

TRIPURA TOWN AND COUNTRY PLANNING ACT, 1975

4 of 1975

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CONTENTS

CHAPTER 1 :- Preliminary

1. Short title, extent and commencement
2. Definitions

CHAPTER 2 :- Tripura Town and Country Planning Board

3. Constitution of Tripura Town and Country Planning Board
4. Functions and powers of the Board
5. Term of office and conditions of service of Chairman and members of the Board
6. Meetings of the Board

CHAPTER 3 :- Planning Areas and Planning Authorities

7. Declaration of Planning Areas, their amalgamation, sub divisions and inclusion of any area from the Planning Area
8. Power to withdraw a local Planning Area from operation of this Act
9. Planning Authority
10. Term of office and conditions of services of the Chairman and members of Planning Authority
11. Functions and powers of the Planning Authorities
12. Meetings of Planning Authorities
13. Temporary association of persons with the Planning Authority for particular purposes
14. Staff of the Planning Authority

CHAPTER 4 :- Present Land Use Map

15. Preparation of present Land Use Map and Register
16. Notice of the preparation of the Map and the Register
17. The power of the State Government in case of the default of the Planning Authority to prepare the Map and the Register

CHAPTER 5 :- Development Plan

18. Outline Development Plans
19. Comprehensive Development Plan

20. Development Plan prepared prior to the application of this Act to be deemed Development Plan under this Act

21. Power of State Government in case of default of Planning Authority to prepare Development Plan

CHAPTER 6 :-Procedure for approval and preparation of Development Plan

22. Consent of the State Government to the publication of notice of preparation of Development Plan

23. Public notice of the preparation of the Development Plan

24. Approval by the State Government

25. Coming into operation of the Development Plan

26. Amendment of Development Plans and minor changes

27. Suspension of the Plan in emergency

CHAPTER 7 :-Control of development and use of land

28. Use of development of land to be in conformity with Development Plan

29. Prohibition of development without payment of development charges and without permission

30. Appeal against grant of permission subject to conditions or refusal of permission

31. Lapse of permission

32. Power of revocation and modification of permission to develop

33. Penalty for unauthorised development or for use otherwise than in conformity with the Development Plan

34. Power to require removal of unauthorised development

35. Power to stop unauthorised development

36. Power to require removal of unauthorised development on use

37. Interim provision pending preparation of Development Plan

CHAPTER 8 :-Levy, assessment and recovery of development charge

38. Levy of development charge

39. Rates of the development charge

40. Assessment of development charges

41. Appeal against assessment

42. Development charge to be a charge on land and to be recoverable as arrears of land revenue

CHAPTER 9 :-Finance, accounts and audit

43. Funds of the Planning Authority

44. Budget of the Planning Authority

45. Accounts and audit

46. Annual reports

47. Pension and provident funds

CHAPTER 10 :-Supplemental and miscellaneous provisions

48. Power of entry
49. Service of notices etc
50. Public notice how to be made known.
51. Notices etc, to fix reasonable time
52. Authentication of orders and documents of the Board and the Planning Authority
53. Mode of proof of records of the Board and the Planning Authority
54. Restriction on the summoning of officers and servants of the Board and Planning Authority
55. Offences by companies
56. Penalty for obstructing contractor or removing mark
57. Sanction of prosecution
58. Composition of offences
59. Jurisdiction of courts
60. Magistrates power to impose enhanced penalties
61. Fine when realised to be paid to Planning Authority
62. Members and officers to be public servants
63. Protection of action taken in good faith
64. Finality of orders
65. Validation of acts and proceedings
66. Power to delegate
67. Control by the State Government
68. Returns and information
69. Effect of the laws
70. Power to make rules
71. Power to make regulations
72. Dissolution of Planning Authorities
73. Savings

TRIPURA TOWN AND COUNTRY PLANNING ACT, 1975

4 of 1975

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An Act to provide for planning the development and use of rural and urban land in the State of Tripura and for matters connected therewith Be it enacted by the Legislative Assembly of Tripura in the Twenty-sixth Year of the Republic of India as follows

CHAPTER 1

Preliminary

1. Short title, extent and commencement :-

- (1) This Act may be called the Tripura Town and Country Planning Act, 1975
- (2) It extends to the whole of Tripura

(3) It shall come into force on such date as the State Government may, by notification in the official Gazette appoint, and different dates may be appointed for different areas

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 other agricultural purposes, but shall not include the use of any land attached to a building for the purposes of a garden to be used along with such building ; and "agricultural" shall be construed accordingly;

(2) "amenities" includes roads and streets, open spaces, parks, recreational grounds, play-grounds, water and electric supply, street lighting, sewerage, drainage, public works and other utility services and conveniences;

(3) "area of bad lay-out or obsolete development" means an area consisting of land which is badly laid out or of obsolete development, together with other land contiguous or adjacent thereto, which is defined by a Development Plan as an area of bad layout or obsolete development;

(4) "Board" means the Tripura Town and Country Planning Board constituted under this Act;

(5) "building operations" includes

(a) erection or re-erection of a building, or any part of it;

(b) roofing, re-roofing of any part of a building or open space ;

(c) any material alteration or an enlargement of any building;

(d) any such alteration of a building as is likely to affect an alteration of its drainage or sanitary arrangement, or materially affect its security ;

(e) the construction of a door opening on any street or land not belonging to the owner;

(6) "commerce" means carrying on any trade, business or

profession, sale or exchange of goods of any type whatsoever, and includes the running of, with a view to making profit, hospitals, nursing homes, infirmaries, educational institutions, and also includes, hotels, restaurants, boarding houses not attached to any educational institution, Sarais; and "commercial" shall be construed accordingly;

(7) "commercial use" includes the use of any land or building or part thereof for purposes of commerce as defined or for storage of goods, or as an office, whether attached to industry or otherwise;

(8) "court" means a principal civil court of original jurisdiction, and includes any other civil court empowered by the State Government to perform the functions of the court under this Act within the pecuniary and local limits of its jurisdiction;

(9) "development" with its grammatical variation 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;

(10) "Development Plan" means outline development plan or comprehensive development plan prepared under this Act;

(11) "engineering operations" include the formation of laying out of means of access to a road or the laying out of means of water supply ;

(12) "industry" includes the carrying out of any manufacturing process as defined in the Factories Act, 1948 (63 of 1948); and "industrial" shall be construed accordingly;

(13) "industrial use" includes the use of any land or building or part thereof for purposes of industry as defined;

(14) "land" includes benefits to arise out of land and things attached to the earth or permanently fastened to any thing attached to the earth;

(15) "Local Authority" means a Municipal Corporation or Committee, or Board or District Board or other authority legally entitled to, or entrusted by the Government with the control or management of a municipal or local fund or which is permitted by the Government to exercise the powers of a Local Authority, and includes a Town Improvement Trust; and a Local Authority is a "Local Authority

concerned", if any land within its local limits falls in the area of plan prepared or to be prepared under this Act;

(16) "local newspaper" means any newspaper published or circulated within the Local Planning Area;

(17) "occupier" includes

(a) a tenant;

(b) an owner in occupation of, or otherwise using his land;

(c) a rent-free tenant of any land;

(d) a licensee in occupation of any land; and

(e) any person who is liable to pay the owner damages for the use and occupation of any land;

(18) "owner" includes a mortgagee in possession, a person who for the time being is receiving or is entitled to receive, or has received, the rent or premium for any land whether on his own account or on account of or on behalf of or for the benefit of any other person or as an agent, trustee, guardian, or receiver for any other person or for any religious or charitable institution, or who would so receive the rent or premium or be entitled to receive the rent or premium if the land were let to tenant; and includes the Head of a Government Department, General Manager of a Railway, the Secretary or other Principal Officer of a Local Authority, statutory authority or company, in respect of properties under their respective control;

(19) "Planning area" means any area declared to be a Local Planning Area under this Act;

(20) "Planning Authority" means any Local Planning Authority constituted under this Act;

(21) "prescribed" means prescribed by rules or regulations made under this Act;

(22) "public place" means any place or building which is open to the use and enjoyment of the public, whether it is actually used or enjoyed by the public or not, and whether the entry is regulated by any charge or not;

(23) "re-allocation of population" means, in relation to an area of bad layout or obsolete development or a slum area, the making

available in that area or elsewhere, of accommodation, for residential purposes or for carrying on business or other activities, together with amenities, to persons living or carrying on business or other activities, in the said area who have to be so accommodated so that the said area may be properly planned;

(24) "regulation" means a regulation made under this Act by the Planning Authority and includes zoning and other regulations made as a part of a Development Plan;

(25) "residence" includes the use for human habitation of any land or building or part thereof including gardens, ground, garages, stables and out-houses, if any, appertaining to such building and "residential" shall be construed accordingly;

(26) "rules" means rules made under this Act by the State Government; and

(27) "slum area" means any predominantly residential area where the dwellings which by reason of dilapidation, over-crowding, faulty arrangement of design, lack of ventilation, light or sanitary facilities or any combination of these factors, are detrimental to safety, health or morales and which is defined by a Development Plan as a slum area;

(28) words and expressions not defined in this Act have the same meaning as in the Bengal Municipal Act, 1932 (Bengal Act 15 of 1932), as extended to Tripura

CHAPTER 2

Tripura Town and Country Planning Board

3. Constitution of Tripura Town and Country Planning Board

:-

(1) As soon as may be, after the commencement of this Act the State Government shall, by notification in the official Gazette, constitute and appoint for the purpose of carrying out the functions assigned to it under this Act, a Board to be called the Tripura Town and Country Planning Board

(2) The Board shall consist of a Chairman and not less than four, and not more than fourteen other members appointed by the State Government, of which at least one shall be a member of the Legislative Assembly ; and the State Government may, if it thinks fit, appoint one of the members as Vice-Chairman of the Board

(3) As soon as may be after the commencement of this Act, the State Government shall, by notification in the official Gazette, appoint for the purpose of carrying out the functions assigned to it under this Act, a Town and Country Planner, to be called the Chief Town Planner to the State Government

(4) The Chief Town Planner to the State Government shall be ex-officio Member-Secretary to the Board

4. Functions and powers of the Board :-

(1) Subject to the provisions of this Act, and the rules framed thereunder, the functions of the Board shall be to guide, direct and assist the Planning Authorities, to advise the State Government in matters relating to the planning, development and use of rural and urban land in the State of Tripura, and to perform such other functions as the State Government may, from time to time, assign to the Board

(2) In particular and without prejudice to the generality of the foregoing provisions, the Board may, and shall, if required by the State Government

(a) prepare and supervise the Master Plan;

(b) give general supervision and guidance for the implementation of the projects;

(c) direct the preparation of Development Plans by Local Planning Authorities;

(d) undertake, assist and encourage the collection, maintenance and publication of statistics, bulletins and monographs on planning and its methodology;

(e) prepare and furnish reports relating to the working of this Act;

(f) undertake, assist and advise on the co-ordination in the planning and implementation of physical development programmes;

(g) perform any other function which is supplemental, incidental or consequential to any of the functions aforesaid or which may be prescribed

(3) The Board may exercise all such powers as may be necessary or expedient for the purpose of carrying out its functions wider this

Act

5. Term of office and conditions of service of Chairman and members of the Board :-

(1) The term of office and conditions of service of the Chairman and other members of the Board shall be such as may be prescribed by rules; and they shall be entitled to receive such salaries or allowances or both as may be fixed by the State Government

(2) The State Government may, if it thinks fit, terminate the appointment of Chairman or any members of the Board at any time

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

(4) Any vacancy so created shall be filled by fresh appointment by the State Government

6. Meetings of the Board :-

(1) The Board shall meet at such times and places and shall be subject to the provisions of sub-Ss. (2) and (3), observe the procedure as may be prescribed in regard to the transaction of its business at such meeting

(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 the Board

(3) All questions, at a meeting of the Board, shall be decided by a majority of votes of the members present and voting and in the case of 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 meeting in a book to be kept for this purpose, which shall be signed at the next ensuing meeting by the person presiding at such meeting and shall be open to inspection by any member during office hours

CHAPTER 3

Planning Areas and Planning Authorities

7. Declaration of Planning Areas, their amalgamation, sub

divisions and inclusion of any area from the Planning Area

:-

(1) The State Government may, by notification, declare any area in the State of Tripura to be a Planning Area for the purposes of this Act, and on such declaration this Act shall apply to such area: Provided that no military cantonment or part of a military cantonment shall be included in any such area

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

(3) The State Government may, after consultation with the Board, amalgamate two or more Planning Areas into one Planning Area, sub-divide a Planning Area into different Planning Areas, and include such divided areas in any other Planning Area

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

(5) When Planning Areas are amalgamated or sub-divided, such sub-divided area are included in other Planning Areas, the State Government shall after consulting the Board and 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

8. Power to withdraw a local Planning Area from operation of this Act :-

(1) The State Government may, by notification in the official Gazette, withdraw from the operation of this Act the whole or a part of any Planning Area declared thereunder

(2) When a notification is issued under this section in respect of any Planning Area

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

(b) 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 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 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

9. Planning Authority :-

(1) As soon as may be, after declaration of a Planning Area, the State Government, in consultation with the Board shall, by notification in the official Gazette, 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 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 except those constituted under sub-S. (5) shall consist of the following members:

(a) a Chairman;

(b) a Town Planning Officer who shall be the Member-Secretary to the Planning Authority;

(c) representatives of local bodies composed as below:

(i) in the case of a Planning Area having only one local body within its jurisdiction, a representative nominated by that local body and the Chief Executive Officer of that local body;

(ii) in the case of a Planning Area having two or more local bodies within its jurisdiction, five representatives of such local bodies as the State Government may consider necessary to be represented, nominated by the concerned local bodies; provided that the total number of such representatives does not exceed five;

(d) three other members to be appointed by the State Government

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

(5) The State Government may, in consultation with the Board, appoint a Local Authority as the Planning Authority for the area of that Local Authority and for such other contiguous or adjacent area or areas as the State Government may declare as the Planning Area under S. 7

(6) In case where a Local Authority is appointed as a Planning Authority the provisions of sub-S. (3) of S. 9, S. 10, S. 12 and S. 14 shall not apply but the provisions of this Act under which the Local Authority is constituted shall continue to apply to it in respect of matters covered by these sections

(7) The Local Authority for the purpose of performing the functions of a Planning Authority specified under this Act shall set up a Planning Committee composed as under:

(a) a Chairman;

(b) a Town Planning Officer, who shall also be the Member-Secretary to the committee;

(c) five other members, two of whom shall be appointed by the State Government

(8) Such a committee appointed by the Local Authority shall have all the powers, responsibilities and status as are given to a standing committee appointed under this Act under which the Local Authority is set up

10. Term of office and conditions of services of the Chairman and members of Planning Authority :-

(1) The term of office and conditions of service of the Chairman and members of the Planning Authorities shall be such as may be prescribed by the rules and they shall be entitled to receive such salaries or allowances as may be fixed by the State Government

(2) Members of Planning Authorities, except those nominated by local bodies as provided in Cl. (c) of sub-S. (3) of S. 9, shall hold office at the pleasure of the State Government

(3) The Chairman or any member except those nominated by the local bodies as provided in Cl. (c) of sub-S. (3) of S. 9 may resign his membership of the Planning Authority giving notice in writing to the State Government and on such resignation being accepted he shall cease to be a member of that Planning Authority

(4) Any vacancies created in respect of Cls. (a), (b) and (d) of sub-S. (3) of S. 9, shall be filled by fresh appointment by the State Government

(5) Representatives of local bodies shall, subject to the provisions of sub-S. (3) of S. 9 be filled by fresh appointment by the State Government

11. Functions and powers of the Planning Authorities :-

Subject to the provisions of this Act, the rules framed thereunder and any directions which the State Government may give, the functions of every Planning Authority shall be, and it shall have power to

(a) prepare and execute a Master-Plan;

(b) prepare a present Land Use Map;

(c) prepare an Outline Development Plan;

(d) prepare a Comprehensive Development Plan;

(e) prescribe use of land within its area;

and for these purposes it may carry out or cause to be carried out surveys of its Planning Area and to prepare report or reports of such surveys ; and to perform any other function which is supplemental, incidental or consequential to any of the functions aforesaid or which may be prescribed.

12. Meetings of Planning Authorities :-

(1) Each Planning Authority shall meet at such times and places and shall, subject to the provisions of sub-Ss. (2) and (3), observe such procedure in regard to the transaction of business at its meetings as may be prescribed by regulations

(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 the Planning Authority

(3) All questions at a meeting of the Planning Authority shall be decided by a majority of 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 meeting in a book to be kept for this purpose, which shall be signed at the next ensuing meeting by the person presiding at such meeting, and shall be open to inspection by any member during office hours

13. Temporary association of persons with the Planning Authority for particular purposes :-

(1) The Planning Authority may associate with itself in such manner and for such purposes as may be prescribed by rules any person whose assistance or advice it may desire in performing any of its functions under this Act

(2) Any person associated with the Planning Authority under sub-S. (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 and shall not be member for any other purpose

14. Staff of the Planning Authority :-

(1) Subject to such control and restrictions as may be prescribed by rules, a Planning Authority may appoint such number of officers and employees as may be necessary for the efficient performance of its functions and may determine their destinations and grades

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

CHAPTER 4

Present Land Use Map

15. Preparation of present Land Use Map and Register :-

As soon as may be, after its constitution every Planning Authority

shall, not later than six months after its constitution or within such time as the State Government may, from time to time extend, prepare a present Land Use Map and a Land Use Register (hereinafter called the Map and the Register respectively) in the form to be prescribed indicating the present use of every piece of land hi the Planning Area.

16. Notice of the preparation of the Map and the Register :-

(1) After the preparation of the Map, the Planning Authority shall,publish a public notice of the preparation of the Map and the Register and of the place or places where copies of the same may be inspected, inviting objections in writing from any person with respect to the Map and the Register within 30 days of the publication of such notice: Provided that if a Local Authority has been declared as a Planning Authority for any area and it has prepared a map or a register or both of the area before the application of this Act to that area, the map or the register already prepared shall be deemed to be a Map and Register under S. 15

(2) After the expiry of the period mentioned in sub-S. (1) the Town Planning Officer of the Planning Authority or a committee appointed by the Planning Authority for the purpose shall, after allowing a reasonable opportunity of being heard to all the persons who have filed the objections, make a report to the Planning Authority

(3) The Planning Authority shall consider the report as submitted under sub- S. (2) and may make such modification in the Map or the Register or both as it considers proper and adopt the Map and the Register by a resolution

(4) As soon as may be, after the adoption of the Map and the Register, the Planning Authority shall publish a public notice of the adoption of the Map and the Register and the place or places where the copies of the same may be inspected and shall submit copies of the Map and the Register to the Board and the State Government

(5) A copy of such public notice shall also be published in the official Gazette. The publication of the copy of the public notice in the official Gazette hi respect of the Map and the Register shall be conclusive evidence that the Map and the Register have been duly prepared and adopted

17. The power of the State Government in case of the default of the Planning Authority to prepare the Map and

the Register :-

(1) Where by virtue of the foregoing provisions of this Chapter a Map and a Register are to be prepared, then

(a) if within the period prescribed or within such period which the State Government has extended, no Map or Register has been prepared; or

(b) if at any time the State Government is satisfied that the Planning Authority is not taking steps necessary to prepare such a Map or a Register within that period, the State Government may direct the Chief Town Planner to prepare the Map and the Register;

(2) After preparation of the Map and the Register the Chief Town Planner shall submit the same to the Board, and the Board shall follow the procedure and exercise the powers of the Planning Authority under S. 16

(3) Any expenses incurred under this section in connection with the making of the Map and the Register with respect to the area of a Planning Authority shall be paid by the Planning Authority

CHAPTER 5

Development Plan

18. Outline Development Plans :-

(1) As soon as may be, after the declaration of a Planning Area, the Planning Authority shall, not later than one year after such declaration or within such time as the State Government may, from time to time, extend, prepare, after consultation with the Local Authorities concerned, if any, and submit to the Board and the State Government, a plan (hereinafter called the Outline Development Plan) for the Planning Area or any of its parts and such other area or areas contiguous or adjacent to the Planning Area as the State Government may direct to be included in the Outline Development Plan

(2) The Outline Development Plan shall

(a) indicate broadly the manner in which the Planning Authority proposes that land in such area should be used;

(b) allocate areas or zones of land for use

(i) for residential, commercial, industrial and agricultural purposes,

(ii) for public and semi-public open spaces, parks and play-grounds;

(iii) for such other purposes as the Planning Authority may think fit;

(c) indicate, define and provide

(i) for existing and proposed highways, arterial roads, ring roads, and major streets under the State Government or local body concerned;

(ii) for existing and proposed other lines of communication, including railways, tramways, airports, canals;

(d) include regulations (hereinafter called the Zoning Regulations) to regulate within each zone the location, height, number of storeys and size of buildings and other structures, the size of yards, courts and other open spaces, and the use of buildings, structures and land

(3) The Outline Development Plan may indicate, define and provide for

(a) the existing and proposed public and semi-public buildings, and

(b) all or any of the purposes and matters as may be indicated, defined and provided for in the Comprehensive Development Plan under S. 19

(4) Subject to the provisions of the rules made under this Act for regulating the form and contents of the Outline Development Plan any such plan shall include such maps and such descriptive matters as may be necessary to explain and illustrate the proposals in the Outline Development Plan

19. Comprehensive Development Plan :-

(1) As soon as may be after the declaration of a Planning Area, the Planning Authority shall, but not later than three years after such declaration or within such time as the State Government may, from time to time, extend, prepare after consultation with the Local Authorities concerned, if any, and submit to the Board and the State Government, a Plan (hereinafter called the Comprehensive Development Plan) for the Planning Area or any of its parts and such other area or areas contiguous or adjacent to the Planning Area as the State Government may direct to be included in the Comprehensive Development Plan:

(a) indicate, define and provide for all the matters that have to be or may be indicated, defined and provided for in the Outline Development Plan with such modifications as the Planning Authority deems fit;

(b) indicate, define and provide for

(i) areas reserved for agriculture, public and semi-public open spaces, parks, play-grounds, gardens and other recreational uses, green belts and nature reserves;

(ii) comprehensive land allocation of areas or zones for residential, commercial, industrial, agricultural and other purposes;

(iii) complete road and street pattern and traffic circulation pattern for present and future requirements;

(iv) major road and street improvements;

(v) area reserved for public buildings and institutions and for new civic development;

(vi) areas for future development and expansion, and areas for new housing;

(vii) amenities, services and utilities;

(viii) all such matters as may be prescribed by the rules or may be directed by the State Government or the Board to be indicated, defined, and provided for;

(c) include the Zoning Regulations to regulate within each zone the location, height, number of storeys and size and number of buildings and other structures, the size of yards, courts, and other open spaces and the use of buildings, structures and land;

(d) indicate the stages by which the plan proposals are proposed to be carried out together with financial implication of each stage

(2)The Comprehensive Development Plan may

(a) indicate, define and provide for

(i) all such matters including planning, standards, gross and new designs and guiding principles the Planning Authority may consider expedient to be indicated, defined and provided for in the Development Plans;

(ii) detailed development of specific areas for housing, shopping

centres, industrial areas and civic centres, educational and cultural institutions;

(iii) control and architectural features, elevation and frontage of buildings and structures;

(iv) a five year development programme within the frame-work of the staging referred to in Cl. (d) of sub-S. (2);

(b) designate, as land subject to acquisition for any public purpose, and in particular, but without prejudice to the generality of this provision for the purpose of

(i) the Union of India, the State, Local Authorities or any other Authority established by law and public utility concerns;

(ii) dealing satisfactory with the area of bad layout or obsolete development and slum areas and provision for re-allocation of population;

(iii) the provision of open spaces, parks and playground;

(iv) securing the use of the land in the manner specified in the Development Plan;

(v) any of the matters as are referred to in sub-S. (2)

(3) Subject to the provisions of the rules made under this Act for regulating the form and contents of the Comprehensive Development Plan, any such plan shall include such maps and such descriptive matters as may be necessary to explain and illustrate the proposals in the Development Plan

20. Development Plan prepared prior to the application of this Act to be deemed Development Plan under this Act :-

If any Local Authority has been declared as a Planning Authority for a Planning Area and the Local Authority has prepared a Development Plan for the Planning Area before the application of this Act to that area, the Development Plan already prepared may be deemed to be a Development Plan under S. 18 or S. 19 of this Act.

21. Power of State Government in case of default of Planning Authority to prepare Development Plan :-

(1) Where, by virtue of the foregoing provisions of this Act, a Development Plan is to be prepared

(a) if within the period prescribed or within such period which the State Government has extended, no Development Plan has been prepared; or

(b) if at any time the State Government is satisfied that the Planning Authority is not taking steps necessary to prepare such a Development Plan within that period, the State Government may direct the Chief Town Planner to prepare the Development Plan

(2) After preparation of the Development Plan, the Chief Town Planner shall submit the Development Plan to the Board and the Board shall follow the procedure and exercise the powers of the Planning Authority under S. 22, 23, 24 and 25

(3) Any expenses incurred under this section in connection with the preparation of the Development Plan for the Planning Area of a Planning Authority, shall be paid by the Planning Authority

CHAPTER 6

Procedure for approval and preparation of Development Plan

22. Consent of the State Government to the publication of notice of preparation of Development Plan :-

(1) As soon as may be, after the Development Plan has been submitted to the Board and the State Government, but not later than the time prescribed by the rules, the State Government may direct the Planning Authority to make such modifications in the Development Plan as the State Government thinks fit and thereupon the Planning Authority shall make these modifications

(2) The State Government shall, after the modifications, if any, directed by it, have been made, give its consent to the publication of a public notice under sub-S. (1) of S. 23, of the preparation of the Development Plan to the Planning Authority

23. Public notice of the preparation of the Development Plan :-

(1) As soon as may be, after the Planning Authority has received the consent of the State Government to the publication of the notice under sub-S. (2) of S. 22, the Planning Authority shall publish the public notice in the official Gazette and in one or more local newspapers, of the preparation of the Development plan and the place or places where copies of the same may be inspected, inviting objections in writing from any person with respect to the

Development Plan within such period as may be specified in the notice:

Provided that such period shall not be less than two months from the date of publication of the notice in the official Gazette

(2) After the expiry of the period mentioned in sub-S. (1) the Planning Authority shall appoint a committee consisting of the Town Planning Officer and not more than two of its other members, to consider the objections filed under sub-S. (1) and report on them within such time as the Planning Authority may fix in this behalf

(3) The committee so appointed shall have power to co-opt any other person, such co-option being subject to the provision of S. 13

(4) Such committee shall allow a reasonable opportunity of being heard, to any person, including representatives of Government departments or Local Authorities who has filed any objection, and who has made a request for being so heard

(5) As soon as may be, after the receipt of the report from the committee, but not later than the time prescribed by the rules, the Planning Authority shall consider the report of the committee and may make such amendments in the Development Plan, with or without modifications, together with the report of the committee to the Board and to the State Government

24. Approval by the State Government :-

As soon as may be, after the submission of the Development Plan, but not later than the time prescribed by the rules, the State Government after consulting the Board, may, either approve the Development Plan or may approve it with such modifications as it may consider necessary, or may return the Development Plan to the Planning Authority to modify the plan or to prepare a fresh plan in accordance with such directions as the State Government may issue in this behalf.

25. Coming into operation of the Development Plan :-

(1) Immediately after the Development Plan has been approved by the State Government, the Planning Authority shall publish a public notice in the official Gazette and in a local newspaper, of the approval of the Development Plan and the place or places where copies of the Development Plan may be inspected

(2) From the date of publication of the aforesaid notice in the

official Gazette the Development Plan shall come in to operation

(3) After the coming into operation of the Comprehensive Development Plan, the Outline Development Plan shall stand modified or altered to the extent the proposals in the Comprehensive Development Plan are at variance with the Outline Development Plan

(4) A Development Plan shall not, either before or after it has been approved, be questioned in any manner in any legal proceedings whatsoever

26. Amendment of Development Plans and minor changes :-

(1) At any time after the date on which the Development Plan for an area comes into operation, and at least once in every ten years after that date the Planning Authority shall, after carrying out such fresh surveys as may be considered necessary or directed by the Board and the State Government, prepare after consultation with the Local Authorities concerned, if any, and submit to the Board and the State Government, a Development Plan for any alteration or additions considered necessary by the Planning Authority to the Development Plan in operation

(2) The provisions of Ss. 23,24 and 25 with such modifications as may be necessary shall apply to such a Development Plan

(3) At any time after the date on which the Development Plan for an area comes into operation, the Planning Authority may, with the prior approval of the State Government, make such minor changes in the Development Plan as may be necessitated by typographical and cartographical errors and omissions, details of proposals not fully indicated in the plan or changes arising out of the implementation of the proposals in the Development Plan, provided that

(a) all such changes are in the public interest; and

(b) all such changes are notified to the public

27. Suspension of the Plan in emergency :-

If the State Government is satisfied that a grave emergency exists which necessitates the suspension of any Development plan or part of any Development Plan, it may, by a notification in the official Gazette, suspend any Development Plan or any part of it.

28. Use of development of land to be in conformity with Development Plan :-

After the coming into operation of any Development Plan in any area, no person shall use or permit to be used any land or carry out any development in that area otherwise than in conformity with such Development Plan: Provided that the Planning Authority may allow the continuance, for a period not exceeding ten years, of the use, upon such terms and conditions as may be prescribed by the regulations made in this behalf, of any land for the purpose and to the extent, for and to which it is being used on the date on which such Development Plan come into operation

29. Prohibition of development without payment of development charges and without permission :-

(1) After the application of this Act to any area and subject to the provisions relating to the development charge and other provisions of this Act, no development, institution of change of use, of any land shall be undertaken or carried out in that area

(a) without obtaining a certificate from the Planning Authority certifying that the development charge as leviable under this Act has been paid or that no such development charge is leviable; and

(b) without obtaining the permission in writing as provided for hereinafter: Provided that no such permission shall be necessary

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

(b) for the carrying out by the Central or the State Government or any Local Authority of any works required for the maintenance or improvement of a highway, road or public street, being works carried out on land within the boundaries of such highway, road or public street;

(c) for the carrying out by the Central or the State Government or any Local Authority of any works for the purpose of inspecting, repairing or renewing any drains, sewers, mains, pipes, cables or other apparatus including the breaking open of any street or other land for that purpose;

(d) for the excavations (including wells) made in the ordinary course of agricultural operations;

(e) for the construction of unmetalled road intended to give access to land solely for agricultural purposes;

(f) for normal use of land which has been used temporarily for other purposes;

(g) in case of land, normally used for one purpose and occasionally used for any other purpose, for the use of land for that other purpose on occasions;

(h) for use, for any purpose incidental to the use of a building for human habitation, or any other building or land attached to such building

(2)

(a) Any person or body (excluding a Department of the Central or the State Government or a Local Authority) intending to carry out any development on any land shall make an application in writing to the Planning Authority for permission in such form and containing such particulars and accompanied by such documents and plans as may be prescribed by the rules or the regulations: Provided that in the case of department of the Central or the State Government or a local Authority (where the Local Authority is not also the Planning Authority) intending to carry out any development on any land, the concerned department or Authority, as the case may be, shall notify in writing to the Planning Authority of its intention to do so, giving full particulars thereof and accompanied by such documents and plans as may be prescribed by the State Government from time to time, at least one month prior to the undertaking of such development; where a Planning Authority has raised any objection in respect of the conformity of the proposed development either to any Development Plan under preparation, or to any of the building bye-laws in force at the time, or due to any other material consideration, under sub-S. (4) the department or the Authority, as the case may be, shall

(i) either make necessary modifications in the proposals for development to meet the objections raised by the Planning Authority; or

(ii) submit the proposals for development together with objections

raised by the Planning Authority to the State Government for decision and when proposals and objections have been so submitted, no development shall be undertaken until the State Government has finally decided on the matter

(b) The State Government on receipt of the proposals for development together with the objections of the Planning Authority, shall, in consultation with the Chief Town Planner, either approve the proposals with or without modifications or direct the concerned Department or Local Authority as the case may be, to make such modifications in the proposals as they considered necessary in the circumstances. The provision of sub-S. (3) shall not apply in this case : Provided that in the case of non-operational constructions by any department of the Government of India, the State Government on receipt of the application would intimate their decision within 21 days from the date of receipt of application to the concerned department of the Government of India and in the absence of any objection being raised within that period, department of the Government of India concerned may presume that State Government are agreeable to their proposals

(3) On such application having been duly made, and on payment of the development charge as may be assessed under Chapter VIII

(a) the Planning Authority may pass as order

(i) granting permission unconditionally; or

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

(iii) refusing permission;

(b) without prejudice to the generality of the foregoing clause, the planning Authority may impose conditions

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

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

(4) The Planning Authority in dealing with the applications for permission shall have regard to

(a) the provisions of the Development Plan, as it has come into operation;

(b) the proposals or provisions which it thinks are likely to be made in any Development Plan under preparation, or to be prepared; and

(c) any other material consideration

(5) When permission is granted subject to conditions or is refused, the grounds of imposing such conditions or such refusal shall be recorded in the order

(6) Any such order shall be communicated to the applicant in the manner prescribed by regulations

(7) The Planning Authority may, by a resolution, delegate any of its functions and powers under this section to

(a) any Local Authority;

(b) any officer of the State Government with the previous approval of the State Government for such delegation; or

(c) any officer of the Planning Authority or Local Authority as may be mentioned therein. in such cases and subject to such conditions, if any, as may be specified therein

30. Appeal against grant of permission subject to conditions or refusal of permission :-

(1) Any applicant aggrieved by an order passed under the last foregoing section, or if no order is passed under sub-S. (3) of the last foregoing section, may appeal, within one month of the communication of that order to him, or after the expiry of the period of three months from the date of submitting the application in the manner and accompanied by such fees as may be prescribed by the rules, to the Board

(2) The Board, after receiving the appeal, may give a reasonable opportunity to the appellant and Planning Authority to be heard or it may cause the Chief Town Planner, or any other person appointed by him in this behalf, to give a reasonable opportunity to the appellant and the Planning Authority concerned to be heard and to submit thereafter his report on the appeal to the Board

(3) After hearing the appellant and the Planning Authority concerned or after considering the aforesaid report the Board may pass an order dismissing the appeal or allowing the appeal, while allowing the appeal the Board may pass an order by

(a) granting permission unconditionally; or

(b) granting permission subject to such conditions as it may think fit; or

(c) removing the conditions subject to which permission has been granted and imposing other conditions, if any, as it may think fit

(4) The Board may, by a resolution, delegate any of its functions and powers under this section to the Chief Town Planner, in such cases and subject to such conditions, if any, as may be specified therein

31. Lapse of permission :-

Every permission for any development granted under this Act shall remain in force for three years only from the date of such permission: Provided that the Planning Authority may, on application made in this behalf before the expiry of the aforesaid period, extend such period, for such tune as it may think proper ; but such extended period shall in no case exceed three years; Provided further that such lapse shall not bar any subsequent application for fresh permission under this Act.

32. Power of revocation and modification of permission to develop :-

(1) If it appears to a Planning Authority that it is expedient, having regard to the Development Plan prepared, under preparation or to be prepared and to any other material considerations, that any permission to develop land granted under this Act or any other law, should be revoked or modified, the Planning Authority may, by an order, revoke or modify the permission to such extent as appears to it to be necessary:

Provided that

(a) where the permission relates to the carrying out of building or other operations, no such order

(i) shall affect such of the operations as have been previously carried out;

(ii) shall be passed after these operations have been completed;

(b) where permission relates to a change of use of land, no such order shall be passed at any time after the change has taken place

(2) When permission is revoked or modified by an order made under the last foregoing sub-section if the owner claims from the Planning Authority within the time and in the manner prescribed, compensation for the expenditure incurred in carrying out the works after the grant of permission and in accordance with such permission which had been rendered abortive by the revocation or modification, the Planning Authority shall, after giving the owner reasonable opportunity of being heard by the Town Planning Officer, and after considering the Town Planning Officer's report, assess and offer such compensation to the owner as it thinks fit

(3) If the owner does not accept the compensation and gives notice within such time as may be prescribed of his refusal to accept, the Planning Authority shall refer the matter for the adjudication of the court and the decision of the court shall be final and binding on the owner and the Planning Authority

33. Penalty for unauthorised development or for use otherwise than in conformity with the Development Plan :-

(1) Any person who, whether at his own instance or at the instance of any other person commences, undertakes or carries out development, institutes, or changes any use of any land

(a) in contravention of any Development Plan;

(b) without obtaining a certificate regarding development charges under Cl. (a) of sub-S.(I) of S.29;

(c) without permission as required under this Act;

(d) in contravention of any condition subject to which such permission has been granted;

(e) after the permission for development has been revoked under S. 32; or

(f) in contravention of the permission which has been modified under S. 32; shall be punishable with a fine which may extend to ten thousand rupees, and in the case of a continuing offence with a further fine which may extend to five hundred rupees for every day during which the offence continues after conviction for the first

commission of the offence

(2) Any person who continues to use or allows the use of any land or building in contravention of the provisions of a Development Plan without having been allowed under S. 28, or where the continuance of such use has been allowed under that section, continues such use after the period for which the use has been allowed or without complying with the terms and conditions under which the continuance of such use is allowed, shall be punishable with a fine which may extend to five thousand rupees and in the case of a continuing offence with a further fine which may extend to two hundred and fifty rupees for every day during which such offence continues after conviction for the first commission of the offence

34. Power to require removal of unauthorised development

:-

(1) Where any development of land has been carried out as described in S. 33, the Planning Authority may, within four years of such development, serve on the owner a notice requiring him, within such period being not less than one month, as, may be specified therein, after the service of the notice, to take such steps as may be specified in the notice:

(a) in cases specified in Cls. (a), (c) or (e) thereof to restore the land to its condition before the said development took place;

(b) in cases specified in Cl. (d) or (f) thereof to secure compliance with the conditions or with the permission as modified;

(c) in cases specified in Cl. (b) to pay the development charge and such penalty, if any, as may be prescribed by the rules, and in particular, any such notice may, for the purpose aforesaid require

(i) the demolition or alteration of any buildings or works;

(ii) the carrying out on land, of any building or other operation; or

(iii) the discontinuance of any use of land:

Provided that in the case the notice required the discontinuance of any use of land, the Planning Authority shall serve a notice on the occupier also

(2) Any person aggrieved by such notice may, within the said period and in the manner prescribed

(a) apply for permission under S. 29 of this Act for the retention on the land of any buildings or works or for the continuance of any use of the land, to which the notice relates; or

(b) appeal to the Board

(3)

(a) The notice shall be of no effect pending the final determination or withdrawal of the application or the appeal

(b)

(i) The provisions of Ss. 29 and 30 shall apply mutatis mutandis to such an application

(ii) If such permission as aforesaid is granted on that application, the notice shall not take effect, or if such permission is granted for the retention only of some buildings or works or for the continuance of use of only a part of the land, the notice shall not take effect, regarding such buildings or works or such part of the land, but shall have full effect regarding other buildings or works or other parts of the land

(4) On an appeal made to the Board under sub-S. (2) the Chief Town Planner or any other person or committee appointed by the Board in (his behalf shall, after allowing a reasonable opportunity of being heard to the appellant and the Planning Authority concerned, submit a report to the Board

(5) After considering the aforesaid report, the Board may dismiss the appeal or allow the appeal by quashing or varying the notice as it may think fit

(6) If within the period specified in the notice or within such period after the disposal or withdrawal of the application for permission or the appeal under sub-S. (2) the notice or so much of it as continues to have effect, or the notice with variation made in appeal, is not complied with, the Planning Authority may

(a) prosecute the owner for not complying with the notice and in the case where the notice required the discontinuance of the use of land, any other person also who uses the land or causes or permits the land to be used in contravention of the notice; and

(b)

(i) in the case of a notice requiring the demolition or alteration of any building or works or carrying out of any building or other operations, itself cause the restoration of the land to its condition before the development took place and secure the compliance with the conditions of the permission as modified, by taking such steps as the Planning Authority may consider necessary including demolition or alteration of any building or works or carrying out of any building or other operations; and

(ii) recover the cost of any expenses incurred by Planning Authority in this behalf from the owner as arrears of land revenue

(7) Any person prosecuted under Cl. (a) of sub-S. (6) shall be punishable with a fine which may extend to ten thousand rupees, and in the case of a continuing offence, with a further fine which may extend to five hundred rupees for every day during which such offence continues after conviction for the first commission of the offence

35. Power to stop unauthorised development :-

(1) Where any development of land as described in S. 33 is being carried out but has not been completed, the Planning Authority may serve on the owner and the person carrying out the development a notice requiring the development of land to be discontinued from the time of the service of such notice

(2) Where such notice has been served, the provisions of Cl. (a) of sub-S. (3), sub-S. (4) and sub-S. (5) of S. 34 shall apply mutatis mutandis: Provided that provisions of Cl. (a) of sub-S. (3) of S. 34 shall not apply and in spite of the filing of an application for permission for development or an appeal as provided in sub-S. (2) of that section the notice shall continue to have full effect

(3) Any person, who continues to carry out the development of land, whether for himself or on behalf of the owner or any other person, after such notice has been served, shall be punishable with a fine which may extend to ten thousand rupees, and when the offence is a continuing one, with a further fine which may extend to five hundred rupees for every day after the date of the service of the notice during which the non-compliance has continued or continues

(4) If such notice is not complied with forthwith the Planning Authority or such officer of the Planning Authority, who may be

authorised in this behalf, may require any police officer to remove such person and all assistants and workmen from the land at any time after the service of such notice and such police officer shall comply with requisition accordingly

(5) After the requisition under sub-S. (4) has been complied with, the Planning Authority or such officer of the Planning Authority who may be Authorised in this behalf may, if necessary, depute by a written order, a police officer or any officer or employee of the Planning Authority to watch the land in order to ensure that the development is not continued

(6) Where a police officer or an officer or employee of the Planning Authority has been deputed under sub-S. (5) to watch the land, the cost of such deputation shall be paid by the person at whose instance such development is being continued or to whom notice under sub-S. (1) was given and shall be recoverable from such person as arrears of land revenue

36. Power to require removal of unauthorised development on use :-

(1) If it appears to a Planning Authority that it is expedient in the interest of the proper planning of its areas (including the interests of amenities) having regard to the Development Plan prepared, or under preparation, or to be prepared, and to any other material consideration

(a) that any use of land should be discontinued; or

(b) that any conditions should be imposed on the continuance thereof; or

(c) that any buildings or works should be altered or removed; the Planning Authority may, by notice serve on the owner

(i) require the discontinuance of that use; or

(ii) impose such conditions as may be specified in the notice, on the continuance thereof; or

(iii) require such steps, as may be specified in the notice to be taken for the alteration or removal of any buildings or works, as the case may be, within such period, being not less than one month, as may be specified therein, after the service of the notice

(2) Any person aggrieved by such notice, may within the said

period and in the manner prescribed, appeal to the Board

(3) If an appeal is filed under the last foregoing sub-section, the provisions of Cl. (a) of sub-S. (3), sub-Ss. (4) and (5) of S. 34 shall apply mutatis mutandis

37. Interim provision pending preparation of Development Plan :-

Where a planning Authority, in the exercise of its functions and power with respect to any area under it, is required to have regard to the provisions of a Development Plan before such Development Plan has become operative, the Planning Authority shall have regard to the provisions which in its opinion will be required to be included for securing the proper planning of the concerned area.

CHAPTER 8

Levy, assessment and recovery of development charge

38. Levy of development charge :-

(1) Subject to the provisions of this Act, and the rules under it and with the previous sanction of the State Government, every Planning Authority shall, by a notification published in the official Gazette, levy a charge (hereinafter called the development charge) on the carrying out of any development or the institution or change of use of land, for which permission is required under Chapter VI of this Act, in the whole or any part of the planning area, at rates specified in S. 39:

Provided that the rates may be different for different parts of the Planning Area

(2) The charge shall be leviable on any person who undertakes or carries out such development and institutes or changes any such use

(3) Notwithstanding anything contained in sub-Ss. (1) and (2), no development charge shall be levied on development, or institution of, or change of use of any land vested in or under the control or possession of the Central Government, the State Government or any Local Authority

(4) The State Government may, by rules, provide for the exemption from the levy development charge of any development, or institution or change of any use of any land specified in the rules

39. Rates of the development charge :-

The development charge shall not exceed

40. Assessment of development charges :-

(1) Any person who intends to carry out any development or to institute or change any use of any land for which permission under Chapter VII is necessary, whether he has applied for such permission or not, or who has commenced the carrying out of any such development or has carried out such development or instituted or changed any such use, shall apply to the Planning Authority in the manner prescribed for the assessment of development charge payable in respect thereof

(2) The Planning Authority shall, on such application being made, or if no such application is made, after serving a notice on the person liable for development charge, determine whether or not, and if so, what development charge is leviable in respect of that development or use

(3) The Town Planning Officer shall, after giving a reasonable opportunity of being heard to the person who has made an application under sub-S. (1) or who has been served with a notice under sub-S. (2), make a report to the Planning Authority

(4) After taking into consideration the aforesaid report the Planning Authority shall assess the amount of development charge by an order; provided that

(a) where permission under Chapter VII has not been granted for carrying out the said development, the Planning Authority may postpone the assessment of the development charge;

(b) where the application relates to the carrying out of any development, the Planning Authority may refuse to assess the development charge payable in respect thereof, unless it is satisfied that the applicant has an interest in the land sufficient to enable him to carry out such development, or that the applicant is able to obtain such interest and that the applicant will carry out the development within such period as the Planning Authority considers appropriate;

(c) where the application relates to the institution or change of any use, the Planning Authority may refuse to assess the amount of development charge in respect thereof unless it is satisfied that the use will be instituted within such period as the Planning Authority

considers appropriate

(5) The Planning Authority shall deliver or serve a copy of such order on the applicant or the person liable for the development charge

(6) Such order of assessment, subject to provisions of S. 41, shall be final and shall not be questioned in any Court

41. Appeal against assessment :-

(1) If any person, liable for the development charge referred to in S. 40 is dissatisfied with the order of assessment, he may, within such time and in such manner as may be prescribed appeal to the Board

(2) On an appeal made to the Board under sub-S.(1) the Chief Town Planner shall, after giving reasonable opportunity of being heard to such person and the Planning Authority concerned, make a report to the Board

(3) The Board may, after taking into consideration the aforesaid report, and if it deems necessary, giving a reasonable opportunity of being heard to such person and the Planning Authority concerned, pass such order as it deems fit,

42. Development charge to be a charge on land and to be recoverable as arrears of land revenue :-

(1) If any development of land is commenced or carried out or any use is instituted or changed without payment of the amount of the development charge assessed under the provision of this Chapter, the amount of the development charge shall, subject to prior payment of the land revenue, if any, be a first charge upon the interest of the person so liable in the land on which development has been commenced or carried out or the use has been instituted or changed and also in any other land in which such person has any interest

(2) The development charge shall be recoverable as arrears of land revenue

CHAPTER 9

Finance, accounts and audit

43. Funds of the Planning Authority :-

(1) Every planning Authority shall have and maintain its own Fund

to which shall be credited

(a) all moneys received by the planning Authority from the Government by way of grants, loans, advances or otherwise;

(b) all development charges or other charges or fees received by the planning Authority under this Act or rules or regulations thereunder;

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

(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 purposes of development;

(c) the expenditure for any development of land in the Planning Area; and

(d) the expenditure for such other purposes as the State Government may direct

(3) Every planning Authority may keep in current account of the State Bank of India or any other bank approved by the State Government in this behalf such sum of money out of its funds as may be prescribed by the rules and any money in excess of the said sum shall be invested in such manner as may be approved by the State Government

(4) The State Government may make such grants, advances and loans to any Planning Authority as it may deem necessary for the performance of the functions under this Act; and all grants, loans and advances made shall be on such terms and conditions as the State Government may determine

44. Budget of the Planning Authority :-

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

45. 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 the State Government may be rules prescribe

(2) The accounts of every Planning Authority shall be subject to audit annually by the Accountant General of the State and any expenditure incurred by him in connection with such audit shall be payable by the Planning Authority to the Accountant General

(3) The Accountant General or any person appointed by him in connection with the audit of accounts of the Planning Authority shall have the same right, privilege and authority in connection with such audit as the Accountant General has in connection with the Government accounts and in particular shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect the office of the Planning Authority

(4) The accounts of every Planning Authority as certified by the Accountant General or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the State Government and the Board

46. Annual reports :-

(1) The Board shall prepare for every year a report on its activities during that year and submit the report to the State Government in such form and on or before such day as may be prescribed by the rules and the Government shall cause a copy of the report to be laid before the State Legislature

(2) Every planning Authority shall prepare for every year a report of its activities 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 by the rules

47. Pension and provident funds :-

(1) Every Planning Authority shall constitute for the benefit of its whole-time paid members and of its officers and other employees, in such manner and subject to such conditions as may be prescribed by the rules, such pension and provident funds as it may deem fit

(2) Where any such pension or provident fund has been

constituted, the State Government may declare that the provisions of the Provident Funds Act, 1925 (19 of 1925), shall apply to such fund as it were a Government Provident Fund

CHAPTER 10

Supplemental and miscellaneous provisions

48. Power of entry :-

(1) The Chief Town Planner or Town Planning Officer of any Planning Authority or any person authorised by the Board or any Planning Authority in this behalf, may enter into or upon any land or building with or without assistants or workmen for the purpose of

(a) making any enquiry, inspection, measurement or survey or taking levels of such land or building ;

(b) setting out boundaries and intended lines of works;

(c) making such levels, boundaries and lines by placing marks and cutting trenches;

(d) examining works under construction and ascertaining the course of sewers and drains;

(e) digging or boring into the sub-soil;

(f) ascertaining whether any land is being or has been developed in contravention of any provision of this Act or rules or regulations thereunder;

(g) doing any other acts necessary for the efficient administration of this Act;

Provided that

(i) in the case of any building used as a dwelling house or upon any enclosed park or garden attached to such a building, no such entry shall be made (unless with the consent of the occupier thereof) without giving such occupier at least 24 hours' notice in writing of the intention to enter;

(ii) sufficient opportunity shall in every instance be given to enable women (if any) to withdraw from such land or building ;

(iii) due regard shall always be had, so far as may be compatible with the exigencies of the purpose for which the entry is made, to the social and religious usages of the occupants of the land or

building entered

(2) The power of the Chief Town Planner or the Board under sub-S. (1) shall extend to the whole of the State of Tripura and the power of any Town Planning Officer or any Planning Authority under sub-s. (1) shall extend only to its Planning Area and such other area which the State Government may have directed to be included in a Development Plan

(3) Any person who obstructs the entry of a person empowered or authorised under this section to enter into or upon any land or building or molests such person after such entry shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both

49. Service of notices etc :-

(1) All documents including notices and orders required by this Act or any rules or regulations made thereunder to be served upon any person shall, save as otherwise provided in this Act or rules or regulations, be deemed to be duly served

(a) where the document is to be served on a Government department, railway, Local Authority, Statutory Authority, company, corporation, society or other body, if the document is addressed to the head of the Government department, general manager of the railway, secretary or principal officer of the Local Authority, Statutory Authority, company, corporation, society or any other body at its principal branch, local or registered office, as the case may be, and is either:

(i) sent by registered post to such office; or

(ii) delivered at such office;

(b) where the person to be served is a partnership, if the document is addressed to the partnership at its principal place of business, identifying it by the name or style under which its business is carried on, and is either

(i) sent by registered post; or

(ii) delivered at the said place of business;

(c) in any other case, if the document is addressed to the person to be served and

(i) is given or tendered to him, or

(ii) if such person cannot be found, is affixed on some conspicuous part of his last known place of residence or business, or is given or tendered to some adult member of his family or is affixed on some conspicuous part of the land or building to which it relates; or

(iii) is sent by registered post to that person

(2) Any document which is required or authorised to be served on the owner or occupier of any land or building may be addressed "the owner" or "the occupier" as the case may be, of that land or building (naming or describing that land or building) without further name or description, and shall be deemed to be duly served

(a) if the document so addressed is sent or delivered in accordance with Cl. (c) of sub-S. (1) ;or

(b) if the document so addressed or a copy thereof so addressed, is delivered to some person ordinarily residing on the land or building

(3) Where a document is served on a partnership firm in accordance with this section, the document shall be deemed to be served on each partner

(4) For the purpose of enabling any documents to be served on the owner of any property, the Secretary to the Board or the Planning Authority or any other officer Authorised by the Board or the Planning Authority, in this behalf, may, by notice in writing require the occupier (if any) of the property to state the name and address of the owner thereof

(5) Where the person on whom a document is to be served is a minor, the service upon his guardian or any adult member of his family shall be deemed to service upon the minor

(6) A servant is not a member of the family within the meaning of this section.

50. Public notice how to be made known. :-

Every public notice given under this Act or rules or regulations thereunder shall be in writing over the signature of the Secretary to the Board or any Planning Authority or such other officer who may be authorised in this behalf by the Board or any Planning Authority and shall be widely made known in the locality to be affected thereby by affixing copies thereof in conspicuous public places

within the said locality, or by publishing the same by beat of drum or by advertisement in a local newspaper and by such other means which the Secretary to the Board or the Planning Authority thinks fit

51. Notices etc, to fix reasonable time :-

Where any notice, order or other document issued or made under this Act or any rules or regulations made thereunder requires anything to be done for the doing of which no time is fixed in this Act or rules or regulations thereunder the notice, order or other document shall specify a reasonable time for doing the same.

52. Authentication of orders and documents of the Board and the Planning Authority :-

All permissions, orders, decisions, notices and other documents of the Board and any Planning Authority shall be authenticated by the signature of the Secretary to the Board or the Planning Authority or such other officer as may be authorised by the Board, or the Planning Authority in this behalf.

53. 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 of 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 of document would, if produced, have been admissible to prove such matters.

54. Restriction on the 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 the preceding section by a certified copy or to appear as a witness to prove the matters and transactions recorded therein, except by an order of the Court made for special cause.

55. 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-S. (1) where an offence under this Act has been committed by a company and if 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.

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

56. 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 persons 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; he shall be punishable with fine which may extend to two hundred rupees or with imprisonment for a term which may extend to two months

57. Sanction of prosecution :-

No prosecution for any offence punishable under this Act shall be instituted except with the previous sanction of the Board or the Planning Authority concerned or any officer authorised by the Board

or the Planning Authority in this behalf.

58. Composition of offences :-

(1) The Board or as the case may be the Planning Authority concerned or any person authorised by the Board or such Planning Authority by general or special order in this behalf may, either before or after the institution of the proceeding, 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

59. . Jurisdiction of courts :-

No court inferior to that of a Judicial Magistrate of the first class shall try an offence punishable under this Act.

60. Magistrates power to impose enhanced penalties :-

Notwithstanding anything contained in S. 29 of the Code of Criminal Procedure, 1973 (2 of 1974) it shall be lawful for any court of Judicial Magistrate of the first class to pass any sentence Authorised by this Act in excess of its power under the said section.

61. Fine when realised to be paid to Planning Authority :-

All fines realised in connection with prosecution under this Act shall be paid to the Planning Authority concerned.

62. Members and officers to be public servants :-

Every member and every officer and other employees of the Board and every Planning Authority shall be deemed to be a public servant within the meaning of S. 21 of the Indian Penal Code.

63. Protection of action taken in good faith :-

No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act or any rule or regulation made thereunder.

64. 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.

65. Validation of acts and proceedings :-

(1) 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 S. 13 having voted in contravention of the said section ;

(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

(2) Every meeting of the Board and any Planning Authority, the minutes of the proceedings of which have been duly signed as prescribed in sub-S. (4) of S. 6 and sub-S. (4) of S. 12 shall be taken to have been duly convened and to be free from all defects and irregularity

66. Power to delegate :-

(1) The Board may, by a resolution, direct that any power exercisable by it under this Act, rules or regulations thereunder may also be exercised by any Planning Authority, Local Authority, or any officer of the Board, or any officer of the State Government with the previous consent of the State Government, in such case and subject to such conditions, if any, as may be specified therein

(2) The Chief Town Planner may, by an order in writing, delegate any power exercisable by him under this Act, rules or regulations to any officer of the Board, any Planning Authority or any Local Authority, in such cases and subject to such conditions, if any, as may be specified therein

(3) Any Planning Authority may, by a resolution, direct that any power exercisable by it under this Act, rules or regulations thereunder except the power to prepare any Development Plan or to make regulations, may also be exercised by a Local Authority, or any officer of the Planning Authority or any officer of the State Government with the previous consent of the State Government as may be mentioned therein in such cases and subject to such conditions, if any, as may be specified therein

(4) The Town Planning Officer of any Planning Authority may, by an order in writing, delegate any power exercisable by him under this Act, rules or regulations to any officer of the Planning Authority or Local Authority concerned in such cases and subject to such conditions, if any, as may be specified therein

67. Control by the State Government :-

(1) The Board and every Planning Authority shall carry out such directions as may be issued from time to time by the State Government for the efficient administration of this Act and every Planning Authority shall also carry out such directions as may be issued from time to time by the Board for the purpose

(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, the Local Authority, the Board and the State Government, the decision of the State Government on such disputes shall be final

68. Returns and information :-

(1) The Board and every Planning Authority shall furnish to the State Government such reports, returns and other information as the State Government may from time to time require

(2) Every Planning Authority shall furnish to the Board such reports, returns and other information as the Board may from time to time require

69. Effect of the laws :-

(1) Save as aforesaid, the provisions of this Act and the rules and regulations 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; this shall not however, be construed as exemption to permission being obtained as required under such other laws and of payment of such fees and charges as may be prescribed by these laws;

(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

70. Power to make rules :-

(1) The State Government may, by notification in the official Gazette, 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 provide for all or any of the following matters, namely:

(a) the functions and powers of the Board and Planning Authorities;

(b) the term of office and conditions of service of the Chairman and members of the Board and the Planning Authorities;

(c) the qualification and disqualification for being chosen as and for being members of the Board or the Planning Authorities;

(d) the time and place of holding and the procedure to be followed in meetings of the Board;

(e) the functions and powers, duties of the Chief Town Planner, the term of his office and conditions of his service;

(f) the manner of nomination of representatives of Local Authorities under Cl. (c) of sub-S.(3) of S.9;

(g) the manner in which and the purposes for which any Planning Authority may associate with itself any person under S. 13 ;

(h) the control and restriction in relation to the appointment of officers and other employees of the Board and of the Planning Authorities;

(i) the time within which the State Government is to direct modifications in or to give its consent for publication of notice of preparation of, and approval to, any Development Plan;

(j) the form and content of the Outline Development Plan and the comprehensive Development Plan and the procedure to be followed in connection with the preparation, submission and approval of such plans and the form and the manner of publication of, the notice relating to such plans;

- (k) the periodical amendment of Development Plans, the period on the expiration of which such an amendment may be taken up, procedure to be followed in making such amendment;
- (1) the form in which any application for permission for development shall be made, the particulars to be furnished in such application and documents and plans which shall accompany such application;
- (m) the form of registration of application and the particulars to be contained in such register;
- (n) the manner of filing, and the fees to be paid for, and the procedure to be followed in appeals;
- (o) the manner in which an acquisition notice is to be served and claim for compensation is to be made, the time within which such claim is to be made and the procedure to be followed for assessment of compensation;
- (p) procedure for the levy of development charges and exemption from it on any development or institution or change of any use of any land;
- (q) the manner in which application of the assessment of development charge is to be made;
- (r) the sum of money that may be kept in current account;
- (s) the form of the budget of the Planning Authorities, the date on or before which it shall be prepared, the manner of preparing it, the number of copies that have to be sent to the Board and the State Government;
- (t) the form of the annual statement of accounts and balance sheet;
- (u) the form of the annual report of the Board and the date on or before which it shall be submitted to the State Government;
- (v) the form of the annual report of the Planning Authorities and the date on or before which it shall be submitted to the Board and to the State Government;
- (w) the manner and the constitution of provident funds for the whole time paid members and officers and other employees of the Planning Authorities and the conditions subject to which such funds

may be constituted;

(x) the documents of which copies may be granted, the fees for such copies;

(y) any other matter which has to be or may be prescribed by rules

(3) Every rule made under this Act shall be laid as soon as may be after it is made before the Assembly while it is in session for a total period of not less than fourteen days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session in which it is so laid or the sessions aforesaid the Assembly makes any modification in the rule or decides that the rule shall 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 perviously done under that rule

71. Power to make regulations :-

Any Planning Authority may, with the previous approval of the State Government, make regulations consistent with this Act and the rules thereunder, to carry out the purposes of this Act, and without prejudice to the generality of this power such regulations may provide for

(a) the time and place of holding and procedure to be followed in meetings of the Planning Authority and the number of members necessary to form a quorum therein;

(b) the powers and duties of the officers and employees of the Planning Authority;

(c) the salaries, allowances and conditions of service of the officers and employess of the Planning Authority;

(d) the terms and conditions for the continuance of the use of any land used otherwise than in conformity with Development Plan;

(e) any other matter which has to be or may be prescribed by regulations

72. Dissolution of Planning Authorities :-

(1) Where the State Government 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 poinion of the State Government

unnecessary, the State Government may, by notification in the official Gazette, 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) From the said date

(a) all properties, funds and dues which are vested in or realisable by the Planning Authority shall vest in, or be realisable by the State Government;

(b) all liabilities which are enforceable against the Planning Authority shall be enforceable against the State Government; and

(c) for the purpose of realising properties, funds and dues referred to in Cl. (a), the functions of the Planning Authority shall be discharged by the State Government

73. Savings :-

Nothing in this Act shall apply to operational constructions (including maintenance, development and new construction) by or on behalf of a Department of the Central Government. Explanation. In this section, the words "operational constructions" shall mean such construction as may be prescribed in the rules by the State Government.