

Andhra Pradesh (Andhra Area) Town Planning Act, 1920

7 of 1920

[07 September 1920]

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"Many municipalities in this Presidency have from time to time devised schemes for new extensions or for the relief of congestion, which have engaged the close attention of Government. But such schemes have often been prepared only after great mischief had been done-mischief that could have been avoided if steps had been taken in time. It is considered desirable to suggest to municipalities by legislation that they should intelligently anticipate and provide for future developments by framing town-planning schemes, and to give them receive power to carry these schemes into effect. In the cases that have come before Government the financial problem has always loomed large. Much of the deterrent expense which the schemes at present framed usually involve will be obviated by the simple course of anticipating development before it takes place. It costs nothing to decide beforehand that a projected street shall run in a certain direction, and be of a certain width. It may cost very large sums of money to re-align and widen a street after it has been allowed to grow up in a haphazard way. The Bill further purposes to assist municipalities by applying the principle of Betterment contributions or special assessment and charging part of the cost of constructing roads and of other works to the holders of property receiving immediate and direct benefit from them. It also proposes to relieve municipal funds by keeping within reasonable limits the cost of buying out existing interest. The Bill also suggests that schemes should keep

in view beauty, and not merely utility: that architecture should be regulated: open spaces, gardens and recreation grounds provided; and objects of architectural or natural beauty preserved. The basis of the Bill is the town-planning portion of the English Housing and Town-Planning Act of 1900. Clause 13-17 : Compensation on acquisition of property, etc. These clauses made a departure from the provisions of the Land Acquisition Act, 1894. The most important matter in which they do so is the abrogating of the concession in Section 23(2) which provides for an addition of 15 percent, to the amount of every award in consideration of the compulsory nature of the acquisition. For this there is the precedent of the Parliamentary Act, see Schedule I, clause (3). The betterment principal is also applied to cases of partial acquisition by clause 14(4), for which see Rule 2(c) of the Schedule to the Parliamentary Development and Road Improvements Funds Act, 1909 and Section 30 of the Rochdale Corporation Act, 1890. Provisos to clause 14(2) (c) and (d) - Compare Section 557 (e), Calcutta Municipal Act. Clause 14 (3)(f) is an adopted version of Section 24 seventhly of the Land Acquisition Act; for clause 14 (3) (g), Section 557, proviso (ii) of the Calcutta Municipal Act may be compared. Clauses 15 and 16 Compare Section 557 (d) and proviso (iii) of the Calcutta Municipal Act and Section 49 (4) and (5) of the Bombay City Improvements Act, 1898. Clause 17 is based on Section 59 of the Parliamentary Act and Section 22 of the Bombay Act. Clauses 18 to 20 - Betterment is dealt with very briefly in Section 58(3) of the Parliamentary Act under which a responsible authority is entitled to recover from any person whose property is increased in value by a scheme one-half of the amount of that increase. The betterment principle though long applied in Italy, the United States and Germany, is comparatively new in English legislation. It is dealt with in greater detail in certain local English Acts than in the Housing and Town-Planning Act. For instance, the London County Council Act, 1895 Section 36 contains elaborate provisions under the title "Improvement charge". The charge under that Act is not levied in a lump-sum, but in the form of a half-yearly tax, which may be redeemed on payment of 33 times the annual tax. In this Bill the betterment contribution takes the form neither of a lump sum payment nor of a perpetual but redeemable charge. The Bill adopts an intermediate position and provides that the special assessment shall be paid in twenty half-yearly installments. This is the principle of the Italian Act 1865, which has worked well for half a century. To safeguard the tax-prayer, clause

20 gives him the option of requiring the authorities to acquire his property at its market value. Precedents for such a provision will be found in Section 80 of the Italian Act of 1865 and in sub-section 9 of Section 36 of the London Country Council Act of 1895, under which if the owners "are of opinion that such charge is greater than it should be interference to the enhancement or supposed enhancement of the value of such lands by reason of the improvement they may at any time within the said period of three months (instead of giving any notice of objection under the preceding paragraph of this section) by notice in writing served upon the Council require the Council to purchase their estate and interest in such lands unless the councils abandon their intention to impose a charge". Clause 29 provides for the extension of the Act to small towns in exceptional circumstances. Clause 30 gives the benefit of the compensation and betterment provisions of the Bill to schemes for the improvement of areas already built upon in cases when the owners of property benefits specially by the improvement. The special provisions regarding the acquisition of land in the Parliamentary Housing Act of 1890 and in the Bombay and Calcutta Improvement Trust Acts may be compared, (see Statement of objects and Reasons). This Act has been amended in several material particulars by the Madras Town-Planning (Amendment) Act II of 1930.

STATEMENT OF OBJECTS AND REASONS OF MADRAS ACT 2 OF 1930

The necessity for amending the Madras Town-Planning Act, 1920 was felt within a few years after the Act was passed. Serious difficulties were experienced in working the Act in connection with the Mambalam Town-Planning Scheme. The Scheme was prepared by the Madras City and Suburban Town-Planning Trust, which was constituted under the Act, and had, after the preliminary stages had been gone through, to be transferred to the Corporation of Madras for execution mainly for the reason that the Trust was not in a position to finance the scheme. The experience of the Madras Town-Planning Trust showed that the functioning of such a body was greatly handicapped for want of adequate financing provisions in the Act. There was no provision in the Act for equipping the Trust with necessary funds for executing any scheme prepared by it. The absence of any provision in the Act for transferring the execution of a scheme at any stage of its making or executing from the Trust to a local authority or from a local authority to a Trust also caused great inconvenience and trouble. On account of the Section Town-Planning Scheme", prepared by the Trust had to be dropped and

several other schemes of the Trust had to be held in abeyance. With a view to obviate these difficulties, which were actually experienced in connection with the operations of the Madras City and Suburban Town-planning Trust Bill No. 5 of 1924 to amend the Madras Town-Planning Act, 1920, was introduced by the Government. While Bill No. 5 of 1924 was pending consideration before the Select Committee to which it had been referred by the Legislative Council, it was felt that the Town-Planning Act, 1920, stood in need of amendments in directions other than those dealt with by the Bill. As the Bill was primarily designed to overcome the difficulties in connection with the Mambalam Town-Planning Scheme and as the scheme had been by that time transferred to the Corporation of Madras, the preferable course seemed to be abandon the Bill in favour of a comprehensive amending Bill and accordingly Bill No. 5 of 1924 was not proceeded with further. The existing Act implies a distinction between "town-Planning" and "town-improvement" which is unnecessary and caused inconvenience in practice. The Act provides for construction of houses for the poorer and working classes only but does not include comprehensive housing schemes within its scope. Notwithstanding the compulsory provision contained in Section 8 of the Act, most of the municipal councils falling within its purview failed to submit schemes within the prescribed time. Inordinate delays occurred in the correspondence between one local body and another in regard to the preparation of schemes and the procedure relating to it was complicated. There is no provision in the Act that the execution of a scheme should commence immediately after it was sanctioned; nor is power reserved for enabling the execution of different parts of a scheme at different times. A scheme becomes final when sanctioned by the Local Government even before the arbitrator has completed functioning. The Act imposes an inconvenient restriction by fixing a maximum period of six months from the date of the publication of a notification under Section 14 for preferring claims for betterment contribution. Every decision of the arbitrator under the Act is final. These are some of the features which call for amendment in addition to the defects already adverted to which led to the introduction of Bill No. 5 of 1924. The object of the present Bill is to remedy these drawbacks and deficiencies. The main changes introduced in the Act by this Bill are-- (1) the definition of "town-Planning" so as to include 'town improvement; (2) Provision that a scheme may provide that it or any portions there may be enforced or carried out by other responsible authorities specied

therein; (3) Provision for a comprehensive 'housing' programme (advance for house building); (4) the preparation of general town-planning schemes for all lands in all municipalities and in their vicinity without an population limit; (5) simplification of procedure in the matter of preparing schemes and the prevention of delays in the correspondence between one local body and another in regard to it; (6) the execution of sanctioned schemes to be commenced forth with and provision for execution of different parts of a scheme at different times; (7) schemes not becoming final until the arbitrator has completed functioning; (8) Government to have power to revoke or vary schemes suo motu after publication; etc., (9) provision of minimum period of time instead of maximum period for preferring claims to betterment contribution; (10) provision of a right of appeal to the Government from the decision of the arbitrator; (11) compulsory contribution to trusts from municipal revenues; and (12) provision for transfer of schemes from one authority to another at any stage. No special reference is necessary in this place to the other changes proposed in the Bill. The appended Notes on Clauses explain in detail the more important provisions of the Bill'--Fort St. George, Gazette, part IV, dated 17th September, 1929. Whereas it is expedient that the development of towns should be regulated to secure their present and future inhabitants sanitary conditions, amenity and convenience; And whereas the previous sanction of the Governor-General required by Section 79, sub-section (2) of the Government of India Act, 1915 has been obtained to the passing of this Act, It is hereby enacted as follows; 1. For Statement of Objects and Reasons See Fort St. George Gazette, dated 9th March, 1920, pp. 298--99; for Report of Select Committee, see *ibid*, dated 15th June, 1920, pp. 759-- 94; and for Proceedings in Council, see *ibid*, dated 15th June, 1920, pp. 819--23, and *ibid*, dated 2nd November, 1920 pp. 133--67.

CHAPTER 1 Preliminary

1. Short Title And Extent :-

(1) This Act may be called the 1Andhra Pradesh (Andhra Area) Town Planning Act, 1920.

(2) It extends to whole of the State of Andhra Pradesh.

1. Short title substituted by A.P. Act 9 of 1961.

2. Definitions :-

In this Act, unless there is anything repugnant in the subject or context,--

(1) "Chairman" means the "Chairman of the Municipal Council" in Municipalities.

(2) "Director" means the Director of Town-Planning appointed under this Act.

(3) "Municipality" means local area in which the Andhra Pradesh (Andhra Area) Municipalities Act, 1965, is in force.

(4) "Owner" includes the 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 property in connection with which the word is used.

(5) "Plot" means a continuous portion of land held in one ownership other than land used, allotted or reserved for any public or municipal purpose.

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

(7) "Reconstituted plot" means a plot which is in any way altered by the making of a town planning scheme otherwise than by the severance of land used, allotted or reserved for any public or municipal purpose.

1[(8) "Responsible authority" means "the authority or person, who is specified in a scheme as responsible for carrying out or enforcing the observance of all or any of the provisions of the scheme or for enforcing the execution of any works which under the scheme are to be executed by any authority, owner, or other person"],

1[(9)] "Scheme" means a town-planning scheme and includes a plan relating to a town planning scheme;

1[(10) "Town planning" includes town-improvement].

1. Clause (8) of Section 2 was renumbered as Clause (9) of that section and new Clauses (8) and (10) were inserted by Section 2 of Madras Act II of 1930.

CHAPTER 2 Town Planning Schemes

3. Ommited :-

1[* * *]

1. Section 3 was omitted by Section 3, *ibid*.

4. Matters That May Be Dealt With In Scheme :-

A town-planning scheme may provide for all or any of the following

matters:--

1[(a) the laying out or relaying out of land, either vacant or already built upon as building sites or for any of the purposes mentioned in this section];

(b) the construction, diversion, extension, alteration, improvement or closure of streets, roads and communications;

(c) the construction, alteration, removal 2[or] demolition of buildings, bridges and other structures;

(d) the acquisition by purchase, exchange or otherwise, of any land 3[or other immovable property] within the area include in the scheme whether required 4[* * *] or not;

(e) the redistribution of boundaries and the reconstitution of plots belonging to owners of property comprised in the scheme;

(f) the disposal by sale, exchange, lease, or otherwise of land acquired or owned by the Council;

(g) transport facilities;

(h) water-supply; (i) lighting;

(j) drainage inclusive of sewerage and of surface draining and sewage disposal;

(k) the allotment or reservation of land for streets, roads, squares, houses 5[* * *], buildings for religious and charitable proposes, open spaces, gardens recreation, grounds, schools, markets, shops, factories, hospitals, dispensaries, Government and municipal buildings, and public purposes of all kinds;

(l) construction of houses 5[* * *];

(m) the preservation of objects and buildings of archaeological or historic interest or of natural beauty or actually used for religious purposes or regarded by the public with special religious veneration;

(n) the imposition of conditions and restriction in regard to the character, number, architectural features and height of buildings allowed in specified areas, and the purposes to which buildings or specified areas may or may not be appropriated; and provision and maintenance of sufficient open space about buildings;

(o) the suspension, 6[restriction or modification] so far as may be necessary for the proper carrying out of the scheme, of any provision in 7[* * *] 8[the Andhra Pradesh Municipalities Act, 1965], or 9[the Andhra Pradesh (Andhra Area) District Boards Act, 1920 (Act, XIV of 1920) or as the case may be, the Andhra Pradesh (Telangana Area) District Boards Act, 1955 or in any rule, by law or regulation made under the said Acts and in force in the area included in the scheme;

(p) the 10(suspension, restrict on or] modification, so far as may be necessary for the proper carrying out of the scheme, of any provision in 4[the Andhra Pradesh (Andhra Area) Estates Land Act, 1908). affecting the conversion of holdings or portions thereof into building land in the area included in the scheme;

Explanation:-- The word holding in this clause shall have the same meaning as in 4[the Andhra Pradesh (Andhra Area) Estates Land Act, 1908].

11(q) the advance to the owners of land or buildings comprised within the scheme, upon such terms and conditions as may be provided by the scheme, of the whole or part of the amount required for the erection of buildings or for the carrying out of the works, alterations or improvements in accordance with the scheme];

12[(r) such other matters not inconsistent with the objects of this Act as may be prescribed.

1. Subs. for the original clause by Section 4 (i) of Madras Act II of 1930.

2. Subs. for the word "and" by Section 4 (ii), *ibid*.

3. Ins. by Section 4 (iii), *ibid*.

4. The words "for building purposes" were omitted by *ibid*.

5. The words "for the poorer and working classes" were omitted by Section 4 (iv) *ibid*.

6. Ins. by Section 4 (v), of Madras Act II of 1930.

7. The words and figures "the Madras City Municipal Act, 1919" were omitted by the (A.A.) (Amdt.) Order, 1954.

8. Subs. for the original short title by Andhra Pradesh Act IX of 1961, First Schedule and again A.P. Act 24 of 1981.

9. Subs. for "the Madras Local Boards Act, 1920" by the Schedule *ibid*.

10. Ins. by Section 4 (vi) of Madras Act II of 1930.

11. Clause (q) of Section 4 was re-lettered as cl. (r) and a new clause(q) was inserted by Section 4 (vii), *ibid*.

12. Clause (q) of Section 4 was re-lettered as clause (r) and a new clause (q) was inserted by Section 4 (vii), *ibid*.

5. Reconstituted Plots :-

(1) 1[* * *] The size and shape of every reconstituted plot shall be so determined as to render it, so far as may be, suitable for building purposes.

(2) In order to render original plots more suitable for building

purposes, the scheme may contain proposals--

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

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

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

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

1. The words "In the scheme" were omitted by Section 5, *ibid*.

6. Omitted :-

1[* * *]

1. Section 6 omitted by Madras Act II of 1930.

CHAPTER 3 Making variation and revocation of Schemes and their effect

7. Appointment Of Director Of Town Planning :-

(1) The 1[State Government] may appoint a person to be Director of Town Planning for the 2[State] and may assign to him from time to time such salary and establishment as they think fit.

(2) The cost of such officer and his establishment shall be paid out of the revenues of the 1[State Government].

(3) Municipal Councils shall consult the Director on such matters relating to town planning, and in such manner as may be prescribed. If any difference arises between the Director and a Council on any matter so prescribed, it shall be referred to the 4State Government whose decision shall be final.

1. The words "Provincial Government" were subs. for the words "Local Government" by the A.O. 1937, and the word "State" was subs for "Provincial" by the A.O. 1950.

2. Subs. for the word "Provincial" by the A.O. 1950.

8. Obligation On Newly Constituted Councils To Make Schemes Not Later Than Four Years :-

1(1) "Every Municipal Council shall not later than four years from the date of the constitution of such council." prepare, publish and submit for the sanction of the State Government a general town-

planning scheme in respect of all land within the municipality and in its vicinity unless the State Government orders otherwise.

(2) Notwithstanding anything contained in sub-section (1), the State Government may, after making such enquiry as they may deem necessary by notification in the Official Gazette, direct any municipal council to prepare, publish and submit for their sanction before an appointed date a general town-planning scheme under this section for an area specified in such notification.

(3) A General town-planning scheme shall determine the lines on which the improvement of the area within the municipality and in its vicinity shall proceed and shall provide for such of the matters referred to in Section 4 and to such extent as may be prescribed.

1. Subs. for the original Section 7 of Madras Act II of 1930, and again by A.P. Act 24 of 1981.

2. The words "Provincial Government" were subs. for the words "Local Government" by the A.O. 1937 and the word "State" was subs for "Provincial" by the A.O. 1950.

9. Declaration Of Intention To Make Or Adopt Scheme :-

1[(1) A municipal council may, by resolution, decide to prepare a scheme in respect of any land, within the municipal area, or in its vicinity outside such area, or to adopt with or without modifications a draft scheme proposed by all or any of the owners of any such land. The Chairman shall then have a plan prepared showing the land proposed to be included in the scheme, the surrounding lands and any existing streets].

(2) No town-planning scheme made or adopted by a municipal council shall include any area outside its limits without the concurrence of the municipal council or of the District Board, as the case may be having jurisdiction over such area;

Provided that if the municipal council or District Board concerned omits, for four months from the date of receipt of the communication requesting such concurrence, to send a final reply thereto, such concurrence shall be deemed to have been given:

Provided further that, where such concurrence is refused, the State Government may, after considering the objections of such council or District Board, overrule them, and permit such area to be included in the scheme.

(3) The decision of the State Government as to whether any lands in the vicinity of a municipal area shall be final.

1. Subs. for the word "Fort St. George Gazette" by the A.O. 1937.

2. Subs. for the original sub-section by Section 8 (i) of Madras Act II of 1930.

10. Resolution To Make Or Adopt Scheme :-

1The resolution under Section 9 shall be published by notification in the prescribed manner by the Chairman; and such notification shall state that a copy of the plan is kept for the inspection of the public at all reasonable hours at the municipal office.

1. Sub-section (1) of Section 10 was renumbered as Section 10 and sub-sections (2) and (3) of that section were omitted by Section 9 of Madras Act II of 1930.

11. Publication Of Draft Scheme :-

(1) If the resolution is to makes a scheme, the municipal council shall, within twelve months from the date of the notification under Section 10, 1[* * *], or within such further period, not exceeding twelve months, as the State Government may allow, and after consulting, in the prescribed manner, the owners of lands and buildings in the area affected, prepare, 2[* * *] and publish a draft scheme.

(2) If the resolution is to adopt a draft scheme proposed by owners, the council shall, without delay 3[* * *] publish such scheme.

1. The word, figure and brackets "sub-section (3)" were omitted by Section 10 (i) *ibid*.

2. The word "print" was omitted by *ibid*.

3. The words "print and" were omitted by Section 10 (ii), of Madras Act II of 1930.

12. Power Of State Government To Require Council To Make Scheme :-

Notwithstanding anything contained in 1[Sections 9 to 11] the State Government may, in respect of any municipality, after making such inquiry as they may deem necessary, by notification in the 2[Official Gazette], require the council, before a fixed date, 3[to prepare, publish and submit for their sanction a draft scheme] as respects any land in regard to which a town-planning scheme may be made.

1. Subs. for the words and figures "Sections 8 to 11" by Section 11 (i), *ibid*.

2. Subs. for the words "Fort St. George Gazette" by the A.O. 1937.
3. Subs. for the words "to prepare print and submit for their sanction a scheme" by Section 11 (ii) of Madras Act 11 of 1930.

13. Contents Of Draft Scheme :-

1[(1) Every draft scheme shall contain the following particulars:--

- (a) a plan showing the lines of existing and proposed streets;
- (b) the ownership of all lands and buildings in the area to which the scheme relates;

(c) the area of all such lands whether public or private;

2[(d) a full description of all details of the scheme under such clauses of Section 4 as may be applicable;

3(e) [* * *]

(f) an estimate of the 4[* * *] cost of the scheme; 5[(g) regulations for enforcing or carrying out the provisions of the scheme;. and defining the responsible authority and the period for which such responsible authority shall function;] (h) any other particulars or plans that may be prescribed or specially required by the State Government.

6(2) Every draft scheme which includes a housing scheme shall also contain the following particulars, namely;--

(i) the approximate number and the nature of the houses to be provided by the responsible authority:

(ii) the approximate quantity of land to be acquired and the localities in which land is acquired;

(iii) the average number of houses per acre; and (iv) all matters incidental to the housing scheme.

(3) A draft scheme may provide that any person who commits or knowingly permits a breach of any specified provision of the scheme, or who neglects or fails to comply with any such provision, shall, on conviction, be punishable under Section 44-B.

1. Section 13 was renumbered as sub-section (1) of Section 13 by Section 12 (i) *ibid*.

2. Clause (d) was subs. for the original by Section 12 (1) (a), *ibid*.

3. Clause (e) was omitted by Section 12 (1) (b), *ibid*.

4. The word "net" was omitted by Section 12 (c), *ibid*.

5. Clause (g) was subs. for the original by Section 12 (1) (d) of Madras Act II of 1930.

6. Sub-sections (2) and (3) were added by Section 12 (2) of Madras Act II of 1930.

14. Sanctioning Of Schemes By State Government :-

(1) if within sixty days from the date of the publication of a draft scheme any person affected by such scheme communicates in writing any objection or suggestion relating thereto, the council shall consider such objection or suggestion and may modify the scheme as it thinks fit.

(2) the scheme as passed or adopted by the council together with all written objections and suggestions shall thereupon be submitted to the State Government for sanction 1[and the fact of such submission shall be published in the prescribed manner).

2(3) the State Government may, after considering the objections and suggestions, if any, and making such inquiry as they think fit, sanction the scheme with or without modifications, or may refuse to sanction the scheme or may return the scheme to the council for reconsideration:

Provided that unless a modification is, in the opinion of the State Government verbal or inconsequential, the State Government shall not sanction the scheme with such modifications without the Consent of the Council;

Provided further that when a scheme is returned to the council for reconsideration, the council shall resubmit to the State Government within three months from the date of its receipt and the State Government may then deal with the scheme in the manner mentioned in this sub-section:

Provided further that if the council fails to resubmit the scheme within the time specified in the foregoing proviso, the State Government may in relation to the scheme, pass such orders as may deem fit.

3[(4) When a scheme returned for reconsideration is modified by the council the scheme as so modified shall before resubmission to the State Government for sanction, be published and passed by the council in the same manner as a draft scheme.

(a) in cases in which the modification involves the inclusion in or exclusion from the scheme of any land or the acquisition of any land not originally proposed to be acquired, and

(b) in every other case in which the modification is in the opinion of the council or of the State Government, of sufficient importance to require the following of this procedure).

3[(5) the sanction of the State Government to a scheme under sub-section (3) shall be published by notification in the 4[Official Gazettee] and such notification shall state at what place and time the scheme will be open to the inspection of the public.

5[(6) A notification published under sub-section (5) shall be conclusive evidence that the scheme has been duly made and sanction. The scheme shall have effect from the date of publication of such notification and the execution of the scheme shall be commenced forthwith:

Provided that, where the scheme so provides, the execution of the scheme or any part thereof may be deferred until such time as may be fixed in the scheme],

1. Added by Madras Act 2 of 1930

2. Subs. by *ibid*.

3. Sub-section (5) was omitted and sub-section (4) was renumbered as sub-section (5) and new sub-sections (4) and (6) were inserted by Sec. 13 (iii), of Madras Act, II 1930.

4. Subs. for the words "Fort St. George Gazette" by the A.O. 1937.

5. Subs. for the original by Section 14, *ibid*.

15. Variation Or Revocation Of Schemes :-

1(1) A town-planning scheme sanctioned under Section 14 may at any time be varied or revoked by a subsequent scheme, published and sanctioned in accordance with this Act;

Provided that the municipal council shall be competent to modify a scheme after it has been sanctioned by the State Government under Section 14 by an agreement entered into with the persons interested in the scheme and with the concurrence of the State Government.

(2) (a) The State Government may, at any time, by notification in the Official Gazette, vary or revoke a scheme sanctioned under Section 14.

(b) Before issuing such notification the State Government shall publish in the prescribed manner a draft of such notification together with a notice specifying a date on or after which such draft will be taken into consideration and shall consider any objection or suggestion which may be received in respect of such draft from the council or any person affected by the scheme before, the date so specified].

1. Subs. for the original Section 14 by the A.O. 1937.

16. Limitation Of Compensation Payable To Person Affected By Variation Or Revocation Of Scheme :-

If at any time after the day on which a 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 municipal council in so far as, by reason of the variation or revocation of such scheme, such expenditure has ceased to be any way beneficial to him.

17. Permission To Be Taken For Construction, Etc., After Publication Of Draft Scheme :-

After the publication of a notification under Section 10, 1[* * *] or Section 12, no person shall erect, or proceed with, any building or work on, or enter into or carry out a contract in respect of, land within the area included in the scheme, unless he has applied for, 2[and obtained permission, in cases where a scheme has not been sanctioned, from the municipal council, and in other cases, from a responsible authority];

Provided that, if the council 3[or the responsible authority] omits for three months from the date of receipt of such application, to communicate to the applicant any orders thereon, it shall be deemed to have granted the permission.

1. The word, figure and brackets, "sub-section (1)" were omitted by Section 15 (1) of Madras Act II of 1930.
2. Subs. for the words "and obtained permission from the municipal council to do so" by Section 15 (ii), *ibid*.
3. Ins. by Section 15 (iii), *ibid*.

18. Obligation On Owners To Comply With Scheme After Sanction :-

From the date of the notification of the State Government sanctioning a scheme under Section 14, all owners of lands and buildings in the area affected by the scheme who propose to construct or reconstruct or in any way alter or add to buildings shall conform in every particular with the requirements of such scheme; and no building shall be constructed or reconstructed in any area in which building is expressly forbidden in the scheme or which is reserved in the scheme for any purpose incompatible with building.

18A. Power To Levy Development Charges :-

1 (1) Subject to the provisions of this Act the competent authority shall levy, development charges at such rate as may be prescribed on the institution of use or change of use of land or building or development of any land or building for which permission is required under this Act in the whole area or any part of the

development area:

Provided that different rates of development charges may be prescribed for different parts of the development area and for different uses.

(2) Notwithstanding anything contained in sub-section (1), no development charges shall be levied on the institution of use or change of use of land or building or development of any land or building vested in or under the control or possession of the Central or the State Government or of any local authority:

1. Sections 18-A and 18-B inserted by Act 14 of 1996, came into force 3-2-1996. Vide G.O.Ms. No. 42, M.A. & U.D., dt 3-2-1996.

18B. Classification Of Land Or Building :-

(1) For the purpose of assessing the development charges, the use of land or building shall be classified under the following categories:-

(i) Industrial;

(ii) Commercial; (iii) Residential; (iv) Agricultural or conservation and recreational; and

(v) Miscellaneous (other uses).

(2) In classifying the use of land or building under any of the categories mentioned in sub-section (1), the predominant purpose for which such land or building is used shall be the main basis for such classification.]

19. Power Of Responsible Authority To Enforce Scheme :-

(1) On and after the day on which the scheme comes into force, the 1[responsible authority] may make a provisional order requiring an owner,--

(a) to remove, pull down, or alter any building or other work in area included in the scheme which is such as to contravene the scheme, or in the erection or carrying out of which any provision of the scheme has not been complied with: or

(b) to execute within a specified period any work which it is the owners duty to exepute under the scheme, where the responsible authority is of opinion that delay in the execution of the work would prejudice the efficient operation of the scheme.

(2) the responsible authority shall serve a copy of the provisional order made under sub-section (1) on the owner, together with a

notice requiring him to show cause, within a reasonable time to be specified in such notice, why the order should not be confirmed.

2[(3) If the owner fails to show cause to the satisfaction of the responsible authority, the responsible authority may confirm the order granting such further period as it may deem fit, to execute the work and such order shall be communicated to and be binding on the owner and may be enforced. The expenses of enforcement may be recovered in the prescribed manner. An appeal shall lie to the State Government against the order of the responsible authority and their decision shall be final].

1. Subs. for the word "Chairman" by Section 16 (i) of Madras Act II of 1930.

2. Subs. for the original by sub-section Section 16 (ii), *ibid*.

CHAPTER 4 Compensation for injurious affection and contribution for betterment

20. Right To Compensation :-

Any person whose property is injuriously affected by any refusal 1[* * *] to grant the permission applied for under Section 17 or by the making of a town-planning scheme shall, if he makes a claim for the purpose within the time (if any) limited by the scheme, not being less than three months after the date of publication of a notification by the State Government sanctioning the scheme under Section 14, be entitled to obtain compensation in respect thereof from the municipal council.

1. The words "of the municipal council" were omitted by Section 17 of Madras Act II of 1930.

21. No Right To Compensation For Building, Etc., Subsequent To First Notification :-

A person shall not be entitled to obtain compensation under Section 20 an account of any building erected on, or contract made, or other thing done, with respect to, land included in scheme, after the date of the publication of the notification under Section 10 1[* * *] or Section 12:

Provided that this provision shall not apply to any building erected, contract made or other thing done in accordance with a permission granted under Section 17.

1. The word, figure and brackets "sub-section (1)" were omitted by Section 18 of Madras Act II of 1930.

22. Exclusion Or Limitation Of Compensation In Certain Cases :-

(1) Where property is alleged to be injuriously affected by reason of any provisions contained in a town-planning scheme, no compensation shall be paid in respect thereof, if or in so far as the provisions are such as would have been enforceable without compensation under any law, rule or bye-law at the time in force.

(2) Property shall not be deemed to be injuriously affected by reason of any provisions inserted in a scheme, which impose any conditions or restrictions in regard to any of the matters specified in Section 4, Clause (m) or Clause (n).

(3) Where a person is entitled to compensation under this Act in respect of any matter or thing, and he would be entitled to compensation in respect of the same matter or thing under any other Act, he shall not be entitled to compensation in respect of that matter or thing under both the Acts, nor shall he be entitled to any larger compensation under this Act than he would be entitled to under the other Act.

22A. Application For Sanction For Withdrawal Or Modification Of The Scheme :-

(1) the municipal council may, within three months from the date of an award of compensation in respect of property injuriously affected, make an application to the State Government to sanction the withdrawal or modification of all or any of the provisions of the scheme which gave rise to the claim for compensation and give notice of such application to the owner of such property.

(2) If the State Government accord such sanction the award of compensation shall stand cancelled, and the municipal council shall pay the costs, if any, awarded by the arbitrator in connection with the claim for compensation.

(3) Nothing contained in this section shall affect the right of the owner to make a fresh claim for compensation in respect of the modified scheme sanctioned by the State Government under sub-section (2).

(4) No award of compensation in respect of property injuriously affected shall be enforceable within three months from the date thereof, or, if notice has been given under sub-section (1), pending the orders of the State Government on the application made under the same sub-section].

23. Power To Levy Betterment Contribution :-

Where by the making of any town-planning scheme 1[the value of any property has increased or is likely to increase], the municipal council, if it makes a claim for the purpose within the time (if any) limited by the scheme 2[not being less than three months] after the date of publication of a notification of the State Government sanctioning a scheme under Section 14, shall be entitled to recover from the owner of such property an annual betterment contribution for such term of years and at such uniform percentage of the increase in value not exceeding ten per centum as may be fixed in the scheme.

Provided that the aggregate amount of the contributions so recovered shall not exceed one-half of the maximum increase in value during the aforesaid term of years as ascertained under the next following section.

1. Subs. for the word "any property is increased in value" by Section 20 of Madras Act II of 1930.
2. Subs. for the words "not being later than six months" by Section 20, *ibid*

24. Betterment Contribution How Calculated :-

The betterment contribution shall be levied according to the following principles:--

(a) In respect of each property on which the contribution may be levied under Section 23, its market value at the date of the publication of the notification under Section 10, 1[* * *]or Section 12, shall be estimated without reference to the improvements contemplated in the scheme.

(b) In each of the financial years following that in which the scheme takes effect under Section 14, 2[sub-section (6)], the market value of each such property on the first day of April of that year shall be estimated by the Chairman.

(c) If, in any financial year, the market value estimated under Clause (b) does not exceed that estimated under Clause (a), no betterment contribution shall be levied for that year.

(d) If, in any financial year, the estimated market value under clause (b) exceeds that under Clause (a), the municipal council shall levy on the difference a betterment contribution according to the percent age fixed in the scheme;

Provided that in estimating the market value of land under clause

(a) or clause (b), the value of buildings or other works erected or in the course of erection on such land shall not be taken into consideration.

1. The word, figure and brackets" sub-section (1)" were omitted by Section 21 (i) of Madras Act II of 1930.

2. Subs. for sub-section (5) by Section 21 (ii), *ibid*.

25. Assessment And Collection Of Betterment Contribution

:-

(1) The betterment contribution shall be a first charge on the property on which it is due, subject to the prior payment of land revenue, if any, due to the Government thereon, and shall be paid in half-yearly instalments of one-half of the amount fixed for the year.

(2) (a) The State Government may make rules for the assessment and collection of the betterment contribution, and subject to such rules, (i) the chairman shall have the same powers and shall adopt the same procedure for the assessment and collection of the betterment contribution as he has for the assessment and collection of the property tax, (ii) persons affected shall have the same right to receive notice of assessment and to appeal in respect thereof as they have in respect of the property tax, (iii) decisions on appeal shall to the same extent be final and conclusive; and

(b) lands and buildings exempt from the property tax shall also be exempt from any betterment contribution.

26. Option Of Objecting Owner To Require Council To Acquire Bis Property :-

(1) If the owner of any property, separately registered in the municipal assessment books and assessed to a betterment contribution in any particular year, objects to the amount of such contribution on the ground that the market value estimated under Clause (b) of Section 24 is excessive, he shall state the market value which, he contends, is correct, and may, within thirty days of the date on which the determination of his objection or appeal becomes final, by written notice, require the municipal council to acquire the property together with any buildings or other works that may exist thereon.

(2) The council shall thereupon either acquire the property or accept the market value as stated by the owner and revise its assessment of the betterment contribution in accordance therewith.

(3) In case the council elects to acquire the property the compensation payable there for shall be determined 1[according to the provisions of the Land Acquisition Act, 1894, or according to those provisions as modified by Sections 34 and 35, as the case may require]:

Provided that the compensation payable for the property, apart from the buildings or other works thereon, shall not exceed the market value stated by the owner under Sub-section (1).

1. Subs. for the words according to the provisions of the Land Acquisition Act, 1894, as modified by Chapter VII of this Act, by Section 2 of Madras Act VI of 1934.

CHAPTER 5 The Arbitrator

27. State Government To Appoint Arbitrator :-

1 (1) After a scheme has been sanctioned the State Government may and if so required by the council or any person interested in the scheme shall appoint an arbitrator with sufficient establishment to discharge all or any of the following duties:--

(a) to pass such orders as may be required under Clauses (a) to (d) of subsection (2) of Section 5;

(b) to define, and where necessary, to demarcate or cause the demarcation of, the reconstituted plots or the areas allotted to, or reserved for, the purposes mentioned in Clause (k) of Section 4;

(c) to decide, in reference to the claims made, whether any property is injuriously affected within the meaning of Section 20, and award the compensation, if any, to be paid to the owner concerned in accordance with the provisions contained in Chapter IV; and

(d) to determine, in reference to the claims made, the properties which are liable to the betterment contribution under Section 23 and estimate and record their market value at the date of the notification under Section 10 or Section 12, as the case may be, in accordance with the provisions of Clause (a) of Section 24.

(2) The decisions of the arbitrator under Clauses (a) and (b) of Sub-section (1) shall be read as part of the scheme sanctioned under Section 14 and shall be final and binding on all persons;

Provided that where any such decision is in conflict with any provision in the scheme it shall require the approval of the State Government and, on such approval being given, shall be deemed, to the extent mentioned in such decision, to have varied the sanctioned scheme.

1. Subs. by Madras Act II of 1930.

28. Powers And Duties Of Arbitrator :-

1 (1) The arbitrator shall give notice of his proceedings and conduct them in the prescribed manner and communicate his decision to the parties concerned.

(2) An arbitrator shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908, for the purpose of taking evidence on oath and of enforcing the attendance of witnesses and compelling the production of documents and material objects.

(3) The costs of and incident to all proceedings before the arbitrator shall be in his discretion and the arbitrator shall have full power to determine by whom or out of what property and to what extent such costs are to be paid and to give all necessary directions for the purpose aforesaid].

1. Subs. for the original section by Section 23 of Madras Act II of 1930.

29. Appeal :-

1 (1) Any party aggrieved by any decision of the arbitrator under Clause (c) or Clause (d) of sub-section (1) of Section 27 may within three months from the date of the communication of such decision appeal to the District Judge concerned 2[* * *].

(2) The decision of the arbitrator under Clause (c) or Clause (d) of sub-section (1) of Section 27 and, when an appeal has been preferred under sub-section (1) the decision on such appeal shall be read as part of the scheme sanctioned under Section 14 and shall be final and binding on all persons].

1. Subs. for the original section by Section 24, ibid.

2. The words in cases arising outside the City of Madras and to the Chief Judge of the Court of Small Causes in cases arising in the City of Madras were omitted by the (A.A.) (Amdt.) Order, 1954.

CHAPTER 6 Finance

30. Municipal Town-Planning Fund :-

(1) The receipts of a municipal council under this Act or any town-planning scheme made thereunder shall form a separate town-planning fund and all expenditure under this Act or any town-planning scheme thereunder shall be defrayed out of such fund. No portion of the fund shall, except with the sanction of the State

Government, be expended for purposes not provided for this Act.

(2) The moneys required, in the first instance, to establish such fund, and any deficiency from time to time occurring in such fund by reason of the excess of expenditure over receipts shall, subject to such rules as the State Government may frame in this behalf, be supplied out of the general municipal fund or out of moneys borrowed in pursuance of this Act.

(3) Separate accounts shall be maintained by each municipal council for its town-planning fund.

31. Power To Borrow :-

A municipal council, taking action under this Act, shall be deemed to be a local authority as defined in the Local Authority Loans Act, 1914, for the purpose of borrowing money under the provisions of that Act, and the making and execution of a town-planning scheme shall be deemed to be a work which such local authority is legally authorized to carry out.

32. Omitted :-

1[* * *]

1. Section 32 was omitted by the A.O. 1937.

CHAPTER 7 Land Acquisition

33. Modification Of Land Acquisition Act :-

Immovable property required for the purposes of a town-planning scheme shall be deemed to be land needed for a public purpose, within the meaning of the Land Acquisition Act, 1894, 1[and may be acquired--

(a) under the said Act, or

(b) under the said Act as modified in the manner hereinafter provided in this chapter].

1. Subs. for the words and may be acquired under the said Act as modified in the manner provided in this chapter by Section 3 of Madras Act IV of 1934.

34. Notification Under Section 14 To Have Effect As Declaration Under Section 6, Land Acquisition Act :-

1[In cases falling under Clause (b) of Section 33], a notification under Section 14 shall, notwithstanding anything contained in the

Land Acquisition Act, 1894, operate in respect of any land for the purposes of the scheme as a declaration under Section 6 of the said act, and no further declaration shall be necessary, but it shall not be incumbent on the State Government, or officer authorized in that behalf to take immediate steps for the acquisition of such land. Provided that if the land is not acquired within three years from the date of the notification, it shall cease to have effect as a declaration under Section 6 of the Land Acquisition act, 1894.

1. Subs. for the words and figures "notwithstanding anything in the Land Acquisition Act, 1894, a notification under section 14 shall operate" by Section 4 of Madras Act IV of 1934.

35. Sections 15, 23 And 24 Of Land Acquisition Act Superseded :-

(1) The provisions of Sections 15, 23 and 24 of the Land Acquisition Act, 1894, shall have no application 1[in cases falling under Clause (b) of Section 33].

(2) 2[In such cases, the Collector and the Court shall in determining the amount of compensation to be awarded for the land acquired, take into consideration--].

(a) the market value of the land at the date of publication of the notification under section 10 3[* * *] or Section 12, as the case may be,

(b) the damage sustained by the person interested by reason of the taking of any standing crops or trees which may be on the land at the time of the collectors taking possession thereof;

(c) the damage (if any) sustained by the person interested, at the time of the Collectors taking possession of the land, by reason of severing such land from his other land or by reason of the acquisition injuriously affecting his other property moveable or immovable in any other manner, or his earnings; provided that this clause shall not apply in the case of offensive industries, which must, under the provisions of the scheme, be removed;

(d) if, in consequence of the acquisition of the land, the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change; provided that this clause shall not apply in the case of offensive industries, which must, under the provisions of the scheme, be removed.

(3) 4[But the Collector and the Court shall not, in cases falling under Clause (b) of Section 33] take into consideration--

(a) the degree of urgency which has led to the acquisition or its compulsory character;

(b) any disinclination of the person interested to part with the land acquired;

(c) any damage sustained by him, which, if caused by a private person, would not render such person liable to a suit;

(d) any damage which is likely to be caused to the land acquired, after the date of publication of the notification under Section to, 5[x x x], or Section 12, as the case may be, by or in consequence of the use to which it will be put;

(e) any increase to the value of the land acquired likely to accrue from the use to which it will be put when acquired;

(f) any outlay or improvements on the land acquired, commenced, made or effected after the date of publication of the notifications referred to in Clause (d) unless they are covered by a permission obtained 6[* * *] under Section 17;

(g) any outlay or improvements, on, or disposal of the land acquired which, having regard to the time at which they were made and other circumstances, appear to have been commenced, made or effected with intent to obtain increased compensation;

(h) the special suitability or adaptability, if any, of the land for any purpose, if that purpose is one to which it could be applied only in pursuance of statutory persons or for which there is no market apart from the special needs of a particular purchaser or the requirements of a Government department or any local or public authority.

(4) 7[In cases falling under Clause (b) of Section 33, if the market value of any land] or building is specially high by reason of the use thereof in a manner which could be restrained by any court or is contrary to law or public policy or is detrimental to the health of the inmates of the building or to the public health, the amount of the increased value due to such user shall be disregarded in determining the amount of compensation.

1. Subs. for the words "in the acquisition of property for the purposes of this Act" by Section 5 of Madras Act II of 1930.

2. Subs. for the words "In determining the amount of compensation to be awarded for land acquired under the said Act for such purposes the Collector and the Court shall take into consideration" by Section 5 of Madras Act IV of 1934.

3. The word, figure and brackets "sub-section (1)" were omitted by Section 25 (i) of Madras Act II of 1930.

4. Subs. for the words "But the Collector and Court shall not" by

Section 5 of Madras Act IV of 1934.

5. The word, figure and brackets "sub-section (1)" were omitted by Sections 25 (i) of Madras Act II of 1930.

6. The words "from the municipal council" were omitted by Section 25 (ii), *ibid*.

7. Subs. for the words "If the market value of any land" by Section 5 of Madras Act IV of 1934.

CHAPTER 8 Miscellaneous

36. Power Of Councils To Make Agreements :-

A municipal council 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 after the day on which the scheme comes into force; Provided that if the agreement be modified by the State Government, either party shall have the option of avoiding it if he so elects within the prescribed period.

37. Town-Planning Committee :-

Subject to such rules as the State Government may make in this behalf, a municipal council may appoint a special town-planning committee composed either wholly of members of the municipal council, or partly of such members and partly of others; and may delegate to such committee power to dispose of 1[in relation to a particular scheme or to town-planning in general], matters of a specified nature which, under the provisions of this Act, are reserved for the decision of the council:

Provided that no person, other than a member of the council, shall be appointed to such committee unless such appointment is supported by not less than one-half of the sanctioned strength of the council;

Provided also that the number of persons who are appointed to any committee who are not members of the council shall not exceed one-third of the number of members of such committee.

1. Subs. for the words "in relation to the scheme in question" by Section 26 of Madras Act II of 1930.

38. Joint Town-Planning Committee :-

1 (1) Subject to such rules as the State Government may make on this behalf, a municipal council may and if so required by the State Government shall, join with one or more than one other local authority in constituting a joint town-planning committee for the making of a joint town-planning scheme or for any purpose connected with town-planning in which they are jointly interested or for which they are jointly responsible.

(2) A joint town-planning committee may include persons who are not members of the local authorities concerned but who possess in their opinion special qualifications or represent institutions or corporations interested in the work of the committee:

Provided that the number of such persons shall not exceed one-third of the total number of members of the joint committee.

(3) (i) The State Government may make rules to carry out the purposes of sub-section (1).

(ii) In particular and without prejudice to the generality of the foregoing power the State Government may make rules to provide for--

(a) the total number of members of the joint committee;

(b) the number of such members who shall be members of the local authorities concerned and the number of such members who may be outsiders;

(c) the qualifications of persons who shall be members of the joint committee or the manner in which they shall be appointed or elected;

(d) the qualifications of the person who shall be the chairman of the joint committee or the manner in which he shall be elected or appointed;

(e) the term of office of members and chairman;

(f) the manner in which the committee shall be put in funds and shall account thereof; and

(g) the procedure of the committee.

(4) Rules made under Sub-section (1) or (3) may be varied or revoked provided all the local authorities concerned assent to such variation or revocation.

(5) If any difference of opinion arises between local authorities under any of the foregoing provisions of this section, it shall be referred to the State Government whose decision shall be final.

(6) If the State Government take action under Sub-section (1) they may issue such directions as they may think necessary or desirable in respect of all or any of the matters referred to in Sub-section (3).

(7) When a joint town-planning committee has been constituted, such committee shall exercise the powers And perform the duties of the municipal council and its chairman the powers and duties of a chairman under this Act.

(8) Any joint town-planning scheme made by joint committee may provide for the execution of the scheme or any part there of jointly by all or two or more of the local authorities concerned or specify the parts of the scheme to be executed at the expense of the several local authorities in their respective areas and the said specified parts of the scheme shall after the publication of the notification under Section 14 have effect in the areas to which they relate as separate schemes].

1. Subs. by Madras Act II of 1930.

39. Omitted :-

40. Omitted :-

1[* * *]

1. Sections 39 and 40 omitted by A.P. Act 24 of 1981.

41. Power Of State Government To Arbitrate In Disputes Between Local Authorities :-

Any dispute between any two local authorities in regard to any mattes arising under any of the provisions of this Act shall, in case of their failure to settle it amicably between themselves, be referred for adjudication to the State Government whose decision shall be final.

42. Power Of Control Of State Government :-

(1) If the State Government are satisfied, after giving the municipal council an opportunity of explanation and considering any other representations that may be made to them, that a municipal council:--

(a) has failed to take the requisite steps for having a satisfactory town-planning scheme prepared and sanctioned in a case where a town-planning scheme ought to be made, or

(b) has failed to adopt any scheme proposed by owners of any land in a case where the scheme ought to be adopted, or

(c) has unreasonably refused to consent to any modifications or conditions imposed by the State Government, the State Government may, as the case may require, order the municipal

council to prepare and submit for the approval of the State Government such a town planning scheme, or to adopt the scheme, or to consent to the modifications or conditions so inserted;

Provided that, where the municipal council has failed to adopt a scheme, the State Government in lieu of making such an order as aforesaid may approve the proposed scheme, subject to such modifications or conditions, if any, as the State Government think fit, and thereupon the scheme shall have effect as if it had been adopted by the municipal council and sanctioned by the State Government.

(2) If the State Government are satisfied after giving the municipal council 1[or the responsible authority as the case may be] an opportunity of explanation, that a municipal council 2[or a responsible authority] has failed to enforce effectively the observance of a scheme which has been finally sanctioned, or any provision thereof, or to execute any works which under the scheme or this Act the council 2[or the responsible authority required to execute, the State Government may order the council 2[or the responsible authority] to do all things necessary for enforcing the observance of the scheme or any provisions thereof effectively of for executing any works which, under the scheme or this Act, the council 2[or the responsible authority] is required to execute.

(3) For the purposes of this section the State Government shall have the same powers of calling for records, of causing inspection to be made, and of enforcing their orders or appointing persons to enforce them as they have under Section 64 and 67 of the Andhra Pradesh Municipalities Act, 1965.

1. Ins. by Section 29 of Madras Act II of 1930.

2. Sections 39 and 40 omitted by A.P. Act 24 of 1981.

43. Power To Entry Etc. :-

For the purpose of the making or execution of any town-planning scheme, the municipal authorities or the responsible authority or persons appointed by the State Government under Section 42, Sub-section (3), their sub-ordinates and contractors shall have the same power to entry upon, survey and set up marks on property and to do all acts necessary for such proposes, subject to the same conditions and restrictions, as they have for other municipal purposes 1[* * *] under Part VII of the Andhra Pradesh Municipalities Act, 1965" 2[* * *] and persons interfering with the exercise of such powers by the municipal authorities 3[or the

responsible authority] or persons appointed by the State Government their officers, servants, or contractors, shall be liable to the same penalties.

1. The words and figures under Part VI of the Madras City Municipal Act, 1919 or were omitted by the A.A. (Amdt.) Order, 1954.

2. The words as the case may be were omitted by A.A. (Amdt.) Order, 1954.

3. Ins. by Section 30 of Madras Act II of 1930.

44. Power Of State Government To Make Rules :-

(1) The State Government may make rules consistent with this Act either generally or for any particular area, to carry out all the purposes of this Act and such rules may be incorporated in any scheme by a reference their to in the scheme, subject to any modifications that may be set out in the scheme.

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

(a) the manner of publication of the notifications under Section 10, 1[* * *] and of the draft scheme under Section 11,

(b) the further particulars or plans for inclusion in schemes under Section 4, 2[Clause (r) and Section 13 3[Sub-section (1)] Cl. (h);

(c) the scale of all plans made under this Act, the particulars, to be shown in them, the manner in which such particulars shall be shown, the colouring of such plans and all such matters;

(d) what streets or roads and improvements there to provided in a town-planning scheme shall be made or carried out at the expense of the municipal council, the owners of the property or both;

(e) the kinds of expenditure connected with town-planning which shall - be met out of current revenues and those that shall be met out of loans or other capital receipts;

(f) what receipts shall be credited to the town-planning fund referred to in Section 30 and what expenditure all be debited to it;

(g) the powers that may be delegated to the committees constituted under Section 37;

4[* * *]

(i) the manner in which all documents and plans prepared under this Act shall be made accessible to the public;

(j) the procedure to be adopted for securing co-operation on the part of the municipal authorities with the owners or persons interested in property proposed to be comprised in a town-planning

scheme by such means as may be expedient, the summoning, presidency and procedure of such conferences and all such matters;
(k) the procedure to be observed by the municipal council, 5 [and responsible authority] in cases where owners commit default, or delay the carrying out of works or improvements for carrying out such works or improvements and for recovering the cost from the owners liable therefor;

(1) the securing of reasonable speed in the preparation or adoption of schemes by municipal councils and the procedure to be followed for enabling the State Government to act 6[* * *] in the case of default or dilatoriness 7[on the part of the municipal council or the responsible authority] in making, adopting or executing a scheme and to recover from such council the expenses of such action;

(m) the calculation, assessment and collection of the betterment contribution;

(n) the regulation of the procedure before the arbitrator;

(o) the delegation of powers to, and the duties that shall be discharged by, the Director, and the matters on which and the manner in which he shall be consulted by municipal council 8[and responsible authorities];

(P) 9[* * *]

(q) the accounts that each municipal council shall keep for its town-planning fund, and their audit;

(r) the extent to which the proceedings and acts of local authorities under this Act shall be regulated by the provisions of any municipal or local law applicable to such authorities;

(s) inquiries and reports as to the beginning and the progress and completion of works and other action under any scheme;

(t) sanitary principles and building regulations to be observed in drawing up schemes;

10(u) the funds which shall be transferred by the municipal council to the responsible authority, the administration of such funds, the accounts to be kept in respect thereof and their audit;

(v) matters other than those referred to in the foregoing clauses which are expressly required or allowed by this Act to be prescribed].

11[(3) In making any rule, the State Government may provide that a breach thereof shall be punishable with fine which may extend to one hundred rupees].

1. The words, figures and brackets sub-section (1) and (3), were omitted by Sec. 31 (i)(a) of Madras Act II of 1930.

2. Subs. for the word, letter and brackets clause (q) by Section

- 31(i)(b), *ibid*.
3. Ins. by *ibid*.
4. Cl. (h) was omitted by Section 31 (i) (c), of Madras Act II of 1930.
5. Ins. by Section 31 (i) (d), *ibid*.
6. The words in the place of a council were omitted by Section 31 (i) (e) of Madras Act II of 1930.
7. Subs. for the words on the part of the letter by *ibid*.
8. Ins. by Section 31 were adde.
9. Omitted by the Second Schedule to Madras Act XIII of 1938.
10. Clauses (u) and (v) were added by Section 31 (i) (g) of Madras Act II of 1930.
11. Subs. for the original Section 31 (i), of Madras Act II of 1930.

44A. Previous Publication Of The Rules :-

- 1 The power to make rules under Sections 38, 44 and 54 shall be subject to the condition of previous publication.
1. Sections 44-A and 44-B were inserted by Section 32 of Madras Act II of 1930.

44B. Penalty For Breach Of The Provisions Of The Scheme :-

- (1) Where a scheme sanctioned under this Act has provided that any person who commits or knowingly permits a breach of any specified provision of the scheme or who neglects or fails to comply with any such provision shall be punishable under this section, the responsible authority shall send to any person who commits or knowingly permits a breach of any provision of the scheme or who neglects or fails to comply with any such provision, a notice calling on him to discontinue the breach or cause it to be discontinued or to comply with such provision of the scheme.
- (2) If after the expiry of one month from the date of receipt of the notice by such person under sub-section (1) the breach or neglect or failure continues, such person shall, on conviction, be punishable-
- (i) with fine which may extend to one hundred rupees, and
- (ii) if the breach, neglect or failure continues after such conviction, with fine which may extend to fifteen rupees for every day during which the breach neglect or failure continues after such conviction],

CHAPTER 9 Town Planning Trusts

45. Creation Of Town-Planning Trusts :-

(1) When the State Government after consulting the municipal council, decide that the interests of town-planning in any particular area will be best served by entrusting it to a special board, they may, by notification in the Official Gazette, constitute such board to be called the (name of town or other area) Town-Planning Trust hereinafter referred to as the trust and thereupon the duty of carrying out the provisions of this Act in such local area shall, subject to the conditions and limitations hereinafter contained, be vested in the trust.

(2) The trust shall be a body corporate and have perpetual succession and a common seal and shall be the aforesaid name sue and be used.

46. Constitution Of Trusts :-

(1) The trust shall consist of--

(a) a chairman appointed by the State Government;

(b) persons elected by the members of the municipal council or other local authorities or both; and

(c) persons appointed by the State Government either by name or by virtue of their office.

(2) The trust may also include representatives of railway tramway or other transport companies, chambers of co-operative societies and similar bodies or associations, either elected or nominated by them.

(3) The State Government shall fix the strength of the trust, the number of trustees by elected under Clause (b) of Sub-section (1), the local authorities by whom they shall be elected, the number of trustees to be appointed by the State Government under Cl. (c) of Sub-section (1) and the number of trustees to be elected or nominated under sub-section (2) and the bodies or associations by whom they shall be elected or nominated. Provided that the number of trustees appointed by the State Government shall not exceed one-third of the sanctioned strength.

1[(4) The term of office of every trustee, including the Chairman, shall be for such period as the State Government may, from time to time, specify in this behalf, commencing on and from the date of appointment, election or nomination, as the case may be; so however, that the maximum term of office shall not exceed five

years;

Provided that it shall be open to the State Government to reduce the period specified by them as aforesaid at any time during the term of office of any such trustee,--

(a) in the case of a person who is appointed as the chairman or trustee while being a member of a civil service of the State or holding a civil post under the State, on his ceasing to be such member of the civil service or holder of the civil post under the State, by attaining the age of superannuation or otherwise; and

(b) in the case of any person who is elected or nominated as a trustee under this section to represent any body of authority, on his ceasing to represent the body or authority which elected or nominated him."

1. Subs. by A.P. Act 24 of 1981 (w.e.f. 10-6-1981).

47. Chairman May Be Given Salary :-

The Chairman of the trust may receive such salary or remuneration as may be sanctioned by the State Government. No other trustees shall receive any salary or other remuneration from the funds of the trust.

48. Removal Of Trustees :-

(1) The State Government may remove from the trust any trustee, other than an ex-officio trustee, who--

(a) refuses to act, or becomes incapable of acting, or absents himself for more than three consecutive months from the meetings of the trust or of any committee of which he is a member and is unable to explain such absence to the satisfaction of the trust, or

(b) is an undischarged insolvent or has compounded with his creditors, or

(c) has been sentenced by a criminal court to imprisonment for a term exceeding six months or to transportation, or has been ordered to find security for good behaviour under the Code of Criminal Procedure, such sentence or order not having subsequently been reversed or remitted or the offender pardoned, or

(d) has knowingly acquired or continued to hold without the permission in writing of the State Government directly or indirectly or by a partner, any share or interest in any contract or employment with, by, or on behalf of, the trust, or

(e) has knowingly acted as a trustee in a matter other than a matter referred to in Clause (vi) or Clause (v) of the proviso to this

sub-section in which he or a partner had, directly or indirectly, a personal interest, or in which he was professionally interested on behalf of a client, principal or other person, or

(f) being a legal practitioner, in any suit or other proceeding, acts or appears on behalf of any other person against the trust or acts or appears on behalf of any other person in any criminal proceeding instituted by or on behalf of the trust;

Provided that a person shall not be deemed for the purpose of sub-section (1) to acquire, or continue to have, any share or interest in a contract or employment by reason only of his;

(i) having a share or interest in any lease, sale or purchase of land, or buildings, or in any agreement for the same, provided that such share or interest was acquired before he became a trustee, or

(ii) having a share in a joint stock company which shall contract with, or be employed by, or on behalf of, the trust or

(iii) having a share or interest in a newspaper in which an advertisement relating to the affairs of the trust is inserted, or

(iv) holding a debenture or otherwise being interested in a loan raised by, or on behalf of, the trust, or

(v) being retained by the trust as a legal practitioner, or

(vi) having a share or interest in the occasional sale of an article, in which he regularly trades, to the trust to a value not exceeding, in any one year, such amount as the trust, with the sanction of the State Government, may fix in this behalf.

(2) The State Government may remove from the trust a trustee who in their opinion has so abused his position as a trustee as to render his continuance as a trustee detrimental to the public interest; Provided that when the State Government propose to take action under the foregoing provisions of this section an opportunity of explanation shall be given to the trustee concerned, and, when such action is taken, the reasons therefor shall be placed on record.

49. Disabilities Of Trustees Removed Under Section 48 :-

(1) A trustee removed under Clause (a) or Clause (c) of sub-section (1) of Section 48, or under sub-section (2) of that section, shall not be eligible for further election or nomination for a period of three years from the date of his removal.

(2) A trustee removed under Clause (b) of sub-section (1) of Section 48 shall not be so eligible until he has obtained his discharge or has paid his creditors in full, as the case may be.

(3) A trustee removed under any other provision of Section 48 shall

not be so eligible until he is declare to be no longer ineligible, and he may be so declared by an order of the State Government.

50. Application To Trusts Of This Act And Their Power To Borrow :-

(1) When a trust has been duly constituted, the provisions of Chapters 1 to VIII of this Act shall, within the area entrusted to it for town-planning purposes, apply in full as though the words "trust" and "chairman of the trust" were substituted for "municipal council" or "council and "chairman of the council" or "chairman".

(2) A trust constituted under this chapter shall be deemed to be a local authority, as defined in the Local Authorities Loans Act, 1914 for the purpose of borrowing money under the provisions of that Act, and the making and execution of a scheme under this Act shall be deemed to be a work which a local authority is legally authorized to carry out.

50A. Payment Of Trust By Municipal Councils :-

1 The municipal council in whose area a trust operates shall pay annually to the trust such amount as may be agreed on between them or as may be fixed by the State Government.

1. Ins. by Section 33 of Madras Act II of 1930.

51. Procedure If Trust Fails To Make Any Payment In Respect Of Loans :-

(1) If the trust fails to repay any loan taken in pursuance of Section 50 or any interest or costs due in respect thereof, according to the conditions of the loan, the 1Accountant-General of Andhra Pradesh] shall make such payment:

and the chairman of the municipal council shall forthwith pay from the municipal fund to the said Accountant-General a sum equivalent to the sum paid by him;

and the State Government may attach the income of the trust and thereupon the provisions of Section 5 of the Local Authorities Loans Act, 1914, shall, with all necessary modifications, be deemed to apply.

(2) whenever the chairman of a municipal council has made any payment to the Accountant-General under sub-section (1) the State Government shall, so far as possible, reimburse the municipal council out of the income attached under that sub-section.

1. For the words Accountant-General of Madras, the words Accountant-General, Andhra were subs. by the (A.A.) (Admt.) Order, 1954 and for the word Andhra The words Andhra Pradesh were subs. by the A.P. A.O. 1957.

52. Vesting In Municipal Council Of Streets Laid Out Or Altered And Open Spaces Provided By The Trust Under A Scheme :-

(1) Whenever the municipal council is satisfied--

(a) that any street laid out altered by the trust has been duly levelled paved, metalled, flagged, channelled, sewered, and drained in the manner provided in the scheme sanctioned by the State Government under this Act, and

(b) that such lamps, lamp-posts, and other apparatus as the municipal council may consider necessary for the lighting of such street and as ought to be provided by the trust have been so provided, and

(c) that water and other sanitary conveniences ordinarily provided in municipality have been duly provided in such street, the municipal council, after obtaining the assent of the trust, or failing such assent, of the State Government under sub-section (3), shall, by a written notice affixed in some conspicuous position in such street declare the street to be public street; and the street shall thereupon vest in the municipal council, and shall thenceforth be maintained, kept in repair, lighted, and cleansed by the municipal council.

(2) When any open space for purposes of ventilation or recreation has been provided by the trust in executing any scheme, it shall, on completion, be transferred to the municipal council by resolution of the trust and shall thereupon vest in, and be maintained at the expense of, the municipal council;

Provided that the municipal council may require the trust, before any such open space is so transferred, to enclose, level, turf, drain and lay out such space and provide foot-paths therein, and, if necessary, to provide lamps and other apparatus for lighting it.

(3) If any difference of opinion arises between the trust and the municipal council in respect of any matter referred to in the foregoing provisions of this section, the matter shall be referred to the, State Government whose decision shall be final.

53. Ultimate Dissolution Of Trust, And Transfer Of Its Assets And Liabilities To The Municipal Council :-

(1) When the trust created for an area has executed all schemes sanctioned under this Act or so far executed them as to render its continued existence, in the opinion of the State Government unnecessary, the State Government may by notification declare that the trust shall be dissolved from such date as may be specified in this behalf in such notification; and the trust shall be deemed to be dissolved accordingly.

(2) From the said date--

(a) all properties, funds and dues which are vested in or realizable by the trust and the chairman, respectively, shall vest in and be realizable by the municipal council and the chairman of the council, respectively; and

(b) all liabilities which are enforceable against the trust shall be enforceable only against the municipal council; and

(c) for the purpose of completing the execution of any scheme, sanctioned under this Act, which has not been fully executed by the trust, and of realizing properties, funds, and dues referred to in Clause (a), the functions of the trust and the chairman under this Act shall be discharged by the municipal council and the chairman of the council, respectively.

54. Power To State Government To Make Rules For Trusts :-

(1) The State Government shall have power 1[x x x], to make rules not inconsistent with this Act and applicable to all trusts or to trusts or to any trust--

(a) as to the election, nomination and appointment of trustees, and the commencement of their terms of office;

(b) as to the resignation by trustees of their offices, and the filling of casual vacancies;

(c) as to the meetings of the trust, the procedure to be followed in summoning adjourning and conducting the proceedings of such meetings;

(d) as to the constitution of committees of the trust and the functions that may be delegated to them;

(e) as to the officers and servants who may be employed by the trust, the authority by whom they may be appointed and punished, the salaries of such officers and servants and the institution, where necessary, of a provident fund or gratuity system for their benefit;

(f) as to the accounts to be kept and the returns to be submitted by the trust;

(g) as to the manner in which the accounts of the trust shall be audited and published and as to the powers of auditors in respect of disallowance and surcharge;

(h) as to making and execution of contracts on behalf of the trust;

(i) as to the mutual relations, financial and other, of a trust and local authorities; and (j) generally for the guidance of trusts and public officers in all matters connected with the carrying out of the provisions of this Act. (2) Every trust may from time to time, with the previous sanction of the State Government, make by laws consistent with this Act and with any rules made there under for carrying out the purposes of this Act.

1. The words subject to the condition of previous publication were omitted by Section 34 of Madras Act II of 1930.

54A. Power Of State Government To Issue Directions :-

1 (1) the trust and its chairman shall, in to discharge of its or his functions and duties under this Chapter be bounded by such directions as the State Government may give in writing to it or him, from time to time.

(2) Notwithstanding anything is Section 48, where the State Government are of the opinion that the Chairman has omitted or refused to carry out, or disobeyed the directions given under this section they may, by notification in the Andhra Pradesh Gazette and with effect from a date to be specified therein, remove him; Provided that the State Government shall, before removing the Chairman, give him an opportunity of making his representation against such removal].

1. Section 54-A inserted by A.P. Act 24 of 1981 (w.e.f. 10-6-1981).

CHAPTER 10 Transfer of Proceedings

55. Transfer Of Proceedings From One Authority To Another :-

1 (1) The State Government may, by notification and from a date to be specified in such notification, transfer the proceedings commenced under this Act in respect of any land by any authority having jurisdiction to any other authority having jurisdiction over such land.

(2) Before issuing a notification under sub-section (1) the State Government shall communicate to the authorities affected the

grounds on which they propose to make the transfer, fix a reasonable period for them to show cause against the proposal and consider their objections, if any.

(3) the authority to whom a transfer of proceedings is made under subsection (1) may continue such proceedings from the stage which they had reached on the date specified in the notification.

(4) When making a transfer of proceedings under sub-section (1), the State Government may direct the authority to whom the transfer is made to reimburse the authority from whom the transfer is made the net expenditure which the last-mentioned authority may, up to the date of such transfer, have incurred on such proceedings.

(5) From the date specified in the notification under sub-section (1) all rights and assets which, for the purposes of the proceedings transferred by such notification are vested in, and all obligations and liabilities which for the same purposes are enforceable against the authority from whom the transfer is made, shall vest in or be enforceable against the authority to whom the transfer is made].

1. Ins. by Section 35 of Madras Act II of 1930.