



The Guwahati Metropolitan Development Authority Act, 1985

Act 20 of 1987

Keyword(s):

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NOTIFICATION

The 10th November 1987

NO. LGL, 107/85/291.- The following Act of the Assam Legislative Assembly which received the assent of the President, is hereby published for general information.

Assam Act No. XX of 1987.

(Received the assent of the President on 20th October, 1987)

**THE GUWAHATI METROPOLITAN DEVELOPMENT AUTHORITY
ACT, 1985.**

An

Act

to provide for the establishment of an Authority for the planned development of the Guwahati Metropolitan Area, and for the matters connected therewith or incidental thereto:

Preamble.

Whereas it is expedient to provide for the establishment of an Authority for the enforcement and execution of the Master Plan and for the formulation and execution of schemes for the planned development of Guwahati Metropolitan Area, for the co-ordination and supervision of the execution of such plans and schemes with the object of securing proper living and sanitary conditions, to conserve and promote the public health, safety and general welfare of the people living therein and for matters connected therewith or incidental thereto.

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

CHAPTER I

Preliminary

1. Short title, extent and commencement.

- (1) This Act may be called the Guwahati Metropolitan Development Authority Act, 1985.
- (2) It shall extend to the whole of Guwahati Metropolitan Area excluding any area to which the provisions of the Cantonments Act, 1924 apply.
- (3) It shall come into force on such date as the State Government may, by notification in the Official Gazette appoint.

2. Definitions.

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

- (1) "Agriculture" including horticulture, farming, growing of crops, fruits, vegetables, flowers, grass, fodder and trees, or any kind of cultivation of soil, breeding and keeping of live-stock including cattle, horses, donkeys, mules, pigs and poultry, and the use of land which is ancillary to the farming of land or any other

agricultural purposes, but shall not include the use of any land attached to a building for the purpose of a garden to be used along with such building; and the expression “agricultural” shall be constructed accordingly.

- (2) “Amenities” includes roads and streets, open spaces, parks, recreational grounds, playgrounds, water and electric supply, street lighting, sewerage, drainage, public works and other utilities, services and convenience as the State Government may, by notification in the official Gazette, specify to be an amenity for the purposes of this Act.
- (3) “Authority” means the Guwahati Metropolitan Development Authority constituted under Section 4 of this Act.
- (4) “Betterment Fee” means the fee prescribed in respect of an increase in the value of land resulting from the execution of a Development Schemes.
- (5) “Building” means any construction for whatsoever purpose and of whatsoever materials constructed and every part thereof, whether used as human habitation or not and includes plinth walls, chimney, drainage, works, fixed platforms, verandah, balcony, cornice or projection, or part of a building and anything affixed thereto or any walls, earth bank, fence or other

construction enclosing or delimiting or intended to enclose or delimit any land or space.

- (6) “Building operations” includes-
 - (a) creation or re-erection of a building or any part of it.
 - (b) Roofing or re-roofing a building or any part of a building or an open space.

- (7) “Commerce” means the carrying on of any trade, business or profession, sale or exchange of goods of any type whatsoever, and includes the running of, with a view to making profit, hospitals, nursing homes, infirmaries, educational institutions and also hotels, restaurants, boarding houses not attached to any educational institution, and sarais; and the expression “commercial” shall be construed accordingly:

- (8) “Development” with its grammatical variations means the carrying out of building, engineering, mining or other operations, in, on, over, or under land or the making of any material change in any building or land or in the use of any building or land and includes divisions of any land;

- (9) “Factory” means a place to which the provisions of the Indian Factories Act of 1934, or any amendment thereof shall apply.

- (10) “Guwahati Metropolitan Development Authority” means the Authority constituted under Section 4 of this Act.
- (11) “Industry” includes the carrying on of any manufacturing process as defined in the Factories act, 1948, and the expression “industrial” shall be construed accordingly.
- (12) “Land” shall have the same meaning as in the Land Acquisition Act, 1894 (1 of 1894) and shall include land covered by water.
- (13) “Local authority” means the Guwahati Municipal Corporation or Board or a Committee or any other authority legally entitled to, or entrusted by the state Government with the control or management of Municipal or local fund or which is permitted by the state Government to exercise the powers of a local authority and includes a Mahkuma Parishad and Gaon Panchayat constituted under the Assam Panchayat Raj Act, 1972 and as amended.
- (14) “Local Newspaper” in relation to Guwahati Metropolitan Area means any newspaper published or circulated within the Guwahati Metropolitan Area.

- (15) “Master Plan” means the plan as defined under section 16 of this Act.
- (16) “Notification” means a notification published in the Official Gazette.
- (17) “Occupier” includes any person paying or liable to pay rent or any portion of the rent of the land or building in respect of which the work is due or compensation or premium on account of the occupation of such land and building and also a rent free tenant.
- (18) “Open space” means any land whether enclosed or not on which not more than one-twentieth part is covered with building and the remainder has been laid out as a public garden or used for purpose of recreation or lies waste and unoccupied.
- (19) “Operational construction” means any construction, whether temporary or permanent, which is necessary for the operation, maintenance, development or execution of any of the following services:
- (i) Railways.
 - (ii) National Highways.
 - (iii) National Waterways,
 - (iv) Major Ports,

- (v) Airways and Aerodromes.
- (vi) Posts and Telegraphs, Telephones, Wireless, Broadcasting and other like forms of communication.
- (vii) Regional grid for electricity.
- (viii) Any other services which the State Government may, if it is of opinion that the operation, maintenance, development or execution of such other services is essential to the life of the community, by notification, declare to be services for the purposes of this clause.

Explanation – For the removal of doubts, it is hereby declared that the construction of-

- (i) new residential buildings not connected with operations like gate, lodges, hospitals, clubs, institution, schools, railway colony, roads, drains, etc., in the case of railways, and
- (ii) a new building, new structure, new installation or any extension thereof, in the case of any other service;
shall not be deemed to be construction within the meaning of this clause;

- (20) “owner” includes a mortgagee in possession, a person who for the time being is receiving or is entitled to receive, or has received, the rent or premium for any land whether on his own account or on account of, on behalf of, or for the benefit of, any other person or as an agent, trustee, guardian or received for any other person or for any religious or charitable institution or who would so receive the rent or premium if the land were let to a tenant; and also includes the Head of a Department or an Undertaking of the Central or a State Government, the General Manager of a Railway, the Secretary, or other principal officer of a local authority, statutory authority or company in respect of properties under their respective control.
- (21) “Prescribed” means prescribed by rules made under this Act.
- (22) “Public place” means any place or building which is open to the use or enjoyment of the public whether it is actually used or enjoyed by the public or not and whether the entry is regulated by any charge or not;
- (23) “Reconstituted plot” means a plot which is in any way altered by the making of a Development Schemes.
- (24) “Residence” means the use for human habitation of any land or building or part thereof including gardens, grounds, garages, stables and out-houses, if any

appertaining to such buildings, and the expression “residential” shall be construed accordingly.

- (25) “Road” means and includes any highway, street, lane, pathway, alley, passageway, carriage way, footway, square, bridge, whether private or public, whether thoroughfare or not, whether existing or proposed in any scheme and includes all bunds, channels, ditches, drains culverts, side walks and traffic island.

- (26) “Scheme” means a developments schemes and includes a plan or plans together with the descriptive matter if any relating to such a scheme as defined in Section 36 of this Act.

CHAPTER II

Declaration of Guwahati Metropolitan Area and constitution of Guwahati Metropolitan Area Authority.

3. Declaration of Guwahati Metropolitan Area.

- (1) The State Government may, by notification in the Official Gazette, declare the area covered by the Guwahati Municipal Corporation Area and any other areas contiguous to the Guwahati Municipal Corporation Area, to be the Guwahati Metropolitan Area for the purposes of this Act.
- (2) The State Government may, if it thinks fit, by notification in the Official Gazette, enlarge, curtail or modify the Guwahati Metropolitan Area or any part thereof.
- (3) Every such notification shall define the limits of the area to which it relates.

4. Constitution of the Guwahati Metropolitan Development Authority.

- (1) As soon as may be, after the commencement of this Act, the State Government shall be notification in the Official Gazette, constitute for the purposes of this Act, an Authority to be called “The Guwahati Metropolitan Development Authority” (hereinafter referred to as the Authority) with jurisdiction over the Guwahati Metropolitan Area.
- (2) The Authority shall be a body corporate having perpetual succession and a common seal with power, subject to the provision of this Act, to acquire, hold dispose of properties both moveable and immoveable and to enter into any agreement or contract, and shall by the said name sue and be sued.

5. Composition of the Guwahati Metropolitan Development Authority.

- (1) The Guwahati Metropolitan Development Authority shall consist of the following members, namely:
 - (a) The Chief Minister of the State of Assam shall be the Chairman;
 - (c) The Minister in charge of Town and Country Planning Department and the Minister in charge

of Municipal Administrative Department of the State of Assam shall be the Deputy Chairman;

Provided that when there is no Council of Ministers in the State of Assam, the State Government shall nominate such persons, as it may think fit, to be the three members as the Chairman and Deputy Chairman respectively of the Guwahati Metropolitan Development Authority;

- (c) One member to be appointed by the State Government as Vice-Chairman:

Provided that the State Government may, appointed the Secretary to the Municipal Administrative Department of the State Government as Ex-Officio Vice-Chairman of the Guwahati Metropolitan Development Authority to run the administrative of the Authority.

- (d) the Chief Executive Officer of the Guwahati Metropolitan Development Authority to be appointed by the State Government, ex-officio.

- (e) the Town Planner of the Authority (not below the rank of Associate Planner of the State Government) to be appointed by the State Government;

- (f) the Chief Engineer of the Authority (not below the rank of Superintending Engineer of the Public works Department of the State Government) to be appointed by the State Government;
- (g) the Financial Adviser and the Chief Accounts Officer of the Authority (in the rank of Financial Adviser of the state Government) to be appointed by the State Government;
- (h) the Director of Town and Country Planning Government of Assam;
- (i) the Deputy Commissioner, Kamrup District;
- (j) the Deputy Commissioner, Pragjyotish District;
- (k) the Chief Engineer, Public Works Department (Roads);
- (l) the chief Engineer, Flood Control Department;
- (m) the Chief Engineer, Public Health Engineering Department;
- (n) the Director, Municipal Administrative Department;

- (o) the Chief Executive Officer and Commissioner, Assam State Housing Board;
- (p) the Commissioner, Guwahati Municipal Corporation;
- (q) the Chairman, North Guwahati Town Committee.
- (r) one Councilor from the Guwahati Municipal Corporation to be nominated by the Guwahati Municipal Corporation;
- (s) one member from the Commerce and Industry (Private Sector) to be nominated by the State Government;
- (t) one member from the Railways to be nominated by the State Government;
- (u) three other members to be nominated by the State Government, of whom one shall be from the Planning and Development Department, one from the Finance Department and one person with experience of Town Planning or Architecture.

- (2) The appointment of the Vice-chairman may be either whole-time or part-time as the State Government may think fit, but the appointment of the Chief Executive Officer, the Town Planner of the Authority, the Chief Engineer of the Authority, and the Financial Adviser and Chief Accounts Officer of the Authority referred to in clause (d), clause (e), clause (f), and clause (g) shall be whole time.
- (3) The Vice-Chairman shall be entrusted general administrative of the Guwahati Metropolitan Development Authority as per provisions of this Act subject to the overall control and supervision of the Chairman or Deputy Chairman, as the case may be, and shall discharge such functions and exercise such powers as may be delegated to him by the Chairman or Deputy Chairman, as the case maybe and shall during the absence of the Chairman or Deputy Chairman, perform the functions and exercise the powers of the Chairman or the Deputy Chairman, as the case may be.
- (4) The Vice-Chairman, if he is a whole-time member and other members specified in clause (d), clause (e), clause (f) and clause (g) shall be entitled to receive from the funds of the Authority such salaries and such allowances as may be determined by the State Government in this behalf.

- (4) The Vice-Chairman, if he is part-time member, may be paid from the funds of the Authority such allowances as may be fixed by the State Government in this behalf.
- (5) The Vice-Chairman, if he is a part member, may be paid from the funds of Authority such allowances as may fixed by the State Government in this behalf.
- (6) The Vice-Chairman, the Chief Executive Officer, the Town Planner, the Chief Engineer, and the Financial Adviser and Chief Accounts Officer referred to in clause (c), clause (d), clause (e), clause (f) and clause (g) shall hold office during the pleasure of the State Government.
- (7) The members referred to in clauses (r) and (s) of such-section (1) shall hold office for a term of three years from the date of their nominated by the State Government and shall receive such allowances for attending meeting of the Guwahati Metropolitan Department Authority or any committee thereof as may be prescribed:

Provided that the member referred to in clause (r) of sub-section (1), on ceasing to be a Councilor of the Guwahati Municipal Corporation, shall cease to hold office as such member notwithstanding that the said term of three years has not expired and the vacancy

shall be filled by the State Government by making a fresh nomination.

- (8) The State Government may, if it thinks fit, terminate the appointment of any nominated member before the expiry of his term of office.
- (9) A nominated member of the Authority may resign his membership by giving notice in writing to the State Government. He shall cease to be a member on acceptance of such resignation.
- (10) Any vacancy caused by resignation, death or otherwise of a nominated member shall be filled by fresh nomination by the State Government.
- (11) No act or proceeding of the Guwahati Metropolitan Development Authority shall be deemed to be invalid merely by reason of any vacancy in, or defect, initial or subsequent, in the constitution of that Authority.

6. Function and powers of the Authority.

- (1) Subject to the provisions of this Act and the rules made thereunder and any direction which the State Government may give from time to time, the functions of the Guwahati Metropolitan Development Authority shall be to promote and secure the development of the

Guwahati metropolitan Area according to the Master Plan.

(2) Without prejudice to the generality of functions specified in sub-section (1), the Guwahati Metropolitan Development Authority shall have the following powers and functions:

- (a) to carry out or cease to be carried on surveys of the area and to prepare reports of such survey;
- (b) to prepare Master Plan for the Guwahati Metropolitan Area;
- (c) to enforce and execute the Master Plan for Guwahati Metropolitan Area;
- (d) to prepare and execute development schemes;
- (e) to co-ordinate development activities of all departments and agencies of the State Government or local authorities operating within the Guwahati Metropolitan Area;
- (f) to carry out or cause to be carried out of such works as are contemplated in the Master Plan;
- (g) to acquire, hold and manage such property both movable and immovable, as the Guwahati

Metropolitan Development Authority may deem necessary for the purposes of any of its activities and to lease, sell or otherwise transfer any property held by it;

- (h) to purchase by agreement or to take on lease or under any form of tenancy, any land and to erect thereon such buildings or structure and to carry out such operations as may be necessary for the purpose of carrying on its undertakings;
- (i) to enter into or perform such contracts as may be necessary for the performance of its duties and for exercise of its powers under this Act;
- (j) to perform any other function which is supplemental, incidental or consequential to any of the functions aforesaid or which may be prescribed.

7. Meeting of Guwahati Metropolitan Development Authority.

- (1) The Guwahati Metropolitan Development Authority shall observe such rules of procedure in regard to the transaction of business at its meeting (including the quorum at its meeting) as may be prescribed.

- (2) The Chairman of the Guwahati Metropolitan Development Authority or, if for any reason he is unable to attend any meeting, the Deputy Chairman or, if for any reason the Chairman and the Deputy Chairman are unable to attend any meeting, the Vice-Chairman or if for any reason he is also unable to attend the meeting, any other member elected by the members present shall, preside at the meeting.

8. Power to appoint officers and Secretary and other Staff.

- (1) The State Government may appoint a suitable person as the Secretary of the Authority who shall exercise such powers and perform such duties as may be prescribed by regulations or delegated to him Authority or the Chairman.
- (2) Subject to such control and restrictions as may be prescribed by rules, the Authority may appoint such number of other officers and employees (including experts for technical works) as may be necessary for the efficient performance of its functions and may determine their designations and grades.
- (3) The Secretary, and other officers and employees of the Authority shall be entitled to receive from the funds of the Authority such salaries and such allowances, if any, and shall be governed by such conditions of

service as may be determined by regulations made in this behalf.

9. Delegations.

The Guwahati Metropolitan Development Authority, by order in writing and subject to such conditions as it may think fit to impose, delegate any of its powers, duties and functions under this Act or any rule or regulation made thereunder to the Chairman, Deputy Chairman, Vice-Chairman, Chief Executive Officer, Town Planner, Chief Engineer, Financial Adviser and Chief Accounts Officer or any Officer appointed under this Act.

10. Power of the Authority to co-opt. members for particular purpose.

(1) The Guwahati Metropolitan Development Authority may associate with itself, any person as a co-opted member for a period of three years whose assistance or advice it may consider necessary in carrying out its duties and functions as may be decided by the Authority in its meeting by passing a resolution for such co-option.

(2) The person so associates shall not be deemed to be a member of the Authority and shall have no right to vote at any meeting thereof, but he may take part in the discussion of the Authority relating to the

purposes for which he was associated with the Authority.

11. Advisory council.

- (1) The Guwahati Metropolitan Development Authority shall, as soon as may be, constitute an advisory Council, for the purpose of advising the Authority on the preparation of Master Plan and on such other matters relating to the planning of development, or arising out of, or in connection with the administrative of this Act as may be referred to it by the Authority.
- (2) The Advisory Council shall consist of the following members, namely:
 - (a) the Chairman of the Authority, ex-officio, who shall be the President;
 - (b) the Deputy Chairman of the Authority, ex-officio.
 - (c) the Vice-Chairman of the Authority, ex-officio;
 - (d) two persons with knowledge of Town Planning or Architecture to be nominated by the State Government;

- (e) two representatives of the Guwahati Municipal Corporation to be elected by the councilors from among themselves;
- (f) one representative of the North-Guwahati Town Committee;
- (g) one representative of the Health Department to be nominated by the State Government;
- (h) one representative from the Assam State Electricity Board to be nominated by the State Government;
- (i) three persons to be nominated by the State Government of whom one shall represent the interests of commerce and industry in Guwahati Metropolitan Area;
- (j) four persons from the technical departments of the State Governments to be nominated by the State Government;
- (k) one representative of the Indian Railways to be nominated by the State Government;
- (l) three members of the Assam Legislative Assembly to be nominated by the Speaker of that Assembly.

- (3) If for any reason the Chairman of the Guwahati Metropolitan Development Authority is unable to attend any meeting of the Advisory Council, such meeting shall be preside over by any of the Deputy Chairman;
- (4) The Advisory Council shall meet as and when necessary and shall regulate its own procedure.
- (5) The members of the Advisory Council shall hold office for such term, as may be prescribed.

12. Constitutions of Committees.

- (1) The Guwahati Metropolitan Development Authority may, from time to time, with a view to give effect to the purposes of this Act and other Rules made under this Act constitute as many committees consisting of such persons of following classes as it mat think fit, namely;
 - (i) Members of the Authority.
 - (ii) Persons associated with the Authority.
 - (iii) Other persons whose assistance or advice the Authority may desire as members of such committees.

Provided that no Committees shall consist of less than three and more than seven persons.

- (2) The Authority may-
 - (a) refer to such Committee, for inquiry and report, any matter relating to any of the purposes of this Act and rules under this Act;
 - (b) delegate to such Committee by specific resolution and subject to rules made in his behalf, any of the powers or duties of the Authority relating to the subject matter for which the Committee has been constituted.
- (3) The Guwahati Metropolitan Development Authority may, at any time, for reasons to be recorded in writing, dissolve or, subject to the provisions of sub-section (1) alter the constitution of any such committee.
- (4) Every Committee shall carry out any instruction given to it by the Authority and every final decision of such Committee shall, subject to any rule to the contrary, be laid before the Authority for confirmation.
- (5) A Committee constituted under this section shall meet at such place and at such time, and shall observe such rules of procedure in regard to the transaction of

business at its meetings, as may be determined by rules made in this behalf.

- (6) The members of a Committee, other than the members of the Guwahati Metropolitan Development Authority, shall be paid such fees and allowances for attending its meetings and for attending to any other work of the Guwahati Metropolitan Development Authority, as maybe determined by rules made in this behalf.

13. Supply of documents and information to the State Government.

- (1) The Guwahati Metropolitan Development Authority shall forward to the state Government, copies of the minutes of the proceedings of each meeting of the Authority, within ten days from the date on which the minutes are signed.
- (2) The Authority shall, if so directed by the State Government, forward to it a copy of all papers which were laid before the Authority for considering in any meeting.
- (3) The State Government may require the Guwahati Metropolitan Development Authority to furnish it with-

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

14. Power of the Guwahati Metropolitan Development Authority to give directions.

- (1) Notwithstanding anything contained in other law for the time being in force, the Guwahati Metropolitan Development Authority may give such directions with regard to the implementation of any development project, as it may think fit, to an authority to which payment of any money from its fund has been made under this Act.
- (2) The Guwahati Metropolitan Development Authority shall so exercise the powers of supervision referred to under this Act as may be necessary to ensure that each development project is executed in the interest of the over-all development of the Guwahati Metropolitan Area and in accordance with the approved Master Plan.

15. Power of the Guwahati Metropolitan Development Authority to execute any plan.

- (1) Where the Guwahati Metropolitan Development Authority is satisfied that any direction given by it under sub-section (1) of Section 14 with regard to any development project has not been carried out by such authority referred to therein or that any such authority is unable to fully implement any scheme undertaken by it for the development of any part of the Guwahati Metropolitan Area, the Guwahati Metropolitan Development Authority may itself undertake the works and incur any expenditure for the execution of such development projects or implementation of such schemes, as the case may be.

- (2) The Guwahati Metropolitan Development Authority may also undertake any works or schemes in the Guwahati Metropolitan Area or as may be directed by the State Government and may incur such expenditure as may necessary for the execution of such work of scheme.

CHAPTER III

Master Plan

16. Preparation of Master Plan.

A Master Plan hereinafter referred to as “Plan” in this Act for the development of Guwahati Metropolitan Area which the state Government may, consider necessary, shall be drawn up by the Authority in consultation with the Director of Town and Country Planning or such other experts of consultancy as the Guwahati Metropolitan Development Authority consider it necessary:

Provided further, the Authority may adopt the existing Master Plan for Greater Guwahati prepared by the Director of the Town and Country Planning Department, with alternations, modifications, changes and adjustments as it deems necessary.

17. Survey and Master Plan.

- (1) The Authority shall, as soon as may be, carry out necessary surveys of, and prepare a Master Plan for Guwahati Metropolitan Area or for any area within the Guwahati Metropolitan Area, as it may deem necessary in the manner prescribed in Section 16.

- (2) The Master Plan shall-
 - (a) define the various zones into which Guwahati Metropolitan Area may be divided for the purposes of development and indicate the manner in which the land in each zone is proposed to be used (whether by carrying out thereon of development or otherwise) and the stages by which any such development shall be carried out, and
 - (b) serve as a basic pattern of frame work with in which detailed development schemes of the various zones may be prepared.

18. Contents of the Master Plan.

- (1) The Master Plan to be prepared as defined in Section 16, may include:
 - (a) a general land use plan for residential, commercial, industrial, recreational and public and semi-public purposes;
 - (b) Zoning plan and Zoning Regulations;
 - (c) Transportation plan including roads, railways, canals, etc;

- (d) Public utilities plan;
 - (e) any other matter which is necessary for the proper development of Guwahati Metropolitan Area;
 - (f) necessary report giving relevant data and information in respect of the proposals in the Plan and any other thing as it deem necessary.
- (2) The Zoning Plan and Zoning Regulations may-
- (a) contain a site-plan and use-plan for the development of the zone;
 - (b) specify the standards of population density and building density.
 - (c) show every area in the zone which may, in the opinion of the Authority, be required or declared for development or re-development; and
 - (d) in particular contain provisions regarding all or any of the following matters, namely;
 - (i) the division of any site into plots for the erection of buildings.

- (ii) The allotment or reservation of land for roads, open spaces, gardens, recreation grounds, schools, markets and other public purposes;
- (iii) The development of any area into a township or colony and the restrictions and conditions subject to which such development may be undertaken or carried out;
- (iv) The erection of buildings on any site and the restrictions and conditions in regard to the open spaces to be maintained in or around buildings and height and character of buildings.
- (v) The alignment of building on any site;
- (vi) The architectural features of the elevation of frontage of any building to be erected on any site;
- (vii) The number of residential buildings which may be erected on any plot or site;
- (viii) The amenities to be provided in relation to any site or buildings on such whether before or after the erection of buildings

and the person or authority by whom or at whose expense such amenities are to be provided;

- (ix) The prohibitions or restrictions regarding erection of shops, workshops, warehouses or factories or buildings or a specified architectural feature or building designed for particular purposes in the locality;
- (x) The maintenance of walls, fences, hedges or any other structural or architectural construction and the height at which they shall be maintained;
- (xi) The restrictions regarding the use of any site for purposes other than erection of buildings; and
- (xii) Any other matter which is necessary for the proper development of the zone or any area thereof according to Plan and for preventing buildings being erected haphazardly in such zone or area.

19. Submission of Plans to the State Government approval.

Every plan as soon as may be after its preparation, be submitted b the Authority to the State Government for approval and that Government mat either approve the plan without modifications or with such modifications as it may consider necessary or reject the Plan with direction to the Authority to prepare a fresh Plan according to such directions.

20. Procedure to be followed in the preparation and approval of Plan.

- (1) Before preparing any Plan finally and submitting it to the state Government fro approval, the, Authority shall prepare a plan in draft and publish it by making a copy thereof available for inspection and publishing a notice in such form and manner as may be prescribed by rules made in this behalf inviting objections and suggestions from any person with respect to the draft plan before such date as may be specified in the notice.
- (2) The Authority shall also give reasonable opportunities to every local authority within whose local limits any land touched by the plan is situated, to make any representation with respect to the plan.

- (3) After considering all objections, suggestions and representations that may have been received by the Authority, the Authority shall finally prepare the plan and submit it to the State Government for its approval.
- (4) Provisions may be made by rules made in this behalf with respect to the form and content of a plan and with respect to the procedure to be followed and any other matter, in connection with the preparation, submission and approval of such plan.
- (5) Subject to the forgoing provisions of this section, the State Government may direct the Authority to furnish such information as the State Government may require for the purposes of approving any plan submitted to it under this section.

21. Date of operation of Plan and Zoning Regulations.

- (1) Immediately after the plan and zoning Regulations have been approved by the State Government, the Authority shall publish in such manner as may be prescribed by regulations, a notice stating that a plan has been approved and naming a place where a copy of the plan may be inspected at all reasonable hours and upon the date of the first publication of the aforesaid notice, the plan shall come into operation.

- (2) After the coming into operation of the Master Plan and zoning Regulation, it shall be the duty of the Guwahati Municipal Corporation or any other local authority, within whose jurisdiction such area or zone is situated to enforce such regulatory measures in suppression of the rules and regulations, if any, applicable to such area or zone.

22. Modification to the Master Plan and the Zoning Regulations.

- (1) The Authority may make any modifications to the Master Plan and Zoning Regulations as it thinks fit, being modifications which, in its opinion, do not effect important alternations in the character of the plan and which do not relate to the extent of land uses or the standards of populations density.
- (2) The State Government may make any modifications to the Master plan and Zoning Regulation whether such modifications are of the nature specified in sub-section (1) or otherwise.
- (3) Before making any modifications to the Plan, the Authority or, as the case may be, the State Government shall publish a notice to such form and manner as may be prescribed by rules made in this behalf inviting objections and suggestions from any person with respect to the proposed modifications

before such date as may be specified in the notice and shall consider all objections and suggestions that may be received by the Authority or the State Government.

- (4) Every modification made under the provisions of this section shall be published in such manner as the Authority or the State Government, as the case may be, may specify and the modifications shall come into operations either on the date of the publication or on such other date as the Authority or the State Government may fix.
- (5) When the Authority makes any modifications to the Plan under sub-section (1), it shall report to the State Government the full particulars of such modifications within thirty days of the date on which such modifications come into operations.
- (6) If any question arises whether the modifications proposed to be made by the Authority are modifications which effect important alternations in the character of the plan or whether they relate to extent of land-uses or the standards of population density, it shall be referred to the State Government whose decision thereon shall be final.

23. Restriction of use of land and buildings thereon after publication of the Master Plan.

After the coming into operation of any Master Plan in any area under sub-section (1) of Section 21, no person or body (including a department of state or Central Government or the local authority) shall use or permit to be used any land, sub-divide any land by transfer, by way of gift, sale, partition or any other manner the whole or any part of the land, or setup any new structure on any land covered by the plan or change the existing structure or any building or use of any building or land within the area covered by the plan except with permission of the Guwahati Metropolitan Development Authority on a written application submitted for the purpose.

24. Prohibition of development without permission.

After the coming into force of this Act, no development, institution of change of use of any land shall be undertaken or carried out within the Guwahati Metropolitan Area without obtaining the permission in writing from the Authority as provided fro here-in-after:

Provided that no such permission shall be necessary-

- (i) for the carrying out such works for the maintenance, improvement or other alternations of any building which affect only interior of the building which do not

materially effect the structural and external appearance of the building;

- (ii) for the carrying out by the central or the state Government or any local authority of any works required for the maintenance or improvement of a highway, road or public street, being works carried out on land within the boundaries of such highway, road or public street;
- (iii) for the carrying out by the Central or the state Government or any local authority of any work for the purpose of inspecting, repairing or renewing any drains, sewers, mains, pipes, cables or other apparatus including the breaking open of any street or other land for that purpose;
- (iv) for the excavation (including wells) made in the ordinary course of agricultural operations;
- (v) for the construction of unmetalled road intended to give access to land solely for agricultural purposes.

25. Permission for development.

- (1) Any person or body (including a department of the Central or the State Government or any local authority) intending to carry out any development on any land shall make an application in writing to the

Guwahati Metropolitan Development Authority for permission in such form and containing such particulars and accompanied by such documents as may be prescribed.

- (2) Each such application shall be accompanied by a plan drawn to scale showing the actual dimension of the parcel of the land and the building to be built upon it, the site and the position of the building to be erected and in case of alternation in the use or structure of the building or land the nature and extent of such alternation.
- (3) The Authority may also call for such other information, as it may deem necessary to examine the application.
- (4) The Authority shall not refuse the permission except on the ground of contravention to proposals contained in the plan or the Zoning Regulations and unless the permission has been refused within a period of one month from the receipt of the application or such other information as may be called for by the Authority under sub-section (3), it shall be presumed that the permission has been given.
- (5) On such application having been duly made, and on payment of the development permission fees as may be assessed as prescribed by laws framed by the authority in this behalf-

- (a) the Authority may pass an order-
 - (i) granting permission unconditionally; or
 - (ii) granting permission subject to such conditions as it may think fit; or
 - (iii) refusing permission.

- (b) Without prejudice to the generality of clause (a) of this sub-section, the Authority may impose conditions-
 - (i) to the effect that the permission granted is only for a limited period and that after the expiry of that period, the land shall be restored to its previous conditions or the use of the land permitted shall be discontinued.

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

Provided no such fee shall be necessary in the case of an application made by a department of the Central or the State Government or any local authority.

- (6) When permission is granted subject to conditions or is refused, the grounds of imposing such conditions or such refusal shall be recorded in the order and the order shall be communicated to the applicant.
- (7) When permission is refused under this section, the applicant or any person claiming through him, shall not be entitled to get refund of the fee paid on the application for permission but the Authority may, or an application for refund being made within three months of the communication of the grounds of the refusal under sub-section (6), direct refund of such portion of the fee as it may seem proper in the circumstances of the case.
- (8) In the case of a department of the Central or the State Government or any local authority intending to carry out any development other than operational constructions, on any land where the Authority raises any objection in respect of the conformity of the proposed development either to any Master Plan or schemes under the preparation, or to any of the building by laws in force, or to the Zoning Regulations, or due to any other material consideration under sub-

section (9), the department or the authority, as the case may be, shall;

(a) either make necessary modifications in the proposals for development to meet the objections,

(b) submit the proposals for development together with the objections raised by the Authority to the State Government for decision. When proposals and objections have been submitted, no development shall be undertaken until the State Government has finally decided on the matter.

(9) The State Government on receipt of the proposals for development together with the objections of the Authority, shall either approve the proposals with or without modification or direct the concerned authority to make such modification in the proposals as it considers necessary in the circumstances.

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

Any applicant aggrieved by an order passed under Section 25, or if an order is passed under that section, may appeal within one month of the communication of that order to him or after the expiry of the period of three months from the date of submitting the application, as the case may be, in the manner and accompanied by such fees as may be

prescribed, to the appellate authority appointed by the State Government in this behalf.

27. Lapse of permission.

- (1) Every permission for any development granted under this Act shall remain in force for a period of one year from the date of such permission.
- (2) The authority may, on application made in this behalf before the expiry of the aforesaid period, extend the same for such times as it may think proper, but the total period shall in no case exceed three years.
- (3) If any permission lapses under sub-section (1) or (2), such lapse shall not bar any subsequent application for fresh permission under this Act.

28. Sub-Division of Private Land.

- (1) Every person who intends to sub-divide any plot of land within the Guwahati Metropolitan Area shall give notice in writing to the Authority of his said intention and such notice shall be accompanied by the plans and statement together with a development permission fee as prescribed.
- (2) All plans for sub-division of land shall be in accordance with the standards prescribed by the State Government.

29. Plans accompanying notice.

A layout plan drawn to suitable scale and containing the following information shall accompany the notice given under Section 28-

- (a) the location of the land.
- (b) The boundaries of the proposed land shown on the map, and sufficient description to define the same,
- (c) Name and address of the owner widths of the adjacent roads and lanes.
- (d) Location, name and present widths of the adjacent roads and lanes.
- (e) The major, physical characteristics of the land proposed to be sub-divided, including topography, the approximate location and width of any watercourse and location of any areas subject to inundation or flood.
- (f) The complete layout of the proposed sub-division showing the location and widths of all the proposed street dimensions and uses of all the plots.
- (g) The locations of all drain, sewers and other utilities,
- (h) Building lines permissible,
- (i) Scale and north line,
- (j) Key plan.

30. Sanction with or without modification or refusal.

- (1) The Authority may either grant or refuse the approval to the plans or may approve them with such modifications as it may deem fit and thereupon shall, communicate its decision to the person giving the notice within three months from the date of the notice.
- (2) No person shall be allowed to construct a building on any plot of land, the sub-division of which has not been previously approved by the Authority.

31. Layout not according to plan.

Should be Authority determine at any stage that the layout or the construction is not proceeding according to the sanctioned plan or is in violation of any provisions of this Act, it shall serve a notice on the applicant requiring him to stay further execution until correction has been effected in accordance with the approved plan.

32. Prohibition of registration in certain cases.

Where any deed or document required to be registered under the Indian Registration Act, 1908 (Act No XVI of 1908), purports to sub-divide any land or transfer of any land within the Guwahati Metropolitan Area, no registering officer shall register any such document unless the party presenting the deed or document for registration produces a No-objection Certificates from the Authority to the Effect that

the Authority has No-Objection to the registration of such deed or document.

33. Power of revocation and modification of permission to development.

(1) If it appears to the Authority that, it is expedient, having regard to the Master Plan or development scheme prepared or under preparation or to be prepared and to any other material consideration, that any permission to develop land granted under this Act or any other law, should be revoked or modified, the Authority may, by order, revoke or modify the permission to such extent as appears to it to be necessary provided that-

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

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

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

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

(2) When permission is revoked or modified by an order made under sub-section (1), if the owner claims from

the Authority within thirty days from the date of revocation or modification, an amount for the expenditure incurred in carrying out the works after the grant of permission, which has been rendered abortive by the revocation or modification, the Authority shall, after giving the owner a reasonable opportunity of hearing by the Authority, assess and offer such amount to the owner as it thinks fit.

- (3) If the owner aggrieved by the assessments and offer of such amount made by the Authority, the aggrieved owner may appeal to the Appellate Authority against the assessment and offer of such amount, within thirty days from the date of offer and the decision of the Appellate Authority shall be final and binding on the owner and the Authority.

34. Penalty for violation.

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

CHAPTER VI

Development of lands and Development schemes.

35. Declaration of development areas and preparation of Development Schemes.

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

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

Provided that, while preparing the scheme as directed by State Government, the Officer of the State Government or the local authority, as the case may be,

shall prepare such scheme in consulting with the Guwahati Metropolitan Development Authority.

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

- (3) While preparing the scheme, the Authority, any officer of the State Government or the local authority, as the case may be, shall issue a notice inviting the names of all the claimants of any interest on any land or building within the area under the scheme, to be submitted within a period of not more than two months.
- (4) Save as provided in this Act, the Authority, the officer of the State Government or the local authority shall, not undertake or carry out any development of land in any area which is not a development area.

36. Scope of the Development Scheme.

- (1) A scheme may be made in accordance with the provisions of this Act in respect of any land which is-
 - (a) in the course of development;
 - (b) likely to be used for building and other purposes, or

- (c) already built upon.

Explanation:-

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

- (2) Such Schemes may make provisions for all or any of the following matters:
 - (a) The laying out or relaying out of land, either vacant or already built upon:
 - (b) the filling up or reclamation of low lying swamp or land or unhealthy areas or leveling up of land:
 - (c) the laying out of new streets or roads, construction, diversion, extension, alternation, improvement and stopping up of streets, roads and communication:
 - (d) the reconstitution of plots;
 - (e) the construction, alternations or removal of buildings, bridges or other structures:
 - (f) the allotment or reservation of land for roads, open spaces, garden, recreation grounds, schools, markets, industrial and commercial activities, green belts and

dairies, transport facilities and public purposes of all kinds;

- (g) the undertaking of housing schemes for different income, groups, commercial areas, industrial estates, provision of community facilities like schools, hospitals and similar types of developments;
- (h) drainage inclusive of sewerage, surface or subsoil drainage and sewage disposal;
- (i) lighting;
- (j) water supply;
- (k) the preservation and protection of objects of historical importance of natural beauty and of building actually used for religious purpose;
- (l) the imposition of condition and restrictions in regard to the open space to be maintained about buildings area for a plot, the number, height and character of buildings allowed in specified areas, the purposes for which buildings or specified areas may be or may not be appropriate, the sub division of plots, the discontinuance of objectionable uses of in any area in reasonable periods, parking space and loading and unloading space for any building and the size of projections and advertisement signs;

- (m) the suspension, to the extent necessary for the proper carrying out of the scheme, of any rule, bye-laws, regulations, notifications or order made or issued under any Act of the State Legislature or any of the Acts which the State Legislature is competent to amend;
- (n) acquisition by purchase exchange or otherwise of any property necessary for an effected by the executed of the scheme; and
- (o) Such other matters not inconsistent with the objects of this Act, as may be directed by the State Government.

37. Contents of the Scheme.

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

- (a) the area, ownership and tenure of all existing plots covered by the scheme;
- (b) the land allotted or reserved under clause (i) of sub-section (2) of section 36 with a general indication of the uses to which such land is to be put and the terms and conditions subject to which such land is to be put to such uses;
- (c) a full description of all the details of the scheme under such clause of sub-section (2) of Section 36 as may be necessary;

- (d) the laying out or relaying out of the land either vacant or already built upon;
- (e) the filling up or reclamation of lowlying swamp or land;
- (f) the extent to which it is proposed to alter the boundaries of the existing plots in accordance with the proposed scheme;
- (g) an estimate of the total cost of the scheme and the not cost to be borne by the authority;
- (h) any other particulars which may be prescribed;

38. Reconstitution of plot scheme.

- (1) In a scheme reconstituting the plots, the size and shape of every reconstituted plots, shall be determined, so far as may be to render it suitable for building purposes, and where a plot is already built upon to ensure the buildings, as far as possible, comply with the provisions of the scheme as regards open spaces.
- (2) For the purpose of sub-section (1), the scheme may contain proposals-
 - (a) to form a final plot by reconstructing of existing plot by alternation of the boundaries of the existing plot, if necessary;

- (b) to form a reconstituted plot from an existing plot by the transfer wholly or partly of the adjoining lands;
- (c) to provide, with the consent of the owners, that two or more existing plots each of which is held in joint ownership or in severalty shall thereafter with or without alternation of boundaries, be held in ownership in common as a reconstituted plot;
- (d) to allot a reconstituted plot to any persons if dispossessed of land in furtherance of the scheme, and
- (e) to transfer the ownership of an existing plot from one person to another.

39. Publication of the Development Scheme.

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

two months from the date of publication of the notice, in the Official Gazette:

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

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

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

imposing for that purpose reasonable restrictions in the use of land and building within the area.

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

40. Effect of Scheme.

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

- (a) all lands required by the Authority shall, unless it is otherwise determined in such scheme, vest absolutely in the Authority free all from encumbrances:
- (b) all rights in the existing plots which have been reconstituted shall determine, and the reconstituted plots shall become subject to the rights settled by the Authority;
- (c) the Authority shall handover possession of the reconstituted plots to the owner to whom these are allotted in the scheme.

41. Implementation of the Development Scheme.

- (1) The scheme shall come into force from the date as may be fixed by the State Government in sanctioning the scheme or from the date of adoption of the scheme as

provided in sub-section (3) of Section 39, as the case may be and shall be implemented by the Authority itself or by such other authority as may be authorised by the State Government in tat behalf.

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

42. Amendments and Alternations of the Development Scheme.

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

- (2) The modification of the scheme shall state every amendment proposed to be made in the scheme and if any such amendment relates to matter specified in any or all of the clauses of sub-section (2) of Section 36, the modification shall also contain such other particulars as may be found necessary.
- (3) The variation shall be open to inspection by the public at the office of the Local body or bodies as prescribed, covering the area during office hours.
- (4) Within one month from the date of publication of the modification, any person affected thereby may communicate in writing his objection to the Authority, the officer of the State Government or the local authority, as the case may be.
- (5) After receiving the objections under sub0section (4) above, the Authority, the Officer of the State Government or the local authority, as the case may be, after making such enquiry as it may think fit, approve the proposed modification with or without any further modification thereof.
- (6) Such modification shall take affect as if it were incorporated in the scheme from the date of its modification.
- (7) The Authority, the Officer of the State Government, or the local authority, as the case may be, shall thereafter submit the modified scheme to the State Government

for sanction. The modified scheme shall be published after sanction in the manner as prescribed for the original scheme.

43. Power to revoke the Development Scheme.

- (1) Notwithstanding anything contained in Section 42, a scheme may at any time be modified or revoked by a subsequent scheme made, published and sanctioned in accordance with this Act.
- (2) The State Government, at its own initiative or on the application of the Authority may at any time, by a notification in the Official Gazette, revoke a scheme, if it is satisfied that under the special circumstances of the case, the scheme shall be so revoked.

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

44. Power of the Authority to impose restrictions.

For the purpose of the Master Plan, the Land use and zoning Regulation and the scheme, the Authority may impose reasonable restrictions on the use of the land and building including the regulating of the open space to be maintained around the building or buildings, the percentage of the plot area to be covered by building or buildings, the number of

building or buildings on each plot, height and character of building or buildings allowed in specified areas, the purpose for which building or buildings or the specified areas may or may not be used the sub-division of plots, parking space and loading and unloading space for any building and the size or projections and such other matters not inconsistent with the objects of this Act.

45. Possession of land in advance of Development Scheme.

- (1) Where the Authority thinks that in the interest of public it is necessary to undertake forthwith any of the works included in a scheme for a public purpose, the Authority shall make an application to the State Government that the land required for the scheme shall vest in the Authority.
- (2) The State Government may, if satisfied that it is urgently necessary in the public interest to empower the Authority to enter on such land for the purpose of executing any of such work, direct the Authority by notification to take possession of the land.
- (3) The Authority shall then give a notice in the prescribed manner to the person interested in the land, the possession of which is to be taken requiring him to give possession of the land to the Authority or any person authorised by it in this behalf within a period of one month from the date of service of the notice, and if no possession is delivered within the period specified in the notice the Authority shall take

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

46. Magistrate of enforce delivery to possession of land.

- (1) If the Authority is opposed or obstructed in taking possession of the land under Section 45, it shall apply to the District Magistrate of the district, with whose jurisdiction the land is situated, to enforce the delivery of the possession of the land to the Authority, the District Magistrate, shall take or cause to be taken such steps and use or cause to be used such force as may be reasonably necessary for securing the delivery of possession of the land to the Authority.
- (2) For the avoidance of doubt, it is hereby declared that the power to take steps under sub-section (1) includes the power to enter upon any land or other property whatsoever.

47. Compensation and payment of interest.

- (1) Subject to the provisions of sub-section (2), wherever possession of the land is taken by the Authority under Section 46 there shall be paid compensation the amount of which shall be determined by the Collector. In determining the amount to compensation, the Collector shall take into consideration the market value of the land for a period of five years preceding

the date of issue of the notice under sub-section (3) of Section 45, and the amount of compensation payable shall be on the basis of average market value so arrived at:

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

- (2) In the case of land with respect to which any settlement has been made for special cultivation or which is include in any grant, if such land is lying fallow or uncultivated or is not utilised for the purpose for which the grant or settlement was made or for the purposes incidental thereto, than the compensation payable for acquisition of such land together with trees if any, standing in it shall be an amount equal to ten times the annual land revenue which, on the date of issue of notice referred to in sub-section (3) of Section 45, is or would have been payable if such land is or had been assessable to revenue at full rates:

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

Explanation:-

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

- (3) When the compensation has been determined under sub-section (1) or sub-section (2), the Collector shall make an award in accordance with the principles set out in section 11 of the land Acquisition Act, 1894 (Act 1 of 1894), but no amount referred to in sub-section 28 of that Act shall be included in the award.
- (4) Where any person aggrieved by an award made under sub-section (2) makes an application requiring the matter to be referred to the Court, the Collector shall refer the matter to the decision of the Court.
- (5) Where possession of the land is taken by the Authority under Section 45 or Section 46, the person interested in such land shall be entitled to interest at the rate of 12 percent per annum on the amount of compensation payable to him under this section in respect of the said land from the date on which such possession is taken till date on which the amount of compensation is paid to him by the Authority.

Explanation:-

- (i) “Collector” “Land” and “person interested” have the same meaning as in the Land Acquisition Act, 1894 (Act I of 1894).
- (ii) Land for the purpose of this Act included trees, buildings and standing crops on it, and casement.

48. Power of Authority to evict summarily.

- (1) On and after the day on which a scheme comes into force, any person continuing to occupy any land which he is not entitled to occupy under the scheme may, in accordance with the prescribed procedure, be summarily evicted by the Authority or by any of its officers authorised in that behalf.
- (2) If the Authority is opposed or obstructed in evicting such persons or taking possession of land from such persons, the District Magistrate, within whose jurisdiction the land is situated, shall on the application of the Authority, enforce the eviction of such persons or secure delivery of possession of the land to the Authority.

49. Power to enforce Scheme.

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

- (a) remove, pulldown, or alter any building or other work in the area included in the scheme which contrivances the scheme or in erection of which or carrying out of which, any provision of the scheme has not been compiled with;
 - (b) execute any work which it is the duty of any person to execute under the scheme, in any case where it appears to the Authority that delay in the execution of the work would prejudice the efficient operation of the scheme.
- (2) Any expenses incurred by the Authority under this section may be recovered from the owner of the existing plot in the manner provided for the recovery of sums due to the Authority under the provisions of this Act.
- (3) If any action proposed to be taken under sub-section (1) if this section by the Authority is questioned, the matter shall be referred to the State Government or any Officer authorised by the State Government in this behalf; and the decision of the State Government or of the Officer, as the case may be, shall be final and binding on all persons.

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

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

CHAPTER V

Road and Streets

51. Width of public streets.

- (1) The Authority shall, from time to time with the sanction of the State Government specify the minimum width for different classes of public streets according to the nature of the traffic likely to be carried there, the localities in which they are situated, the heights up to which building abutting thereon may be erected and other similar considerations.
- (2) The width of a new public street shall not be less than that prescribe in sub-section (1), or that shown on the Master plan for the class to which it belongs in areas for which Master Plan has been prepared.

52. Power to prescribe street line.

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

53. Setting back building to the prescribed street line.

- (1) If any building or any part of a building abutting on a public street is within such line of the street, the Authority may require such building to be set back to the prescribed line, whenever it is proposed:-
 - (a) to re-build such building or to take down such building;
 - (b) to remove, reconstruct or make any addition to or structural alteration in any portion of such building which is within the regular line of the street.
- (2) When any building or any part thereof within the prescribed line of the street falls down or is burnt down or is taken down, under the provisions of this Act or otherwise, the Authority may at once take possession of the portion of land within the prescribed line of the street previously occupied by the said building and if necessary.
- (3) Land acquired under the foregoing subsection shall, henceforward be deemed to be a part of the public street.

54. Acquisition of land within the line of street.

If any private land whether open or enclosed lies, within the prescribed line of a public street and is occupied by a building or if a platform, verandah, steps, compound wall, hedge or fence or other structure, is within the line of such street, the Authority may, after giving the owner of the land or building a notice of the intention to do so, take, possession of the said land with its enclosing wall, hedge or fence, if any, or of the said platform, verandah, steps or such other structure as aforesaid or of the portion of the said platform, verandah, steps or other such structure as aforesaid which is within the prescribed line of the street.

55. Acquisition of the remaining part of building and after their portions within a prescribed line of the street are acquired.

If a building or land is partly within the prescribed line of a public street and if the Authority is satisfied that the land remaining after the exclusion of the portion within the said line will not be suitable or fit for construction of independent building, the Authority shall acquire the remaining portion of the land if so desired by the owner.

CHAPTER VI

Acquisition of land

56. Power of State Government to acquire land.

Where on the representation of the Authority it appears to the State Government that in order to enable it to execute the scheme it is necessary that land within, adjoining or surrounded by any such area should be acquired, the State Government may acquire the land by publishing in the Official Gazette, a notice to the effect that the State Government has decided to acquire the land in pursuance of this section.

57. Proceeding for acquisition of land.

- (1) The provision of the Land Acquisition Act, 1894(Central Act No.1 of 1894 as amended) shall be applicable for acquisition of land under this Act and the compensation shall be computed under the provisions of the same Act.
- (2) In computing compensation for land acquired, the value will be market value as prevailed on the date of coming into force of this Act.
- (3) The owner of the lands will also be entitled to the reasonable cost of development, if any made during the period.

- (4) Twenty five per-cent increase in value on the date of acquisition of the land.
- (5) Where any such land has been acquired by the State Government it may, after it has taken Possession of the land, transfer the land to the Authority for the purpose for which the land has been acquired on payment by the Authority of the compensation awarded under Act and of the charges incurred by the State Government in connection with the acquisition.

58. Disposing of land.

Subject to the rules made under this Act, the Authority may retain, lease, exchange or otherwise, transfer any land acquired by it under this Act.

Provided that in case of lease or transfer the owner will get first priority if due to acquisition he becomes landless.

59. Provisions of private negotiation before compulsory acquisition.

- (1) The Authority may, in the first instance make reasonable efforts to purchase any land by private negotiation.
- (2) In case of failure to purchase the land by Private negotiation within a specified time, the said land shall be compulsory acquired.

- (3) Nothing in this section shall, however debar the State Government or the Authority from compulsory acquiring any land without prior private negotiation.

60. Payments to owner by adjustment.

All payments due to be made to any person by the Authority under this Act, shall so far as possible, be made by an adjustment in respect of the plot concerned or of any other plot in which he has an interest and failing such adjustment payment shall be agreed upon by the parties.

61. Sarkari land.

- (1) The State Government may by notification in the Official Gazette and upon such terms and conditions as may be agreed upon between the State Government and the Authority, place at the disposal of the Authority all or any developed and undeveloped lands in Guwahati Metropolitan area vested in the Government of Assam (known and here-in-after referred to as “sarkari lands”) for the purpose of development in accordance with the provisions of this Act.
- (2) No development of any Sarkari land shall be undertaken or carried out except by, or under the control and supervision of, the Authority after such land has been placed at the disposal of the Authority under sub-section (1):

- (3) After any such sarkari land has been developed by, or under the control and supervision of the Authority, it shall be dealt with by Authority in accordance with rules made and directions given by the State Government in this behalf.
- (4) If any sarkari land placed at the disposal of the Authority under sub-section (1) is required at any time thereafter by the State Government, the Authority shall, by notification in the official Gazette, replace it at the disposal of the state Government upon such terms and conditions as may be agreed upon between the State Government and the Authority.

62. Power of the Authority to develop land in non-development area.

Notwithstanding anything contained in sub-section (4) of Section 35, the Authority may, if it is of opinion that it is expedient to do so, undertake or carry out any development of any land which has been transferred to it or placed at its disposal under Section 57 or Section 61 even if such land is situated in any area which is not a development area.

CHAPTER VII

Compensation and Levy, Betterment and Development Charge

63. Right to Compensation.

Any person whose property is injuriously affected in value by the making of a Scheme shall, if he makes a claim for the purpose within a period of three months after the date of publication of a notification sanctioning the scheme under Section 39, be entitled to obtain compensation in respect thereof from the Authority.

64. No right to Compensation.

A person shall not be entitled to obtain compensation under the forgoing section on account of any building erected on or contract made or other thing done with respect to any land within the area included in a scheme under Section 35.

Provided that this provision shall not apply of any building erected, contract made or other thing done in accordance with the permission granted under Section 23 and 41 of this Act.

65. Power of Government to exclude compensation in certain cases.

(1) No compensation shall be payable in respect of any property which may be injuriously affected by putting into operation of any provisions of the scheme which:-

- (a) prescribed the space about buildings; or
- (b) limits the number of buildings; or
- (c) regulates the size, height, design or external appearance of buildings; or
- (d) prohibits or restricts building operations permanently or temporarily on the ground that erection of building thereon will be likely to be injurious to the health of the occupants or the neighbours or likely to cause excessive expenditure of public money in making provisions for roads, sewers, water supply or other public services; or
- (e) Prohibits or restricts the use of land or a building for a purpose which may involve danger or injury to public hygiene or the health of the occupants or their neighbours or for a purpose which is against the public policy or public morals.
- (f) In the interests of safety, regulate the height and position of proposed walls, and building fences or Hedges near the corners or brands of roads; or
- (g) In the case of erection of any building intended to be used for purposes of business or industry, requires the provisions of parking the vehicles.

66. Right of owner to require Authority to acquire or purchase land.

- (1) The owner of any land which is to be acquired for purpose of a scheme may, at any time after the sanction of the scheme by the Government, by a written notice to the Authority in the prescribed manner, call upon it to acquire or purchase the land in so far as the land is to be acquired by the State Government or the Authority.
- (2) If within six months of the services of the notice under sub-section (1), the land is not purchased or acquisition proceedings are not started, the scheme in so far as that land is concerned, shall be deemed to have been withdrawn and all notices and orders in that connection shall lapse.

67. Levy of betterment fee.

- (1) Every property which has increased in value due to its inclusion within an area under a plan or a scheme or due to the execution of such schemes shall be charged with a betterment fee:

Provided that no such fee shall be levied in respect of the lands owned by Governments and on such public land or building as are used fro charitable, religious

and educational purposes or for places of non-professional entertainment and recreation.

- (2) The betterment fee shall be an amount equal to twenty percent in case of residential holdings so long the original owners use for their residences and equal to fifty percent in case of non residential areas and will be realised in five equal instalments.

Explanation:-

The increase in value for the purpose of this section shall be increase in the market prices in between the date on which a notification under sub-section (1) of Section 35 has been issued and the date on which the execution of the scheme has been substantially completed.

68. Appeal.

- (1) Any person aggrieved by the decision of the Authority with respect to matters of compensation and betterment fee, may appeal to the Appellate Authority within thirty days of the award.
- (2) If the owner of any property objects to the amount of betterment fee determined by the Authority on any ground, he shall also state the amount which, he contends would be correct and may within thirty days of the date on which the determination of his objection or appeal becomes final by written notice, require the

Authority to acquire the property together with any building or other works that may exist thereon.

- (3) The Authority shall thereupon acquire the property.

69. Levy of development charge.

- (1) In accordance with the provisions of this Act, and the rules made thereunder and with the previous sanction of the State Government, the Authority shall, by notification published in the official Gazette, levy a charge (herein-after called the development fees) on the carrying out of any development or charge of use of land for which permission of the Authority is required at the rate prescribed in the rule:-
- (2) The fees shall be leviable on any person who undertakes or carries out such development or charges any such use.
- (3) Notwithstanding anything contained in sub-sections (1) and(2), no development fees shall be levied on development or charge of use of any land vested in or under the control or possession of the Central Government, the State Government or any local authority.
- (4) The state Government may, by rules, provide for the exemption from the levy of development fees on any development or charge of any use of any land specified in the rules.

- (5) (i) For the purpose of providing and maintaining any amenity, the Authority may also levy such fees as it may consider necessary which shall be in addition to any fee for the time being leviable under this Act any other law in force, in respect of any land or building on the transferee or occupier thereof.
- (ii) Where any transferee or occupier makes any default in the payment of any fee levied under clause (1) of sub-section (5), the Authority may direct that in addition to the amount of the arrears, a sum of not exceeding that amount shall be recovered from the transferee or occupier, as the case may be, way of penalty.
- (iii) In case of any default in payment of an amount payable under this Act, the outstanding amount in default together with any sum, if any directed to be paid by way of penalty under clause (ii) of sub section (5), may be recovered from the transferee or occupier, as the case may be, in the same manner as arrear of land revenue.

70. Resumption of land of Building.

In case of non-payment of consideration money or instalment thereof on account of the transfer of any land or building or any rest due in respect of the lease of any such land or building or in case of the breach of any other conditions of such transfer or breach of any rules made

under the Act, the Authority may if thinks fit, resume the land or building so transferred and may further forfeit the whole or any part of the money if any paid in respect thereof.

CHAPTER VIII

Appeals and the Appellate Authority

71. Appointment of Appellate Authority.

- (1) Save as otherwise provided, the state Government shall appoint an Appellate Authority to hear all appeals arising out of the provisions of this Act. The decision of Appellate Authority shall be final.
- (2) The person or persons appointed by State Government as Appellate Authority shall have the qualification of a District Judge, or of becoming a member of the Assam Board of Revenue constituted under the Assam Boards of Revenue Act, 1962, (Assam Act -XXI of 1962). The appointment shall be on such terms and conditions as the State Government may decide.

72. Duties of Appellate Authority.

- (1) The duties and powers of the Appellate Authority shall be as follows:-
 - (a) to hear and decide appeals against the orders of the Authority;

- (b) to decide and hear appeals in respect of such other matters and exercised such other powers as may be entrusted to and conferred upon it by the State Government in accordance with the provisions of this Act.
- (2) All appeals to the Appellate Authority shall be filed within a month from the date of the order appealed against. The time required for taking out copies of the order shall be excluded. The Appellate Authority may, however, in its discretion condone such delay in filing appeal for sufficient reasons.

73. Proceeding of working of the Appellate Authority.

- (1) The Appellate Authority shall conduct its proceeding in the prescribed manner after giving the opposite party or any one interested in the order appealed against and give opportunity of being heard.
- (2) The Appellate Authority may, at any time call for any extract from any proceeding of the State Government or Authority and call for any return or statement or report concerning or connected with any matter with which the Authority to deal.

- (3) The Appellate Authority shall have all the powers of a Civil Court for the purposes of taking evidence on oath or enforcing the attendance of witnesses including the parties interested or any of them and compelling the production of documents and material objection if considered necessary.
- (4) The Appellate Authority in its discretion may make any orders regarding the cost to be paid by any of the parties to the proceeding and the Appellate Authority shall have full power to determine by whom or out of what property and to what extent such costs are to be paid and the Authority shall be bound to execute the orders of the Appellate in accordance with the directions, if any, contained in the order and such costs or amounts awarded by the Appellate Authority shall be realised as arrears of land revenue.

74. Place where Appellate Authority may sit.

The Appellate Authority may sit either at the Head Quarter of the Guwahati Metropolitan Development Authority or at any other place within the local limits of his jurisdiction which he may deem convenient for the consideration and decision of any matter before the Appellate Authority.

75. Right to appear by recognised agent.

Every party to any proceeding before the Appellate Authority constituted under this Act, shall be entitled to appear either in person or by his agent authorised in writing in this behalf.

76. Protection of action taken under this Act.

- (1) No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any order made thereunder.
- (2) Save as otherwise expressly provided in this Act, no suit or other legal proceeding shall lie against the State Government for any damage caused or likely to be caused by anything in good faith done or intended to be done in pursuance of this faith done or intended to be done in pursuance of this Act or any order made thereunder.

CHAPTER IX

Finance, Accounts and Audits

77. Fund of the Guwahati Metropolitan Development Authority.

- (1) The Guwahati Metropolitan Development Authority shall have and maintain its own fund to which shall be credited-
 - (a) all money received by the Authority from the State Government by way grants, loans, advances or otherwise;
 - (b) all development charges or other fees received by the Authority under this Act or rules or regulations made thereunder; and
 - (c) all money received by the Authority from any other sources.
- (2) The Authority may keep in current account in any nationalised Bank approved by the State Government in this behalf, such portions of each funds as may be prescribed and any money in excess of the said sum shall be invested in such manner or may be approved by the State Government.

78. Grants advance and loans by State Government.

The State Government may make such grants, advances and loans to the Authority as it may deem necessary for the performance of the functions under this act and all such grants, advances and loans made shall be on such terms and conditions as the State Government may determine.

79. Powers to borrow money.

- (1) The Guwahati Metropolitan Development Authority constituted under this Act shall be deemed to be a local authority as defined in the Local Authorities Loans Act, 1914 (Central Act, No. 1 of 1914) for the purpose of borrowing money under that Act, and the making and execution of a plan and scheme shall be deemed to be a work which such local authority is legally authorised to carry on.
- (2) The Authority may, from time to time, borrow money by way of loans or debenture from such sources issue debenture at such rate of interest and for such period and upon terms, as the State Government may approve, any sum of money required for carrying out the purposes of this Act or servicing any loan obtained by it.

80. Development fund.

The receipt of the Authority under this Act shall from a separate development fund and all expenditure development scheme thereunder, shall be defrayed out of such fund. No portion of the fund shall, except with the sanction of the State Government, be expended for purposes not provided by this Act.

81. Sinking fund.

- (1) The authority shall maintain a sinking fund for the repayment of money borrowed or floated or issuing debenture by it.
- (2) The money paid into the sinking fund shall be invested in such manner and in such securities as may be prescribed.
- (3) The sinking fund or any part thereof shall be applied in or towards, the discharge of the loan or part thereof for which such fund is created and until such loan or part thereof is wholly discharged the money standing to the credit of the fund shall be applied for no other purpose.

82. Budget of the Authority.

The Authority shall prepare every year to such form, a budget of the Authority in respect of the next financial year, showing the estimated receipt and expenditure under revenue head and capital head separately and submit it to

the State Government not later than fifteen of February each year or as may be directed by the State Government for approval.

83. Accounts and Audits.

- (1) The Authority shall maintain proper accounts and other relevant records and prepare an annual statement of account including the balance sheet in such form as may be approved by the State Government.
- (2) The accounts of the Authority shall be subject to Audit annually by the Account General Assam. The accounts of the Authority along with the Audit Report shall be placed before the State Legislature.

84. Annual Report.

As soon as may be after the close of a year, the Authority shall prepare a report of each activities during the preceding year and submit it to the State Government in such form and on or before such date as may be prescribed Legal Proceedings.

CHAPTER X

Legal proceedings

85. Penalty for unauthorized development or for use otherwise than conformity with the Master Plan and Scheme.

- (1) Any person who, whether at his own instance or at the instance of any other person, commences, undertakes or carries out development, or changes use of any land or building;
 - (a) in contravention of the provisions of the Master Plan and Zoning Regulation and of any development schemes;
 - (b) without permission as required under this Act;
 - (c) in contravention of any condition subject to which such permission has been granted;
 - (d) after the permission the development has been revoked under Section 33; or
 - (e) in contravention of the permission which has been modified under Section 33;
- (2) In case of any such breach of default, the Authority shall send to any person a notice calling on him to discontinue the breach or cause it to be discontinued or to comply with such provisions of the Master plan

or the scheme within a time to be specified in the notice.

- (3) If after such time any such person under sub-section (1) continues to neglect or, cause a breach of any specified provision, such persons shall be prosecuted and no conviction by a Magistrate be punishable by any or all of the following:-
- (i) With fine which may extend to five thousand rupees with or without simple imprisonment not exceeding a period of six months.
 - (ii) if the breach, neglect or failure continues after such conviction with fine which may extend to two hundred and fifty rupees for every day during which the breach, neglect or failure continues after the first convictions.

86. Power to execute works on failure to comply with notice.

If a notice has been given under this Act to a person requiring him to execute a work in respect of any property, moveable or immovable or to provide or do or refrain from doing anything within a time specified in the notice and if such person fails to comply with such notice, then the Authority may cause such work to be executed or such thing to be provided or done, and may recover all expenses incurred by it on such account from the said person as an arrear of land revenue.

87. Power to stop development.

- (1) Where any development in any areas has been commenced in contravention of the Master Plan or Development Scheme or without the permission, approval or sanction referred to in Section 25 and Section 30 or in contravention of any conditions subject to which such permission, approval or sanction has been granted, the Authority may, in addition to any prosecution that may be instituted under this Act make an order requiring the development to be discontinued on and from the date of the service of the order and such order shall be complied with accordingly.
- (2) Where such development is not discontinued in compliance with the order under sub-section (1) the Authority may require any Police Officer not below the rank of Sub-Inspector of Police to remove the person by whom the development has been commenced including all his assistants and workmen from the place of development within such time as may be specified in the requisition and such Police Officer shall comply with the requisition accordingly.
- (3) After the requisition under sub-section (2) has been complied with, the Authority may depute by a written order a Police Officer or an Officer or an employee of the Authority to keep a watch on the place to ensure that the development is not continued.

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

88. Power of demolition of Building.

- (1) Where any development has been commenced or is being carried on or has been completed in contravention of the Master Plan or Development Scheme or without the permission approval or sanction referred to in Section 25 and Section 30 of the Act or in contravention of any condition subject to which such permission, approval or sanction has been granted the Authority may in addition to any prosecution that may be instituted under the Act make an order directing that such development shall be removed by demolition, filling or otherwise by the owner, occupier, manager or by any person at whose instance the development has been commenced or is being carried out or has been completed within such period not being less than five days and more than thirty days from the date on which a copy of the order of removal with brief statement of the reasons thereof has been delivered to the owner, occupier and manager of the person at whose instance the development has been completed as may be specified in order and on his failure to comply with the order, the Authority may remove or cause to be remove the development and the expenses of such removal shall

be recovered from the owner, occupier manager or any person at whose instance the development was commenced or was being carried out or was completed as arrears of land revenue provided that no such order shall be made unless the owner, occupier manager or any person concerned has been given a reasonable opportunity to show cause why the order shall not be made.

- (2) The provisions of the this Section shall be in addition to and not in derogation of/ any other provisions relating to demolition of buildings contained in any other law for the time being in force.
- (3) No compensation shall be claimed by any person for any damage which he may sustain in consequence of the removal of any development under this Section or the discontinuance of the development under Section 87 of this Act.

89. Right of Occupier to execute works in default of owner.

When default is made by the owner of a building or land in the execution of any work required under this Act to be executed by him, the occupier of such building or land may, with the prior approval of the Authority cause such works to be executed and the expenses thereof shall, be paid to him by the owner, or the amount may be deducted out of the rent from time to time becoming due from him to such owner.

90. Procedure upon opposition to execution by occupier.

- (1) If after receiving information of the intention of the owner of any building or land to take any action in respect thereof in compliance with a notice issued under this Act, the occupier refuse to allow such owner to take action, the owner, may apply to the District Magistrate.
- (2) The District Magistrate upon proof of such refusal may make an order in writing requiring the occupier to allow the owner to execute all such works, which respect to such building or land, as may be necessary for compliance with the notice, and may also, if he thinks fit, order the occupier to pay to the owner the costs relating to such application or order.
- (3) If after the expiry of eight days from the date of the Magistrate's order, the occupier continues to refuse to allow the owner to execute such work, the occupier shall be liable, upon conviction to a fine which may extend to rupees two hundred fifty for every day during which he has so continued to refuse.
- (4) Every owner, during the continuance of such refusal shall be discharged from any liability on account of such breach or default.

91. Recover of cost of work by the occupier.

When the occupier of a building or land in compliance with a notice issued under this Act executed a work for which the owner of such building or land is reasonable, either in pursuance of the contract of tenancy or by law, he shall in the absence of any contract to the contrary, be entitled to recover from the owner by deduction from the rent payable by him or otherwise the reasonable cost of such work.

92. Penalty for obstructing construction or receiving work.

- (a) If any person obstruct or assaults any person with whom the Authority, has entered into a contract for the performance or execution by such person of his duty or of anything which he is empowered or required to do under the Act, or
- (b) remove any mark set up for the purpose of indicating any level or direction necessary to the execution of works authorised under this Act, shall be punishable with fine which may extend to five hundred rupees or with or without simple imprisonment for a term which may extend two months.

93. Member officers and employment to be public Servant.

Every Officers and servants of the Authority and every other officer employed by the State Government for the purpose of this Act, shall be deemed to be a public servant within the

meaning of Section 21 of the Indian Penal Code (Central Act No. 45 of 1860).

94. Punishment for malicious abuse of Power.

Any Officer or servant of the Authority or of the Government who wilfully or negligently abuses any power conferred on him by or under this Act, shall be punishable with imprisonment which may extend to six months or with fine which extend to five hundred rupees or with both.

Provided that no prosecution shall be instituted under this section-

- (a) unless the previous sanction of the Authority or the State Government as the case may be has been obtained:
- (b) until the expiry of two months notice in writing has been given to the person concerned clearly stating the cause of action and the nature of relief sought, etc.

95. Bar to suit prosecution in certain cases.

- (1) No suit, prosecution or other proceeding shall lie against the Authority or Officer or servant thereof of any person acting under their direction or any Government Officer or servant Employed for the purpose of this act for anything which is in good faith done in pursuance of this Act, or any rules made thereunder.

- (2) No suit, prosecution or other proceedings shall lie against any Officer or servant of the Authority or any Government Officer or servant employed for the purpose of this Act for anything done under this Act.
- (a) unless the previous sanction of the Authority of the State Government as the case may be, had been obtained; and
- (b) until the expiry of two months after notice in writing has been given to the person to be sued, clearly stating the cause of action, and the nature of relief sought, etc.

96. Restriction on the summoning of officers and employees of the Guwahati.

No Officer or employee of the Authority shall in any legal proceedings to which the Authority is not a party be required to produce any register or document the contents of which can be proved under Section 108 by a certified copy, or to appear as witness to prove the matters and transactions recorded therein, unless by order of the court made for special cause.

97. Power of Authority to institute proceeding etc. and to take legal advice.

The Authority or any person authorised in this behalf shall, subject to rules framed under this Act have powers to-

- (a) institute, defend or withdraw from legal proceedings under this Act;
 - (b) compound any offence against this Act before the matter is referred to the court;
 - (c) admit, compromise; or withdraw any claim made under this act, and
 - (d) obtain such legal advice and assistance as to may from time to time think necessary or expedient to obtain for any of the purposes, referred to in the foregoing clauses of this section for securing the lawful exercise or discharge of any power or duty vested in or imposed upon the Authority or any officer or servant of the Authority.
- (2) The compositions of an offence under sub-section (1) shall have the effect of an order of acquittal.

98. Power to compel attendance of witnesses etc.

For the purpose of this Act, the Authority or an Officer appointed under the provisions of this Act to discharge the function of the Authority or the appellate Authority may summon and enforce the attendance of witnesses including the parties interested or any of them and compel them to give evidence and compel the production of documents by the same means and as far as possible in the same manner as is provided in the case of Civil Court by the Code of Civil procedure, 1908.

99. Power and duties of Police in respect of offence and assistance to Authority.

Every Police Officer, Mazumdar or Officer of the local authority shall give immediate information to the Authority of an offence to his knowledge which has been committed under this Act and shall be bound to assist all members, Officers and servants of the Authority in the exercise of their lawful authority.

100. Offences by the Companies.

- (1) If the person committing an offence under this Act is a company, every person who, at the time the offence was committed, was in-charge of, and was responsible to, company for the conduct of its business as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent its commission.

- (2) Notwithstanding anything contained in the sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the

part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officers shall be liable to be proceeded against and punishable accordingly.

Explanation:-

For the purpose of the section.

- (a) “Company” means a body corporate and includes a firm or other association of individuals; and
- (b) “director” in relation to a firm means a partner in the firm.

101. Orders under the Act, not to be questions in the court.

No order made in exercise of any power conferred by or under this Act shall be called in question in any court except as provided in this Act.

102. Validation of acts and Proceedings.

- (1) No act done or proceeding taken under- Act shall be questioned on the ground merely of-
 - (a) the existence of any vacancy, initial of subsequent, in or any defect in the constitution of the Guwahati Metropolitan Development Authority;

- (b) any person having ceased to be a member;
 - (c) the failure to serve a notice on any person, where no substantial injustice has resulted from such failure; or
 - (d) any omission, defect or irregularity not affecting the merit of the case.
- (2) every meeting of the Authority shall be presumed to have been duly convened and to be free from all defects and irregularities.

103. Mode of recovery of moneys due to Authority.

Any money due to the Authority on account of fees or charges, or from the disposal of land, buildings or other properties, moveable or immovable, or by way of rents and profits may, if the recovery thereof is not expressly provided for in any other provision of this Act, be recovered by the Authority as arrears of land revenue.

104. Power to acquire land under the land acquisition Act, 1894 (1 of 1894).

Any land required, reserved or designated in a Master Plan or a Development Scheme under this Act shall be deemed to be land needed for a public purpose within the meaning of the land Acquisition Act, 1894 and may be acquired under the said Act.

105. Restriction on power of a local Authority to regulations or bye-laws in respect of certain matter.

- (1) Notwithstanding anything contained any law for the time being in force, no rule, regulation or bye-law shall be made or amended by a local authority in respect of matters specified in sub-section (2) unless the Authority, upon consideration of such rule, regulation or bye-law, certifies that it does not contravene any of the provisions of the Master Plan or development Scheme.
- (2) The matters referred to in sub-section (1) are the following, namely:-
 - (a) water supply, drainage and sewerage disposal;
 - (b) erection and re-erection of buildings including grant of building permission, licence and imposition of restriction on use and sub-division of buildings;
 - (c) Sub-division of land into building sites, roads and lanes recreational site for community facilities; and
 - (d) Development of land, development Schemes, and housing and re-housing Schemes.

CHAPTER XI

Supplementary and Miscellaneous Provisions

106. Power of entry.

- (1) For the purpose of making or execution of any scheme any Officers of the Authority authorised in this behalf or persons appointed by the State Government, their subordinates may enter into or upon any land or building with or without assistance or workmen of workmen for the purpose of-
 - (a) making any enquiry, inspection, measurement or survey or taking levels of such land or building;
 - (b) setting out boundaries and intended lines of works;
 - (c) specifying such levels, boundaries and lines by placing marks for cutting trenches;
 - (d) examining works under construction and ascertaining the course of sewers and drains;
 - (e) Digging or boring into the sub-soil.

- (f) Ascertaining whether any land is being or has been developed in contravention of any provisions of this Act of rules or regulations made thereunder.
- (g) Doing any other thing necessary for the efficient administration of this Act.

Provided that-

- (i) in the case of any building used as dwelling house, or upon any enclosed part of garden attached to such a building, no such entry shall be made without giving the occupier at least twenty four hours notice in writing of the intention to enter, unless such occupier aggress;
 - (ii) sufficient opportunity shall be given to enable women (if any) to withdraw from such land or building;
 - (iii) due regard shall always be had, so far as may be compatible with the exigencies of the purpose, for entry to the social and religious usages of the occupants of the land or building.
- (2) The power of the officer under sub0section (1) shall extend to the whole of Guwahati Metropolitan area and such other area which the State Government may have directed in this behalf.

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

107. Services of notices.

All documents including bills, notices and orders required by this or any rule or regulation made thereunder to be served upon or issued or presented to any person shall, save as otherwise provided in this Act or rule or regulation, be effected.

- (a) by giving or tendering the said document to such person; or
- (b) if such person is not found, by leaving such document at his last known place of abode or by giving or tendering the same to some adult member or servant of his family; or
- (c) If his address elsewhere is known, by forwarding such documents to him, by registered post under a cover bearing the same address; or

(d) if none of the means as aforesaid is available, by causing a copy of such document to be affixed on some conspicuous part of the land or building, if any, to which the document relates.

108. Public notice how to be made known.

Every public notice given under this bill or rules or regulations made thereunder shall be in writing over the signature of such officer who may be authorised in this behalf by the Authority and shall be widely made known in the locality to be affected thereby, by affixing copies thereof in conspicuous public places within the said locality, or by preproclaiming the same by beat of drum or by such other means which the Authority thinks fit.

109. Authentication of orders and documents of the Guwahati Metropolitan Development Authority.

All permission, orders decisions, notices and other documents of the authority shall be authenticated by the signature of such officer of the Authority as may be authorised by the Authority in this behalf.

110. Mode of proof of records of the Guwahati Metropolitan Development Authority.

A copy of any receipt, application, plan, notice, order, entry in a register, or other document in the possession of the Authority if duly authenticated by the person authorised by the Authority, shall be received and admitted as evidence of

the matters and transactions therein recorded to the same extent, as the original entry or document would, if produced have been admissible to prove such matters.

111. Registration of documents plants and or map in connection with Scheme.

(1) Nothing in the Indian Registration Act, 1908 (Central Act No XVI Of 1908) shall be deemed to require the registration of any documents, plans or map prepared made or sanctioned in connection with a scheme which has come into force.

(2) All such documents, plans and maps relating to the sanctioned scheme shall, for the purposes of Sections 48 and 49 of the Indian Registration Act, 1908 (Central Act XVI of 1908), be deemed to have been and to be registered in accordance with the provisions of that Act.

112. Formal defects in assessments and demands.

No assessment list or other list, notice or others such documents specifying, or purporting to specify with reference to any charge, or fee, any person's property thing or circumstances shall be invalid only by reason of a clerical or technical mistake in the name, residence, place of business or occupation of the person or in the description of property, thing or circumstances and it shall be sufficient if the person, property, thing or circumstances is described sufficient for the purpose of identification, and it shall not be

necessary to name the owner or occupier of any property liable in respect of the charge.

113. Power of Authority to make Agreements.

The Authority shall be competent to make any agreement with any person in respect of any matters, which is to be provided for in a scheme and, unless it is otherwise expressly provided therein, such agreement shall take effect on and after the day on which the scheme comes into force.

114. Fine when realised to be paid to the Guwahati Metropolitan Development Authority.

All fines realised in connection under this Act shall be paid to the Guwahati Metropolitan Development Authority.

115. Decision of dispute between authorities.

Should a dispute arise between the Authority and any other local authority on any matter in which they are jointly interested, such dispute shall be referred to the State Government whose decision shall be final.

116. Control by the State Government.

(1) The Authority shall carry out such directions as may be issued from time to time by the State Government for the efficient administration of this Act.

(2) If in, or in connection with, the exercise of its powers and discharge of its functions by the Authority, any dispute arises between the Authority, the local

Authority and the State Government, the decision of the of the Government on such dispute shall be final.

117. Returns and information.

The Authority shall furnish to the State Government such reports, returns and other information as the Government may from time to time require.

118. Penalty of orders.

Save as otherwise expressly provided in this Act, every order passed or direction issued by the Authority, shall be final and shall not be questioned in any suit or other legal proceeding.

119. Power to delegate.

The Authority may, by resolution, direct that nay power exercisable by it under this Act or rules or regulations made thereunder (except to make rules and regulations) may also be exercised by any local authority or any officers of the state Government with previous consent of the State Government or any officer of the Authority as may be mentioned therein in such cases and subject to such conditions, if any, as may be specified therein.

120. Effect of order in consistent with other enactments.

Any order made under this Act shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or any instrument having effect by virtue of any enactment other than this Act.

121. Overriding effect.

(1) The provisions of this Act and the rules and regulations made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law.

(2) Notwithstanding anything contained in any other law-

(a) When permission for development in respect of any land has been obtained under this Act such development shall not be deemed to be unlawfully undertaken or carried out by reason of only of the fact that permission, approval or sanction required under any other law for such development has not been obtained.

(b) When permission for such development has not been obtained under this Act such development shall not be deemed to be lawfully undertaken or carried out by reason only of the fact that permission, approval or sanction required under such other law for such development has been obtained.

122. Power of the State Government to make rules.

- (1) The State Government may, after previous publication in the official Gazette make rules for carrying out the purposes of this Act.
- (2) In particulars and without prejudice to the generality of the foregoing powers, the State Government shall have power to make rules in respect of the following matters-
 - (i) The functions and powers that may be delegated to the Authority or to any officer of the Authority
 - (ii) The qualifications and disqualifications for being chosen or and for being, member of the Authority.
 - (iii) The terms of office and conditions of service of the members of the Authority.
 - (iv) The matters in which and the purpose for which the Authority may associate with itself any person under the provisions of this Act.
 - (v) The control and restriction in relation to the appointment of officers and other employees of the Authority.
 - (vi) The procedure to be adopted for securing co-operations of various Government Departments,

the owners or other persons or bodies interested in schemes.

- (vii) All matters pertaining to land acquisition including procedure and making of awards, compensation and the possession of land by the Authority in ordinary and emergent cases.
- (viii) Calculation, assessment and payment of compensation in respect of property which is injuriously affected within the meaning assigned to it in Section 63 of this Act.
- (ix) Creation and administration of Fund of the Authority for the purpose of implementing the provisions of this Act.
- (x) The form of the budget of the Authority, the manner of preparing it and the date on or before which it shall be prepared and to submitted, to the State Government.
- (xi) The procedure for the levy of development charges and exemption from it on any development or change of any land.
- (xii) The calculation assessment and collection betterment contribution.
- (xiii) The procedure of filing, hearing and deciding objections and appeals under this act and all matters connected therewith.

- (xiv) The manner of publication of the notification regarding scheme, their modifications, variations, revocation, submission and sanction by the State Government.
- (xv) Any other matter which has to be or may be prescribed by rules.
- (xvi) All rules made this section shall be laid for not less than fifteen days before the Assam Legislative Assembly as soon as possible, after they are made and shall be subject to such modification as the Legislative Assembly may make during the session immediately following.

123. Power of the Authority to make bye-laws.

- (1) The Authority shall have power to make bye-laws in respect of the matter enumerated under this section and not inconsistent with the rules made by the State Government.
 - (i) Land Subdivision and layout of public-street.
 - (ii) width fro different classes of public streets according to the nature of traffic to be carried thereon.
 - (iii) Street lines and setting back of building from the regular line of the street.

- (iv) Zoning Regulations prescribing the type or description of building which may or may not be erected in any prescribed area or areas.
 - (v) Regulations and display of advertisement in the interest of amenity, aesthetic or public safety.
 - (vi) Regulations in any manner or specifically provided for in this Act, the erection of any enclosure, wall fence, tent or other structure or any land within the limits of the Authority.
 - (vii) Time and place and transaction of business of the meetings of the Authority and committees constituted under this Act.
 - (viii) The power and duties of the officers and employees of the Authority.
 - (ix) The salaries, allowances and conditions of services of its officers and employees.
 - (x) Any other matter which has to be or may be prescribed by rules.
- (2) The power to make bye-laws under this Act shall be subject to the conditions of previous publication.
- (3) The State Government may cancel their confirmation on any such bye-laws and thereupon the bye-law shall cease to have effect.

124. Dissolution of Guwahati Development Authority.

As soon as may be after the commencement of this Act the State Government shall, by notification, in the official Gazette declare that the Guwahati Development Authority constituted under the provisions of the Assam Town and Country Planning Act, 1959 and as amended having jurisdiction over the Greater Guwahati Master Plan Area shall be dissolved with effect from such date as may be specified in the notification and the Guwahati Development Authority shall stand dissolved accordingly.

125. Consequences of dissolution of the Guwahati Development Authority.

- (1) With effect from the date of dissolution of the Guwahati Development Authority specified in Section 124.
 - (a) all the members including the chairman, or other person constituting committee or committees of the Guwahati Development Authority shall vacate their respective offices;
 - (b) all properties, funds and dues which are vested in or realisable by the Guwahati Development Authority shall vest in and be realisable by the Guwahati Metropolitan Development Authority;

- (c) all contracts and liabilities which are enforceable by or against the Guwahati Development Authority shall be enforceable by or against the Guwahati Metropolitan Development Authority;
 - (d) all legal proceedings instituted by or against the Guwahati Development Authority may be continued or enforced by or against the Guwahati Metropolitan Development Authority;
 - (e) all officers and other employees of the Guwahati Development Authority continued in office immediately before the date of the order shall be deemed to be employed by the Guwahati Metropolitan Development Authority on such terms and conditions not being less advantageous than what they were entitled to immediately before the said date;
 - (f) all the powers and duties which may, under the provisions of this Act or any other Act or any rule, regulation, bye-law order or notification made thereupon, be exercised or performed by the Guwahati Development Authority shall be exercised or performed by the Guwahati Metropolitan Development Authority
- (2) The State Government shall before the dissolution of the Guwahati Development Authority, constitute the Guwahati Metropolitan Development Authority 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 (2) of this Section.

126. Repeal and saving.

- (1) The relevant Sections of the Guwahati Municipal Corporation Act, 1969 (Assam Act I of 1973) and along with the amendments up-to date inconsistent with the provisions of this Act shall stand repealed with effect from the date on which the Guwahati Metropolitan Development Authority as referred to in Section 4 of this Act is constituted.
- (2) The relevant sections of the Assam Town and Country Planning Act, (Assam Act II of 1960) and the Assam Municipal Act, 1956 (Assam Act IV of 1957) Assam Panchayat Act, 1972 and alongwith their amendments up-to date and the rules and the regulations made thereunder, inconsistent with the provisions of this Act shall cease to operate within the territorial limits of the Guwahati Metropolitan Area as referred to in Section 3 of this Act with effect from the date on which the Guwahati Metropolitan Development Authority, as referred to in Section 4 of this Act is constituted.

(3) Notwithstanding any repeal and inoperative of the relevant sections referred to in sub-section (1) and sub-section (2) anything done or anything purported to be done or any action taken under the provisions of the said Acts or rules or regulations made thereunder, shall be deemed to have been done or taken under the provisions of this act and all such rules or regulations shall, if not inconsistent with the provisions of this Act continue in force till rules and regulations are made under this Act.

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

ASSAM ACT NO. XXI OF 1989

Received the assent of the President on 10th November, 1989.

THE GUWAHATI METROPOLITAN DEVELOPMENT AUTHORITY (AMENDMENT) ACT, 1989

An

Act

To amend the Guwahati Metropolitan Development Authority Act, 1985(Assam Act No. XX of 1987)

Whereas it is necessary to amend the Guwahati Metropolitan Development Authority Act, 1985 (Assam Act No XX of 1987), hereinafter called the principal Act;

And whereas the previous instructions of the President have been obtained;

It is hereby enacted in the Fortieth Year of the Republic of India as follow, namely:-

1. Short title. Extent and commencement:

- (1) This Act may be called the Guwahati Metropolitan Development Authority (Amendment) Act, 1989.
- (2) It shall have the like extent as the principal Act.
- (3) It shall be deemed to have come into force on the 14th

Day of November, 1987

2. Amendment of section 2.

In the principal Act, in section 2, in sub-section (9), for the words and figures " Indian Factories Act of 1934", the words with a come and figures "Factories Act, 1984, shall be substituted.

3. Amendment of section 23.

In the principal Act, in section 23, the words "or the Central Government" shall be deleted.

4. In the principal Act, in section 24, in the proviso,

(a) in clause (ii) and (iii), the words "the Central or" shall be deleted;

(b) the full stop "." appearing at the end of clause (v) to the proviso shall be substituted by a semicolon ";" and thereafter a new clause (vi) shall be inserted namely:-

"(vi) for operational construction."

5. Amendment of section 25.

In the principal Act, in section 25,

(a) in sub-section (1), the words "the Central or" shall be deleted;

(b) the proviso to sub-section (5) shall be deleted;

- (c) after sub-section (7), a new sub-section namely, sub-section '(8)' shall be inserted and thereafter the existing sub-sections (8) and (9) shall be renumbered as sub-section "9" and "10" respectively:-

"(8) In case or department of the State Government or any Local Authority (where the local authority is not also the Development Authority), intending to carry out any development other than operational constructions (which shall always be outside the purview of the Development Authority) on any land, the concerned department or authority , as the case may be, shall notify in writing to the Development Authority of its intention to do so giving full particulars thereof and accompanied by such documents and plans, as may be prescribed or directed by the State Governments from time to time at least one month prior to the undertaking of such development."

- (d) in sub-section (8) as amended by this Act, the words "the Central or the: shall be deleted.
- (e) Sub-section (9) as amended by this Act, shall be substituted by the following:-

"(9) Where the Authority, upon receipt of a notice under sub-section (8), raise any objection in respect of the proposed development either to any of the building

bye-laws in force at the time or due to any other material consideration under sub-section (10), the department or the local authority, as the case may be shall-

- (a) either make necessary modifications in the proposals for development to meet the obstructions;
- (b) submit the proposals for development together with the objections raised by the Authority to the State Government for decision. When proposals and objections have been submitted, no development shall be undertaken until the State Government has finally decided on the matter”.

6. Amendment of Section 39.

In the principal Act, in section 39, at the end of the sub-section (3), the following shall be added, namely:-

“The adoption of the Scheme including Government approval or sanction, as the case may be, shall be within a period not exceeding one year after expiry of the period of two months referred to in sub-section (1) above.”

7. Amendment of Section 40.

In the principal Act, in section 40-

- (i) clause (a) shall be substituted by the following
namely:-

- (a) all ands belonging to the Government or any other local authority shall, unless it is otherwise determined in such Scheme by the Government vest absolutely in the Authority free from all encumbrances;
- (ii) in clause (b), the word “determine” appearing in the second line of clause (b) shall be substituted by words “be determined”.

8. Amendment of Section 45.

In the principal Act, section 45 shall be substituted by the following namely:-

“45, when the Authority is of opinion that in the interest of public service it is necessary to undertake forthwith any of the works included in a scheme, the Authority shall make an application before the State Government that advance possession of land other than land mentioned in section 40 required for the scheme shall proceed for taking over advance possession through acquisition proceedings in accordance with the provisions of the Land Acquisition Act, 1894 as amended up-to-date.”

9. Amendment of section 57.

In the principal Act, section 57 shall be substituted by the following, namely:-

“57. The provisions of the Land Acquisition Act 1894, as amended from time to time shall apply in the matter of

acquisition of land under this Act and the compensation shall be computed under the provisions of the said Act.”

K. LASKAR

Joint Secretary to the Govt. of Assam,

Legislative Department.