

Appendix No. 7

The Uttar Pradesh Urban Planning and Development (Amendment) Bill, 2008

A Bill

Short Title

Amendment of section-2 of President's Act No. 11 of 1973 as re-enacted and amended by U.P. Act 30 of 1974, U.P. Act 13 of 1975, U.P. Act 19 of 1976, U.P. Act 41 of 1976, U.P. Act 47 of 1976, U.P. Act 48 of 1976, U.P. Act 14 of 1978, U.P. Act 10 of 1980, U.P. Act 6 of 1982, U.P. Act 28 of 1983 U.P. Act 21 of 1985, U.P. Act 1 Of 1995, U.P. Act 3 of 1997 & U.P. Act 9 of 2000

Further to amend the Uttar Pradesh Urban Planning and Development Act, 1973

IT IS HEREBY enacted in the Fifty Eighth year of the Republic of India as follows:

1. The Act may be called the Uttar Pradesh Urban Development (Amendment) Act, 2008.
2. In section 2 of the Uttar Pradesh Urban Planning and Development Act, 1973 hereinafter called as the principal Act.

(a) After clause (h) the following clause shall be inserted, namely:-

(hh) "final plot" means a plot reconstituted from an original plot and allotted in a town planning scheme as a final plot;

(b) After clause (ii) the following clauses shall be inserted, namely:-

(iii) "Occupier" includes;

(a) Any person who for the time being is paying or is liable to pay to the owner the rent of the land or building in respect of which such rent is paid or is payable.

(b) An owner living in or otherwise using his land or building;

(c) A rent free tenant;

(d) A licensee in occupation of any land or building;

(e) Any person who is liable to pay to the owner damages or compensation for the use and occupation of any land.

(iv) "Owner" in relation to any property, includes any person who is, for the time being receiving or entitled to receive, whether on his own account or on account of or on behalf of, or for

the benefit of, any other persons or as an agent, trustee, guardian, manager or receiver for any other person or for any religious or charitable institution, the rents or profits of the property, and also includes a mortgagee in possession thereof;

(v) "Plot" means a portion of land held in one ownership and numbered and shown as one plot in a town planning scheme.

(vi) "Preliminary scheme" means a preliminary scheme relating to a town planning scheme prepared- by the Town Planning Officer.

(vi) "Prescribed" means prescribed by rules made under this Act;

(c) After clause (j) The following clause shall be inserted,
namely:-

(jj) "Reconstituted plot" means a plot which is in any way altered
by the making of a town planning scheme.

(d) After clause (kk) the following clause shall be inserted,
namely:

(kkk) "Scheme" means a town planning scheme prepared under this Act, and includes a plan or plans, together with the descriptive matter, if any, relating to such scheme.

(kkkk) "Town Planning Officer" means Town Planning Officer not below the rank of a Town Planner or Associate Planner of Town and Country Planning Department, Uttar Pradesh appointed under this Act.

3. After section-9 of Chapter-3 of the Principal Act the following section-A shall be inserted, namely:-

9-A TOWN PLANNING SCHEMES

Making and contents of a town planning scheme.

1. (1) Subject to the provision of this Act or any other law for the time being in force, the Development Authority may make one or more town planning schemes for the development area or any part thereof.
- (2) A town planning scheme may be made in accordance with the provision of this Act in respect of any land which is-
 - (i) In the course of development;

- (ii) Likely to be used for residential or commercial or industrial or for building purposes; or
- (iii) Already built upon.

Explanation- In this sub-section the expression "land likely to be used for building purposes" shall include any land likely to be used as, or for the purpose of providing open spaces, roads, streets, parks, recreation grounds, parking spaces or for the purpose of executing any work upon or under the land incidental to a town planning scheme, whether in the nature of a building work or not.

(3) A town planning scheme may make provision for any of the following matters, mainly:-

- (a) The laying out or relaying out of land, either vacant or already built upon;
- (b) The filling up or reclamation of low-lying, swampy or unhealthy areas, or leveling of land;
- (c) lay-out of new streets or roads, construction, diversion, extension, alteration, improvement and closing up of streets and roads and discontinuance of communications;
- (c) The construction, alteration and removal of buildings, bridges and other structures;
- (d) The allotment or reservation of land for roads, open

spaces, gardens, recreation grounds, schools, markets, green-belts, dairies, transport facilities, public purposes of all kinds;

- (f) Drainage, inclusive of sewerage, surface or sub-soil drainage and sewage disposal;
- (g) Lighting;
- (h) Water supply;
- (i) Rain water harvesting;
- (j) The preservation of objects of historical, architectural, archaeological, or national interest or natural beauty;
- (k) (a) the allotment of land from the total area covered under the scheme, to the extent of :-
 - (i) 15% for roads,
 - (ii) 15% for parks, playgrounds, gardens and open Space,
 - (iii) 5% for social infrastructure such as school, Dispensary, fire-brigade, public utility place as earmarked in the Draft Town Planning Scheme, and;

- (iv) 15% for sale by Development Authority for residential, commercial or institutional use depending upon the nature of development

Provided that the percentage of the allotment of land specified in paragraphs (i) to (iii) may be altered depending upon the nature of development and for the reasons to be recorded in writing;

- (b) The proceeds from the sale of land referred to in para (iv) of sub- clause (a) shall be used for the purpose of providing infrastructural facilities;
- (c) The land allotted for the purposes referred to in paragraphs (ii) and (iii) of sub-clause (a) shall not be changed by variation of schemes for the purposes other than public purpose;

(l)The imposition of conditions and restrictions in regard to the open space to be maintained around buildings, the percentage of building area for a plot, the number, size, height and character of buildings allowed in specified areas, the purposes to which buildings or specified areas may or may not be appropriated, the sub-division of plots, the discontinuance of objectionable uses of lands in any area in specified periods, parking space and loading and unloading space for any building and the sizes or locations of projections and advertisement signs;

- (m) The suspension, so far as may be necessary, for the proper carrying out of the scheme, of any rule, bye-law, regulation,

notification or order made or issued under any Act of the State Legislature or any of the Acts which the State Legislature is competent to amend;

Provided that any suspension under this clause shall cease to operate in the event of the State Government refusing to sanction the preliminary scheme, or in the event of the withdrawal of the scheme under section-28, or on the coming into force of the final scheme.

(n) Such other matters not inconsistent with the objects of this Act as may be prescribed.

Power of Development Authority to resolve on declaration of intention of intention to make scheme

2. (1) Before making any town planning scheme under the provisions of this Act in respect of any area, the Development Authority in consultation with the Chief Town and Country Planner, Uttar Pradesh may, by resolution, declare its intention to make such a scheme in respect of such area.

(2) Within twenty-one days from the date of such declaration (hereinafter referred to as the declaration of intention to make a scheme), the Development Authority shall publish it in the prescribed manner and shall dispatch a copy thereof along with a plan showing the area which it

proposes to include in the town planning scheme to the State Government.

(3) A copy of the plan dispatched to the State Government under sub-section (2) shall be open to the inspection of the public during office hours at the office of the Development Authority.

Making and publication of draft scheme

- a. (1) within (nine months) from the date of the declaration of Intention to make a draft scheme under section-2, the Development Authority shall make a draft scheme of the area in respect of which the said declaration has been made and Publish the same in the Official Gazette, along with the draft regulations for carrying out the provisions of the scheme:

Provided that on application by the Development Authority in that behalf, the State Government may, from time to time, by notification, extend the aforesaid period by such period or periods, as may be specified, therein so however, that the period or periods so extended shall not in any case exceed (three months) in the aggregate.

(2) If the draft scheme is not made and published by the Development Authority within the period specified in Sub-section (1) or within the period extended under the proviso to that sub-section, an officer appointed by the State Government may make and publish in the Official Gazette, a draft scheme for the area in respect of which the declaration of intention to make a scheme has been made within a period of nine months from the date of the expiry of the aforesaid period, or the extended period, as the case may be.

(3) If such publication is not made by the officer appointed under sub-section (2), the declaration of intention to make a scheme shall lapse and for a period of three years from the date of such declaration, it shall not be competent for the Development Authority to declare its intention to make any town planning scheme for the said area or for any part thereof.

Power of State Government to require Development Authority to make scheme

4. (1) Notwithstanding anything contained in sections 2 and 3, the State Government may, after making such inquiry as it deems necessary, by notification, require any Development Authority functioning within a development area to make and publish in the prescribed manner and submit for its sanction a draft scheme in respect of any area in regard to which a town planning scheme may be made. (2) For the

purposes of this Act and the rules made there under, the requisition under sub-section (1) by the State Government shall be deemed to be the declaration of intention to make a scheme under section 2.

Contents of draft scheme

5. The draft scheme shall contain the following particulars, namely:-

- (a) The area, ownership and tenure of each original plot;
- (b) The particulars of land allotted or reserved under clause(e) of sub-section (3) of section 1 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) the extent to which it is proposed to alter the boundaries of original plots;
- (d) an estimate of the net cost of the scheme to be borne by the Development Authority;
- (e) a full description of all the details of the scheme under sub- section (3) of section 1 as may be applicable;

- (f) the laying out or relaying out of land either vacant or already built upon;
- (g) the filling up or reclamation of low-lying, swampy or unhealthy areas or levelling up of land; and
- (h) any other prescribed particulars.

Reconstitution of plots

- (1) In the draft scheme referred to in section 5, the size and shape of every plot shall be determined, so far as may be, to render it suitable for building purposes and where the plot as already built upon, to ensure that the building, as *far* as possible, complies with the provisions of the scheme as regards open spaces.
- (2) For the purposes of sub-section (1), the draft scheme may contain proposals-
 - (a) to form a final plot by the reconstitution of an original plot by the alteration of its boundaries, if necessary;
 - (b) to form a final plot from an original plot by the transfer of any adjoining lands;
 - (c) to provide with the consent of the owners that two or more original plots which are owned by several persons or owned

by persons jointly be held in ownership in common as a final plot, with or without alteration of boundaries;

(d) to allot a final plot to any owner dispossessed of land in furtherance of the scheme; and

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

(3) Whereunder clause (I) of sub-section (3) of section 1, the purpose to which buildings or specified areas may not be appropriated have been specified, the buildings shall cease to be used for a purpose other than the purposes specified in the scheme within such time as may be specified in the final scheme and the person affected by the provision shall be entitled to compensation from the Development Authority in the manner and according to the method prescribed:

Provided that in ascertaining such compensation the time within which the person affected was permitted to change the use shall be taken in to consideration.

Disputed Ownership

(1) Where there is a disputed claim to the ownership of any place of land included in an area in respect of which a declaration of intention to make a scheme has been made and any entry in the record of rights or mutation relevant to such disputed claim is

inaccurate or inconclusive, an inquiry may be held on an application being made by the Development Authority or the Town Planning Officer at any time prior to the date on which the Town Planning Officer draws up the preliminary scheme under section 13 by such officer as the State Government may appoint for the purpose of deciding as to who shall be deemed to be the owner for the purposes of this Act.

Such decision shall not be subject to appeal but it shall not operate as a bar to a regular suit in a court of competent jurisdiction.

Such decision shall, in the event of a Civil Court passing a decree which is inconsistent therewith, be corrected, modified or rescinded in accordance with such decree as soon as practicable after such decree has been brought to the notice of the Development Authority by the person affected by such decree.

Objections to draft scheme to be considered

If within one month from the date of publication of a draft scheme, any person affected by such scheme communicates in writing to the Development Authority, any objections relating to such scheme, the Development Authority shall consider such objections and may at any time before submitting the draft scheme to the State Government as hereinafter provided modify such scheme as it thinks fit.

Power of State Government to sanction draft scheme

The Development Authority shall, within (three months) from the date of the publication of the draft scheme in the Official Gazette, submit the draft scheme with any modifications that may have been made therein under section 8 together with the objections which may have been communicated to it, to the State Government for sanction.

If the State Government sanctions such scheme, it shall in such manner as it may think fit, the State Government may, within (three months) from the date of its receipt, by notification, sanction such scheme with or without modifications or subject to such conditions as it may think fit to impose or refuse to sanction it.

If the State Government sanctions such scheme, it shall, in such notification state at what place and time the draft scheme shall be open for the inspection of the public.

Vesting of land in Development Authority

Where a draft scheme has been sanctioned by the State Government under sub-section (2) of section 9, (hereinafter in this section, referred to as 'the sanctioned draft scheme¹'), all lands required by the Development Authority for the purposes specified in clause (c), (f) (g), or (h) of sub-section (3) of section-1 shall vest absolutely in the Development Authority free from all encumbrances.

Nothing in sub-section (1), shall affect any right of the owner of the land vesting in the Development Authority under that sub-section.

The provisions of sections 30 and 31 shall mutatis mutandis apply to the sanctioned draft scheme as if:-

- (i) sanctioned draft scheme were a preliminary scheme, and
- (ii) in sub-section (1), for the words "comes into force", the words, brackets and figures "the date on which the draft scheme is sanctioned under sub-section (2) of section 9" were substituted.

Restrictions on use and development of land after declaration of a scheme

- (a) On or after the date on which a draft scheme is published under section 2, no person shall, within the area included in the scheme, carry out any development unless such person has applied for and obtained the necessary permission for doing so from the Development Authority in prescribed form and on payment of such scrutiny fees as may be prescribed by regulations;
- (b) where an application for permission under clause (a) is received by the Development Authority, it shall send to the applicant a written acknowledgement of its receipt and

after making such inquiry as it deems fit and in consultation with the Town Planning Officer, if any, may either grant or refuse such permission or grant it subject to such conditions as it may think fit to impose;

- (c) if the Development Authority does not communicate its decision to the applicant within three months from the date of acknowledgments of its receipt, such permission shall be deemed to have been granted to the applicant;
- (d) if any person contravenes the provisions of clause(a) or of any condition imposed under clause (b), the Development Authority may direct such person by notice in writing to stop any development in progress, and after making an inquiry in the prescribed manner remove, pull down, or alter any building or other development or restore the land or building in respect of which such contravention is made to its original condition;
- (e) expenses incurred by the Development Authority under clause (d) shall be a sum due to it under this Act from the person in default any;
- (f) the provisions of sections-26 and 27 (main Act of 1973) shall so far as may be, apply in relation to the unauthorised development or use of land included in a town planning scheme;

- (g) the restrictions imposed by this section shall cease to operate in the event of the State Government refusing to sanction the draft scheme or the preliminary scheme or in the event of the withdrawal of the scheme under section 28 or in the event of the declaration of intention lapsing under sub-section (3) of section 3;
 - (h) any diminution in the value of an original plot occasioned by any contravention of the provisions of clause (a) or of any condition imposed under clause (b) shall, notwithstanding anything contained in sections 38, 39 and 40 be taken into account in fixing the market value of such plot.
- (1) No person shall be entitled to compensation in respect of any damage, loss or injury resulting from any action taken by the Development Authority under the subsection (1), of section 32 except in respect of a building or work begun or contract entered into before the date on which a declaration of intention to make a scheme is published under section 2 or the publication of the draft scheme under sub-section (1) of section 3.

Provided that where any person is entitled to any compensation in respect of any building or work under this sub-section, he shall be so entitled only in so far as such building or work has proceeded at the time of the declaration of intention or publication, as the case may be,

and subject to the conditions of any agreement entered into between such person and the Development Authority.

(3) On and after the date referred to in clause (a) of subsection (1), the Development Authority intending to carry out development of land, within the area included in the scheme, for its own purpose in exercise of its powers under any law for the time being in force shall carry out such development in conformity with the provisions of such scheme, and of the bye-laws and regulations relating to construction of buildings.

(4) The provisions of this section shall not apply to any operational construction undertaken by the Central Government or a State Government.

Appointment of Town Planning Officer

12. (1) Within one month from the date on which the sanction of the State Government to draft scheme is notified in the Official Gazette, the State Government shall appoint the Town Planning Officer possessing such qualifications as may be prescribed, for the purpose of such scheme and provide him with such number of officers and staff as may be considered necessary and his duties shall be as hereinafter provided.

Provided that the State Government may, on the request made by the Development Authority, appoint a Town Planning Officer within one month from the date of the publication of the draft scheme under sub-section (1) of section 3.

- (2) The State Government may, if it thinks fit, at any time, remove, on the ground of incompetence or misconduct or any other good and sufficient reason a Town Planning Officer appointed under this section and shall forthwith appoint another person in his place and any proceeding pending before Town Planning Officer immediately before the date of removal shall be continued and disposed of by the new Town Planning Officer appointed in his place:

Provided that no Town Planning Officer shall be removed under this sub-section except after an inquiry in which he has been informed of the charges against him and a reasonable opportunity of being heard in respect of those charges has been given to him.

- (3) Subject to the provisions of sub-section (2), a Town Planning Officer appointed under sub-section (1) for the purpose of any scheme shall cease to hold office with effect from the date on which the final scheme is sanctioned under section 27.

Duties of Town Planning Officer

Within a period of twelve months from the date of his appointment, the Town Planning Officer shall, after following the prescribed procedure, sub-divide the town planning scheme into a preliminary scheme and final scheme.

Provided that the State Government may, by order in writing, extend the said period by such further period not exceeding nine months in aggregate and any such order extending the period may be made so as to have retrospective effect:

Provided further that the State Government may, by order and for reasons to be recorded in writing, extend such further period not exceeding six months.

Contents of preliminary and final scheme

- (1) In a preliminary scheme, the Town Planning Officer shall:-
 - (i) after giving notice in the prescribed manner and in the prescribed form to the persons affected by the scheme, define and demarcate the areas allotted to, or reserve for, any public purpose, or for a purpose of the Development Authority and the final plots;

- (ii) after giving notice as aforesaid, determine in a case in which a final plot is to be allotted to persons in ownership in common, the shares of such persons:
 - (iii) provide for the total or partial transfer any right in an original plot to a final plot or provide for the transfer of any right in an original plot in accordance with the provisions of section 44;
 - (iv) determine the period within which the works provided in the scheme shall be completed by the Development Authority.
- (2) The Town Planning Officer shall submit the preliminary scheme so prepared to the State Government for sanction and shall thereafter prepare and submit to the State Government the final scheme in accordance with the provisions of sub-section (3).
- (3) In the final scheme, the Town Planning Officer shall:-
- (i) fix the difference between the total of the values of the original plots and the total of values of the plots included in the scheme in accordance with the provisions of clause (f) of sub-section (I) of section 40;
 - (ii) determine whether the areas used, allotted or reserved for a public purpose or a purposes of the Development

Authority are beneficial wholly or partly to the owners or residents within the area of the scheme;

- (iii) estimate the portion of the sums payable as compensation on each plot used, allotted or reserved for a public purpose or for the purpose of the Development Authority which is beneficial partly to the owners or residents within the area of the scheme and partly to the general public, which shall be included in the cost of the scheme;
- (iv) calculate the contribution to be levied under subsection (I) of section 42, on each plot used, allotted or reserved for a public purpose or for the purpose of the Development Authority which is beneficial partly to the owners or residents within the area of the scheme and partly to the general public;
- (v) determine the amount of exemption, if any, from the payment of contribution that may be granted in respect of plots exclusively occupied for the religious or charitable purposes;
- (vi) estimate the increment to accrue in respect of each plot included in the scheme in accordance with the provisions of section 41;
- (vii) calculate the proportion of the contribution to be levied on each plot in the final scheme to the

increment estimated to accrue in respect of such plot under subsection[^]) of section 42;

- (viii) calculate the contribution to be levied on each plot included in the final scheme;
- (ix) determine the amount to be deducted from, or added to, as the case may be, the contribution leviable from a person in accordance with the provisions of section 42;
- (x) estimate with reference to claims made before him, after notice has been given by him in the prescribed manner and in the prescribed form, the compensation to be paid to the owner of any property or right injuriously effected by the making of the town planning scheme in accordance with the provisions of section 45;
- (xi) draw in the prescribed form the preliminary and the final scheme in accordance with the draft scheme:

Provided that the Town Planning Officer may make variation from the draft scheme, but no such variation, if it is of a substantial nature, shall be made except with the previous sanction of the State Government, and except after hearing the Development Authority and any owners who may raise objections.

Explanation:

- (i) For the purpose of this proviso "variation of a substantial nature" means a variation which is estimated by the Town Planning Officer to evolve an increase of ten percent in the cost of the scheme as is described in section 40 or rupees one lac, whichever is lower, on account of the provisions of new works or the allotment of additional sites for public purposes included in the preliminary scheme drawn up by the Town Planning Officer.
- (ii) If there is any difference of opinion between the Town Planning Officer and the Development Authority as to whether a variation made by the Town Planning Officer is of substantial nature or not, the matter shall be referred by the Development Authority to the State Government whose decision thereon shall be final.

Certain decisions of Town Planning Officer to be final Appeal

Except in matters arising out of clauses (Hi), (iv), (vi), (vii), (viii) and (x) of sub-section (3) of sub-section 14, every decision of the Town Planning Officer shall be final and binding on all persons.

(1) Any decision of the Town Planning Officer under clauses (iii), (iv), (vi), (vii), (viii) and (x) of sub-section (3) of section 14 shall forthwith be communicated to the party concerned in the prescribed form and any party aggrieved by such decision may within one month from the date of communication of decision, present an appeal to the Board of Appeal constituted under section 17.

(2) (a) The Development Authority Board shall hear and decide appeal until the date on which the Board of Appeal is constituted (hereinafter referred to as "the said date"), by the State Government under section 17, and

(b) all appeals pending on said date before Development Authority Board shall stand transferred to the Board of Appeal so constituted.

(1) (a) The State Government shall, from time to time by an order published in the Official Gazette, constitute a Board of Appeal for hearing and deciding appeals under section 16.

(b) The Board of Appeal shall consist of three members one of whom shall be its Chairman and two persons, possessing such qualifications and experience as may be prescribed, as assessor.

(c) The Chairman shall be a person who is or has been a District Judge or Additional District Judge in a District Court.

- (d) The terms of appointment of the Chairman of the Board of Appeal and conditions of service shall be such as may be prescribed.
- (2) The Board of Appeal constituted under sub-section (1) shall stand dissolved as soon as a copy of its decision in appeal is sent to the Town Planning Officer under sub-section (2) of section 24.
- (3) The State Government may, if it thinks fit, remove for incompetence or misconduct or for any other good or sufficient reason any assessor appointed under sub-section (1).
- (4) If any assessor is removed or dies or refuses or neglects to act or becomes incapable of acting, the authority who appointed such assessor shall appoint forthwith a fit and proper person in his place.

Town Planning Officer to assist Board in advisory capacity and his remuneration

- (1) The Town Planning Officer shall be present at the proceedings before the Board of Appeal.

- (2) The Town Planning Officer shall not be required to give evidence in such proceedings but the Chairman may require him to assist the Board in an advisory capacity.
- (3) When the Town Planning Officer is required under subsection (2) to assist the Board of Appeal, he shall be entitled to such fees as the State Government may time to time determine.

Place where Board may sit

The Board of Appeal may sit either at the head-quarters of the Chairman 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 such Board.

Decisions of questions of law and other questions

All questions of law and procedure shall be decided by the Chairman and all other question shall be decided by the Chairman and the two assessors or by a majority of them.

Powers of Board to decide matter finally

- (1) After making such inquiry as it may think fit, the Board of Appeal may either direct the Town Planning Officer to reconsider its proposals, or accept, modify, vary or reject the proposals of the Town Planning Officer.

- (2) Every decision of the Board of Appeal shall be final and binding on all persons.

Board not to be court

Nothing contained in this Act shall be deemed to constitute the Board of Appeal to be a court.

Remuneration of assessors and payment of incremental expenses of Board to be added to cost of scheme

- (1) The assessors shall, save where they are salaried Government Officers, be entitled to such remuneration either by way of monthly salary or by way of fees or partly by way of salary and partly by way of fees, as the State Government may, from time to time determine.
- (2) The salary of the Chairman of the Board of Appeal or an assessor who is a salaried Government Officer and any remuneration payable under sub-section (1) and fees payable to Town Planning Officer under sub-section (3) of section 18 and all expenses incidental to the working of the Board of Appeal shall, unless the State government

otherwise determines, be defrayed out of the fund of the Development Authority and shall be added to the costs of the scheme.

The Decision of the Town Planning Officer to be final in certain matters and variation of scheme in view of decision in appeal

(1) Where no appeal has been presented under section 16, in respect of matter arising out of clause (iii), clause (iv), clause (vi), clause (vii), clause (viii) or clause (x) of sub-section (3) of section 14, the decision of the Town Planning Officer shall be final and binding on the parties.

(2) The Board of Appeal shall send a copy of its decision in appeal to the Town Planning Officer who shall, if necessary, make any variation in the scheme in accordance with such decision and shall forward the final scheme together with a copy of his decision under section 14 and a copy of decision of the Board of Appeal in appeal to the State Government for the sanction of the final scheme.

Power of Town Planning Officer to split up draft scheme into separate sections

25. (1) After a Town Planning Officer has been appointed under section 12, the Development Authority may apply to him to split up the draft scheme into different sections and to deal with each section separately as if such section were a separate draft scheme.
- (2) On receipt of an application under sub-section (I), the Town Planning Officer may, after making such inquiry as he thinks fit, split up the draft scheme into sections.
- (3) The provisions of this Act and rules made thereunder shall, so far as may be, apply to each of sub-sections as it were a separate draft scheme.

Submission of Preliminary Scheme and Final Scheme to Government

26. The Town Planning Officer shall submit to the State Government for sanction the preliminary scheme also before the final scheme is submitted to the State Government under section (2) of section 14, together with a copy of his decision under section 15.

Power of Government to sanction or refuse to sanction the scheme and effect of sanction

27. (1) On receipt of preliminary scheme or, as the case may be, the final scheme, the State Government may-

- (a) in the case of preliminary scheme, within a period of two months from the date of receipt, and
- (b) in the case of final scheme, within a period of three months from the date of its receipt,

by notification, sanction the preliminary scheme or the final scheme or refuse to give sanction, provided that in sanctioning any such scheme, the State Government may make such modifications as may, in its opinion, be necessary for the purpose of correcting an error, irregularity or informality.

(2) Where the State Government sanctions the preliminary scheme or the final scheme, it shall state in the notification-

- (a) the place at which the scheme shall be kept open for inspection by the public, and
- (b) a date (which shall not be earlier than one month after the date of the publication of the notification) in which all the liabilities created by the scheme shall come into force:

Provided that the State Government may from time to time extend such date, by notification, by such period, not exceeding three months at a time, as it thinks fit.

(3) On and after the date fixed in such notification, the preliminary scheme or the final scheme, as the case may be, shall have effect as if it were enacted in this Act.

Withdrawal of Scheme

28. (1) If at any time before the preliminary scheme is forwarded by the Town Planning Officer to the State Government, a representation is made to the Town Planning Officer by the Development Authority and a majority of the owners in the area, that the scheme should be withdrawn, the Town Planning Officer shall, after inviting from all persons interested in the scheme objections to such representation, forward such representation together with the objections, if any, to the State Government.

(2) The State Government, after making such inquiry as it may deem fit, may, if it is of opinion that it is necessary or expedient so to, do notification, direct that the scheme shall be withdrawn and upon such withdrawal no further proceeding shall be taken in regard to such scheme.

Effect of Preliminary Scheme

On the day on which the preliminary scheme comes into force-

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

- (b) All rights in the original plots which have been reconstructed into final plots shall determine and the final plots shall become subject to the rights settled by the Town Planning officer.

Power of Development Authority to evict summarily

On and after the date on which a preliminary scheme comes into force, any person continuing to occupy any land which he is not entitled to occupy under the preliminary scheme shall, in accordance with the prescribed procedure, be summarily evicted by the Development Authority.

Power to enforce Scheme

(1) On and after the date on which a preliminary scheme comes into force; the Development Authority shall, after giving the prescribed notice and in accordance with the provisions of the scheme,

(a) Remove, pull down, or after any building or other work in the area included in the scheme which is such as contravenes the scheme or in the creation or carrying out of which any provision of the scheme has not been completed with;

(b) Executive any work which it is the duty or any person to executive under the scheme in any case where it appears to the Development Authority that delay in the execution of the work would prejudice the efficient operation of the scheme

(2) Any Expenses incurred by the Development Authority under this section shall be recovered from the person in default or from the owner of the plot in the manner provided for the recovery of sums due to the Development Authority under the provisions of this act.

(3) If any question arises as to whether any building or work contravenes a town planning scheme or whether any provisions of town planning scheme is not complied with in the erection or carrying out of any such building or work, it shall be referred to the State Government and the decision of the State Government shall be final and binding on all persons.

- (4) No person shall be entitled to compensation in respect of any damage, loss or injury resulting from any action taken by the Development Authority under the provision of this section except in respect of the building or work begun before the date referred to in sub-section (1) and only in so far as such building or work has proceeded until that date;

Provided that any claim to compensation, which is not barred by this sub-section shall be subject to the condition of any agreement entered into between the clamant and Development Authority.

- (5) The Provisions of this section shall not apply to any operational construction undertaken by the Central Government of a State Government.

Power to vary scheme on ground of error, irregularity or informality

- (1) If after the preliminary scheme of the final scheme has come into for the Development Authority considers that the scheme is defective on account of an error, irregularity or informality, the Development Authority may apply in writing to the State Government for the variation of the scheme.
- (2) If on receiving such application of otherwise the state Government is satisfied that the variation required is not

substantial, the state Government shall publish a draft of such variation in the prescribed manner.

- (3) The draft variation published under sub-section (2) shall state every variation proposed to be made in the scheme and if any such variation relates to a matter specified in any of the clauses (e) to (h) of sub-section (3) of section 1 the draft variation shall also contain such other particulars as may be prescribed as may be prescribed.
- (4) The draft variation shall be open to inspection of the public at the head office of the Development Authority during office hours.
- (5) Within one month of the date of publication of the draft variation, any person affected thereby may communicate in writing his objections to such variation to the State Government through the Collector and send a copy thereof to the Development Authority.
- (6) After receiving the objections under sub-section (5) the State Government may, after consulting the Development Authority and after making such inquiry as it may think fit, by notification-
 - (a) Appoint as Town Planning officer and thereupon the provision of this chapter shall, so far as may be, apply to such draft variation as if it were a draft scheme sanctioned by the State Government, or

- (b) Make the variation with or without modification, or
 - (c) Refuse to make the variation.
7. From the date of the notification making the variation, with or without modification, such variation shall take effect as if it were incorporated in this scheme.

Variation of Town Planning Scheme for land allotted for public purpose

If at any time after the final town planning scheme comes into force, the Development Authority is of the opinion that the purpose for which any land is allotted in such scheme under any of the paragraphs (ii) and (iii) of sub-clause (a) of clause (k) of sub-section (3) of section 1 required to be changed to any other purpose specified in any of the said paragraphs, the Development Authority may make such change after following the procedure relating to amendment of regulations, specified in section 35 as if such change were an amendment of regulations.

Variation of Town Planning Scheme by another scheme

Notwithstanding anything contained in section 32, a town planning scheme may at any time be varied by a subsequent scheme made published and sanctioned in accordance with the provisions of this act.

Amendment of Regulations

- (a) If at any time after the final town planning scheme comes into force, the Development Authority is of the opinion that the regulations relating to a town planning scheme require to be amended, it may publish the requisite draft amendment in the prescribed manner and invite suggestion or objections there to from any person;
- (b) If within one month from the date of publication of the draft amendment any person communicates in writing to the Development Authority any suggestion or objections relating to such amendment, the Development Authority shall consider such suggestions or objections and may any time before submitting the draft amendment to the state Government as thereafter provided modify such amendment as it thinks fit;
- (c) The Development Authority shall within a period of two months from the date of its publication submit the draft amendment along with the suggestions or objections to the State Government and shall be at the same time apply for its sanction;

- (d) After receiving such application and after making such inquiry as it may think fit, the State Government may sanction the amendment submitted with or without modification as it deems necessary or refuse to sanction the amendment.
- (e) If the amendment is sanctioned by the State Government the final town planning scheme shall be deemed to have been varied in accordance with the amendment.

Compensation when scheme varied

If at any time after the date on which the scheme has come into force, such scheme is varied any person who has incurred any expenditure for the purpose of complying with such scheme shall be entitled to be compensated by the Development Authority for the expenditure, if such scheme shall be entitled to be compensated by the Development Authority for the expenditure, if such expenditure is rendered abortive by reason of the variation of such scheme.

Appointment of costs of scheme withdrawn not sanctioned

In the event of town planning scheme being withdrawn or sanction to a preliminary scheme being refused by the State Government, the State Government may direct that the cost of the scheme shall be borne by the Development Authority or be paid to the Development Authority by the owners concerned is

such proportion as the state Government may in each case determine.

Right to appear by recognized agent

Every party to any proceedings before the Town Planning officer or the Board of appeal shall be entitled to appear either in person or by his recognized agent.

Powered civil respect to certain matters

For the purpose of this Act..... Appointed under sub-section (3) of section 18 owners town planning officer or the Board of Appeal shall have the same powers of a civil court while trying a suit under the case or civil procedure, 1908 in respect of the following matters namely.

- (a) Summing & enforcing and attendance of any person & examining him on oath;
- (b) Requiring the discovery and production of any document
- (c) Receiving evidence on oaths
- (d) Issuing commissions for the examination of witnesses if documents.

Costs of Scheme

The costs of a town planning scheme shall include:-

- (a) All sums payable by the Development under the provisions of this act, which are not specifically excluded from the cost of the scheme;
- (b) All sums spent or estimated to be spent by the Development Authority in the making and execution of the scheme;

Provided that the estimates shall be with reference to the period during which the preliminary scheme is to be implemented after it is sanctioned under section-27

- (c) All sums payable as compensation for land reserved or designated for any public purpose or for the purposes of the Development Authority which is society beneficial to the owners of land or residence within the area of the scheme;
- (d) Such portion of the sums payable as compensation for land reserved or designated for any public purpose or for the Development Authority which is beneficial partly to the owners of land or residents within the area of the scheme and partly to the general public, as is attributable to the benefit accruing to the owners of land or residents within the area of the scheme from such reservation or designation;
- (e) All legal expenses incurred by the Development Authority in the making and in executing of the scheme;

- (f) Any amount by which the total amount of the values of the original plots exceed one total amount of the values of the original plots included in the final scheme, each of such plots being estimated as its market value at the date of the declaration of intention to make a scheme, with all the building and works thereon at the said date and without reference to improvement contemplated in the scheme other than improvements due to alteration of its boundaries
 - (g) Twenty percent of the amount of the cost of infrastructure provided in the area adjacent to the area of the scheme as in necessary of the purpose of and incidental to the scheme
2. If in any case the total amount of the values of the plots included in the final scheme exceeds the total amount of the values of the original plots, each of such plots being estimated in the manner provided in clause(f) of sub-section (1), then the amount of such excess shall be deducted in arriving at the costs of the scheme as defined in sub-section (1)

Calculation of increment

41. For the purposes of this Act, the increment shall be deemed to be the amount by which at the date of the declaration of intention to make a scheme the market value of the plot included in the final scheme estimated on the

assumption that the scheme has been completed would exceed at the same date the market value of the same plot estimated without reference to improvements contemplated in the scheme;

Provided that in estimating such values, the value of buildings of other works erected or in the course of erection on such plot shall no be taken into consideration

Consideration towards costs of scheme

42. (1) The cost of the schemes shall be met wholly on in plot by a contribution to be levied by the Development Authority on such plot included in the final scheme contacted proportion to the increment which is estimated to accrue is respect of such plot by the Town Planning offices.

Provided that:-

(i)(a) Where the cost of the senems does not exceed half the increment, the cost shall be wholly by a contribution and

(b) Where it exceeds half the increment to the extent of

half the increment it shall be met by a contribution and the excess shall be come by the Development Authority.

- (ii) Where a plot is subject to a mortgage with procession or to a lease, the town planning officer shall determine in what proportion the mortgagee or issues on the one hand and the mortgagee or issues on the hand shelf pay such contribution
- (iii) No such contribution shall be levied on a plot used, allotted or reserved for a public purpose or for the purpose of the Development Authority which is society beneficial to the owners of land of residents within the area of the scheme and
- (iii) The contribution levied on a plot used, allotted or reserved for a public purpose or for the purposed of the Development Authority which is beneficial party to the owners of land or residents within the area of the scheme and partly to the general public shall be calculated in proportion to the benefit estimated to accure to the general public from such use, allotment or reservation.

2. The owner of each plot included in the final scheme shall be primarily liable for the payment of the contribution leviabile in respect of such plot.

Certain amounts to be added to, or deducted from, contribution leviabile from a person

The amount by which the total value of the plot included in the final scheme with all the building and works thereon allotted to a person falls short of or exceeds the total value of the original plots with all the buildings and works thereon of such person shall be deducted from, or as the case may be added to, the contribution leviable from such person, each of such plots being estimated at its market value at the date of the declaration of intention to make a scheme or the date of the notification issued by the State Government under sub-section (1) of the section 4 and without reference to improvement contemplated in the scheme other than improvements due to the alteration of its boundaries.

Transfer of right from original to final plot or extinction of such right

Any right in an original plot which in the opinion of the town planning officer is capable of being transferred wholly or in part, without prejudice to making of town planning scheme, to final plot shall be so transferred and any right in an original plot which in the opinion of the town planning officer is not capable of being so transferred shall be extinguished:

Provided that an agricultural lease shall not be transferred from an original plot to a final plot without the consent of all the parties to such lease.

Compensation in respect of property or right injuriously affected by scheme

The owner of any property of right which is injuriously affected by the making of the town planning scheme shall, if he makes claim before the Town Planning officer within the prescribed time, be entitled to be compensated in respect thereof by the Development Authority or by any person benefited or party by the Development Authority and partly by such person as the Town Planning officer may in each case determine:

Provided that the value of such property of rights shall be deemed to be its market value at the date of the declaration of intention to make a scheme or the date of the notification issued by the State Government under sub-section (1) of section 4 without reference to improvements contemplated in the scheme, as the case may be.

Exclusion of compensation in certain cases

(1) No compensation shall be payable in respect of any property or private right which is alleged to be injuriously affected by reason of any provisions contained in the Town Planning Scheme, if under any other law for the time being in force applicable to the area for which such scheme is made no compensation is payable for such injurious affection.

(2) Any property of private right shall not be deemed to be injuriously affected by reason of any provision inserted in town planning scheme which imposes any conditions an restriction in regard to any of the matters specified in clause (i) of sub-section (3) of section-1

Provision for cases in which amount payable to owners exceeds amount due from him

If the owner of an original plot is not provided within plot in the preliminary scheme or if the contribution to be levied from him under section 43 is less than the total amount to be deducted there from under any of the provision of this Act, the net amount of his loss shall be payable to him by the Development Authority in case or in such other manner as my be agreed upon by the parties.

Provision for cases in which value of developed plot is less than amount payable by owners

(1) If from any cause the total amount which would be due to the Development Authority under the provisions of this Act from the owner of a plot to be included in the final scheme exceeds the value of such plot estimated on the assumption that the scheme has been completed, the town planning officer shall at the request of the Development Authority direct the owner of such plot to make payment to the Development Authority of the amount of such excess.

- (2) If Such owner fails to make such payment within the prescribed period, the Town planning officer shall, if the Development Authority so requests, acquire the original plot of such defaulter and apportion the compensation among the owner and other persons interested in the plot on payment by the Development Authority of the value of such plot estimated at its market value at the date of the declaration of the intention to make a or the date of notification under-sub-section (1) so section (4) and without reference to improvements contemplated in the scheme; and thereupon the plot included in the final scheme shall vest absolutely in the Development Authority free from all encumbrances but subject to the provision of this Act;

Provided that the payment made by the Development Authority on account or the value of the original plot shall not be included in the costs of the scheme.

Payment by adjustment of account

All payments due to be made to any person by the Development Authority under his Act, shall as far as possible, be made by adjustment in such account with the Development Authority in respect of the plots concerned or of any other plot in which he has an interest and failing such adjustment shall be paid in cash or in such other manner as may be agreed upon by the parties.

Payment of net amount due to Development Authority

(1)The Net amount payable under the provisions of this Act by the owner of a plot included in the final scheme may at the option of the contributor be paid in lump-sum or in annual installments not exceeding ten.

(2)If the owner elects to pay the amount by installment, interest at such rate as is arrived at by adding two percent to the bank rate published under section 10 of the Reserve Bank of India Act, 1934, from time to time, shall be charged per annum on the net amount payable.

(3)If the owner of a plot falls to exercise the option on or before the date specified in a notice issued to him in that behalf by the Development Authority, he shall be deemed to have exercised the option of paying contribution in installments and the interest on the contribution shall be calculated from the date specified in the notice, being the date before which he was required to exercise the option.

(4) Where two or more plots included in the final scheme are of the same ownership the net amount payable by such owner under the provisions of this Act shall be distributed over his several plots in proportion to the increments which is estimated

to accrue in respect of each plot unless the owner and the Development Authority agree to a different method of distribution.

Power of the Development Authority to make agreement

51. (1) The Development Authority shall be competent to make any agreement which any person in respect of any matter which is to be provided for in a town planning scheme, subject to the power of the State Government to modify or disallow such agreement shall take effect on and after the day on which the town planning scheme comes into force.

(2) Such agreement shall not in any way effect the duties of the Town Planning officer or the rights of third parties but it shall be binding on the parties to the agreement notwithstanding any decision that may be passed by the Town Planning officer;

Provided that if the agreement is modified by the state Government, either party shall have the option of avoiding it, if it so elects.

Recovery of arrears

52. (1) Any sum due to the Development Authority under this Act or any regulation made thereunder shall be a first charge on the plot on which it is due, subject to the prior payment of land revenue, if any, due to the state Government thereon.

(2) Any sum due to the Development Authority under this Act or any regulations made thereunder which is not paid on demand on the day on which it becomes due or on the date fixed by the Development Authority shall be recoverable by the Development Authority by distress and sale of the goods and chattel of the defaulter as if the amount thereof were a property tax due by the said defaulter.

(3) In lieu of the recovery of the dues of the Development Authority in the manner provided in Sub-Section (2), any sum due of the balance of any sum due or the balance of any sum due, as the case

may be, by such defaulter may be recovered from him by a suit in any court of competent jurisdiction.

Power of Development Authority to borrow money for development plan or for making or executing a town planning scheme

53. (1) Development Authority may for the making or execution of a town planning scheme borrow moneys in accordance with the provisions of the Act under which the Development Authority is constituted.

(2) Any expenses incurred by a Development Authority or the State Government under this Act in connection with a

development plan or a town planning scheme may be defrayed out of the funds of the Development Authority.

Registration of document, plans or maps in connection with town planning scheme not required

54. (1) Nothing in the registration Act, 1908 shall be deemed to require the registration of any document, plan or map prepared, made or sanctioned in connection with a scheme which has come into force.

(2) All such documents, plans and maps, shall for the purpose of section 48 and 49 of the Registration Act, 1908 be deemed to have been registered in accordance with the provisions of that Act,

Provided that documents, plans and maps relating to the sanctioned scheme shall be accessible to the public in the manner prescribed.

Compulsory acquisition of land needed for purpose of town planning scheme or development plan

55. Land needed for the purpose of a town planning scheme or development plan shall be deemed to be land needed for a public purpose within the meaning of the Land Acquisition

Note:- Section and Sub –Section referred to in the proposed Section “9-A Town Planning Schemes” are in the context of this Section only.