on the land while exercising the powers under section 5, 7 or, as the case may be, section 8;
- (ii) the temporary severance of the land under which the pipeline has been laid from other lands belonging to, or in the occupation of, such person; or
- (iii) any injury to any other property whether movable or immovable, or the earnings of such persons caused in any other manner.

Provided that in determining the compensation no account shall be taken of any structure or other improvement made in the land after the date of the publication of the notification under sub-section (1) of section 3.

(4) Where the right of user of any land has vested in the State Government or, as the case may be, the Corporation it shall, in addition to the compensation, if any, payable under sub-section (1), be liable to pay to the owner and to any other person whose right of enjoyment in that land has been affected in any manner whatsoever by reason of such vesting, compensation calculated at ten per cent. of the market value of that land on the date of the publication of the notification under sub-section (1) of section 3.

(5) The market value of the land on the said date shall be determined by the competent authority and if the value so determined by that authority is not acceptable to either of the parties, it shall, on application by either of the parties to the Collector referred to in sub-section (2), be determined by that Collector.

(6) The decision of the Collector under sub-section (2) or (5) shall be final.

11. (1) The amount of compensation determined under section 10 shall be deposited by the State Government or, as the case may be, the Corporation, with the competent authority within such time and in such manner as may be prescribed.

Deposit and
payment of
compensation.

(2) If the amount of compensation is not deposited within the time prescribed under sub-section (1), the State Government or, as the case may be, the Corporation, shall be liable to pay interest thereon at the rate of nine per cent. if the amount of compensation is deposited within one year after the period prescribed under sub-section (1) and at the rate of fifteen per cent. if the amount of compensation is deposited after the expiry of the said one year.

(3) As soon as may be after the compensation has been deposited under sub-section (1), the competent authority shall, on behalf of the State Government or, as the case may be, the Corporation pay the compensation to the persons entitled thereto.

(4) Where several persons claim to be interested in the amount of compensation deposited under sub-section (1), the competent authority shall determine the persons who in its opinion are entitled to receive the compensation and the amount payable to each of them.

(5) If any dispute arises as to the apportionment of the compensation or any part thereof or as to the persons to whom the same or any part thereof is payable, the competent authority shall refer the dispute to the Collector within the limits of whose jurisdiction the land or any part thereof is situated and the decision of the Collector thereon shall be final.

12. The Collector and the competent authority shall have, for the purposes of this Act, all the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908 in respect of the following matters, namely:—

Protection of
action taken
in good faith.

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of any document;
- (c) reception of evidence on affidavits;
- (d) requisitioning any public record from any court or office;
- (e) issuing commission for examination of witnesses.

13. (1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any rules or notification made or issued thereunder.

Collector and
competent
authority to
have certain
powers of civil
court.

(2) No suit or other legal proceeding shall lie against the State Government, Corporation or, as the case may be, the competent authority for any damage, loss or injury caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or any rules or notification made or issued thereunder.

14. No civil court shall have jurisdiction in respect of any matter which the Collector or, as the case may be, the competent authority is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or proposed to be taken in pursuance of any power conferred by or under this Act.

Bar of
jurisdiction of
civil court.

15. (1) Whoever wilfully obstructs any person in doing any of the acts authorised under section 5, 7 or as the case may be, section 8 or wilfully fills up, destroys, damages or displaces any trench or mark made under section 5 or wilfully does anything prohibited under the proviso to sub-section (1) of section 9, shall be punishable with imprisonment which may extend to six months or fine or both.

Penalty.

(2) Whoever wilfully removes, displaces, damages or destroys any pipeline laid under section 7, shall be punishable with rigorous imprisonment for a term which shall not be less than one year, but which may extend to three years and shall also be liable to fine.

5 of 1908.

2 of 1974.

16. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, an offence falling under sub-section (2) of section 15 shall be deemed to be cognizable within the meaning of that Code.

Certain offences to be cognizable.

17. (1) The State Government may, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Act.

Power to make rules.

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

(a) the places at which and the manner in which the substance of the notification may be published under sub-section (3) of section 3;

(b) the time within which and the manner in which the amount of compensation shall be deposited under sub-section (1) of section 11.

(3) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made and shall be subject to rescission by the State Legislature or to such modifications as the State Legislature may make during the session in which they are so laid or the session immediately following.

(4) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette*, and shall thereupon take effect.

18. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force relating to the acquisition of land.

Application of other laws not barred.