

ASSAM ACT No. VIII OF 1985

(Received the assent of the President on 1st May, 1985)

THE ASSAM TOWN AND COUNTRY PLANNING (AMENDMENT)
ACT, 1985

An

Act

further to amend the Assam Town and Country Planning Act, 1959.

Preamble.

Whereas it is expedient further to amend the Assam Assam Act Town and Country Planning Act, 1959 hereinafter called II of 1960 the principal Act, in the manner hereinafter appearing;

It is hereby enacted in the Thirty-sixth Year of the Republic of India, as follows:—

Short title,
extent and
commence-
ment.

1. (1) This Act may be called the Assam Town and Country Planning (Amendment) Act, 1985.

(2) It shall have the like extent as the principal Act.

(3) It shall be deemed to have come into force on the 19th day of January, 1985.

Amendment
of Section
2 of Assam
Act II of
1960.

2. In the principal Act, in Section 2 —

(a) in sub-section (1), the full stop (.) at the end of the first sentence shall be deleted and thereafter, the following shall be added, namely:—

“or the Development Authority constituted under Section 8 of this Act.”

(b) after sub-section (16), the following new sub-sections shall be added, namely:—

(17) “Administrator” means an officer appointed by the State Government as such under proviso to sub-section (1) of Section 8A of this Act to perform the functions and exercise the powers of the Development Authority as provided under Section 8A of this Act.

(18) “Estate Officer” means a person appointed by the State Government as such to perform the functions of the Estate Officer.

(19) “Transferee” means a person including a firm or other body of individuals, whether incorporated or not to whom a site or building is transferred in any manner whatsoever and includes his successors and assigns.”

Amendment of Section 3 of Assam Act II of 1960. 3. In the principal Act, in Section 3, in sub-section (I), the existing clauses (iv), (v) and (vi) shall be substituted by the following, namely:—

- “(iv) Secretary, P.W.D. ... Member.
- (v) Secretary, Flood Control ... Member.
- (vi) Secretary, Health and Family Welfare Department. ... Member.”

Amendment of Section 8A of Assam Act II of 1960. 4. In the principal Act, in Section 8A, after sub-section (1), the following proviso shall be added, namely:—

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

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

Amendment of Section 8B of Assam Act II of 1960. 5. In the principal Act, in Section 8B, in sub-section (1):—

- (a) in clause (c), the semi-colon (;) shall be deleted and thereafter the following shall be added, namely:—

“who shall be the Member-Secretary of the Authority.”

- (b) after clause (j), the following new clauses shall be inserted, namely:—

“(k) Director, Town and Country Planning Department or his nominee;

(l) Chief Engineer, P.W.D. (Roads and Buildings) or his nominee;

(m) Chief Public Health Engineer or his nominee;

(n) Local Member or Members of the Assam Legislative Assembly covered by the Master Plan Area.”

Insertion of new Section 8H in Assam Act II of 1960. 6. In the principal Act, after Section 8G, the following shall be inserted as Section 8H, namely:—

“Delegation of power by Authority. 8H. The Authority may delegate all or any of its powers under this Act to any Officer, subject to such conditions, if any, as may be specified by the Authority.”

Amendment of Section 13 of Assam Act II of 1960. 7. In the principal Act, in Section 13, in sub-section (1):—

(a) between the words “sub-divide any land” and “or set up any new structure”, the following words shall be inserted, namely:—

“by transfer, by way of gift, sale, partition or any other manner the whole or any part of the land”.

(b) the full stop (.) at the end shall be deleted and thereafter the following shall be added, namely:—

“and on payment of such fees as may be prescribed by bye-laws framed by the Authority in this behalf.”

Insertion of new Sections 30A and 30B in Assam Act II of 1960. 8. In the principal Act, after Section 30, the following new Sections shall be added, namely:—

“Power to stop development. 30.A (1) Where any development in any area has been commenced in contravention of the Master Plan or Development Scheme or without the permission, approval or sanction referred to in Section 29 or in contravention of any conditions subject to which such permission, approval or sanction has been granted, the Authority may, in addition to any prosecution that may be instituted under this Act, make an order 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 compliance with the order under sub-section (1), the Authority may require any Police Officer not below the rank of Sub-Inspector of Police to remove the person by whom the development has been commenced including all his assistants and workmen from the place of development within such time as may be specified in the requisition and such Police Officer shall comply with the requisition accordingly.

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

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

Power of
demolition
of building.

30B. (1) Where any development has been commenced or is being carried on or has been completed in contravention of the Master Plan or Development Scheme or without the permission, approval or sanction referred to in Section 29 of this Act or in contravention of any conditions subject to which such permission, approval or sanction has been granted, the Authority may, in addition to any prosecution that may be instituted under this Act make an order directing that such development shall be removed by demolition, filling or otherwise by the owner, occupier, manager or by any person at whose instance the development has been commenced or is being carried out or has been completed within such period not being less than five days and more than thirty days from the date on which a copy of the order of removal with brief statement of the reasons thereof has been delivered to the owner, occupier and manager or the person at whose instance the development has been commenced or is being carried out or has been completed as may be specified in the order and on his failure to comply with the order, the Authority may remove or cause to be removed the development and the expenses of such removal shall be recovered from the owner, occupier, manager or any person at whose instance the development was commenced or was being carried out or was completed as arrears of land revenue provided that no such order shall be made unless the owner, occupier, manager or the person concerned has been given a reasonable opportunity to show cause why the order shall not be made.

(2) The provisions of this Section shall be in addition to and not in derogation of any other provision relating to demolition of buildings contained in any other law for the time being in force.

(3) No compensation shall be claimed by any person for any damage which he may sustain in consequence of the removal of any development under this Section or the discontinuance of the development under Section 30A of this Act."

Insertion of new Sections 50A, 50B and 50C in Assam Act II of 1960.

9. In the principal Act, after Section 50, the following new Sections shall be inserted, namely:—

“Levy of fees. 50A (1) For the purpose of providing and maintaining any amenity, the Development Authority may levy such fees as it may consider necessary which shall be in addition to any fee for the time being leviable under this Act or any other law in force, in respect of any site or building on the transferee or occupier thereof.

(2) Where any transferee or occupier makes any default in the payment of any fee levied under sub-section (1), the Authority may direct that in addition to the amount of the arrears, a sum not exceeding that amount shall be recovered from the transferee or occupier, as the case may be, by way of penalty.

(3) In case of any default in payment of an amount payable under this Act the outstanding amount in default together with any sum, if any, directed to be paid by way of penalty under sub-section (2) may be recovered from the transferee or occupier as the case may be, in the same manner as arrear of land revenue.

Resumption of site or building. 50B. In case of non-payment of consideration money or any instalment thereof on account of the transfer of any site or building or any rent due in respect of the lease of any such site or building or in case of the breach of any other conditions of such transfer or breach of any rules made under the Act, the Authority may if it thinks fit, resume the site or building so transferred and may further forfeit the whole or any part of the money, if any, paid in respect thereof.

Audit of account of the Authority. 50C. The accounts of the Authority shall be subject to audit annually by the Accountant General, Assam. The accounts of the Authority along with the Audit Report shall be placed before the State Legislature.”

Insertion of new Section 75 in the Assam Act. II of 1960.

10. In the principal Act, after Section 74, a new Section 75 shall be added, namely:—

“Supersession of the Authority. 75. If, at any time the State Government is satisfied that the Authority constituted under Section 8B of this Act is not competent to perform, or persistently makes default in the performances of the duties imposed on it by or under this Act or any other law or exceeds or abuses its powers it may by notification, stating reasons

declare the Authority to be superseded and on such supersession, the proviso to sub-section (1) of Section 8A of this Act shall apply."

Repeal and
Savings.

11. (1) The Assam Town and Country Planning (Amendment) Ordinance, 1985 is hereby repealed.

Assam Ordinance
No. I of
1985.

(2) Notwithstanding such repeal any order passed, notification issued, anything done or any action taken under the principal Act, as amended by the said Ordinance shall be deemed to have been passed, issued, done or taken under the corresponding provisions of the principal Act, as amended by this Act.

MD. SAADULLAH,
Secretary to the Govt. of Assam
Legislative Department.