

KOCHI METRO RAIL LIMITED

POLICY ON WAY LEAVE

Introduction

For the purpose of Kochi Metro Project, vast extent of land has been acquired/purchased from private persons. In some cases, where part of the land is acquired from the landowners, direct access from the existing roads to the remaining land belonging to them has been infringed. In such cases, some of the land owners had approached KMRL for passage to the left out land. Requests are often received for provision of way leave on KMRL land in the form of passage/access to private houses and establishments, underground pipelines for water supply and sewerage, electrical and telecommunication lines, etc. In many cases, these are unavoidable in view of the very nature and extent of the KMRL alignment.

Hitherto, KMRL was not having a policy to deal with such applications. Indian Railways has a policy for providing leave of way on or across their land or their track.

This policy is formulated on the similar lines of the Railway policy with necessary modifications in the matter of way leave charges and the term of leave. The modifications were necessitated to suit the peculiar nature and location of metro rail alignment vis-à-vis railway land.

KMRL policy

1. The Managing Director, KMRL is duly authorized to consider and take appropriate decision on providing way leave in genuine and

unavoidable cases, based on the specific applications made by land owners.

2. Way leave facilities on KMRL land involve occasional or limited use of land by a party for a specified purpose like passage etc. without conferring upon the party any right of possession or occupation of the land and without in any way affecting the KMRL's title, possession, control and use of the land.

3. The requests/applications for granting way leave facilities have to be considered with due regard to the circumstances of each case. Some such circumstances may be: -

a) Non-availability of any other means of access to properties/houses/place of business.

b) Non-feasibility of provision of water supply, electricity, sewerage etc. from any other direction.

c) Other means of access are available, but not enough to suit the increasing requirements of the applicant.

4. In genuine and unavoidable cases, way leave facility may be allowed, if feasible after execution of proper agreement. Land cannot be given on lease/licence in such cases and only a permission/leave is to be granted for a limited use which is to be specified in detail in the agreement. To avoid any misunderstanding on this score the agreement should not use terms like "Lease/ License and Rent/License fee etc" but only permission and way leave charges. The agreement should also clearly stipulate that the Metro Rail Administration retain full rights to enter upon, pass through or use the land, or to discontinue the way leave facility at any time, without any notice to the party. In the event of the way leave facility being discontinued with, the KMRL will not be liable to pay any compensation or reimburse any amount to the party, nor to provide any alternative arrangement for access etc. In such a case, any installations like underground pipelines etc. put up by the party are liable to be removed/shifted by the party at his/its own cost.

5. The way leave facility on KMRL land provided for these specific purposes should not be used to transverse and use KMRL land along the land under the viaduct/track.

6. The following rates as revised from time to time may be levied for way leave facility on KMRL land: -

Type of Way leave	Way leave charges
i. (a) Passage/pathway on/across KMRL land (up to 3 feet wide) for pedestrians, cyclists etc. (If property became landlocked, as on the date of dispossession of the acquired land)	Rs. 5,000/- for 15 years. (Way leave agreement for 15 years, renewable at the discretion of KMRL once in 15 years with 20% increase in charges)
i. (b) Passage/pathway on/across KMRL land (up to 10 feet wide) for vehicular access. (If property became landlocked, as on the date of dispossession of the acquired land)	Rs. 20,000/- for 10 years. (Way leave agreement for 10 years, renewable at the discretion of KMRL once in 10 years with 20% increase in charges)
ii. a) Passage/pathway on/across KMRL land (up to 1m wide) for pedestrians, cyclists etc. (If property has alternate access from any other side, as on the date of dispossession of the acquired land)	1% of the cost of acquisition or market value, whichever is higher (for the land set apart for way leave) per annum, subject to a floor of Rs. 6,000/- per annum. (Way leave agreement can be entered for 5 years. Way leave charges subject to 7% increase per annum during the currency of agreement- Renewal of agreement after 5 years will be at the discretion of KMRL with minimum 7% annual increase in way leave charges from the previous year)
ii. b) Passage for vehicles, scooters etc.(i. e between one meter to four meter wide) by individuals, housing societies, private firms, organizations, local bodies/State	6 % of cost of acquisition or market value, whichever is higher (for the land set apart for way leave) per annum, subject to a floor of Rs. 25,000/- per annum. (Way leave agreement can be entered for 5 years. Way leave charges

Govt./Govt. and autonomous bodies etc. (If property has alternate access from any other side, as on the date of dispossession of the acquired land)	subject to 7% increase per annum during the currency of agreement- Renewal of agreement after 5 years will be at the discretion of KMRL on a case to case basis with minimum 7% annual increase in way leave charges from the previous year)
iii. Water pipeline crossing for cultivation by individual farmers.	Rs.25,000/- (Way leave agreement for 15 years renewable at the discretion of KMRL for another 15 years with 50% increase in charges)
iv. Electric lines (Domestic purpose/service line) crossing for individual Houses, shops, etc. (both underground and overhead)	-do
v. Water/sewage/effluent pipeline crossings for individual up to 300 mm diameter	-do
vi. Electrical crossings by State Electricity Boards & Central Agencies.	-do
vii. Underground water/sewage and effluent pipelines (other than v above)	10 % of cost of acquisition or market value, whichever is higher (for the land set apart for way leave) per annum, subject to a floor of Rs. 25,000/- per annum. (Way leave agreement can be entered for 5 years. Way leave charges subject to 7% increase per annum during the currency of agreement- Renewal of agreement after 5 years will be at the discretion of KMRL with minimum 7% annual increase in way leave charges from the previous year)
viii. Underground/Overhead electrical crossing other than	-do

	covered under iv and vi above, and other than for cable TV/OFC	
ix.	Open drains and over ground water/sewage/Oil/Gas/effluence pipelines by private parties (including public sector undertakings)	-do
x.	Underground Oil/Gas/Pipelines	-do
xi.	Underground/Overhead cables and alignments in favour of department of tele communications /Bharat Sanchar Nigam Limited/Other telecom operators. This include laying of Optic Fiber Cable(OFC)	6 % of cost of acquisition or market value, whichever is higher (for the land set apart for way leave) per annum, subject to a floor of Rs. 25,000/- per annum. (Way leave agreement can be entered for 5 years. Way leave charges subject to 7% increase per annum during the currency of agreement- Renewal of agreement after 5 years will be at the discretion of KMRL with minimum 7% annual increase in way leave charges from the previous year)

Note-(i) Acquired land means land which is acquired/purchased/surrendered for the Kochi Metro Project.

(ii) Way leave charges will be calculated based on the cost of acquisition/market value as on the date of original application for way leave facility by the applicant.

(iii) If the cost of acquisition/purchase cost is revised upwards by interference of courts or otherwise, such increased cost will be applicable and arrears also will have to be remitted by the applicant.

(iv) Annual way leave charges shall be remitted every year in advance. Way leave charges for longer tenure shall be remitted upfront.

7. Opening of any kind into KMRL land /air space should not be permitted. This includes drops and sprouts from buildings, supports for building, wires, poles and other such needs of permanent nature.

8. For calculating these charges, in the case of electrical crossings, cables and pipelines the width of land for calculating way leave charges may be decided by providing for extra safe area around such crossings/cables/pipelines etc. on both sides. The area may be decided by GM (O & M)/GM (Projects) as the case may be. In case of any crossing, minimum width of land is to be taken as 1 meter for the purpose of assessment of way leave charges. The payment of wayleave charges for the shadow area, i.e area which becomes non-utilizable as it may be covered by the shadow of overhead cables/pipes etc. also shall be regulated as above.

9. In all the above cases of way leave facilities, no construction (whether permanent, quasi permanent or temporary), other than a kuccha or pucca road in cases the facility is expressly given for the same, is to be permitted on KMRL land. If any construction is noticed, the same should be removed immediately, and the way leave facility discontinued forthwith.

10. The decision for granting renewal of way leave facilities can be delegated to Director in charge of Estate. Way leave facilities involving stretch of KMRL land more than 200 sq.m in a single case, can be permitted only with the approval of the Project Management Committee of KMRL.

11. All way leave proposals should be processed by the Estate Department. Way leave facilities should not be granted as a matter of routine, but only after consideration of each case on merits based on a site inspection. Special care should be taken to see that the way leave facility does not in any way impinge on the safety and security of Metro operations and KMRL property. Estate Department shall obtain specific recommendations/ comments from GM (O &M) or GM (Projects) as the case may be, and shall obtain remarks from the Head of Legal Dept before placing the proposal before Director (Finance) for obtaining final approval by MD.

12. Way leave permission in respect of open drainage and surface/overhead pipelines, should be allowed only in totally unavoidable cases.

13. In all cases of way leave facility granted, proper agreement should be executed. Agreement should provide for revision of way leave charges from time to time, as provided in the policy.

14. Way leave permission should be accorded only after ensuring that financial interests of KMRL are not affected in any manner, ie. by way of loss of traffic, loss of Revenue etc. by granting such permission. Suitable clause securing financial interest of KMRL may be provided in the agreement to be executed with the party whenever necessary.

15. Calculation of annual increase should be on the basis of actual way leave charge and not on the minimum charge specified in paras from 6.I to 6. XI.
