

THE MEGHALAYA TOWN AND COUNTRY PLANNING
ACT, 1973

An

Act

To provide for the development of the Towns and Country sides
of the State of Meghalaya

Preamble.—Whereas it is expedient to provide for the Development of the towns and the country sides of the State of Meghalaya on sound planning principles with the object of securing proper sanitary conditions, to conserve and promote the public health, safety and general welfare of the peoples living therein.

CHAPTER I

PRELIMINARY

1. **Short title, extent and commencement.**—(1) This Act may be called the Meghalaya Town and Country Planning Act, 1973,

(2) It shall extend to the whole of Meghalaya excluding the Autonomous Districts:

Provided that if any District Council desires that all or any of the provisions of this Act should apply to the Autonomous District concerned, a notification may be issued to that effect and this Act shall then extend to that Autonomous District subject to such exceptions or modifications as may be specified in the notification.

2. **Definitions.**—In this Act, unless there is anything repugnant in the subject or context:—

(1) "Authority" shall mean the Local or Regional Authority appointed by the State Government for the purposes of administering the Act. Unless otherwise appointed by the State Government the Authority in the case of Municipal Areas shall be taken to mean the Municipal Board for the area constituted under the Assam Municipal Act, 1956 (as adapted by Meghalaya).

(2) "Advisory Council" means that Town and Country Planning Advisory Council constituted under Section 3 of this Act.

(3) "Betterment Fee" means the fee prescribed in respect of an increase in the value of land resulting from the execution of Development Scheme.

(4) "Building" means any construction for whatsoever purpose and of whatsoever materials constructed and every part thereof whether used as human habitation or not and include plinth walls, chimney, drainage works, fixed platforms, verandah balcony, cornice or projection, or part of a building on anything affixed thereto or any walls, earth bank, fence or other construction enclosing or delimiting or intended to enclose or delimit any land or space.

(5) "Building Industrial" means a building which is wholly or predominantly used as a warehouse, factory, distillery, iron foundry and all other buildings put to or be put to any use permitted in the zone by an authorised scheme applicable thereto.

(6) "Director" means Director of Town and Country Planning or any other Officer appointed by the State Government.

(7) "Development" means the carrying out of building, Engineering, Mining or other operations in, on, or over the land, or material change in the use of any buildings or of land :

Provided that the following operations or uses of land shall not be deemed for the purposes of this Act to mean Development of the land, that is to say—

- (a) the carrying out of works for the maintenance, improvement or other alteration of any building being works which effect only the interior of the building or which do not materially affect the use and the external appearance of the building ;
- (b) the carrying out by a local authority of any works required for the maintenance or improvement of road, being works carried out on land within the boundaries of the road ;
- (b) the carrying out by any local authority any works for the purposes of inspecting, repairing or renewing and sewers, main pipes, cables or other apparatus, including the breaking open on any street or other land for that purpose ;
- (d) the use of any building or other land within the curtilage of a dwelling house for any purpose incidental to the enjoyment of the dwelling house as such.

(8) "Factory" means a place to which the provisions of the Indian Factories Act of 1934 or any amendment thereof shall apply.

(9) "Industrial Concern" means a commercial body, e. g. a factory, workshop and a mill, or any concern of similar nature where materials are manufactured, repaired, altered or processed.

(10) "Master Plan" means a plan as defined under section 9 and shall comprise of items (a) to (e) of section 11.

(11) "Occupier" includes any person paying or liable to pay the rent or any portion of the rent of the land or building in respect of which the work is due or compensation of premium on account of the occupation of such land and building and also a rent free tenant.

(12) "Open Space" means any land whether enclosed or not, on which not more than one twentieth part is covered with building and whole of the remainder has been laid out as a public garden or used for purposes of recreation or lies waste and unoccupied.

(13) "Prescribed" means prescribed by rules made under this Act.

(14) "Reconstituted Plot" means a plot which is in any way altered by the making of a Development Scheme.

(15) "Road" means and includes any highway, street, land, pathway, alley, passageway, carriageway, footway, square, bridge whether private or public, whether thoroughfare or not, whether existing or proposed in any scheme and includes all bunds, channels, ditches, drains, culverts, side walls and traffic islands.

(16) "Scheme" means a development scheme and include a plan or plans together with the descriptive matter if any relating to such a scheme.

CHAPTER II

Constitution of the Advisory Council

3. Constitution of the Town and Country Planning Advisory Council. The State Government may constitute, by a notification in the official Gazette, the Council consisting of the following members to advise the Government on matters referred to it :—

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|---|-----------|
| (i) Minister-in-charge of Town and Country Planning | Chairman |
| (ii) Director of Town and Country Planning Department. | Secretary |
| (iii) Secretary, Town and Country Planning Department. | Member |
| (iv) Chief Engineer, Public Works Department (R & B) or his nominee. | Member |
| (v) Chief Engineer, Public Works Department (Flood Control) or his nominee. | Member |
| (vi) Public Health Engineer or his nominee | Member |
| (vii) Secretary, Local self-Government or his nominee. | Member |

- (viii) Secretary, Finance Department or his nominee Member
- (ix) Secretary, Revenue Department or his nominee Member
- (x) Six other non-official members half of whom shall be elected by the Assembly and the rest shall be nominated by the State Government.
- (xi) Such members or representative of Local Authorities falling within the area as may be covered by the Master Plan not exceeding two as may be co-opted by the council by notification, published in the official gazette.

2. Five of the members attending any meeting of the Council shall form the quorum for the purpose of transacting the business of the meeting of the Council.

3. All members of the Council including the co-opted members shall have one vote each and the Chairman shall have a casting vote in case of equality of division, in addition to his own vote.

4. Nothing done by the Council in its meeting shall be held to be invalid because of any vacancy in the seats of the nominated or elected members or the absence of any of the members for any reason whatsoever.

5. The Chairman shall preside over the meeting of the Advisory Council and in his absence the members present shall elect one among themselves to be the president for the particular meeting.

4. Resignation of non-official members. Any non-official members may at any time resign his office, provided that his resignation shall not take effect until accepted by the State Government.

5. Term of Office. The term of office of any non-official member shall ordinarily be three years :

Provided that in case of the members representing the Legislature or Local Authorities, their terms of office shall terminate as soon as they cease to be members of such Legislature or Local Authority as the case may be.

6. Commencement of the term of Office of non-official members—

1. The term of Office of non-official members shall commence on such date as may be notified in this behalf by the State Government.

2. A person ceasing to be member by reason of the expiry of his term of Office as described in section 5, shall be eligible for renomination or re-election.

7. Removal of non-official members—The State Government may remove from the Council any member who :—

- (a) refuses to act, or becomes incapable of acting or absent himself from three consecutive meeting of the Council and is unable to explain such absence to the satisfaction of the Council; or

(b) has so flagrantly abused in any manner his position as a member of the Council as to tender his continuance detrimental to the public interest;

Provided that when the State Government, proposes to take action under the foregoing provisions of this section, an opportunity of explanation shall be given to the member concerned and when such action is taken, the reasons thereof shall be placed or recorded.

8. Filling of casual vacancies—(1) When the place of a member nominated by the State Government becomes vacant by his resignation, removal or death, the State Government shall appoint a person to fill the vacancy.

(2) When the place of a member elected or co-opted becomes vacant, he shall be elected or co-opted by the Legislature or the Council as the case may be.

(3) The term of Office of a member nominated or elected or co-opted as the case may be under sub-section (1) and (2) shall be the remainder of the term of Office of the member in whose place he has been nominated or elected or co-opted.

CHAPTER II A

CONSTITUTION OF THE DEVELOPMENT AUTHORITY

8-A Constitution of the Authority—(1) The State Government may by notification in the official Gazette constitute for the purpose of this Act, an authority to be called "The Development Authority" (hereinafter referred to as the Authority) with jurisdiction over such areas as may be specified in the said notification :

Provided that if the State Government is of opinion that in the exigencies of public service it is necessary to do so it, may, instead of constituting the Authority, appoint an Administrator to exercise all the powers of the Development Authority under this Act.

The Administrator so appointed shall be deemed to be the Development Authority constituted under this Act and shall hold office during the pleasure of the Governor.

(2) The Authority shall be a body corporate having perpetual succession and a common seal with power to acquire, hold and dispose of properties both movable and immovable and to enter into any agreement, and shall by the said name sue and be sued.

NOTES

This Section was inserted *vide* the Assam Act No. XXXII of 1962 under new Chapter-IIA, published in the Assam Gazette, dated the 26th November, 1962, to come into force on such date as the State Government may by notification in the official Gazette, appoint. Notwithstanding anything contained in the principal Act and any rule made thereunder, any action taken by any Authority constituted before the coming into force of this Amendment Act shall be deemed to have been validly taken

as if the Authority was duly constituted under the Principal Act, as amended by this Amendment Act, and no action of such Authority shall be called in question in any Court on the ground of incompetency of the Authority to act under the principal Act as amended herein.

8-B. (1) **Composition of the Authority.**—The Authority shall consist of the following members, namely :

- (a) A Chairman to be appointed by the State Government ;
- (b) Engineer-in-Chief of the Authority to be appointed by the State Government ;
- (c) Town Planner Officer of the Authority to be appointed by the State Government ;
- (d) Finance Officer to be appointed by the State Government
- (e) Deputy Commissioner or Sub-divisional Officer, as the case may be ;
- (f) Chairman or Chairmen of the Local Authority or Authorities covered by the Master plan ;
- (g) One member representing Commerce and Industry (Private Sector) to be nominated by the State Government ;
- (h) One member representing the Railways, to be nominated by the State Government ;
- (i) One member representing Industry (Public Sector) to be nominated by the State Government ;
- (j) One person each from the Local authorities covered by the Master Plan to be elected by the members at a meeting from amongst them.

(2) **Notification of members** The name of the members elected and appointed shall be published in the official Gazette.

(3) **Disqualification for election or appointment as member**—A person shall be disqualified for appointment, nomination or election as a member, if he—

- (a) has been convicted of any offence involving moral turpitude ;
- (b) is an applicant to be adjudicated as a bankrupt or insolvent or is an uncertificated bankrupt or undischarged insolvent ;
- (c) holds any office of profit under the Authority except those mentioned in Cls. (a), (b), (c) and (d) of Sub-section (1) ;
- (d) has directly, or indirectly, by himself or by any partner, any share or interest, in any contract or employment with, by, or on behalf of the Authority ; or,

(e) is a Director or a Secretary Manager or other salaried officer of any incorporated company which has any share or interest in any contract of employment with by or on behalf of the Authority.

(4) Removal of members. The State Government may remove from the Authority any member including the Chairman who—

(a) refuse to act or becomes incapable of acting or absent himself from three consecutive meetings of the Authority and is unable to explain such absence to the satisfaction of the Authority.

(b) has so flagrantly abused in any manner his position as a member of the Authority as to render his continuance detrimental to the public interest:

Provided that when the State Government proposes to take any action under any of the above provisions no opportunity shall be given to the member concerned to show cause why action as proposed should not be taken against him.

(c) ceases to be a member of the local Authority from which he was elected.

(5) A member removed under Clause (a) and (b) of sub-Section (4) shall not be eligible for re-appointment as the case may be.

NOTES

This Section was inserted *vide* the Assam Act No. XXXII of 1962 under new Chapter II-A, published in the Assam Gazette, dated the 26th November, 1962, to come into force on such date as the State Government may by notification in the official Gazette, appoint. Notwithstanding anything contained in the principal Act and any rule made thereunder, any action taken by any Authority constituted before the coming into force of this Amendment Act shall be deemed to have been validly taken as if the Authority was duly constituted under the principal Act as amended by this Amendment Act and no action of such Authority shall be called in question in any Court on the ground of incompetency of the Authority to act under the principal Act as amended herein.

8-C. Term of and conditions of service of the Chairman and member of the Authority. (1) The term of office and condition of service of the Chairman and members of the Authority shall be such as may be prescribed and they shall be entitled to receive such salaries and allowances as may be fixed by the State Government.

(2) The Chairman or any member may resign his membership of the Authority by giving notice in writing to the State Government and on the resignation being accepted by the State Government he shall cease to be a member of the Authority.

(3) Any vacancy created by resignation or removal shall be filled by fresh appointment or nomination by the State Government or by elections as the case may be.

NOTES

This Section was inserted *vide* the Assam Act No. XXXIII of 1962, under new Chapter II-A, published in the Assam Gazette dated the 26th November, 1962, to come into force on such date as the State Government may by notification in the official Gazette, appoint. Notwithstanding anything contained in the principal Act and rule made thereunder any action taken by any Authority constituted before the coming into force of this Amendment Act shall be deemed to have been validly taken as if the Authority was duly constituted under the principal Act as amended by this Amendment Act and no action of such Authority shall be called in question in any Court on the ground of incompetency of the Authority to act under the principal Act as amended herein.

8-D Functions and powers of the Authority—Subject to the provision of this Act rules and directions of the State Government the functions of the Authority shall be to promote and secure the development of the area according to the Master Plan and for that purpose it may carry out or cause to be carried out surveys of the area and to prepare report or reports of such surveys and to perform any other function which is supplemental incidental or consequential to any of the functions aforesaid or which may be prescribed.

NOTES

This Section was inserted *vide* the Assam Act No. XXXII of 1962, under new Chapter II—A, published in the Assam Gazette, dated the 26th November, 1962, to come into force on such date as the State Government may, by notification in the official Gazette, appoint. Notwithstanding anything contained in the principal Act and any rule made thereunder, any action taken by any Authority constituted before the coming into force of this Amendment Act shall be deemed to have been validly taken as if the Authority was duly constituted under the principal Act, as amended by this Amendment Act, and no action of such Authority shall be called in question in any Court on the ground of incompetency of the Authority to act under the principal Act as amended herein.

8-E. Meeting of the Authority. (1) Each Authority shall meet once in a month at such time and place and shall subject to the provision of sub-Sections (2) and (3), observe such procedure in regard to the transaction of business at its meeting, as may be prescribed by bye-laws to be framed under Section 74 of this Act.

(2) The Chairman, or in his absence any member chosen by the members from amongst themselves, shall preside at a particular meeting of the Authority.

(3) All questions of the meeting of the Authority shall be decided by a majority of the votes of the members present and voting and in the case of an equality of votes, the person presiding shall have a second casting vote.

(4) Nothing done by the Authority in its meeting shall be held to be invalid because of any vacancy in the seats of the appointed nominated or members or the absence of any of the members for any reason

(5) Minutes shall be kept of the names of the members present and of the proceedings at each meeting in a book to be kept for this purpose, which shall be signed at the next ensuing meeting by the person presiding at such meeting, and shall be opened to inspection by any member during office hours.

NOTES

This Section was inserted *vide* the Assam Act No. XXXII of 1962 under new Chapter II—A, published in the Assam Gazette, dated the 26th November, 1962, to come into force on such date as the State Government may, by notification in the official Gazette, appoint. Notwithstanding anything contained in the principal Act and any rule made thereunder, any action taken by any Authority constituted before the coming into force of this Amendment Act shall be deemed to have been validly taken as if the authority was duly constituted under the principal Act, as amended by this Amendment Act, and no action of such Authority shall be called in question in any Court on the ground of incompetency of the Authority to act under the principal Act as amended herein.

8-EE. Powers of Chairman.—The Chairman shall for the transaction of the business connected with this Act or for the purpose of making any order authorised thereby, exercise all the powers vested by the Act in the Authority:

Provided that the Chairman shall not act in opposition to, or in contravention of any order of the Authority at a meeting or exercise any power which is directed to be exercised by the Authority at a meeting.

NOTES

This section was inserted *vide* Assam Act No. XXVI of 1964, Published in the Assam Gazette, dated the 3rd December, 1964 to come into force on such date as the State Government may, by notification in the official Gazette, appoint.

8-F. Temporary association of persons with the Authority for particular purposes.—(1) The Authority may associate with itself in such manner and for such purposes as may be prescribed by rules with any person whose assistance or advice it may desire in performing any of its functions under this Act.

(2) Any person associated with it by the Authority under sub-Section (1) for any purpose shall have a right to take part in the discussion of the Authority relevant to that purpose but shall not have a right to vote at a meeting and shall not be a member for any other purpose.

NOTES

This Section was inserted *vide* the Assam Act No. XXXII of 1962, under new Chapter II—A, published in the Assam Gazette dated the 26th November, 1962, to come into force on such date as the State Government may, by notification in the official Gazette, appoint. Notwithstanding anything contained in the principal Act and any rules made thereunder, any action taken by any Authority constituted before coming into force of this Amendment Act shall be deemed to have been validly taken as if

the Authority was duly constituted under the principal Act, as amended by this Amendment Act, and no action of such Authority shall be called in question in any Court on the ground of incompetency of the Authority to act under the principal Act as amended herein.

8-G. Staff of the Authority.—(1) Subject to such control and restriction as may be prescribed by rules, the Authority may appoint such number of Officers and employees as may be necessary for the efficient performance of its functions and may determine their designations and grades.

(2) The Officers and employees of the Authority shall be entitled to receive such salaries and allowances, if any, as may be fixed by the Authority and shall be governed by such terms and conditions of service as may be determined by rules and regulations made in this behalf.

NOTES

Section 8-G was inserted *vide* Assam Act No. XXXII of 1962, under new Chapter II-A, published in the Assam Gazette, dated the 26th November, 1962, to come into force on such date as the State Government may, by notification in the official Gazette, appoint. Notwithstanding anything contained in the principal Act and any rule made thereunder, any action taken by any Authority constituted before the coming into force of this Amendment Act shall be deemed to have been validly taken as if the Authority was duly constituted under the principal Act, as amended by this Amendment Act, and no action of such Authority shall be called in question in any Court on the ground of incompetency of the Authority to act under the principal Act as amended herein.

CHAPTER III

MASTER PLAN

9 Preparation of Master Plan.—A Master Plan hereinafter referred to as "Plan" in this Act for the development of any area within the State which the State Government may consider necessary, shall be drawn up by the Director in consultation with the local authorities concerned and submitted to the State Government for examination and approval.

10. Publication of Master Plan.—(1) On receiving the Plan and the Zoning regulation from the Director, the State Government shall have them, as soon as may be, published in the official Gazette, in some local newspapers and in the locality in the manner prescribed and deemed to be required for wide and sufficient publicity in the locality inviting public opinion and objection, if any, to be submitted within a period not more than two months.

(2) After considering all objections, suggestions and representations that may have been received, and after getting the advice of the Council, the State Government shall have the Plan finally prepared by the Direc-

NOTES

In sub-section (1) between the words "the" and "Regulations" the word "zoning" was inserted and at the end of sub-section (2), the words "and adopt" "the same" were inserted with the Assam Act No. XXXII of 1962, published in the Assam Gazette, dated 26th November, 1962.

11. Contents of Master Plan and Zoning Regulations.—The Master Plan to be prepared as defined under section 9 may include—

- (a) A general land use plan for residential, commercial, industrial, recreational and public and semi-public purposes ;
- (b) Zoning Plan ;
- (c) Transportation plan including roads, railways, canals, etc. ;
- (d) Public utilities plan ;
- (e) A report giving relevant data and information in respect of the proposals in the Plan and any other things which the State Government may deem necessary.

After adoption of the plan and Zoning Regulations they shall be sent by the State Government for implementation to the Authority constituted under S. 8-A

12. Implementation of the plan.—After the adoption of the plan and the Regulations they shall be sent for implementation to the Authority as may be declared or constituted by the State Government in this behalf.

NOTES

This section was substituted *vide* the Assam Act No. XXXII of 1962, published in the *Assam Gazette*, dated the 26th November, 1962 and the original S.12 read as follows.

"12. After the adoption of the plan and the Regulation, they shall be sent for implementation to the Authority as may be declared or constituted by the State Government in this behalf"

13. Restrictions of use of land and buildings thereon after publication—

(1) The plan as adopted by the State Government shall be published as prescribed in Section 10, and after such publication no person shall use any land, sub-divide any land or set up any new structure on any land covered by the plan or change the existing structure of any building or used of any building or land within the area except with the permission of the Authority on a written application submitted for the purpose.

(2) Each such application shall be accompanied by a plan drawn to scale showing the actual dimension of the parcel of the land and the building to be built upon, its site and the position of the building to be erected and in case of alteration in the use of structure of the building or land, the nature and extent of such alteration

(3) The Authority may also call for such other information as it may deem necessary to examine the application.

(4) The Authority shall not refuse the permission except on the ground of contravention of proposals contained in the plan or the Regulation and unless the permission has been refused within a period of one month from the receipt of the application or such information as may be called for by the Authority under sub-S. (3), it shall be presumed that the permission has been given.

13-A. Prohibition of registration in certain cases.—Where any deed or document required to be registered under the Indian Registration Act, 1908, purports to sub-divide any land covered by the plan, no registering officer shall register any such document unless the party presenting the deed or document for registration produces a 'No Objection Certificate' from the Authority to the effect that the authority has no objection to the registration of such deed or document.

NOTES

This Section was inserted vide the Assam Act No. XVIII of 1963, published in the Assam Gazette, dated the 20th July 1963, to come into force on such date as the State Government may by notification in the official Gazette, appoint.

14. Power of the State Government to modify the plan and the Regulation.—The State Government may review the plan and may modify the plan and the Zoning Regulations from time to time, in such manner and in such procedure as followed for the preparation and approval of the original Plan and the Zoning Regulations.

NOTES

In this Section the word "Zoning" was inserted vide Assam Act No. XXII of 1962, published in the Assam Gazette, dated the 20th November, 1962.

CHAPTER—IV

DEVELOPMENT SCHEME

15. Preparation of development scheme. (1) After the commencement of this Act, the Authority may, by notification in the official Gazette, declare any area to be a scheme area and shall thereafter prepare a scheme. Where no Authority has been constituted, the State Government may, by notification in the official Gazette, declare any area to be a scheme area and the Director shall thereafter prepare a Scheme.

(2) Notwithstanding anything contained in Sub-S. (1), the State Government may, after making such enquiry as they may deem necessary by notification in the official Gazette direct any local Authority to prepare, publish and submit for their sanction before an appointed date a scheme under this section for an area specified in such notification.

(3) While preparing the scheme, the Authority, the Director or the local Authority, as the case may be, shall issue a notice inviting names of all the claimants or any person interested in any land or building within the area under the scheme to be submitted within a period not more than one month.

(4) **Save as provided in this Act the Authority.** Director or local Authority shall not undertake or carry out any development of land in any area which is not a scheme area.

(5) **After the commencement of this Act, no development of land shall be undertaken** or carried out in the scheme area by any person or body of person except in the manner prescribed under S. 13 of this Act.

NOTES

This section was substituted vide the Assam Act No. XXXII of 1962, published in the Assam Gazette, dated the 26th November, 1962.

16. Publication of the Development Scheme. (1) The Authority, the Director or the local Authority, as the case may be, shall have the scheme and the report and the names of all the claimants published in the manner prescribed under sub-S. (1) of S. 10 and have a copy of them served on all persons who preferred claims under sub-S. (8) of S. 15, inviting objection to be filed within a period of not more than two months.

(2) **After the expiry of the aforesaid period, the Authority** the Director or the local Authority, as the case may be, shall examine the scheme in the light of such objection giving sufficient opportunity for hearing all such interested persons who have filed objections, and demanded a hearing in the manner prescribed, and shall approve or refuse to approve or approve with such modification as it may deem necessary, for the implementations of the scheme and for imposing for that purpose reasonable restrictions in the use of land and building within the area.

(3) After the Authority, the Director or the local authority as the case may be, has adopted the schemes it shall be forwarded to the State Government for its approval and sanction, if so required under any rule prescribed, otherwise the scheme will come into force the date the scheme is adopted.

NOTES

This section was substituted vide the Assam Act No. XXXII of 1962, published in the Assam Gazette, dated the 26th November, 1962.

17. Implementation of the Development Scheme.—No person shall within any area where scheme has come into force, erect or proceed with any building or work or remove or alter or make additions or make any substantial repair to a building or a part of it, a compound wall or any drainage work or remove any earth or change the use of land or building except on permission of the Authority on application submitted for the purpose. Unless the permission has been refused within one month from the date of receipt of the application it shall be presumed that the permission has been given.

NOTES

The original sub-section (1) which deleted *vide* Assam Act, No XXXII of 1964, published in the Assam Gazette, dated 26th November, 1962 read as follows:—

“(1) The Scheme shall come into force from the date fixed by the Government in sanctioning the scheme and shall be implemented by such Authority as may be authorised by the State Government in that behalf”.

18. Scope of the Development Scheme.—(1) A scheme may be made in accordance with the provisions of the Act in respect of any land which is—

- (a) in the course of development.
- (b) likely to be used for building purposes, or
- (c) already built upon.

Explanation.—The expression “Land likely to be used for building purposes” shall include any land likely to be used as, or for the purpose of providing open space, roads, streets, parks, pleasure or recreational grounds, parking spaces or for the purpose of executing any work upon or under the land incidental to a scheme, whether in the nature of a building work or not.

(2) Such scheme may make provisions for any of the following matters:

- (a) the laying out or re-laying of land either vacant or already build upon;
- (b) the filling up or reclamation of low—lying swamp or unhealthy areas or levelling up of land;
- (c) lay out of new streets or roads, construction, diversion, extension, alteration, improvement and stopping up of street, roads and communication;
- (d) the construction, alteration and removal or building bridges and other structures;
- (e) the allotment of reservation of land for roads, open spaces, gardens, recreation grounds, school market industrial and commercial activities, green belt and dairies transport facilities and public purposes of all kinds;
- (f) drainage inclusive of sewerage, surface or sub-soil drainage and sewage disposal;

- (g) lighting;
 - (h) water Supply;
 - (i) the preservation of objects of historical importance or natural beauty and of buildings actually used for religious purposes;
 - (j) the imposition of conditions and restrictions in regard to the open space to be maintained about buildings, the percentage of building area for a plot, the number height and character of buildings allowed in specified areas, the purpose to which building specified areas may or may not be appropriate, the sub-division of plots, the discontinuance of objectionable uses of land in any area in reasonable periods, parking space and loading and unloading space for any building and the sizes of projections and advertisement signs;
 - (k) the suspension, so far as may be necessary for the proper carrying out of the scheme, of any rule, bye-law, regulation, notification or order made or issued under any Act of the State Legislature or any of the Acts which the State Legislature is competent to amend;
- (1) such other matter not inconsistent with the objects of this Act-
- (3) The draft scheme shall contain the following particulars:
- (a) the area, ownership and tenure of each original plot;
 - (b) the land allotted or reserved under Cl. (e) of sub-rule (2) of S. 18 with a general indication of the uses to which such land is to be put and the terms conditions subject to which such land is to be put to such cases;
 - (c) the extent to which it is proposed to alter the boundaries of original plots;
 - (d) an estimate of the net cost of the scheme;
 - (e) a full description of all details of the scheme under such clause of sub-S. (2) of S. 18, as may be applicable.
 - (f) the laying out or re-laying out of land either vacant or already built upon;
 - (g) the filling up or reclamation of low-lying swamp or unhealthy areas or levelling up of land; and
 - (h) any other prescribed particulars.

(4) In the scheme the size and shape of every re-constituted plot shall be determined, so far as may be, to render it suitable for building purposes and where the plot is a ready built upon, to ensure that the building as far as possible complete with the provisions of the scheme

(5) In order to render original plots more suitable for building purposes the scheme may contain proposals—

(a) to form a reconstituted plot by the alteration of the boundaries of an original plot ;

(b) to provide with the consent of the owners that two or more original plots each of which is held in one ownership in severalty or in joint ownership, shall hereafter, with or without alteration of boundaries be held in ownership in common as a reconstituted plot.

(6) The Scheme shall include all such provisions as the Authority may think necessary for carrying out the object of the Act including the following matters :

(a) the laying out or re-laying out of land, either vacant or already built upon ;

(b) the filling up or reclamation of low lying swamp or unhealthy areas or levelling up of land ;

(c) lay out of new street or roads, construction, diversion, extension alteration, improvement and stopping up of streets, roads and communications ;

(d) the construction, alteration and removal of buildings, bridges and other structures ;

(e) the allotment or reservation of land for roads, open spaces gardens, recreation grounds, schools, markets industrial and commercial activities, green belts and dairies, transport facilities and public purpose of all other kinds ;

(f) drainage inclusive of sewerage, surface of sub-soil drainage and sewage disposal ;

(g) lighting ;

(h) water supply ;

(i) the preservation of objects of historical importance or natural beauty and of buildings actually used for religious purpose.

19. Amendments and alterations of the development Scheme.—

(1) If after the final scheme has come into force, the Authority considers that the scheme is defective on account of an error or irregularity or for any other reason, it shall refer to the State Government to modify or withdraw the scheme and to publish the modified or withdrawn scheme in the manner prescribed in sub-section (1) of Section 10.

(2) The modification of the scheme shall state every amendment proposed to be made in the scheme and if any such amendment relates to matter specified in any or all of the Cls. (a) to (1) of Sub-section (2) of Section 18, the modification shall also contain such other particulars as may be found necessary by the Authority.

(3) The variation shall be opened to inspection by the public at the Office of the Local Body or Bodies as prescribed covering the area during office hours.

(4) Within one month of the date of publication of the modification any person affected thereby may communicate in writing his objection to the Authority.

(5) After receiving the objection under sub-section (4) above, the Authority may, after making such enquiry as it may think fit, approve the proposed modification with or without any further modification thereof.

(6) Such modification shall take effect as if it were incorporated in the scheme from the date of its modification.

(7) The Authority shall thereafter submit the modified scheme to the State Government for sanction. The modified scheme shall be published after sanction as prescribed in sub-section (1) of section 10.

24 Power to revoke the Development Scheme—(1) Notwithstanding anything contained in Section 19 a scheme may at any time be modified or revoked by a subsequent scheme made, published and sanctioned in accordance with this Act.

(2) The State Government, at its own initiative or on the application of the Authority may at any time by a notification in the official Gazette revoke a scheme, if it is satisfied that under the special circumstances of the case the scheme shall be so revoked :

Provided that where revocation or modification is ordered by Government after people have partially or wholly implemented a scheme, compensation should be paid for the necessary alterations in the manner prescribed.

2. Power of the Authority to impose restriction.—For the purpose the Master Plan the Land use and Zoning Regulation and the Scheme, the Authority may impose reasonable restrictions on the use of the land and buildings including the regulating of the open space to be maintained around the building or buildings, the percentage of the plot area to be covered by building or buildings, the number of building or buildings on each plot, height and character of building or buildings allowed in specified areas, the purpose for which building or buildings of the specified areas may or may not be used, the sub-divisions of plots parking space and loading and unloading space for any building and the sizes of projections and such other matters not inconsistent with the object of this Act.

CHAPTER V

Streets and Land Sub-divisions

22. Width of public streets.—(1) The Authority shall, from time to time with the sanction of the State Government, specify the minimum width for different cases of public streets, according to the nature of the traffic likely to be carried there, the localities in which they are situated, the height up to which buildings abutting thereon may be erected and other similar considerations.

(2) The width of a new public street shall not be less than that prescribed in sub-section (1), or that shown on the Master Plan for the class to which it belongs in areas for which a Master plan has been prepared.

23. Power to prescribe street lines.—The Authority may prescribe a line on one of both sides of any public street provided a public notice of the proposal has been issued by the Authority in the prescribed manner. No person shall construct or reconstruct any portion of any prescribed new street line.

24. Setting back buildings to the prescribed street line.—(1) If any building or any part of a building abutting on a public street is within such line of the street, the Authority may require such building to be set back to the prescribed line, whenever it is proposed:—

(a) to re-build such building or to take down such building;

(b) to remove, reconstruct or make any addition to or structural alteration in any portion of such building which is within the regular line of the street.

(2) When any building or any part thereof within the prescribed line of the street falls down or is burnt down or is taken down, under the provisions of this Act or otherwise, the Authority may at once take possession of the portion of land within the prescribed line of the street previously occupied by the said building and if necessary, clear the same.

(3) Land acquired under the foregoing sub-sections shall, henceforward be deemed to be a part of the public street.

25. Acquisition of land within the line of street.—If any private land whether open or enclosed lies, within prescribed line of a public street and is not occupied by a building or, if a platform, verandah, steps, compound wall, hedge, or fence or other structure, is within the line of such street the Authority may after giving the owner of the land or building a notice of the intention to do so take possession of the said land with its enclosing wall, hedge or fence, if any, or of the said platform verandah, steps, or such other structure as aforesaid of the portion of the said platform, verandah, steps, or other such structure as aforesaid is within the prescribed line of the street.

26. Acquisition of the remaining part of building and land after their portions within a prescribed line of the street are acquired.—If a building or land is partly within the prescribed line of a public street and if the Authority is satisfied that the land remaining after the exclusion of the portion within the said line will not be suitable or fit for construction of independent building the Authority shall acquire the remaining portion of the land, if so desired by the owner.

27. Sub-division of private land.—(1) Every person who intends to sub-divide any plot of land within the Master Plan Area shall give notice in writing to the Authority of his said intention and such notice shall be accompanied by the Plans and statement in triplicate.

(2) All plans for sub-division of land shall be in accordance with the standard prescribed by the State Government.

28. Plans accompanying notice.—A layout plan drawn to a suitable scale and containing the following information shall accompany the notice given under S. 27;

- (a) The location of the land,
- (b) The boundaries of the proposed land shown on the map, and sufficient description to define the same.
- (c) Name and address of the owner of the land,
- (d) Location, name and present widths of the adjacent road and lanes;
- (e) The major physical characteristics of the land proposed to be sub-divided, including topography the approximate location and widths of any water course and location of any areas subject to inundation or flood;
- (f) The complete layout of the proposed sub-division showing the location and widths of all the proposed streets, dimensions and uses of all the plots;
- (g) The locations of all drains, sewers and other utilities;
- (h) Building lines permissible;
- (i) Scale and north line;
- (j) Key plan.

29. Sanction with or without modification or refusal. (1) The Authority may either grant or refuse the approval to the plans or may approve them with such modification as it may deem fit and thereupon shall communicate its decision to the person giving the notice within three months from the date of the notice.

(2) No person shall be allowed to construct a building on any plot of land, the sub-division of which has not been previously approved by the Authority.

30. **Layout not according to plan.**—Should the Authority determine at any stage that the layout or the construction is not proceeding according to the sanctioned plan or is in violation of any provisions of this Act, it shall serve a notice on the applicant requiring him to stay further execution until correction has been effected in accordance with the approved plan.

31. **Penalty for violation** —The Authority will have the power to impose fine not exceeding Rs.250 on any person, firm or corporation who violates, disobeys, refuses to comply with, or who resists the enforcement of any of the provisions of this Act. Continuation of the violation shall constitute a separate offence for which a fine of Rs.50 per day may be imposed for the days after the first conviction. An appeal shall lie to the Appellate Authority constituted under this Act.

CHAPTER VI
ACQUISITION OF LAND

32. Power of State Government to acquire land.—Where on the representation of the Authority it appears to the State Government that in order to enable it to execute the scheme it is necessary that the land within adjoining or surrounded by any such area should be acquired, the State Government may in consultation with the council acquire the land by publishing in the official Gazette a notice to the effect that the State Government has decided to acquire the land in pursuance of this Section.

33. Proceeding for acquisition of land.—(1) The provision of the Land Acquisition Act, 1894 (Central Act No. 1 of 1894) shall be applicable for acquisition of land under this Act and the compensation shall be computed under the provisions of the same Act.

(2) In computing compensation for land acquired, the value will be the market value as prevailed on the 1st of January 1957.

(3) The owner of the lands will also be entitled to the reasonable cost of development, if any, made during the period.

(4) Twenty five per cent increase in value on the date of acquisition of the land.

34. Disposing of land.—Subject to the rules made under this Act the Authority may retain lease, exchange or otherwise transfer, any land acquired by it under this Act :

Provided that in case of lease or transfer the owner will get first priority, if due to acquisition he becomes landless.

NOTES

In this Section the words "and with the previous sanction of the State Government" occurring between the words "under this Act" and "the Authority" were deleted by Assam Act No. XXXII of 1962 published in the Assam Gazette, dated the 26th November, 1962.

35. Provisions of private negotiations before compulsory acquisition.—(1) The Authority may, in the first instance make reasonable efforts to purchase any land by private negotiation.

(2) In case of failure to purchase the land by private negotiation within a specified time, the said land shall be compulsorily acquired

(3) Nothing in this section shall, however, debar the State Government or a local authority from compulsorily acquiring any land without prior private negotiation.

36. Payment to owner by adjustment.—All payment due to be made to any person by the Authority, under this Act shall, so far as possible, be made by an adjustment in respect of the plot concerned or of any other plot in which he has an interest and failing such adjustment shall be paid in cash or in such other way as may be agreed upon the parties.

CHAPTER VII

COMPENSATION AND BETTERMENT

37. **Right to compensation.**—Any person whose property is injuriously affected in value by the making of a scheme, shall if he makes a claim for the purpose within a period of three months after the date of publication of a notification sanctioning the scheme under S. 16, be entitled to obtain compensation in respect thereof from the Authority.

38 **No right to compensation.**—A person shall not be entitled to obtain compensation under the foregoing section on account of any building erected on or contract made or other thing done with respect to any land within the area included in a scheme after the date of the notification of the scheme under Section 15.

~~Provided that~~ Provided that this provision shall not apply to any building erected, contract made, other thing done in accordance with the permission granted under Sections 13 and 17 of this Act.

39. **Power of Government to exclude compensation to certain cases.**—(1) No compensation shall be payable in respect of any property which may be injuriously affected by putting into operation of any provision of the scheme which—

- (a) prescribes the space about building ; or
- (b) limits the number of buildings ; or
- (c) regulates the size, height, design or external appearance of building ; or
- (d) prohibits or restrict building operations permanently or temporarily on the ground that erection of building thereon will be likely to be injurious to the health of the occupants or the neighbours or likely to cause excessive expenditure of public money in making provisions for roads, sewers, water supply or other public services ; or
- (e) prohibits or restrict the use of land or a building for a purpose which may involve danger or injury to public hygiene or the health of the occupants or their neighbours or for a purpose which is against the public policy or public morals ; or
- (f) in the interests of safety, regulates the height and position of proposed walls, and building fence or hedges near the corners of bends of roads ; or
- (g) in the case of the erection of any building intended to be used for purposes of business or industry, requires the

(2) No compensation shall be payable for refusal of permission to make any alteration in any building which is not in conformity with the use specified in the plan or in the scheme.

40. Right of owners to require Authority to acquire or purchase land.—(1) The owner of any land which is to be acquired for purpose of a scheme may, at any time, after the sanction of the scheme by the Government, by a written notice to the Authority in the prescribed manner, call upon it to acquire or purchase the land in so far as the land is to be acquired by the State Government or the Authority.

(2) If within six months of the service of the notice under sub-section (1) the land is not purchased or acquisition proceeding are not started, the scheme, in so far as that land is concerned, shall be deemed to have been withdrawn and all notice and orders in that connection shall lapse.

41. Levá of betterment fee.—(1) Every property which has increased in value due to its inclusion within an area under a plan or a scheme or due to the execution of such scheme shall be charged with a betterment fee:

Provided that no such fee shall be levied on such public land or building as are used for charitable, religious and educational purpose or for places of non professional entertainment and recreation.

(2) The betterment fee shall be an amount equal to twenty per cent in case of residential holdings so long as the original owners use for their residences and equal to fifty per cent in case of non-residential areas and will be realised in five equal instalment.

Explanation. The increase in value for the purpose of this section shall be the increase in the market prices in between the date on which a notification under sub-section (1) of Section 15 has been issued and the date on which the execution of the scheme has been substantially completed.

42. Appeal.—(1) Any person aggrieved by the decision of the Authority with respect to matters of compensation and betterment fee, may appeal to the Appellate Authority within thirty days of the award.

(2) If the owner of any property objects to the amount of betterment fee determined by the Authority on any ground he shall also state the amount which, he contends would be correct and may within thirty days of the date on which the determination of his objection of appeal becomes final by written notice, require the Authority to acquire the property together with any building or other works that may exist thereon.

(3) The Authority shall thereupon acquire the property.

CHAPTER—VIII

APPEALS AND THE APPELLATE AUTHORITY

43. Appointment of Appellate Authority. (1) Save as otherwise provided the State Government shall appoint an Appellate Authority to hear all appeals arising out of the provision of this Act. The decision of Appellate Authority shall be final.

(2) The person or persons appointed by the State Government as Appellate Authority shall have the qualification of a District Judges or of becoming a member of the Meghalaya Board of Revenue under the Meghalaya Board of Revenue Act. The appointment shall be on such terms and conditions as the State Government may decide.

NOTES

In sub-section (2) of this Section the Words "or of becoming a member of the Assam Board of Revenue under the Assam Board of Revenue Act, 1962" were inserted by the Act No. XXVI of 1966, published in the *Assam Gazette*, dated the 10th October, 1966, to come into force on such date as the State Government may, by notification in official *Gazette*, appoint.

44. Duties of the Appellate Authority. (1) The duties and power of the Appellate Authority shall be as follows:

(a) to hear and decide appeals against the orders of the Authority.

(b) to decide and hear appeals in respect of such other matters and exercise such other powers as may be entrusted to and conferred upon it by the State Government in accordance with the provisions of this Act.

(2) All appeals to the Appellate Authority shall be filed within a month from the date of the order appealed against. The time required for taking out copies of the order shall be exclude. The Appellate Authority may, however, in its discretion condone such delay in filing appeal for sufficient reasons.

45. Procedure of working of the Appellate Authority. (1) The Appellate Authority shall conduct its proceeding in the prescribed manner after giving the opposite party or any one interested in the order appealed against an opportunity of being heard.

(2) The Appellate Authority may, at any time call for any extract from any proceeding of the State Government or Authority and call for any return or statement or report concerning or connected with any matter with which the Authority has been authorised to deal.

(3) The Appellate Authority shall have all the powers of a Civil Court for the purpose of taking evidence on oath and of enforcing the attendance of witnesses/including the parties interested or any of them and compelling the production of documents and material objection if considered necessary.

(4) The Appellate Authority in its discretion may make any order regarding the costs to be paid by any of the parties to the proceedings and the Appellate Authority shall have full powers to determine by whom or out of what property and to what extent such costs are to be paid and the authority shall be bound to execute the orders of the Appellate Authority in accordance with the direction, if any, contained in the order and such costs or amounts awarded by the Appellate Authority shall be realised as arrears of land revenue.

46. **Right to appear by recognised agent.**—Every party to any proceeding before the Appellate Authority shall be entitled to appear either in person or by his recognised agent.

47. **Protection of action taken under this Act.**—(1) No suit, prosecution or other legal proceedings 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 order made thereunder.

(2) Save as otherwise expressly provided in this Act no suit or other legal proceeding shall lie against the State Government for any damage caused or likely to be caused by anything in good faith done or intended to be done in pursuance of this Act or any order made thereunder.

CHAPTER IX

FINANCE

48. **Development Fund.**—The receipt of Authority under this Act shall form a separate development fund and all expenditure under this Act, or any development scheme thereunder, shall be defrayed out of such fund. No portion of the fund shall, except with the sanction of Government, be expended for purposes not provided for by this Act.

49. **Power to borrow.**—Authority as defined in this Act shall be deemed to be a local authority as defined in the Local Authority Loans Act, 1914 (Central Act IX of 1914) for purpose of borrowing money under that Act and the making and execution of a plan and scheme shall be deemed to be a work which such local authority is legally authorised to carry out.

50. **Grants advances and loans.**—The Government may make such grants advances, and loans to the Authority as the Government may deem necessary for performance of functions of the Authority under this Act to issue all grants.

CHAPTER X

LEGAL PROCEEDINGS

51. Penalty for breach of the provisions of the Master Plan or Scheme.—(1) When a Master Plan or a Scheme has been sanctioned under this Act any person who commits or knowingly permits a breach of any specified provisions of the Master Plan or of the schemes or who neglects or fails to comply with any such provisions shall be punishable under this Section.

(2) In case of any such breach or default the Authority shall send to any such person a notice calling on him to discontinue the breach or cause it to be discontinued or to comply with such provisions of the Master Plan or the Scheme within a time to be specified in the notice.

(3) If after such time any such person under sub-S. (1) continues to neglect or cause a breach of any specified provision, such person shall be prosecuted and on conviction by a Magistrate be punishable by any or all of the following:

- (i) with fine which may extend to Rs.500 with or without simple imprisonment not exceeding a period of two months ;
- (ii) if the breach, neglect or failure continues after such conviction, with fine which may extend to Rs.30 for every day during which the breach, neglect or failure continues after such conviction.

52. Power to execute works on failure to comply with notice.— If a notice has been given under this Act to a person requiring him to execute a work in respect of any property, movable or immovable, or to provide or do or refrain from doing anything within a time specified in the notice and if such person fails to comply with such notice, then the Authority may cause such work to be executed or such thing to be provided or done, and may recover all expenses incurred by it on such account from the said person as an arrear of land revenue.

53. Right of occupier to execute works in default of owner.— When default is made by the owner of a building or land in the execution of any work required under this Act to be executed by him, the occupier of such building or land may, with the prior approval of the Authority cause such works to be executed and the expense thereof shall, in the absence of any contract to the contrary, be paid to him by the owner, or the amount may be deducted out of the rent from time to time becoming due from him to such owner.

54. Procedure upon opposition to execution by occupier.—(1) If after receiving information of the intention of the owner of any building of land to take any action in respect thereof in compliance with a notice issued under this Act, the occupier refuses to allow such owner to take action, the owner may apply to a District Magistrate or Sub-

(2) The District Magistrate or Subdivisional Officer upon proof of such refusal may make an order in requiring the occupier to allow the owner to execute all such works, with respect to such building or land, as may be necessary for compliance with the notice, and may also, if he thinks fit, order the occupier to pay to owner the costs relating to such application, or order.

(3) If after the expiry of eight days from the date of the Magistrate's order the occupier continues to refuse to allow the owner to execute such works, the occupier shall be liable, upon conviction, to a fine which may extend to Rs. 30 for every day during which he has so continued to refuse.

(4) Every owner, during the continuance of such refusal shall be discharged from any liability on account of such breach or default.

55. Recovery of cost of work by the occupier—When the occupier of a building or land in compliance with a notice issued under this Act, executed a work for which the owner of such building or land is responsible, either in pursuance of the contract of tenancy or by law, he shall, in the absence of any contract of the contrary, be entitled to recover from the owner by deduction from the rent payable by him or otherwise the reasonable cost of such work.

56. Penalty for obstructing contractor or removing mark—If any person—

(a) obstruct or assaults any person with whom the Authority has entered into a contract for the performance or execution by such person of his duty or of anything which he is empowered or required to do under this Act; or

(b) removes any mark set up for the purpose of indicating any level of direction necessary to the execution of works authorised under this Act.

he shall be punishable with fine which may extend to Rs. 500 or with or without simple Imprisonment for a term which may extend to two months.

57. Officer under the Act to be public servants—Every officer and servants of Authority and every other officer employed by the State Government for the purpose of this Act, shall be deemed to be a public servant within the meaning of 5.21 of the Indian Penal Code (Central Act No. 45 of 1860).

58. Authority for prosecution.—Unless otherwise expressly provided no court shall take cognizance of any offence punishable under this Act, except on the complaint of, or upon information received from, the Authority of some person authorised by the Authority by orders in this behalf.

59. **Power of Authority to institute proceedings, etc. and take legal advice.**—The Authority shall subject to rules framed under the Act have powers to—

- (a) institute, defend or withdraw from legal proceeding under this Act;
- (b) compound any offence against this Act, before the matter is referred to the court;
- (d) obtain such legal advice and assistance as it may from time to time think necessary or expedient to obtain for any of the purpose, referred to in the foregoing clause of this section for securing the lawful exercise or discharge of any power or duty vested in or imposed upon the Authority or any officer or servant of the Authority.

60. **Power of recover dues as an arrear of land revenue.**—A sum recoverable by the Authority under this Act, if not paid on demand shall be recoverable as an arrear of land revenue

This Section was inserted vide the Assam Act, No. XXII of 1962 published in the *Assam Gazette*, dated the 26th November 1962.

NOTES

61. **Bar to suit and prosecutions in certain cases.**—(1) No suit, prosecution or other proceeding shall lie against as Authority or any officer or servant thereof or any person seting under their direction or any Government Officer or servant employed for the purpose of this Act for anything which is in good faith done in pursuance of this Act, of any rules made thereunder.

(2) No suit, prosecution or other proceeding shall lie against any officer or servant of the Authority or and Government Officer or servant employed for the purpose of this Act for anything done under this Act.—

(a) unless the previous sanction of the State Government has been obtained, and

(b) until the expiration of two months after notices in waiting has been given to the person to be sued clearly stating the cause of action, and the nature of relief sought etc.

1. **Punishment for malcious abuse of powers.**—Any officer or servant of the Authority or of the Government who wilfully or negligently abuses any power conferred on him by of under this Act, shall be punishable with imprisonment which may extend to six months or with fine which may extend to Rs. 500 or with both, provided that no prosecution shall be instituted under this section—

(a) unless the previous sanction of the State Government has, been obtained,

until the expity of two months' notice in writing has been given to the person concerned clearly stating the cause of action and the nature of relis of sought etc.

62. **Registration of documents, plans or maps in connection with schemes**—(1) Nothing in the Indian Registration, Act, 190 (Central Act No. XVI of 1908) shall be deemed to require the registration of a document plan of map prepares made or sanctional in connection

(2) All such documents, plans and maps relating to the sanction scheme shall, for the purpose of Ss. 43 and 49 of the Indian Registration Act, 1908 (Central Act NOXVI of 1908) shall be deemed to have been and to be registered in accordance with provision of that Act:

Provided that documents, plans and maps relating to the scheme shall be accessible to the public, free of charge in the manner prescribed.

63. **Orders under the Act not be questioned in any court.**—No order made in exercise of any power conferred by or under this Act, shall be called in question in any court except as provided in the Act.

64. **Effect of orders inconsistent with other enactment.**—Any orders made under this Act shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or any instrument having effect by virtue of any enactment other than this Act.

CHAPTER—XI

MISCELLANEOUS PROVISIONS

65. **Service of notice.**—Every notice issued under this Act shall be served as prescribed by rules.

66. **Method of giving public notice.**—Subject to the provisions of this Act, every public notice required under this Act shall be deemed to have been given if it published in some local newspaper (if any) or a paper of general circulation in the area and posted upon a notice board to be exhibited for public information at the building in which the meetings of the Local Authority are ordinarily held or by publishing it in the official Gazette.

67. **Formal defects in assessments and demands.**—No assessment^t list or other list, notice or other such document specifying, or purporting to^g specify with reference to any charge, or fee, any person's property, thing or circumstances shall be invalid only by reason of a clerical or technical mistake in the name, residence, place of business or occupation of the person or in the description of property, thing or circumstances and it shall be sufficient if the person, property, thing or circumstances is described sufficiently for the purpose of identification, and shall not be necessary to name the owner or occupier of any property liable in respect of the charge.

68. **Powers and duties of police in respect of offences and assistance to Authorities.**—Every police officer, mauzadar or officer of the Local Authority shall give immediate information to the Authority of an offence coming to his knowledge which has been committed under this Act, or against any rule made under this Act and shall be bound to assist all members, officers and servants of the Authority in the exercise of their lawful authority.

69. **Decision of disputes between Authorities.**—Should a dispute arise between the Authority and any other Local Authority on any matter in which they are jointly interested, such dispute shall be referred to the State Government, whose decision shall be final.

70. **Power to enter in to land for inspection etc.**—For the purpose of making or execution of any scheme, the Authority or person appointed by the State Government, their subordinates and contractors may enter into or upon any land, in order—

- (a) to make any inspection, survey, measure valuation or enquiry ;
- (b) to take level ;
- (c) to dig or bore into the sub-soil ;
- (d) to set out boundaries and intended lines of work,
- (e) to mark levels, boundaries and lines by marks and cutting trenches ; or
- (f) to do any other thing, whenever it is necessary to do so, for any of the purposes of this Act or any rule made or scheme sanctioned hereunder or any scheme which the authority intends to frame hereunder ;

Provided as follows :

- (a) except when it is otherwise specially provided by a rule on such entry shall be made between sunset and sunrise ;
- (b) except when it is otherwise specially provided by the rules, no building which is used as a human dwelling shall be so entered unless with the consent of the occupier thereof, without giving the said occupier at least 24 hours' previous notice in writing of the intention to make such entry ;
- (c) due regard shall always be had, so far as may be compatible with the exigencies of the purpose for which the entry is made, to the social and religious usage of the occupants of the premises entered.

71. **Mode of proof of the records of the Authority.**—A copy of receipt application, plan, notice, order, entry in a register, or other document in the possession of the Authority shall, if duly certified by the lawful keeper thereof or other person authorised by the Authority in this behalf be received as *prima facie* evidence of the entry or document and shall be admitted as evidence of the matters and transaction therein recorded in every case where, and to the same extent as, the original entry or document would, if produce, have been admissible to prove such matters.

72. **Power of Authority to make agreements.**—The Authority shall be competent to make any agreement with any person in respect of any matter, which is to be provided for in a scheme and unless it is otherwise expressly provided therein, such agreement shall take effect on and after the day on which the comes into force.

73. Power of the State Government to make rules.—(1) The State Government may, after previous publication in the official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generally of the foregoing powers, the State Government shall have power to make rules in respect of following matters :

- (i) The matter of publication of the notification regarding scheme, their modifications, variations, revocations, submissions and sanction by the State Government.
- (ii) Powers that may be delegated to any Authority established under this Act or to any officer.
- (iii) Procedure to be adopted for securing co-operation of various Government Department, the owners or other persons or bodies intersted in schemes.
- (iv) All matters pertaining to land acquisition including procedure and making of award, compensation and the possession of land by authority in ordinary and emergent cases.
- (v) Calculation, assessment and payment of compensation respect of property which is injuriously affect within the meaning assigned to it in 5.37 of this Act.
- (vi) Calculation, assessment and collection of betterment contribution.
- (vii) Procedure of filing, hearing and deciding objection and appeals under the Act and all matters connects therewith.
- (viii) The delegation of powers to and the duties that shall be discharged by the Director and the matter on which and the manner in which he shall be consulted.
- (ix) Matters other than those referred to in foregoing clauses which are expreeely or by implication required or allowed by this Act to be prescribed by rules.
- (x) Creation and administration of fund for the purpose of implementing the provision of this Act.

(3) All rules made under this section shall be land for not less than fourteen days before the Meghalaya Legislative Assembly as soon as possible after they are made and shall be subject to such modification as the Legislative Assembly may make during the session in which they are so laid or the session immediatly following.

NOTE

Sub-section (1) was substituted *vide* the Assam Act No. of 1962 published in the *Assam Gazette* dated the 26th November, 1962 and the original Sub-S. (1) read as follows:

“(1) The State Government shall have the power to make or specify rules in respect of the following matters”.

In sub-S. (2) the words “in consultation with the Council” occurring between the words “State Government” and “shall” were deleted and sub-S. (3) being inserted *vide* the same Amendment Act.

74. Power of the Authority to make bye-laws. (1) The Authority shall have power to make bye-laws in respect of the matters enumerated under this section not inconsistent with the rules made by the State Government :

- (i) and sub-division and lay out of public street :
- (ii) width for different classes of public streets according to the nature of traffic to be carried thereon:
- (iii) street lanes and setting back of buildings from the regular line of the street :
- (vi) zoning regulations prescribing the type or description of building which may or may not be, and the purpose for which a building may or may not be erected, in any prescribed area or areas :
- (v) regulation and display of advertisement in the interest or amenity, aesthetic, or public safety ;
- (vi) regulations in any manner not specifically provided for in this Act, the erection of any enclosure, wall, fence, tent or the structure on any land within the limits of the Authority ;
- (vii) a time and place and transaction of business of the meeting of the Authority.

(2) The power to make bye-laws under this Act shall be subject to the condition of previous publication.

(3) No such bye-law shall come into force until it is approved by the State Government.

(4) The State Government may cancel their confirmation of any such bye-law and thereupon, the bye-law shall cease to have effect.

NOTES

Clause (vi) was inserted *vide* Assam Act No. XXXII of 1962 published in the *Assam Gazette*, dated the 26th November, 1962.

GOVERNMENT OF MEGHALAYA URBAN DEVELOPMENT
DEPARTMENT

NOTIFICATION

Dated Shillong, the 13th January, '89

No. TCP/111/88/40.—In exercise of the power conferred by Sub-section (2) of Section 1 of the Meghalaya Town and Country Planning Act [Assam Town and Country Planning Act, 1959 (Assam Act 2 of 1960)] as adapted and amended *vide* Adaptation to Laws and Order No. 3 of 1973, the Government of Meghalaya hereby direct that the Act aforesaid shall, with immediate effect, come into force in all the areas in the State excluding the areas comprised within the 'normal areas' of Shillong.

Sd/—

P. K. DATTA,

Special Secretary to the Government of Meghalaya,
Urban Development Department.



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No. 91 Shillong, Monday, August 16, 2004, 25th Sravana, 1926 (S.E.)

PART - IV

GOVERNMENT OF MEGHALAYA
LAW (B) DEPARTMENT
ORDERS BY THE GOVERNOR

NOTIFICATION

The 16th August, 2004

No.LJ(B).204/84/260.— The Meghalaya Town and Country Planning (Amendment) Act, 2004 (Act No.9 of 2004) is hereby published for general information.

MEGHALAYA ACT NO. 9 OF 2004

As passed by the Meghalaya Legislative Assembly.

Received the assent of the Governor on the 28th July, 2004.

Published in the Gazette of Meghalaya Extra-Ordinary issue dated 16th August, 2004.

THE MEGHALAYA TOWN AND COUNTRY PLANNING (AMENDMENT) ACT 2004

An

Act.

to amend the Meghalaya Town and Country Planning Act, 1973 (the Assam Town and Country Planning Act, 1959, as amended and adapted by Meghalaya).

Be it enacted by the Legislature of the State of Meghalaya in the fifty-fifth Year of the Republic of India as follows :-

Short title and commencement. 1. (1) This Act may be called the Meghalaya Town and Country Planning (Amendment) Act, 2004.

(2) It shall come into force at once.

Amendment of Sub-section (6) of Section 2. 2. In the Meghalaya Town and Country Planning act, 1973 (Assam Town and Country Planning Act, 1959 as adapted by Meghalaya (herein after referred to as the principal Act) in sub-section (6) of Section 2 for the words 'Director of Town and Country Planning' the words 'Director of Urban Affairs Department' shall be substituted.

Amendment of Sub-section 3(1). 3. For sub-section (1) of Section 3 of the principal Act the following shall be substituted, namely.-

"(1) The State Government may, by notification in the Official Gazette constitute the council consisting of the following members to advise the Government in matters referred to it :-

- (i) Minister-in-charge Urban Affairs Department - Chairperson;
- (ii) Director, Urban Affairs Department - Secretary;
- (iii) Chairperson of the Authority;

- (iv) Three MLAs to be nominated by the Meghalaya Legislative Assembly;
- (v) Principal Secretary / Commissioner and Secretary, Urban Affairs Department;
- (vi) Principal Secretary / Commissioner and Secretary, Finance Department;
- (vii) Principal Secretary / Commissioner and Secretary, Revenue Department;
- (viii) Principal Secretary / Commissioner and Secretary, Planning Department;
- (ix) Commissioner and Secretary / Secretary, Public Health Engineering Department;
- (x) Commissioner and Secretary / Secretary, Power Department.
- (xi) Commissioner and Secretary / Secretary, Housing Department.
- (xii) Secretary, Public Works Department,
- (xiii) Three non-official members who are professionals in Urban Planning / Urban Management and Finance shall be nominated by the Government."

**Amendment of
Sub-section (2) of
Section 3.**

4. In Sub-section (2) of Section 3 of the principal Act for the word 'five' the word 'one-third' shall be substituted.

**Amendment of
Sub-section (3) of
Section 3.**

5. In Sub-section (3) of Section 3 of the Principal Act for the Principal Act for the word 'Chairman', the word 'Chairperson' shall be substituted and thereafter wherever the word 'Chairman' appears in the principal Act, the word 'Chairperson' shall be substituted.

**Amendment of
Sub-section (1) of
Section 8B.**

6. In Sub-section (1) of Section 8B of the principal Act, the following shall be substituted namely,—

"8B. (1) Composition of the Authority :—

The Authority shall consist of the following members, namely :—

- (a) A chairman to be appointed by the State Government;
- (b) The Chairpersons of the Municipal Boards;
- (c) The Chief Executive Members of the Autonomous District Councils of the State;
- (d) Principal Secretary / Commissioner and Secretary Finance / Revenue / Planning / Urban Affairs Departments / or their representatives not below the rank of Joint Secretary;
- (e) Chief General Manager of BSNL or his representative;
- (f) Chief Engineer, Public Works Department (R & B);
- (g) Chief Engineer, Public Works Department (Building);
- (h) Chief Engineer, Public Health Engineering Department;
- (i) Chief Planner of the Authority to be appointed by the Government;
- (j) Chief Finance and Accounts Officer of the Authority to be appointed by the Government;
- (k) Engineer-in Chief of the Authority to be appointed by the Government;
- (l) Director, Housing Department;
- (m) Director, Urban Affairs Department;
- (n) Chief Executive Officers of the Municipal Boards;
- (o) Member (Technical) , Meghalaya State Electricity Board;
- (p) One member representing Commerce and Industry (Private Sector) to be nominated by the Government;
- (q) One member to be nominated by the State Government who in its opinion has special knowledge of practical experience in matters relating to Urban Planning."

Amendment of Sub-section 8E.

7. (1) In Sub-section (1) of Section 8E of the principal Act, for the words 'once a month', the words 'as and when necessary and at least four times in a year' shall be substituted.

(2) After Sub-section (5) of Section 8E the following new Sub-section (6) shall be added, namely,-

"(6) One-third of the members of the Authority shall constitute the quorum for the purpose of transacting business at any meeting of the Authority."

Amendment of Sub-section (1) of Section 13.

8. In Sub-section (1) of Section 13 of the principal Act, the words "and on payment of such fees as may be prescribed by bye-laws framed by the Authority in this behalf" shall be inserted after the word "the purpose."

Amendment of Sub-section (3) of Section 13.

9. In Sub-section (3) of Section 13 of the principal Act, the words "within 15 days of receiving the notice," shall be inserted after the word "necessary".

Insertion of Sub-section (5), (6) & (7) Section 13.

10. In Section 13 of the principal Act, the following new sub-section (5) shall be inserted namely,-

"(5) On such application having been duly made, and on payment of the fees under sub-Section (1)-

(a) the Authority may pass an order-

(i) granting permission unconditionally; or

(ii) granting permission subject to such conditions it may deem fit; or

(iii) refusing permission.

(b) Without prejudiced to the generality of clause (a) of this sub-section, the Authority may impose conditions-

(i) to the effect that the permission granted is only for a limited period and that after the expiry of that period, the land shall be restored to its previous conditions or the use of the land permitted shall be discontinued;

(ii) for regulating the development or use of any land either under the control of the applicant or for the carrying out of works on any such land as may appear to the Authority expedient for the purpose of the permitted development;

(6) When permission is granted subject to conditions or is refused the grounds of imposing such conditions or such refusal shall be recorded in the order and the order shall be communicated to the applicant.

(7) When permission is refused under this section, the applicant or any person claiming through him or her, shall not be entitled to get refund of the fee paid on the application for permission but the Authority may, on an application for refund being made within 3(three) months of the communication of the grounds of the refusal under sub-section (6), direct refund of such portion of the fee as it may seem proper in the circumstances of the case."

Insertion of new Section 30A.

10. After Section 30 of the principal Act, the new Section 30 A shall be inserted namely,-

"30-A. Power to stop development. (1) Where any development in any area has been commenced in contravention of the Master Plan or Development Scheme or without the permission, approval or sanction referred to in Section 13 and/or Section 29 or in contravention of any conditions subject to which such permission, approval or sanction has been granted, the Authority may, make an order requiring the development to be discontinued on and from the date of the service of the order and such order shall be complied with accordingly.

- (iv) Three MLAs to be nominated by the Meghalaya Legislative Assembly;
- (v) Principal Secretary / Commissioner and Secretary, Urban Affairs Department;
- (vi) Principal Secretary / Commissioner and Secretary, Finance Department;
- (vii) Principal Secretary / Commissioner and Secretary, Revenue Department;
- (viii) Principal Secretary / Commissioner and Secretary, Planning Department;
- (ix) Commissioner and Secretary / Secretary, Public Health Engineering Department;
- (x) Commissioner and Secretary / Secretary, Power Department.
- (xi) Commissioner and Secretary / Secretary, Housing Department.
- (xii) Secretary, Public Works Department,
- (xiii) Three non-official members who are professionals in Urban Planning / Urban Management and Finance shall be nominated by the Government."

**Amendment of
Sub-section (2) of
Section 3.**

4. In Sub-section (2) of Section 3 of the principal Act for the word 'five' the word 'one-third' shall be substituted.

**Amendment of
Sub-section (3) of
Section 3.**

5. In Sub-section (3) of Section 3 of the Principal Act for the Principal Act for the word 'Chairman', the word 'Chairperson' shall be substituted and thereafter wherever the word 'Chairman' appears in the principal Act, the word 'Chairperson' shall be substituted.

**Amendment of
Sub-section (1) of
Section 8B.**

6. In Sub-section (1) of Section 8B of the principal Act, the following shall be substituted namely,-

"8B. (1) Composition of the Authority :-

The Authority shall consist of the following members, namely :-

- (a) A chairman to be appointed by the State Government;
- (b) The Chairpersons of the Municipal Boards;
- (c) The Chief Executive Members of the Autonomous District Councils of the State;
- (d) Principal Secretary / Commissioner and Secretary Finance / Revenue / Planning / Urban Affairs Departments / or their representatives not below the rank of Joint Secretary;
- (e) Chief General Manager of BSNL or his representative;
- (f) Chief Engineer, Public Works Department (R & B);
- (g) Chief Engineer, Public Works Department (Building);
- (h) Chief Engineer, Public Health Engineering Department;
- (i) Chief Planner of the Authority to be appointed by the Government;
- (j) Chief Finance and Accounts Officer of the Authority to be appointed by the Government;
- (k) Engineer-in Chief of the Authority to be appointed by the Government;
- (l) Director, Housing Department;
- (m) Director, Urban Affairs Department;
- (n) Chief Executive Officers of the Municipal Boards;
- (o) Member (Technical) , Meghalaya State Electricity Board;
- (p) One member representing Commerce and Industry (Private Sector) to be nominated by the Government;
- (q) One member to be nominated by the State Government who in its opinion has special knowledge of practical experience in matters relating to Urban Planning."

(2) For ascertaining the purposes referred to in sub-section I, the Authority may call for the owner of the land or building permission so granted by the Competent Authority and examine the same.

(3) Where such development is not discontinued in Compliance with the order under sub-section (1), above, the Authority may require any Police Officer not below the rank of Sub-Inspector of Police to remove the persons by whom, the development has been commenced including all his assistant and Workmen from the place of development of construction and to seize any construction materials, machineries, scaffolding or other things used in such development of construction, within such time as may be specified in the requisition and such Police Officer shall comply with the requisition accordingly.

(4) After the requisition under sub-section (2) has been complied with, the Authority may depute by a written order, a Police officer or an employee(s) of the Authority to keep a watch on the place to ensure that the development is not continued.

(5) Any of the things seized under sub-section (3) shall unless the owner thereof within 30 (thirty) days of such seizure turn up to take them back and pay to the Authority the cost for removal and storage of such things be disposed of by the Authority either by the Public auction or in such other manner as the Authority may think fit .

(6) The charges for the removal and storage of the things seized under sub-section (3) shall be paid out of the sale proceed referred to in the sub-section (2) and the balance if any, shall be paid to the owner on a claim being made by him /her within a period of 1 (one) year from the date of sale, and if no such claim is made within the said period the balance shall lapse to the Authority .

(7) Without prejudice to anything contained in any law for the time being in force, the Authority in the exercise of its functions and powers shall have due regard to all such matters which in its , opinion will be in accordance with the objectives of this Act

**Insertion of new
Section 30 B.**

12. After section 30 A of the principal Act, Section 30 B shall be inserted, namely :-
"30B. Power of demolition of building. (1) where any development has been commenced or is being carried on or has been completed in contravention of the Master Plan or Development Scheme or without permission, approval or sanction referred to in Section 13 and Section 29 of this Act or in the contravention of any of condition subject to which such permission, approval or sanction has been granted, the Authority may, in addition to any prosecution that may be instituted under this Act make an order directing that such development shall be removed by demolition, filling or otherwise by the owner, occupier, manager or by any person at whose instance the development has been commenced or is being carried out or has been completed within a period not exceeding thirty days from the date on which a copy of the order of removal with brief statement of the reasons thereof has been delivered.

(1) On his/her failure to comply with the order, the Authority may remove or cause to be removed the development and the expenses of such removal shall be removed from the owner, occupier, manager or any person at whose instance the development was commenced etc., as arrears of land revenue:

Provided that no such order shall be made unless the owner, occupier, manager or the person concerned has been given a reasonable opportunity to show cause why the order shall not be made.

**Amendment of
Section 31.**

13. In Section 31 of the principal Act the words "not exceeding Rs. 250", the words "as provided in the rules notified from time to time" and for the words "of Rs. 50", the words "as prescribed in the rules notified from time to time" shall be substituted.

- Amendment of Section 33.** 14. In Section 33 of the principal Act, the bracket figure "(1)" and sub-section (2), (3) & (4) shall be omitted.
- Insertion of New Section 50A.** 15. After Section 50 of the principal Act, Section 50A shall be inserted, namely,—
"50A. Audit of Account of the Authority, - (1) The accounts of the Authority shall be subject to audit annually by the Accountant General, Meghalaya.
(2) The accounts of the Authority along with the audit report shall be placed before the State Legislature".
- Amendment of Clause (i) & (ii) of sub-section,** 16. (1) In clause (i) of sub-section (3) of Section 51 of the principal Act for the words "which may extend to Rs. 500", the words "as provided in the rules notified from time to time" shall be substituted.
(2) In clause (ii) of sub-section (3) of Section 51 for the words "as provided in the rules notified from time to time" shall be substituted.
- Amendment of sub-section (3) of Section 54.** 17. In sub-section (3) of Section 54 for the words "which may extend to Rs. 30", the words "as provided in the rules notified from time to time" shall be substituted.
- Amendment of Clause (b) of Section 56.** 18. In clause (b) of section 56 for the words "which may extend to Rs. 500", the words "as provided in the rules notified from time to time" shall be substituted.
- Amendment of Section 61(1) Punishment for malicious abuse of powers.** 19. In sub-section (1) of Section 61 for the words "which may extend to Rs. 500", the words "as provided in the rules notified from time to time" shall be substituted.

L.M.SANGMA,
Deputy Secretary to the Govt. of Meghalaya,
Law (B) Department.