

Penalty for violation.

34. The Authority shall have power to impose fine not exceeding five hundred rupees on any person, firm or Corporation who violates, disobeys, refuses to comply with, or who resist the enforcement of any of the provisions of this Act. Continuation of the violation shall constitute a separate offence for which a fine of fifty rupees per day may be imposed for the days after the first conviction. An appeal shall lie to the Appellate Authority constituted under this Act.

CHAPTER VI

Development of lands and Development schemes.

Declaration of development areas and preparation of Development schemes.

35. (1) As soon as may be after the commencement of this Act, the Authority may for the purpose of implementing the proposals contained in the Master plan, by notification in the Official Gazette, declare any area in the Guwahati Metropolitan Area to be a development area for the purposes of this Act and shall thereafter prepare one or more development schemes for the development area.

(2) Notwithstanding anything contained in subsection (1), the State Government may after making such enquiry as they may deem necessary, by notification in the Official Gazette, declare any area in the Guwahati Metropolitan Area to be a development area and shall thereafter, direct the Authority, or any Officer of the State Government or any local authority to prepare and submit for their sanction before an appointed date, a scheme under this section for an area specified in such notification:

Provided that, while preparing the scheme as directed by the State Government, the Officer of the State Government or the local authority, as the case may be, shall prepare such scheme, in consultation with the Guwahati Metropolitan Development Authority.

Provided further that the State Government or the Authority may, prepare a scheme in consultation with such other experts of consultancy if the State Government or the Authority, as the case may be, deem it necessary.

(3) While preparing the scheme, the Authority, any officer of the State Government or the local authority, as the case may be, shall issue a notice inviting the names of all the claimants of any interest on any land or building within the area under the scheme, to be submitted within a period of not more than two months.

(4) Save as provided in this Act, the Authority, the officer of the State Government or the local authority shall, not undertake or carry out any development of land in any area which is not a development area.

Scope of the
Development
Scheme.

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

- (a) in the course of development ;
- (b) likely to be used for building and other purposes, or
- (c) already built upon.

Explanation :—The expression 'land likely to be used for building and other purposes' shall include any land likely to be used as, or for the purpose of providing open spaces, roads, streets, parks, pleasure or recreational grounds, parking spaces, or for the purpose of executing any work upon or under the land incidental to a scheme whether in the nature of a building work or not.

(2) Such schemes may make provisions for all or any of the following matters:—

- (a) The laying out or relaying out of land, either vacant or already built upon ;

(b) the filling up or reclamation of low lying swamp or land or unhealthy areas or levelling up of land ;

(c) the laying out of new streets or roads, construction, diversion, extension, alteration, improvement and stopping up of streets, roads and communications ;

(d) the reconstitution of plots ;

(e) the construction, alteration or removal of buildings, bridges or other structures ;

(f) the allotment or reservation of land for roads, open spaces, garden, recreation grounds, schools, markets, industrial and commercial activities, green belts and dairies, transport facilities and public purposes of all kinds ;

(g) the undertaking of housing schemes for different income, groups, commercial areas, industrial estates, provision of community facilities like schools, hospitals and similar types of developments;

(h) drainage inclusive of sewerage, surface or subsoil drainage and sewage disposal ;

(i) lighting ;

(j) water supply ;

(k) the preservation and protection of objects of historical importance of natural beauty and of building actually used for religious purpose;

(l) the imposition of condition and restrictions in regard to the open space to be maintained about buildings, the percentage of building area for a plot, the number, height and character of buildings allowed in specified areas, the purposes for which buildings or specified areas may or may not be appropriate, the sub division of plots, the discontinuance of objectionable uses of land in any area in reasonable periods, parking space and loading and unloading space for any building and the size of projections and advertisement signs;

(m) the suspension, to the extent necessary for the proper carrying out of the scheme, of any rule, bye-law, regulations, notification or order made or issued under any Act of the State Legislature or any of the Acts which the State Legislature is competent to amend;

(n) acquisition by purchase, exchange or otherwise of any property necessary for or effected by the execution of the scheme; and

(o) such other matters not inconsistent with the objects of this Act, as may be directed by the State Government.

Contents of
the Scheme

37. The Scheme shall contain, so far as may be necessary the following particulars:—

(a) the area, ownership and tenure of all existing plots covered by the scheme;

(b) the land allotted or reserved under clause (i) of sub-section (2) of Section 36 with a general indication of the uses to which such land is to be put and the terms and conditions subject to which such land is to be put to such uses;

(c) a full description of all the details of the scheme under such clause of sub-section (2) of Section 36 as may be necessary;

(d) the laying out or relaying out of the land either vacant or already built upon;

(e) the filling up or reclamation of lowlying swamp or land;

(f) the extent to which it is proposed to alter the boundaries of the existing plots in accordance with the proposed scheme;

(g) an estimate of the total cost of the scheme and the net cost to be borne by the Authority;

(h) any other particulars which may be prescribed.

Reconsti-
tution of
plot scheme.

38. (1) In a scheme reconstituting the plots, the size and shape of every reconstituted plots, shall be determined, so far as may be to render it suitable for building purposes, and where a plot is already built upon to ensure the buildings, as far as possible, comply with the provisions of the scheme as regards open spaces.

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

(a) to form a final plot by reconstitution of an existing plot by alteration of the boundaries of the existing plot, if necessary;

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

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

(d) to allot a reconstituted plot to any persons if dispossessed of land in furtherance of the scheme, and

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

Publication
of the Deve-
lopment
scheme.

39. (1) As soon as may be, after the scheme under Section 35 has been prepared, the Guwahati Metropolitan Development Authority, the officer of the Government or the local authority, as the case may be, shall publish the scheme in the Official Gazette and in one or more local news paper specifying the place or places where copies of the same may be inspected, and inviting objections in writing from any persons or claimants as referred to in sub-section (3) of Section 35, with respect to the scheme within such period as may be specified in the notice, which shall not be less than two months from the date of publication of the notice, in the Official Gazette:

Provided that where it is expedient to do so, for the proper carrying out of the scheme, as referred to in clause (m) of sub-section (2) of Section 36, the Guwahati Metropolitan Development Authority, the officer of the State Government or the local authority as the case may be, simultaneously with the publication of the scheme, shall submit copies of the notice and of the scheme to the State Government drawing particular attention to the provision in the scheme referring to clause (m) of sub-section (2) of Section 36 :

Provided further that no such notice shall be required where land covered by the scheme has already been acquired and the execution of the scheme does not effect the interest of any person.

(2) After the expiry of the aforesaid period, the Authority, the officer of the State Government or the Local Authority, as the case may be, shall examine the scheme in the light of such objection, giving sufficient opportunity for hearing to all such interested persons who have filed objections and demanded a hearing in the manner prescribed, and shall approve or refuse to approve or approve with such modifications as it may deem necessary, for the implementation of the scheme and for imposing for that purpose reasonable restrictions in the use of land and building within the area.

(3) After the Authority, the officer of the State Government or the local authority, has adopted the scheme, it shall be forwarded to the State Government for its approval and sanction, if so required under any rule prescribed, otherwise the scheme will come into force from the date the scheme is adopted.

Effect of
scheme.

40. On and after the day on which a scheme comes into force:

(a) all lands required by the Authority shall, unless it is otherwise determined in such scheme, vest absolutely in the Authority free all from encumbrances ;

(b) all rights in the existing plots which have been reconstituted shall determine, and the reconstituted plots shall become subject to the rights settled by the Authority;

(c) the Authority shall handover possession of the reconstituted plots to the owner to whom these are allotted in the scheme.

Implement-
ation of the
Development
schemes.

41. (1) The scheme shall come into force from the date as may be fixed by the State Government in sanctioning the scheme or from the date of adoption of the scheme as provided in sub-section (3) of Section 39, as the case may be and shall be implemented by the Authority itself or by such other authority as may be authorised by the State Government in that behalf.

(2) No person or body (including a department of Government and any local authority), shall within any area where a scheme has come into force erect or proceed with any building or work or remove and alter or make additions or make any substantial repair to a building or a part of it, a compound wall or any drainage work or may remove any earth or change the use of any land or building except on permission of the Authority on application submitted for the purpose. Unless the permission has been refused within one month from the date of receipt of the application it shall be presumed that the permission has been given.

Amendments
and Altera-
tions of the
Develop-
ment
scheme.

42. (1) If after the final scheme has come into force, the Authority, the Officer of the State Government, or the local authority, as the case may be, considers that the scheme is defective on account of an error or irregularity or for any other reason, it shall refer to the State Government, to modify or withdraw the scheme and to publish the modified or withdrawn scheme in the manner prescribed in this Act.

(2) The modification of the scheme shall state every amendment proposed to be made in the scheme and if any such amendment relates to matter specified

in any or all of the clauses of sub-section (2) of Section 36, the modification shall also contain such other particulars as may be found necessary.

(3) The variation shall be open to inspection by the public at the office of the Local body or bodies as prescribed, covering the area during office hours.

(4) Within one month from the date of publication of the modification, any person affected thereby may communicate in writing his objection to the Authority, the officer of the State Government or the local authority, as the case may be.

(5) After receiving the objection under sub-section (4) above, the Authority, the Officer of the State Government or the local authority, as the case may be, after making such enquiry as it may think fit, approve the proposed modification with or without any further modification thereof.

(6) Such modification shall take effect as if it were incorporated in the scheme from the date of its modification.

(7) The Authority, the Officer of the State Government, or the local authority, as the case may be, shall thereafter submit the modified scheme to the State Government for sanction. The modified scheme shall be published after sanction in the manner as prescribed for the original scheme.

Power to
revoke the
Develop-
ment
scheme.

43. (1) Notwithstanding anything contained in Section 42, a scheme may at any time be modified or revoked by a subsequent scheme made, published and sanctioned in accordance with this Act.

(2) The State Government, at its own initiative or on the application of the Authority may at any time, by a notification in the Official Gazette, revoke a scheme, if it is satisfied that under the special circumstances of the case, the scheme shall be so revoked ;

Provided that where revocation or modification is ordered by the State Government after partially or wholly implemented a scheme, compensation should be paid for the necessary alteration in the manner prescribed.

Power of the Authority to impose restrictions.

44. For the purpose of the Master Plan, the Land use and zoning Regulation and the scheme, the Authority may impose reasonable restrictions on the use of the land and building including the regulating of the open space to be maintained around the building or buildings, the percentage of the plot area to be covered by building or buildings, the number of building or buildings on each plot, height and character of building or buildings allowed in specified areas, the purpose for which building or buildings of the specified areas may or may not be used the sub-division of plots, parking space and loading and unloading space for any building and the size of projections and such other matters not inconsistent with the objects of this Act.

Possession of land in advance of Development scheme.

45. (1) Where the Authority thinks that in the interest of public it is necessary to undertake forthwith any of the works included in a scheme for a public purpose, the Authority shall make an application to the State Government that the land required for the scheme shall vest in the Authority.

(2) The State Government may, if satisfied that it is urgently necessary in the public interest to empower the Authority to enter on such land for the purpose of executing any of such work, direct the Authority by notification to take possession of the land.

(3) The Authority shall then give a notice in the prescribed manner to the person interested in the land, the possession of which is to be taken requiring him to give possession of the land to the Authority or any person authorised by it in this behalf within a period of one month from the date of service of the notice, and if no possession is delivered within the period specified in the notice, the Authority shall take possession of the land.

Such land shall thereupon, notwithstanding anything contained in this Act, vest absolutely in the Authority free from all encumbrances.

Magistrate to enforce delivery to possession of land.

46. (1) If the Authority is opposed or obstructed in taking possession of the land under Section 45, it shall apply to the District Magistrate of the district, with whose jurisdiction the land is situated, to enforce the delivery of the possession of the land to the Authority, the District Magistrate, shall take or cause to be taken such steps and use or cause to be used such force as may be reasonably necessary for securing the delivery of possession of the land to the Authority.

(2) For the avoidance of doubt, it is hereby declared that the power to take steps under sub-section (1) includes the power to enter upon any land or other property whatsoever.

Compensation and payment of interest.

47. (1) Subject to the provisions of sub-section (2), wherever possession of the land is taken by the Authority under Section 45 or section 46 there shall be paid compensation the amount of which shall be determined by the Collector. In determining the amount to compensation, the Collector shall take into consideration the market value of the land for a period of five years preceding the date of issue of the notice under sub-section (3) of Section 45, and the amount of compensation payable shall be on the basis of the average market value so arrived at :

Provided that the compensation for any building standing on such land, shall be payable at the market value of the building on the date of issue of the notice under sub-section (3) of Section 45.

(2) In the case of land with respect to which any settlement has been made for special cultivation or which is included in any grant, if such land is lying fallow or uncultivated or is not utilised for the purpose for which the grant or settlement was made or for the purposes incidental thereto, then the compensation payable for acquisition of such land together with trees if any, standing on it shall,

be an amount equal to ten times the annual land revenue which, on the date of issue of notice referred to in sub-section (3) of Section 45, is or would have been payable if such land is or had been assessable to revenue at full rates:

Provided that where any amount was originally paid to Government by the grantee as price or premium for the land, an additional amount equal to the amount originally paid by the grantee shall also be payable.

Explanation:—“Special cultivation” means cultivation which involves, either owing to the nature of the crop or owing to the process of cultivation, a much larger expenditure of capital per acre than is incurred by most of the cultivators in the State, and includes cultivation of tea.

(3) When the compensation has been determined under sub-section (1) or sub-section (2), the Collector shall make an award in accordance with the principles set out in Section 11 of the Land Acquisition Act, 1894 (Act I of 1894), but no amount referred to in sub-section (2) of Section 23 of that Act shall be included in the award.

(4) Where any person aggrieved by an award made under sub-section (2) makes an application requiring the matter to be referred to the Court, the Collector shall refer the matter to the decision of the Court.

(5) Where possession of the land is taken by the Authority under Section 45 or Section 46, the person interested in such land shall be entitled to interest at the rate of 12 percent per annum on the amount of compensation payable to him under this section in respect of the said land from the date on which such possession is taken till date on which the amount of compensation is paid to him by the Authority.

Explanation:—(i) “Collector”, “and” and “person interested” have the same meaning as in the Land Acquisition Act, 1894 (Act I of 1894);

(ii) Land for the purpose of this Act included trees, buildings and standing crops on it, and easement.

Power of
the Authority
to evict
summarily.

48. (1) On and after the day on which a scheme comes into force, any person continuing to occupy any land which he is not entitled to occupy under the scheme may, in accordance with the prescribed procedure, be summarily evicted by the Authority or by any of its officers authorised in that behalf.

(2) If the Authority is opposed or obstructed in evicting such persons or taking possession of land from such persons, the District Magistrate, within whose jurisdiction the land is situated, shall on the application of the Authority, enforce the eviction of such persons or secure delivery of possession of the land to the Authority.

Power to
enforce
scheme.

49. (1) On and after the day on which the notice of a scheme has been published under Section 39, the Authority may, after giving the prescribed notice,—

(a) remove, pulldown, or alter any building or other work in the area included in the scheme which contravenes the scheme or in the erection of which or carrying out of which, any provision of the scheme has not been complied with;

(b) execute any work which it is the duty of any person to execute under the scheme, in any case where it appears to the Authority that delay in the execution of the work would prejudice the efficient operation of the scheme.

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

(3) If any action proposed to be taken under sub-section (1) of this section, by the Authority is questioned, the matter shall be referred to the State Government or any officer authorised by the State Government in this behalf; and the decision of the State Government or of the officer, as the case may be, shall be final and binding on all persons.

Power of Authority to require local authority to assume responsibility for amenities in certain cases.

50. Where any area has been developed by the Authority, the Authority may require the local authority within whose local limits the area so developed is situated, to assume responsibility for the maintenance of the amenities which have been provided in the area by the Authority and for the provision of the amenities which have not been provided by the Authority but which in its opinion should be provided in the area, on terms and conditions agreed upon between the Authority and that local authority; and where such terms and conditions cannot be agreed upon, on terms and conditions settled by the State Government in consultation with the local authority on a reference of the matter to that Government by the Authority.

CHAPTER V

Road and Streets

Width of public streets.

51. (1) The Authority shall, from time to time with the sanction of the State Government specify the minimum width for different classes of public streets according to the nature of the traffic likely to be carried there, the localities in which they are situated, the heights up to which building abutting thereon may be erected and other similar considerations.

(2) The width of a new public street shall not be less than that prescribed in sub-section (1), or that shown on the Master Plan for the class to which it belongs in areas for which Master Plan has been prepared.

Power to prescribe street line.

52. The Authority may prescribe a line on one or both sides of any public street, provided a public notice of the proposal has been issued by the Authority in the prescribed manner. No person shall construct or reconstruct any portion of any building on land within the prescribed new street line.