



The Howrah Improvement Act, 1956

Act 14 of 1956

Keyword(s):

Betterment Fee, The Board, Building, Building Line, Howrah, Improvement Scheme, Land, Municipal Assessment-book, Secretary to the Board, Tribunal, Trustee, Bustee

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THE HOWRAH IMPROVEMENT ACT, 1956.

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THE HOWRAH IMPROVEMENT ACT, 1956.²

AMENDED

West Ben. Act XIII of 1966.
West Ben. Act XVII of 1969.
West Ben. Act VIII of 1972.
West Ben. Act XI of 1972.
West Ben. Act XLIII of 1983.
West Ben. Act XV of 1995.

[9th June, 1956.]

An Act to provide for the Improvement of Howrah.

WHEREAS it is expedient to make provision for the improvement and expansion of Howrah in the manner hereinafter appearing;

AND WHEREAS it is expedient that a Board of Trustees should be constituted and invested with special powers for carrying out the objects of this Act;

It is hereby enacted in the Seventh Year of the Republic of India, by the Legislature of West Bengal, as follows:—

CHAPTER I.

Preliminary.

1. (1) This Act may be called the Howrah Improvement Act, 1956.
- (2) It shall come into force³ on such day as the State Government may, by notification, appoint.
- ⁴(3) It extends to the whole of Howrah.

Short title,
commence-
ment and
extent.

¹For the Statement of Objects and Reasons, see the *Calcutta Gazette, Extraordinary*, dated the 5th September, 1955, Part IVA, page 1530; The Report of the Joint Select Committee of the West Bengal Legislature was published in the *Calcutta Gazette, Extraordinary*, dated the 22nd March, 1956, Part IVA, page 407; for proceedings of the West Bengal Legislative Assembly, see the proceedings of the meetings of the West Bengal Legislative Assembly held on the 20th September, 1955, and the 15th, 20th, 21st, 23rd and 24th March, 1956; and for proceedings of the West Bengal Legislative Council, see the proceedings of the meetings of the West Bengal Legislative Council held on the 4th October, 1955 and the 21st and 28th March, 1956.

²The provisions of this Act relating to the sewage disposal scheme for the Municipality of Howrah shall stand repealed with effect from the date of vesting in the Calcutta Metropolitan Water and Sanitation Authority of the works relating to such scheme, vide section 88(2) of the Calcutta Metropolitan Water and Sanitation Authority Act, 1966 (West Ben. Act XIII of 1966).

³This Act was brought into force with effect from the 26th January, 1957, vide Notification No. 595-M.1A-49/56, dated the 18th January, 1957, of the Local Self-Government Department, published in the *Calcutta Gazette*, dated the 24th January, 1957, Part I, page 261.

⁴Sub-section (3) was substituted for the original sub-section by s. 2 of the Howrah Improvement (Amendment) Act, 1995 (West Ben. Act XV of 1995). Prior to this substitution, the following changes occurred in original sub-section (3), namely:—

- (i) the words "and the Bally Municipality" were inserted by s. 2(1) of the Howrah Improvement (Amendment) Act 1983 (West Ben. Act XLIII of 1983), and
- (ii) the words "those Municipalities" were substituted for the words "that Municipality" by s. 2 (2), *ibid.*

(Chapter I.—Preliminary.—Section 2.)

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

- (a) "betterment fee" means the fee prescribed by section 80 in respect of an increase in value of land resulting from the execution of an improvement scheme;
- (b) "the Board" means the Board of Trustees for the improvement of Howrah, constituted under this Act;
- (c) "building" includes a house, out-house, stable, privy, urinal, shed, hut, wall (other than a boundary wall not exceeding ten feet in height) and any other structure, whether of masonry, bricks, wood, mud, metal or any combination of these materials, or any other material whatsoever but does not include a tent or other portable shelter and does not also include any temporary shed erected on ceremonial or festive occasions;
- (d) "building line" means a line (in rear of the street alignment) up to which the main wall of a building abutting on a projected public street may lawfully extend;
- (e) "Chairman" means the Chairman of the Board;
- ¹(ee) "Chief Executive Officer" means the person appointed by the State Government to be the Chief Executive Officer of the Board;
- ²(f) "Howrah" means the area within the jurisdiction of the district of Howrah;
- ³(ff) "Howrah Municipal Corporation" means the Howrah Municipal Corporation established under the Howrah Municipal Corporation Act, 1980;
- (g) "improvement scheme" means a scheme falling under any of the categories mentioned in section 33 but does not include a projected public street or a projected public park referred to in section 63;
- (h) "land" has the same meaning as in clause (a) of section 3 of the Land Acquisition Act, 1894;
- (i) "municipal assessment-book" means the municipal assessment-book referred to in sub-section (1) of section 143 of the Calcutta Municipal Act, 1923, as extended to the Howrah Municipality ⁴[and the assessment list prepared for the Bally Municipality under section 136 of the Bengal Municipal Act, 1932, as the case may be];

West Ben.
Act LVIII
of 1980.

I of 1894.

Ben. Act III
of 1923.

Ben. Act XV
of 1932.

¹Clause (ee) was inserted by s. 3 (a) of the Howrah Improvement (Amendment) Act, 1995 (West Ben. Act XV of 1995).

²Clause (f) was substituted for original clause by s. 3 (b), *ibid.* Prior to this substitution, the words "and the Bally Municipality" were inserted, in original clause (f), by s. 3(1) of the Howrah Improvement (Amendment) Act, 1983 (West Ben. Act XLIII of 1983).

³Clause (ff) was inserted by s. 3(c) of the Howrah Improvement (Amendment) Act, 1995 (West Ben. Act XV of 1995).

⁴The words and figures within the square brackets were inserted by s. 3(2) of the Howrah Improvement (Amendment) Act, 1983 (West Ben. Act XLIII of 1983).

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(Chapter II.—The Board of Trustees.—Sections 3, 4.)

West Ben.
Act XXII
of 1993.

- ¹(ii) "Municipality" has the same meaning as in clause (38A) of section 2 of the West Bengal Municipal Act, 1993;
- (j) "notification" means a notification published in the *Official Gazette*;
- (k) "Secretary to the Board" means the person for the time being appointed by the Board to discharge the functions of the Secretary to the Board;
- (l) the "Tribunal" means the Tribunal constituted under section 71;
- (m) "Trustee" means a Member of the Board; and
- (n) the expressions "*bustee*", "drain", "public street" and "street alignment" have the same meaning as in clauses (4), (13), (44) and (52), respectively, of section 3 of the Bengal Municipal Act, 1932.

Ben. Act XV
of 1932.

CHAPTER II.

The Board of Trustees.

Constitution of the Board.

3. The duty of carrying out the provisions of this Act shall, subject to the conditions and limitations hereinafter contained, be vested in a Board, to be called, "The Trustees for the Improvement of Howrah" ; and such Board shall be a body corporate and have perpetual succession and a common seal, and shall by the said name sue and be sued.

Creation
and in-
corporation
of Board.

²4. The Board shall consist of eleven Trustees as specified below:—

- (a) the Mayor of the Howrah Municipal Corporation (hereinafter referred to as the Mayor);
- (b) one representative of the Department of Urban Development, Government of West Bengal;
- (c) one representative of the Finance Department, Government of West Bengal;

Constitution
of Board.

¹Clause (ii) was inserted by s. 3(d) of the Howrah Improvement (Amendment) Act, 1995, (West Ben. Act XV of 1995).

²Section 4 was substituted for the original section by s. 4, *ibid.* Prior to this substitution, the following changes occurred in original section 4, namely:—

- (i) sub-section (1) was substituted by s. 4 (a) of the Howrah Improvement (Amendment) Act, 1983 (West Ben. Act XLIII of 1983),
- (ii) in sub-section (2),—
 - (a) the words, brackets and letters "clauses (e), (f) and (g)" were substituted for the words, brackets and letters "clauses (c) and (d)" by s. 4(b)(i), *ibid.*, and
 - (b) the words "the Chairman of the Bally Municipality" were inserted by s. 4(b)(ii), *ibid.*, and
- (iii) in sub-section (3),—
 - (a) the words, brackets and letters "clauses (e), (f) and (g)" were substituted for the words, brackets and letters "clauses (c) and (d)" by s. 4(c)(i), *ibid.*, and
 - (b) the words "or such Commissioner of the Bally Municipality" were inserted by s. 4(c)(ii), *ibid.*

(Chapter II.—The Board of Trustees.—Sections 4A, 5.)

- (d) one official of the Calcutta Metropolitan Development Authority to be appointed by the State Government;
- (e) the Chief Executive Officer;
- (f) five persons to be appointed by the State Government;
- (g) the person appointed by the State Government to be the Secretary of the Board, who shall be the Member-Secretary:

Provided that when an order of supersession of the Howrah Municipal Corporation has been made under the Howrah Municipal Corporation Act, 1980, and is in force, it shall be competent for the State Government to nominate in place of the Mayor a person having special knowledge or experience in Municipal administration.

West Ben.
Act LVIII
of 1980.

¹4A. [(Constitution of the Board on appointment of Executive Officer for Howrah Municipality under section 67A of the Bengal Municipal Act, 1932.)—Omitted by s. 5 of the Howrah Improvement (Amendment) Act, 1983 (West Ben. Act XLIII of 1983).]

Disquali-
fications
for being
appointed or
elected a
Trustee.

5. (1) A person shall be disqualified for being appointed
2* * * * a Trustee if he—

- (a) has been convicted and sentenced by any Court for an offence punishable with imprisonment for a period of not less than six months; or
- (b) is an undischarged insolvent; or
- (c) holds any office or place of profit under the Board; or
- (d) has, directly or indirectly, by himself, or by any partner, employer or employee, any share or interest in any contract or employment with, by, or on behalf of, the Board; or
- (e) is a director, or a secretary, manager or other salaried officer, of any incorporated company which has any share or interest in any contract or employment with, by, or on behalf of, the Board.

(2) But a person shall not be disqualified as aforesaid or be deemed to have any share or interest in such contract or employment as aforesaid, by reason only of his having a share or interest in—

- (i) any sale, purchase, lease, or exchange of land, or any agreement for the same; or
- (ii) any agreement for the loan of money, or any security for the payment of money only; or
- (iii) any newspaper in which any advertisement relating to the affairs of the Board is inserted; or

¹Section 4A was inserted by s. 2 of the Howrah Improvement (Amendment) Act, 1969 (West Ben. Act XVII of 1969).

²The words "or elected" were omitted by s. 5 of the Howrah Improvement (Amendment) Act, 1983 (West Ben. Act XV of 1983).

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(Chapter II.—The Board of Trustees.—Sections 6-9.)

(iv) the occasional sale to the Board, to a value not exceeding two thousand rupees in any one financial year, of any article in which he trades;

or by reason only of his having a share or interest, otherwise than as director, or secretary, manager or other salaried officer, in any incorporated company which has any share or interest in any contract or employment with, by, or on behalf of, the Board.

(3) The State Government may, if it thinks fit, remove by an order the disqualification mentioned in clause (a) of sub-section (1) and shall do so if, in the opinion of the State Government, the offence does not involve moral turpitude.

6. (1) The State Government shall appoint, by notification, [Mayor] to be the Chairman of the Board.

Appointment of Chairman of the Board.

2* * * * *

7. ³(1) The Chairman shall receive such monthly [honorary or allowance] as may be fixed by the State Government.

Remuneration of Chairman.

5* * * * *

5* * * * *

5* * * * *

8. Nothing in section 6 shall be deemed to prevent the State Government from appointing a salaried officer to be the Chairman of the Board in addition to his own duties as a temporary measure, in which case such Chairman shall receive in addition to his pay such allowances as the State Government may fix but shall not be entitled to receive the [honorary or allowance] mentioned in section 7.

Temporary appointment of a salaried officer as Chairman of the Board.

9. (1) The State Government may, after consultation with the Board, grant leave of absence to the Chairman, or depute him to other duties, for such period as it thinks fit.

Leave of absence or deputation of the Chairman.

¹The word within the square brackets was substituted for the words "a person" by s. 6(a) of the Howrah Improvement (Amendment) Act, 1995 (West Ben. Act XV of 1995).

²Sub-section (2) was omitted by s. 6(b), *ibid.*

³Sub-section (1) was substituted for the original sub-section by s. 6 of the Howrah Improvement (Amendment) Act, 1983 (West Ben. Act XLIII of 1983).

⁴The words within the square brackets were substituted for the word "Salary" by s. 7(a) of the Howrah Improvement (Amendment) Act, 1995 (West Ben. Act XV of 1995).

⁵Sub-sections (2), (3) and (4) were omitted by s. 7(b), *ibid.*

⁶The words within the square brackets were substituted for the words "Salary and allowances" by s. 8 *ibid.*

(Chapter II.—The Board of Trustees.—Sections 10-12.)

(2) The allowance (if any) to be paid to the Chairman while absent on leave or deputation shall be such amount, not exceeding his [honorary or allowance under sub-section (1) of section 7,] as may be fixed by the State Government:

Provided that, if the Chairman is a servant of the State Government, the amount of such allowance shall be such as he may be entitled to under the conditions of his service under the Government relating to transfer to foreign service.

Appoint-
ment, etc.
of acting
Chairman.

10. (1) When the Chairman is granted leave of absence or deputed to other duties or when the post of Chairman falls vacant by reason of his death, resignation or removal or otherwise, the State Government may appoint a person to act as Chairman for such period as it thinks fit.

(2) The salary and house-rent and conveyance allowance (if any) of any person appointed to act as Chairman shall be fixed by the State Government ** * * * * *

(3) Any person appointed to act as Chairman shall exercise the powers and perform the duties conferred and imposed by and under this Act on the Chairman, and shall be subject to the same liabilities, restrictions and conditions as the Chairman.

Leave of
absence of
other
Trustees.

11. The Board may permit any Trustee, other than the Chairman * * * * *, to absent himself from meetings of the Board for any period not exceeding six months.

Removal of
Chairman or
Trustees.

12. (1) If at any time it appears to the State Government that the Chairman has been guilty of any misconduct or neglect in the discharge of his duties or has shown himself to be otherwise unsuitable for the office, which renders his removal expedient, it may, after giving him an opportunity of showing cause against the proposed action, declare, by notification, that he shall cease to hold office as the Chairman.

(2) The State Government may, by notification, declare that any Trustee shall cease to be a Trustee if—

- (a) he has acted in contravention of section 20, or
- (b) he has been absent from, or is unable to attend, the meetings of the Board for any period exceeding six consecutive months, or

¹The words, figures and brackets within the square brackets were substituted for the word "salary" by s. 9 of the Howrah Improvement (Amendment) Act, 1995 (West Ben. Act XV of 1995).

²The words and figure "subject to the provisions of section 7" were omitted by s. 10, *ibid.*

³The words "or the Chairman of the Bally Municipality" were first inserted by s. 7 of the Howrah Improvement (Amendment) Act, 1983 (West Ben. Act XLIII of 1983). Thereafter, the words "or the Chairman of the Howrah Municipality or the Chairman of the Bally Municipality" were omitted by s. 11 of the Howrah Improvement (Amendment) Act, 1995 (West Ben. Act XV of 1995).

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(Chapter II.—The Board of Trustees.—Sections 13, 14.)

- (c) he has, without the permission of the Board, been absent from the meetings of the Board for any period exceeding three consecutive months, or
- (d) he is a salaried servant of the Government, and if his continuance in office as a Trustee is in the opinion of the State Government undesirable, or
- (e) in the opinion of the State Government he has become incapable of acting as a Trustee or has so abused his position as a Trustee as to render his continuance as such detrimental to the public interest:

Provided that when the State Government proposes to take action under this sub-section, an opportunity of showing cause against the proposed action shall be given to the Trustee concerned, and when such action is taken, the reasons therefor shall be placed on record.

(3) The State Government shall, by notification, declare that a Trustee shall cease to be a Trustee—

- (i) if he incurs any of the disqualifications mentioned in section 5 after his appointment or election, as the case may be, as a Trustee; or

* * * * *

13. If any Trustee be permitted by the Board to absent himself from meetings of the Board for any period exceeding three months or if any Trustee,^{2*} * * * * *, dies, or resigns the office of Trustee, or ceases to hold the office of Trustee in pursuance of a notification published under section 12, the vacancy shall be filled by a fresh appointment or election, as the case may be, under section 4.

Filling of casual vacancies in certain cases.

³14. The term of office of the Trustees, other than the Chairman, shall be three years.

Term of office of Trustees.

¹Clause (ii) was omitted by s.12 of the Howrah Improvement (Amendment) Act, 1995 (West Ben. Act XV of 1995).

²The words "or of the Bally Municipality" were first inserted by s. 9 of the Howrah Improvement (Amendment) Act, 1983 (West Ben. Act XLIII of 1983). Thereafter, the words "other than the Chairman of the Howrah Municipality or of the Bally Municipality" were omitted by s. 13 of the Howrah Improvement (Amendment) Act, 1995 (West Ben. Act XV of 1995).

³Section 14 was substituted for original section by s.14, *ibid.* Prior to this substitution, there occurred following changes in original section 14, namely:—

- (i) the words "or the Chairman, Bally Municipality" were inserted by s. 10(a) of the Howrah Improvement (Amendment) Act, 1983 (West Ben. Act XLIII of 1983), and
- (ii) the words, brackets and letters "clause (e) or clause (f) or clause (g)" were substituted for the words, brackets and letters "clause (c) or clause (d)" by s. 10(b), *ibid.*

(Chapter II.—The Board of Trustees.—Sections 15, 16.)

Conduct of business.

Meetings
of Board.

15. The Board shall meet, and shall, from time to time, make such arrangements with respect to the place, day, hour, notice, management and adjournment of their meetings, as they may think fit, subject to the following provisions, namely:—

- (a) an ordinary meeting shall be held once at least in every month;
- (b) the Chairman may, whenever he thinks fit, and shall upon the written request of not less than two other Trustees, call a special meeting;
- (c) the Chairman shall attend every meeting of the Board unless absent on leave or prevented by sickness or other reasonable cause;
- ¹(d) one-half of the existing number of the Trustees shall make a quorum for transaction of business at any meeting:
Provided that no quorum shall be necessary for an adjourned meeting;
- (e) every meeting shall be presided over by the Chairman and in his absence by a Trustee chosen by the members present to preside over the meeting;
- (f) all questions shall be decided by a majority of votes of the Trustees present, the person presiding having a second or casting vote in all cases of equality of votes;
- (g) if a poll be demanded, the names of the Trustees voting, and the nature of their votes, shall be recorded by the person presiding;
- (h) minutes of the proceedings of each meeting (together with the names of the Trustees present) shall be recorded and such minutes shall be read and signed at the next meeting by the person presiding at such meeting and shall be open to inspection by any Trustee during office hours.

Temporary
association
of members
with the
Board for
particular
purposes.

16. (1) The Board may associate with themselves, in such manner and for such period as may be prescribed by rules made under section 149, any person or persons whose assistance or advice they may desire in carrying out any of the provisions of this Act.

(2) A person associated with themselves by the Board under sub-section (1) for any purpose shall have a right to take part in the discussions of the Board relative to that purpose, but shall not have a right to vote at a meeting of the Board, and shall not be a member of the Board for any other purpose.

¹Clause (d) was substituted for the original by s. 11 of the Howrah Improvement (Amendment) Act, 1983 (West Ben. Act XLIII of 1983).

XIV of 1956.]

(Chapter II.—The Board of Trustees.—Sections 17, 18.)

17. (1) The Board may from time to time appoint Committees consisting of such persons of any of the following classes as they may think fit, namely,—

Constitution and functions of Committees.

- (i) Trustees,
- (ii) persons associated with the Board under section 16,
- (iii) other persons whose assistance or advice the Board may desire as members of Committees:

Provided that no Committee shall consist of less than three persons.

(2) The Board may—

- (a) refer to such Committees, for inquiry and report, any matter relating to any of the purposes of this Act, and
- (b) delegate to such Committees, by specific resolution, and subject to any rules made under section 149, any of the powers or duties of the Board.

(3) The Board may at any time dissolve, or, subject to the provisions of sub-section (1), alter the constitution of, any such Committee.

(4) Every such Committee shall conform to any instructions given to them from time to time by the Board.

(5) All proceedings of any such Committee shall be subject to confirmation by the Board.

18. (1) Committees appointed under section 17 may meet and adjourn as they think proper; but the Chairman may, whenever he thinks fit, call a special meeting of any Committee, and shall call a special meeting of any Committee upon the written request of not less than two members thereof.

Meetings of Committees.

(2) Every meeting of a Committee shall be presided over by the Chairman, if he is a member of the Committee, but, if he is not a member of the Committee or if he, being a member of such Committee, is absent from such meeting, the meeting shall be presided over by such member of the Committee as may be chosen by the members present.

¹(3) One-half of the number of the members of the Committee shall make a quorum for transaction of business at any meeting:

Provided that no quorum shall be necessary for an adjourned meeting.

(4) All questions at any meeting of a Committee shall be decided by a majority of votes of the members present, the person presiding having a second or casting vote in all cases of equality of votes.

¹Sub-section (3) was substituted for the original sub-section by s. 12 of the Howrah Improvement (Amendment) Act, 1983 (West Ben. Act XLIII of 1983).

(Chapter II.—The Board of Trustees.—Sections 19, 20.)

Fees for attendance at meetings.

19. Subject to the rules made under section 148 in this behalf, every Trustee (other than the Chairman) and every person associated with the Board under section 16 shall be entitled to receive a fee of ¹[fifty rupees], and every member of a Committee a fee of ²[twenty-five rupees], for attending a meeting of the Board or a Committee at which business is transacted:

Provided that a person who is a salaried servant of the State or the Central Government shall not be entitled to receive any fee as aforesaid.

Trustees and associated members of Board or any Committee not to take part in proceedings in which they are personally interested.

20. (1) A Trustee who—

- (a) has, directly or indirectly, by himself or by any partner, employer or employee, any such share or interest as is described in sub-section (2) of section 5, in respect of any matter, or
- (b) has acted professionally, in relation to any matter, on behalf of any person having therein any such share or interest as aforesaid,

shall not vote or take any other part in any proceeding of the Board or any Committee relating to such matter.

(2) If any Trustee, or any person associated with the Board under section 16, or any other member of a Committee appointed under this Act, has, directly or indirectly, any beneficial interest in any land situated in an area comprised in any improvement scheme framed under this Act, or in an area in which it is proposed to acquire land for any of the purposes of this Act,—

- (i) he shall, before taking part in any proceeding at a meeting of the Board or any Committee relating to such area, inform the person presiding at the meeting of the nature of such interest,
- (ii) he shall not vote at any meeting of the Board or any Committee upon any resolution or question relating to such land, and
- (iii) he shall not take any other part in any proceeding at a meeting of the Board or any Committee relating to such area if the person presiding at the meeting considers it inexpedient that he should do so.

¹The words within the square brackets were substituted for the words "twenty rupees" by s. 13(1), of the Howrah Improvement (Amendment) Act, 1983 (West Ben. Act XLIII of 1983).

²The words within the square brackets were substituted for the words "ten rupees" by s. 13(2). *ibid.*

XIV of 1956.]

(Chapter II.—The Board of Trustees.—Sections 20A-23.)

20A. The Board may, on behalf of any person or the State Government, execute any work or render any service, not being a work or service which is inconsistent with the provisions of this Act, in any area to which this Act applies on such terms and conditions as may be agreed upon between the Board and such person or the State Government, as the case may be:

Power of Board to execute certain works or to render certain services.

Provided that when any work is executed or any service is rendered on behalf of any person, no such work shall be executed or services rendered except with the previous sanction of the State Government.

21. The Board may perform all such work and enter into and perform all such contracts as they may consider necessary or expedient for carrying out any of the purposes of this Act.

Power to make and perform contracts.

22. (1) Every such contract shall be made on behalf of the Board by the Chairman:

Execution of contracts and approval of estimates.

Provided that—

- (a) a contract involving an expenditure exceeding ²[fifty thousand rupees] shall not be made by the Chairman without the previous sanction of the Board; and
- (b) a contract involving an expenditure exceeding ³[twenty-five lakhs of rupees] shall not be made by the Chairman without the previous sanction of the Board and of the State Government.

(2) Every estimate for the expenditure of any sum for carrying out any of the purposes of this Act shall be subject to the approval of the authority who is empowered by sub-section (1) to make or sanction the making of a contract involving the expenditure of a like sum.

(3) Sub-sections (1) and (2) shall apply to every variation or abandonment of a contract or estimate, as well as to an original contract or estimate.

23. (1) Every contract made by the Chairman on behalf of the Board shall be entered into in such manner and form as would bind the Chairman if such contract were made on his own behalf, except that the common seal of the Board shall be used (where necessary); and every such contract may in the like manner and form be varied or discharged.

Further provisions as to execution of contracts and provision as to seal of Board.

¹Section 20A was inserted by s. 3 of the West Bengal Improvement Laws (Amendment) Act, 1972 (West Ben. Act VIII of 1972).

²The words within the square brackets were substituted for the words "three thousand rupees" by s. 14(1) of the Howrah Improvement (Amendment) Act, 1983 (West Ben. Act XLIII of 1983).

³The words within the square brackets were substituted for the words "one lakh of rupees" by s. 14(2), *ibid.*

(Chapter II.—The Board of Trustees.—Section 24.)

(2) Every contract for the execution of any work or the supply of any materials or goods which will involve an expenditure exceeding ¹[five thousand rupees] shall be in writing, and shall be sealed.

(3) The common seal of the Board shall remain in the custody of the Secretary to the Board, and shall not be affixed to any contract or other instrument except in the presence of a Trustee (other than the Chairman), who shall attach his signature to the contract or instrument in token that the same was sealed in his presence.

(4) The signature of the said Trustee shall be in addition to the signature of any witness to the execution of such contract or instrument.

(5) A contract not executed as provided in this section shall not be binding on the Board.

Tenders.

24. (1) The Board may determine either generally for any class of cases or specially for any particular case whether a work should be executed by contract or otherwise.

(2) When it is decided to execute a work by contract or purchase any materials or goods and the expenditure involved in such execution or purchase is estimated to exceed ²[five thousand rupees] the Chairman shall, at least seven days before entering into such contract or making such purchase give notice by advertisement in the local newspapers inviting tenders for the same:

Provided that the Board may, at the instance of the Chairman and with the sanction of the State Government, for reasons to be recorded in the proceedings, authorise the Chairman to enter into a contract without inviting tenders:

Provided further that every contract made by the Chairman involving an expenditure exceeding ³[fifty thousand rupees] shall be reported by the Chairman to the Board within fifteen days after it is made.

(3) In every case involving an expenditure exceeding ⁴[fifty thousand rupees] in which tenders are invited, the Chairman shall place before the Board the specifications, conditions and estimates and all the tenders received, specifying the particular tender (if any) which he proposes to accept.

¹The words within the square brackets were substituted for the words "one thousand rupees" by s. 15 of the Howrah Improvement (Amendment) Act, 1983 (West Ben. Act XLIII of 1983).

²The words within the square brackets were substituted for the words "one thousand rupees" by s. 16 (a)(i), *ibid.*

³The words within the square brackets were substituted for the words "one thousand rupees and not exceeding three thousand rupees" by s. 16 (a)(ii), *ibid.*

⁴The words within the square brackets were substituted for the words "three thousand rupees" by s. 16(b), *ibid.*

XIV of 1956.]

(Chapter II.—The Board of Trustees.—Sections 25-27.)

(4) In every case in which the acceptance of a tender would involve an expenditure exceeding ¹[twenty-five lakhs of rupees] and the Board propose to accept a tender which is not the lowest tender received, they shall submit to the State Government the specifications, conditions and estimates and all the tenders received, specifying the particular tender which they propose to accept with the reasons for such proposal.

(5) Neither the Board nor the State Government shall be bound to sanction the acceptance of any tender which has been made; but the Board, or the State Government, as the case may be, may sanction the acceptance of any of such tenders which appears to them, upon a view of all the circumstances, to be the most advantageous, or may direct the rejection of all the tenders submitted to them.

25. The Chairman shall take sufficient security for the due performance of every contract involving an expenditure exceeding ²[five thousand rupees].

Security for performance of contract.

26. (1) The Chairman shall forward to the State Government a copy of the minutes of the proceedings of each meeting of the Board, within ten days from the date on which the minutes of the proceedings of such meeting were signed as prescribed in clause (h) of section 15.

Supply of documents and information to the State Government.

(2) If the State Government so directs in any case, the Chairman shall forward to it a copy of all papers which were laid before the Board for consideration at any meeting.

(3) The State Government may require the Chairman to furnish it with—

- (a) any return, statement, estimate, statistics or other information regarding any matter under the control of the Board, or
- (b) a report on any such matter, or
- (c) a copy of any document in the charge of the Chairman.

Officers and servants.

27. The Board shall from time to time prepare and maintain a statement showing—

Statement of strength and remuneration of staff.

- (a) the number, designations and grades of the officers and servants (other than employees who are paid by the day or whose pay is charged to temporary work) whom they consider it necessary and proper to employ for the purposes of this Act,

¹The words within the square brackets were substituted for the words "one lakh of rupees" by s. 16(c) of the Howrah Improvement (Amendment) Act, 1983 (West Ben. Act XLIII of 1983).

²The words within the square brackets were substituted for the words "one thousand rupees" by s. 17, *ibid.*

(Chapter II.—The Board of Trustees.—Sections 28, 29.)

- (b) the amount and nature of the salary, fees and allowances to be paid to each officer and servant, and
- (c) the contributions payable under section 155 in respect of each such officer and servant.

Board to
make rules.

28. The Board shall from time to time make rules—
- (a) fixing the amount and nature of the security to be furnished by any officer or servant of the Board from whom it may be deemed expedient to require security;
 - (b) for regulating the grant of leave of absence, leave allowances and acting allowances to the officers and servants of the Board;
 - (c) for establishing and maintaining a provident or annuity fund, for compelling all or any of the officers or servants of the Board (other than any servant of the Government in respect of whom a contribution is paid under section 155) to contribute to such fund, at such rates and subject to such conditions as may be prescribed by such rules and for supplementing such contributions out of the funds of the Board;
 - (d) for regulating compassionate allowance and gratuities to officers and servants of the Board and families of deceased officers and servants;
 - (e) prescribing the qualifications for employment as officers and servants under the Board; and
 - (f) for regulating the conduct of officers and servants of the Board:

Provided that a servant of the Government employed as an officer or servant of the Board shall not be entitled to leave or leave allowances otherwise than as may be prescribed by the conditions of his service under the Government relating to transfer to foreign service.

Powers of
appointment,
etc., in
whom
vested.

29. ¹(1) Subject to any directions contained in any statement prepared under section 27 and any rules made under section 28 and for the time being in force, the power of appointing, promoting and granting leave to officers and servants of the Board, and reducing them in rank or suspending or dismissing them from service for misconduct, and dispensing with their services for any reason other than misconduct, shall be vested—

- (a) in the case of officers and servants whose monthly salary does not exceed ²[seven hundred and fifty rupees]—in the Chairman, and

¹Section 29 was renumbered as sub-section (1) of that section by s. 18 of the Howrah Improvement (Amendment) Act, 1983 (West Ben. Act XLIII of 1983).

²The words within the square brackets were substituted for the words "two hundred rupees" by s. 18(1)(a). *ibid.*

XIV of 1956.]

(Chapter II.—The Board of Trustees.—Sections 30, 31.)

(b) in other cases—in the Board:

Provided that any officer or servant in receipt of a monthly salary exceeding ¹[five hundred rupees] who is reduced in rank, suspended or dismissed from service by the Chairman may appeal to the Board, whose decision thereon shall be final:

²Provided further that the Chairman or the Board, as the case may be, may, with the previous sanction of the State Government, place an officer or servant under suspension where a disciplinary proceeding or a departmental enquiry against the officer or the servant is contemplated or is pending or where a case against such officer or servant in respect of any criminal offence is under investigation.

³(2) Notwithstanding anything contained in sub-section (1), the State Government shall have power to appoint any person who is or has been in the service of the State Government to any post of the Board carrying a monthly salary exceeding one thousand and five hundred rupees:

Provided that the person so appointed shall be under the administrative control of the Chairman.

30. (a) All statements prepared under section 27, so far as they relate to officers carrying a salary of more than ⁴[one thousand and five hundred rupees] per mensem,

(b) all rules made under clause (b), clause (c), clause (d), clause (e), or clause (f) of section 28, and

(c) all orders passed by the Board ⁵[under sub-section (1) of section 29], and relating to any officer appointed to hold an office carrying a salary of more than ⁶[one thousand and five hundred rupees] per mensem, except orders granting leave to ⁷* * * * *, any such officer,

shall be subject to the previous sanction of the State Government.

Sanction of State Government required to certain statements, rules and orders.

31. The Chairman shall exercise supervision and control over the acts and proceedings of all officers and servants of the Board; and, subject to the foregoing sections, shall dispose of all questions relating to the service of the said officers and servants, and their pay, privileges and allowances.

Control by Chairman.

¹The words within the square brackets were substituted for the words "one hundred rupees" by s. 18(1)(b) of the Howrah Improvement (Amendment) Act, 1983 (West Ben. Act XLIII of 1983).

²The proviso was added by s. 18(1)(c), *ibid.*

³Sub-section (2) was inserted by s. 18(2), *ibid.*

⁴The words within the square brackets were substituted for the words "one thousand rupees" by s. 19(1), *ibid.*

⁵The words and figures within the square brackets were substituted for the words and figures "under section 29" by s. 19(2)(a), *ibid.*

⁶The words within the square brackets were substituted for the words "one thousand rupees" by s. 19(2)(b), *ibid.*

⁷The words "or suspending" were omitted by s. 19(2)(c), *ibid.*

(Chapter II.—The Board of Trustees.—Section 32.—Chapter III.—
Improvement Schemes.—Section 33.)

Delegation
of certain
powers,
duties and
functions of
the
Chairman.

32. (1) The Chairman may, by general or special order in writing, delegate to ¹[the Chief Executive Officer] any of the Chairman's powers, duties or functions under this Act or any rule made hereunder, except those conferred or imposed upon or vested in him by sections 15, 18, 26, 117, 121, 125, 127 and 161:

Provided as follows:—

(a) the Chairman shall not delegate his power under section 22 to make on behalf of the Board any contract involving an expenditure exceeding ²[five thousand rupees];

3*	*	*	*	*	*	*	*
3*	*	*	*	*	*	*	*

(2) The exercise or discharge by ⁴[the Chief Executive Officer] of any powers, duties or functions delegated to him under sub-section (1) shall be subject to such conditions and limitations (if any) as may be prescribed in the said order, and also to control and revision by the Chairman.

CHAPTER III.

Improvement Schemes.

Improvement
schemes.

33. (1) The Board shall, as soon as may be after the coming into force of this Act, frame a sewage disposal scheme for Howrah and undertake all works and incur all expenditure necessary for carrying it into effect; and may from time to time extend and add to the size of the scheme.

(2) The Board may, subject to the provisions of this Act, undertake any work and incur any expenditure for the improvement and development of the area to which this Act applies by framing and executing an improvement scheme of one of the following types or a combination of any two or more of such types or of any special features thereof, as may be necessary from time to time, namely:—

- (a) a general improvement scheme;
- (b) a street scheme;
- (c) a *bustee* improvement scheme;
- (d) a re-housing scheme; and
- (e) a housing accommodation scheme.

¹The words within the square brackets were substituted for the words "any officer of the Board" by s. 15(a) of the Howrah Improvement (Amendment) Act, 1995 (West Ben. Act XV of 1995).

²The words within the square brackets were substituted for the words "one thousand rupees" by s. 20(1) of the Howrah Improvement (Amendment) Act, 1983 (West Ben. Act XLIII of 1983).

³Clauses (a) and (b) were omitted by s. 20(2), *ibid.*

⁴The words within the square brackets were substituted for the words "any officer" by s. 15(b) of the Howrah Improvement (Amendment) Act, 1995 (West Ben. Act XV of 1995).

XIV of 1956.]

(Chapter III.—Improvement Schemes.—Sections 34, 35.)

34. When framing an improvement scheme under section 33 in respect of any area regard shall be had to—

- (a) the nature and the conditions of neighbouring areas and of Howrah as a whole;
- (b) the several directions in which the expansion of Howrah appears likely to take place; and
- (c) the likelihood of improvement schemes being required for other parts of Howrah.

Matters to be considered when framing improvement schemes.

35. (1) An improvement scheme mentioned in section 33 may provide for all or any of the following matters, namely—

- (i) the acquisition by the Board of any land or other property in the area comprised in the scheme or required for or affected by the execution of the scheme;
- (ii) the laying out or relaying out of the land comprised in the scheme;
- (iii) the demolition, alteration or reconstruction of buildings or portions of buildings situated on the land which it is proposed to acquire in the said area;
- (iv) the construction of any building which the Board may consider necessary to erect for carrying out any of the purposes of this Act;
- (v) the laying out, construction or alteration of streets (including bridges, causeways and culverts, if required), and the levelling, paving, metalling, flagging and channelling of such streets and the planting of flower bushes or trees on the sides of such streets;
- (vi) the sewerage and drainage of such streets and the provision therein of water, lighting and other sanitary conveniences ordinarily provided in municipalities;
- (vii) the raising, lowering or levelling of any land in the area comprised in the scheme;
- (viii) the provision of accommodation for any class of the inhabitants;
- (ix) the provision of facilities for communication;
- (x) the formation and retention of open spaces, gardens, parks, playgrounds, lakes, etc., and the provision therein of athletic tracks, recreation buildings and other necessary aids to field or aquatic sports, arboriculture and any other object which the Board consider desirable to provide for enhancing the beauty of the area or the entertainment of the public;

Matters to be provided for in improvement schemes.

(Chapter III.—Improvement Schemes.—Sections 36-38.)

- (xi) controlling the use of land developed by the Board by zoning or reserving areas exclusively for specific purposes;
- (xii) any other matters consistent with the provisions of this Act which the Board may think fit.

(2) In addition to any of the provisions mentioned in sub-section (1), the sewage disposal scheme mentioned in sub-section (1) of section 33 may provide for the construction of outfall works, pumping plants and sewage treatment and disposal works together with the construction of such sewers and outfall channels as may be necessary for bringing the sewage into the pumping plants and discharging the effluents.

Duty of Municipality to prevent misuse of reserved areas.

36. When areas are exclusively reserved for specific purposes under clause (xi) of sub-section (1) of section 35 it shall be the duty of the Commissioners of the Municipality within whose jurisdiction the area is situate to prohibit and prevent their use in violation of such purposes.

When general improvement scheme may be framed.

37. Whenever it appears to the Board, whether upon an official representation made under section 38 or without such representation,—

- (a) that any buildings in any area which are used as dwelling places are unfit for human habitation, or
- (b) that danger to the health of the inhabitants of any area or of a neighbouring area is caused by—
 - (i) the narrowness, closeness and bad arrangement and conditions of streets or buildings or groups of buildings in such area, or
 - (ii) the want of light, air, ventilation or proper conveniences in such area, or
 - (iii) any other sanitary defects in this area, or
- (c) that any area is undeveloped or has been developed without a satisfactory plan or design and that it is necessary to develop or re-develop it on a better plan after incorporating all or some of the improvements mentioned in sub-section (1) of section 35,

the Board may pass a resolution to the effect that a general improvement scheme as mentioned in sub-section (2) of section 33 ought to be framed in respect of such area and may then proceed to frame such a scheme.

Authority for making an official representation for a general improvement scheme.

38. (1) An official representation referred to in section 37 may be made by the ¹[Councillors of the Howrah Municipal Corporation or of any Municipality of Howrah]—

- (a) of their own motion; or
- (b) on a written complaint by the Health Officer of the ²[(Howrah Municipal Corporation) or of the Bally Municipality]; or

¹The words "or of the Bally Municipality" were first inserted by s. 21(1) of the Howrah Improvement (Amendment) Act, 1983 (West Ben. Act XLIII of 1983). Thereafter, the words within the square brackets were substituted for the words "Commissioners of the Howrah Municipality or of the Bally Municipality" by s. 16 (a)(i) of the Howrah Improvement (Amendment) Act, 1995 (West Ben. Act XV of 1995).

²The words "or of the Bally Municipality" were first inserted by s. 21(1) of the Howrah Improvement (Amendment) Act, 1983 (West Ben. Act XLIII of 1983). Thereafter, the words within the first brackets were substituted for the words "Howrah Municipality" by s. 16 (a)(ii) of the Howrah Improvement (Amendment) Act, 1995 (West Ben. Act XV of 1995).

XIV of 1956.]

(Chapter III.—Improvement Schemes.—Section 39.)

- (c) in respect of any area comprised in a municipal ward,—on a written complaint signed by twenty-five or more residents of such ward who are liable to pay either the owner's share or the occupier's share of the consolidated rate leviable under the Calcutta Municipal Act, 1923, as extended to the Howrah Municipality ¹[or of the Bally Municipality.]

Ben. Act III
of 1923.

(2) If the ²[(Councillors of the Howrah Municipal Corporation or of any Municipality of Howrah,) as the case may be,] decide not to make an official representation on any complaint made to them under clause (b) or clause (c), they shall cause a copy of such complaint to be sent to the Board, with a statement of the reasons for their decision.

39. (1) The Board shall consider every official representation made under section 38 and, if satisfied as to the correctness thereof and to the sufficiency of their resources, shall decide whether a general improvement scheme to carry such representation into effect should be framed forthwith or not, and shall forthwith intimate their decision to the ²[(Councillors of the Howrah Municipal Corporation or of any Municipality of Howrah,) as the case may be].

Consideration of official representations.

(2) If the Board decide that it is not necessary or expedient to frame a general improvement scheme forthwith, they shall inform the ²[(Councillors of the Howrah Municipal Corporation or of any Municipality of Howrah,) as the case may be,] of the reasons for their decision.

(3) If the Board fail, for a period of six months after the receipt of any official representation made under section 38 to intimate their decision thereon to the ²[(Councillors of the Howrah Municipal Corporation or of any Municipality of Howrah,) as the case may be,] or if the Board intimate to the ²[(Councillors of the Howrah Municipal Corporation or of any Municipality of Howrah,) as the case may be,] their decision that it is not necessary or expedient to frame a general improvement scheme forthwith, the ²[(Councillors of the Howrah Municipal Corporation or of any Municipality of Howrah,) as the case may be,] may, if they think fit, refer the matter to the State Government.

¹The words within the square brackets were inserted by s. 21(1) of the Howrah Improvement (Amendment) Act, 1983 (West Ben. Act XLIII of 1983).

²The words "or of the Bally Municipality, as the case may be," were first inserted in section 38(2), 39(1), 39(2) and 39(3) by ss. 21(2), 22(a), 22(b) and 22(c), respectively, of the Howrah Improvement (Amendment) Act, 1983 (West Ben. Act XLIII of 1983). Thereafter, the words within the first brackets were substituted for the words "Commissioners of the Howrah Municipality or of the Bally Municipality" in the aforesaid sections, by ss. 16(b), 17(a), 17(b) and 17(c), respectively, of the Howrah Improvement (Amendment) Act, 1995 (West Ben. Act XV of 1995).

(Chapter III.—Improvement Schemes.—Sections 40-42.)

(4) The State Government shall consider every reference made to it under sub-section (3), and

- (a) if it considers that the Board ought, under all the circumstances, to have passed a decision within the period mentioned in sub-section (3), shall direct the Board to pass a decision within such further period as it may think reasonable, or
- (b) if it considers that it is, under all the circumstances, expedient that a scheme should forthwith be framed, shall direct the Board to proceed forthwith to frame a scheme.

(5) The Board shall comply with every direction given by the State Government under sub-section (4).

When street scheme may be framed.

40. Whenever the Board are of opinion that, for the purpose of—
- (a) providing building-sites, or
 - (b) remedying defective ventilation, or
 - (c) creating new, or improving existing, means of communication and facilities for traffic, or
 - (d) affording better facilities for conservancy,

it is expedient to lay out new streets or to alter existing streets (including bridges, causeways and culverts), the Board may pass a resolution to that effect, and shall then proceed to frame a street scheme for such area as they may think fit.

Width of streets.

41. No street laid out or altered by the Board shall be of less width than—

- (a) forty feet, if the street be intended for carriage traffic, or
- (b) twenty feet, if the street be intended for foot traffic only:

Provided as follows:—

- (i) the width of an existing street need not be increased to the minimum required by this section, if the Board consider it impracticable to do so;
- (ii) nothing in this section shall be deemed to prevent the Board from laying out service passages for sanitary purposes of any width less than twenty feet.

Schemes for the improvement of insanitary bustee area.

42. (1) Whenever it appears to the Board that the condition of a *bustee* is insanitary or attended with risk of disease to the persons residing within the area or in the neighbourhood of such *bustee* by reason of the manner in which huts and other buildings are constructed or crowded together or of want of drainage, sewerage or water-supply or of the impracticability of scavenging or from any other cause, they may depute an officer or officers to inspect and carry out survey of the area and to submit a report

XIV of 1956.]

(Chapter III.—Improvement Schemes.—Sections 43, 44.)

(2) If the Board are satisfied on receipt of such report or otherwise that the condition of the *bustee* is as mentioned in sub-section (1), they may pass a resolution to that effect and shall then proceed to frame a scheme for the improvement of such area.

(3) A scheme prepared under sub-section (2) shall make provision for the previous re-housing of persons displaced by the improvement of the *bustee* and may, in addition to any of the matters mentioned in section 35, make provision for all or any one or more of the following matters, namely,—

- (a) the construction of streets or passages within the area sufficient in number and of sufficient width to enable the proper scavenging of such area and the provision of lighting of such streets and passages,
- (b) the construction of drains and sewers in such manner as to render the area sanitary,
- (c) the filling up of tanks, wells, ditches, drains or low lands and the construction of new tanks or the re-excavation and improvement of existing tanks within the area,
- (d) the partial or complete removal or demolition of any hut or buildings in the area or the alteration or reconstruction of any such hut or building, and
- (e) public water-supply, common bathing arrangements and public privies and urinals for the use of the inhabitants of this area and the lighting of such common bathing arrangements, privies and urinals.

43. The Board may frame schemes (in this Act called re-housing schemes) for the construction, maintenance and management of such and so many dwellings and shops and other classes of accommodation as they may consider ought to be provided for persons who—

Re-housing persons displaced by improvement schemes.

- (a) are displaced by the execution of any improvement scheme sanctioned under this Act, or
- (b) are likely to be displaced by the execution of any improvement scheme which it is intended to frame, or to submit to the State Government for sanction, under this Act.

44. Whenever the Board are of the opinion that it is expedient and for the public good to provide housing accommodation for any class of persons in any area to which this Act applies, the Board may frame a scheme for the purpose to be called a housing accommodation scheme.

Housing accommodation scheme.

(Chapter III.—Improvement Schemes.—Sections 45, 46.)

Preparation, publication and transmission of notice as to improvement scheme, and supply of documents to applicants.

45. (1) When any improvement scheme has been framed, the Board shall prepare a notice stating—

- (a) the fact that the scheme has been framed,
- (b) the boundaries of the area comprised in the scheme, and
- (c) the place at which particulars of the scheme, a map of the area comprised in the scheme, and a statement of the land which it is proposed to acquire and of the land in regard to which it is proposed to recover a betterment fee, may be seen at reasonable hours.

(2) The Board shall—

- (i) cause the said notice to be published weekly for three consecutive weeks in the *Official Gazette* and in local newspapers, with a statement of the period within which objections will be received, and

- (ii) send a copy of the notice to the ²[Mayor] ¹to the Chairman of any other Municipality constituted under the Bengal Municipal Act, 1932, in which, and to the General Manager of the Calcutta Metropolitan Water and Sanitation Authority and to the Chief Executive Officer of the Calcutta Metropolitan Development Authority under whose jurisdiction, any portion of the area comprised in the scheme is situated.

Ben. Act XV of 1932.

(3) The Chairman shall cause copies of all documents referred to in clause (c) of sub-section (1) to be delivered to any applicant on payment of such fee as may be prescribed by rule made under section 149.

Transmission to Board of representation by Municipality or other local Authority.

46. ⁴[The Mayor,] the Chairman of any other Municipality, the General Manager of the Calcutta Metropolitan Water and Sanitation Authority and the Chief Executive Officer of the Calcutta Metropolitan Development Authority, to whom a copy of the notice has been sent under clause (ii) of sub-section (2) of section 45 shall, within a period of sixty days from the date of receipt of the said copy, forward to the Board

¹Clause (ii) was substituted for the original clause by s. 23 of the Howrah Improvement (Amendment) Act, 1983 (West Ben. Act XLIII of 1983). Prior to this substitution, the words “, and to the General Manager of the Calcutta Metropolitan Water and Sanitation Authority within whose jurisdiction,” were inserted in the original clause, by s. 88(3) and Schedule III, item B 1, of the Calcutta Metropolitan Water and Sanitation Authority Act, 1966 (West Ben. Act XIII of 1966).

²The word within the square brackets was substituted for the words “Chairman of the Howrah Municipality, to the Chairman of the Bally Municipality” by s. 18 of the Howrah Improvement (Amendment) Act, 1995 (West Ben. Act XV of 1995).

³Section 46 was first substituted for the original section by s. 88(3) and Schedule III, item B 2, of the Calcutta Metropolitan Water and Sanitation Authority Act, 1966 (West Ben. Act XIII of 1966). Later, the same was resubstituted by s. 24 of the Howrah Improvement (Amendment) Act, 1983 (West Ben. Act XLIII of 1983).

⁴The words within the square brackets were substituted for the words “The Chairman of the Howrah Municipality, the Chairman of the Bally Municipality” by s. 19(a) of the Howrah Improvement (Amendment) Act, 1995 (West Ben. Act XV of 1995).

XIV of 1956.]

(Chapter III.—Improvement Schemes.—Sections 47, 48.)

any representation which ¹[the Mayor,] the Municipality or the Authority may think fit with regard to the scheme:

West Ben.
Act XIII of
1979.

Provided that any direction issued by any authority constituted under the West Bengal Town and Country (Planning and Development) Act, 1979 to the Board as to the improvement scheme shall be carried out by the Board.

47. (1) During the thirty days next following the first day on which any notice is published under section 45 in respect of any scheme, the Board shall serve a notice on—

Service of
notice as to
proposed
acquisition
of land or
recovery of
betterment
fee.

- (i) every person whose name appears in the municipal assessment-book as being primarily liable to pay the owner's share of the consolidated rate, or the rate on the annual value of holdings, as the case may be, in respect of any land which the Board propose to acquire in executing the scheme or in regard to which they propose to recover a betterment fee, and
- (ii) the occupier (who need not be named) of each premises or holding, entered in the municipal assessment-book, which the Board propose to acquire in executing the scheme.

(2) Such notice shall—

- (a) state that the Board propose to acquire such land or to recover such betterment fee for the purpose of carrying out a general improvement scheme or a street scheme, as the case may be, and
- (b) require such person, if he dissents from such acquisition or from the recovery of such betterment fee, to state his reasons in writing within a period of thirty days from the service of the notice.

(3) Every such notice shall be signed by, or by order of, the Chairman.

Ben. Act XV
of 1932.

48. ²[The Mayor and the] Chairman of any other Municipality constituted under the Bengal Municipal Act, 1932, in any part of which this Act is for the time being in force, shall, respectively, furnish the Board, at their request, with a copy of, or extracts from, the municipal assessment-book at such charges as may be mutually agreed upon.

Furnishing
of copy of,
or extracts
from, the
municipal
assessment-
book.

¹The words within the square brackets were inserted by s. 19 (b) of the Howrah Improvement (Amendment) Act, 1995 (West Ben. Act XV of 1995).

²The words "the Chairman of the Bally Municipality" were first inserted by s. 25 of the Howrah Improvement (Amendment) Act, 1983 (West Ben. Act XLIII of 1983). Thereafter, the words within the square brackets were substituted for the words "The Chairman of the Howrah Municipality, the Chairman of the Bally Municipality and" by s. 20 of the Howrah Improvement (Amendment) Act, 1995 (West Ben. Act XV of 1995).

(Chapter III.—Improvement Schemes.—Sections 49, 50.)

Abandonment of improvement scheme, or application to State Government to sanction it.

49. (1) After the expiry of the periods, respectively, prescribed under clause (i) of sub-section (2) of section 45, and by section 46 and clause (b) of sub-section (2) of section 47, in respect of any scheme, the Board shall consider any objection, representation and statement of dissent received thereunder, and, after hearing all persons making any such objection, representation or dissent who may desire to be heard, the Board may either abandon the scheme or apply to the State Government for according sanction to the scheme, with such modifications (if any), as the Board may consider necessary.

(2) Every application submitted under sub-section (1) shall be accompanied by—

- (a) a description of, and full particulars relating to, the scheme, and complete plans and estimates of the cost of executing the scheme;
- (b) a statement of the reasons for any modifications made in the scheme as originally framed;
- (c) a statement of objections (if any) received under section 45;
- (d) any representation received under section 46;
- (e) a list of the names of all persons (if any) who have dissented, under clause (b) of sub-section (2) of section 47, from the proposed acquisition of their land or from the proposed recovery of a betterment fee, and a statement of the reasons given for such dissent; and
- (f) a statement of the arrangements made or proposed by the Board for the re-housing of persons who are likely to be displaced by the execution of the scheme.

(3) When any application has been submitted to the State Government under sub-section (1), the Board shall cause notice of the fact to be published for two consecutive weeks in the *Official Gazette* and in local newspapers.

Power to sanction or reject improvement scheme.

50. The State Government may sanction, either with or without modification, or may refuse to sanction, any scheme submitted to it under section 49:

Provided that in considering a *bustee* improvement scheme for sanction the State Government shall have regard to the conditions—

- (a) that no *bustee* dwellers are displaced until arrangements for re-housing them have previously been made; and
- (b) that the rents indicated in the scheme for the accommodation provided for displaced *bustee* dwellers as aforesaid are reasonable:

Provided further that the State Government may give such financial aid and on such terms and conditions as it may consider necessary, to the Board to enable them to fix reasonable rents for the accommodation provided for the displaced *bustee* dwellers.

XIV of 1956.]

(Chapter III.—Improvement Schemes.—Sections 51-54.)

51. (1) Whenever the State Government sanctions any scheme submitted under section 49, it shall announce the fact by notification, and the Board shall forthwith proceed to execute the scheme.

Notification of sanction to improvement scheme.

(2) The publication of a notification under sub-section (1), in respect of any scheme, shall be conclusive evidence that the scheme has been duly framed and sanctioned.

52. At any time after any scheme has been sanctioned by the State Government under section 50 and before it has been carried into execution, the Board may alter or cancel it:

Alteration of improvement scheme after sanction.

Provided as follows:—

- (a) if any alteration is estimated to increase the estimated net cost of executing a scheme by more than five *per centum* of such cost, such alteration shall not be made without the previous sanction of the State Government;
- (b) if any alteration involves the acquisition, otherwise than by agreement, of any land the acquisition of which has not been sanctioned by the State Government, the procedure prescribed in the foregoing sections of this Chapter shall, so far as applicable, be followed, as if the alteration were a separate scheme;
- (c) if, owing to changes made in the course of a scheme, any land not previously liable under the scheme to the payment of a betterment fee, becomes liable to such payment, the provisions of sections 45, 47 and 49 shall, so far as they are applicable, be followed in any such case;
- (d) no scheme shall be cancelled without giving the Municipality or Municipalities concerned an opportunity to express their views within sixty days of the receipt of the notice of the cancellation and without the previous sanction of the State Government.

53. Any number of areas in respect of which improvement schemes have been, or are proposed to be, framed, may, at any time be included in one combined scheme.

Combination of improvement schemes.

54. (1) Whenever any building, or any street, square or other land, or any part thereof, which—

Transfer to Board for purposes of improvement scheme, of building or land vested in the Commissioners of that Municipality.

¹(a) is situated in the Howrah Municipal Corporation and is vested therein, or

(b) is situated in any part of ²[any Municipality of Howrah] constituted under the Bengal Municipal Act, 1932, in which this Act is for the time being in force, and is vested in the Commissioners of that Municipality,

Ben. Act XV of 1932.

¹The words "or in the Bally Municipality" were first inserted, in the original clause (a), by s. 26 of the Howrah Improvement (Amendment) Act, 1983 (West Ben. Act XLIII of 1983). Finally clause (a) was substituted for the original clause by s. 21(a)(i) of the Howrah Improvement (Amendment) Act, 1995 (West Ben. Act XV of 1995).

²The words within the square brackets were substituted for the words "any other Municipality" by s. 21(a)(ii). *ibid.*

(Chapter III.—Improvement Schemes.—Section 54.)

is within the area of any improvement scheme and is required for the purposes of such scheme, the Board shall ¹[give notice accordingly to the Mayor and the Chairman] of the Municipality concerned and such building, street, square, other land or part, shall thereupon vest in the Board, subject, in the case of any building, or any land, not being a street or square to the payment of compensation, if any, ²[to the Howrah Municipal Corporation or the Municipality concerned, as the case may be,] under section (3):

Provided that ³[the Mayor or the Councillors of the Municipality concerned, as the case may be,] shall be allowed reasonable opportunity to remove at their own cost any underground pipes, cables or other fixtures belonging to them, if they so desire.

(2) When any land, not being a street or square, vests in the Board under the provisions of sub-section (1) and the Board make a declaration that such land will be retained by the Board only until it ⁴[re-vests in the Howrah Municipal Corporation or the Municipality concerned, as the case may be,] as part of a street, park, lake or garden under section 65 no compensation shall be payable by the Board ⁵[to the Howrah Municipal Corporation or the Municipality concerned, as the case may be,] in respect of that land.

(3) Where any land, not being a street or square, or building vests in the Board under sub-section (1) and no declaration is made by the Board that the land will be so retained, the Board shall pay to ⁶[the Howrah Municipal Corporation or the Municipality concerned, as the case may be,] as compensation a sum equal to the market value of the said land or building as on the date of the publication of the notification under section 51 and where any building, situated on land in respect of which a declaration has been made by the Board under sub-section (2), is vested in the Board under sub-section (1), like compensation shall be payable in respect of such building by the Board.

¹The words within the square brackets were substituted for the words "give notice accordingly to the Chairman" by s. 21(a)(iii) of the Howrah Improvement (Amendment) Act, 1995 (West Ben. Act XV of 1995).

²The words within the square brackets were substituted for the words "to the Commissioners of the Municipality concerned" by s. 21(a)(iv), *ibid.*

³The words within the square brackets were substituted for the words "Commissioners of the Municipality concerned" by s. 21(a)(v), *ibid.*

⁴The words within the square brackets were substituted for the words "re-vests in the Municipality concerned" by s. 21(b)(i), *ibid.*

⁵The words within the square brackets were substituted for the words "to the Commissioners of the Municipality concerned" by s. 21(b)(ii), *ibid.*

⁶The words within the square brackets were substituted for the words "the Commissioners of the Municipality concerned" by s. 21(c), *ibid.*

XIV of 1956.]

(Chapter III.—Improvement Schemes.—Sections 55, 56.)

(4) If, in any case where the Board have made a declaration in respect of any land under sub-section (2), the Board retain or dispose of the land contrary to the terms of the declaration, so that the land does not ¹[re-vest in the Howrah Municipal Corporation or the Municipality concerned, as the case may be,] as contemplated under such declaration, the Board shall pay to ²[such Corporation or Municipality, as the case may be,] compensation in respect of such land in accordance with the provisions of sub-section (3).

(5) If any question or dispute arises—

- (a) as to whether compensation is payable under sub-section (3) or sub-section (4), or
- (b) as to the sufficiency of the compensation paid or proposed to be paid under sub-section (3) or sub-section (4), or
- (c) as to whether any building, street, square or other land, or any part thereof is required for the purposes of the scheme,

the matter shall be referred to the State Government whose decision shall be final.

55. (1) All the lands acquired by the ³[Howrah Municipal Corporation or any Municipality of Howrah] under the Land Acquisition Act, 1894, for their drainage scheme and described in Part A of Schedule II, excluding the lands described in Part B of the said Schedule, shall vest in the Board.

Lands acquired for drainage scheme to vest in the Board.

(2) The State Government may, by ⁴notification, alter, add or cancel any entry in the said Schedule.

56. (1) When any building, or any street, square or other land, or any part thereof, has vested in the Board under section 54, no municipal drain or waterwork therein shall vest in the Board until another drain or waterwork (as the case may be), if required, has been provided by the Board, to the satisfaction of the ⁵[Howrah Municipal Corporation or the Municipality concerned, as the case may be,] in place of the former drain or work.

Provision of drain or waterwork to replace another situated on land vested in the Board under section 54.

¹The words within the square brackets were substituted for the words "re-vest in the Commissioners of the Municipality concerned" by s. 21(d)(i) of the Howrah Improvement (Amendment) Act, 1995 (West Ben. Act XV of 1995).

²The words within the square brackets were substituted for the words "such Commissioners" by s. 21(d)(ii), *ibid.*

³The words "or the Bally Municipality" were first inserted by s. 27 of the Howrah Improvement (Amendment) Act, 1983 (West Ben. Act XLIII of 1983). Thereafter, the words within the square brackets were substituted for the words "Commissioners of the Howrah Municipality or the Bally Municipality" by s. 22 of the Howrah Improvement (Amendment) Act, 1995 (West Ben. Act XV of 1995).

⁴For notification amending Schedule II to this Act, see notification No. 8399/M.H.—6/59, dated 2nd August, 1960, published in the *Calcutta Gazette* of 1960, Part I, page 2787.

⁵The words within the square brackets were substituted for the words "Commissioners of the Municipality concerned" by s. 23 of the Howrah Improvement (Amendment) Act, 1995 (West Ben. Act XV of 1995).

1 of 1894.

(Chapter III.—Improvement Schemes.—Sections 57-59.)

(2) If any question or dispute arises as to whether another drain or waterwork is required, or as to the sufficiency of any drain or waterwork provided by the Board, under sub-section (1), the matter shall be referred to the State Government whose decision shall be final.

Bar to application of certain sections of the Calcutta Municipal Act, 1923, to streets vested in the Board.

57. (1) Sections 296 and 297, clause (c) of section 306 and section 307 of the Calcutta Municipal Act, 1923, as extended to the ¹[Howrah Municipal Corporation], ²[and the corresponding provisions, if any, under the Bengal Municipal Act, 1932, as in force ³(in any Municipality of Howrah,)] shall not apply to any street which vested in the Board.

Ben. Act III of 1923.

Ben. Act XV of 1932.

(2) Rules 4 and 5 in Schedule XVI to ⁴[the Calcutta Municipal Act, 1923, as extended to the ⁵(Howrah Municipal Corporation) and the corresponding provisions of the rules, if any, made under the Bengal Municipal Act, 1932], shall not apply when any drain, pavement or surface referred to in the said rules is opened or broken up by the Board or when any public street is under construction by the Board.

Repair and watering of streets vested in the Board.

58. Whenever the Board allow any street vested in them to be used for public traffic,

- (a) they shall, as far as practicable, keep the street in good repair and do all things necessary for the safety and convenience of persons using it, and
- (b) they shall cause the street to be watered, if they consider it necessary to do so for the public convenience.

Guarding and lighting when street vested in the Board is opened or broken up or when street is under construction and speedy completion of work.

59. Whenever any drain in, or the pavement or surface of, any street vested in the Board is opened or broken up by the Board for the purpose of carrying on any work or whenever the Board allow any street which they have under construction to be used for public traffic, the Board shall cause the place to be fenced and guarded and to be sufficiently lighted during the night, and shall take proper precautions for guarding against accident by shoring up and protecting adjoining buildings, and shall, with all convenient speed, complete the said work, fill in the ground, and repair the said drain, pavement or surface, and carry away the rubbish occasioned thereby or complete the construction of the said street, as the case may be.

¹The words within the square brackets were substituted for the words "Howrah Municipality" by s. 24(a)(i) of the Howrah Improvement (Amendment) Act, 1995 (West Ben. Act XV of 1995).

²The words and figures within the square brackets were inserted by s. 28(a) of the Howrah Improvement (Amendment) Act, 1983 (West Ben. Act XLIII of 1983).

³The words within the first brackets were substituted for the words "in the Bally Municipality" by s. 24(a)(ii) of the Howrah Improvement (Amendment) Act, 1995 (West Ben. Act XV of 1995).

⁴The words and figures within the square brackets were substituted for the words "the said Act as extended to the Howrah Municipality" by s. 28(b) of the Howrah Improvement (Amendment) Act, 1983 (West Ben. Act XLIII of 1983).

⁵The words within the first brackets were substituted for the words "Howrah Municipality" by s. 24(b) of the Howrah Improvement (Amendment) Act, 1995 (West Ben. Act XV of 1995).

XIV of 1956.]

(Chapter III.—Improvement Schemes.—Sections 60-62.)

60. (1) When any work referred to in section 59 is being executed by the Board in any public street vested in them, or when any other work which may lawfully be done is being executed by the Board in any street vested in them, the Board may direct that such street shall, during the progress of such work, be either wholly or partially closed to traffic generally or to traffic of any specified description.

Prevention or restriction of traffic in street vested in the Board during progress of work.

(2) When any such direction has been given, the Board shall set up in a conspicuous position in or near the street an order prohibiting traffic to the extent so directed, and shall fix such bars, chains or posts across or in the street as they may think proper for preventing or restricting traffic therein, after notifying in local newspapers their intention to do so.

61. When any work is being executed by the Board in any public street vested in them, the Board shall, so far as may reasonably be practicable, make adequate provision for—

Provision of facilities when work is executed by Board in public street vested in them.

- (a) the passage or diversion of traffic;
- (b) securing access to all premises approached from such street; and
- (c) any drainage, water-supply or means of lighting which is interrupted by reason of the execution of the work.

62. (1) The Board may—

Power of Board to turn or close public street or square vested in them.

- (a) turn, divert, discontinue the public use of, or permanently close, any public street vested in them or any part thereof, or
- (b) discontinue the public use of, or permanently close, any public square vested in them, or any part thereof.

(2) Whenever the Board discontinue the public use of, or permanently close, any public street vested in them or any part thereof, they shall pay reasonable compensation to every person who was entitled, otherwise than as a mere licensee, to use such street or part as a means of access and has suffered damage from such discontinuance or closing.

(3) Whenever the Board discontinue the public use of, or permanently close, any public square vested in them, or any part thereof, they shall pay reasonable compensation to every person—

- (a) who was entitled, otherwise than as a mere licensee, to use such square or part as a means of access, or
- (b) whose immovable property was ventilated by such square or part,

and who has suffered damage,—

- (i) in case (a), from such discontinuance or closing, or
- (ii) in case (b), from the use to which the Board have put such

(Chapter III.—Improvement Schemes.—Section 63.)

v. (4) In determining the compensation payable to any person under sub-section (2) or sub-section (3), the Board shall take into consideration any benefit accruing to him from the construction, provision or improvement of any other public street or square at or about the same time that the public street or square or part thereof, on account of which the compensation is paid, is discontinued, or closed.

(5) When any public street or square vested in the Board, or any part thereof, is permanently closed under sub-section (1), the Board may sell, or lease so much of the same as is no longer required.

Projected
public streets
and parks.

63. (1) The Board may from time to time in regard to any area—
 (a) within the ¹[Howrah Municipal Corporation or any Municipality of Howrah,] or
 (b) in the neighbourhood of ²[the said Corporation or the Municipality, as the case may be,]—

make plans of—

- (i) proposed public streets, showing the direction of such streets, the street alignment and building line (if any), on each side of them, their intended width and such other details as may appear desirable, and
 (ii) proposed public parks showing such details as may appear desirable.

(2) When a plan has been made under sub-section (1), the Board shall prepare a notice stating—

- (a) the fact that such plan has been made,
 (b) particulars of the land (shown in such plan) comprised within the proposed public park or through which the proposed public street will pass, or on which the park or the open space will be laid out,
 (c) the place at which the said plan and particulars may be seen at reasonable hours, and
 (d) the period (which shall be not less than thirty days) within which objections to the said plan may be submitted to the Board;

and the Board shall thereupon—

- (i) cause the said notice to be published weekly for two consecutive weeks in the *Official Gazette* and in local newspapers, and in such other manner as the Board may direct, and

¹The words "or the Bally Municipality" were first inserted by s. 29(1)(a) of the Howrah Improvement (Amendment) Act, 1983 (West Ben. Act XLIII of 1983). Thereafter, the words within the square brackets were substituted for the words "Howrah Municipality or the Bally Municipality" by s. 25(a)(i) of the Howrah Improvement (Amendment) Act, 1995 (West Ben. Act XV of 1995).

²The words "those Municipalities" were first substituted for the words "the said Municipality" by s. 29(1)(b) of the Howrah Improvement (Amendment) Act, 1983 (West Ben. Act XLIII of 1983). Thereafter, the words within the square brackets were substituted for the words "those Municipalities" by s. 25(a)(ii) of the Howrah Improvement (Amendment) Act, 1995 (West Ben. Act XV of 1995).

XIV of 1956.]

(Chapter III.—Improvement Schemes.—Section 63.)

- (ii) forward a copy of the said notice to any person whose name appears in the municipal assessment-book as being primarily liable to pay the owner's share of the consolidated rate, or the rate on the annual value of holdings, as the case may be, in respect of any land included within the proposed public street or the proposed public park, and
- (iii) forward a copy of the said notice and of the plan to which it relates to the ¹[Mayor, the Chairman of any Municipality of Howrah] and, if any area in the ²[(neighbourhood of the Howrah Municipal Corporation and of any Municipality of Howrah) is] included in such plan, to the Chairman of the local authority administering any portion of such area, and
- (iv) cause copies of the said notice and plan to be delivered to any applicant on payment of such fee as may be prescribed by rule made under section 149.

(3) On or after a date (not being less than thirty days from the date of the first publication of the notice) to be appointed by the Board in this behalf, the Board shall consider—

- (a) all objections in writing received from any person affected by the plan, and
- (b) any representation in regard to such plan made to the Board by the ³[Howrah Municipal Corporation or any Municipality of Howrah] of the aforesaid local authority,

and the Board may thereupon either withdraw the plan or apply to the State Government for sanction thereto with such modification (if any) as the Board may consider necessary.

(4) If the Board apply for sanction as provided in sub-section (3), they shall simultaneously forward to the State Government a full statement of all objections and representations made to them under the said sub-section.

(5) When a plan as aforesaid has been submitted to the State Government under sub-section (3), the Board shall cause notice of the fact to be published for two consecutive weeks in the *Official Gazette* and in local newspapers.

¹The words "to the Chairman of the Bally Municipality" were first inserted by s. 29(2)(a) of the Howrah Improvement (Amendment) Act, 1983 (West Ben. Act XLIII of 1983). Thereafter, the words within the square brackets were substituted for the words "Chairman of the Howrah Municipality, to the Chairman of the Bally Municipality" by s. 25(b)(i) of the Howrah Improvement (Amendment) Act, 1995 (West Ben. Act XV of 1995).

²The words "Howrah Municipality and of the Bally Municipality is" were first substituted for the words "Howrah Municipality is" by s. 29(2)(b) of the Howrah Improvement (Amendment) Act, 1983 (West Ben. Act XLIII of 1983). Thereafter, the words within the first brackets were substituted for the words "neighbourhood of the Howrah Municipality and of the Bally Municipality" by s. 25(b)(ii) of the Howrah Improvement (Amendment) Act, 1995 (West Ben. Act XV of 1995).

³The words "or the Bally Municipality" were first inserted by s. 29(3) of the Howrah Improvement (Amendment) Act, 1983 (West Ben. Act XLIII of 1983). Thereafter, the words within the square brackets were substituted for the words "Commissioners of the Howrah Municipality or the Bally Municipality" by s. 25(c) of the Howrah Improvement (Amendment) Act, 1995 (West Ben. Act XV of 1995).

(Chapter III.—Improvement Schemes.—Section 63.)

(6) The State Government may sanction, either with or without modification, or may refuse to sanction, any plan submitted to it under sub-section (3).

(7) Whenever the State Government sanctions a plan it shall announce the fact by notification and the publication of such notification shall be conclusive evidence that the plan has been duly made and sanctioned; and the proposed public street or public park to which such notification refers shall be deemed to be a projected public street, or a projected public park, as the case may be, and shall be so deemed until—

- (a) such street or park has been declared under section 65 to be a public street, or public park, or
- (b) the said notification has been cancelled by another notification:

Provided that such cancellation shall not affect the validity of any action taken by the Board in pursuance of the said notification.

(8) If any persons desires to erect, re-erect or add to any wall (exceeding ten feet in height) or building which falls within the area comprised in a projected public park or within the street alignment or building line of a projected public street shown in any plan sanctioned by the State Government under this section, he shall submit an application in writing to the Chairman for permission so to do:

Provided as follows:—

- (i) no such application shall be necessary for permission to erect or re-erect, between a building line and the street alignment,—
 - (a) a porch or balcony, or
 - (b) along not more than one-third of the frontage, an outhouse not exceeding fifteen feet in height;
- (ii) nothing in this sub-section shall relieve any person from the liability to obtain such sanction as it may be necessary to obtain under any law for the time being in force from the local authority.

(9) The Chairman shall in no case refuse an application submitted under sub-section (8) if the applicant executes an agreement binding himself and his successors in interest to remove, without compensation, any wall or building to which that application relates, in the event of the Board—

- (a) deciding (at any time after a scheme has been sanctioned under section 50 for an area within which such building or wall is situate) that the said wall or building, or any portion thereof, ought to be removed, and

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(Chapter III.—Improvement Schemes.—Section 64.)

- (b) calling upon the owner for the time-being, by written notice, to remove the same within a time (not being less than sixty days from the date of the service of the notice) to be specified in the said notice.

(10) If the Chairman does not, within thirty days from the receipt of an application submitted under sub-section (8), grant or refuse the permission applied for thereunder, such permission shall be deemed to have been granted.

(11) If the Chairman refuses permission to any person to erect, re-erect or add to any wall or building as aforesaid which falls—

- (i) within the street alignment of a projected public street, or within a projected public park, or
- (ii) between the street alignment and the building line of a projected public street,

the owner of the land on which it was sought to erect, re-erect or add to such wall or building, may call upon the Board, at any time, within three months from the date of such refusal either—

- (a) to pay him compensation for any damage sustained by him in consequence of such refusal, or
- (b) to acquire so much of his land as falls within the street alignment, or between the street alignment and the building line or within the park or space, as the case may be;

and the Board shall thereupon—

in case (a), make full compensation to the said owner for any damage which he may be found to have sustained in consequence of such refusal, and

in case (b), forthwith take steps to acquire the said land:

Provided that, in the case of such land as falls within the street alignment only, it shall be optional with the Board to acquire the same in lieu of paying compensation therefor.

(12) An appeal shall lie to the Board from any refusal by the Chairman to grant an application under this section.

64. (1) The Board may, for the purpose of the sewage disposal scheme referred to in sub-section (1) of section 33, make plans for the proposed extension of the sewage disposal site showing by reference to the cadastral survey map or otherwise, the location, area, extent and configuration of the lands not immediately required for sewage treatment and disposal but likely to be so required in future.

Board may make plans for future extension of sewage disposal site.

(2) The lands referred to in sub-section (1) may fall wholly without the municipal limits of Howrah or partly within and partly without such limits as the Board may think fit.

(Chapter III.—Improvement Schemes.—Section 65.)

(3) When the Board make a plan of a proposed extension of the sewage disposal site the provisions of sub-sections (2) to (6) of section 63 shall as far as practicable apply.

(4) When the State Government sanctions with or without modification a proposed extension of the sewage disposal site it shall announce the fact by notification.

The publication of such notification shall be conclusive evidence that the plan has been duly made and sanctioned and the proposed extension of the sewage disposal site to which such notification refers shall be deemed to be a projected sewage disposal site.

(5) No new building or wall shall be erected nor any existing building re-erected or added to on any land within the projected sewage disposal site but the owner of the land on which it was sought to erect, re-erect or add to the building or wall may call upon the Board at any time either—

- (a) to pay him compensation, or
- (b) to acquire so much of his land as falls within the projected sewage disposal site,

and the Board shall thereupon—

- in case (a), pay reasonable compensation to the owner, and
- in case (b), forthwith take steps to acquire the land.

Vesting in [(Howrah Municipal Corporation or any Municipality of Howrah,) as the case may be.] of streets laid out or altered, and open spaces provided, by the Board under an improvement scheme.

65. (1) When the Board are of opinion—
- (a) that any street laid out or altered by them has been duly levelled, paved, metalled, flagged, channelled, sewerred and drained in the manner provided in the plan sanctioned by the State Government under section 50,
 - (b) that such lamps, lamp-posts or other apparatus as are necessary for the lighting of such street have been provided, and
 - (c) that water and other sanitary conveniences ordinarily provided in a municipality have been duly provided in such street,

they shall report this fact to the Commissioners of the Howrah Municipality and it shall be the duty of the [(Howrah Municipal Corporation or any Municipality of Howrah,) as the case may be.] within three months from the date of receipt of such report, after such inquiry as they think fit to make, either to declare the street to be a public street by written notice affixed in some conspicuous position in such street,

¹The words "or the Bally Municipality, as the case may be." were first inserted, in section 65, by s. 30 of the Howrah Improvement (Amendment) Act, 1983 (West Ben. Act XLIII of 1983). Thereafter the words within the first brackets were substituted for the words "Commissioners of the Howrah Municipality or the Bally Municipality." by s. 26(a) of the Howrah Improvement (Amendment) Act, 1995 (West Ben. Act XV of 1995).

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(Chapter III.—Improvement Schemes.—Section 65.)

whereupon such street shall vest in the ¹[(Howrah Municipal Corporation or any Municipality of Howrah,) as the case may be,] and be maintained, kept in repair, lighted and cleared by them; or, if the ¹[(Howrah Municipal Corporation or any Municipality of Howrah,) as the case may be,] are of opinion that certain works are required to be done before such declaration may be made, to require the Board to complete such works:

Provided as follows:—

- (a) no engineering or accommodation works, not included in the schemes sanctioned by the State Government under section 50, shall be required to be done by the Board except with the latter's consent as a condition of such transfer;
- (b) when certain works in connection with the street can be taken up only after a lapse of time to allow for consolidation of roads or the erection of buildings on both sides, the declaration shall not be put off till they are completed, but shall be made, within the time prescribed under this subsection on the Board giving an undertaking that they shall complete the works when asked by the ¹[(Howrah Municipal Corporation or any Municipality of Howrah,) as the case may be,] to do so.

(2) As soon as the works required to be done by the ¹[(Howrah Municipal Corporation or any Municipality of Howrah,) as the case may be,] as aforesaid are completed, the Board shall report the fact to them; and it shall be their duty to declare the street to be a public street by written notice affixed in some conspicuous position in such street within two months from the date of receipt of the report, on the expiry of which period the liability of the Board to maintain the street and the street lighting or to pay the municipal rates, if any, assessed on the lands comprised within such street shall cease.

(3) When any open space, park, garden or lake has been provided by the Board in executing any improvement scheme, and the Board are of opinion that such open space, park, garden or lake should be transferred to the Commissioners of the Howrah Municipality, they may pass a resolution to that effect, and such open space, park, garden or lake shall thereupon vest in and be maintained at the expense of the ¹[(Howrah Municipal Corporation or any Municipality of Howrah,) as the case may be,]:

Provided that the Commissioners of the Howrah Municipality may require the Board, before any such open space, park, garden or lake is

¹See foot-note 1 on page 752. *ante*.

(Chapter III.—Improvement Schemes.—Section 66.—Chapter IV.—
Acquisition and Disposal of Land.—Section 67.)

transferred, to enclose, level, drain and lay out such open space, park, garden or lake and provide footpaths therein and, if necessary, to provide lamps and other apparatus for lighting it:

Provided further that no open space, park, garden or lake transferred to the ¹[(Howrah Municipal Corporation or any Municipality of Howrah,) as the case may be,] shall be permanently closed or leased out for building purposes without the previous approval of the State Government.

(4) If any difference of opinion arises between the Board and the ¹[(Howrah Municipal Corporation or any Municipality of Howrah,) as the case may be,] in respect of any matter referred to in the foregoing provisions of this section, the matter shall be referred to the State Government whose decision shall be final:

Provided that the State Government, in deciding a dispute regarding the taking over by the ¹[(Howrah Municipal Corporation or any Municipality of Howrah,) as the case may be,] of a public street, open space, park or garden provided by the Board, may ²[direct the Corporation or the Municipality, as the case may be,] to take it over within a specified date and ³[or the Corporation or the Municipality, as the case may be, falling] to comply with the direction to pay to the Board the cost of its maintenance from the said specified date to the date on which it is taken over.

66. [Application of section 65 to other Municipalities.—Omitted by s. 27 of the Howrah Improvement (Amendment) Act, 1995 (West Ben. Act XV of 1995)].

CHAPTER IV.

Acquisition and Disposal of Land.

Acquisition by agreement and compulsory acquisition.

67. The Board may, for carrying out the purposes of this Act, and with the previous sanction of the State Government—

- (i) enter into an agreement with any person for the purchase, or taking on lease by the Board from such person, of any land or any interest in such land; or

Power to purchase or lease by agreement and to acquire land under the Land Acquisition Act, 1894.

¹The words "or the Bally Municipality, as the case may be," were first inserted, in section 65, by s. 30 of the Howrah Improvement (Amendment) Act, 1983 (West Ben. Act XLIII of 1983). Thereafter, the words within the first brackets were substituted for the words "Commissioners of the Howrah Municipality or the Bally Municipality" in sub-sections (2), (3), (4) and "proviso to sub-section (4)" by ss. 26(b), 26(c), 26(d)(i) and 26(d)(ii)(A), respectively, of the Howrah Improvement (Amendment) Act, 1995 (West Ben. Act XV of 1995).

²The words within the square brackets were substituted for the words "direct the Commissioners" by s. 26(d)(ii)(B), *ibid.*

³The words within the square brackets were substituted for the words "on the Commissioners falling" by s. 26(d)(ii)(C), *ibid.*

XIV of 1956.]

(Chapter IV.—Acquisition and Disposal of Land.—Sections 68-71.)

1 of 1894.

(ii) acquire land under the provisions of the Land Acquisition Act, 1894.

68. The power of the Board to purchase, take on lease or acquire land or any interest in such land under section 67 may be exercised not only in respect of land falling within an improvement scheme already framed but also in respect of land relating to which the Board may frame improvement schemes in future.

Power of Board to acquire land for future improvement scheme.

69. A Tribunal shall be constituted, as provided in section 71, for the purpose of performing the functions of the Court in reference to the acquisition of land for the Board under the Land Acquisition Act, 1894.

Tribunal to be constituted.

70. For the purpose of acquiring land under the said Act for the Board,—

Modification of the Land Acquisition Act, 1894.

- (a) the Tribunal shall (except for the purposes of section 54 of that Act) be deemed to be the Court, and the President of the Tribunal shall be deemed to be the Judge, under the said Act;
- (b) the said Act shall be subject to the further modifications indicated in Schedule I;
- (c) the President of the Tribunal shall have power to summon and enforce the attendance of witnesses, and to compel the production of documents, by the same means, and (so far as may be) in the same manner, as is provided in the case of a Civil Court under the Code of Civil Procedure, 1908; and
- (d) the award of the Tribunal shall be deemed to be the award of the Court under the said Land Acquisition Act, 1894, and shall be final.

Act V of 1908.

71. (1) The said Tribunal shall consist of a President and two assessors.

Constitution of Tribunal.

(2) The President of the Tribunal shall be either—

- (a) a person who was or has been a member of the Judicial Service as defined in article 236 of the Constitution of India for at least ten years and held a rank not inferior to that of a Subordinate Judge for at least three years; or
- (b) a barrister or an advocate who has practised as such in the Calcutta High Court for not less than ten years.

(Chapter IV.—Acquisition and Disposal of Land.—Section 71.)

(3) The President of the Tribunal and one of the assessors shall be appointed by the State Government and the other assessor shall be appointed by the [Howrah Municipal Corporation and the Municipalities of Howrah] within the time fixed by the State Government or in default of the [Howrah Municipal Corporation and the Municipalities of Howrah] by the State Government;

Provided that no person shall be eligible for appointment as a member of the Tribunal if he is a Trustee or is, for any of the reasons mentioned in section 5, disqualified for appointment as a Trustee.

(4) The term of office of each member of the Tribunal shall be two years; but any member shall, subject to the proviso to sub-section (3), be eligible for reappointment at the end of that term:

Provided that a member who is an assessor shall not be eligible for reappointment for more than a further term of two years.

(5) The State Government may, on the ground of incapacity or misbehaviour, or for any other good and sufficient reason, cancel the appointment of any person as a member of the Tribunal after giving the person an opportunity of showing cause against the proposed action.

(6) When any person ceases for any reason to be a member of the Tribunal, or when any member is temporarily absent in consequence of illness or any other unavoidable cause, the State Government or (if the person whose place is to be filled was appointed ²[by the Howrah Municipal Corporation or any Municipality of Howrah] the ³[Howrah Municipal Corporation or the Municipality, as the case may be, or] in default of the ⁴[said Corporation or Municipality, as the case may be,] the State Government shall forthwith appoint a fit person to be a member in his place.

(7) All appointments made under this section shall be published by notification.

¹The words "and the Bally Municipality" were first inserted by s. 32(1) of the Howrah Improvement (Amendment) Act, 1983 (West Ben. Act XLIII of 1983). Thereafter, the words within the square brackets were substituted for the words "Commissioners of the Howrah Municipality and the Bally Municipality" by s. 28(a) of the Howrah Improvement (Amendment) Act, 1995 (West Ben. Act XV of 1995).

²The words "and the Bally Municipality" were first inserted by s. 32(2) of the Howrah Improvement (Amendment) Act, 1983 (West Ben. Act XLIII of 1983). Thereafter, the words within the square brackets were substituted for the words "by the Commissioners of Howrah Municipality and the Bally Municipality" by s. 28(b)(i) of the Howrah Improvement (Amendment) Act, 1995 (West Ben. Act XV of 1995).

³The words "and the Bally Municipality" were first inserted by s. 32(2) of the Howrah Improvement (Amendment) Act, 1983 (West Ben. Act XLIII of 1983). Thereafter, the words within the square brackets were substituted for the words "Commissioners of the Howrah Municipality and the Bally Municipality, or" by s. 28(b)(ii) of the Howrah Improvement (Amendment) Act, 1995 (West Ben. Act XV of 1995).

⁴The words within the square brackets were substituted for the words "said Commissioners," by s. 28(b)(iii), *ibid.*

XIV of 1956.]

(Chapter IV.—Acquisition and Disposal of Land.—Sections 72, 73.)

72. Each member of the Tribunal shall be entitled to receive such remuneration, either by way of monthly salary or by way of fees, or partly in one of those ways and partly in the other, as the State Government may prescribe.

Remuneration of members of Tribunal.

73. (1) The President of the Tribunal shall, from time to time, prepare a statement showing—

Officers and servants of Tribunal.

- (a) the number and grades of the clerks and other officers and servants who he considers should be maintained for carrying on the business of the Tribunal,
- (b) the amount of the salary to be paid to each such officer and servant, and
- (c) the contributions payable under section 155 in respect of each such officer and servant.

(2) The President of the Tribunal shall, from time to time, make rules—

- (i) prescribing the qualifications, the period and conditions of service, the age of superannuation of the officers and servants of the Tribunal;
- (ii) for regulating the grant of leave of absence, leave allowances and acting allowances to the officers or servants of the Tribunal; and
- (iii) for establishing and maintaining a provident or annuity fund, for compelling all or any of the officers or servants of the Tribunal (other than any servant of the Government in respect of whom a contribution is paid under section 155) to contribute to such fund, at such rates and subject to such conditions, as may be prescribed by such rules and, with the sanction of the Board, for supplementing such contribution out of the funds of the Board:

Provided that a servant of the Government employed as an officer or servant of the Tribunal shall not be entitled to leave or leave allowances otherwise than as may be prescribed by the conditions of his service under the Government relating to transfer to foreign service.

(3) No statement prepared under sub-section (1) and no rule made under sub-section (2) shall have any validity unless and until it is sanctioned by the State Government.

(4) Before sanctioning any such statement or rule, the State Government may modify it.

*(Chapter IV.—Acquisition and Disposal of Land.—
Sections 74-76.)*

(5) Subject to any directions contained in any statement prepared under sub-section (1) and any rules made under sub-section (2) and for the time being in force, the power of appointing, promoting and granting leave to officers and servants of the Tribunal, and the power of reducing them in rank, or suspending or dismissing them from service, shall vest in the President of the Tribunal.

Payments by Board on account of Tribunal.

74. The remuneration prescribed under section 72 for members of the Tribunal, and the salaries, leave allowances and acting allowances prescribed under section 73 for officers and servants of the Tribunal, shall be paid by the Board to the President of the Tribunal for distribution:

Provided that when under the provisions of section 78, the functions of the Tribunal are performed by the Tribunal constituted under section 70 of the Calcutta Improvement Act, 1911, the Board shall pay to the Chairman of the Board of Trustees for the Improvement of Calcutta such portion of the remuneration of the assessors and of the salaries and allowances of officers and servants of the said Tribunal as the State Government may, having regard to the work done by the said Tribunal with reference to the acquisition of land for the Board of Trustees for the Improvement of Howrah under the Land Acquisition Act, 1894, determine from time to time.

Ben. Act V
of 1911.

I of 1894.

Power to make rules for Tribunal.

75. (1) The President of the Tribunal may, from time to time, with the previous sanction of the State Government, make rules, not repugnant to the Code of Civil Procedure, 1908, for the conduct of business by the Tribunal.

Act V of
1908.

(2) All such rules shall be published by notification.

Award of Tribunal, how to be determined.

76. (1) For the purpose of determining the award to be made by the Tribunal under the Land Acquisition Act, 1894,—

- (a) if there is any disagreement as to the measurement of land, or the amount of compensation or costs to be allowed, the opinion of the majority of the members of the Tribunal shall prevail;
- (b) questions relating to the determination of the persons to whom compensation is payable or the apportionment of compensation or the investment of money deposited in respect of lands belonging to persons who have no power to alienate the lands may be tried and decided in the absence of the assessors if the President of the Tribunal considers their presence unnecessary; and when so tried and decided, the decision of the President shall be deemed to be the decision of the Tribunal; and

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(Chapter IV.—Acquisition and Disposal of Land.—Section 77.)

- (c) notwithstanding anything contained in the foregoing clauses, the decision on all questions of law and procedure shall rest solely with the President of the Tribunal.

(2) Every award of the Tribunal and every order made by the Tribunal for the payment of money shall be enforced by the Court of the District Judge of Howrah as if it were a decree of that Court.

77. (1) An appeal shall lie to the High Court from an award made under this Chapter, in any of the following cases, namely:— Appeal.

- (a) where the decision is that of the President of the Tribunal sitting alone in pursuance of clause (b) of sub-section (1) of section 76;
- (b) where the decision is that of the Tribunal, and
 - (i) the President of the Tribunal grants a certificate that the case is a fit one for appeal, or
 - (ii) the High Court grants special leave to appeal:

Provided that the High Court shall not grant such special leave unless the President of the Tribunal has refused to grant a certificate under sub-clause (i) and the amount in dispute is not less than five thousand rupees.

(2) An appeal under clause (b) of sub-section (1) shall only lie on (one or more of) the following grounds, namely:—

- (i) the decision being contrary to law or to some usage having the force of law;
- (ii) the decision having failed to determine some material issue of law or usage having the force of law;
- (iii) a substantial error or defect in the procedure provided by the Land Acquisition Act, 1894, which may possibly have produced error or defect in the decision of the case upon the merits.

1 of 1894.

Act V of 1908.

(3) Subject to the provisions of sub-sections (1) and (2), the provisions of the Code of Civil Procedure, 1908, with respect to appeals from original decrees shall, so far as may be, apply to appeals under this section.

IX of 1908.

(4) An appeal under this section shall be deemed to be an appeal under the Code of Civil Procedure, 1908, within the meaning of article 156 of the First Schedule to the Indian Limitation Act, 1908.

(5) The Court of the District Judge, Howrah, shall, on application, execute any order passed by the High Court on appeal under this Act as if it were a decree of that Court

*(Chapter IV.—Acquisition and Disposal of Land.—
Sections 78, 79.)*

State Government may appoint the Tribunal for Calcutta to be the Tribunal for Howrah.

78. Notwithstanding anything contained in sections 69, 71 and 72, the State Government may, by notification, direct that the Tribunal constituted under section 70 of the Calcutta Improvement Act, 1911, for performing the functions of the Court in reference to the acquisition of land for the Board of Trustees for the Improvement of Calcutta shall in addition to the duties assigned to it under the said Act, perform the functions of the Court, in reference to the acquisition of land for the Board of Trustees for the Improvement of Howrah; and thereupon all references to the Tribunal in this Act shall be construed as references to the said Tribunal as if the said Tribunal were constituted under section 69 of this Act.

Ben. Act V
of 1911.

Abandonment of acquisition.

Abandonment of acquisition in consideration of special payment.

79. (1) In any case in which the State Government has sanctioned the acquisition of land, in any area comprised in an improvement scheme which is not required for the execution of the scheme, the owner of the land, or any person having an interest therein, may make an application to the Board, requesting that the acquisition of the land should be abandoned in consideration of the payment by him of a sum to be fixed by the Board in that behalf.

(2) The Board shall admit every such application if it—

(a) reaches them before the time fixed by the Collector, under section 9 of the Land Acquisition Act, 1894, for making claims in reference to the land, and

1 of 1894.

(b) is made by all persons who have interests in the land greater than a lease for years having seven years to run.

(3) If the Board decide to allow any such application, they shall forthwith inform the Collector; and the Collector shall thereupon stay for a period of three months all further proceedings for the acquisition of the land, and the Board shall proceed to fix the sum in consideration of which the acquisition of the land may be abandoned.

(4) Within the said period of three months, or, with the permission of the Board, at any time before the Collector has taken possession of the land, under section 16 of the Land Acquisition Act, 1894, the person from whom the Board have arranged to accept the sum so fixed may, if the Board are satisfied that the security offered by him is sufficient, execute an agreement with the Board, either—

(i) to pay the said sum three years after the date of the agreement, or

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(Chapter IV.—Acquisition and Disposal of Land.—Section 79.)

- (ii) to leave the said sum outstanding as a charge on his interest in the land, subject to the payment in perpetuity of interest at such rate not exceeding ¹[ten per centum per annum] as the State Government may fix by notification, and to make the first annual payment of such interest four years after the date of the agreement:

Provided that the Board may, at any time before the Collector has taken possession of the land under section 16 of the Land Acquisition Act, 1894, accept immediate payment of the said sum instead of an agreement as aforesaid.

1 of 1894.

(5) When any agreement has been executed in pursuance of sub-section (4), or when any payment has been accepted in pursuance of the proviso to that sub-section, in respect of any land, the proceedings for the acquisition of the land shall be deemed to be abandoned.

(6) Every payment due from any person under any agreement executed under sub-section (4) shall be a charge on the interest of that person.

(7) If any instalment of interest payable under an agreement executed in pursuance of clause (ii) of sub-section (4) be not paid on the date on which it is due, the sum fixed by the Board under sub-section (3) shall be payable on that date, in addition to the said instalment.

(8) At any time after an agreement has been executed in pursuance of clause (ii) of sub-section (4), any person may pay off the charge created thereby, with interest, at the rate fixed under the provisions of that clause up to the date of such payment.

(9) When an agreement in respect of any land has been executed by any person in pursuance of sub-section (4), no suit with respect to such agreement shall be brought against the Board by any other person (except an heir, executor or administrator of the person first aforesaid) claiming to have an interest in the land.

(10) When an application has been made under sub-section (1) and the Board are of opinion that the whole or any part of the land belonging to the applicant is not required for the execution of the scheme but that it is necessary that some adjoining land should be purchased by the applicant and amalgamated with his land or the portion not so required, in order to conform to the general layout of the scheme, they may permit the applicant to execute an agreement to purchase the adjoining land abovementioned and may at the same time fix a fee in consideration of

¹The words within the square brackets were substituted for the words "six per centum per annum" by s. 33 of the Howrah Improvement (Amendment) Act, 1983 (West Ben. Act XI III of 1983).

(Chapter IV.—Acquisition and Disposal of Land.—
Sections 80, 81.)

2. which the land not required for the execution of the scheme may be exempted from acquisition. The price of the land sold together with the sum fixed as exemption fee shall then be dealt with in the manner provided in sub-section (4), and if the whole sum payable or any part of it is kept outstanding, it shall be secured as a charge on the applicant's interest in the total area of the land sold to the applicant and of the land exempted. Sub-sections (5), (7) and (8) shall apply to such agreements in the same manner as in the case of total abandonment under the foregoing provisions of this section.

Betterment fee.

Payment of
betterment
fee.

80. (1) When by the making of any improvement scheme, other than a sewage disposal scheme any land in the area comprised in the scheme which is not required for the execution thereof will, in the opinion of the Board, be increased in value, the Board, in framing the scheme, may, in lieu of providing for the acquisition of such land, declare that a betterment fee shall be payable by the owner of the land or any person having an interest therein in respect of the increase in value of the land resulting from the execution of the scheme.

(2) Such betterment fee shall be an amount equal to one-third of the increase in value of the land resulting from the execution of the scheme, and shall be calculated upon the amount by which the value of the land on the completion of the execution of the scheme estimated as if the land were clear of buildings exceeds the value of the land prior to the execution of the scheme estimated in like manner.

Assessment
of betterment
fee by
Board.

81. (1) When it appears to the Board that any particular scheme is sufficiently advanced to enable the amount of the betterment fee to be determined, the Board shall, by a resolution passed in this behalf, declare that for the purpose of determining such fee the execution of the scheme shall be deemed to have been completed and shall thereupon give notice in writing to every person on whom a notice in respect of the land to be assessed has been served under clause (i) of sub-section (1) of section 47 that the Board propose to assess the amount of the betterment fee payable in respect of such land under section 80.

(2) The Board shall then assess the amount of betterment fee payable by each person concerned after giving such person an opportunity to be heard and such person shall, within three months from the date of receipt of notice in writing of such assessment from the Board, inform the Board by a declaration in writing whether he accepts or dissents from the assessment.

(3) When the assessment proposed by the Board is accepted by the person concerned within the period specified in sub-section (2),

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(Chapter IV.—Acquisition and Disposal of Land.—Section 82.)

(4) If the person concerned dissents from the assessment made by the Board or fails to give the Board the information required by sub-section (2) within the period specified therein, the matter shall be determined by arbitrators in the manner provided by section 82.

82. (1) For the determination of the matter referred to in sub-section (4) of section 81, the State Government shall constitute a panel of arbitrators consisting of two parts, the first part of which shall be composed of persons having special knowledge of the valuation of land and the second part of other suitable persons.

Settlement
of betterment
fee by
arbitrators.

(2) When the Board have, in accordance with the provisions of section 81, assessed the amount of betterment fee payable by all persons in respect of land in the area comprised in the scheme, the Board shall serve a notice on all those persons who have dissented from the assessment made by the Board, requiring them to meet at such time and place as may be fixed by the Chairman for the purpose of electing an arbitrator.

(3) For each scheme there shall be a body of two arbitrators, one of whom shall be elected by vote by the persons present at the meeting referred to in sub-section (2) from one part of the panel, and the other shall be appointed by the State Government from the other part of the panel:

Provided that for the purposes of a particular scheme the State Government may, prior to the election referred to in this sub-section, if it thinks fit, modify either part of the panel.

(4) In the event of a difference of opinion on any matter between the two arbitrators, a third arbitrator who shall act as an umpire shall be selected by lot from the first part of the panel, and the decision of the umpire on the matter shall be final.

(5) If an arbitrator dies, resigns, becomes disqualified, is removed under sub-section (6), or refuses to perform or in the opinion of the State Government neglects to perform or becomes incapable of performing his functions, the authority who elected or appointed him shall forthwith elect or appoint a fit person to take the place of such arbitrator.

(6) If the State Government is satisfied after such inquiry as it thinks fit that the arbitrator has misconducted himself, it may remove him.

(7) When an award has been made under this section by the arbitrators or the umpire, as the case may be, the award shall be signed by the arbitrators or the umpire, as the case may be, and shall be forwarded by the arbitrators to the Board, and such award shall, subject to the provisions of sub-section (8), be final and conclusive and binding on all persons.

(Chapter IV.—Acquisition and Disposal of Land.—
Sections 83-86.)

(8) If the State Government is satisfied, after such inquiry as it thinks fit, that an award has been improperly procured or that an arbitrator has misconducted himself in connection with an award, the State Government may set aside the award.

Fees for
arbitrators.

83. The Board shall pay to each arbitrator a fee to be determined by the State Government in respect of the whole of the scheme for which his services are utilized.

Proceedings
of
arbitrators.

84. Notwithstanding anything contained in any other enactment the proceedings of arbitrators under section 82 shall be governed by rules to be made in this behalf under section 148:

Provided that every party to such proceedings shall be entitled to appear before the arbitrators either in person or by his authorised agent.

Board to
give notice
to persons
liable to
payment of
betterment
fees.

85. When the amount of all betterment fees payable in respect of land in the area comprised in the scheme has been determined under section 81 or section 82, as the case may be, the Board shall, by a notice in writing to be served on all persons liable to such payment, fix a date by which such payment shall be made, and interest at the rate of six *per centum per annum* upon any amount outstanding shall be payable from that date.

Agreement
to make
payment of
betterment
fee a charge
on land.

86. (1) Any person liable to the payment of a betterment fee may, at his option, instead of making a payment thereof to the Board, execute an agreement with the Board to leave the said payment outstanding as a charge on his interest in the land, subject to the payment in perpetuity of interest at the rate of ¹[ten *per centum per annum*], the first annual payment of such interest to be made one year from the date referred to in section 85.

(2) Every payment due from any person in respect of a betterment fee and every charge referred to in sub-section (1) shall, notwithstanding anything contained in any other enactment and notwithstanding the existence of any mortgage or other charge whether legal or equitable, be the first charge upon the interest of such person in such land.

(3) The provisions of sub-sections (7), (8) and (9) of section 79 relating, in the case of the payments mentioned in that section, to the non-payment of instalments of interest, the paying off of the charge with interest and the restrictions in respect of suits against the Board, shall apply, *mutatis mutandis*, to the payment of the money payable under an

¹The words within the square brackets were substituted for the words "six *per centum per annum*" by s. 34 of the Howrah Improvement (Amendment) Act, 1983 (West Ben. Act VI of 1983).

XIV of 1956.]

(Chapter IV.—Acquisition and Disposal of Land.—
Sections 87-89.)

agreement made in pursuance of sub-section (1) and of the interest payable in respect thereof.

Recovery of special payments and betterment fees.

87. All money payable in respect of any land by any person under an agreement executed in pursuance of sub-section (4) of section 79, or by any person in respect of a betterment fee under section 81 or section 82, or by any person under an agreement executed in pursuance of sub-section (1) of section 86, shall be recoverable by the Board (together with interest due, up to the date of realization, which shall, in the case of betterment fee under section 81 or section 82, be at the rate of [ten per centum per annum], from the said person or his successor in interest in such land, in the manner provided by the Calcutta Municipal Act, 1923, as extended to the Howrah Municipality, for the recovery of the consolidated rate; and, if not so recovered, the Chairman may, after giving public notice of his intention to do so, and not less than one month after the publication of such notice, sell the interest of the said person or his successor in such land by public auction, and may deduct the said money and the expenses of the sale from the proceeds of the sale, and shall pay the balance (if any) to the defaulter.

Recovery of money payable in pursuance of sections 79, 81, 82 or 86.

Ben. Act III of 1923.

88. The Board may direct by what authority any powers or duties incident under the Calcutta Municipal Act, 1923, as extended to the Howrah Municipality, to the enforcement of any process for the recovery of the consolidated rate shall be exercised and performed when that process is employed under section 87.

Board to appoint persons for enforcement of processes for recovery of dues.

Acquisition on fresh declaration.

89. If any land, in respect of which an agreement has been executed or a payment has been accepted in pursuance of sub-section (4) of section 79, or in respect of which the payment of a betterment fee has been accepted in pursuance of sub-section (3) of section 81, or, has been made after its determination under section 82, or in respect of which an agreement for such payment has been executed under section 86, be subsequently required for any of the purposes of this Act, the agreement or payment shall not be deemed to prevent the acquisition of the land in pursuance of a fresh declaration published under section 6 of the Land Acquisition Act, 1894.

Agreement or payment not to bar acquisition under a fresh declaration.

1 of 1894.

The words within the square brackets were substituted for the words "six per centum per annum" by s. 35 of the Howrah Improvement (Amendment) Act, 1983 (West Ben. Act XLIII of 1983).

(Chapter IV.—Acquisition and Disposal of Land.—
Sections 90, 91.)

Disposal of land.

Power to
dispose of
land.

90. (1) The Board may retain, or may let on hire, lease, sell, exchange or otherwise dispose of, any land vested in or acquired by them under this Act.

(2) Whenever the Board decide to lease or sell any land acquired by them under this Act from any person, they shall give notice by advertisement in local newspapers.

¹(3) Notwithstanding anything contained in sub-section (2) or in any other provision of this Act when ²[the State Government or a Government undertaking or] the Calcutta Metropolitan Development Authority constituted under the Calcutta Metropolitan Development Authority Act, 1972 (hereinafter referred to as the Authority) or the West Bengal Housing Board constituted under the West Bengal Housing Board Act, 1972 (hereinafter referred to as the Housing Board), requires any land vested in or acquired by the Board under this Act, for carrying out any of the purposes of the Act under which the Authority or the Housing Board, as the case may be, was constituted, the Authority or the Housing Board, as the case may be, may ask the Board to let on hire, lease, sell, exchange or otherwise dispose of such land to itself and the Board shall comply with such demand and forthwith transfer possession of such land in favour of the Authority or the Housing Board, as the case may be.

West Ben.
Act XI of
1972.
West Ben.
Act XXXVII
of 1972.

¹(4) The amount of consideration at which any land shall be let on hire, leased, sold, exchanged or otherwise disposed of under sub-section (3) shall be such as may be agreed between the Authority or the Housing Board, as the case may be, and the Board, and if they fail to reach an agreement, the parties or any of them shall refer the matter to the State Government and the decision of the State Government thereon shall be final.

Calcutta
Thika
Tenancy
Act, 1949,
and West
Bengal
Non-Agri-
cultural
Tenancy
Act, 1949,
not to apply.

91. Nothing in the Calcutta *Thika* Tenancy Act, 1949, or in the West Bengal Non-Agricultural Tenancy Act, 1949, shall apply to—

- (a) any land vested in, or in the possession of, the Board; or
- (b) any land which is required for carrying out any of the provisions of this Act; or
- (c) any land held by any tenant under the Board.

West Ben.
Act II of
1949.
West Ben.
Act XX of
1949.

¹Sub-sections (3) and (4) were inserted by s. 36 of the Howrah Improvement (Amendment) Act, 1983 (West Ben. Act XLIII of 1983).

²The words within the square brackets were inserted by s. 29 of the Howrah Improvement (Amendment) Act, 1995 (West Ben. Act XV of 1995).

XIV of 1956.]

(Chapter V.—Taxation.—Sections 92-94.)

CHAPTER V.

Taxation.

Duty on transfers of property.

11 of 1899.

92. (1) The duty imposed by the Indian Stamp Act, 1899, on instruments of sale, gift and usufructuary mortgage, respectively, of immovable property shall, in the case of instruments affecting immovable property situated ¹[in any area within the jurisdiction of the Howrah Municipal Corporation or of any Municipality of Howrah] and executed on or after the commencement of this Act be increased by two per centum on the value of the property so situated, or (in the case of a usufructuary mortgage) on the amount secured by the instrument, as set forth in the instrument.

Duty on certain transfers of immovable property.

(2) All collections resulting from the said increase shall, after deducting incidental expenses (if any), be paid to the Board at such time as may be prescribed by rule made under section 95.

93. (1) For the purposes of section 92 of this Act, section 27 of the Indian Stamp Act, 1899, shall be read as if it specifically required the particulars referred to therein to be set forth separately in respect of—

Particulars to be set forth in documents making transfer of property.

- (a) property situated in ²[any area within the jurisdiction of the Howrah Municipal Corporation or of any Municipality of Howrah], and
- (b) property situated outside ²[any area within the jurisdiction of the Howrah Municipal Corporation or of any Municipality of Howrah].

(2) For the purposes of section 92 of this Act, section 64 of the Indian Stamp Act, 1899, shall be read as if it referred to the Board as well as the Government.

Customs duty in jute.

94. One-half share of the customs duty on jute received by the Board of Trustees for the Improvement of Calcutta under sub-section (2) of section 84 of the Calcutta Improvement Act, 1911, shall be transferred, as often as it is received by the Board of Trustees for the Improvement of Calcutta, to the Board established under this Act.

Distribution of customs duty on exports of jute.

Ben. Act V of 1911.

¹The words "or the Bally Municipality" were first inserted by s. 37 of the Howrah Improvement (Amendment) Act, 1983 (West Ben. Act XLIII of 1983). Thereafter, the words within the square brackets were substituted for the words "in the Howrah Municipality or the Bally Municipality" by s. 30 of the Howrah Improvement (Amendment) Act, 1995 (West Ben. Act XV of 1995).

²The words "and the Bally Municipality" were first inserted by s. 38 of the Howrah Improvement (Amendment) Act, 1983 (West Ben. Act XLIII of 1983). Thereafter, the words within the square brackets were substituted for the words "the Howrah Municipality and the Bally Municipality" by s. 31 of the Howrah Improvement (Amendment) Act, 1995 (West Ben. Act XV of 1995).

(Chapter V.—Taxation.—Sections 95, 95A.—Chapter VI.—Finance.—
Sections 96-98.)

Supplemental Provisions.

Power to
State
Government
to make
rules.

95. (1) The State Government may make ¹rules for carrying out the purposes of this Chapter.

(2) In particular, and without prejudice to the generality of the foregoing power, the State Government may make rules for regulating the collection of taxes imposed by this Chapter, and the payment thereof to the Board.

Power to
State
Government
to issue
direction.

²95A. The State Government may, for the efficient administration of this Act or for such other reasons as it thinks fit, issue from time to time, directions not inconsistent with the provisions of this Act, to the Board and the Board shall carry out such directions.

CHAPTER VI.

Finance.

96. [(Contributions from Municipal Funds).—Omitted by s. 40 of the Howrah Improvement (Amendment) Act, 1983 (West Ben. Act XLIII of 1983).]

State
Government
to pay to the
Board a
share of the
net proceeds
of the
terminal
taxes
assigned
to it.

97. The State Government shall pay to the Board every financial year, on such date or dates as may be fixed by notification, a share to be determined by the State Government, of the net proceeds of so much of the terminal taxes, if any, levied on goods or passengers carried by railway, sea or air, within the State of West Bengal and collected by the Government of India during the financial year next preceding as may be assigned to the State Government under article 269 of the Constitution of India.

Loans.

Power of
Board to
borrow
money.

98. The Board may from time to time borrow at such rate of interest, and for such period, and upon such terms, as to the time and method of repayment and otherwise, as the State Government may approve, any sum necessary for the purpose of—

- (a) meeting expenditure debitable to the capital account under section 133, or
- (b) repaying any loan previously taken under this Act.

¹For rules made in exercise of the power conferred by section 95 for carrying out the purposes of Chapter V, see notification No. 654/M3R-48/56, dated the 22nd January, 1957, of the Local Self-Government Department, published in the *Calcutta Gazette*, dated the 31st January, 1957, Part I, pages 456-57.

²Section 95A was inserted by s. 39 of the Howrah Improvement (Amendment) Act, 1983 (West Ben. Act XLIII of 1983).

XIV of 1956.]

(Chapter VI.—Finance.—Sections 99-103.)

99. Whenever the borrowing of any sum has been approved under section 98, the Board may, instead of borrowing such sum or any part thereof from the public, take credit from any Bank, on a cash account to be kept in the name of the Board, to the extent of such sum or part; and, with the previous sanction of the State Government, may grant mortgages of all or any property vested in the Board by way of securing the payment of the amount of such credit or of the sums from time to time advanced on such cash account with interest.

Loans from Banks.

100. When any sum of money has been borrowed under section 98 or section 99 for the purpose of meeting particular expenditure or repaying a particular loan, no portion thereof shall be applied to any other purpose without the previous sanction of the State Government.

Diversion of borrowed money to purposes other than those first approved.

101. (1) Whenever money is borrowed by the Board on debentures, the debentures shall be in such form as the Board, with the previous sanction of the State Government, may from time to time determine.

Form, signature, exchange, transfer and effect of debentures.

(2) All debentures shall be signed by the Chairman and one other Trustee.

(3) The holder of any debenture in any form prescribed under sub-section (1) may obtain in exchange therefor, upon such terms as the Board may from time to time determine, a debenture in any other form so prescribed.

(4) Every debenture issued by the Board shall be transferable by endorsement, unless some other mode of transfer be prescribed therein.

(5) The right to sue in respect of moneys secured by debentures issued by the Board shall vest in the respective holders of the debentures for the time being, without any preference by reason of some of such debentures being prior in date to others.

102. All coupons attached to debentures issued under this Act shall bear the signature of the Chairman; and such signature may be engraved, lithographed or impressed by any mechanical process.

Signature of coupons attached to debentures.

103. When any debenture or security issued under this Act is payable to two or more persons jointly, and either or any of them dies, then, notwithstanding anything in section 45 of the Indian Contract Act, 1872, the debenture or security shall be payable to the survivor or survivors of such persons:

Payments to survivors of joint payees.

IX of 1872.

Provided that nothing in this section shall affect any claim by the representative of a deceased person against such survivor or survivors.

(Chapter VI.—Finance.—Sections 104-108.)

Receipt by joint holder for interest or dividend.

104. Where two or more persons are joint holders of any debenture or security issued under this Act, any one of such persons may give an effectual receipt for any interest or dividend payable in respect of such debenture or security, unless notice to the contrary has been given to the Board by any other of such persons.

Priority of payments for interest and repayment of loans.

105. All payments due from the Board for interest on, or the repayment of, loans, shall be made in priority to all other payments due from the Board.

Repayment of loans taken under section 98.

106. Every loan taken by the Board under section 98 shall be repaid within the period approved by the State Government under that section, and, subject to the provisions of sub-section (2) of section 135, by such of the following methods as may be so approved, namely:—

- (a) from a sinking fund established under section 107 in respect of the loan, or
- (b) by paying equal yearly or half-yearly instalments of principal, or of principal and interest, throughout the said period, or
- (c) if the Board have, before borrowing money on debentures, reserved, by public notice, a power to pay off the loan by periodical instalments and to select by lot the particular debentures to be discharged at particular periods—then by paying such instalments at such periods, or
- (d) from money borrowed for the purpose under clause (b) of section 98, or
- (e) partly from the sinking fund established under section 107 in respect of the loan, and partly from money borrowed for the purpose under clause (b) of section 98.

Establishment and maintenance of sinking funds.

107. (1) Whenever the State Government has approved the repayment of a loan from a sinking fund the Board shall establish such a fund and shall pay into it in every year, until the loan is repaid, a sum so calculated that, if regularly paid throughout the period approved by the State Government under section 98, it would, with accumulations in the way of compound interest be sufficient, after payment of all expenses, to pay off the loan at the end of that period.

(2) The rate of interest on the basis of which the sum referred to in sub-section (1) shall be calculated shall be such as may be prescribed by the State Government.

Power to discontinue payments into sinking funds.

108. Notwithstanding anything contained in section 107, if at any time the sum standing at credit of the sinking fund established for the repayment of any loan, is of such amount that, if allowed to accumulate at the rate of interest prescribed under sub-section (2) of that section,

XIV of 1956.]

(Chapter VI.—Finance.—Sections 109-111.)

it will be sufficient to repay the loan at the end of the period approved by the State Government under section 98, then, with the permission of the State Government further annual payments into such fund may be discontinued.

109. (1) All money paid into any sinking fund shall as soon as possible be invested, under the orders of the Board, in—

Investment of sinking funds.

- (a) Government securities, or
- (b) securities guaranteed by the Central or any State Government, or
- (c) Calcutta Municipal debentures, or
- (d) debentures issued by the Commissioners for the Port of Calcutta, or
- (e) (i) debentures issued by the Board of Trustees for the improvement of Calcutta, or
(ii) debentures issues by the Board,

in the joint names of the Secretary to the Government of West Bengal in the Finance Department and the Accountant-General, West Bengal, to be held by them as trustees for the purpose of repaying, from time to time, the debentures issued by the Board of Trustees for the improvement of Calcutta or by the Board of Trustees for the improvement of Howrah, as the case may be.

(2) All dividends and other sums received in respect of any such investment shall, as soon as possible after receipt, be paid into the appropriate sinking fund and invested in the manner prescribed by sub-section (1).

(3) Any investment made under this section may, from time to time, subject to the provisions of sub-section (1), be varied or transposed.

110. The aforesaid trustees may from time to time apply any sinking fund, or any part thereof, in or towards the discharge of the loan or any part of the loan for which such fund was established; and until such loan is wholly discharged shall not apply the same for any other purpose.

Application of sinking funds.

111. (1) The aforesaid trustees shall, at the end of every financial year, transmit to the Chairman a statement showing—

Annual statements by trustees.

- (a) the amount which has been invested during the year under section 109,
- (b) the date of the last investment made previous to the transmission of the statement,

(Chapter VI.—Finance.—Sections 112, 113.)

- (c) the aggregate amount of the securities held by them,
- (d) the aggregate amount which has, up to the date of the statement, been applied under section 110 in or towards repaying loans, and
- (e) the aggregate amount already paid into each sinking fund.

(2) Every such statement shall be laid before the Board and published by notification.

Annual examination of sinking funds.

112. (1) The Board shall maintain a proper account of every sinking fund established under section 107 and every such fund shall be subject to annual examination by the Accountant-General, West Bengal, who shall ascertain whether the cash and the current value of the securities at credit of such funds are actually equal to the amount which would have accumulated had investments been regularly made and had the rate of interest as originally estimated been obtained therefrom.

(2) The Board shall forthwith pay into any sinking fund any amount which the Accountant-General, West Bengal, may certify to be deficient, unless the State Government specially sanction a gradual readjustment:

Provided that notwithstanding the existence of a deficiency in any sinking fund the Accountant-General, West Bengal, shall not certify the deficiency if the cash and the current value of all the securities in all the sinking funds at the time of the examination are equal to the amount mentioned in sub-section (1).

Enforcement of liabilities.

Procedure if Board fail to make any payment or investment in respect of loans.

113. If the Board fail—

- (a) to pay any interest due in respect of any loan taken in pursuance of section 98, or
- (b) to make any payment prescribed by section 106, section 107 or sub-section (2) of section 112, or
- (c) to make any investment prescribed by section 109, the Accountant-General, West Bengal, shall make such payment or set aside and invest such sum as ought to have been invested under the said section 109, as the case may be;

and the State Government may attach the rents and other income of the Board; and thereupon the provisions of sub-section (2) of section 118 of the Calcutta Municipal Act, 1923, as extended to the Howrah Municipality, shall, with all necessary modifications, be deemed to apply.

XIV of 1956.]

(Chapter VI.—Finance.—Sections 114-119.)

114. [(Procedure if Commissioners of Howrah Municipality fail to make any payment due to Board.)—Omitted by s. 32 of the Howrah Improvement (Amendment) Act, 1995 (West Ben. Act XV of 1995).]

115. All moneys payable under section 113 shall constitute a charge upon the property of the Board.

Payments under section 113 to be a charge on the property of the Board.

116. If any money borrowed by the Board from the State Government or any interest or costs due in respect thereof, is or are not repaid according to the conditions of the loan, the State Government may attach the rents and other income of the Board or any part thereof or any property of the Board, and thereupon the provisions of sub-section (2) of section 118 of the Calcutta Municipal Act, 1923, as extended to the Howrah Municipality, shall, with necessary modifications, be deemed to apply.

Ben. Act III of 1923.

Procedure if Board fails to repay loans obtained from the State Government.

117. (1) The Chairman shall, at a special meeting to be held in the month of February in each year, lay before the Board an estimate of the income and expenditure of the Board for the next ensuing financial year.

Estimates of income and expenditure to be laid annually before the Board.

(2) Every such estimate shall make provision for the due fulfilment of all the liabilities of the Board and for the efficient administration of this Act.

(3) Every such estimate shall differentiate capital and revenue funds, and shall be prepared in such form, and shall contain such details, as the State Government or the Board may from time to time direct.

(4) Every such estimate shall be completed and printed, and a copy thereof sent, by post or otherwise, to each Trustee, at least ten clear days before the date of the meeting at which the estimate is to be laid before the Board.

118. The Board shall consider every estimate so laid before them, and shall sanction the same, either without alteration or with such alterations, as they may think fit.

Sanction of Board to estimates.

119. (1) Every such estimate, as sanctioned by the Board, shall be submitted to the State Government, who may, at any time within two months after receipt of the same,—

Approval of State Government to estimates.

- (a) approve the estimate, or
- (b) disallow the estimate or any portion thereof, and return the estimate to the Board for amendment

(Chapter VI.—Finance.—Sections 120-123.)

(2) If any estimate is so returned to the Board, they shall forthwith proceed to amend it, and shall resubmit the estimate, as amended, to the State Government, who may then approve it.

Transmission of copy of estimate to Chairman of Howrah Municipality.

120. A copy of every such estimate shall, when approved by the State Government, be sent by the Board to the [Mayor and the Chairmen of all the Municipalities of Howrah.]

Special Provisions as to the first estimate after the constitution of the Board.

121. (1) A special meeting of the Board shall be held as soon as may be expedient after the day appointed under sub-section (1) of section 14, and the Chairman shall at such special meeting lay before the Board an estimate of the income and expenditure of the Board for the portion of the financial year which on the said day had not expired.

(2) The provisions of sub-sections (2) to (4) of section 117, and sections 118 to 120 shall apply to the said estimate.

Supplementary estimates.

122. (1) The Board may, at any time during the year for which any estimate has been sanctioned, cause a supplementary estimate to be prepared and laid before them at a special meeting.

(2) The provisions of sub-sections (3) and (4) of section 117, and sections 118 to 120 shall apply to every supplementary estimate.

Adherence to estimate, and maintenance of closing balance.

123. (1) No sum shall be expended by or on behalf of the Board unless the expenditure of the same is covered by a current budget grant or can be met by reappropriation or by drawing on the closing balance.

(2) The closing balance shall not be reduced below twenty-five thousand rupees without the previous sanction of the State Government.

(3) The following items shall be excepted from the provisions of sub-sections (1) and (2), namely:—

- (a) repayments of moneys belonging to contractors or other persons and held in deposit, and of moneys collected by, or credited to, the Board by mistake;
- (b) payments due under a decree or order of a Court passed against the Board or against the Chairman *ex-officio*, or under an award of the Tribunal;
- (c) sums payable under a compromise of any suit or other legal proceeding or claim effected under section 161;
- (d) sums payable under this Act by way of compensation; and
- (e) payments required to meet some pressing emergency.

"The words "and of the Bally Municipality" were first inserted by s. 42 of the Howrah Improvement (Amendment) Act, 1983 (West Ben. Act XLIII of 1983). Thereafter, the words within the square brackets were substituted for the words "Chairman of the Howrah Municipality and of the Bally Municipality." by s. 33 of the Howrah Improvement (Amendment) Act, 1995 (West Ben. Act XLV of 1995).

XIV of 1956.]

(Chapter VI.—Finance.—Sections 124-127.)

(4) Whenever any sum exceeding five thousand rupees is expended under clause (e) of sub-section (3), the Chairman shall forthwith report the circumstances to the State Government, and shall at the same time explain how the Board propose to cover the expenditure.

Banking and investments.

124. All moneys payable to the Board shall be received by the ¹[Chief Executive Officer], and shall forthwith be paid into the State Bank of India, or any other Bank approved by the State Government to the credit of an account which shall be styled "The Account of the Trustees for the Improvement of Howrah".

Receipts of moneys, and deposit in State Bank of India.

125. (1) Surplus moneys at the credit of the said account may from time to time be—

Investment of surplus money.

- (a) deposited at interest in the State Bank of India or in any other Bank approved by the State Government in this behalf, or
- (b) invested in any of the securities or debentures mentioned in sub-section (1) of section 109 of this Act or in section 20 of the Indian Trusts Act, 1882.

11 of 1882.

(2) All such deposits and investments shall be made by the ²[Chief Executive Officer] on behalf of, and with the sanction of, the Board; and, with the like sanction, the ²[Chief Executive Officer] may at any time withdraw any deposit so made, or dispose of any securities, and redeposit or reinvest the money so withdrawn or the proceeds of the disposal of such securities.

126. (1) No payment shall be made by any Bank out of the account referred to in section 124, except upon a cheque.

Payments by cheque.

(2) Payment of any sum due by the Board exceeding one hundred rupees in amount shall be made by means of a cheque, and not in any other way.

127. All orders for making any deposit, investment, withdrawal or disposal under section 125, and all cheques referred to in section 126, must be signed—

Signature of orders under section 125 and cheques.

- (a) by the ³(Chief Executive Officer) and the Secretary to the Board, or

¹The words within the square brackets were substituted for the word "Chairman" by s. 34 of the Howrah Improvement (Amendment) Act, 1995 (West Ben. Act XV of 1995).

²The words within the square brackets were substituted for the word "Chairman" by s. 35, *ibid.*

³The words within the first brackets were substituted for the word "Chairman" by s. 36, *ibid.*

(Chapter VI.—Finance.—Sections 128-130.)

- (b) in the event of the illness or occasional absence from Howrah of the Chairman or the Secretary, then by the Secretary or the Chairman, as the case may be, and ¹[by an officer of the Board authorised by the ²(Chief Executive Officer) in this behalf.]

Duty of Chairman and others before signing cheque.

128. Before the ³(Chief Executive Officer) ⁴[or the Secretary to the Board or the Officer of the Board authorised by the ³(Chief Executive Officer) in this behalf] signs a cheque under section 127, he must satisfy himself that the sum for which such cheque is drawn is either required for a purpose or work specifically sanctioned by the Board or is an item of one of the excepted descriptions specified in sub-section (3) of section 123.

Accounts of receipts and disbursements how to be kept.

129. Subject to any rules made by the State Government in this behalf, accounts of receipts and disbursements of the Board shall be kept in such manner and in such form as the Board may from time to time prescribe by rule made under section 149.

Accounts.

Definition of "cost of management".

130. (1) The expression "cost of management", as used in the following sections in this Chapter, means—

- (a) the salary and hous-rent and the conveyance allowance (if any) of the Chairman or acting Chairman, and the allowances and contributions referred to in sub-section (2) of section 7;
- (b) all fees paid under section 19, for attendance at meetings;
- (c) the salaries, fees and allowances of, and the contributions paid under section 155 in respect of, officers and servants of the Board including persons employed for the collection of the rents and other proceeds of land vested in the Board who are included in statements prepared under section 27;
- (d) the remuneration of other employees of the Board, except employees whose pay is charged to temporary work;

¹The words within the square brackets were substituted for the words "by a Trustee other than the Chairman" by s. 43 of the Howrah Improvement (Amendment) Act, 1983 (West Ben. Act XLIII of 1983).

²See foot-note 3 on page 223, *ante*.

³The words within the first brackets were substituted for the word "Chairman" by s. 37 of the Howrah Improvement (Amendment) Act, 1995 (West Ben. Act XV of 1995).

⁴The words within the square brackets were substituted for the words "or any other Trustee or the Secretary to the Board" by s. 44 of the Howrah Improvement (Amendment) Act, 1983 (West Ben. Act XLIII of 1983).

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(Chapter VI.—Finance.—Sections 131-133.)

- (e) all payments made under section 74 and section 155 on account of the Board or the Tribunal; and
- (f) all office expenses incurred by the Board or the Tribunal.

(2) The expression "office expenses", in clause (f), means expenses incurred for carrying on office work, including the rent of offices, the provision of furniture and of equipment therefor, the purchase of books, charges for printing, photographing, preparing models and stationery.

131. (1) The Board shall keep a capital account and a revenue account.

Keeping of capital account and revenue account.

(2) The capital account shall show separately all expenditure incurred by the Board on each improvement scheme.

132. There shall be credited to the capital account—

Credits to capital account.

- (a) all sums (except interest) received by way of special payments for betterment fees in pursuance of sections 79, 80 or 87;
- (b) all moneys received on account of loans taken by the Board in pursuance of section 98 or section 99;
- (c) the proceeds of the sale of any land vested in the Board;
- (d) the proceeds of the sale of any movable property (including securities for money invested from the capital account) belonging to the Board;
- (e) all lump sums received from any Government in aid of the capital account;
- (f) all premia received by the Board in connection with leases;
- (g) all sums (if any) which the State Government directs, under sub-section (2) of section 135, to be credited to the capital account; and
- (h) all moneys resulting from the sale of securities by direction of the State Government under section 136.

133. The moneys credited to the capital account shall be held by the Board in trust, and shall be applied to—

Application of capital account.

- (a) meeting all costs of framing and executing improvement schemes;
- (b) meeting the cost of acquiring land for carrying out any of the purposes of this Act;
- (c) meeting the cost of constructing buildings required for carrying out any of the purposes of this Act including buildings required for accommodating the offices for carrying on the work of the Board;

(Chapter VI.—Finance.—Sections 134, 135.)

- (d) the repayment of loans from money borrowed in pursuance of clause (b) of section 98;
- (e) making, or contributing towards the cost of making, surveys, in pursuance of section 174;
- (f) meeting such proportion of the cost of management as the Board may, with the sanction of the State Government, prescribe in this behalf; and
- (g) temporarily making good the deficit (if any) in the revenue account at the end of any financial year.

Credits to
revenue
account.

134. There shall be credited to the revenue account—

- (a) all interest received in pursuance of sections 79, 86 or 87;
- (b) all proceeds received by the Board of taxes imposed by Chapter V;
- (c) all sums contributed from Municipal Funds which are received by the Board under section 96;
- (d) all damages received by the Board under section 169;
- (e) all annually recurring sums received from the Government in aid of the funds of the Board;
- (f) all rents of land vested in the Board; and
- (g) all other receipts by the Board which are not required by section 132 to be credited to the capital account.

Application
of revenue
account.

135. (1) The moneys credited to the revenue account shall be held by the Board in trust, and shall be applied to—

- (a) meeting all charges for interest and sinking fund due on account of any loan taken in pursuance of clause (a) of section 98, or section 99, and all other charges incurred in connection with such loans;
- (b) paying all sums due from the Board in respect of rates and taxes imposed under the Calcutta Municipal Act, 1923, as extended to the Howrah Municipality ¹[or under the Bengal Municipal Act, 1932, as the case may be,] upon land vested in the Board;
- (c) holding or participating in conferences or exhibitions relating to urban improvement;
- (d) paying the fees prescribed for arbitrators under section 83;
- (e) paying all sums which the State Government may direct to be paid to any auditor under section 143;

Ben. Act III
of 1923.

Ben. Act XV
of 1932.

¹The words and figures within the square brackets were inserted by s. 45 of the Howrah Improvement (Amendment) Act, 1943 (West Ben. Act VI III of 1943).

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(Chapter VI.—Finance.—Sections 136-139.)

- (f) paying the cost of management, excluding such proportion thereof as may be debited to the capital account under clause (f) of section 133;
- (g) paying all other sums due from the Board, other than those which are required by section 133 to be disturbed from the capital account; and
- (h) meeting the cost of survey, if any, made by the direction of the Board under section 174.

(2) The surplus (if any) remaining after making the payments referred to in sub-section (1) shall, subject to the maintenance of a closing balance of twenty-five thousand rupees and unless contributed permanently to the capital account under the direction of the State Government or advanced to the capital account under the provisions of section 137, be invested, in the manner prescribed in section 109, towards the service of any loans outstanding after the expiry of sixty years from the commencement of this Act.

136. If, at any time after any surplus referred to in sub-section (2) of section 135, has been invested, the State Government is satisfied that the investment is not needed for the service of any loan referred to in that sub-section, it may direct the sale of the securities held under the investment.

Power to direct sale of securities in which any surplus of the revenue account is invested.

137. (1) Notwithstanding anything contained in section 135, the Board may advance any sum standing at the credit of the revenue account for the purpose of meeting capital expenditure.

Advances from revenue account to capital account.

(2) Every such advance shall, unless a direction is given by the State Government under sub-section (2) of section 135, be refunded to the revenue account as soon as may be practicable.

138. (1) Any deficit in the revenue account at the end of any financial year may be made good by an advance from the capital account.

Advances from capital account to revenue account.

(2) Every such advance shall be refunded to the capital account in the following financial year.

139. The Board may, for reasons to be recorded in writing, order to be struck off the books any sum due to the Board which may appear to them to be irrecoverable: provided that the prior sanction of the State Government shall be obtained if the sum exceeds two hundred and fifty rupees.

Striking off irrecoverable sum.

(Chapter VI.—Finance.—Sections 140-145.)

Submission of abstracts of accounts of State Government.

140. The Board shall submit to the State Government at the end of each half of every financial year, an abstract of the accounts of their receipts and expenditure.

Annual audit of accounts.

141. The accounts of the Board shall, once in every financial year, be examined and audited by such auditor as the State Government may appoint in this behalf.

Powers of auditor.

142. The auditor so appointed may,—

- (a) by written summons require the production before him of any document which he may consider necessary for the proper conduct of the audit;
- (b) by written summons require any person having the custody or control of, or being accountable for, any such document to appear in person before him; and
- (c) require any person so appearing before him to make and sign a declaration with respect to any such document, to answer any question or to prepare and submit any statement.

Remuneration of auditor.

143. The Board shall pay to the said auditor such remuneration as the State Government may direct.

Reports and information to be furnished by auditor to the Board.

144. The said auditor shall—

- (a) report to the Board any material impropriety or irregularity which he may observe in the expenditure, or in the recovery of moneys due to the Board, or in the accounts, and report the same to the State Government;
- (b) furnish to the Board such information as they may from time to time require concerning the progress of his audit; and
- (c) within fourteen days after the completion of his audit, forward his report upon the accounts to the Chairman.

Board to remedy defects pointed out by auditor.

145. (1) It shall be the duty of the Board forthwith to remedy any defects or irregularities that may be pointed out by the auditor.

(2) If there is a difference of opinion between the Board and the auditor or if the Board do not remedy any defect or irregularity within a period considered by the auditor to be reasonable, the matters shall be referred to the State Government within such time and in such

¹For notification appointing the Accountant-General, West Bengal, in the Local Audit Department as Auditor of the Accounts of the Board of Trustees for the Improvement of Howrah, see notification No. 8112/M.2A—26/57, dated 5.11.57, published in the *Calcutta Gazette* of 1957, Part I, page 3958

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(Chapter VI.—Finance.—Sections 146, 147.—Chapter VII.—
Rules.—Section 148.)

manner as the State Government may prescribe by rule and it shall be competent to the State Government to pass such orders thereon as it thinks fit. The orders of the State Government shall be final and the Board shall take action in accordance therewith.

(3) If within any period fixed by an order made by the State Government under sub-section (2), the Board fail to comply with such order, the State Government may direct the Chairman to comply with the order and the cost of taking action by the Chairman for complying with the order shall be a charge on the revenue account of the Board.

146. The Chairman shall cause the report mentioned in clause (c) of section 144, to be printed and shall forward a printed copy thereof to each Trustee, and shall bring such report before the Board for consideration at their next meeting.

Auditor's report to be sent to each Trustee and considered by Board.

147. As soon as practicable after the receipt of the said report, the Board shall prepare an abstract of the accounts to which it relates, and shall publish such abstract by notification, and shall send a copy of the abstract to the [Mayor, the Chairmen of the Municipalities of Howrah and] the State Government.

Publication and transmission of an abstract of the accounts.

CHAPTER VII.

Rules.

148. In addition to the power conferred by section 95, the State Government may make ²rules—

Further powers to State Government for making rules.

* * * * *

(2) for prescribing the maximum sum which may be paid to any person by way of fees under section 19;

¹The words ", the Chairman of the Bally Municipality" were first inserted by s. 46 of the Howrah Improvement (Amendment) Act, 1983 (West Ben. Act XLIII of 1983). Thereafter, the words within the square brackets were substituted for the words "Chairman of the Howrah Municipality and to" by s. 38 of the Howrah Improvement (Amendment) Act, 1995 (West Ben. Act XV of 1995).

²For "the Howrah Improvement (Election of Trustees by Municipal Commissioners) Rules, 1957", made in exercise of the power conferred by section 148, see notification No. 1970/M-3R-1/57, dated the 13th March, 1957, of the Local Self-Government Department, published in the *Calcutta Gazette*, dated the 21st March, 1957, Part I, pages 1059-1061.

For rules made in exercise of the power conferred by section 148 for regulating elections under clause (d) of sub-section (1) of section 4 of this Act, see notification No. 652/M3R-48/56, dated the 22nd January, 1957 of the Local Self-Government Department, published in the *Calcutta Gazette*, dated the 31st January, 1957, Part I, pages 453-456.

For rules made under sub-section (3) of section 4 and the proviso to sub-section (2) of section 14, in exercise of the power conferred by section 148, see notification No. 653/M3R-48/56, dated the 22nd January, 1957, published in the *Calcutta Gazette*, dated the 31st January, 1957, Part I, page 456.

³Clause (1) to section 148 was omitted by s. 39 of the Howrah Improvement (Amendment) Act, 1995 (West Ben. Act XV of 1995)

(Chapter VII.—Rules.—Sections 149, 150.)

- (3) for determining the qualifications and disqualifications of, the conditions and mode of election, selection or appointment of, an arbitrator and for regulating the proceedings of arbitrators under section 82; and
- (4) for prescribing the form of the abstracts of accounts referred to in sections 140 and 147.

Further powers to Board for making rules.

149. (1) In addition to the power conferred by section 28, the Board may from time to time make rules (not inconsistent with any rules made by the State Government or the President of the Tribunal under this Act) for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, the Board may make rules—

- (a) for associating members with the Board under section 16;
- (b) for appointing persons (other than Trustees and persons associated with the Board under section 16) to be members of Committees under section 17;
- (c) for regulating the delegation of powers or duties of the Board to Committees under section 17;
- (d) for the guidance of persons employed by them under this Act;
- (e) for prescribing the fees payable for copies of documents delivered under sub-section (3) of section 45, or clause (iv) of sub-section (2) of section 63;
- (f) for the maintenance and management of dwellings and shops constructed under rehousing schemes.

(3) In making any rule under sub-section (1) or sub-section (2), the Board may provide that a breach of it shall be punishable—

- (i) with fine which may extend to five hundred rupees, or
- (ii) in case of a continuing breach, with fine which may extend to fifty rupees for every day during which the breach continues after receipt of written notice from the Chairman to discontinue the breach.

(4) No rule made under this section shall have any validity unless and until it is sanctioned, with or without modification, by the State Government.

Conditions precedent to the making of rules under sections 95, 148 or 149.

150. The power to make rules under section 95, section 148 or section 149 shall be subject to the condition of the rules being made after previous publication, and to the following further conditions, namely,—

- (a) a draft of the rules shall be published by notification and in local newspapers;

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Supplemental Provisions.—Section 154.)

- (b) such draft shall not be further proceeded with until after the expiration of a period of one month from such publication or such longer period as the State Government or (in the case of rules made under section 149) the Board may appoint;
- (c) for one month at least during such period, a printed copy of such draft shall be kept at the Board's office for public inspection and every person shall be permitted at any reasonable time to peruse the same, free of charge;
- (d) printed copies of such draft shall be supplied to any person requiring the same, on payment of a fee of [one rupee] for each copy.

151. When any rule has been made by or with the sanction of the State Government under section 95 or section 148 or section 149, it shall be published by the State Government by notification, and such publication shall be conclusive proof that the rule has been duly made.

Publication of rules.

152. The Chairman shall cause all rules mentioned in the foregoing section to be printed and copies to be supplied to any applicant on payment of a fee of [one rupee] for each copy.

Printing and sale of copies of rules.

153. Copies, in English and Bengali, of all rules made under section 148 or section 149 shall be hung or affixed in some conspicuous part of the Board's office and in such places of public resort affected by the rules as the Chairman may think fit.

Exhibition of copies of rules.

CHAPTER VIII.

Supplemental Provisions.

Status of Trustees, etc.

154. Every Trustee, and every officer and servant of the Board, and every member and officer and servant of the Tribunal, shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Trustees, etc., deemed public servants.

Act XLV of 1860.

¹The words within the square brackets were substituted for the words "two annas" by s. 48 of the Howrah Improvement (Amendment) Act, 1983 (West Ben. Act XLIII of 1983).

²The words within the square brackets were substituted for the words "two annas" by s. 49, *ibid.*

(Chapter VIII.—Supplemental Provisions.—Sections 155-160.)

Contributions towards leave allowance and pensions of servants of the Government.

Contributions by Board towards leave allowances and pensions of servants of the Government employed under this Act.

155. The Board shall be liable to pay such contributions for the leave allowances and pensions of any servant of the Government employed as Chairman or as an officer or servant of the Board, or as a member or officer or servant of the Tribunal, as may be required, by the conditions of his service under the Government to be paid by him or on his behalf.

156. [(Power to extend the Bengal Municipal Act, 1932, to areas in the neighbourhood of Howrah Municipality to which the provisions of the present Act have been extended.)—Omitted by s. 40 of the Howrah Improvement (Amendment) Act, 1995 (West Ben. Act XV of 1995).]

157. [(Publication of notifications under sections 1(3) and 156(1) in draft, for criticism.)—Omitted by s. 41, *ibid.*]

Saving of Telegraph and Railways Acts.

158. Nothing in this Act shall be deemed to affect the provisions of the Indian Telegraph Act, 1885, or the Indian Railways Act, 1890.

XIII of 1885.
IX of 1890.

Legal Proceedings.

Cognizance of offences.

159. Notwithstanding contained in the Code of Criminal Procedure, 1898,—

Act V of 1898.

all offences against this Act or any rule made hereunder shall, wherever committed, be cognizable by a Magistrate of the first or second class,

and no such Magistrate shall be deemed to be incapable of taking cognizance of any such offence by reason only of being liable to pay any tax imposed by this Act or of his being benefited by the funds to the credit of which any fine imposed by him will be payable.

Limitation of time for prosecution.

160. No person shall be liable to punishment for any offence against this Act or any rule made hereunder unless complaint of such offence is made before a Magistrate of the first or second class ¹[within three months next after the detection of the commission of such offence].

¹The words within the square brackets were substituted for the words "within three months next after the commission of such offence" by s. 50 of the Howrah Improvement (Amendment) Act, 1983 (West Ben. Act XLIII of 1983).

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(Chapter VIII.—Supplemental Provisions.—Sections 161-164.)

161. The Chairman may, subject to the control of the Board,—

- (a) institute, defend or direct the withdrawal of, legal proceedings under this Act or any rule made hereunder;
- (b) compound any offence against this Act or any rule made hereunder which, under any law for the time being in force, may lawfully be compounded;
- (c) admit, compromise or withdraw any claim made under this Act or any rule made hereunder; and
- (d) obtain such legal advice and assistance as he may from time to time think it necessary or expedient to obtain, or as he may be desired by the Board to obtain, for any of the purposes referred to in the foregoing clauses of this section, or for securing the lawful exercise or discharge of any power or duty vested in or imposed upon the Board or any officer or servant of the Board.

Powers of Chairman as to institution, etc., of legal proceedings and obtaining legal advice.

162. No suit shall be maintainable against the Board, or any Trustee, or any officer or servant of the Board, or any person acting under the direction of the Board or of the Chairman or of any officer or servant of the Board, in respect of anything done lawfully and in good faith and with due care and attention under this Act or any rule made hereunder.

Indemnity to Board, etc.

163. No suit shall be instituted against the Board, or any Trustee, or any officer or servant of the Board, or any person acting under the direction of the Board or of the Chairman or of any officer or servant of the Board, in respect of any act purporting to be done under this Act or any rule made hereunder—

Notice of suit against Board, etc.

until the expiration of one month next after written notice has been delivered or left at the Board's office or the place of abode of such officer, servant or person, stating the cause of action, the name and place of abode of the intending plaintiff, and the relief which he claims;

and the plaint shall contain a statement that such notice has been so delivered or left.

Police.

164. (1) The Superintendent of Police, Howrah, and his subordinates shall co-operate with the Chairman for carrying into effect and enforcing the provisions of this Act.

Co-operation of the police.

(Chapter VIII.—Supplemental Provisions.—Sections 165-167.)

(2) It shall be the duty of every police officer who is subordinate to the Superintendent of Police, Howrah—

- (i) to communicate without delay to the proper officer or servant of the Board any information which he receives of a design to commit or of the commission of any offence against this Act or any rule made hereunder, and
- (ii) to assist the Chairman or any officer or servant of the Board reasonably demanding his aid for the lawful exercise of any power vesting in the Chairman or in such officer or servant under this Act or any such rule.

Arrest of
offenders.

165. (1) Every police officer may arrest any person who commits, in his view, any offence against this Act or any rule made hereunder, if the name and address of such person be unknown to him, and if such person, on demand, declines to give his name and address, or gives a name or address which such officer has reason to believe to be false.

(2) No person so arrested shall be detained in custody after his true name and address are ascertained, or without the order of a Magistrate, for any longer time, not exceeding twenty-four hours from the arrest, than is necessary for bringing him before a Magistrate.

(3) Any police officer above the rank of a constable may arrest any person who obstructs any officer or servant of the Board in the exercise of any of the powers conferred by this Act or any rule made hereunder.

Evidence.

Proof of
consent, etc.,
of Board or
Chairman or
officer or
servant of
Board.

166. Whenever, under this Act or any rule made hereunder, the doing or the omitting to do anything or the validity of anything depends upon the approval, sanction, consent, concurrence, declaration, opinion or satisfaction of—

- (a) the Board or the Chairman, or
- (b) any officer or servant of the Board,

a written document, signed, in case (a) by the Chairman, and in case (b) by the said officer or servant, purporting to convey or set forth such approval, sanction, consent, concurrence, declaration, opinion or satisfaction, shall be sufficient evidence of such approval, sanction, consent, concurrence, declaration, opinion or satisfaction.

Validation.

Validation of
acts and
proceedings.

167. (1) No act done or proceeding taken under this Act shall be questioned on the ground merely of—

- (a) the existence of any vacancy in, or any defect in the constitution of, the Board or any Committee; or

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- (b) any person having ceased to be a Trustee; or
- (c) any Trustee, or any person associated with the Board under section 16, or any other member of a committee appointed under this Act, having voted or taken any other part in any proceeding in contravention of section 20; or
- (d) the failure to serve a notice under section 47 on any person where no substantial injustice has resulted from such failure; or
- (e) any omission, defect or irregularity not affecting the merits of the case.

(2) Every meeting of the Board, the minutes of the proceedings of which have been duly signed as prescribed in clause (h) of section 15, shall be taken to have been duly convened and to be free from all defect and irregularity.

Compensation.

168. In any case not otherwise expressly provided for in this Act, the Board may pay reasonable compensation to any person who sustains damage by reason of the exercise of any of the powers vested, by this Act or any rule made or scheme sanctioned hereunder, in the Board or the Chairman or any officer or servant of the Board.

General power of Board to pay compensation.

169. (1) If, on account of any act or omission, any person has been convicted of an offence against this Act or any rule made hereunder, and, by reason of the same act or omission of the said person, damage has occurred to any property of the Board, compensation shall be paid by the said person for the said damage, notwithstanding any punishment to which he may have been sentenced for the said offence.

Compensation to be paid by offenders for damage caused by them.

(2) In the event of dispute, the amount of compensation payable by the said person shall be determined by the Magistrate before whom he was convicted of the said offence.

(3) If the amount of any compensation due under this section be not paid, the same shall be recovered under a warrant from the said Magistrate, as if it were a fine inflicted by him on the person liable therefor.

Public notices and advertisements.

170. Every public notice given under this Act or any rule made hereunder shall be in writing over the signature of the Chairman, and shall be widely made known in the locality to be affected thereby, by

Public notices how to be made known.

(Chapter VIII.—Supplemental Provisions.—Sections 171-174.)

affixing copies thereof in conspicuous public places within the said locality, or by publishing the same by beat of drum or by advertisement in local newspapers, or by any two or more of these means, and by any other means that the Chairman may think fit.

Newspapers in which advertisements or notices to be published.

171. Whenever it is provided by this Act or any rule made hereunder that notice shall be given by advertisement in local newspapers, or that notification or any information shall be published in local newspapers, such notice, notification or information shall be inserted, if practicable, in at least two English newspapers and two vernacular newspapers published in Howrah or Calcutta.

Signature and service of notices or bills.

Stamping signatures on notices or bills.

172. Every notice or bill, which is required by this Act or by any rule made hereunder to bear the signature of the Chairman or of any other Trustee or of any officer or servant of the Board, shall be deemed to be properly signed if it bears a facsimile of the signature of the Chairman or of such other Trustee or of such officer or servant, as the case may be, stamped thereupon.

Service how to be effected.

173. When any notice, bill or other document is required by this Act or any rule made hereunder to be served upon or issued or presented to any person, such service, issue or presentation shall be effected—

- (a) by giving or tendering such document to such person; or
- (b) if such person is not found, by leaving such document at his last known place of abode in Howrah, or by giving or tendering the same to some adult male member or servant of his family; or
- (c) if such person does not reside in Howrah, and his address elsewhere is known to the Chairman, by forwarding such document to him by registered post under cover bearing the said address; or
- (d) if none of the means aforesaid be available, by causing a copy of such document to be affixed on some conspicuous part of the land (if any) to which the document relates.

Surveys.

Power to make surveys, or contribute towards their cost.

174. The Board may—

- (a) cause a survey of any land to be made, whenever they consider that a survey is necessary or expedient for carrying out any of the purposes of this Act, or

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- (b) contribute towards the cost of any such survey made by any other local authority.

Power of entry:

175. (1) The Chairman or any other officer of the Board authorized by him in this behalf may, with or without assistants or workmen, enter into or upon any land, in order—

Power of entry.

- (a) to make any inspection, survey, measurement, valuation or inquiry,
- (b) to take levels,
- (c) to dig or bore into the sub-soil,
- (d) to set out boundaries and intended lines of work,
- (e) to mark such levels, boundaries and lines by placing marks, and cutting trenches, or
- (f) to do any other thing,

whenever it is necessary to do so for any of the purposes of this Act or any rule made or scheme sanctioned hereunder or any scheme which the Board intend to frame hereunder:

Provided as follows:—

- (i) no such entry shall be made between sunset and sunrise;
- (ii) no dwelling-house, and no public building or hut which is used as a dwelling-place, shall be so entered, unless with the consent of the occupier thereof, without giving the said occupier at least twenty-four hours' previous written notice of the intention to make such entry;
- (iii) sufficient notice shall in every instance be given, even when any premises may otherwise be entered without notice, to enable the inmates of any apartment appropriated to females to remove to some part of the premises where their privacy need not be disturbed;
- (iv) 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 premises entered.

(2) Whenever the Chairman enters into or upon any land in pursuance of sub-section (1), he shall at the time of such entry pay or tender payment of all necessary damage to be done as aforesaid; and, in case of dispute as to the sufficiency of the amount so paid or tendered, he shall at once refer the dispute to the Board, whose decision shall be final.

*(Chapter VIII.—Supplemental Provisions.—Sections 176-179.)**Penalties.*

Punishment for acquiring share or interest in contract, etc., with the Board.

176. If any Trustee, or any officer or servant of the Board, knowingly acquires, directly or indirectly, by himself or by any partner, employer or employee, otherwise than as such Trustee, officer or servant, any share or interest in any contract or employment with, by, or on behalf of, the Board, not being a share or interest such as, under sub-section (2) of section 5, it is permissible for a Trustee to have without being thereby disqualified for being appointed a Trustee, he shall be deemed to have committed the offence made punishable by section 168 of the Indian Penal Code.

Act XLV of 1860.

Penalty for removing fence, etc., in street.

177. If any person, without lawful authority,—
 (a) removes any fence or shoring-timber, or removes or extinguishes any light, set up under section 59, or
 (b) infringes any order given, or removes any bar, chain or post fixed, under sub-section (2) of section 60,
 he shall be punishable with fine which may extend to fifty rupees.

Penalty for building within street alignment or building line of a projected public street.

178. If any person, without the permission of the Chairman required by sub-section (8) of section 63, erects, re-erects or adds to any wall (exceeding ten feet in height) or building which falls within the street alignment or building line of a projected public street ¹[or a projected public park] shown in any plan sanctioned by the State Government under the said section, or erects, re-erects or adds to any building or wall on any land scheduled for the proposed future extension of the sewage disposal site under section 64, he shall be punishable—

- (a) with fine which may extend, in the case of a masonry building or a wall, to five hundred rupees, and, in the case of a hut, to fifty rupees, and
- (b) with further fine which may extend, in the case of a masonry building or a wall, to one hundred rupees, and, in the case of a hut, to ten rupees for each day after the first during which the projection continues.

Penalty for failure to remove wall or building in respect of which agreement has been executed.

179. If the owner for the time being of any wall or building in respect of which an agreement has been executed as provided in sub-section (9) of section 63, fails—

- (a) to remove such wall or building, or any specified portion thereof, when so required by notice issued under that sub-section, or,

¹The words within the square brackets were inserted by s. 51 of the Howrah Improvement

XIV of 1956.]

(Chapter VIII.—Supplemental Provisions.—Sections 180-182.)

- (b) within fifteen days from the receipt of such notice, to authorize the Chairman, by permission in writing, to remove the said wall, building or portion,

he shall be punishable—

- (i) with fine which may extend, in the case of a masonry wall or building, to one hundred rupees, and, in the case of a hut, to twenty rupees, and
- (ii) with further fine which may extend, in the case of a masonry wall or building, to ten rupees, and, in the case of a hut, to five rupees, for each day after the first during which the failure continues.

180. If any person fails to comply with any requisition made under section 142, he shall be punishable—

Penalty for failure to comply with requisition made by auditor.

- (a) with fine which may extend to one hundred rupees; or
- (b) in case of a continuing failure, with fine which may extend to fifty rupees for each day after the first during which the failure continues.

181. If any person—

Penalty for obstructing contractor or removing mark.

- (a) obstructs or molests any person with whom the Chairman has entered into a contract on behalf of the Board, in the performance or execution by such person of his duty or of anything which he is empowered or required to do by virtue or in consequence of this Act or any rule made hereunder, or
- (b) removes any mark set up for the purpose of indicating any level or direction necessary to the execution of works authorized by this Act or any rule made or scheme sanctioned hereunder,

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

Recovery of expenses.

182. When a written notice, issued under sub-section (9) of section 63, for the removal of a wall or building, or any portion thereof, is not complied with by the owner thereof for the time being as provided in section 179, the Chairman may proceed to remove such wall, building or portion and the expenses incurred in effecting such removal shall be recoverable by sale of the property.

Removal of wall or building and recovery of expenses.

(Chapter VIII.—Supplemental Provisions.—Sections 183, 184, 184A.)

Suspension or abolition, and re-imposition of taxation or municipal contributions.

Suspension or abolition, and re-imposition of taxation or municipal contributions.

183. (1) Whenever the State Government considers that any duty or tax imposed by Chapter V, or any payment required by section 96, or any portion of any such duty, tax or payment, as the case may be, is not required for the purposes of this Act, it may by notification,—

- (a) suspend, for any specified period, the levy of such duty or tax or any specified portion thereof, or the making of such payment or any specified portion thereof, or
- (b) abolish such duty, tax or payment, or any specified portion thereof, from a date to be specified in the notification.

(2) If at any time the State Government considers that any duty, tax or payment, or any portion thereof, which has been suspended or abolished under sub-section (1) is required for the purposes of this Act, it may, by notification, cancel such suspension or abolition, wholly or in part, as it may think fit, from a date to be specified in the notification.

Dissolution of Board.

Power of State Government to supersede the Board.

184. (1) If in the opinion of the State Government it is necessary so to do with a view to better co-ordination and speedier execution of development work and maintenance thereof the State Government may, by an order published in the *Official Gazette* and mentioning therein the reason for the order, supersede the Board for such period as may be specified in the order.

(2) For the removal of doubts it is hereby declared that no notice whatsoever is required to be given to the Board for submission of any representation before making any such order of supersession under sub-section (1).

(3) The State Government may, if it considers necessary so to do, by order, extend or modify from time to time the period of supersession.

Consequences of supersession.

184A. (1) When an order of supersession has been made under section 184, then with effect from the date of the order—

- (a) all Trustees of the Board and all members of other persons constituting committees shall vacate their respective offices;

¹Sections 184 and 184A were substituted for original section 184 by the schedule, [which was inserted, in the principal Act, by s. 6 of the Calcutta Metropolitan Development Authority (Amendment) Act, 1974 (West Ben. Act XXI of 1974),] to the Calcutta Metropolitan Development Authority Act, 1972 (West Ben. Act XI of 1972).

XIV of 1956.]

(Chapter VIII.—Supplemental Provisions.—Section 184A.)

- (b) all properties, funds and dues which are vested in or realisable by the Board and the Chairman, respectively, shall vest in and be realisable by the Calcutta Metropolitan Development Authority constituted under section 3 of the Calcutta Metropolitan Development Authority Act, 1972 (hereinafter referred to as the Metropolitan Authority);
- (c) all contracts and liabilities which are enforceable by or against the Board shall be enforceable by or against the Metropolitan Authority;
- (d) all the powers and duties which may, under the provisions of this or any other Act or any rule, regulation, bye-law, order or notification made thereunder, be exercised or performed by the Board, Committee or the Chairman shall be exercised or performed by the Metropolitan Authority;
- (e) all legal proceedings instituted by or against the Board may be continued or enforced by or against the Metropolitan Authority;
- (f) all officers and other employees of the Board continuing in office immediately before the date of the order shall be deemed to be employed by the Metropolitan Authority on such terms and conditions not being less advantageous than what they were entitled to immediately before the said date.

(2) The State Government shall, before the expiration of the period of supersession, reconstitute the Board in accordance with the provisions of this Act.

(3) The State Government may make such incidental or consequential orders as may appear to it to be necessary for giving effect to the order made under sub-section (1) or (3) of section 184 or under sub-section (2) of this section.

(Schedule I.)

- (b) all liabilities which are enforceable against the Board shall be enforceable only against the Commissioners of the Howrah Municipality;
- (c) for the purpose of completing the execution of any scheme, sanctioned under this Act, which has not been fully executed by the Board, and of realizing properties, funds and dues referred to in clause (a), the functions of the Board and the Chairman under this Act shall be discharged by the Chairman of the Howrah Municipality; and
- (d) the Commissioners of the Howrah Municipality shall keep separate accounts of all moneys respectively received and expended by them under this Act until all loans raised hereunder have been repaid, and until all other liabilities referred to in clause (b) have been duly met.

SCHEDULE I.

(Referred to in section 70.)

Further modifications in the Land Acquisition Act, 1894.

1 of 1894.

Amendment
of section 3.

1. After clause (e) of section 3, the following clause shall be deemed to be inserted, namely:—

'(e1) the expression "local authority" includes the Board of Trustees constituted under the Howrah Improvement Act, 1956.'

New section
6A.

2. After section 6, the following section shall be deemed to be inserted, namely:—

"Publication of notification, hearing of objections and declaration under the Howrah Improvement Act, 1956, to be substituted for those under sections 4, 5A and 6.

6A. When acquisition is proposed to be made of land comprised within any improvement scheme framed by the Board and published under section 51 of the Howrah Improvement Act, 1956—

- (i) the publication of a notice of the improvement scheme under sub-section (2) of section 45 of the Howrah Improvement Act, 1956, shall be substituted for and have the same effect as publication of a notification in the *Official Gazette* and giving public notice of the substance of such notification in the locality under section 4;
- (ii) proceedings under section 47 and sub-section (1) of section 49 of the Howrah Improvement Act, 1956, shall be substituted for and have the same effect as proceedings under section 5A;

XIV of 1956.]

(Schedule I.)

(iii) the publication of a notification under section 51 of the Howrah Improvement Act, 1956, shall be substituted for and have the same effect as a declaration under section 6.”

3. In section 11, before the words “make an award under his hand” the words “after considering such evidence as may be adduced by the Board under sub-section (2) of section 50” shall be deemed to be inserted. Amendment of section 11.

4. In section 15, for the word and figures “and 24” the figures, word and letter “24 and 24A” shall be deemed to be substituted. Amendment of section 15.

5. (1) In sub-section (3) of section 17, after the figures “24” the words, figures and letter “or section 24A” shall be deemed to be inserted. Amendment of section 17.

(2) To the said section 17, the following sub-sections shall be deemed to be added, namely:—

“(5) Sub-sections (1) and (3) shall apply also in the case of any area which is stated in a certificate granted by a salaried Magistrate of the first class to be unhealthy.

(6) Before granting any such certificate, the Magistrate shall cause notice to be served as promptly as may be on the persons referred to in sub-section (3) of section 9, and shall hear without any avoidable delay any objections which may be urged by them.

(7) When proceedings have been taken under this section for the acquisition of any land, and any person sustains damage in consequence of being suddenly dispossessed of such land, compensation shall be paid to such person for such dispossession.”

6. After section 17, the following section shall be deemed to be inserted, namely:— New section 17A.

“Transfer of land to Board. 17A. In every case referred to in section 16 or section 17, the Collector shall, upon payment of the cost of acquisition, make over charge of the land to the Board; and the land shall thereupon vest in the Board, subject to the liability of the Board to pay any further costs which may be incurred on account of its acquisition.”

7. (1) Sub-section (2) of section 23 stands re-introduced. Amendment of section 23.

¹Sub-paragraph (1) was substituted for the original by s. 52 of the Howrah Improvement (Amendment) Act, 1983 (West Ben. Act XLIII of 1983).

(Schedule I.)

(2) At the end of section 23, the following sub-section shall be deemed to be added, namely:—

"(3) For the purposes of clause *first* of sub-section (1) of this section,—

- (a) when acquisition is proposed to be made by the Board of land comprised within any improvement scheme framed by the Board and published under section 51 of the Howrah Improvement Act, 1956, the market-value of the land shall be deemed to be the market-value according to the disposition of the land at the date of publication of the notice under sub-section (2) of section 45 of the said Act; and in other cases, the market-value shall be deemed to be the market-value according to the disposition of the land at the date of publication of the notification relating thereto under section 4;
- (b) if the market-value has been increased or decreased owing to the land falling within or near to the alignment of a projected public street, so much of the increase or decrease as may be due to such cause shall be disregarded;
- (c) if any person, without the permission of the Chairman required by sub-section (8) of section 63 of the Howrah Improvement Act, 1956, has erected, re-erected or added to any wall (exceeding ten feet in height), or building within the street alignment or building line of a projected public street or a projected public park, or having erected, re-erected or added to any wall or building as aforesaid with such permission fails to remove such wall or building or any specified portion thereof when so required by notice issued under sub-section (9) of the said section, then any increase in the market-value resulting from such erection, re-erection or addition shall be disregarded;
- (d) if any person erects, re-erects or adds to any wall (exceeding ten feet in height), or building within a projected sewage disposal site or having erected, re-erected or added to any wall or building as aforesaid fails to remove such wall or building or any specified portion thereof when so required by a notice issued by the Board, then any increase in the market-value resulting from such erection, re-erection or addition shall be disregarded:

XIV of 1956.]

(Schedule I.)

- (e) if the market-value has been increased by means of any improvement made by the owner or his predecessor-in-interest within two years before the date with reference to which the market-value is to be determined, such increase shall be disregarded, unless it be proved that the improvement was made *bona fide* and not in contemplation of proceedings for the acquisition of the land being taken under this Act;
- (f) if the market-value is specially high in consequence of the land being put to a use which is unlawful or contrary to public policy, that use shall be disregarded, and the market-value shall be deemed to be the market-value of the land if put to ordinary uses; and
- (g) if the market-value of any building is specially high in consequence of the building being so overcrowded as to be dangerous to the health of the inmates, such overcrowding shall be disregarded, and the market-value shall be deemed to be the market-value of the building if occupied by such number of persons only as could be accommodated in it without risk of danger from overcrowding.”.

8. For clause *seventhly* of section 24, the following shall be deemed to be substituted, namely:—

Amendment of section 24.

“*seventhly*, any outlay on additions or improvements to land acquired, which was incurred after the date with reference to which the market-value is to be determined, unless such additions or improvements were necessary for the maintenance of any building in a proper state of repair.”.

9. After section 24, the following section shall be deemed to be inserted, namely:—

New section 24A.

“Further provisions for determining compensation.

24A. In determining the amount of compensation to be awarded for any land acquired for the Board under this Act, the Tribunal shall also have regard to the following provisions, namely:—

- (1) when any interest in any land acquired under this Act has been acquired after the date with reference to which the market-value is to be determined, no separate estimate of the value of such interest shall be made so as to increase the amount of compensation to be paid for such land:

(Schedule I.)

- (2) if, in the opinion of the Tribunal, any building is in a defective state, from a sanitary point of view, or is not in a reasonably good state of repair, the amount of compensation shall not exceed the sum which the Tribunal considers the building would be worth if it were put into a sanitary condition or into a reasonably good state of repair, as the case may be, *minus* the estimated cost of putting it into such condition or state;
- (3) if, in the opinion of the Tribunal, any building, which is used or is intended or is likely to be used for human habitation, is not reasonably capable of being made fit for human habitation, the amount of compensation shall not exceed the value of the materials of the building, *minus* the cost of demolishing the building;
- (4) if any tank in any area comprised within a scheme framed by the Board and published under section 51 of the Howrah Improvement Act, 1956, is, on account of accumulation of filth, rubbish or putrid matter or of the percolation of foul water from the kitchen, courtyard, privy or urinal, or for any other cause, in an unhygienic condition or contains water which is discoloured or malodorous or unfit for use for domestic purposes, or is a source of nuisance or disease, then notwithstanding anything contained in any law for the time being in force, the Tribunal shall, in determining the amount of compensation, make such deduction from the market-value of the tank according to its present disposition as will, in their opinion, be a reasonable set-off against the cost to society in unhealthiness, disease and discomfort caused by the tank being kept in such an unhygienic or insanitary condition."

Amendment
of section
27.

10. Sub-section (2) of section 27 shall be deemed to be omitted.

New
sections
48A and
48B.

11. After section 48, the following sections shall be deemed to be inserted, namely:—

"Compensation
to be awarded
when land not
acquired within
two years.

- 48A. (1) If, within a period of two years from the date of the issue of the public notice under sub-section (1) of section 9, in respect of any land, the Collector has not made an award under section 11 with respect to such land, the owner of the land shall be entitled to receive compensation for the damage suffered by him in consequence of the delay.

XIV of 1956.]

(Schedule I.)

(2) The provisions of Part III of this Act shall apply, so far as may be, to the determination of the compensation payable under this section.

Sections 48 and 48A not to apply in certain cases.

48B. No compensation shall be payable in pursuance of section 48 or section 48A when proceedings for the acquisition of land have been abandoned on the execution of an agreement, or the acceptance of a payment, in pursuance of sub-section (4) of section 79 of the Howrah Improvement Act, 1956."

12. For sub-section (1) of section 49, the following sub-section shall be deemed to be substituted, namely:—

Amendment of section 94.

"(1) The provisions of this Act shall not be put in force for the purpose of acquiring a part only of any house, manufactory or other building if the acquisition of the part will render the full and unimpaired use of the remaining portion of the house, manufactory or building impracticable:

Provided that if any question shall arise as to whether the part proposed to be acquired will render the full and unimpaired use of the remaining portion of the house, manufactory or building impracticable, the Collector shall refer the determination of such question to the Court and shall not take possession of such part until after the question has been determined.

In deciding on such a reference the Court shall have regard only to the question whether the land proposed to be taken is reasonably required for the full and unimpaired use of the remaining portion of the house, manufactory or building."

Village.

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¹These are
Calcutta Gaz