

Himachal Pradesh Town And Country Planning Act, 1977

12 of 1977

[30 September 1977]

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Amended, repealed or otherwise affected by:- (i) H.P. Ordinance No. 4 of 1980 replaced by H.P. Act No. 14 of 1981, published in R.H.P. Extra., dated the 2nd July, 1981, Page 503-504. (ii) H.P. Ordinance No. 5 of 1983 replaced by H.P. Act No. 1 of 1984, published in R.H.P. Extra., dated the 28th January, 1984, Page 119-120, effective w.e.f. 20th October, 1983. (iii) H.P. Act No. 14 of 1989, published in Hindi and English in R.H.P. Extra., dated the 6th June, 1989 at page 1375-1376. (iv) H.P. Act No. 10 of 1992, published in Hindi and English in R.H.P. Extra., dated 5-5-1992, p. 1921 - 1922. (v) H.P. Act No. 16 of 1994, published in Hindi and English in R.H.P. Extra., dated 15th November, 1994, at pages 4001-4006. (vi) H.P. Act No. 7 of 1995, published in Hindi and English in R.H.P. Extra., dated 27th May, 1995 at pages 2237-2240. (vii) H.P. Ordinance No. 3 of 1997 replaced by H.P. Act No. 11 of 1997, published in Hindi and English in R.H.P. Extra., dated 3-5-1997, pages 1585-1588. (viii) H.P. Act No. 17 of 2000, published in Hindi and English in R.H.P. Extra., dated 13-6-2000, p. 1691-1692. (ix) H.P. Act No. 15 of 2001, published in Hindi and English in R.H.P. Extra., dated 27-6-2001, p. 1099-1103. (x) H.P. Act No. 22 of 2006, published in R.H.P. Extra., dated 13-10-2006, p. 5267-5270, effective w.e.f. 4.7.2006. (xi) H.P. Act No. 2 of 2007, published in R.H.P. Extra., dated 13-02-2007, p. 11267-11268. An Act to make provision for planning and development and use of land; to make better provision for the preparation of development plans and sectoral plans with a view to ensuring that town planning schemes are made in a proper manner and their execution is made effective; to constitute the Town and Country Development Authority for proper implementation of town and country development plan; to provide for the development and administration of special areas through the Special Area Development Authority; to make provision for the compulsory acquisition of land required for the purpose of the development plans and for purposes connected with the matters aforesaid. BE it enacted by the Himachal Pradesh Legislative Assembly in the Twenty-eighth Year of the Republic of India as follows:- 1 For Statement of Objects and Reasons, see R.H.P. Extra., dated 13-4-1977, p. 360. 2 For Statement of Objects and

Reasons, see R.H.P. Extra., dated 21-3-1981, P. 151. 3 For Statement of Objects and Reasons, see R.H.P. Extra., dated 24-12-1983, P. 1273. 4 Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects and Reasons, see R.H.P. Extra., dated 20-4-1989, Pages 906 and 908. 5 Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects and Reasons, see R.H.P. Extra., dated 29-2-1992, Pages 1484 and 1486. 6 Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects and Reasons, see R.H.P. Extra. dated 21-9-1994, p. 3114 and 3118. 7 Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects and Reasons, see R.H.P. Extra., dated 29-1-1995, p. 1373 & 1376. 8 Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects and Reasons, see R.H.P. Extra., dated 9-4-1997, pages 1219 and 1222. 9 Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects and Reasons, see R.H.P. Extra., dated 17-4-2000, P. 904 & 906. 10 Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects and Reasons, see R.H.P. Extra., dated 18-4-2001, P. 200 & 204. 11 Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects and Reasons, see R.H.P. Extra., dated 23-8-2006, P. 3896-3898. 12 Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects and Reasons, see R.H.P. Extra., dated -2006, P.

CHAPTER 1 PRELIMINARY

1. Short Title, Extent, Commencement And Application :-

- (1) This Act may be called the Himachal Pradesh Town and Country Planning Act, 1977.
- (2) It extends to the whole of the State of Himachal Pradesh.
- (3) It shall come into force on such date as the State Government may, by notification, appoint and different dates may be appointed for different areas and for different provisions of this Act.
- (4) Nothing in this Act shall apply to-
 - (a) lands comprised within a cantonment under the Cantonments Act, 1924 (2 of 1924);
 - (b) lands owned, hired or requisitioned by the Central Government for the purpose of naval, military and air force works;
 - (c) lands under the control of railway administration for the purpose of construction and maintenance of works under Chapter III of the Indian Railways Act, 1890 (9 of 1890); and

(d) lands owned by any department of the Central Government where operational constructions are going on.

2. Definitions :-

In this Act, unless the context otherwise requires,-

(a) "agriculture" includes horticulture, farming, raising of annual or periodical crops, fruits, vegetables, flowers, grass, fodder, trees or any kind of cultivation of soil, the reserving of land for fodder, grazing or thatching areas, breeding and keeping of livestock including cattle, horses, donkeys, mules, pigs, breeding of fish and keeping of bees and the use of land ancillary to the farming of land, but does not include-

(i) keeping of cattle purely for the purpose of milking and selling the milk and milk products;

(ii) a garden which is an appendage of buildings, and the expression "agricultural" shall be construed accordingly;

(b) "amenity" includes roads and streets, water and electric supply, open spaces, parks, recreational area, natural feature, playgrounds, street lighting, drainage, sewerage and other utilities, services and conveniences;

(c) "buildings" includes any structure or erection, or part of a structure or erection, which is intended to be used for residential, industrial, commercial or other purposes, whether in actual use or not;

(d) "building operation" includes-

(i) erection or re-erection of a building or any part thereof,

(ii) roofing or re-roofing of any part of building or an open space,

(iii) any material alteration or enlargement of a building,

(iv) any such alteration of a building as is likely to alter its drainage or sanitary arrangements, or materially affect its security,

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

(e) "commercial use" means the use of any land or building or part thereof for the purpose of carrying on any trade, business or profession, or sale or exchange of goods of any type whatsoever and includes running of with a view to make profit, hospitals, nursing homes, infirmaries, educational institutions, hostels, restaurants and boarding houses (not being attached to any educational institution), sarais and also includes the use of any land or buildings for storage of goods or as building for storage of goods or as an office whether attached to an industry or otherwise;

(f) "court" means the principal civil court of original jurisdiction in the district;

(g) "development" with its grammatical variations means the carrying out of a 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 either, and includes subdivision of any land;

(h) "development plan" means interim development plan or development plan prepared under this Act;

(i) "Director" means the Director of Town and Country Planning appointed under this Act;

(j) "existing land use map" means a map indicating the use to which lands in any specified area are put at the time of preparing the map, and includes the register prepared, with the map giving details of land-use;

(k) "land" includes benefits to arise out of land and things attached to the earth or permanently fastened to anything attached to the earth;

(l) "member" means a member of a Town and Country Development Authority or a Special Area Development Authority, as the case may be, and includes a Chairman thereof;

(m) "occupier" includes-

(i) a tenant,

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

(iii) a rent free tenant,

(iv) a licensee, and

(v) any person liable to pay to the owner, damages for the use and occupation of the land;

(n) "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 behalf of or for the further benefit of any other person or, as agent trustee, guardian or receiver for any other person or for religious or charitable institutions or who would receive the rent or be entitled to receive the rent or premium if the land were to be let and includes a head of a Government department, General Manager of a Railway and 1[the Chief Administrator], by whatever name designated, or a local authority, statutory authority, company, corporation or undertaking in respect of properties under their control;

(o) "planning area" means any area declared to be planning area under this Act;

- (p) "region" means any area established to be a region under this Act;
- (q) "regional plan" means a plan for the region prepared under this Act and approved by the State Government;
- (r) "sector" means any sector of a planning area for which, under the development plan, a detailed sectoral plan is prepared;
- (s) "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 moral and which is defined by a development plan as a slum area;
- (t) "special area" means a special area designated as such under section 66;
- (u) "Special Area Development Authority" means an authority constituted under section 67;
- (v) "Town Development Scheme" means a scheme prepared for the implementation of the provisions of a development plan by the Town and Country Development Authority; and
- (w) "Town and Country Development Authority" means an authority established under section 40.

1 Substituted. for the words "the Chief Executive Officer" vide Act No. 7 of 1995.

CHAPTER 2 DIRECTOR OF TOWN AND COUNTRY PLANNING

3. Director And Other Officers :-

(1) After the commencement of this Act the State Government shall, by notification in the Official Gazette, appoint an officer for the purpose of carrying out functions assigned to him under this Act, as the Director of Town and Country Planning for the State and may appoint such other categories of officers as it may deem fit.

(2) The Director shall exercise such powers and perform such duties as are conferred or imposed upon him by or under this Act and the officers appointed to assist the Director shall, within such areas as the State Government may specify, exercise such powers and perform such duties conferred and imposed on the Director by or under this Act as the State Government may, by special or general order, direct.

(3) The officers appointed to assist the Director shall be subordinate to him and shall work under the guidance, supervision and control.

CHAPTER 3 REGIONAL PLANNING

4. Establishment Of Region :-

- (1) The State Government may, by notification,-
- (a) declare any area in the State to be a region for the purpose of this Act;
 - (b) define the limits of such area; and
 - (c) specify the name by which such region shall be known.
- (2) The State Government may, by notification, alter the name of any such region and on such alteration, any reference in any law or instrument or other document to the region shall be deemed to be a reference to the region as re-named unless expressly otherwise provided or the context so requires.
- (3) The State Government may, by notification,-
- (a) alter the limits of region so as to include therein or exclude therefrom such areas as may be specified in the notification;
 - (b) amalgamate two or more regions so as to form one region;
 - (c) divide any region into two or more region; or
 - (d) declare that the whole or part of the area comprising a region shall cease to be a region or part thereof.

5. Director To Prepare Regional Plan :-

Subject to the provisions of this Act and the rules made thereunder, it shall be the duty of the Director-

- (i) to carry out a survey of the regions;
- (ii) to prepare an existing land use map; and
- (iii) to prepare a regional plan.

6. Survey :-

- (1) The Director shall, with a view to prepare the existing land use map, and other maps as are necessary for the purpose of regional plan,-
- (a) carry out such surveys as may be necessary;
 - (b) obtain from any department of Government and any local authority such maps, survey reports and land records as may be necessary for the purpose.
- (2) It shall be the duty of every Government department and local authority to furnish, as soon as may be possible, maps, reports and record, as may be required by the Director.

7. Contents Of Regional Plan :-

The regional plan shall indicate the manner in which land in the region should be used, the phasing of development, the net work of communications and transport, the proposals for conservations and development of natural resources, and in particular-

- (a) allocation of land to which such purposes as residential, industrial, agricultural or as forests or for mineral exploitation;
- (b) reservation of open spaces for recreational purposes, gardens, tree belts, and animal sanctuaries;
- (c) access or development of transport and communication facilities such as roads, railways, water ways, and the allocation and development of air ports;
- (d) requirements and suggestions for development of public utilities such as water supply, drainage and electricity;
- (e) allocation of areas to be developed as "Special areas" wherein new towns, townships, large industrial estates or any other type of large development projects may be established;
- (f) landscaping and the preservation of areas in their natural state;
- (g) measures relating to the prevention of erosion, including rejuvenation of forest areas;
- (h) proposals relating to irrigation, water supply or flood control works.

8. Preparation Of Regional Plan :-

(1) After preparation of the existing land use map, the Director shall cause to be prepared a draft regional plan and published it by making a copy thereof available for inspection and publishing a notice in such form and manner as may be prescribed inviting objections and suggestions from any person with respect to the draft plan before such date as may be specified in the notice, such date not being earlier than sixty days from the publication of the notice. Such notice shall specify in regard to the draft plan the following particulars, namely:-

- (a) the existing land use map and the narrative report thereon;
- (b) a narrative report supported by necessary map and charts explaining the provisions of the draft plan;
- (c) a notice indicating the priorities assigned to works included in the draft plan and the phasing of the programme of development as such;
- (d) a notice on the role being assigned to different departments of Government, the Town and Country Development Authorities, the

Special Area Development Authorities, and the Local Authorities in the enforcement and implementation of draft plan.

(2) The Director shall consider all the objects and suggestions received by him within the period specified in the notice under sub-section (1) and shall, after giving a reasonable opportunity to all persons affected thereby of being heard, prepare the regional plan containing such modifications, if any, as he considers necessary and submit it to the State Government for approval together with all connected documents, plans, maps and charts.

9. Finalization Of Regional Plan :-

(1) The State Government may approve the draft regional plan submitted under section 8 with or without modifications or reject or return the same to the Director for reconsideration.

(2) Immediately after the draft regional plan is approved under subsection (1) the State Government shall publish in such manner, as may be prescribed, a notice stating that the regional plan has been approved and mentioning a place where a copy of the plan may be inspected at all reasonable hours and shall specify therein a date on which the regional plan shall come into operation:

Provided that where the State Government approves the draft regional plan with modifications, it shall not be published, unless the State Government having published such modifications in the Official Gazette alongwith a notice inviting objections and suggestions thereon, within a period of not less than thirty days from the date of publication of such notice have considered the objections and suggestions after giving a reasonable opportunity of being heard to person affected thereby.

10. Restriction On Use Of Land Of Development Thereof :-

(1) Notwithstanding anything contained in any other law for the time being in force, on or after the date of publication of the draft regional plan, no person, authority, department of Government or any other person shall change the use of land for any purpose other than agriculture, or carry out any development in respect of any land contrary to the provisions of the draft plan, without the prior approval of the Director or any officer next to him authorized by the Director, in this behalf.

(2) Notwithstanding anything contained in any law for the time being in force, the permission referred to in sub-section (1) shall not be granted otherwise than in conformity with the provision of

the draft or final plan and no permission, if granted, shall be construed to confer any legal right whatsoever on the person seeking the permission.

(3) If any work is carried out in contravention of the provisions of this section, the Municipal Corporation or 1[Municipal council or Nagar Panchayat] within its such local area, and the Collector in area outside such local areas, may cause such work to be removed or demolished at the cost of the defaulter, which shall be recovered from him in the same manner as an arrear of land revenue:

Provided that no action shall be taken under this sub-section unless the person concerned is given a reasonable opportunity of being heard and a notice calling upon him to remove or demolish the work within a time specified therein.

(4) Any person aggrieved by the order of the Municipal Corporation, 1[Municipal council or Nagar Panchayat] or Collector, as the case may be, calling up to remove or demolish the work may prefer an appeal to the Director within fifteen days of the receipt of the notice under sub-section (3) and the order of the Director in such appeal shall be final.

1 Substituted. for the words "Municipal Committee" vide Act No. 15 of 2001.

11. Exclusion From Claims Of Amount In Certain Cases :-

Whereas the regional plan assigns a particular land use to a certain areas and any land situated therein is already put to such use, subject to substantially similar restrictions in force under any other law which was in force on the date on which restrictions were imposed by or under this Act and if amount in respect of such restrictions have already been paid under any such other law which was in force for the time being in respect of the property or any right or interest therein to the claimant, or any predecessor in interest of the claimant, the owner shall not be entitled to any further amount on account of injury or damage caused to his rights by reasons of the restrictions placed on the use of the land under the provisions of this Act.

12. Review Of Regional Plan :-

(1) The Director may, on his own motion or if s required by the State Government, at any time after a regional plan has come into operation, undertake the review and evaluation of the regional plan and make such modification in it as may be justified by the

circumstances.

(2) The foregoing provisions of this Chapter shall, so far as they can be made applicable, apply to the modifications under sub-section (1) as these provisions apply in relation to the preparation, publication and approval of a regional plan.

CHAPTER 4 PLANNING AREA AND DEVELOPMENT PLANS

13. Planning Area :-

(1) The State Government may, by notification, constitute planning areas for the purposes of this Act and define the limits thereof.

(2) The State Government may, by notification,-

(a) alter the limits of a planning area so as to include therein or exclude therefrom such areas as may be specified in the notification;

(b) amalgamate two or more planning areas so as to constitute one planning area;

(c) divide any planning area into two or more planning areas;

(d) declare that the whole or part of the area constituting the planning area shall cease to be planning area or part thereof.

14. Director To Prepare Development Plans :-

Subject to the provisions of this Act and the rules made thereunder, the director shall-

(a) prepare an existing land use map;

(b) prepare an interim development plan;

(c) prepare a development plan;

(d) prepare a sectoral plan;

(e) carry such surveys and inspections and obtain such pertinent reports from Government departments, local authorities and public institutions as may be necessary for the preparation of the plans;

(f) perform such duties and functions as are supplemental, incidental, and consequential to any of the foregoing functions or as may be assigned by the State Government for the purpose of carrying out the provisions of this Act.

15. Existing Land Use Maps :-

(1) The Director shall carry out the survey and prepare an existing land use map and forthwith publish the same in such manner as may be prescribed together with public notice of the preparation of the map and of the place or places where the copies may be

inspected, inviting objections and suggestions in writing from any person with respect thereto within thirty days from the date of publication of such notice.

(2) After the expiry of the period specified in the notice published under sub-section (1), the Director may, after allowing a reasonable opportunity of being heard to all such persons who have filed the objections or suggestions, make such modifications therein as may be considered desirable.

(3) As soon as may be after the map is adopted with or without modifications the Director shall publish a public notice of the adoption of the map and the place or places where the copies of the same may be inspected.

(4) A copy of the notice shall also be published in the Official Gazette and it shall be conclusive evidence of the fact that the map has been duly prepared and adopted.

15A. Freezing Of Land Use Pending Preparation Of Existing Land Use Map Under Section 15 :-

1[(1) Wherever the State Government, after the constitution of the planning area under section 13 2[or the special planning area under section 66] but before the publication of the existing land use map under section 15, is satisfied that in any planning area or part thereof 2[or the special planning area or part thereof, as the case may be,] the change of the land use on any building operation therein-

(a) is likely to cause injurious disturbances of the surface or any land or soil, or is considered detrimental to the preservation of the soil, prevention of land slips or protection against erosion; or

(b) is likely to make it difficult to plan and develop the area in question in accordance with the provisions of the Act; the State Government may, by notification published in the Official Gazette, freeze the existing land use, for a period not exceeding three years.

(2) On the issuance of a notification under sub-section (1)-

(a) no person shall change the use of any land or carry out any development of land (other than the change for the purpose of agriculture) without the written permission of the Director; and

(b) no local authority or officer or other authority shall, notwithstanding anything contained in any other law for the time being in force, grant permission for the change in use of land without the written permission of the Director.

(3) Any permission that the Director may grant under sub-section (2) shall be subject to such conditions and restrictions as may be

imposed in this behalf by the State Government.

1 Section 15-A inserted. vide Act No. 10 of 1992.

2 Inserted. vide Act No. 16 of 1994.

16. Freezing Of Land Use :-

On the publication of the existing land use map under section 15-

(a) no person shall institute or change the use of any land or carry out any development of land for any purpose other than that indicated in the existing land use map without the permission in writing of the Director:

Provided that the Director shall not refuse permission if the change is for the purpose of agriculture;

(b) no local authority or any officer or other authority shall, notwithstanding anything contained in any other law for the time being in force, grant permission for the change in use of land otherwise than as indicated in the existing land use map without the permission in writing of the Director¹[;]

2[(c) no Registrar or the Sub-Registrar, appointed under the Indian Registration Act, 1908, shall, in any planning area constituted under section 13, register any deed or document of transfer of any sub-division of land by way of sale, gift, exchange, lease or mortgage with possession, unless the sub-division of land is duly approved by the Director, subject to such rules as may be framed in this behalf by the State Government:

Provided that the Registrar or the Sub-Registrar may register any transfer,-

(i) where the land is owned by a person and the transfer is made without involving any further divisions;

(ii) where the partition/sub-division of land is made in a joint Hindu family;

(iii) where the lease is made in relation to a part or whole of a building;

(iv) where the mortgage is made for procuring the loans for construction of improvements over the land either from the Government or from any other financial institution constituted or established under any law for the time being in force or recognized by the State Government.

1 Substituted. for the sign "." vide Act No. 14 of 1981.

2 Clause (c) added vide Act No. 14 of 1981.

17. Interim Development Plan :-

As soon as may be, after the declaration of a planning area, the Director shall, within such time as maybe necessary, prepare, after consultation with local authorities concerned, if any, and submit to the State Government an interim development plan for the planning area or any of its parts and such other area or areas contiguous or adjacent to the planning areas as the State Government may direct to be included in the interim development plan.

(2) The interim development plan shall-

(a) indicate broadly the land use proposed in the planning area;

(b) allocate broadly areas or sector of land for-

(i) residential, industrial, commercial or agricultural purposes;

(ii) open spaces, parks and gardens, green belts, zoological gardens and play grounds;

(iii) public institutions and offices;

(iv) such special purposes as the Director may deem fit;

(c) lay down the pattern of National and State Highways connecting the planning area with the rest of the region, ring roads, arterial roads and the major roads within the planning areas;

(d) provide for the location of airports, railway stations, bus terminal and indicate the proposed extension and development of railways and canals;

(e) make proposals for general landscaping and preservation of natural areas;

(f) project the requirement of the planning area of such amenities and utilities as water, drainage, electricity and suggest their fulfillment;

(g) propose broad based regulations for sectoral development, by way of guide-lines, within each sector of the location, height, size of buildings and structures, open spaces, court-yards and the use to which such buildings and structures and land may be put;

(h) lay down the broad-based traffic circulation patterns in a city;

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

(j) indicate measures for flood control, prevention of air and water pollution, disposal of garbage and general environmental control.

(3) Subject to provisions of the rules made under this Act for regulating the form and contents of the interim development plan any such plan shall include such maps and such descriptive matter as may be necessary to explain and illustrate the proposals in the interim development plan.

(4) As soon as may be, after the submission of the interim development plan under sub-section (1), the State Government may either approve the interim development plan or may approve it with such modification as it may consider necessary.

(5) The State Government shall publish the interim development plan as approved under sub-section (4) in the Official Gazette. The interim development plan shall come into operation from the date of its publication in the Official Gazette and shall be binding on all local authorities functioning within the planning area.

18. Development Plan :-

A development plan shall-

- (a) indicate broadly the land use proposed in the planning areas;
- (b) allocate broadly areas or sector of land for,-
 - (i) residential, industrial, commercial or agricultural purposes;
 - (ii) open spaces, parks and gardens, green belts, zoological gardens and play-grounds;
 - (iii) public institutions and offices;
 - (iv) such special purposes as the Director may deem fit;
- (c) lay down the pattern of National and State Highways connecting the planning area with the rest of the region, ring roads, arterial roads and the major roads within the planning area;
- (d) provide for the location of air-ports, railway stations, bus termini and indicate the proposed extension and development of railways;
- (e) make proposals for general landscaping and preservation of natural areas;
- (f) project the requirement of the planning area of such amenities and utilities as water, drainage, electricity and suggest their fulfilment;
- (g) propose broad-based regulations for sectoral development, by way of guide-lines, within each sector of the location, height, size of buildings and structures, open spaces, court-yards and the use to which such buildings and structures and land may be put;
- (h) lay down the broad-based traffic circulation patterns in a city;
- (i) suggest architectural control features, elevation and frontage of buildings and structures;
- (j) indicate measures for flood control, prevention of air and water pollution, disposal of garbage and general environmental control.

19. Publication Of Draft Development Plan :-

(1) The Director shall forthwith publish the draft development plan prepared under section 18 in such manner as may be prescribed together with a notice of the preparation of the draft development plan and the suggestions in writing from any person with respect thereto, within thirty days from the date of publication of such notice. Such notice shall specify in regard to the draft development plan the following particulars, namely:-

- (i) the existing land use maps;
- (ii) a narrative report, supported by maps and charts, explaining the provisions of the draft development plan;
- (iii) the phasing of implementation of the draft development plan as suggested by the Director;
- (iv) the provisions for enforcing the draft development plan and stating the manner in which permission to development may be obtained;
- (v) an approximate estimate of the cost of land acquisition for public purposes and the cost of works involved in the implementation of the plan.

(2) The Director shall, not later than ninety days after the date of expiry of the notice period under sub-section (1), consider all the objections and suggestions as may be received within the period specified in the notice under sub-section (1) and shall, after giving reasonable opportunity to all persons affected thereby of being heard, make such modifications in the draft development plan as he may consider necessary, and submit, not later than six months after the publication of the draft development plan, the plan so modified, to the State Government for approval together with all connected documents, plans, maps and charts.

20. Sanction Of Development Plans :-

(1) As soon as may be after the submission of the development plan under section 19, the State Government may either approve the development plan or may approve it with such modifications as it may consider necessary or may return it to the Director to modify the same or to prepare a fresh plan in accordance with such directions as it may issue in this behalf.

(2) Where the State Government approves the development plan with modifications, the State Government shall, by a notice, published in the Official Gazette, invite objections and suggestions in respect of such modifications within a period of not less than thirty days from the date of publication of the notice in the Official

Gazette.

(3) After considering objections and suggestions and after giving a hearing to the persons desirous of being heard the State Government may confirm the modification in the development plan.

(4) The State Government shall publish the development plan as approved, under the foregoing provisions in the Official Gazette and shall along with the plan publish a public notice, in such manner as may be prescribed, of the approval of the development plan and the place or places where the copies of the approved development plan may be inspected.

(5) The development plan shall come into operation from the date of publication thereof in the Official Gazette and as from such date shall be binding on all Development Authorities constituted under this Act and all Local Authorities functioning within the planning area.

(6) After the coming into operation of the development plan, the interim development plan shall stand modified or altered to the extent the proposals in the development plan are at variance with the interim development plan.

CHAPTER 5 SECTORAL PLAN

21. Director To Prepare Sectoral Plan :-

The Director may, on his own motion, at any time after the publication of the development plan, or thereafter, if so required by the State Government shall, within six months of such requisition, prepare a sectoral plan.

22. Contents Of Sectoral Plan :-

(1) The sectoral plan shall enlarge the details of land use as indicated in the development plan and shall-

(a) indicate the land liable to acquisition for public purpose or the purposes of the, Union Government, the State Government, the Town and Country Development Authority, the Special Area Development Authority, the Local Authority or any other authority established by or under any enactment for the time being in force: Provided that no land shall be so designated unless the acquisition proceedings are likely to be completed within ten years of the preparation of the plan;

(b) define in detail and provide for areas reserved for agriculture, public and semi-public open spaces, parks, play-grounds, gardens,

- recreational areas, green belts and nature reserves;
- (c) allocate in detail areas or sectors for residential, commercial, industrial, agricultural and other purposes;
 - (d) define and provide for the complete road and street pattern for the present and in the future and indicate the traffic circulation;
 - (e) lay down in detail the projected road and street improvement;
 - (f) indicate and provide for areas reserved for public buildings, institutions and civic developments;
 - (g) assess, make projections for and provide for the future requirements of amenities, services, and utilities such as municipal, transport, electricity, water and drainage;
 - (h) prescribe in detail the sectoral regulations for each sector, with a view to facilitating an individual layout and regulating the location, height, number of storeys and the size of buildings, and other structures, the size of the court-yards, courts and other open spaces and the use of the buildings, structures and land;
 - (i) define areas which have been badly laid out or areas which have developed so as to form slums, and provide for their proper development and/or relocation;
 - (j) designate areas for future development and expansion;
 - (k) indicate the phasing of the programme of development.
- (2) The sectoral plan may and if possible shall, indicate-
- (a) control over architectural features; elevation and frontage of buildings and structures; and
 - (b) the details of development of specific areas for housing, shopping centres, industrial areas, educational and cultural institutions and civic centres.

23. Provisions Of Sections 19 And 20 To Apply To Sectoral Plan :-

The provisions of sections 19 and 20 shall apply for the preparation, publication, approval and operation of sectoral plan as they apply in respect of the development plan.

24. Review Of Development Plan And Sectoral Plan :-

The Director may on his own motion or if so required by the State Government shall, at any time after the sectoral plan has come into operation, undertake a review and evaluation of the development plan and sectoral plan.

- (2) The foregoing provisions of sections 19, 20 and 23 shall, so far as may be, apply to the modification under sub-section (1) as those

provisions apply in relation to the preparation, publication and approval of a development plan or a sectoral plan.

CHAPTER 6 CONTROL OF DEVELOPMENT AND USE OF LAND

25. Director To Control Land Use :-

The over all control of development and the use of land in the planning area shall, as from the date of publication in the Official Gazette of a notification by the State Government, vest in the director.

26. Conformity With Development Plan :-

(1) After coming into force of the development plan, the use and development of land shall conform to the provisions of the development plan:

Provided that the Director may, at his discretion, permit the continued use of land for the purpose for which it was being used at the time of the coming into operation of the development plan:

Provided further that such permission shall not be granted for a period exceeding seven years from the date of coming into operation of the development plan.

27. Prohibition Of Development Without Permission :-

After coming into operation of the development plan, no person shall change the use of any land or carry out any development of land without the permission in writing of the Director:

Provided that no such permission shall be necessary-

(a) for carrying out works for the maintenance, repair or alteration of any building which does not materially alter the external appearance of the buildings;

(b) for carrying out work for the improvement or maintenance of a high-way, road or public street by the Union or State Government or an authority established under this Act or by a local authority having jurisdiction, provided that such maintenance or improvement does not change the road alignment contrary to the provisions of the development plan;

(c) for the purpose of inspecting, repairing or renewing any drain, sewers, mains, pipes, cables, telephone or other apparatus including the breaking open of any street or other land for that purpose;

(d) for the excavation or soil shaping in the interest of agriculture;

- (e) for restoration of land to its normal use where land has been used temporarily for any other purposes;
- (f) for use for any purpose incidental to the use of building for human habitation, or any other building or land attached to such buildings;
- (g) for the construction of a road intended to give access to land solely for agricultural purposes.

28. Development Undertaken On Behalf Of Union Or State Government :-

(1) When the Union Government or the State Government intends to carry out development of any land for the purpose of its departments or offices or authorities, the officer-in-charge thereof shall inform in writing to the Director the intention of the Government to do so, giving full particulars thereof, accompanied by such documents and plans as may be prescribed at least thirty days before undertaking such development.

(2) Where the Director raises any objection to the proposed development on the ground that the development is not in conformity with the provisions of the development plan, the officer shall,

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

(ii) submit the proposal for development together with the objections raised by the Director to the State Government for decision:

Provided that where no modification is proposed by the Director within thirty days of the receipt of the proposed plan by the Government, the plan will be presumed to have been approved.

(3) The State Government, on receipt of the proposals for development together with the objections of the Director shall, approve the proposals with or without modifications or direct the officer to make such modifications in the proposals as it considers necessary in the circumstances.

(4) The decision of the State Government under sub-section (3) shall be final and binding.

29. Development By Local Authority Or By Any Authority Constituted Under This Act :-

Where a local authority or any authority specially constituted under this Act intends to carry out development on any land for the

purpose of that authority, the procedure applicable to the Union or State Government under section 28 shall, mutatis mutandis, apply in respect of such authority.

30. Application For Permission For Development By Others

:-

(1) Any person, not being the Union Government, State Government, a local authority or a special authority constituted under this Act intending to carry out any development on any land, shall make an application in writing to the Director for permission, in such form and containing such particulars and accompanied by such documents as may be prescribed.

(2) Such application shall also be accompanied by such fee as may be prescribed.

30A. Construction Of Farm-Houses :-

1[Notwithstanding anything to the contrary contained in section 30, a person who owns on the commencement of this Act and thereafter continues to own land, or his successor, and intends to construct a farm-house for agricultural purposes shall make a simple application to the Director for seeking his permission:

Provided that the farm-house-

- (i) is comprised of covered area not exceeding 200 sq. mtrs; and
- (ii) is not having more than two storeys.

2[Provided further that minimum two metre set backs shall be kept on all sides of the farm house and shall not be put to any other use.].

Explanation:-For the purpose of this section the expression "farm-house" shall include a cattle shed.]

1 Section 30-A ins. vide Act No. 11 of 1997.

2 Proviso added vide Act No. 15 of 2001.

31. Grant Or Refusal Of Permission :-

(1) On receipt of an application under section 30 1[or 30-A] the Director may, subject to the provisions of this Act by order in writing-

- (a) Grant the permission unconditionally;
- (b) Grant the permission, subject to such conditions as may be deemed necessary under the circumstances; and
- (c) refuse the permission.

(2) Every order granting permission subject to conditions, or refusing permission shall state the grounds for imposing such conditions or for such refusal.

(3) Any permission granted under sub-section (2) with or without conditions shall be in such manner as may be prescribed.

(4) Every order under sub-section (2) shall be communicated to the applicant in such manner as may be prescribed.

(5) If the Director does not communicate his decision whether to grant or refuse permission to the applicant within 2[two months] from the date of receipt of his application, such permission shall be deemed to have been granted to the applicant on the date immediately following the date of expiry of 2[two months]:

Provided that in computing the period of 2[two months] the period in between the date of requisitioning any further information or documents from the applicant and date of receipt of such information or documents from the applicant shall be excluded.

1 Inserted. vide Act. No. 11 of 1997.

3 Substituted. for the words "six months" vide Act. No. 11 of 1997.

31A. Structural Stability Certificate :-

1[The applicant shall submit a Structural Stability Certificate of the building before putting the same into use, in the manner prescribed.]

1 Section 31-A inserted. vide Act No. 15 of 2001.

32. Appeal :-

(1) Any applicant aggrieved by an order granting permission on conditions or refusing permission under section 31 may, within thirty days of the date of communication of order to him prefer an appeal to an officer not below the rank of a 1[Secretary], appointed by the State Government in this behalf, and such an appeal shall be made in such manner and accompanied by such fees as may be prescribed.

(2) The officer appointed under sub-section (1) may, after giving a reasonable opportunity to the appellant and the Director to be heard, by order, dismiss the appeal or allow the appeal by granting permission unconditionally or subject to the conditions as modified.

(3) Subject to the provisions of section 33 the order of the appellate authority shall be final.

1 Substituted. for the word "Commissioner" vide Act No.14 of 1981.

33. Revision :-

The State Government may, at anytime, but not later than twelve months of the passing of the order, on its own motion or on an application filed by the person aggrieved by any order by the appellate authority under section 32 within thirty days of the date of communication of such order to him, call for and examine the record of any case disposed of by Director under section 31 or appellate authority under section 32 for the purpose of satisfying itself as to the correctness of the order and as to the regularity of any proceeding of the Director or the appellate authority and may, when calling such record direct that the execution of the order be suspended. The State Government may, after examining the record, pass such order as it thinks fit and its order shall be final and no further application for revision or review thereof shall lie: Provided that no order shall be passed unless the person affected thereby and the Director have been given a reasonable opportunity of being heard.

34. Lapse Of Permission :-

Every permission granted under section 31 or section 32 or section 33 shall remain in force for a period of 1[three years] from the date of such grant and thereafter it shall lapse:

Provided that the Director may, on an application, extend such period from year to year but the total period shall, in no case exceed 2[five years] from the date on which the permission was initially granted:

Provided further that such lapse shall not bar any subsequent application for fresh permission under this Act.

1 Substituted. for the words "one year" vide Act No. 16 of 1994.

2 Substituted. for the words "three years" vide Act No. 16 of 1994.

35. Obligation To Acquire Land :-

(1) Where any land is designated by a development plan as subject to compulsory acquisition,-

(a) for development for the purpose of town expansion or town improvement, or

(b) for development for the purpose of the Union or State Government or a local authority or a Special Area Development Authority constituted under this Act, or

(c) for development as a highway or a public utility services and the owner of the land claims

(i) the land has become incapable of reasonably beneficial use in its existing state, or

(ii) the permission to develop land is given subject to conditions, that the land cannot be rendered capable of reasonably beneficial use by carrying out the permitted development in accordance with the conditions, or

(iii) the sale value of the land has diminished because of the designation of the land for acquisition or development, such owner may serve on the State Government within such time in such manner and together with such documents as may be prescribed, a notice requiring the appropriate authority to purchase his interest in the land in accordance with the provisions of this Act.

(2) On receipt of the notice under sub-section (1) the State Government shall forthwith call from the Director and the appropriate authority such report or records, or both as may be necessary, which these authorities shall forward to the State Government as soon as possible but not later than thirty days from the date of their requisition.

(3) On receiving such records or reports the State Government may-

(a) if it is satisfied that the conditions specified in sub-section (1) are fulfilled, and that the order of decision for permission was not duly made on the ground that the applicant did not comply with any of the provisions of this Act or the rules made thereunder, confirm the notice or direct that the permission be granted without conditions or subject to such conditions as will make the land capable of reasonably beneficial use;

(b) in any other case, refuse to confirm the notice but in that case, the applicant shall be given a reasonable opportunity of being heard.

(4) If within a period of one year from the date on which the notice is served, the State Government does not pass any final order thereon, the notice shall be deemed to have been confirmed at the expiration of that period.

(5) Upon confirmation of the notice the State Government shall, within a period of one year of such confirmation, proceed to acquire the land or that part of any land regarding which the notice has been confirmed in accordance with the provisions of this Act.

36. Deletion Of Reservation Of Designated Land From Draft

Or Final Development Plan :-

(1) The appropriate authority, if it is satisfied that the land is not or is no longer required for the public purpose for which it is designated or reserved or allocated in the draft development plan or sectoral plan, or the final development plan or sectoral plan may request,-

(a) the Director to sanction the deletion of such designation or reservation or allocation from the draft development plan or sectoral plan; or

(b) the State Government to sanction the deletion of such designation or reservation or allocation from the final development plan or sectoral plan.

(2) On receipt of such request from the appropriate authority, the Director or, as the case may be, the State Government may make an order sanctioning the deletion of such designation or reservation or allocation from the relevant plans:

Provided that the Director or, as the case may be, the State Government may, before making any order, make such enquiry as he/it may consider necessary and satisfying himself/itself that such reservation or designation or allocation is no longer necessary in the public interest.

(3) Upon an order under sub-section (2) being made the land shall be deemed to be released from such designation, reservation or allocation, as the case may be, and shall become available to the owner for the purpose of development as otherwise permissible in the case of adjacent land under the relevant plan.

37. Power Of Revocation And Modification Or Permission To Development :-

(1) If it appears to the Town and Country Development Authority or Special Area Development Authority that it is expedient, having regard to the development plan prepared or under preparation 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 Town and Country Development Authority or the Special Area Development 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 related to the carrying out or other

operations, no such orders-

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

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

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

(2) Where permission is revoked or modified by an order under the last foregoing section, and the owner claims from the Town and Country Development Authority or the Special Area Development Authority, within the time and in the manner prescribed, amount in lieu of the expenditure incurred in carrying out the works after the grant of permission and in accordance with such permission, which has been rendered abortive by the revocation or modification, the Town and Country Development Authority or the Special Area Development Authority shall, after giving the owners reasonable opportunity of being heard by the Town Planning Officer and after considering his report, assess and offer subject to provisions of section 11 such amount to the owner as it thinks fit.

(3) If the owner does not accept the amount and gives notice within such time as may be prescribed, of his refusal to accept, the Town and Country Development Authority or the Special Area Development Authority shall refer the matter for the adjudication of the court and the decision of the court shall be final and be binding on the owner and the Town and Country Development Authority or the Special Area Development Authority.

38. Penalty For Unauthorised Development Or For Use Otherwise Than In Conformity With Development Plan :-

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

(a) without permission required under this Act;

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

(c) after the permission for development has been duly revoked; or

(d) in contravention of any permission which has been duly modified; shall, without prejudice to any action that may be taken under section 39, be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both, and in the case of a continuing offence with further fine which may extend to two hundred rupees

for every day during which the offence continues after conviction for the first commission of the offence.

39. Power To Require Removal Of Unauthorised Development :-

(1) Where any development has been carried out as indicated in section 38 the Director may, within 1[ten years] of such development, serve on the owner a notice requiring him, within 2[fifteen days] from the date of service of the notice-

(a) in cases specified in clause (a) or (c) of section 38 to restore the land to its condition existing before the said development took place;

(b) in cases specified in clause (b) or (d) of section 38 to secure compliance with the conditions or with the permission as modified: Provided that where the notice requires the discontinuance of any use of land, it shall be served on the occupier also.

(2) In particular, such notice may, for purpose of sub-section (1), require-

(a) the demolition or alteration of any building or works,

(b) the carrying out on land of any building or other operations, or

(c) the discontinuance of any use of land.

3[(3) Any person aggrieved by such notice may within fifteen days of the receipt of the notice, apply for composition of offences under section 39-C and till the time the application is disposed of, the notice shall stand withdrawn.];

(4) The foregoing provisions of this chapter, shall so far as may be applicable, apply to an application under sub-section (3).

4[(5) If the offence is compounded, the notice shall stand withdrawn, but if the offence is not compounded, the notice shall stand, or if such offence is partly compounded, the notice shall stand withdrawn to the extent the offence is compounded, but shall stand in respect of the offence which is not compounded, and thereupon the owner shall be required to take steps specified in the notice under sub-section (1) in respect of the offence not compounded.].

(6) If within the period specified in the notice or within the same period after the disposal of the application, the notice or so much of it as stands is not complied with, the Director may,-

(a) prosecute the owner for not complying with the notice and whether the notice requires the discontinuance of any 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) where the notice required the demolition or any alteration of any building or works or carrying out of any building or other operations itself, cause the restorations of the land to its condition before the development took place and secure compliance with the condition of the permission or with the permission as modified by taking such steps as the Director may consider necessary, including demolition or alteration of any building or works or carrying out of any building or other operations, and recover the amount of any expenses incurred by him in this behalf from the owner as arrears of land revenue.

(7) Any person prosecuted under clause (a) of sub-section (6) shall, on conviction, be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both, and in the case of a continuing offence with further fine which may extend to two hundred and fifty rupees for every day during which the offence continues after conviction for the first commission of the offence.

1 Substituted. for the words "five years" vide Act No. 16 of 1994.

2 Substituted. for the words "such period being not less than one month and not exceeding three months as may be specified therein" vide Act No. 15 of 2001.

3 Existing sub-section (3) substituted. vide Act No. 15 of 2001.

4 Existing sub-section (5) substituted. vide Act No. 15 of 2001.

39A. Power To Stop Development :-

1[(1) Where any development in any area being commenced in contravention of the development plan or sectoral plan or without the permission, approval or sanction referred to in section 15-A (2), 16 or 31 or in contravention of any condition subject to which such permission, approval or sanction has been granted-

(i) in relation to a planning area or a special area, the State Government or an Officer of the State Government empowered by it in this behalf.

(ii) in relation to any other area within the local limits of a local authority, the competent authority thereof, may, in addition to any prosecution that may be instituted under this Act, make an order requiring the development to be discontinued on and from the date of the service of the order, and such order shall be complied with accordingly.

(2) Where such development is not discontinued in pursuance of the order under sub-section (1) the State Government or the officer

of the State Government or the competent authority, as the case may be, may require any police officer to remove the person by whom the development has been commenced and all his assistants and workmen from the place of development or to seize any construction material, tools, machinery, scaffolding or other things used in such development within such time, as may be specified in the requisition and such police officer shall comply with the requisition accordingly.

(3) Any of the things caused to be seized by the State Government or the officer of the State Government or the competent authority, as the case may be, under sub-section (2) shall, unless the owner thereof turns up to take back such things and pays to the State Government or the officer of the State Government or the competent authority, as the case may be the charges for the removal or storage of such things, be disposed of by it or him by public auction or in such other manner and within such time as the State Government or the officer of the State Government or the competent authority thinks fit.

(4) The charges for the removal and storage of the things sold under sub-section (3) shall be paid out of the proceeds of the sale thereof and the balance, if any, shall be paid to the owner of the things sold on a claim being made therefor within a period of one year from the date of sale, and if no such claim is made within the said period, shall be credited to the fund of the State Government or the competent authority, as the case may be.

(5) If any development the area other than a planning area or the special area, has been commenced in contravention of the development plan or sectoral plan or without the permission, approval or sanction referred to in section 15-A (2), 16 or 31 or in contravention of any conditions subject to which such permission, approval or sanction has been granted and the competent authority has failed to make an order under sub-section (1) or, as the case may be, a requisition, under sub-section (2), within the time that may be specified in this behalf by the State Government, the State Government may, after observing such procedure as may be prescribed by rule made in this behalf, direct any officer to make the order or requisition, as the case may be, and that officer shall be bound to carry out such direction and the order or requisition made by him in pursuance of the direction shall be complied with accordingly.

(6) After the requisition under sub-section (2) or sub-section (5) has been complied with, the competent authority or the officer to

whom the direction was issued by the State Government under sub-section (5), as the case may be, may depute by a written order a police officer or an officer or an employee of the State Government or local authority concerned to ensure that the development is not continued.

(7) Any person failing to comply with an order under sub-section (1), or as the case may be, under sub-section (5), shall be punishable with fine which may extend to two hundred rupees for every day during which the non-compliance continues after the service of the order.

(8) No compensation shall be claimable by any person for any damage which he may sustain in consequence of the removal of any development under section 39 or the discontinuance of the development under this section.

(9) The provisions of this section shall be in addition to, and not in derogation of, any other provision relating to stoppage of building operations contained in any other law for time being in force.

1 Sections 39-A and 39-B inserted. vide Act No. 16 of 1994.

39B. Power To Seal Unauthorized Development :-

(1) It shall be lawful for the State Government or the competent authority, as the case may be, at any time, before or after making an order for the removal or discontinuance of any development under section 39 or section 39-A to make an order directing the sealing of such development in the manner prescribed by rules, for the purpose of carrying out the provisions of this Act, or for preventing any dispute as to the nature and extent of such development.

(2) Where any development has been sealed, the State Government or the competent authority, as the case may be, may, for the purpose of removing or discontinuing such development, order the seal to be removed.

(3) No person shall remove such seal except-

(a) under an order made by the State Government or the competent authority under sub-section (2); or

(b) under an order of the appellate authority or the State Government made in an appeal under this Act].

39C. Power To Compound Offences :-

1[(1) The Director may, on an application made to him, accept

from any person who has committed an offence punishable under this Act, by way of composition of such offence, a sum of money as may be fixed by the State Government by rules.

(2) On payment of such sum of money to the Director, no further proceedings shall be taken against such person in respect of such offence.]

1 Section 39-C inserted. vide Act No. 17 of 2000.

CHAPTER 7 TOWN AND COUNTRY DEVELOPMENT AUTHORITY

40. Establishment Of Town And Country Development Authority :-

(1) The State Government may, by notification, establish a Town and Country Development Authority by such name and for such area as may be specified in the notification. If the State Government considers the local authority or authorities or any other authorities like State Housing Board, the State Government may, by notification, designate such authority or authorities as the Town and Country Development Authority or Authorities for a particular area or areas to perform the functions of the Town and Country Development Authority or Authorities under this Act in addition to their own duties and functions and in such cases sections 42, 43, 44, 45, 46 and 48 of this Act will not operate.

(2) The duty of implementing the proposal in the development plan, preparing one or more town development schemes, and acquisition and development of land for the purposes of expansion or improvement of the area specified in the notification under sub-section (1) shall, subject to the provisions of this Act, vest in the Town and Country Development Authority established for the said area.

41. Incorporation Of Town And Country Development Authority :-

Every Town and Country Development Authority shall be a body corporate by the name specified in the notification under section 40, and shall have perpetual succession and a common seal, with power to acquire and hold property, both movable and immovable, and subject to the provisions of this Act or any rules made thereunder, to transfer any property held by it, to contract and to do all other things necessary for the purposes of this Act and may

sue and be sued in its corporate name.

42. Constitution Of Town And Country Development Authority :-

1[Save as provided in section 42-A, every Town and Country Development Authority shall consist of the Chairman and other members not exceeding twelve to be appointed by the State Government:

Provided that, whenever it is expedient to ensure the efficient performance of the functions assigned to the Town and Country Development Authority, the State Government may appoint one or more persons as its Vice-Chairman and where more than one person is appointed as Vice-Chairman one of them shall be designated as Senior Vice-Chairman:

Provided further that the State Government may, if it considers it necessary so to do, constitute a single member Town and Country Development Authority.

(2) The Chairman, and in the absence of the Chairman the Senior Vice-Chairman, and in the absence of both the Chairman and Senior Vice-Chairman, the Vice-Chairman, shall preside over the meetings of the Town and Country Development Authority constituted under sub-section (1), The Senior Vice-Chairman and Vice-Chairman shall, in relation thereto, exercise such powers and perform such functions as the Chairman may assign to them.]

1 Existing section 42 substituted. vide Act No. 7 of 1995.

42A. Constitution Of Town And Country Development Authority For The Capital Town Of Himachal Pradesh :-

1[(1) Notwithstanding anything to the contrary contained in section 42, the Town and Country Development Authority for the capital town of Himachal Pradesh shall consist of the Chairman, Vice-Chairman and eight other members to be appointed by the State Government.

(2) The Chief Minister and the Minister-in-charge of Town and Country Planning, shall be the ex-officio Chairman and Vice-Chairman of the Town and Country Development Authority constituted under sub-section (1) and for the discharge of their duties as such they shall not be entitled to any emoluments and in relation to them the provisions contained in section 43, sub-section (3) of section 44, section 45 and section 46 will not operate:

Provided that during the period of any proclamation issued under Article 356 of the Constitution of India, the Governor may, by

notification, appoint any person to act as the Chairman and the Vice-Chairman of the Development Authority constituted under this section and the persons so appointed shall exercise the powers vested in them and perform the functions assigned to them under the Act during the period the said proclamation issued under Article 356 continues to be in force and the provisions contained in sections 43, 44 (3), 45 and 46 shall apply to them.

(3) In the absence of the Chairman, the Vice-Chairman shall preside over the meeting of the Town and Country Development Authority constituted under this section and shall, in relation thereto, exercise such powers and perform such functions as the Chairman may assign to him.]

1 Section 42-A inserted. vide Act No. 1 of 1984 effective w.e.f. 20-10-1983.

43. Term Of Office Of Chairman And Other Members :-

(1) The names of the Chairman 1[, Vice-Chairman] and the members shall be notified in the Official Gazette.

(2) The term of office of the Chairman 1[, Vice-Chairman] and the members shall be such as may be prescribed.

(3) The person ceasing to be a Chairman 1[, Vice-Chairman] or member by reason of the expiry of his term of office, shall if otherwise qualified be eligible for reappointment.

1 Inserted. vide Act No. 7 of 1995.

44. Resignation Of Members And Filling Of Casual Vacancy :-

(1) Every person becoming 1[a Vice-Chairman or a member under section 42] may at any time resign his office by writing under his hand addressed to the Chairman, and upon receipt of resignation by the Chairman, the office of the 2[Vice-Chairman or the member, as the case may be] shall become vacant.

(2) If the State Government considers that the continuance in office of 3[any Vice-Chairman or any member] is not in the public interest, the State Government may make an order terminating his appointment and thereupon he shall cease to be 4[a Vice-Chairman or a member] of the Town and Country Development Authority, notwithstanding that the term for which he was appointed has not expired.

(3) In the event of a vacancy occurring in the office of the

Chairman 5[, the Vice-Chairman" or any member, the vacancy shall be filled by the State Government in accordance with the provisions of section 42 and the person so appointed shall hold office for remainder of the term of his predecessor.

1 Substituted. for the words "a member under clause (b) of section 42" vide Act No. 7 of 1995.

2 Substituted. for the words "member" vide Act No. 7 of 1995.

3 Substituted. for the words "any member" vide Act No. 7 of 1995.

4 Substituted. for the words "a member" vide Act No. 7 of 1995.

5. Added vide Act No. 7 of 1995.

45. Salary And Allowances :-

1[(1) The Chairman shall receive such salary and allowances and shall be subject to such terms and conditions of service as may be prescribed.

(2) The Senior Vice-Chairman, Vice-Chairman and members may be paid such allowances as may be prescribed.]

1 Existing Section 45 subs. vide Act No. 7 of 1995.

46. Leave Of Absence And Appointment, Etc. Of Acting Chairman :-

(1) The State Government may grant leave to the Chairman subject to such terms and conditions as may be prescribed.

1[(2) Whenever the office of the Chairman falls vacant, on account of leave under sub-section (1), the Senior Vice-Chairman or whenever the offices of the Chairman and the Senior Vice-Chairman fall vacant, on account of leave, the Vice-Chairman shall act as the Chairman.]

1 Sub-section 46 substituted. vide Act No. 7 of 1995.

47. Meeting Of Town And Country Development Authority :-

(1) The meetings of the Town and Country Development Authority shall be held at such time and such place as may be laid down by regulations:

Provided that until regulations are made in this behalf such meeting shall be convened by the Chairman.

(2) The quorum of meeting shall, unless otherwise provided by regulations, be one-third of the total number of members of the Town and Country Development Authority.

(3) The Town and Country Development Authority shall make

regulations to provide for the conduct of its business.

48. The Chief Administrator :-

1[(1) There shall be a 1[Chief Administrator] of every Town and Country Development Authority who shall also act as the 2[Member-Secretary] of the Authority.

(2) 1[The Chief Administrator] shall be appointed by the State Government.

1 Substituted. for the words "the Chief Executive Officer" vide Act No. 7 of 1995.

2 Substituted. for the word "Secretary" vide Act No. 1 of 1984 effective w.e.f. 20-10-1983.

49. Other Officers And Servants :-

(1) Every Town and Country Development Authority may appoint such other officers and servants as may be necessary and proper for the efficient discharge of its duties:

Provided that no post shall be created save with prior sanction of the State Government:

Provided further that the power of appointment shall be subject to such restrictions as the State Government may, from time to time, impose.

50. Conditions Of Service Of The Chief Administrator And Other Officers And Servants :-

(1) 1[The Chief Administrator] under section 48 and other officers and servants appointed under section 49 shall work under the superintendence and control of the Chairman.

(2) The State Government may make rules in respect of recruitment, qualifications, appointment, scale of pay, leave, leave allowance, loans, pension and other service conditions of 1[the Chief Administrator] and other officers and servants.

1 Substituted. for the words "the Chief Executive Officer" vide Act No. 7 of 1995.

51. Town Development Schemes :-

A town development scheme may make provision for any of the following matters:-

(i) acquisition, development and sale or leasing of land for the purpose of town expansion;

- (ii) acquisition, relaying out of, rebuilding or relocating areas which have been badly laid out or which have developed or degenerated into a slum;
- (iii) acquisition and development of land for public purposes such as housing development, development of shopping centres, cultural centres, administrative centres;
- (iv) acquisition and development of areas for commercial and industrial purposes;
- (v) undertaking of such building or construction work as may be necessary to provide housing, shopping, commercial or other facilities;
- (vi) acquisition of land and its development for the purpose of laying out or remodelling of road and street pattern;
- (vii) acquisition and development of land for play-grounds, parks, recreation centres and stadium;
- (viii) reconstruction of plots for the purpose of buildings, roads, drains, sewerage lines and other similar amenities;
- (ix) any other work of a nature such as would be about environmental improvements which may be taken up by the authority with the prior approval of the State Government.

52. Preparation Of Town Development Scheme :-

- (1) The Town and Country Development Authority may, at any time, declare its intention to prepare a town development scheme.
- (2) Not later than thirty days from the date of such declaration or intention to make a scheme, the Town and Country Development Authority shall publish the declaration in the Official Gazette and in such other manner as may be prescribed.
- (3) Not later than two years from the date of publication of the declaration under sub-section (2), the Town and Country Development Authority shall prepare a town development scheme in draft form and publish it in such form and manner as may be prescribed together with a notice inviting objections and suggestions from any person with respect to the said draft development scheme before such date as may be specified therein, such date being not earlier than thirty days from the date of publication of such notice.
- (4) The Town and Country Development Authority shall consider all the objections and suggestions as may be received within the period specified in the notice under sub-section (3) and shall, after giving a reasonable opportunity to such persons affected thereby as

are desirous of being heard, or after considering the report of the committee constituted under sub-section (5), approve the draft scheme as published or make such modifications therein as it may deem fit.

(5) Where the town development scheme relates to reconstitution of plots, the Town and Country Development Authority shall, notwithstanding anything contained in sub-section (4), constitute a committee consisting of 1[the Chief Administrator] of the said authority and two other members of whom one shall be representative of the Himachal Pradesh Housing Board and the other shall be an officer of the Public Works Department not below the rank of an Executive Engineer nominated by the Chief Engineer, Public Works Department for the purpose of hearing objections and suggestions received under sub-section (3).

(6) The Committee constituted under sub-section (5) shall consider the objections and suggestions and give hearing to such persons as are desirous of being heard and shall submit its report to the Town and Country Development Authority within such time as it may fix along with proposals to-

(i) define and demarcate the areas allotted to or reserved for public purposes;

(ii) demarcate the reconstituted plots;

(iii) evaluate the value of the original and the constituted plots;

(iv) determine whether the areas reserved for public purpose are wholly or partially beneficial to the residents within the area of the scheme;

(v) estimate and apportion the compensation to or contribution from the beneficiaries of the scheme on account of the reconstitution of the plot and reservation of portions for public purpose;

(vi) evaluate the increment in value of each reconstituted plot and assess the development contribution leviable on the plot holder:

Provided that the contribution shall not exceed half the accrued increment in value;

(vii) evaluate the reduction in value of any reconstituted plot and assess the amount payable therefor.

(7) Immediately after the town development scheme is approved under sub-section (4) with or without modifications, the Town and Country Development Authority shall publish in the Official Gazette and in such other manner, as may be prescribed, a final town development scheme and specify the date on which it shall come into operation.

1 Substituted. for the words "the Chief Executive Officer" vide Act No. 7 of 1995.

53. Power To Revise The Development Schemes :-

The Director may, at any time, but not later than two years from the date of publication of the final town development scheme under section 52, on his own motion or on an application filed within thirty days of such publication of the final scheme by any person aggrieved by the final scheme, call for and examine the record of any scheme for the purpose of satisfying himself as to the correctness of the order passed by the Town and Country Development Authority, or as to the regularity of any proceedings of such authority and when calling such record direct that the execution of the scheme be suspended. The Director may, after examining the record, pass such order as he thinks fit and his order shall be final:

Provided that no order shall be passed unless the person affected thereby and the Town and Country Development Authority have been given a reasonable opportunity of being heard.

54. Power Of State Government To Give Directions :-

(1) The State Government may, if it considers necessary in public interest so to do, give directions to the Town and Country Development Authority-

- (a) to frame a town development scheme;
- (b) to modify a town development scheme during execution;
- (c) to revoke a town development scheme, for reasons to be specified in such direction:

Provided that no direction to modify or revoke a town development scheme shall be given unless the Town and Country Development Authority is given an opportunity to present its case.

(2) The direction given by the State Government under this section shall be binding on the Town and Country Development Authority.

55. Restriction On Land Use And Development :-

As from the date of publication of declaration to prepare a town development scheme no person shall, within the area including in the scheme, institute or change the use of any land or building or carry out any development save in accordance with the development authorised by the Director in accordance with the

provisions of this Act prior to the publication of such declaration.

56. Lapse Of Scheme :-

If the Town and Country Development Authority fails to implement the town development scheme within a period of three years from the date of publication of the final scheme under section 52, it shall, on the expiration of the said period of three years, lapse.

57. Town Development Scheme A Public Purpose :-

Land needed for the purpose of town development scheme shall be deemed to be a land needed for public purpose within the meaning of the Land Acquisition Act, 1894 (1 of 1894).

58. Acquisition Of Land For Town And Country Development Authority :-

The Town and Country Development Authority may at any time after the date of publication of the final town development scheme under section 52 but not later than three years therefrom, proceed to acquire by agreement the land required for the implementation of scheme and, on its failure so to acquire, the State Government may, at the request of the Town and Country Development Authority, proceed to acquire such land under the provisions of the Land Acquisition Act, 1894 (1 of 1894) and on the payment of amount awarded under that Act and any other charges incurred by the State Government in connection with the acquisition, the land shall vest in the Town and Country Development Authority subject to such terms and conditions as may be prescribed.

59. Developments :-

(1) The Town and Country Development Authority shall take necessary steps to develop the land vested in it under section 58 in accordance with the provisions on the town development scheme: Provided that if the State Government or the Director has, after such enquiry as may be necessary, reason to believe that the Town and Country Development Authority is not taking adequate steps to develop the land has deviated from the final scheme, it/he may give such directions to that authority as may be considered necessary in the circumstances.

(2) The directions given under this section shall be binding on the Town and Country Development Authority and that authority shall

give effect to them forthwith.

60. Disposal Of Land, Building And Other Development Works :-

Subject to such rules as may be made by the State Government in this behalf, the Town and Country Development Authority shall, by regulation, determine the procedure for the disposal of development lands houses, building and other structures.

61. Development Charges :-

(1) Where, as a result of the implementation of town development schemes, there is in the opinion of the Town and country Development Authority, an appreciation in the market value of lands adjacent to and affected by a scheme the Town and Country Development Authority may, in lieu of providing for the acquisition of such land, levy development charges on Owners of such land.

(2) The development charges shall be an amount equal to not less than one-fourth and more than one-third of the difference between the value of the land on the date of publication of the intention to prepare the town development scheme and the date of completion of the scheme.

62. Mode Of Levy :-

(1) On completion of the town development scheme, the Town and Country Development Authority, shall, by a notice in such form and published in such manner as may be prescribed, declare the fact of such completion and of its intention to levy development charges in the area covered by the scheme, calling upon owners of land liable to pay development charges to submit objection, if any, within such period which shall not be less than thirty days from the date of publication of the notice.

(2) The authority specified in the notice shall, after giving the objectors an opportunity to be heard, forward the report to the Town and Country Development Authority.

(3) On receipt of the report under sub-section (2), the Town and Country Development Authority shall pass such orders thereon as it may consider fit.

(4) The Town and Country Development Authority shall, not later than three months after the publication of a notice declaring its intention to levy development charges, issue a notice in the

prescribed form, assessing the charge due from every person affected by the levy of charges.

(5) Where the assessment is accepted, it shall be final. If, however, the assessment is not accepted, the person aggrieved may, within thirty days of the publication of notice, file an application in writing before the Revenue Officer not below the rank of Sub-Divisional Officer as may be authorised by the State Government in this behalf.

(6) The Revenue Officer may, after giving the applicant and the Town and Country Development Authority an opportunity to be heard, pass such orders on the application as he may deem fit under the circumstances and orders so passed shall be final.

(7) After the final determination of the assessment the Town and Country Development Authority shall cause a notice to be served on each assessee, asking him to pay the development charges within a period of sixty days from the date of receipt of the notice by him.

(8) Any payment made after the expiration of the period specified in the notice under sub-section (7) shall carry simple interest at 10 per cent per annum as from the date of the receipt of the notice by the assessee.

(9) The Town and Country Development Authority may, on an application made to it in that behalf, permit assessee to make payment of development charges in annual instalments not exceeding five and fix a date by which each instalment shall be payable.

(10) Where permission is granted to make payment in instalments the amount of development charges shall carry a simple interest at fifteen percent per annum as from the date of the receipt of, notice under sub-section (7) and the interest due shall be payable along with each instalment.

63. Fund Of Town And Country Development Authority :-

The Town and Country Development Authority shall have its own fund and all receipts of that authority shall be credited thereto and all payments by that authority shall be made therefrom.

64. Annual Budget :-

(1) 1[The Chief Administrator] or any other officer designated to act as 1[the Chief Administrator] shall cause to be prepared not later than the 10th of March every year a statement of annual income and expenditure, giving the estimates and actuals of the

past year and the estimates of the next financial year.

(2) The annual statement (hereinafter called the budget) to be prepared shall be placed by 1[the Chief Administrator] or any other officer designated to act as 1[the Chief Administrator], with the prior approval of the Chairman, before the Town and Country Development Authority.

(3) The Town and Country Development Authority shall consider the budget so submitted to it and sanction the same either unaltered, or subject to such alterations as it may think fit.

(4) A copy of the budget as sanctioned under sub-section (3) shall be submitted to the State Government and the Director.

(5) The State Government may direct the Town and Country Development Authority to make such modification in the budget as may be deemed necessary.

(6) The Town and Country Development Authority shall within thirty days of the date of receipt of such directions either accept the modification or make further submission to the State Government.

(7) The State Government, after considering the submissions of the Town and Country Development Authority, shall pass such orders thereon as may be deemed fit and from the date of such orders, the budget shall be deemed to be in force, with modifications ordered by the Government.

1 Substituted. for the words "the Chief Executive Officer" vide Act No. 7 of 1995.

65. Power To Borrow Money :-

Subject to such terms and conditions as may be prescribed in the Town and Country Development Authority may, with the prior sanction of the State Government, issue debentures or borrow money from Government 1[or other financial institutions] or the open market for all or any of the purposes of this Act.

1 Inserted. vide Act No. 1 of 1984 effective w.e.f. 20-10-1983.

CHAPTER 8 SPECIAL AREAS

66. Section 66 :-

(1) If any area, town or township is designated as a special area in the regional plan or if the State Government is otherwise satisfied that it is expedient in the public interest that any area, town or township should be developed as a special area, it may, by

notification, designate the area as a special area, which shall be known by such name as may be specified therein.

(2) Such notification shall define the limits of special area.

(3) The State Government may, by notification,-

(a) alter the limits of the special area so as to include therein or exclude therefrom such area as may be specified in the notification;

(b) declare that the special area shall cease to be so.

(4) Notwithstanding anything contained in the 1[the Himachal Pradesh Municipal Corporation Act, 1994, the Himachal Pradesh Municipal Act, 1994 and the Himachal Pradesh Panchayati Raj Act, 1994], the Municipal Corporation, 2[Municipal Council, Nagar Panchayat or a Gram Panchayat], as the case may be, shall, in relation to the special area and as from the date the Special Area Development Authority undertakes the functions under clause (v) or clause (vi) of section 70 cease to exercise the powers and perform the functions and duties which the Special Area Development Authority is competent to exercise and perform under this Act.

1 Substituted. for the words "Himachal Pradesh Municipal Act, 1968 and the Himachal Pradesh Panchayati Raj Act, 1968" vide Act No. 15 of 2001.

2 Substituted. for the words "Municipal Committee, Notified Area Committee or a Panchayat" vide Act No. 15 of 2001.

67. Special Area Development Authority :-

1[(1) Every special area shall have a Special Area Development Authority which shall consist of-

(a) the Chairman; and

(b) such other members as the State Government may determine from time to time, who shall be appointed by the State Government.

(2) The State Government may, if consider expedient, appoint Vice-Chairman or Chief Executive Officer or both, for any Special Area Development Authority.

(3) The Chief Executive Officer shall be a whole time officer of the Special Area Development Authority who shall receive such salary and allowances and shall be subject to such terms and conditions as may be determined by the State Government.

(4) The Chairman, Vice-Chairman and members shall not be entitled to any salary but shall receive such allowances as may be prescribed.

(5) The Chief Executive Officer shall exercise such powers and perform such duties as may be specified by regulations made by the said Authority.].

1 Section 67 substituted. vide Act No. 22 of 2006 effective w.e.f. 4-7-2006.

68. Incorporation Of Special Area Development Authority :-

1[(1) Every Special Area Development Authority shall be a body corporate with perpetual succession and a common seal, unless abolished, with power to acquire, hold and dispose of property, both movable and immovable, and to contract and shall sue and be sued by the name specified in the notification under sub-section (1) of section 66.

(2) The State Government may, by notification in the Official Gazette, abolish the Special Area Development Authority constituted under section 67 of the Act from such date as may be specified therein and the said Authority shall stand abolished accordingly.

(3) On and with effect from the date of abolition of the Special Area Development Authority all properties, assets, liabilities, funds, dues and staff which are realizable and vested in the said Authority shall be realizable and shall vest in such authority or corporation or agency, as the case may be, as the State Government may decide.]

1 Section 68 substituted. vide Act No. 22 of 2006 effective w.e.f. 4-7-2006.

69. Staff :-

(1) Every Special Area Development Authority may appoint officers and servants as may be necessary and proper for the efficient discharge of its duties:

Provided that no post shall be created save with the prior sanction of the State Government.

(2) The State Government may make rules in respect of recruitment, qualification, appointment, scale of pay; leave allowance and their conditions of service of the officers and servants, appointed under sub-section (1).

70. Functions :-

The functions of the Special Area Development Authority shall be,-

(i) to prepare, if required to do so, the development plan for the

special area;

(ii) to implement the development plan after its approval by the State Government;

(iii) for the purpose of implementation of the plan, to acquire, hold, develop, manage and dispose of land and other property;

(iv) to carry out construction activity and to provide such utilities and amenities as water, electricity, drainage and the like;

(v) to provide the municipal services as specified in the Himachal Pradesh Municipal Act, 1[1994];

(vi) to provide for the municipal management of the special area in the same manner as is provided in the Himachal Pradesh Municipal Act, 1[1994];

(vii) to otherwise perform all such functions with regard to the special area as the State Government may, from time to time, direct:

Provided that functions specified in clauses (v) and (vi) shall not be, performed unless so required by the State Government.

1 Substituted. for the figure "1968" vide Act No. 15 of 2001.

71. Powers :-

The Special Area Development Authority shall-

1[(a) for the purpose of acquisition of land make a request to the State Govt. to acquire land for public purpose under the provision of land Acquisition Act, 1894;]

(b) for the purpose of planning, exercise the powers which the Director has under this Act; and

(c) for this purpose the municipal administration, have the powers which a Municipal 2[Council has under the Himachal Pradesh Municipal Act, 1994].

1. Section 71(a) substituted. vide Act No. 2 of 2007.

2 Substituted. for the words "Committee has under the Himachal Pradesh Municipal Act, 1968" vide Act No. 15 of 2001.

72. Fund Of Special Area Development Authority :-

(1) Every Special Area Development Authority shall have its own fund and all receipts of that authority shall be credited thereto and all payments of that authority shall be made therefrom.

(2) The Special Area Development Authority shall levy the development charge in the manner as prescribed under sections 61 and 62 of this Act.

(3) The Special Area Development Authority may for all or any of

the purposes of this Act-

- (a) accept grants from the State Government or a local authority;
- (b) raise loans, subject to such terms and conditions as may be prescribed.

73. Annual Estimates :-

(1) The Chairman shall lay, not later than 10th of March every year, before the Special Area Development Authority an estimate of the income and of the expenditure of that authority for the year commencing on the first day of April next ensuing in such detail and form as that authority may from time to time direct.

(2) Such estimates shall make provision for the due fulfilment of all liabilities of the Special Area Development Authority and for the efficient implementation of this Act and shall be complete and a copy thereof shall be sent to each member of that authority at least ten clear days prior to the meeting before which the estimate is to be laid.

(3) The Special Area Development Authority shall consider the estimate so submitted and shall sanction the same either unaltered or subject to such alterations as it may think fit.

(4) The estimates so sanctioned shall be submitted to the State Government who may approve the same with or without modifications.

(5) If the State Government approves the estimates with modifications, the Special Area Development Authority shall proceed to amend the same and the estimates so modified and amended shall be in force during the year.

CHAPTER 9 CONTROL

74. Power Of State Government Of Supervision And Control :-

The State Government shall have power of superintendence and control over the acts and proceedings of the officers appointed under section 3 and the authority constituted under this Act.

75. Power Of State Government To Give Directions :-

(1) In the discharge of their duties the officers appointed under section 3 and the authority constituted under this Act shall be bound by such directions on matters of policy as may be given to them by the State Government.

(2) If any dispute arises between the State Government and any authority as to whether a question is or is not a question of policy, the decision of the State Government shall be final.

76. Power Of Government To Review Plans Etc. For Ensuring Conformity :-

Notwithstanding anything contained in any other enactment for the time being in force, the State Government may, with a view to ascertaining that no repugnancy exists or arises with the provisions of this Act or the rules made thereunder, review the town improvement schemes, building plans or any permission for construction sanctioned or given by any authority under development plans, sanctioned under any enactment for the time being in force and may revoke, vary, or modify any scheme, plan, permission or sanction in conformity with the provisions of this Act: Provided that no order under this section shall be made without giving a reasonable opportunity of being heard to the persons affected thereby.

77. Delegation Of Powers :-

1[(1) The State Government may, by order notified in the Official Gazette, direct that any power either exercisable by it or by the Director, under this Act (not being the power to make rules) may also be exercised, in such cases and subject to such conditions, if any, as may be specified in such order, by its such officer, or authority or the officer of the authority as may be specified therein.].

2[Provided that in case the powers are delegated to Municipal Corporation, Municipal Council or Nagar Panchayat, the Government may, by notification, permit such authorities to utilise the fee collected under the provisions of Himachal Pradesh Town and Country Planning Rules, 1978, toward their local fund.].

(2) Subject to such restrictions as may be imposed by the State Government by a general or special order, the Director, may, by an order in writing, delegate to any officer subordinate to him all or any powers exercisable by him under this Act or the rules made thereunder, other than the power to hear appeal and revision.

1 Existing sub-section (1) substituted. vide Act No. 11 of 1997.

2 Proviso added vide Act No. 15 of 2001.

78. Dissolution Of Authorities :-

(1) Whenever in the opinion of the State Government the continued existence of any authority constituted under this Act is un-necessary or undesirable, the State Government may, by notification, declare that such authority shall be dissolved from such date as may be specified therein and the authority shall stand dissolved accordingly.

(2) As from the said date -

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

(b) all liabilities which are enforceable against the authority shall be enforceable against the State Government;

(c) for the purpose of realising properties, funds, and dues referred to in clause (a), the function of the authority shall be discharged by the State Government;

(d) all powers and functions to be exercised or discharged by the authority under this Act shall be exercised and discharged by the Director and for that purpose any reference in this Act to the said authority shall be construed as a reference to the Director.

CHAPTER 10 MISCELLANEOUS

79. Right Of Entry :-

(1) Without prejudice to any other provisions of this Act the Director or any authority established under this Act may enter into or upon, or cause to be entered into or upon, any land or building for the purpose of the preparation of plan or scheme under this Act for-

(a) making any measurement or surveyor taking levels of such land or building;

(b) setting out or marking boundaries and intended lines of development;

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

Provided that-

(i) in the case of any building used as a dwelling house, or upon

any enclosed part of garden attached to such a building, no such entry shall be made except between the hours of sunrise and sunset or without giving its 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) Any person who obstructs the entry of an officer empowered or duly authorised under this section to enter into or upon any land or building or molests such officer after such entry shall, on conviction, be punished with simple imprisonment for a term which may extend to three months, or with a fine which may extend to five hundred rupees, or with both.

80. Jurisdiction Of Court :-

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

81. Cognizance Of Offences :-

No court shall take cognizance of any offence under this Act except on a complaint in writing made over the signature of an officer duly authorised by the Director or a Town and Country Development Authority or a Special Area Development Authority, as the case may be.

82. Member And Officers To Be Public Servants :-

Every member and every officer of any authority established under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860 (45 of 1860).

83. Suit And Other Proceedings :-

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

83A. Restriction On Grant Of Electricity, Water Or Sewerage Connection :-

1[No electricity, water or sewerage connection shall be given to any person within the Planning or Special area constituted under the Act, unless a No Objection Certificate has been obtained by such person from the Director or the Special Area Development Authority, as the case may be.].

1 Section 83-A inserted. vide Act No. 15 of 2001.

84. Vacancy Not To Invalidate Proceedings :-

No act of a Town and Country Development Authority or a Special Area Development Authority or any of its committee shall be invalid merely by reasons of-

- (a) any vacancy in, or defect in the constitution thereof; or
- (b) any defect in the appointment of a person acting as a Chairman or member thereof; or
- (c) any irregularity in the procedure thereof not affecting the merits of the case.

85. Member To Continue Till Successor Enters Upon Office :-

A Chairman or a member of a Town and Country Development Authority or a Special Area Development Authority shall, notwithstanding the expiration of his term, continue to hold office till his successor enters upon office.

86. Interpretation Or Regional Plan Etc. :-

- (1) If any question arises regarding the interpretation of any regional plan, the matter shall be referred to the Director who shall pass such order thereon as he may deem fit.
- (2) Any person aggrieved by the decision of the Director may prefer an appeal to the State Government within such time and in such manner as may be prescribed.
- (3) The decision of the State Government and subject to the decision of the State Government, the decision of the Director shall be final.

CHAPTER 11 RULES AND REGULATIONS

87. Powers To Make Rules :-

- (1) The State Government may, after previous publication, make rules for carrying out the purposes of this Act.

- (2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for
- (i) other categories of officers which may be appointed under section 3 (1);
 - (ii) the form and manner of publication of notice inviting objections and suggestions under section 8 (1);
 - (iii) the manner of publication of the regional plan under section 9 (2);
 - (iv) the manner of publication of an existing land use map under section 15 for inviting objections and suggestions;
 - (v) the regulation of the forms and contents of interim development plan under section 17;
 - (vi) the manner of publication of the draft development plan under section 19 (1);
 - (vii) the manner of publication of public notice under section 20 (4);
 - (viii) the documents and plans which shall accompany the information under section 28 (1);
 - (ix) (a) the form of application under section 30 (1), the particular which such application shall contain and the documents which shall accompany such application;
 - (b) the fee which shall be accompanied with the application under section 30 (2);
 - (x) the form in which permission shall be granted under section 31(3);
 - (xi) the manner of communication of order under section 31 (4);
 - 1[(xi-a) the Form in which Structural Stability Certificate is to be furnished under section 31-A of the Act;]
 - (xii) the manner in which the appeal shall be made and the fees which shall accompany such appeal under section 32 (1);
 - (xiii) the time within which, the manner in which and the documents together with which a notice shall be served under section 35(1);
 - (xiv) the manner in which amount in lieu of expenditure incurred after the grant of permission may be assessed under section 37 (1);
 - 2[(xiv-a) the manner in which an application shall be made under section 39-C of the Act and the amount to be charged for composition of offence;]
 - (xv) the manner in which an application shall be made under section 39(3);
 - 3[(xv-a) the rates at which, and conditions subject to which, the

salary and allowances to be paid to the Chairman, Vice-Chairmen and members under section 45;]

(xvi) the manner of publication of declaration under section 52 (2);

(xvii) the form in which and the manner in which the town development schemes in draft form shall be published under section 52 (3);

(xviii) the manner in which the final town development scheme shall be published under section 52 (7);

(xix) the terms and conditions subject to which the land shall vest in the Town and Country Development Authority under section 58;

(xx) (a) the form in which and the manner in which a notice shall be published under section 61 (1);

(b) the form in which a notice shall be issued under section 62 (4);

(xxi) the terms and conditions subject to which the Town and Country Development Authority may issue debentures or borrow money under section 65;

(xxii) the terms and conditions subject to which loans may be raised under section 72 (2); and

(xxiii) any other matter for which rules may be made.

1 Clause (xi-a) inserted. vide Act No. 15 of 2001.

2 Clause (xiv-a) inserted. vide Act No. 15 of 2001.

3 Clause (xv-a) added vide Act. No. 7 of 1995.

88. Regulations :-

(1) A Town and Country Development Authority or a Special Area Development Authority, as the case may be, may, subject to the provisions of this Act and the rules made thereunder, make regulations generally to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for-

(a) the summoning and holding of meetings, the time and place where such meetings shall be held; and the conduct of business thereat;

(b) procedure for disposal of developed lands, houses, buildings and other structures under section 60;

(c) the management of property and the maintenance and audit of accounts;

(d) the mode of appointment of committees, summoning and holding of meetings, and the conduct of business of each such committee;

(e) such other materials as may be necessary for the exercise of

the powers and performance of duties and functions by the Town and Country Development Authority or the Special Area Development Authority, as the case may be, under this Act.

89. Power To Lay The Rules And Regulations :-

Every rule made under section 87 or the regulations made under section 88 shall be laid, as soon as may be after it is made, before the Legislative Assembly of Himachal Pradesh while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions; and if, before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly agrees in making any modification in the rule or regulation, as the case may be, or decides that the rule or regulation should not be made, the rule or regulation, as the case may be, shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

90. Repeal And Savings :-

The Punjab Town Improvement Act, 1922 (4 of 1922), as in force in the areas added to Himachal Pradesh under section 5 of the Punjab Reorganization Act, 1966 (31 of 1966), and the Himachal Pradesh Town and Country Planning Ordinance, 1977 (2 of 1977), are hereby repealed.

Notwithstanding such repeal, anything done or any action taken or purporting to have been done or taken (including any rules, notifications or orders made or issued), in exercise of any power conferred by or under the said Act or the Ordinance shall, so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under this Act.