

## Metro Railways (Construction of Works) Act, 1978

### Chapter IV - Construction of Works

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Subject to the control of the Central Government, the metro railway administration shall, for the purpose of constructing any metro railway or any other work connected therewith.--

- (a) make or construct in, upon, across, under any lands, buildings, streets, roads, railways or tram ways or any rivers, canals, brooks, streams or other waters or any drains, water-pipes, electric lines or telegraph lines such temporary or permanent inclined planes, arches, tunnels, culverts, embankments, aqueducts, bridges, ways or passages, as the metro railway administration thinks proper;
- (b) alter the course of any rivers, canals, brooks, streams or water-courses for the purpose of constructing tunnels, passages or other works over or under them and divert or alter as well temporarily as permanently, the course of any rivers, canals, brooks, streams, or water-courses or any drains water-pipes, gas-pipes, electric lines or telegraph lines or raise or sink level thereof in order the more conveniently to carry them over or under, as the metro railway administration thinks proper;
- (c) make drains or conduits into, through or under, any lands adjoining the metro railway for the purpose of conveying water from or to the metro railway;
- (d) erect or construct such houses, warehouses, offices and other buildings and such yards, stations, engines, machinery, apparatus and other works and conveniences, as the metro railway administration thinks proper;
- (e) alter, repair or discontinue such buildings, works and conveniences as aforesaid or nay of them, and substitute others in their stead;
- (f) draw, make or conduct such maps, plans surveys or tests, as the metro railway administration thinks proper; (g) do all other acts necessary for making, maintaining, altering or repairing and using the metro railway.

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### Section 19 - Powers Of Metro Railway Administration

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(1) The metro railway administration shall, for the purpose of 1 [performing its functions under section 18] have power--

- (a) to enter into contracts and leases and to execute all instruments necessary therefor;
- (b) to make such number or rail tracks as the Central Government may think necessary upon, under, along or across any land, canal, river, street or road on or in the metro alignment and all other works and conveniences in connection there with;
- (c) 2 [to open, divert or temporarily close] as the case may be, any street, road cable trench, drain (including a sewer), channel, ditch, culvert or any other device (whether for carrying of sullage, sewage, offensive matter, polluted water, trade effluent, rain water, sub-soil water or any other object), electric or gas supply line or tele-communication line, or telegraph installation, over, across or under any land, building, street road, railway or tramway;
- (d) to burrow tunnels;
- (e) to lay down signaling and other communication facilities, electric sub-stations, supply lines and other works;

(f) to regulate drilling of tube wells or sinking of wells, public or private, in the proximate vicinity of the metro alignment;

(g) to do all other things necessary or expedient for the exercise of any of the aforesaid powers.

(2) While exercising any powers under sub-section (1), the metro railway administration shall take such precautionary measures as are necessary, shall do as little damage as possible and shall be liable only for the damage or cost actually suffered or incurred by any person as a result of the exercise of such powers.

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1. Substituted for the words "The metro railway administration shall, for the purpose of constructing any metro railway or any other work connected therewith have power" by the Metro Railways (Construction of Works) Amendment Act, 1982 (41 of 1982), section 11 (a) w.e.f. 15-5-1983.

2. Substituted for the words "to open or divert" by the Metro Railways (Construction of Works) Amendment Act, 1982 (41 of 1982), section 11 (b) w.e.f. 15-5-1983.

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## **Section 20 - Development Over Metro Alignment**

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(1) Any person who proposes to develop any land or building along or on the metro alignment shall, before commencing such development and without in any way limiting his obligation under any other Act to obtain any approval or consent, submit to the metro railway administration details of the proposed development and shall comply with any conditions imposed by the metro railway administration in respect thereof.

(2) The metro railway administration shall while imposing any condition under sub-section (1), have regard to--

(a) the safety of the metro railway;

(b) such other matters as may be prescribed.

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## **Section 21 - Power To Prohibit Or Regulate Construction To Buildings And Excavation**

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(1) If the Central Government is of opinion that it is necessary or expedient so to do for facilitating the construction of any metro railway or for ensuring the safety of any metro railway, it may, by notification in the Official Gazette,--

(a) direct that no building or any such development as may be specified in the notification shall be constructed or made above the metro alignment or on any land within such distance, not exceeding 1[twenty metros] on either side of the metro alignment, as may be specified in the notification and where there is any building on such land also direct the owner of, or the person having control over, such building to demolish such building or to make such additions or alterations to such building as may be specified in the notification or to desist from making any such development and within such period as may be specified in the notification;

(b) direct temporary evacuation of all persons together with any movable property or animal that may be in custody, control or possession of such persons from any building situated above the metro alignment or in any area within a distance not exceeding twenty metros on either side of such alignment and within such period as may be specified in the notification:

Provided that before issuing any notification under this clause, the Central Government shall provide every such person temporarily with alternative accommodation, which in its opinion is suitable, free of cost, or an amount, which in its opinion is sufficient to procure a temporary alternative accommodation.

(2) Where any property is needed or likely to be needed for providing any alternative accommodation under the proviso to clause (b) of sub-section (1), such property shall be deemed to be needed for a public purpose under section 3 to the Requisitioning and Acquisition of Immovable Property Act,

1952, and the competent authority under that Act shall requisition the property in accordance with the provisions of that Act and such provisions shall, in relation to such requisition, apply accordingly.

(3) In specifying the distance under clause (a) of sub-section (1), the Central Government shall have regard to--

- (a) the nature and the requirement of the metro railway;
- (b) the safety of the building;
- (c) such other matters as may be prescribed.

(4) Where any notification has been issued under sub-section (1) directing the owner or the person having control over any building to demolish such building or to make additions or alterations to such building or to desist from making any development specified in such notification a copy of the notification containing such direction shall be served on the owner of, or the person having control over, such building, as the case may be,--

- (i) by delivering or tendering it to such owner or person; or
- (ii) if it cannot be delivered or tendered, by delivering or tendering it to the agent of such owner or person or any adult male member of the family of such owner or person or by fixing a copy thereof on the outer door or on some conspicuous part of the premises in which such owner or person is known to have last resided or carried on business or personally worked for gain; or failing service by these means;
- (iii) by post.

(5) Every person shall be bound to comply with any direction contained in any notification issued under sub-section (1).

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1. Substituted for the words "ten metros" by the Metro Railways (Construction of Works) Amendment Act, 1982 (41 of 1982), section 12 w.e.f. 15-5-1983.

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## **Section 22 - Payment Of Amount For Prohibition Of Construction, Etc.**

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(1) If in consequence of any direction contained in any notification issued under sub-section (1) of section 21 any person sustains any loss or damage such person shall be paid an amount which shall be determined<sup>1</sup>[by an order of the competent authority] in the first instance.

(2) If the amount determined by the competent authority is not acceptable to either of the parties, the amount shall<sup>2</sup>[on an appeal preferred by either of the parties within sixty days from the date of the order of the competent authority, to the appellate authority, be determined by an order of the appellate authority].

(3) The competent authority or the<sup>3</sup>[appellate authority] while determining the amount under sub-section (1) or sub-section (2), as the case may be, shall take into consideration--

- (i) the loss or damage sustained by such person in his earnings;
- (ii) the diminution, if any, of the market value of the land or building immediately after the date of publication of such notification;
- (iii) where in pursuance of any direction any building has been demolished or any additions or alterations to such building have been made or any development has been desisted by such person, the damage sustained by him in consequence of such demolition or the making of such additions or alterations or the desisting from making such development and the expenses incurred by such person for such demolition or additions or alterations.

Provided that the expenses incurred for such demolition or additions or alterations shall not be taken into consideration if such demolition or additions or alterations has or have been done by the metro railway administration under sub-section (2) of section 36;

(iv) if any such person is compelled to change his residence or place of business the reasonable expenses, if any, that may have to be incurred by him incidental to such change.

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1. Substituted for the words "by the competent authority" by the Metro Railways (Construction of Works) Amendment Act, 1982 (41 of 1952), section 13 (9) w.e.f. 15-5-1983.

2. Substituted for the words "on an application by either of the parties to the arbitrator, be determined by the arbitrator" by the Metro Railways (Construction of Works) Amendment Act, 1982 (41 of 1952), section 13(b) w.e.f. 15-5-1983.

3. Substituted for the words "arbitrator", by the Metro Railways (Construction of Works) Amendment Act, 1982 (41 of 1952), section 2 w.e.f. 15-5-1983.

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### **Section 23 - Power To Underpin Building Or Otherwise Strengthen It**

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(1) If the metro railway administration is of opinion that it is necessary or expedient so to do for facilitating the construction of any metro railway or for ensuring the safety of any metro railway, it may, underpin or otherwise strengthen any building within such radius not exceeding fifty metres from the metro alignment.

(2) The metro railway administrations shall give to the owner or occupier of such building at least ten days notice in writing before undertaking the work of underpinning or otherwise strengthening the building:

Provided that where the metro railway administration is satisfied that an emergency exists, no such notice shall be necessary.

(3) Where the underpinning or strengthening was executed in connection with--

(a) the carrying out of the works upon the land where any building is situated, or

(b) the construction or operation of any metro railway, the metro railway administration may, at any time after the underpinning or strengthening of such building is completed and before the expiration of a period of twelve months,--

(i) in a case referred to in clause (a), from the completion of such works; and

(ii) in a case referred to in clause (b), from the date on which traffic was opened in the metro railway, enter upon and survey such building and do such further Underpinning or strengthening thereon as it may deem necessary.

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### **Section 24 - Power To Enter, Etc.**

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(1) With a view to making survey, or to ascertaining the nature or condition, of any land or building for the purpose of construction of any metro railway or any other work connected therewith, the metro railway administration or any person authorised by that administration may, at any reasonable hour in the daytime and after giving reasonable notice to the owner or occupier of such land or building, enter upon or into such land or building in, along, over or near or near the metro alignment to--

(a) inspect the same;

(b) make measurements and drawings and take photographs thereof and such other suitable measures as may be necessary to explore and check up, by digging trial pits or otherwise, the foundation of any building in the vicinity of the metro alignment;

(c) take such other measures as the said administration deems necessary and proper.

(2) Without prejudice to the powers conferred on it under section 19, the metro railway administration may, by writing, request any person or body of persons controlling any sewer, storm, water drain, pipe, wire or cable to carry out at the expense of the metro railway administration any alterations thereto which that administration is authorised or may be required to carry out to meet any particular situation for carrying out the purposes of this Act.

(3) If any difference or dispute arises between the metro railway administration and the person or body of persons referred to in sub-section (2) in relation to any such alterations or the cost thereof, such difference or dispute shall be determined by the Central Government in consultation (wherever necessary) with the State Government and the decision of the Central Government in this regard shall not be called in question in any court.

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## **Section 25 - Amount Payable For Damage, Loss Or Injury**

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(1) Where the metro railway administration exercises any power conferred on it by or under this Act and in consequence thereof any damage loss or injury is sustained by any person interested in any land, building, street, road or passage, the metro railway administration shall be liable to pay to such person for such damage, loss or injury such amount as may be determined by the competent authority.

(2) If the amount determined by the competent authority under sub-section (1) is not acceptable to either of the parties, the amount payable shall<sup>1</sup>[on an appeal preferred by either of the parties, within sixty days from the date of the order of the competent authority, to the appellate authority, be determined by an Order of the appellate authority].

(3) The competent authority or the<sup>2</sup>[appellate authority] while determining the amount under sub-section (1) or sub-section (2), as the case may be, shall have due regard to the damage, loss or injury sustained by any person interested in the land, building, street, road or passage by reasons of--

- (i) the removal of trees or standing crops, if any;
- (ii) the temporary severance of the land, building/street; road or passage;
- (iii) any injury to any other property whether movable or immovable.

<sup>3</sup>[4) The procedure and the manner of deposit and payment of the amount payable for acquitting any land, building, street, road or passage or any right of user in or any right in the nature of easement on any land, building, street, road or passage shall be followed in the case of the procedure and the manner of deposit and payment of the amount determined by the competent authority or the appellate authority under this section.]

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**1.** Substituted for the words, "on application by either of the parties to the arbitrator, be determined by the arbitrator" by the Metro Railways (Construction of Works) Amendment Act, 1983 (41 of 1982), section 25 (9) w.e.f. 15-5-1983.

**2.** Substituted for the word 'arbitrator' by the Metro Railways (Construction of Works) Amendment Act, 1983 (41 of 1982), section 2 w.e.f. 15-5-1983.

**3.** Inserted by the Metro Railways (Construction of Works) Amendment Act, 1983 (41 of 1982), section 25(b), w.e.f. 15-5-1983.

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## **Section 26 - Right To Claim For Damages**

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No claim in respect of any damage, loss or injury alleged to have been caused as a consequence of construction of any metro railway or any other work connected therewith under this Act shall lie against the metro railway administration unless such claim is made within a period of twelve months from the date of completion of the construction of such metro railway or other work in the area in which such damage, loss or injury is caused.

