

## THE KERALA RURAL AND TOWN PLANNING BILL

A bill to provide for the regulation of planned growth of land use and development and for the making and execution of town planning schemes in the State.

WHEREAS it is necessary and expedient,

- (i) to create conditions favourable for planning and re-planning of the urban and rural areas in the State, with a view to providing full civic and social amenities for the people in the State,
- (ii) to stop uncontrolled development of land due to land speculation and profiteering in land,
- (iii) to preserve and improve existing recreational facilities and other amenities contributing towards balanced use of land; and
- (iv) to direct the future growth of populated areas in the State, with a view to ensuring desirable standards of environmental health and hygiene, and creating facilities for the orderly growth of industry and commerce, thereby promoting generally the standard of living in the State;

AND WHEREAS in order to ensure that town planning schemes are made in a proper manner and their execution is made effective, it is necessary to provide that a local authority shall prepare a development plan for the entire area within its jurisdiction;

AND WHEREAS it is necessary and expedient to consolidate and amend the law relating to town planning for the aforesaid and other purposes hereinafter appearing;

BE it enacted in the Fifty ninth Year of the Republic of India as follows:

### CHAPTER I PRELIMINARY

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

(2) It shall extend to the whole of the State of Kerala.

(3) It shall come into force on such date as the Government may, by notification, appoint.

**2. Definitions.**—In this Act, unless the context otherwise requires,—

(1) “agriculture” includes horticulture, farming, growing of crops, fruits, vegetables, flowers, grass, fodder, trees or any kind of cultivation of soil, breeding and keeping of livestock including cattle, horses, donkeys, mules, pigs, fish, poultry and bees, the use of land which is ancillary to the farming of land or any purpose aforesaid, but shall not include the use of any land attached to a building for the purposes of garden to be used along with such building; and ‘agricultural’ shall be construed accordingly;

(2) “Board” means the State Town Planning Board constituted under this Act;

(3) “commerce” means carrying on any trade, business or profession, sale or exchange of goods of any type whatsoever, the running of, with a view to make profit, hospitals, nursing homes, infirmaries, saris, educational institutions, hotels, restaurants, boarding houses not attached to educational institutions; and ‘commercial’ shall be construed accordingly;

(4) “development” with its grammatical variations, means the carrying out of building, engineering, mining, or other operations in, on, over or under land or the making of any material change in any building or land, or in the use of any building or land and includes sub-division of any land;

(5) “Director” means the Director of Town Planning appointed under this act;

(6) “Heritage Building” means a building possessing architectural, aesthetic, historic or cultural values and which is declared as heritage building by the Planning Authority or any other competent authority within whose jurisdiction such building is situated;

(7) “Heritage Precinct” means an area comprising heritage building or buildings and precincts thereof or related places declared as such by the Planning Authority or any other Competent Authority within whose jurisdiction such area is situated;

(8) “industry” includes the carrying on of any manufacturing process as defined in the Factories Act, 1948 (Central Act 63 of 1948), and ‘industrial’ shall be construed accordingly;

(9) “land” includes benefits arising out of land and things attached to the earth or permanently fastened to anything attached to the earth;

(10) “land use” means the major use to which a plot of land is being used on any specified date;

(11) “local authority” means a municipal corporation, municipal council, Town Panchayat or Grama Panchayat; and a local authority is a ‘local authority concerned’ if any land within its local limits falls in the area of a plan prepared or to be prepared under this Act;

(12) “notification” means a notification published in the official Gazette;

(13) “owner” includes any person for the time being receiving or entitled to receive, whether on his own account or as agent, trustee, guardian, manager, or receiver for another person, or for any religious or charitable purpose, the rents or profits of the property in connection with which it is used;

(14) “Planning Area” means any area declared to be or included in a local planning area under this Act;

(15) “Planning Authority” means,—

- (a) The Planning Authority constituted under this Act;
- (b) In the case of any local planning area in respect of which a Planning Authority is not constituted under this Act, the Town Improvement Board constituted under any law for the time being in force having jurisdiction over such local planning area, and where there is no such Town Improvement Board, the local authority having jurisdiction over such local planning area;

(16) “plot” means a continuous portion of land held in one ownership;

(17) “prescribed” means prescribed by rules made under this Act;

(18) “reconstituted plot” means a plot which is in any way altered by the making of a town planning scheme;

*Explanation.*— “altered” includes the alteration of ownership.

(19) “regulations” means the Zonal Regulations governing land-use made under this Act;

(20) “residence” includes the use for human habitation of any land or building or part thereof including gardens, grounds, garages, stables, and out houses, if any, appertaining to such building and ‘residential’ shall be construed accordingly;

(21) “Scheme” includes a plan relating to a town planning scheme;

(22) Words and expressions not defined in this Act shall have the same meaning as in the Kerala Municipalities Act, 1994.

**3. Appointment of Director of Town Planning.**— (1) The State Government shall appoint a person, having the prescribed qualifications as Director of Town-Planning for the State and may assign to him such salary and establishment as it thinks fit.

(2) The cost of such appointment and his establishment shall be paid out of the revenues of the State.

**4. State Town-Planning Board.**—The State Government may, by notification, constitute a State Town-Planning Board for the State with such members and in such manner as may be prescribed for advising the State Government regarding planning and development and for determining principles and policies for achieving the balanced development of the State as a whole.

## CHAPTER II

### LOCAL PLANNING AREAS AND PLANNING AUTHORITIES

**5. Constitution of Environment Impact Assessment Authority, Declaration of Local Planning Areas, their amalgamation, Sub-Division, inclusion of any area in a Local Planning Area.—**(1) The State Government may

by notification constitute an independent Environment Impact Assessment Authority, consisting of well known environmentalists, ecology specialist, River management experts, experts in Forestry, etc.

(2) The State Government may by notification declare any area in the State to be a Local Planning Area for the purposes of this Act, or include within such local planning area, any area adjacent thereto, and on such declaration or inclusion this Act shall apply to such area:

a. Provided that no military cantonment or part of a military cantonment shall be included in any such area.

b. Provided further that in the case of the heritage area, the local planning area declared under this sub-section shall be co-terminus with the heritage area.

c. Provided further that no forest land, river beds, hills or hillocks shall be included in such area unless previous permission to that effect is obtained from the Environment Impact Assessment Authority constituted by the Government.

(3) Every such notification shall define the limits of the area to which it relates.

(4) The State Government may, after consultation with the Board, amalgamate two or more planning areas into one local planning area, sub-divide a local planning area into different local planning areas, and include such divided areas in any other local planning area.

(5) The State Government may by notification direct that all or any of the rules, regulations, orders, directions and powers made, issued, conferred and in force in any other local planning area at the time, with such exceptions and adaptations and modifications as may be considered necessary by the Local authority, shall apply to the area declared as, amalgamated with or included in, a local planning area under this section and such rules, regulations, bye-laws, orders, directions and powers shall forthwith apply to such local planning area without further publication.

(6) When local planning areas are amalgamated or sub-divided, or such sub-divided areas are included in other local planning areas, the Local authority shall, after consulting the Board, the Planning Authority or authorities concerned, frame a scheme determining what portion of the balance of the fund of the Planning Authority shall vest in the Planning Authority or authorities concerned and in what manner the properties and liabilities of the planning authority or authorities shall be apportioned amongst them and on the scheme being notified the fund, property and liabilities shall vest and be apportioned accordingly.

**6. Power to withdraw Local Planning Area from operation of this Act.—**(1) The State Government may, by notification withdraw from the operation of this Act the whole or a part of any local planning area declared thereunder.

(2) When a notification is issued under this section in respect of any local planning area,—

(i) This Act and all notifications, rules, regulations, orders, directions and powers issued, made or conferred under this Act, shall cease to apply to the said area;

(ii) the State Government shall, after consulting the Board and the local authority or authorities concerned, frame a scheme determining what portion of the balance of the fund of the local planning authority shall vest in the State Government and the local authority or authorities concerned, and in what manner the properties and liabilities of the local planning authority shall be apportioned between the State Government and the local authority or authorities, and on the scheme being notified, the fund, property and liabilities of the planning authority shall vest and be apportioned accordingly.

**7. Constitution of Planning Authority.—**(1) As soon as may be, after declaration of a local planning area, the local authority in consultation with the Board, may, by notification, constitute for the purposes of the performance of the functions assigned to it, an authority to be called the “Planning Authority” of that area, having jurisdiction over that area.

(2) Every Planning Authority constituted under sub-section (1), shall be a body corporate by the name aforesaid having perpetual succession and a common seal with power to acquire, hold and dispose of property both movable and immovable and to contract and shall by the said name sue and be sued.

(3) Every Planning Authority constituted under sub-section (1), shall consist of the following members, namely:—

(i) A Chairman appointed by the Local authority;

(ii) The Town Planning Officer of the local authority, who shall be a Member-Secretary to the Planning Authority;

(iii) representatives of local bodies composed as follows:—

(a) in the case of a planning area in which only one local authority has jurisdiction, a representative nominated by that local authority from among the members of that authority and the Chief Executive Officer of that local authority;

(b) in the case of a planning area in which two or more local authorities have jurisdiction, one representative each of such local authorities as the Local authority may consider necessary to be represented, nominated by the respective local authorities from among the members of each such local authority: Provided that, the total number of such representatives shall not exceed five.

(iv) three other members, appointed by the local authority.

(4) The local authority may, if it thinks fit, appoint one of the members as Vice-Chairman of the Planning Authority.

**8. Term of office and conditions of service of the Chairman and members of Planning Authorities.**—(1) Subject to the provisions of sub-section (2), the term of office and conditions of service of the Chairman and members of a planning authority constituted under Section 7 shall be such as may be prescribed.

(2) The Chairman and members of a Planning Authority constituted under Section 7, except those nominated by local authorities shall hold office during the pleasure of the local authority. The representative of a local authority who is a member of that authority shall cease to be a member of the Planning Authority when he ceases to be a member of the local authority concerned.

(3) The Chairman or any member may resign his membership of the Planning Authority by giving notice in writing to the local authority and on such resignation being accepted, he shall cease to be a member of that planning authority.

(4) Any vacancies shall be filled by fresh appointment by the Local Authority or by nomination by the local authority concerned, as the case may be.

**9. Meetings of Planning Authorities.**—(1) Each Planning Authority constituted under Section 7 shall meet at such times and places and shall, subject to the provisions of sub-sections (2) and (3), observe such procedure in regard to the transaction of business at its meetings as may be prescribed.

(2) The Chairman, or in his absence, the Vice-Chairman, if any, or in the absence of the Chairman and of the Vice-Chairman, any member chosen by the members from amongst themselves, shall preside at a meeting of such Planning Authority.

(3) All questions at a meeting of such Planning 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 or casting vote.

(4) Minutes shall be kept of the names of the members present and of the proceedings at each meet in a book to be kept for this purpose, and shall be open for inspection by any member during office hours.

**10. Temporary association of persons with the Planning Authority for particular Purposes.**—(1) Every Planning Authority may associate with itself in such manner and for such purposes as may be prescribed 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 Planning Authority under subsection (1) for any purpose shall have a right to take part in the discussions of the Planning Authority relevant to that purpose but shall not have a right to vote at a meeting.

**11. Staff of the Planning Authority.**—(1) Subject to such control and restrictions as may be prescribed, a Planning Authority constituted under Section 7 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 such Planning Authority shall be entitled to receive such salaries and allowances as may be fixed by the Planning Authority and shall be governed by such terms and conditions of service as may be prescribed.

**12. Functions of the Member-Secretary of the Planning Authority.**—Subject to the general powers of the Planning Authority and without prejudice to the powers of the Chairman under this Act, the Member-Secretary to the Planning Authority shall,

- (i) be the Chief Executive and Technical Officer of the Planning Authority;
- (ii) be responsible for all budgetary, planning, enforcement and supervisory functions of the Planning Authority;
- (iii) furnish to the Planning Authority all the information relating to the administration and accounts of the Authority as well as other matters whenever called upon by the Authority to do so;
- (iv) prepare and submit the Annual Reports and audited accounts of the Planning Authority for its approval within three months of the close of every financial year and thereafter submit copies of the same to the Board, the Director and the State Government;
- (v) If, in the opinion of the Member-Secretary, any resolution passed by the Planning Authority contravenes any provisions of this Act or any other law or of any rule, notification, regulation or bye-law made or issued under this Act or any other law or any order passed by the State Government or it is prejudicial or detrimental to the interests of the Planning Authority, he shall, within fifteen days of the passing of such resolution refer the matter to the State Government through the Director for orders and inform the Planning Authority at its next meeting of the action taken by him and until the orders of the State Government on such reference are received, the Member-Secretary of the Planning Authority shall not be bound to give effect to the resolution.

### CHAPTER III PRESENT LAND USE

**13. Date to be specified.**—The State Government shall, by notification, specify the date with reference to which the present land use of any land in the State has to be determined and different dates may be fixed for different areas in the State.

**14. Preparation of a map showing present land use.**—Every Planning Authority shall, as soon as possible and not later than two years after the date specified under Section 13, prepare an accurate map showing the present land use in the Planning Area under its jurisdiction and such other particulars as may be prescribed. A copy of such map shall be sent to the Director and another copy shall be displayed for public information in the office of the Planning Authority.

**15. Application for correction of entries in map.**—(1) The owner of any plot of land included in the map prepared under Section 14, may within one month of its publication in the office of the Planning Authority, apply to such authority for any entry of land use or other particulars made in the map to be corrected.

(2) On receipt of such application, the Planning Authority or any officer of such authority appointed by it, shall after such inquiry as may be prescribed make an order if the entry is incorrect and if found incorrect direct it to be corrected.

(3) From an order under sub-section (2), an appeal shall lie within sixty days from the date of the order, to the prescribed authority, or, if no authority has been prescribed, to the State Government, and the order of the prescribed authority or the State Government in appeal shall be final.

**16. Entries in map conclusive evidence subject to orders under Section 15.**—Subject to any order that may be made under Section 15 all entries regarding present land-use and other prescribed particulars made in the map under Section 6 shall be conclusive evidence of the correctness of such entries on the specified date.

#### CHAPTER IV OUTLINE DEVELOPMENT PLAN

**17. Preparation of Master Plan.**—(1) Every planning authority shall, as soon as may be, carry out a survey of the area within its jurisdiction and shall, not later than two years from the date of declaration of the local planning area, prepare and publish in the prescribed manner a master plan for such area and submit it to the State Government, through the Director, for provisional approval.

(2) If the master plan is not prepared, published and submitted to the State Government by the Planning Authority within the period specified in sub-section (1), the State Government may authorise the Director to prepare and publish such plan in the prescribed manner and direct the cost thereof to be recovered from the Planning

Authority out of its funds, notwithstanding anything contained in any law relating to the said fund.

(3) Notwithstanding anything contained in sub-section (2), if any Planning Authority is converted into, or amalgamated with any other Planning Authority or is sub-divided into two or more Planning Authorities, the master plan prepared for the area by the planning authority so converted, amalgamated or sub-divided shall, with such alterations and modifications as the State Government may approve, be deemed to be the master plan for the area of the new Planning Authority or authorities into or with which the former Planning Authority was converted, amalgamated or sub-divided.

(4) A copy of the master plan with the report sent to State Government under sub-section (1) or sub-section (3) shall be kept open for inspection by the public at the head office of the Planning Authority.

**18. Declaration of intention of making outline development plan.**—(1) A Planning Authority, before carrying out a survey of the area under its jurisdiction under sub-section (1) of Section 17, for the purpose of preparing a Master Plan for such area, shall make a declaration of its intention to prepare such plan and shall despatch a copy of such resolution with a copy of plan showing only boundary of the entire area proposed to be included in the master plan to the State Government. The planning authority shall publish a notice of such declaration in the Official Gazette and also in one or more local newspapers in the prescribed manner calling suggestions from the public within a period of sixty days:

Provided that no such declaration of intention need be made when the master plan is prepared and published by the Director under sub-section (2) of Section 17.

(2) If within two months from the date of publication of the declaration under sub-section (1) any member of the public communicates in writing to the Planning Authority any suggestion relating to such plan, the Planning Authority shall consider such suggestion and may, at any time, before sending the Plan to the State Government make such modification in the plan as it thinks fit.

(3) A copy of the plan showing the boundaries of the area included in the master plan shall be kept open to public at all reasonable hours at the office of the Planning Authority or Local Authority.

**19. Power of entry for carrying out surveys for preparing outline development plan.**—For the purpose of carrying out a survey for preparation of an outline development plan and for the purpose of preparing of such plan, any person authorised by the Director or the Planning Authority or any public servant or person duly authorised or

appointed under this Act may, after giving such notice as may be prescribed to the owner, occupier or other person interested in the land, enter upon, survey and mark out such land and do all things necessary for such purpose.

**20. Contents of Master Plan.**—(1) The Master Plan shall consist of a series of maps and documents indicating the manner in which the development and improvement of the entire planning area within the jurisdiction of the Planning Authority are to be carried out and regulated, such plan shall include proposals for the following, namely:—

- (a) zoning of land use for residential, commercial, industrial, agricultural, recreational, educational and other purposes together with Zoning Regulations;
- (b) a complete street pattern, indicating major and minor roads, national highways, and state highways, and traffic circulation pattern, for meeting immediate and future requirements with proposals for improvements;
- (c) areas reserved for parks, playgrounds, and other recreational uses, public open spaces, public buildings and institutions and area reserved for such other purposes as may be expedient for new civic developments;
- (d) areas earmarked for future development and expansion;
- (e) reservation of land for the purposes of Central Government, the State Government, Planning Authority or public utility undertaking or any other authority established by Law, and the designation of lands being subject to acquisition for public purposes or as specified in Master Plan or securing the use of the land in the manner provided by or under this Act;
- (f) declaring certain areas, as areas of special control and development in such areas being subject to such regulations as may be made in regard to building line, height of the building, floor area ratio, architectural features and such other particulars as may be prescribed;
- (g) stages by which the plan is to be carried out;
- (h) Schemes for promotion of tourism whichever possible:

Provided that the promotion of tourism shall be without destroying our traditional culture and moral values. Chances of promotion of immoral traffic shall be blocked:

Provided further that all the tourism schemes shall be eco-friendly;

- (i) areas for massage Parlour, Herbal treatment, traditional ayurvedic treatment, health club etc.

**Explanation.**—(i) “**Building Line**” means the line up to which the plinth of a building adjoining a street may lawfully extend and includes the lines prescribed, if any, in any scheme;

(ii) “**Floor Area Ratio**” means the quotient of the ratio of the combined gross floor area of all the floors, excepting areas specifically exempted under the regulations, to the total area of the plot.

(2) The following particulars shall be published and sent to the State Government through the Director along with the masterplan, namely:—

- (1) a report of the surveys carried out by the Planning Authority before the preparation of such plan;
- (2) a report explaining the provisions of the Master Plan;
- (3) regulations in respect of each land use zone to enforce the provisions of such plan and explaining the manner in which necessary permission for developing any land can be obtained from the Planning Authority;
- (4) a report of the stages by which it is proposed to meet the obligations imposed on the Planning Authority by such plan.

(3) Master Plan shall indicate “Heritage Buildings” and “Heritage Precincts” and shall include the regulations made therein for conservation of the same.

**21. Approval of the Master Plan.**—(1) On receipt of the Master Plan with the reports referred to in Section 20 from the Planning Authority under subsection (1) of Section 17, or after such plan and reports are prepared and published under sub-section (2) of Section 17, the State Government after making such modifications as it deems fit or as may be advised by the Director, shall return through the Director, the plan and the reports to the Planning Authority, which shall thereupon publish, by notification, the plan and the reports inviting public comments within sixty days of such publication.

(2) If within sixty days of the publication under sub-section (1), any member of the public communicates in writing to the Planning Authority any comments on the plan and the reports, the Planning authority shall consider such comments and resubmit the plan and the reports to the State Government, through the Director with recommendations for such modifications in the plan and reports as it considers necessary in the light of the public comments made on the plan and reports.

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(3) The State Government, after receiving the plan and the reports and the recommendations for modifications from the Planning Authority, shall, in consultation with the Director, give its final approval to the plan and the reports with such modifications as the Director may advise in the light of the comments and the recommendations of the Planning authority or otherwise.

(4) The Planning Authority shall then publish in the prescribed manner the Master Plan and the reports as finally approved by the State Government. The plan and the reports shall be permanently displayed in the offices of the Director and the Planning Authority and a copy shall be kept available for inspection of the public at the office of the Planning Authority.

**22. Interim Master Plan.**—(1) Pending the preparation of Master Plan, a Planning Authority may, where it considers it expedient, and shall, when so directed by the State Government, prepare and publish the Interim Master Plan for the entire

area within the jurisdiction of the Planning authority, or for any part thereof; and there upon, the provisions of Section 21 shall, so far as may be, but subject to the provisions of this section, apply in relation to such Interim Master Plan as they apply in relation to the preparation and publication of the Master Plan.

(2) The Planning Authority shall prepare and publish such plan not later than one year from the date of notice in the official Gazette of its declaration of intention to prepare a Master plan or not later than such further period not exceeding one year as may be extended by the State Government.

(3) The Interim Master Plan shall provide only for matters mentioned in clauses (a), (b) and (c) of Section 20 and if necessary, such other matters specified in that section as the Planning Authority may decide to include or as may be directed by the State Government.

(4) The Interim Master Plan shall consist of such maps and such descriptive matters as the Planning Authority may consider necessary to explain and illustrate the proposals made in such plan.

**23. Preparation of Master Plan for Additional Area.**—If at any time after a Planning Authority has declared its intention to prepare a Master Plan or after a Master Plan prepared by a Planning Authority has been sanctioned the jurisdiction of the Planning Authority is extended by inclusion of an additional area, the Planning Authority after following the provisions of this Act for the preparation of a Master Plan, prepare and publish a Master Plan for such additional area either separately or jointly with the provisional or final Master Plan prepared or to be prepared for the area originally under its jurisdiction, and submit it to the State Government for sanction after following the same procedure as it followed for submission of a Master Plan to the State Government for approval:

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Provided that, where a Master Plan for the additional area requires modification of the final Master Plan or where the State Government directs any such modifications, the Planning Authority shall revise the final Master Plan after following the procedure laid down in Section 17, so far as may be relevant.

**24. Revision of Master Plan.**—At least once in every ten years from the date on which the Master Plan has come into force, the Planning Authority may and if directed so by the local authority shall, carryout a fresh survey of the area within its jurisdiction, with a view to revising the existing Master Plan and the provisions of Section 17 to Section 20 (both inclusive) shall mutatis mutandis apply in respect of such revision of the Master Plan.

**25. Amendment to Regulations.**—The State Government may, after previous publication of the draft for not less than one month by notification make amendments to regulations.

**26. Enforcement of the Master Plan and the Regulations.**—(1) On and from the date on which a declaration of intention to prepare a Master Plan is published under sub-section (1) of Section 18, every land use, every change in land use and

every development in the area covered by the plan subject to Section 27 shall conform to the provisions of this Act, the Master Plan and the Report, as finally approved by the State Government under sub-section (3) of Section 21.

(2) No such change in land use or development as is referred to in sub-section (1) shall be made except with the written permission of the Planning Authority which shall be contained in a commencement certificate granted by the Planning Authority in the form prescribed:

Provided that where the use or change of land use under this section needs the diversion of agricultural land to non-agricultural purposes, such use or change of use shall not be permitted unless permission is obtained in accordance with the provisions of law in force for such diversion.

*Explanation.*— For the purpose of this section,—

(a) the expression “development” means the carrying out of building or other operation in or over or under any land or the making of any material change in the use of any building or other land;

(b) the following operations or uses of land shall not be deemed to involve a development of any building or land, namely:—

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(i) the carrying out of works for maintenance, improvement or other alteration of any building, being works which affect only the interior of the building or which do not materially affect the external appearance of the building;

(ii) 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;

(iii) when the normal use of land which was being temporarily used for any other purpose on the day on which the declaration of intention to prepare the outline development plan is published under sub-section (1) of Section 18 is resumed;

(iv) when land was normally used for one purpose and also on occasions

for any other purpose, the use of the land for that other purpose on similar occasions.

(3) Every application for permission under sub-section (2) shall be accompanied by a plan, drawn to scale showing the actual dimensions of the plot of land in respect of which permission is asked, the size of the building to be erected and the position of the building upon the plot and such other information as may be required in this behalf by the Planning Authority.

**27. Change of land use from the outline development plan.**—(1) At any time after the date on which the outline development plan for an area comes into operation, the Planning Authority may, with the previous approval of the State Government, allow such changes in the land use or development from the outline development plan as may be necessitated by topographical cartographical or other errors and omissions, or due to failure to fully indicate the details in the plan or changes arising out of the implementation of the proposals in outline development plan or the circumstances prevailing at any particular time, by the enforcement of the plan:

Provided that,—

- (i) all changes are in public interest;
- (ii) the changes proposed do not contravene any of the provisions of this Act or any other law governing planning, development or use of land within the local planning area; and
- (iii) the proposal for all such changes are published in one or more daily newspapers, having circulation in the area, inviting objections from the public within a period of not less than fifteen days from the date of publication as may be specified by the Planning Authority.

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- (2) The provisions of sub-section (2) and (3) of Section 26 shall apply mutatis mutandis to the change in land use or development from the outline development plan.
- (3) Notwithstanding anything contrary contained in the Act, if the change in land use or development is from commercial or industrial to residential or from industrial to commercial and the stipulated fee is paid and the Local Planning Authority is informed prior to effecting the change, the permission for such change of land use or development shall be deemed to have been given.

**28. Benefit of development rights.**—Where any area within a local planning area is required by a Planning Authority or local authority for a public purpose and the owner of any site or land which comprises such area surrenders it free of cost and hands over possession of the same to the Planning Authority or the local authority free of encumbrances, the planning authority or the local authority, as the case may be, may notwithstanding anything contained in this Act or the regulations but subject to such restrictions or conditions as may be specified by notification by the local authority, permit development rights in the form of additional floor area which shall be equal to one and half times of the area of land surrendered. The development right so permitted may be utilised either at the remaining portion of the area after the surrender or anywhere in the local planning area, either by himself or by transfer to any other person, as may be prescribed. The area remaining after surrender shall have the same floor area which was available before surrender for the original site or land as per regulations.

**Explanation.**—For the purpose of this section,

(a) Public purpose means.—

- (i) widening of an existing road or formation of a new road;
- (ii) providing for parks, playgrounds and open spaces or any other civic amenities;
- (iii) maintaining or improving heritage building or precincts notified by the Local authority.

(b) “development right” means the right to carryout development or to develop land or building or both.

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**Illustration No. 1:** In a plot area of 500 square meters at road “A”, where floor area ratio is 1.5:—

- (i) Plot area 500 square meters
- (ii) Permissible floor area ratio 1.5
- (iii) Buildable floor area  $500 \times 1.5 = 750$  square meters
- (iv) Area surrendered 100 square meters
- (v) Additional floor area in the form of 150 square meters

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- (vi) Plot area after surrender  $500 - 100 = 400$  square meters
- (vii) Buildable floor area in plot area of 400 square meters (after surrender):
  - (a) If additional floor area is not utilised 750 square meters in the same plot
  - (b) If additional floor area is utilised in the  $750 + 150 = 900$  square meters same plot

**Illustration No. 2:** In a plot area of 500 square meters at road “B”, where floor area ratio is 0.75:—

- (i) Plot area : 500 square meters
- (ii) Permissible floor area ratio : 0.75
- (iii) Buildable floor area :  $500 \times 0.75 = 375$  square meters
- (iv) Area surrendered : 100 square meters
- (v) Additional floor area in the form of : 150 square meters

Development Rights

- (vi) Plot area after surrender :  $500 - 100 = 400$  square meters
- (vii) Buildable floor area in plot area of 400 square meters (after surrender)
  - (a) If additional floor area is not utilised in the same plot : 375 square meters
  - (b) If additional floor area is utilised in the same plot :  $375 + 150 = 525$  square meters

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**Illustration No. 3:** In a plot area of 500 square meters at road “C”, where floor area ratio is 0.75 and Development Right of 150 square meters originated at road “A” is transferred:—

- (i) Plot area : 500 square meters
- (ii) Permissible floor area ratio : 0.75
- (iii) Buildable floor area :  $500 \times 0.75 = 375$  square meters
- (iv) Additional floor area transferred from road “A” : 150 square meters
- (v) Total Buildable floor area :  $375 + 150 = 525$  square meters

**29. Permission for development of building or land.—**(1) On receipt of the application for permission under section 26, the Planning Authority shall furnish

to the applicant a written acknowledgment of its receipt and after such inquiry as may be necessary either grant or refuse a commencement certificate:

Provided that such certificate may be granted subject to such general or special conditions as the local authority may, by order made in this behalf, direct.

(2) If the Planning Authority does not communicate its decision to the applicant within three months from the date of such acknowledgment, such certificate shall be deemed to have been granted to the applicant:

Provided that the land use, change in land use or the development for which permission was sought for is in conformity with the outline development plan and the regulation finally approved under sub-section (3) of Section 21.

(3) Subject to the provisions of Section 30, no compensation shall be payable for the refusal of or the insertion or imposition of conditions in the commencement certificate.

(4) If any person does any work on, or makes any use of, any property in contravention of Section 26 or of sub-section (1) of this section, the Planning Authority may direct such person by notice in writing, to stop any such work in progress or discontinue any such use; and may, after making an inquiry in the prescribed manner, remove or pull down any such work and restore the land to its original condition or, as the case may be, take any measure to stop such use.

(5) Any expenses incurred by the Planning Authority under sub-section (4) shall be a sum due to such Authority under this Act from the person in default or from the owner of the land.

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*Explanation.*—The power to grant necessary permission under this section for a change of user of land shall include the power to grant permission for the retention on land of any building or work constructed or carried out thereon before the date of the publication of the declaration of intention to prepare an outline development plan under sub-section (1) of Section 16 or for the continuance of any use of land instituted before the said date.

(6) Any person aggrieved by the decision of the Planning Authority under sub-section (1) or sub-section (4) may, within thirty days from the date of such decision, appeal to such authority as may be prescribed.

(7) The prescribed authority may, after giving a reasonable opportunity of being heard to the appellant and the Planning Authority, pass such orders as it deems fit, as far as may be, within four months from the date of receipt of the appeal.

### **30. Obligation to purchase land on refusal of permission in certain cases.**

—(1) Where permission for change of land use of the kind referred to in the explanation to Section 19 is refused or is granted subject to conditions, then, if any owner of the land claims, —

(a) that the land has become incapable of reasonable beneficial use in its existing state, or

(b) in a case where permission for such use is granted subject to conditions,

that the land cannot be rendered capable of reasonable beneficial use, by carrying out the conditions of the permission,

he may within the time and in the manner prescribed by regulations made by the Planning Authority, serve on the Planning Authority a notice (hereinafter referred to as a 'purchase notice'), requiring the Planning Authority to purchase his interest in the land in accordance with the provisions of this section.

(2) Where a purchase notice is served on a Planning Authority under this section, the Planning Authority shall forthwith transmit a copy of the notice to the State Government through the Director, and the State Government shall, if it is satisfied that the conditions specified in paragraph (a) or (b) of sub-section (1), as the case may be, are fulfilled, confirm the notice, and thereupon, the Planning Authority shall be deemed to be authorised to acquire the interest of the owner compulsorily in accordance with the provisions of this Act, and to have served a notice to acquire in respect thereof on such date as the State Government may direct.

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(3) If, within the period of six months from the date on which the purchase notice is served under this section, the State Government has not confirmed the notice, the notice shall be deemed to be confirmed at the expiration of that period, and the Planning Authority on which the notice was served shall be deemed to be authorised to acquire the interest of the owner compulsorily in accordance with the provisions of this Act at the expiration of the said period.

(4) The compulsory acquisition of the interest of the owner of a land under this section shall be deemed to be acquisition of land needed for a public purpose within the meaning of the Land Acquisition Act, 1894 (Central Act I of 1894).

### **31. Sanction for subdivision of plot or lay-out of private street.—**

(1) Every person who intends to subdivide his plot or make or lay-out a private street on or after the date of the publication of the declaration of intention to prepare the outline development plan under sub-section (1) of Section 18, shall submit the layout plan together with the prescribed particulars to the Planning Authority for sanction.

(2) The Planning Authority may, within the prescribed period, sanction such plan either without modification or subject to such modifications and conditions as it considers expedient or may refuse to give sanction, if the Planning Authority is of opinion that such division or laying out is not in any way consistent with the proposals of the outline development plan.

(3) No compensation shall be payable for the refusal or the insertion, imposition or modification or conditions in the grant of sanction.

(4) If any person does any work in contravention of sub-section (1) or in contravention of the modifications and conditions of the sanction granted under subsection

(2) or despite refusal for the sanction under the said sub-section (2), the Planning Authority may direct such person by notice in writing to stop any work in progress and after making an inquiry in the prescribed manner, remove or pull down

any work or restore the land to its original condition.

(5) Any expenses incurred by the Planning Authority under sub-section (4) shall be a sum due to the Planning Authority under this Act from the person in default.

(6) Any person aggrieved by the decision of the Planning Authority under sub-section (2) or sub-section (4) may, within thirty days from the date of such decision appeal to such authority as may be prescribed.

(7) The prescribed authority may after giving a reasonable opportunity of being heard to the appellant and the Planning Authority, pass such order as it deems fit, as far as may be, within four months from the date of receipt of the appeal.

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**32. Recovery of a fee in certain cases of permission for change in the**

**use of land or building.**—(1) Where permission for change of land use or development of land or building is granted under Section 27 or Section 28 or Section 29 or Section 34 and such change of land use or development is capable of yielding a better income to the owner, the Planning Authority may levy a prescribed fee not exceeding one-third of the estimated increase in the value of the land or building in the prescribed manner for permitting such change of land use or development of land or building.

(2) Any person aggrieved by the levy of fee under sub-section (1), may within such period as may be prescribed, appeal to the District Court having jurisdiction on the ground that the change or development is not capable of yielding a better income to the owner. The decision of the District Court on such appeal shall be final.

(3) The State Government may exempt any Board, Authority or body constituted by or under any law and owned or controlled by the State Government or Central Government or an infrastructure Project promoted or implemented by any Company or person and approved by the State Government or Central Government from the payment of fee specified under sub-section (1).

*Explanation.*—For the purpose of this section and Section 33

“Infrastructure Project” means,—

(a) road, bridge, air port, port, inland water ways and inland ports, rail system or any other public facility of a similar nature as may be notified by the State Government from time to time;

(b) a highway project including housing or other activities being an integral part of that project;

(c) water supply project, irrigation project, sanitation and sewerage system;

(d) a tourism project with an investment of not less than Rupees one hundred crores as may be notified by the State Government from time to time.

**33. Levy and collection of cess and surcharge.**—(1) Notwithstanding anything contained in this Act, the Planning Authority may while granting permission for development of land or building levy and collect from the owner of such land or building:—

(i) a cess for the purpose of carrying out any water supply scheme;

(ii) a surcharge for the purpose of formation of ring road;

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(iii) a cess for the purpose of improving slums; and

(iv) a surcharge for the purpose of establishing Mass Rapid Transport System, at such rates but all the above levies together not exceeding one-tenth of the market value of the land or building as may be prescribed.

(2) The cess and surcharge levied under sub-section (1) shall be assessed and collected in such manner as may be prescribed.

(3) Any person aggrieved by the levy, assessment and collection of cess or surcharge under this section may within thirty days from the date of the order appeal to the prescribed authority whose decision shall be final.

(4) The prescribed authority may after giving a reasonable opportunity of being heard to the appellant and the Planning Authority pass such order as it deems fit.

(5) The State Government may exempt any Board, Authority or Body constituted by or under any law and owned or controlled by the State Government or the Central Government or an infrastructure Projects promoted or implemented by any company or person and approved by the State Government or Central Government from the payment of cess or surcharge leivable under sub-section (1).

**34. Enforcement of the Comprehensive Development Plan.**—The Provisions of Sections 26, 27, 29, 30, 31, 32 and 33 shall apply mutatis mutandis to the enforcement of the Comprehensive Development Plan.

## CHAPTER V

### TOWN PLANNING SCHEMES

**35. Making of town planning scheme and its contents.**—

(1) Subject to the provisions of this Act, a Planning Authority, for the purpose of implementing the proposals in the Master Plan published under sub-section (4) of Section 21, may make one or more town planning schemes for the area within its jurisdiction or any part thereof.

(2) Such town planning scheme may make provisions for any of the following matters namely:—

(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;

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(c) lay-out of new streets or roads; construction, diversion, extension, alteration, improvement and stopping up of streets, roads, parking space 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, green belts 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 or national interest 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, size, height and character of buildings allowed in specified areas, the purposes to which buildings or specified areas may or may not be appropriated, the sub-division of plots, the discontinuance of objectionable users 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;

(3) The imposition of conditions and restrictions in regard to construction of flats and villa projects.—No flat or villa projects shall be carried out in the State without providing the following requirements.

(1) Sufficient area shall be provided for the parking of vehicles of the inmates and visitors of the inmates within the plot in which the flat or villa project or other projects are being carried out.

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(2) Arrangements shall be made for generating electricity utilizing Solar Energy, Wind Energy, Water Current as the case may be.

(3) Provision for drinking water shall be made utilizing rain harvesting.

(4) Provision for disposal of garbage's by constructing garbage disposal plant, or converting to compost or using some other devise.

(4) Such other matter not inconsistent with the objects of this Act as may be prescribed.

**36. Right of entry.**—For the purpose of making or execution of any town planning scheme, any person authorised by the Planning Authority or any public servant or person duly appointed or authorised under this Act, may, after giving such notice as may be prescribed to the owner, occupier or other person interested in any land, enter upon, survey and mark out such land and do all acts necessary for such purpose.

**37. Land in respect of which a town planning scheme may be made.**—

(1) A town planning scheme may be made in accordance with the provisions of this Act in respect of any land which is,—

(i) in the course of development,

(ii) likely to be used for building purposes, and

(iii) already built upon.

(2) 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 spaces, roads, streets, parks, pleasure or recreation grounds, parking spaces or for the purpose of executing any work upon or under the land incidental to a town planning scheme, whether in the nature of a building work or not.

**38. Declaration of intention to make a scheme.**—(1) A Planning Authority having jurisdiction over any such land as is referred to in Section 37 or over any such area as is referred to in Section 35, may by resolution declare its intention to make a town planning scheme in respect of the whole or any part of such land or such area.

(2) Within twenty-one days from the date of such declaration (hereinafter referred to as the declaration of intention to make a scheme), the Planning Authority shall publish it in the prescribed manner and shall despatch a copy thereof to the State Government through the Director.

(3) The Planning Authority shall send a plan showing the area which it proposes to include in the town planning scheme to the State Government through the Director.

(4) A copy of the plan shall be open to inspection by the public at the office of the Planning Authority.

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**39. Making and publication of draft scheme.**—(1) Within twelve months from the date of declaration of intention to make a scheme under Section 38, the Planning Authority shall make in consultation with the Director, a draft scheme for the area in respect of which the declaration has been made and publish the same in the prescribed manner:

Provided that on application by the Planning Authority in that behalf, the State Government may from time to time, by notification extend the aforesaid period by such period as may be specified not exceeding six months.

(2) If the draft scheme is not made and published by the Planning Authority within the period specified or within the period so extended under sub-section (1), the State Government or an officer authorised by the State Government in this behalf may make and publish in the prescribed manner a draft scheme for the area in respect of which the declaration of intention to make a scheme has been made by the Planning Authority within a further period of nine months from the date of the expiry of the extended period.

(3) If such publication is not made by the State Government within the further period specified in sub-section (2), the declaration of intention to make a scheme shall lapse, and until a period of three years has elapsed from the date of such declaration, it shall not be competent to the Planning Authority to declare its intention to make any town planning scheme for the same area or for any part of it.

**40. Power of State Government to require Planning Authority to make a scheme.**—(1) Notwithstanding anything contained in Sections 38 and 31, the

State Government may, in respect of any Planning Authority after making such inquiry as it deems necessary by notification, require the Planning Authority to make and publish in the prescribed manner and submit for its sanction through Director a draft scheme in respect of any land in regard to which a town planning scheme may be made under Section 37.

(2) For the purpose of this Act and the rules made thereunder, the requisition under sub-section (1) by the State Government shall be deemed to be the declaration of intention to make a scheme under Section 38.

**41. Contents of draft scheme.**—The draft scheme shall contain the following particulars, namely:

(a) the area, ownership and tenure of each original plot, the land allotted or reserved under clause (e) of sub-section (2) of section 35 with a general indication of the uses to which such land is to be put and the terms and conditions subject to which such land is to be put to such uses;

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(b) the extent to which it is proposed to alter the boundaries of original plots;

(c) an estimate of the net cost of the scheme to be borne by the Planning Authority;

(d) a full description of all the details of the scheme under such clauses of sub-section (2) of Section 35 as may be applicable;

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

(f) the filling up or reclamation of low-lying swamp or unhealthy areas, or levelling up of land; and

(g) any other prescribed particulars.

**42. Reconstituted plot.**—(1) In the draft scheme the size and shape of every reconstituted plot shall be determined, so far as may be, to render it suitable for building purposes and where the plot is already built upon, to ensure that the building as far as possible complies with the provisions of the scheme as regards open spaces.

(2) For the purpose of sub-section (1) the draft scheme may contain proposals,—

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

(b) to form a reconstituted plot by the transfer, wholly or partly, of the adjoining lands;

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

(d) to allot a plot to any owner dispossessed of the land in furtherance of the scheme; and

(e) to transfer the ownership of a plot from one person to another.

**43. Consideration of objections and sanction of draft scheme.**—(1) If, within one month from the date of publication of the draft scheme under subsection (1) or sub-section (2) of Section 31, as the case may be, any person affected by such scheme communicates in writing to the Planning Authority any objection relating to such scheme, the Planning Authority shall consider such objection and may, at any time before submitting the draft scheme to the State Government, as hereinafter provided, modify such scheme in such manner as it thinks fit.

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(2) The Planning Authority shall, within four months from the date of its publication under sub-section (1) or sub-section (2) of section 31, submit the draft scheme with any modifications which it may have made therein together with the objections which may have been communicated to it, to the State Government through the Director and shall at the same time apply for its sanction.

(3) After receiving such application and after making such inquiry as it may think fit, the State Government, in consultation with the Director, may by notification, within six months from the date of its submission, either sanction such scheme with or without modifications and subject to such conditions as it may think fit to impose, or refuse to give sanction.

(4) If the State Government sanctions such scheme, it shall in such notification state at what place and time the draft scheme so sanctioned shall be open to the inspection of the public.

**44. Restrictions after declaration to make a scheme.**—(1) On or after the date on which the Planning Authority's declaration of intention to make a scheme under Section 38 or the notification issued by the State Government under Section 40 is published,—

(a) no person shall within the area included in the scheme erect or proceed with any building work or remove, pull down, alter, make additions to, or make any substantial repair to any building, part of a building, a compound wall or any drainage work or remove any earth, stone or material, or sub-divide any land or change the user of any land or building unless such person has applied for and obtained necessary permission which shall be contained in a commencement certificate granted by the Planning Authority in the form prescribed;

(b) the Planning Authority on receipt of such application shall at once furnish the applicant with a written acknowledgment of its receipt and may, after inquiry and in consultation with the Director, either grant or refuse such certificate or grant it subject to such conditions as the Planning Authority may, with the previous approval of the Director, think fit to impose. If the Planning Authority communicates no decision to the applicant within three months from the date of such acknowledgment, the applicant shall be deemed to have been granted such certificate;

(c) if any person contravenes the provisions contained in clause (a) or clause (b), the Planning Authority may direct such person by notice in writing to stop any work in progress, and after making inquiry in the prescribed manner, remove, pull

down, or alter any building or other work or restore the land in respect of which such contravention is made to its original condition;

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(d) any expenses incurred by the Planning Authority under clause (c) shall be a sum due to such authority under this Act from the person in default or the owner of the plot.

(2) No person shall be entitled to compensation in respect of any damage, loss or injury resulting from any action taken by the Planning Authority under subsection (1) except in respect of a building or work begun or a contract entered into before the date on which the Planning Authority published a declaration of intention to make a scheme under Section 38 or the State Government published a notification under Section 40 and only in so far as such building or work has proceeded at the time of the publication of such declaration or notification:

Provided that such claim to compensation in the excepted cases shall be subject to the conditions of any agreement entered into between such person and the Planning Authority.

(3) Where under clause (l) of sub-section (2) of Section 35 or under a draft scheme under section 41,—

(a) the purpose to which any plot of land may not be used has been specified, such plot of land shall, within such period of not less than one year as may be specified in the final scheme, cease to be used for such purpose and shall be used only for the purposes specified in the Scheme;

(b) the purpose to which any existing building may not be used has been specified, such building shall, within such period of not less than three years as may be specified in the scheme, cease to be used for the purpose other than the purpose specified in the scheme;

(c) the purpose to which any plot of land with existing buildings may not be used has been specified in the scheme and the existence of such buildings is inconsistent with the provisions of the scheme, such buildings shall, within such period of not less than ten years as may be specified in the scheme cease to exist:

Provided that such period shall not be less than the reasonable life of the building;

No compensation shall be payable for any plot of land or building adversely affected by the making of town planning scheme.

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(4) Any person aggrieved by the decision of the Planning Authority under this section may, within sixty days from the date of the decision, appeal to the prescribed authority or if no authority has been prescribed, to the State Government and the order of such prescribed authority or State Government in appeal shall be final.

(5) The restrictions imposed by sub-sections (1) and (2) shall cease to operate in the event of the State Government refusing to sanction the draft scheme or

the final scheme.

**45. Power of the Local authority to suspend rule, bye-law, etc.—**

(1) When a Planning Authority has published a declaration of intention to make a scheme under Section 38 or the State Government has published a notification under Section 40, the Local authority may, by notification, suspend to such extent only as may be necessary, for the proper carrying out of the scheme, 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.

(2) Any order issued under sub-section (1) shall cease to operate in the event of the State Government refusing to sanction the final scheme or in the event of the coming into force of the final scheme.

## CHAPTER VI

### **TOWN PLANNING OFFICER AND HIS DUTIES**

**46. Appointment of Town Planning Officer.**—(1) Within one month from the date of the publication of the notification sanctioning a draft scheme under subsection (3) of Section 44, the Local authority shall appoint a person with prescribed qualifications as Town Planning Officer whose duties shall be as hereinafter provided.

(2) The Local authority shall provide such establishment as it thinks necessary to assist the Town Planning Officer in the discharge of his duties.

(3) The Town Planning Officer appointed under sub-section (1) shall be subordinate to the Director and shall perform his duties under this Act, subject to the general control and supervision of the Director.

(4) When a person appointed as Town Planning Officer under subsection (1) ceases to hold the office and another person is appointed in his place, any proceedings pending before such officer immediately before the date he ceases to hold the office, shall be continued and disposed of by the new Town Planning Officer appointed in his place.

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**47. Duties of the Town Planning Officer.**—(1) Subject to the provisions of sub-section (3) of section 46, the Town Planning Officer shall in accordance with the provisions of this Act and the rules made thereunder,—

(a) define and demarcate the areas allotted to, or reserved, for a public purpose or purpose of the Planning Authority and the reconstituted plots;

(b) determine in the case in which a reconstituted plot is to be allotted to persons in ownership in common, the shares of such persons;

(c) fix the difference between the total of the values of the original plots and the total of the values of the plots included in the final scheme;

(d) determine whether the areas used, allotted or reserved for a public purpose or purpose of the Planning Authority are beneficial wholly or partly to the owners or residents within the area of the scheme;

(e) estimate the portion of the sums payable as compensation on each plot used, allotted or reserved for a public purpose or purpose of the Planning Authority

which is beneficial partly to the owners or residents within the area of the scheme and partly to the general public, which shall be included in the costs of the scheme;

(f) calculate the contribution to be levied on each plot used, allotted or reserved for a public purpose or purpose of the Planning Authority which is beneficial partly to the owners or residents within the area of the scheme and partly to the general public;

(g) determine the amount of exemption, if any, from the payment of the contribution, that may be granted in respect of plots exclusively occupied for religious or charitable purposes;

(h) estimate the increment to accrue in respect of each plot included in the final scheme;

(i) calculate the proportion in which the increment of the plots included in the final scheme shall be liable to contribution to the costs of the scheme;

(j) calculate the contribution to be levied on each plot included in the final scheme;

(k) determine, as the case may be, the amount to be deducted from or added to the contribution leviable from a person;

(l) provide for the total or partial transfer of any right in an original plot to a reconstituted plot or provide for the extinction of a right in the original plot;

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(m) estimate in reference to claims made before him, the compensation to be paid to the owner of any property for rights injuriously affected by the making of a Town Planning Scheme;

(n) draw in the prescribed form the final scheme in accordance with the draft scheme sanctioned by the Local authority under Section 34:

Provided that he may make variation from the sanctioned draft scheme, subject to the condition that any variation estimated by him to involve an increase of ten percentum in the costs of the scheme or rupees one lakh, whichever is lower, shall require the sanction of the Local authority:

Provided further that the Town Planning Officer shall make no substantial variation without the consent of the Planning Authority and without hearing any objections, which may be raised by the owners concerned.

(2) If there is any difference of opinion between the Town Planning Officer and the Planning Authority whether variation made by the Town Planning Officer is substantial or not, the matter shall be referred by the Planning Authority to the State Government through the Director and the decision of the State Government shall be final and conclusive.

(3) The Town Planning Officer appointed for any draft scheme shall decide all matters referred to in sub-section (1) within a period of twelve months from the date of his appointment:

Provided that the State Government may, from time to time by order in writing, extend the said period by such further period as may be specified in the order.

**48. Certain decisions of the Town Planning Officer to be final subject to an appeal to the Director.**—From every decision of the Town Planning Officer, in matters not arising out of clauses (e), (f), (h), (i), (j), (k) and (m) of sub-section (1) of Section 47, an appeal shall lie to the Director within one month from the date of the decision and subject to the orders in such appeal, the decision of the Town Planning Officer shall be final and conclusive.

**49. Appeal.**—(1) Any decision of the Town Planning Officer under clauses (e), (f), (h), (i), (j), (k) and (m) of sub-section (1) of Section 47 shall be forthwith communicated to the party concerned and any party aggrieved by such communication of the decision, may appeal to the District Judge within the local limits of whose jurisdiction the area included in the scheme is situated.

(2) The District Judge may transfer an appeal filed before him to the Additional District Judge for disposal.

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(3) The District Judge or the Additional District Judge, as the case may be, after making such inquiry as he may think fit, may either direct the Town Planning Officer to reconsider his proposals or accept, modify, vary or reject the proposals of the Town Planning Officer and shall decide all matters arising out of clauses (e), (d), (h), (i), (j), (k) and (m) of sub-section (1) of Section 47.

(4) The District Judge or the Additional District Judge hearing an appeal under this section may require the Town Planning Officer to be present during the hearing. On such requisition the Town Planning Officer shall be present at the proceedings before the Judge and shall assist the Judge in an advisory capacity, but shall not be required to give evidence.

(5) The decision of the District Judge or the Additional District Judge, as the case may be, under sub-section (3) shall be final and conclusive and binding on all persons. A copy of the decision in appeal shall be sent to the Town Planning Officer.

**50. Decision of Town Planning Officer to be final if no appeal is filed**

**and variation of scheme in accordance with decision in appeal.**—(1) Where no appeal has been made under Section 49, the decision of the Town Planning Officer under clauses (e), (f), (h), (i), (j), (k) and (m) of sub-section (1) of Section 38 shall be final and conclusive.

(2) Where an appeal has been made under section 49 and a copy of the decision in appeal is received by the Town Planning Officer, such officer shall, if necessary, make variation in the scheme in accordance with such decision and shall then forward the final scheme together with a copy of his decision under section 47 and a copy of the decision in appeal under section 49 to the Director, for obtaining the sanction of the State Government to the final scheme.

**CHAPTER VII**

**DISPUTED OWNERSHIP, PRELIMINARY SCHEMES AND FINAL SCHEME, ITS SANCTION AND ENFORCEMENT**

**51. Disputed ownership.**—(1) Where there is a disputed claim as to the

ownership of any piece of land included in an area in respect of which the planning authority has declared under section 38 its intention to make a town planning scheme and any entry in the Record of Rights or Mutation Register relevant to such disputed claim is inaccurate or inconclusive, an inquiry may be held on an application being made by the Planning Authority or the Town Planning Officer, at any time prior to the date on which the Town Planning Officer draws up the final scheme under subsection (1) of Section 47, by such officer as the State Government may appoint for the purpose of deciding who shall be deemed to be the owner for the purposes of this Act.

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(2) Such decision shall not be subject to an appeal but it shall not operate as a bar to a regular suit.

(3) Such decision shall, in the event of a Civil Court passing a decree which is inconsistent therewith, be corrected, modified or rescinded in accordance with such decree or if there is an appeal in accordance with the decree passed in the appeal which will be treated as final, as soon as practicable, after such decree has been brought to the notice of the Planning Authority or the Town Planning Officer either by the original Court or by the appellate court or by some person affected by such decree.

## **52. Town Planning Officer to prepare preliminary scheme in certain cases.**

—If a draft scheme as sanctioned by the State Government under Section 43 contains any of the following works,—

(i) construction or alteration of bridges,  
(ii) roads, open spaces, gardens and recreation grounds,  
(iii) drainage, inclusive of sewage, surface drainage and sewage disposal,  
(iv) water supply,  
(v) any other work which, in the opinion of the Town Planning Officer, is for a public purpose, the Town Planning Officer shall, on the application of the Planning Authority, prepare in regard to such scheme in the prescribed manner a preliminary scheme in accordance with the provisions of Section 47:

Provided that it shall not be necessary for the Town Planning Officer at this stage to exercise the powers referred to in clauses (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m) and (n) of sub-section (1) of Section 47.

## **53. Power to hand over possession of land required for bridges, roads, etc.**

—(1) Where a Planning Authority thinks that, in the interest of the public, it is necessary to undertake forthwith any of the works referred to in Section 52 and included in a preliminary scheme, the Planning Authority shall make an application through the Director to the State Government to vest in it the land shown in the preliminary scheme.

(2) The State Government, if satisfied, that it is urgently necessary in the public interest to empower the Planning Authority to enter on the land for the purpose of executing any of the works aforesaid, may direct the Town Planning Officer, by

notification, to take possession of the land and may also fix the period during which the execution of the said works shall be completed:

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Provided that the period so fixed may for sufficient reasons be extended from time to time.

(3) The Town Planning Officer shall then give a notice in the prescribed manner to the person interested in the land requiring him to give possession of his land to the Town Planning Officer or any person authorised by him in this behalf within a period of one month from the date of service of notice and if no possession is delivered within the period specified in the notice, the Town Planning Officer shall take possession of the land and shall hand over the land to the Planning Authority. Such land shall thereupon vest absolutely in the Planning Authority free from all encumbrances.

(4) If the Town Planning Officer is obstructed or impeded in taking possession of the land under sub-section (3) he shall request the District Magistrate or any First Class Magistrate having jurisdiction as such enforce the delivery of possession of the land to him. Such Magistrate shall take or cause to be taken such steps and use or cause to be used such force as may reasonably be necessary for securing the delivery of possession of the land to the Town Planning Officer.

*Explanation.*—The power to take steps under this sub-section shall include the power to enter upon any land or other property whatsoever.

(5) The owner of the land the possession of which is taken by the Town Planning Officer under this section shall be entitled to an interest at the rate of 9 per cent per annum on the amount of compensation payable to him under this Act in respect of the said land from the date on which such possession is taken till the date on which the final scheme in which such land is included comes into force or till the land is restored to the owner under sub-section (6), as the case may be.

(6) If the Planning Authority has not executed any works on the land for which the land was vested in the Planning Authority under sub-section (3) within the period fixed under sub-section (2), the Town Planning Officer shall make or tender to the owner or the person interested in the land such compensation for the damage, if any, done to the land as he may think reasonable and shall restore the land to the owner or person interested therein.

**54. Final scheme.**—(1) Within a period of three months from the date of receipt of the final scheme from the Director under sub-section (2) of Section 50, the State Government may, by notification, sanction the scheme or refuse to give such sanction, provided that in sanctioning the scheme the State Government may make such modifications as may, in its opinion, be necessary for the purposes of correcting any error, irregularity or informality.

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(2) If the State Government sanctions such scheme, it shall state in the notification,—

- (a) the place at which the final scheme is kept open to inspection by the public;
- (b) the price at which copies may be obtained;
- (c) a date (which shall not be earlier than one month after the date of publication of the notification) on which all the liabilities created by the scheme shall take effect and the final scheme shall come into force:

Provided that the State Government may, from time to time postpone such date by notification by such period not exceeding three months at a time as it thinks fit.

- (3) On and after the date fixed in such notification the Town Planning Scheme shall have effect as if it were enacted in this Act.

**55. Effect of final scheme.**—(1) On the day on which the final scheme comes into force,—

- (a) all lands required by the Planning Authority shall, unless it is otherwise determined in such scheme, vest absolutely in the Planning Authority free from all encumbrances;
- (b) all rights in the original plots which have been reconstituted shall determine and the reconstituted plots shall become subject to the rights settled by the Town Planning Officer.

(2) On and after the day on which the final scheme comes into force any person continuing to occupy any land which he is not entitled to occupy under the final scheme may, in accordance with the prescribed procedure, be summarily evicted by the Planning Authority.

**56. Power to enforce scheme.**—(1) On and after the day on which the final scheme comes into force the Planning Authority may, after giving the prescribed notice and in accordance with the provisions of the scheme,—

- (a) remove, pull down or alter any building or other work in the area included in the scheme, which is such as to contravene the scheme or in the erection or carrying out of which, any provisions of the scheme has not been complied with;
- (b) execute any work which it is the duty of any person to execute under the scheme, in any case where it appears to the Planning Authority that delay in the execution of the work would prejudice the efficient operation of the scheme.

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(2) Any expenses incurred by the Planning Authority under this section may be recovered from the persons in default or from the owner of the plot in the manner provided for the recovery of sums due to the Planning Authority under the provisions of this Act.

(3) If any question arises as to whether any building or work contravenes a Town Planning Scheme, or whether any provision of a Town Planning Scheme is not complied with in the erection of any such building or the carrying out of any such building or work, it shall be referred to the State Government or the Director if authorised by the Local authority in this behalf, and the decision of the State Government

or the Director, as the case may be, shall be final and conclusive and binding on all persons.

**57. Power to vary scheme on ground of error, irregularity or informality.**—(1) If after the final scheme has come into force, the Planning Authority

considers that the scheme is defective on account of an error, irregularity or informality, the Planning Authority may apply in writing to the State Government through the Director for the variation of the scheme.

(2) If on receiving such application or otherwise, the State Government is satisfied that the variation required is not substantial, the State Government shall publish a draft of such variation in the prescribed manner.

(3) The draft variation published under sub-section (2) shall state every amendment proposed to be made in the scheme, and if any such amendment relates to a matter specified in any of the clause (a) to (k) of sub-section (2) of Section 35, the draft variation shall also contain such other particulars as may be prescribed.

(4) The draft variation shall be open to the inspection of the public at the office of the Planning Authority.

(5) Within one month of the date of publication of the draft variation, any person affected thereby may communicate in writing his objections to such variation to the State Government through the Director and send a copy thereof to the Planning Authority.

(6) After receiving the objections under sub-section (5), the State Government may, after consulting the Director and the Planning Authority and after making such inquiry as it may think fit, by notification, approve the variation with or without modification or refuse to make the variation.

(7) From the date of the notification making the variation, with or without modifications, such variation shall take effect as if it were incorporated in the scheme.

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**58. Power to revoke or vary town planning scheme.**—(1) Notwithstanding

anything contained in Section 57, a Town Planning Scheme may at any time be varied or revoked by a subsequent scheme made, published and sanctioned in accordance with this Act.

(2) The State Government

(a) on the application of the Planning Authority, or

(b) of its own motion, after making such enquiry as it deems fit and after giving the Planning Authority an opportunity to be heard, may at any time, after consulting the Director, by notification, revoke a Town Planning Scheme if it is satisfied that under the special circumstances of the case the scheme should be revoked.

**59. Compensation when the final scheme is varied or revoked and apportionment of costs.**—(1) If at any time after the day on which the final scheme

has come into force, such scheme is varied or revoked, any person who has incurred expenditure for the purpose of complying with such scheme shall be entitled to receive compensation from the Planning Authority, in so far as any such expenditure is rendered

abortive by reason of the variation or revocation of such scheme.

(2) In the event of sanction to final scheme being refused by the State Government or a final scheme being revoked, the State Government may direct that the costs of the scheme shall be borne by the Planning Authority or be paid to the Planning Authority by the owners concerned, in such proportion as the State Government may in each case determine.

**60. Joint Town Planning Schemes.**—(1) When two or more Planning Authorities are of opinion that the interests of contiguous areas within their respective jurisdictions can best be served by the making of a Joint Town Planning Scheme, and the local authority agrees with such opinion, a Joint Town Planning Board shall be constituted.

(2) Such Board shall consist of representatives of each of the several Planning Authorities duly elected in the prescribed manner and of persons nominated by the local authority.

(3) Such Board, when duly constituted, shall make a declaration of the intention to make a Joint Town Planning Scheme in respect of the contiguous areas in the manner provided in Section 38, and thereafter the Board shall have all the powers and be liable to all the duties of the Planning Authority under this Act and all the provisions in respect of procedure shall apply, so far as may be applicable.

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(4) The draft joint town planning scheme shall specify the parts of the scheme to be executed by the several Planning Authorities in the several contiguous areas and the several parts of the scheme shall, when notified in the final scheme, have effect in the several contiguous areas, as if they are separate schemes:

Provided that any part of a Joint Town Planning Scheme may be executed jointly by two or more Planning Authorities.

**61. Delegation of certain powers of Joint Town Planning Board.**—A

Joint Town Planning Board may, by order in writing, direct that all or any of the powers conferred on it by Section 44, sub-section (2) of Section 55 and Section 56 shall, in such circumstances and under such conditions, if any, as may be specified in the order, be exercised by such officer as the Joint Town Planning Board may specify in the order.

**62. Right to appear by recognised agent.**—Every party to any proceeding before the Town Planning Officer or the Officer to whom under Section 61, the Joint Town Planning Board has delegated its powers, shall be entitled to appear either in person or by his recognised agent.

**63. Power to compel attendance of witnesses, etc.**—For the purposes of this Act, an officer appointed under sub-section (1) of Section 51, or a Town Planning Officer or an Officer to whom the Joint Town Planning Board has under Section 61 delegated its powers, may summon and enforce the attendance of witnesses including the parties interested or any of them and compel them to give evidence and compel the production of documents by the same means and, as far as possible, in the same

manner as is provided in the case of a Civil Court by the Code of Civil Procedure, 1908.

**64. Costs of a scheme.**—(1) The costs of a Town Planning Scheme shall include,

- (a) all sums payable by the Planning Authority under the provisions of this Act, which are not specifically excluded from the costs of the scheme;
- (b) all sums spent or estimated to be spent by the Planning Authority in the making and in the execution of the scheme;
- (c) all sums payable as compensation for land reserved or designated for any public purpose or purpose of the Planning Authority, which is solely beneficial to the owners or residents within the area of the scheme;

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- (d) such portion of the sums payable as compensation for land reserved or designated for any public purpose or purpose of the Planning Authority, which is beneficial partly to the owners or residents within the area of the scheme and partly to the general public, as is attributable to the benefit accruing to the owners or residents within the area of the scheme from such reservation or designation;
- (e) all legal expenses incurred by the Planning Authority in the making and in the execution of the scheme;
- (f) any amount by which the total of the values of the original plots exceeds the total of the values of the plots included in the final scheme, each of such plots being estimated at its market value on the date of the declaration of intention to make a scheme, with all the buildings and works thereon on that date and without reference to improvements contemplated in the scheme other than improvements due to the alteration of its boundaries.

(2) If, in any case, the total of the values of the plots included in the final scheme exceeds the total of values of the original plots, each of such plots being estimated in the manner provided in clause (f) of sub-section (1), then the amount of such excess shall be deducted in arriving at the costs of the scheme, as defined in subsection

(1).

**65. Calculation of increment.**—For the purposes of this Act, the increment shall be deemed to be the amount by which on the date of the declaration of intention to make a scheme, the market value of a plot included in the final scheme estimated on the assumption that the scheme has been completed would exceed on the same date the market value of the same plot estimated without reference to improvements contemplated in the scheme:

Provided that in estimating such values, the value of buildings or other works erected or in the course of erection on such plot shall not be taken into consideration.

**66. Contribution towards costs of scheme.**—(1) The costs of the scheme shall be met wholly or in part by a contribution to be levied by the Planning Authority on each plot included in the final scheme calculated in proportion to the increment which is estimated to accrue in respect of such plot by the Town Planning Officer:

Provided that,—

- (a) no such contribution shall exceed one-third of the increment estimated by the Town Planning Officer to accrue in respect of such plot;
- (b) where a plot is subject to a mortgage with possession or to a lease, the Town Planning Officer shall determine in what proportion the mortgagee or lessee on the one hand and the mortgagor or lessor on the other hand, shall pay such contribution;

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- (c) no such contribution shall be levied on a plot used, allotted or reserved for a public purpose or purpose of the Planning Authority which is solely for the benefit of owners or residents within the area of the scheme; and
- (d) the contribution levied on a plot used, allotted or reserved for a public purpose or purpose of the Planning Authority, which is beneficial partly to the owners or residents within the area of the scheme and partly to the general public shall be calculated in proportion to the benefit estimated to accrue to the general public from such use, allotment or reservation.

(2) The owner of each plot included in the final scheme shall be primarily liable for the payment of the contribution leviable in respect of such plot.

**67. Certain amount to be added to or deducted from contribution**

**leviable from a person.**—The amount by which the total value of the plots included in the final scheme with all the buildings and works thereon allotted to a person falls short of or exceeds the total value of the original plots with all the buildings and works thereon of such person shall, as the case may be, be deducted from or added to the contributions leviable from such person, each of such plots being estimated at its market value on the date of the declaration of intention to make a scheme or the date of a notification under Section 40 and without reference to improvements contemplated in the scheme other than improvements due to the alterations of its boundaries.

**68. Transfer of right from original to reconstituted plot or extinction**

**of such right.**—Any right in an original plot which in the opinion of the Town Planning Officer is capable of being transferred wholly or in part, without prejudice to the making of a Town Planning Scheme to a reconstituted plot shall be so transferred and any right in an original plot which in the opinion of the Town Planning Officer is not capable of being so transferred shall be extinguished.

**69. Compensation in respect of property or right injuriously affected**

**by scheme.**—The owner of any property or right which is injuriously affected by the making of a Town Planning Scheme shall, if he makes a claim before the Town Planning Officer within the prescribed time, be entitled to obtain compensation in respect thereof from the Planning Authority or from any person benefited or partly from the Planning Authority and partly from such person as the Town Planning Officer may in each case determine:

Provided that the value of such property or right shall be held to be its market value on the date of the declaration of intention to make a scheme or the date of a

notification under Section 40 without reference to improvements contemplated in the scheme.

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**70. Exclusion or limitation of compensation in certain cases.**—(1) No compensation shall be payable in respect of any property or private right of any sort which is alleged to be injuriously affected by reason of any provisions contained in the Town Planning Scheme, if under any other law for the time being in force applicable to the area for which such scheme is made, no compensation is payable for such injurious affection.

(2) Property or a private right of any sort shall not be deemed to be injuriously affected by reason of any provision inserted in a Town Planning Scheme, which, with a view to securing the amenity of the area included in such scheme or any part thereof, imposes any conditions and restrictions in regard to any of the matters specified in clause (j) of sub-section (2) of Section 35.

**71. Provision for cases in which amount payable to owner exceeds amount due from him.**—If the owner of an original plot is not provided with a plot in the final scheme or if the contribution to be levied from him under Section 66 is less than the total amount payable to him under any of the provisions of this Act, the net amount of his loss shall be payable to him by the Planning Authority in cash or in such other way and within such time as may be agreed upon by the parties of such amount is not paid within the time fixed, the amount shall be paid with 9 per cent interest till date of payment.

**72. Provisions for cases in which value of developed plot is less than the amount payable by owner.**—(1) If, from any cause, the total amount which would be due to the Planning Authority under the provisions of this Act from the owner of a plot to be included in the final scheme, exceeds the value of such plot estimated on the assumption that the scheme has been completed, the Town Planning Officer shall, at the request of the Planning Authority, direct the owner of such plot to make payment to the Planning Authority of the amount of such excess.

(2) If such owner fails to make such payment within the prescribed period, the Town Planning Officer shall, if the Planning Authority so requests, acquire the original plot of such defaulter and apportion the compensation among the owner and other persons interested in the plot on payment by the Planning Authority of the value of such plot estimated at its market value on the date of the declaration of intention to make a scheme or the date of a notification under Section 40 and without reference to improvements contemplated in the scheme, and thereupon the plot included in the final scheme shall vest absolutely in the Planning Authority free from all encumbrances, but subject to the provisions of this Act:

Provided that the payment made by the Planning Authority on account of the value of the original plot shall not be included in the costs of the scheme.

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**73. Payment by adjustment of account.**—All payments due to be made to

any person by the Planning Authority under this Act shall, as far as possible be made by adjustment in such person's account with the Planning Authority 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 by the parties.

**74. Payment of net amount due to Planning Authority.**—(1) The net amount payable under the provisions of this Act by the owner of a plot included in the final scheme may, at the option of the contributor, be paid in lump sum or annual instalments not exceeding ten. If the owner elects to pay the amount by instalments, interest at four and a half per cent per annum shall be charged on the net amount payable. If the owner of a plot fails to so elect on or before the date specified in a notice issued to him, he shall be deemed to have elected to pay the contribution by instalments and the interest on the contribution shall be calculated from the date specified in the notice, being the date before which he was required to make an election as aforesaid.

(2) Where two or more plots included in the final scheme are in the same ownership, the net amount payable by such owner under the provisions of this Act shall be distributed over his several plots in proportion to the increment which is estimated to accrue in respect of each plot, unless the owner and the Planning Authority agree to a different method of distribution.

**75. Power of Planning Authority to make agreements.**—(1) A Planning Authority shall be competent to make any agreement with any person in respect of any matter which is to be provided for in a Town Planning Scheme, subject to the power of the State Government to modify or disallow such agreement and unless it is otherwise expressly provided therein, such agreement shall take effect on and from the date on which the Town Planning Scheme comes into force.

(2) Such agreement shall not in any way affect the duties of the Town Planning Officer as described in Chapter VI or the rights of third parties, but it shall be binding on the parties to the agreement notwithstanding any decision that may be made by the Town Planning Officer:

Provided that, if the agreement is modified by the State Government, either party shall have the option of avoiding it if they so elects.

**76. Recovery of arrears.**—(1) Any sum due to the Planning Authority under this Act or any regulation made thereunder shall be a first charge on the plot on which it is due, subject to the prior payment of land revenue, if any, due to the State Government thereon.

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(2) Any sum due to the Planning Authority under this Act or any regulation made thereunder which is not paid on the date fixed by the Planning Authority, of which due notice is given in this behalf, shall be recoverable by the Planning Authority by distress and sale of the goods and chattel of the defaulter as if the amount thereof were a property tax due by the defaulter.

(3) In lieu of the recovery of the dues of the Planning Authority in the manner provided in sub-section (2) or after recovering part of the dues of the Planning Authority in the manner provided in sub-section (2), any sum due or the balance of any sum due as the case may be, by such defaulter may be recovered from him by a suit in any court of competent jurisdiction.

**77. Powers of Planning Authority to borrow money for Development**

**Plan or for making or executing a Town Planning scheme.**—(1) A Planning Authority may, for the purpose of an outline or comprehensive development plan or the making or execution of a Town Planning scheme, borrow loans in accordance with the provisions of this Act under which the Planning Authority as a local authority is constituted or if such Act does not contain any provision for such borrowing in accordance with any other law for the time being in force.

(2) Any expense incurred by a Planning Authority or the Local authority under this Act or in connection with an outline or comprehensive development plan or a Town Planning scheme, may be defrayed out of the funds of the Planning Authority.

**CHAPTER VIII**

**FINANCE, ACCOUNTS AND AUDIT**

**78. Funds of Planning Authority.**—(1) Every Planning Authority shall have and maintain a separate fund to which shall be credited,

(a) all moneys received by the Planning Authority from the State

Government by way of grants, loans, advances or otherwise;

(b) all charges or fees received by the Planning Authority under this Act or rules, regulations or bye-laws made thereunder;

(c) in the case of a Planning Authority constituted under Section 7, such contributions from the Fund or Funds of the local authority or local authorities of the area included in the planning area, as such local authority or local authorities may from time to time be required by the Local authority to make to such Planning Authority;

(d) all moneys received by the Planning Authority from any other source.

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(2) The Fund shall be applied towards meeting,—

(a) the expenditure incurred in the administration of this Act;

(b) the cost of acquisition of land in the planning area for the purposes of development;

(c) the expenditure for such other purposes as the Local authority may direct.

**79. Budget of the Planning Authority.**—Every Planning Authority shall prepare in such form and at such time every year as may be prescribed, a budget in respect of the financial year next ensuing, showing the estimated receipts and expenditure of the Planning Authority in respect of the administration of this Act and shall forward to the State Government and the Board, such number of copies thereof as may be prescribed.

**80. Accounts and Audit.**—(1) Every Planning Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts including the balance sheet in such form as may be prescribed.

(2) The accounts of every Planning Authority shall be subject to audit annually by the Comptroller of State Accounts.

(3) The accounts of every Planning Authority as certified by the Comptroller of State Accounts together with the audit report thereon shall be forwarded annually to the State Government and the Board.

**81. Annual Reports.**—Every Planning Authority shall prepare for every year a report of its activities under this Act during that year and submit the report to the State Government and the Board in such form on or before such date as may be prescribed.

## CHAPTER IX

### LAND ACQUISITION

#### **82. Acquisition of land designated for certain purposes in a Master**

**Plan.**—(1) The Planning Authority may acquire any land designated in a Master Plan for a specified purpose in clause (b), (c) or (d) of sub-section (1) of Section 20, or for any public purpose out of those specified land in clause (a) of sub-section (1) of Section 20 by agreement or under the Land Acquisition Act, 1894 (Central Act 1 of 1894) as in force in the State.

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(2) If the designated land, except land specified for the purpose in clause (b) of sub-section (1) of Section 20, is not acquired by agreement within five years from the date, the Master Plan is published in the gazette under sub-section (4) of Section 21 or if the proceedings under Land Acquisition Act are not commenced within such period the designation shall be deemed to have been lapsed.

#### **83. Land acquisition for purposes of a scheme or Development Plan to**

**be deemed for a public purpose.**—Land needed for purpose of a Town Planning scheme or Master Plan shall be deemed to be land needed for a public purpose within the meaning of the Land Acquisition Act, 1894.

#### **84. Power of Local authority to acquire lands included in a scheme.—**

(1) If, at any time, the State Government is of opinion that any land included in a Town Planning scheme is needed for a public purpose other than that for which it is included in the scheme, it may make a declaration to that effect in the Official Gazette in the manner provided in section 6 of the Land Acquisition Act, 1894. The declaration so published shall, notwithstanding anything contained in the said Act, be deemed to be a declaration duly made under the said section.

(2) On the publication of a declaration under sub-section (1) the Deputy Commissioner shall proceed to take order for the acquisition of the land and the provisions of the Land Acquisition Act, 1894, so far as may be, apply to the acquisition of the said land.

## CHAPTER X

## OFFENCES AND PENALTIES, RULES AND BYE-LAWS

### 85. Offences and Penalties.—Whoever,

- (1) does any work in contravention of the provisions of Section 26;
- (2) contravenes the conditions of the commencement certificate granted under sub-section (1) of Section 22, XXX, or of the sanction granted under sub-section (2) of Section 31;
- (3) does any work in spite of refusal to grant a commencement certificate under sub-section (1) of Section 15 or of the sanction under sub-section (2) of Section 31;
- (4) obstructs the entry of any person upon any land under Sections 19 or 36 or prevents such person from doing anything in accordance with the said section;

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(5) does any work in contravention of clause (a) or (b) of sub-section (1) of Section 44; shall, on conviction, be punished with imprisonment for a term which may extend to three months or with fine which may extend to five thousand rupees or with both and the Court shall, in such order of conviction, direct that if such contravention continues after the date of the order of conviction, a fine not exceeding two hundred and fifty rupees per day for the period from which the contravention continues shall be recovered from the person so convicted:

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, the fine shall not be less than five hundred rupees and in the case of a continuing contravention of the provisions, the fine shall not be less than twenty five rupees per day.

### 86. Rules.—(1) The State Government may, by notification and after previous publication, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may be made to determine the following matters:—

- (a) the functions and powers of the Board and Planning Authorities constituted under Section 7;
- (b) the qualifications and disqualifications for being chosen as and for being members of the Board, and Planning Authorities constituted under Section 7;
- (c) the manner of nomination of representatives of local authorities under clause (iii) of sub-section (3) of Section 7;
- (d) the manner in which and the purposes for which any Planning Authority may associate with itself any person under Section 10;
- (e) the particulars that are to be shown in a map under section 14;
- (f) the manner of and the procedure to be followed in making an inquiry under sub-section (2) of Section 15;
- (g) the manner of publication of the outline development plan under sub-section (1) or sub-section (2) of section 17; or under sub-section (4) of Section 21;

- (h) the notices to be given under section 19 and Section 36;
- (i) the form of the commencement certificate to be granted under sub-section (1) of Section 29;
- (j) the particulars to be furnished by a person submitting a lay-out plan under sub-section (1), the period within which the Planning Authority may sanction such plan under sub-section (2) and the manner of holding an inquiry under sub-section (4) of Section 31;

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- (k) the betterment fee to be levied and the manner of levy under Section 32;
- (l) the manner of publication of a declaration of intention to make a scheme under sub-section (2) of Section 38;
- (m) the manner of publication of a draft scheme under Section 39;
- (n) the further particulars to be included in the draft scheme under clause (g) of Section 41;
- (o) the form of the commencement certificate to be granted under clause (a) of sub-section (1) of Section 44 and the conditions, if any, to be included therein;
- (p) the procedure to be followed in making an inquiry under clause (c) of sub-section (1) of Section 44;
- (q) the manner in which, and the method according to which, compensation shall be payable under sub-section (2) of Section 44;
- (r) the qualifications of persons to be appointed as Director of Town Planning and as Town Planning Officer;
- (s) the procedure that is to be followed by a Town Planning Officer in making orders under any of the several clauses of sub-section (1) of Section 47;
- (t) the form in which the Town Planning Officer is to draw the final scheme under clause (n) of sub-section (1) of Section 47;
- (u) the procedure to be followed by the officer appointed to hold an inquiry for the purpose of deciding a disputed claim as to ownership under Section 51;
- (v) the manner of preparing a preliminary scheme under Section 52;
- (w) the manner of giving notice under Section 53;
- (x) the procedure to be followed in summarily evicting a person under Section 55;
- (y) the notice to be given before action is taken under section 56;
- (z) the manner of publication of a draft variation under sub-section (2) and the particulars which a draft variation shall contain under sub-section (3) of Section 57;

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- (aa) the manner of election of representatives of the several Planning Authorities under sub-section (2) of section 60;

- (bb) the time to be allowed for making a claim to compensation under section 69;
- (cc) the period within which payment is to be made to the Planning Authority under section 72;
- (dd) the form of the budget of Planning Authorities, the date on or before which it shall be prepared, the manner of preparing it and the number of copies that have to be sent to the Board and the Local authority;
- (ee) the form of the annual statement of accounts and balance sheets to be prepared under section 80;
- (ff) the form of the annual report of the Planning Authorities and the dates on or before which they shall be submitted under section 81;
- (gg) the manner in which documents, plans, maps shall be made accessible to the public under the proviso to section 104;
- (hh) the procedure to be adopted by the Planning Authority to secure co-operation on the part of the owners or persons interested in the land proposed to be included in a Town Planning Scheme at every stage of the proceedings by means of conferences and such other means as may be expedient;
- (ii) the procedure to be followed by a Town Planning Officer generally under this Act;
- (jj) the extent to which the proceedings of Planning Authorities under this Act shall be regulated by any municipal or local law applicable to such authorities;
- (kk) (ak) the documents of which copies may be granted and the fees payable for the inspection of such documents and the grant of copies thereof; and
- (ll) any other matter for which there is no provision or no sufficient provision in this Act (including provision relating to appeals, appellate authorities, time for filing appeals, fees payable in respect of appeals and other matters), and for which provision is in the opinion of the Local authority, necessary for giving effect to the purposes of this Act.

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(3) A rule made under this section may provide that a contravention of any of the provisions of the rules which are specified in such rule shall be punishable with fine which may extend to five hundred rupees and in the case of a continuing contravention, with an additional fine which may extend to ten rupees for every day during which such contravention continues after conviction for the first such contravention.

(4) Any rule under this Act may be made to have effect retrospectively and

when any such rule is made a statement specifying the reasons for making such a rule shall be laid before the State Legislature along with the rule under sub-section (4).

All rules made under this Act shall, subject to any modification made under sub-section (4), have effect as if enacted in this Act.

(5) Every rule made under this section shall be laid as soon as may be after it is made before the State Legislature while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the legislature agree in making any modification in the rule or the House agrees that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

**87. Bye-laws.**—(1) A Planning Authority may, with the previous sanction of the local authority, make bye-laws consistent with the provisions of this Act and the rules thereunder to carry out the purposes included in the Master Plan.

(2) A bye-law made under this section may provide that a person contravening any of the provisions of the bye-laws which are specified in such bye-law shall on conviction, be punished with fine, which may extend to one hundred rupees and in the case of a continuing contravention, with an additional fine, which may extend to five rupees for every day during which such contravention continues after conviction, for the first such contravention.

(3) The power to make bye-laws under this section shall be subject to the condition of previous publication and such publication shall be in the official Gazette and in such other manner as may be directed by the local authority.

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## CHAPTER XI

### MISCELLANEOUS

**88. Bar of Legal Proceedings.**—No suit or other legal proceedings shall be maintained against the State Government, the Planning Authority, local authority or any public servant or persons duly appointed or authorised under this Act, in respect of anything in good faith done or purporting to be done under the provisions thereof or the rules made thereunder.

### **89. Mode of Proof of Records of the Board and the Planning**

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

## **90. Restriction on Summoning of Officers and Servants of the Board**

**and Planning Authority.**—No chairman, member or Officer or servant of the Board or any Planning Authority shall in any legal proceeding to which the Board or Planning Authority is not a party, be required to produce any register or document the contents of which can be proved under Section 89 by a certified copy, to appear as a witness to prove the matters and transactions recorded therein, unless by order of the Court made for special cause.

**91. Offences by companies.**—(1) If the person committing an offence under this Act is a company, every person, who, at the time the offence was committed was in-charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1) where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be liable to be proceeded against and punished accordingly.

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**Explanation.**—For the purpose of this section,—

(a) “company” means a body corporate and includes a firm or other association of individuals; and

(b) “director” in relation to a firm means a partner in the firm.

**92. Penalty for obstructing contractor or removing mark.**—If any person,—

(a) obstructs, or molests any person engaged or employed by the Board or any Planning Authority, or any person with whom the Board or the Planning Authority has entered into a contract, in 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 or direction necessary to the execution of works authorised under this Act,

(c) he shall be punishable with fine which may extend to two thousand rupees or with imprisonment for a term which may extend to two months.

**93. Sanction of prosecution.**—No prosecution for any offence

punishable under this Act shall be instituted except with the previous sanction of the State Government or Planning Authority or any officer authorised by the Local authority or the Planning Authority in this behalf.

**94. Composition of offences.**—(1) The Local authority or the Planning

Authority concerned or any person authorised by the Local authority or the Planning Authority in this behalf by general or special order may either before or after the institution of the proceedings compound any offence made punishable by or under this Act.

(2) When an offence has been compounded, the offender, if in custody shall be discharged and no further proceedings shall be taken against him in respect of the offence compounded.

**95. Fine when realised to be paid to Planning Authority.**—All fines realised in connection with any prosecution under this Act shall be paid to the planning authority concerned.

**96. Member and officers to be public servants.**—Every member and every officer and other employee of the Board and of every Planning Authority shall be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code.

**97. Finality of orders.**—Save as otherwise expressly provided in this Act, every order passed or direction issued by the State Government or the Board or order passed or notice issued by any Planning Authority under this Act shall be final and shall not be questioned in any suit or other legal proceeding.

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**98. Validation of acts and proceedings.**—No act done or proceeding taken under this Act shall be questioned on the ground merely of,-

- (a) the existence of any vacancy in, or any defect in the constitution of the Board or any Planning Authority;
- (b) any person having ceased to be a member;
- (c) any person associated with the Board or any planning authority under section 4F having voted in contravention of the said section; or
- (d) the failure to serve a notice on any person, where no substantial injustice has resulted from such failure; or
- (e) any omission, defect or irregularity not affecting the merits of the case.

**99. Control by the local authority.**—(1) Every Planning Authority shall carry out such directions as may be issued from time to time by the local authority for the efficient administration of this Act.

(2) If in, or in connection with, the exercise of its powers and discharge of its functions by any Planning Authority under this Act, any dispute arises between the Planning Authority, and a local authority, the decision of the Local authority on such dispute shall be final.

**100. Returns and information.**—Every Planning Authority shall furnish to the Local authority such reports, and other information as the Local authority may from time to time require.

**101. Effect of other Laws.**—(1) Save as provided in this Act, the provisions of this Act and the rules, regulations and bye-laws made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law.

(2) Notwithstanding anything contained in any such other law,-

(a) when permission for development in respect of any land has been obtained under this Act, such development shall not be deemed to be unlawfully undertaken or carried out by reason only of the fact that permission, approval or sanction required under such other law for such development has not been obtained;

(b) when permission for such development has not been obtained under this Act, such development shall not be deemed to be lawfully undertaken or carried out by reason only of the fact that permission, approval or sanction required under such other law for such development has been obtained.

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**102. Local authority's powers to cancel the resolution or order.**—(1) If the local authority is of opinion that the execution of a resolution or order issued by or on behalf of the Planning Authority or the doing of any act which is about to be done or is being done by or on behalf of the Planning Authority is in contravention of or in excess of the powers conferred by this Act or any other law for the time being in force or is likely to lead to breach of peace or to cause injury or annoyance to the public or to any class or body of persons or is prejudicial to the interest of the Planning Authority, it may, by order in writing, suspend the execution of such resolution or order or prohibit the doing of any such act after issuing a notice to the Planning Authority to show-cause within the specified period which shall not be less than fifteen days, why,—

(a) the resolution or order may not be cancelled, in whole or in part; or  
(b) any regulation or bye-law concerned may not be repealed in whole or in part.

(2) Upon consideration of the reply, if any, received from the Planning Authority and after such inquiry as it thinks fit, the local authority may, pass orders cancelling the resolution or order or repealing the regulation or bye-law and communicate the same to the Planning Authority.

(3) The local authority may at any time, on further representation by the Planning Authority or otherwise revise, modify or revoke an order passed under subsection

(2).

**103. Power of Planning Authority to suspend or revoke permission**

**etc.**—Planning Authority may suspend or revoke any licence, permission or sanction granted by it if,

(1) the grantee has evaded or committed breach of any of the restrictions or conditions subject to which such licence, permission or sanction was granted; or  
(2) the grantee is convicted for contravention of any of the provisions of this Act, or of any rule, bye-law or regulation made thereunder in respect of any matter relating to such licence, permission or sanction, or  
(3) the grantee has obtained the licence, permission or sanction by misrepresentation or fraud:

Provided that before making any order under this section the Planning Authority

shall give the grantee a reasonable opportunity of making representation against the proposed order.

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**104. Registration of documents, plan or map in connection with final**

**scheme not required.**—(1) Nothing in the Indian Registration Act, 1908 (Central Act XVI of 1908), shall be deemed to require the registration of any document, plan or map prepared, made or sanctioned in connection with a final scheme which has come into force and which has not been revoked.

(2) All such documents, plans and maps shall, for the purposes of Section 57 and Section 58 of the Indian Registration Act, 1908, be deemed to have been and to be registered in accordance with the provisions of that Act:

Provided that copies of documents, plans and maps relating to the sanctioned scheme shall be sent to the Sub-Registry office concerned, where such copies shall be kept and made accessible to the public in the manner prescribed.

**105. Vesting of property and rights of a Planning Authority ceasing**

**to exist or ceasing to have jurisdiction.**—When any Planning Authority

ceases to exist or ceases to have jurisdiction over any area included in a Town Planning scheme, the property and rights vested in such Planning Authority under this Act, shall, subject to all charges and liabilities affecting the same vest in such other Planning Authority or authorities as the State Government may, with the consent of such authority or authorities, by notification direct; and the Planning Authority or each of such Planning Authorities shall have all the powers under this Act in respect of such schemes or such part of a scheme as comes within its jurisdiction which the Planning Authority had, immediately before it ceased to exist or ceased to have jurisdiction.

**106. Default in exercise of power or performance of duty by Planning**

**Authority.**—(1) If, in the opinion of the local authority, any Planning Authority is not competent to exercise or perform, or neglects or fails to exercise or perform any power conferred or duty imposed upon it under any of the provisions of this Act, the local authority or any person or persons appointed in this behalf by the local authority, may exercise such power or perform such duty.

(2) Any expenses incurred by the local authority or by such person in exercising such power or performing such duty, shall be paid out of the funds of the Planning Authority and the local authority may make an order directing any person who, for the time being, has custody of any such funds to pay such expenses from such funds and such person shall be bound to obey such order.

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**107. Special provision in case of a dissolution or supersession of a local**

**authority.**—(1) Where a local authority which is a Planning Authority under this Act, is dissolved or superseded under the law governing its constitution, the person or persons appointed under such law to exercise the powers and perform the duties of such local authority shall be deemed to be the local authority within the meaning of clause 11 of Section 2 of this Act, and may exercise all the powers and perform all the

duties of a Planning Authority under this Act, during the period of dissolution or supersession of such local authority.

(2) In the event of a person or persons appointed as aforesaid exercising the powers and performing the duties of a Planning Authority under this Act, any property, which may under the provisions of this Act vest in the Planning Authority exercising such powers and performing such duties shall during the period of dissolution or supersession of the local authority vest in the State Government and such property shall, at the end of the said period, vest in such local authority as the State Government may, by notification direct.

(3) Where a local authority which is not a Planning Authority is dissolved or superseded under the law governing its constitution, the representatives of such local authority shall for purpose of clause (iii) of sub-section (3) of Section 7, be nominated from among the officers of such local authority by the person or persons appointed under such law to exercise the powers and perform the duties of such local authority, and such representatives shall, notwithstanding anything contained in sub-sections (1) and (2) of Section 8, hold office during the pleasure of the said person or persons.

**108. Dissolution of Planning Authorities.**—(1) Where the local authority is satisfied that the purposes for which any Planning Authority was established under this Act, have been substantially achieved so as to render the continued existence of the Planning Authority in the opinion of the local authority unnecessary, the local authority, may, by notification, declare that the Planning Authority shall be dissolved with effect from such date as may be specified in the notification, and the Planning Authority shall be deemed to be dissolved accordingly.

(2) With effect from the date of dissolution of a Planning Authority under sub-section (1), except where a direction is issued under section 78, all properties, rights and liabilities of such Planning Authority shall vest in the local authority.

**109. Delegation of powers of Planning Authority.**—The local authority may, by notification and subject to such restrictions and conditions as may be specified therein, delegate any of the powers and functions of the Planning Authority under this Act to any local authority or any officer of the local authority.

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**110. Removal of difficulties.**—(1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may by order published in the official Gazette, as the occasion may require do anything which appears to it to be necessary to remove the difficulty.

(2) Every order made under sub-section (1) shall as soon as may be after it is published, be laid before the State Legislature and shall, subject to any modification which the State Legislature may make, have effect as if enacted in this Act.

**111. Repeal and savings.**—(1) The Town Planning Act IV of 1108, as in force in the former Travancore-Cochin area of the State and;

(2) the Madras Town Planning Act, 1920 (Madras Act VII of 1920), as in force in the Malabar area of the State and the Travancore Town and Country Planning

Act, 1120 as in force in former Travancore area of the State area hereby repealed:

Provided that such repeal shall not affect,—

(a) the previous operation of the said Acts or anything duly done or suffered thereunder; or

(b) any right, privilege, obligation or liability acquired, accrued or incurred under the said Acts; or

(c) any penalty, forfeiture or punishment incurred in respect of any offence committed against the said Acts; or

(d) any investigation, legal proceedings or remedy in respect of any such right, privilege, obligation, liability, forfeiture or punishment as aforesaid; and any such investigation, legal proceedings or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed, as if this Act had not been passed:

Provided further that, subject to the preceding proviso, anything done or any action taken (including any appointment made, any declaration of intention to make a scheme published, any application made to the local authority for sanction of the making of the scheme, any draft scheme published by a local authority, any application made to the local authority for the sanction of the draft scheme, any sanction given by the local authority to the draft scheme, any restriction imposed upon an owner of land or building against the erection or re-erection of any building or works, any

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commencement certificate granted, any order of suspension of rule, bye-law, regulation, notification or order made, any final scheme forwarded to or sanctioned or varied by the local authority and any recoveries made or compensation given in respect of any plot under the repealed Acts) shall be deemed to have been done or taken under the corresponding provisions of this Act, and shall continue to be in force accordingly unless and until they are superseded by anything done or any action taken under this Act.

### **Statement of Objects and Reasons**

The object of the Bill is to have a comprehensive legislation to ensure planned growth of land use and development both in Urban and Rural areas. Another object is to have a uniform legislation on the subject repealing the three different enactments applicable to the different parts of the State. Proper and effective implementation of Town Planning scheme is yet another object of recommending the Bill. A comprehensive and common law applicable to the entire State may be of great advantage to the public, is the main reason for the recommendation.

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