

GOVERNMENT OF RAJASTHAN
LAW AND JUDICIAL (A) DEPARTMENT



THE RAJASTHAN URBAN IMPROVEMENT
ACT, 1959

(Act No. 35 of 1959)

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(ACT No. 35 OF 1959)

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dated 3-8-59].

LAW AND JUDICIAL 'A' DEPARTMENT
NOTIFICATION

Jaipur, July 31, 1959.

No. F. 4 (33) LJ/A/57.—The following Act of the Rajasthan State Legislature received the assent of the President on the 24th day of July, 1959, and is published for general information:—

THE RAJASTHAN URBAN IMPROVEMENT ACT, 1959

(Act No. 35 of 1959)

[Received the assent of the President on the 24th day of July, 1959].

An

Act

for the improvement of urban areas in Rajasthan.

WHEREAS it is expedient to make provision for the improvement and expansion of urban areas in the State of Rajasthan;

BE it enacted by the Rajasthan State Legislature in the Tenth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. *Short title and extent.*—(1) This Act may be called the Rajasthan Urban Improvement Act, 1959

(2) It extends to the whole of the State of Rajasthan.

2. *Interpretation.*—(1) In this Act, unless there is something repugnant in the subject or context,—

(i) “amenity” includes road, water-supply, street-lighting, drainage, sewerage, public works and such other convenience as the State Government may, by notification in the official Gazette, specify to be normally an amenity for all or any of the purposes of this Act;

(ii) “building” includes any structure or erection or part of a structure or erection which is intended to be used for residential, industrial, commercial or other purpose, whether in actual use or not;

(iii) “building operations” includes rebuilding operations, structural alterations of or additions to buildings and other operations undertaken in connection with the construction of buildings;

(iv) “Chairman” means the Chairman of a Trust;

(v) “engineering operations” includes the formation or laying out of means of access to a road or the laying out of means of water-supply, electricity or drainage;

(vi) “improvement” 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 and includes re-improvement;

(vii) “master plan” means the master plan prepared and approved for any urban area in accordance with the provisions of Chapter II;

(viii) “Trustee” means a member of a Trust, including its Chairman, appointed or elected under and in accordance with the provisions of section 9;

(ix) the expression ‘land’ and the expression ‘person interested’ have the meanings respectively assigned to them in section 3 of the Rajasthan Land Acquisition Act, 1953 (Rajasthan Act 24 of 1953);

(x) “urban area” means the urban area notified under section 3 or, as the case may be, under section 8;

(xi) “zone” means any one of the divisions in which an urban area may be divided for the purposes of improvement under this Act;

(xii) all references to anything done, required, authorised, permitted, forbidden or punishable, or to any power vested under this Act, shall include anything done, required, authorised, permitted, forbidden or punishable, or any power vested—

(a) by any provision of this Act; or

(b) by any rule or scheme made under the provisions of this Act; or

(c) under any provision of the Municipal law for the time being in force which the Trust has by virtue of this Act power to enforce.

(2) All words and expressions not defined in this Act have, wherever used therein, the same meanings as are assigned to them by the Municipal law for the time being in force:

Provided that the expression "Municipal Board" wherever used in this Act shall be deemed to include a Municipal Corporation, a Municipal Council or any other Municipal authority.

CHAPTER II

MASTER PLANS

3. *Power of State Government to order preparation of master plan.*—(1) The State Government may, by order notified in the official Gazette, direct that in respect of and for any urban area in the State specified in the notification, a civic survey shall be carried out, and a master plan shall be prepared, by such officer or authority as the State Government may appoint for the purpose.

(2) For the purpose of advising the officer or authority appointed under sub-section (1) on the preparation of the master plan, the State Government may constitute an advisory council consisting of a chairman and such number of other members as the State Government may deem fit.

4. *Contents of master plan.*—The master plan shall—

(a) define the various zones into which the urban area for which the plan has been prepared may be divided for the purposes of its improvement and indicate the manner in which the land in each zone is proposed to be used, and

(b) serve as a basic pattern of frame-work within which the improvement schemes of the various zones may be prepared.

5. *Procedure to be followed.*—(1) Before preparing any master plan officially the officer or authority appointed to prepare it shall publish a draft of the master plan 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 every person with respect to the draft master plan before such date as may be specified in the notice.

(2) Such officer or authority shall also give reasonable opportunity to every local authority within whose local limits any land touched by the master plan is situated to make any representation with respect to the master plan.

(3) After considering all objections, suggestions and representations that may have been received, such officer or authority shall finally prepare the master plan.

(4) Provision may be made by rules made in this behalf with respect to the form and contents of a master plan and with respect to the procedure to be followed and any other matter in connection with the preparation of the master plan.

6. *Submission of master plan to Government.*—(1) Every master plan shall, as soon as may be after its preparation, be submitted to the State Government for approval in the prescribed manner.

(2) The State Government may direct the officer or authority appointed for the preparation of a master plan to furnish such information as it may require for the purpose of approving any master plan submitted to it under this section.

(3) The State Government may either approve the master plan without modifications or with such modifications as it may consider necessary or reject it with directions for the preparation of a fresh master plan.

7. *Date of operation of master plan.*—Immediately after a master plan has been approved by the State Government, it shall publish in the prescribed manner a notice stating that the master plan has been approved and naming a place where a copy of the same may be inspected during office hours; and upon the date of the first publication of the aforesaid notice the master plan shall come into operation.

CHAPTER III

CONSTITUTION OF TRUSTS

8. *Establishment and incorporation of Trusts.*—(1) The State Government may, by notification in the official Gazette, establish, for the purpose of carrying out improvement of any urban area in the State, whether a master plan in respect thereof has or has not been prepared, a board of trustees to be called the Improvement Trust of the place where its principal office is situated, hereinafter called 'the Trust'.

(2) Every such Trust shall be a body corporate by the aforesaid name having perpetual succession and a common seal with power to acquire, hold and dispose of property both movable and immovable and to contract and shall by the said name sue and be sued.

9. *Constitution of Trust.*—(1) The Trust shall consist of—

(a) a Chairman,

(b) two members of the Municipal Board, if any, having authority in the urban area, and

(c) other persons not less than two and not exceeding four in number.

(2) The Chairman and the persons referred to in clause (c) of sub-section (1) shall be appointed by the State Government by notification.

(3) The members of the Municipal Board referred to in clause (b) of sub-section (1) shall be elected by the said Board.

(4) If the said Board does not, by such date as may be fixed by the State Government, elect two of its members to be trustees, the State Government shall appoint two members of the said Board to be trustees and every person so appointed shall be deemed to be a Trustee as if he had been duly elected by the Municipal Board.

(5) If the said Board shall have been superseded or dissolved in accordance with the provisions of the Municipal law for the time being in force, it shall be represented on the Trust by persons appointed or elected, as the case may be, by the officer or authority appointed under the said law to discharge the functions and exercise the powers of the Board during the period of its supersession or dissolution.

(6) Of the person referred to in clause (c) of sub-section (1) at least one shall be a person in the service of the State Government.

(7) The names of all persons appointed or elected to the Trust shall be notified by the State Government in the official Gazette.

10. *Resignation of Trustee.*—Any Trustee may at any time resign his office, provided that his resignation shall not take effect until accepted by the State Government.

11. *Term of office of Chairman.*—The term of office of the Chairman shall ordinarily be three years.

12. *Term of office of other Trustees.*—Subject to the foregoing provisions, the term of office of every Trustee elected under clause (b) of sub-section (1) of section 9 shall be three years or until he ceases to be a member of the Municipal Board, whichever period is less, and of every Trustee appointed under clause (c) of the said sub-section shall be three years, or in the case of such Trustee being in the service of the State Government, until he ceases to hold the office by virtue of which he was appointed Trustee, whichever period is less.

13. *Commencement of term of office of first Trustees.*—(1) The term of office of the first Trustees shall commence on such date as shall be notified in this behalf by the State Government.

(2) A person ceasing to be a Trustee by reason of the expiry of his term of office shall, if otherwise qualified, be eligible for re-appointment or re-election.

14. *Remuneration of Trustees.*—(1) The Chairman shall receive out of the trust fund such salary or allowances as may from time to time be proposed by the Trust and approved by the State Government.

(2) Other Trustees may be paid from out of the trust fund such allowances, if any, as may be proposed by the Trust and approved by the State Government.

15. *Removal of Trustees.*—(1) The State Government may remove from the Trust any Trustee, who—

(a) refuses to act, or becomes incapable of acting or absents himself for more than three consecutive months from the meetings of the Trust or of any committee of which he is a member and is unable to explain such absence to the satisfaction of the Trust, or

(b) is an undischarged insolvent or has compounded with his creditors, or

(c) has been convicted by a criminal court of an offence involving moral turpitude, such conviction not having subsequently been set aside, or

(d) has knowingly acquired or continued to hold without the permission in writing of the State Government, directly or indirectly

or by a partner, any share or interest in any contract or employment with, by or on behalf of the Trust, or

(e) has knowingly acted as a Trustee in a matter other than a matter referred to in clause (c) of sub-section (2) in which he or a partner had, directly or indirectly, a personal interest, or in which he was professionally interested on behalf of a client, principal or other person, or

(f) has acted in contravention of section 23, or

(g) being a legal practitioner, in any suit or other proceedings acts or appears on behalf of any other person against the Trust, or acts or appears on behalf of any other person in any criminal proceeding instituted by or on behalf of the Trust.

(2) A person shall not be deemed for the purpose of sub-section (1) to acquire, or continue to have, any share or interest in a contract or employment by reason only of his—

(a) having a share or interest in any lease, sale or purchase of land or building, or in any agreement for the same provided that such share or interest was acquired before he became a Trustee, or

(b) having a share or interest in a newspaper in which an advertisement relating to the affairs of the Trust is inserted, or

(c) holding a debenture or otherwise being interested in a loan raised by or on behalf of the Trust, or

(d) having a share or interest in the occasional sale of an article, in which he regularly trades, to the Trust to a value not exceeding, in any one year, such amount as the Trust, with the sanction of the State Government, may fix in this behalf.

(3) The State Government may remove from the Trust a Trustee who in its opinion has so flagrantly abused in any manner his position as a Trustee as to render his continuance as a Trustee detrimental to the public interest.

(4) When the State Government proposes to take action under the foregoing provisions of this section an opportunity of explanation shall be given to the Trustee concerned, and, when such action is taken, the reasons therefor shall be placed on record and communicated to him in writing.

16. *Disabilities of Trustees removed under section 15.*—(1) A Trustee removed under clause (a) or clause (c) of sub-section (1) of section 15, or under sub-section (3) of that section, shall not be eligible for further appointment or election for a period of three years from the date of his removal except when removed for continued absence.

(2) A Trustee removed under clause (b) of sub-section (1) of section 15 shall not be so eligible until he has obtained his discharge or has paid his creditors in full, as the case may be.

(3) A Trustee removed under any other provision of section 15 shall not be so eligible until he is declared to be no longer ineligible, and he may be so declared by an order of the State Government.

17. *Filling of casual vacancies.*—(1) When the place of a Trustee appointed by the State Government becomes vacant by his resignation, removal, death or otherwise, the State Government shall appoint a person to fill the vacancy.

(2) When the place of a Trustee elected under clause (b) of sub-section (1) of section 9 becomes vacant by his resignation, removal, death or otherwise the vacancy shall be filled, within two months of the existence of such vacancy being notified soon after the occurrence thereof to the Municipal Board by the Trust in the manner provided by sub-section (3) of the said section; provided that if the said Board fails to elect its members to fill the vacancy within the period prescribed above, the provisions of sub-section (4) of section 9 shall apply.

(3) The term of office of a Trustee appointed or elected under this section shall be the remainder of the term of office of the Trustee in whose place he has been elected or appointed:

Provided that no person elected or appointed under sub-section (2) shall continue to be a Trustee after he has ceased to be a member of the Municipal Board

CHAPTER IV

PROCEEDINGS OF THE TRUST AND COMMITTEES

18. *Conduct of business by Trust.*—The Trust shall meet as and when necessary and its business shall be conducted in accordance with regulations made under section 75.

19. *Temporary association of members with the trust for particular purposes.*—(1) The Trust may associate with itself, in such manner and for such period as may be prescribed by regulation made under section 75, any person whose assistance or advice it may desire in carrying out any of the provisions of this Act.

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

20. *Constitution of committees.*—(1) The Trust may from time to time appoint committees consisting of a Trustee or Trustees and such other person of any of the following classes as it may think fit, namely:—

- (i) persons associated with the Trust under section 19;
- (ii) other persons whose assistance or advice the Trust may desire as members of a committee :

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

(2) The Trustee appointed to a committee or where two or more than two Trustees are so appointed such one of them as may be nominated by the Trust shall be the Chairman of such committee.

21. *Functions of committees.*—(1) The Trust may—

(a) refer to a committee appointed under section 20, for inquiry and report, any matter relating to any of the purposes of this Act, and

(b) delegate to such committee by specific resolution and subject to any regulation made under this Act any of the functions or duties of the Trust.

(2) Every such committee shall conform to any instructions from time to time given to it by the Trust.

22. *Conduct of business of committees.*—A committee appointed under section 20 shall meet as and when necessary and conduct its business in accordance with regulations made under section 75.

23. *Trustees and associated members of Trust or committee not to take part in proceedings in which they are personally interested.*—(1) A Trustee who—

(a) has directly or indirectly, by himself or by any partner, employer or employee, any such share or interest as is described in sub-section (2) of section 15, in respect of any matter, or

(b) has acted professionally in relation to any matter on behalf of any person having therein any such share or interest as aforesaid, shall not vote or take any other part in any proceedings of the Trust or any committee relating to such matter.

(2) If any Trustee or any person associated with the Trust under section 19, or any other member of a committee appointed under this Act has, directly or indirectly, any beneficial interest in any land situated in an area comprised in a scheme framed under this Act, or in any area in which it is proposed to acquire land for any of the purposes of this Act—

(i) he shall, before taking part in any proceeding at a meeting of the Trust or any committee relating to such area, inform the person presiding at the meeting of the nature of such interest,

(ii) he shall not vote at any meeting of the Trust or any committee upon any resolution or question relating to such land, and

(iii) he shall not take any other part in any proceeding at a meeting of the Trust, or any committee relating to such area if the person presiding at the meeting considers it inexpedient that he should do so.

24. *Power to fix strength, salaries etc. of staff.*—Every Trust shall, from time to time, propose for the sanction of the State Government the strength of officers and servants to be appointed, setting forth the conditions of service and emoluments of each officer or servant. The State Government may sanction such proposal with or without amendment and no appointment shall be made otherwise than in accordance with such sanction.

25. *Power of appointment etc.*—Subject to the provisions of section 24 and to any rules for the time being in force, the power of appointing and granting leave to officers and servants of the Trust and censuring, reducing, suspending or dismissing them for misconduct and dispensing with their services for any reason other than misconduct, shall be vested—

(a) in the case of officers and servants drawing such monthly salary as may be specified by the State Government for each Trust, in the Chairman, and

(b) in other cases, in the Trust :

Provided that, in the case of Government servants whose services are lent to the Trust, the power of granting leave only will so vest and the other powers specified in this section will be exercisable by the State Government or by an appropriate authority of the State Government upon a complaint made by the Trust in that behalf or otherwise:

Provided further that the administrative and technical officers of the Trust shall be appointed by the State Government from amongst the corresponding officers encadred in the Rajasthan Municipal Service and the strength of that Service shall be increased accordingly.

26. *Control by Chairman.*—The Chairman shall exercise supervision and control over the acts and proceedings of all officers and servants of the Trust, and, subject to the foregoing sections, shall dispose of all questions relating to the service of the said officers and servants and their pay, privileges and allowances.

27. *Delegation of Chairman's functions.*—(1) The Chairman may, by general or special order in writing, delegate to any officer of the Trust, any of his powers, duties or functions under this Act or under the rules made thereunder except the power to preside over the meetings of the Trust.

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

28. *Supply of information and documents to the State Government.*—(1) The Chairman shall forward to the State Government a copy of the minutes of the proceedings of each meeting of the Trust within ten days from the date on which the minutes of the proceedings of such meeting were signed as prescribed.

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

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

(a) any return, statement, estimate, statistics or other information regarding any matter under the control of the Trust, or

(b) a report on any such matter, or

(c) a copy of any document in the charge of the Chairman.

(4) The Chairman shall comply with every such requisition without unreasonable delay.

CHAPTER V

FRAMING OF SCHEMES

29. *Schemes : matters to be provided therein.*—(1) The Trust shall, on the orders of the State Government or on its own initiative or on a representation made by the Municipal Board and subject to availability of financial resources, frame schemes for the improvement of the urban area for which the Trust is constituted.

(2) Such schemes may provide for all or any of the following matters, namely :—

(a) the acquisition of any land or other property necessary for, or effected by, the execution of the scheme ;

(b) the re-laying out of any land comprised in the scheme ;

(c) the construction and re-construction of buildings ;

(d) the formation, construction and alteration of streets ;

(e) the closure or demolition of dwellings or portions of dwellings unfit for human habitation ;

(f) the demolition of obstructive buildings or portions of buildings ;

(g) the draining, water supply and lighting of streets ;

(h) the raising of any land which the Trust may deem expedient to raise ;

(i) the forming of open spaces for the benefit of the area comprised in the scheme or any adjoining area ;

(j) all or any of the sanitary arrangements required for the area comprised in the scheme ;

(k) the establishment and construction of markets and other places of public requirement or convenience ;

(l) the limitation of areas within which special trades or industries may or may not be carried on or which are reserved exclusively for residential or other purposes ;

(m) the division of any land into plots for the erection of buildings for residential purposes ;

(n) the erection of buildings on any site, the restrictions and conditions in regard to the open spaces to be maintained in or around such buildings, the height and character of such buildings and the architectural features of the elevation or frontage thereof;

(o) the amenities to be provided in relation to any site or building or buildings on such site whether before or after the erection of such buildings and the person or authority by whom or at whose expense such amenities are to be provided;

(p) the construction of buildings for the accommodation (including shops) of the poor and the working classes or of any other class of the inhabitants of the area comprised in the scheme including such classes as are likely to be displaced by the execution of the scheme;

(q) the provision of facilities for communications;

(r) the reclamation or reservation of land for gardens, afforestation and the provision of fuel and grass supply and other needs of the population;

(s) the planting and preservation of trees and plantations;

(t) the sale, letting or exchange of any property or land comprised in the scheme; and

(u) any other matter for which in the opinion of the State Government it is expedient to make provision with a view to the improvement of the area comprised in the scheme or the general efficiency thereof.

30. *Matters to be considered when framing schemes.*—When framing scheme in respect of any area, regard shall be had to—

(a) the nature and the conditions of such area and of neighbouring areas as a whole;

(b) the several directions in which its expansion appears likely to take place;

(c) the likelihood of schemes being framed for other parts of the area; and

(d) such other matters as may be prescribed.

31. *Schemes to conform to master plan.*—If for and in respect of the urban area for which the Trust is constituted a master plan has been prepared and approved and is in operation, every scheme framed by the Trust in accordance with the provisions of this Chapter shall conform to such master plan and shall not be framed so as to affect an alteration in the different zones defined by the master plan.

32. *Previous notification of area for which scheme is framed:—Duration and effect of such notification.*—(1) Whenever the Trust decides to frame a scheme for any urban area, the State Government may, at the request of the Trust, issue a notification specifying such area and declaring that the Trust has decided to frame a scheme for such area.

(2) A notification under sub-section (1) shall remain in force for six months from the publication thereof:

Provided that the State Government may, for sufficient reasons, extend the said period by a further period not exceeding six months.

(3) If the sanction of a scheme is notified in accordance with section 38 in respect of such area before the expiry of the notification under this section, such notification shall continue in force until the scheme is carried out.

(4) During the period that a notification under this section remains in force in respect of any urban area, no building shall be erected, re-erected, altered or added within that area without the written sanction of the Trust.

33. *Preparation, publication and transmission of notice as to schemes and supply of documents to applicants.*—(1) When any scheme has been framed, the Trust shall prepare a notice, stating—

(a) the fact that the scheme has been framed,

(b) the boundaries of the area comprised in the scheme, and

(c) the place at which particulars of the scheme, a map of the area comprised in the scheme, and a statement of the land which it is proposed to acquire may be seen at reasonable hours.

(2) The Trust shall—

(a) publish the said notice in such manner as may be prescribed, inviting objections and suggestions from all persons with respect to the draft scheme before such date as may be specified in the notice, and

(b) send a copy of the said notice to the Chairman of the Municipal Board.

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

34. *Transmission to Trust of representation by Municipal Board as to scheme.*—The Chairman of any Municipal Board to whom a copy of a notice has been sent under clause (b) of sub-section (2) of section 33 shall within a period of sixty days from the receipt of the said copy, forward to the Trust any representation which the Municipal Board may think fit to make with regard to the scheme.

35. *Furnishing of copies of extracts from the assessment book of a local body.*—The Chairman of the Municipal Board shall furnish the Chairman of the Trust, at his request, with a copy of, or extracts from, the assessment list on payment of such fees as may be prescribed.

36. *Abandonment of scheme or application to Government to sanction it.*—(1) After the expiry of the date referred to in clause (a) of sub-section (2) of section 33 and of the period prescribed by section 34 in respect

of any scheme, the Trust shall consider any objections, suggestions and representations received thereunder and after affording to all persons making such objections, suggestions, or representations a reasonable opportunity of being heard, the Trust may either abandon the scheme or apply to the State Government for sanction of the scheme with such modifications, if any, as the Trust may consider necessary.

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

(a) a description of, and full particulars relating to, the scheme, and complete plans and estimates of the cost of executing the scheme;

(b) a statement of the reasons for any modification made in the scheme as originally framed;

(c) a statement of objections, if any, received under section 33;

(d) any representation received under section 34; and

(e) a statement of the arrangements made or proposed by the Trust for the re-housing of persons likely to be displaced by the execution of the scheme, for whose re-housing provision is required.

(3) When any application has been submitted to the State Government under sub-section (1) the Trust shall cause notice of the fact to be published for two consecutive weeks in the official Gazette and in a local newspaper.

37. Power to sanction, reject or return scheme.—(1) The State Government may sanction, or may refuse to sanction or may return for reconsideration any scheme submitted to it under section 36.

(2) If a scheme returned for reconsideration under sub-section (1) is modified by the Trust it shall be re-published in accordance with section 33—

(a) in every case in which the modification affects the boundaries of the area comprised in the scheme or involves the acquisition of any land not previously proposed to be acquired, and

(b) in every other case, unless the modification is, in the opinion of the State Government, not of sufficient importance to require re-publication.

38. Notification of sanction of scheme.—(1) Whenever the State Government sanctions a scheme it shall announce the fact by notification, and the Trust shall forthwith proceed to execute the same.

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

39. Period for execution of a scheme.—(1) While notifying the sanction of a scheme under section 38, the State Government shall also specify

in such notification the period within which the scheme so sanctioned is required to be executed by the Trust.

(2) If the Trust fails to complete the execution of the scheme within the period specified under sub-section (1), it shall make an application to the State Government setting forth the reasons for which the scheme could not be executed within the specified period and praying for its extension.

(3) The State Government may, in consultation with the Municipal Board concerned, either refuse to extend or may extend the period and the fact of such refusal or extension shall be notified in the official Gazette.

40. *Alteration of scheme after sanction.*—At any time after a scheme has been sanctioned by the State Government and before it has been carried into execution, the Trust may alter it:

Provided that if any alteration is estimated to increase the estimated net cost of executing a scheme by more than Rs. 50,000/- or 5 per cent of such cost, whichever is less, the alteration shall not be made without the previous sanction of the State Government.

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

CHAPTER VI

POWERS AND DUTIES OF THE TRUST WHERE A SCHEME HAS BEEN SANCTIONED

42. *Transfer to Trust, for purposes of scheme, of building or land vested in Municipal Board.*—Whenever any building, or any street, square or other land or any part thereof which is vested in the Municipal Board, is required for executing any scheme, the Trust shall give notice accordingly to the Chairman of such Board, and such building, street, square, land or part shall thereupon vest in the Trust subject, in the case of any building, to the payment to the said Board of such sum as may be required to compensate it for actual loss resulting from the transfer thereof to the Trust.

43. *Nazul lands.*—(1) The State Government may, by notification in the official Gazette and upon such terms and conditions as may be agreed upon between it and the Trust, place at the disposal of the Trust all or any improved and unimproved lands in the urban area for which the Trust has been constituted and which may be vested in the State (known and hereinafter referred to as Nazul lands) for the purposes of improvement in accordance with a scheme framed and sanctioned under this Act.

(2) No improvement of any Nazul land shall be undertaken or carried out except by, or under the control and supervision of the Trust after such land has been placed at the disposal of the Trust under sub-section (1).

(3) After any such Nazul land has been improved by, or under the control and supervision of, the Trust, it shall be dealt with by the Trust

in accordance with the rules made and directions given by the State Government in this behalf.

(4) If any Nazul land placed at the disposal of the Trust under sub-section(1) is required at any time thereafter by the State Government the Trust 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 that Government and the Trust.

44. *Transfer of private street or square to Trust for purposes of scheme.*—(1) Whenever any street or square or part thereof which is not vested in the Municipal Board is required for executing any scheme, the Trust shall cause to be affixed in a conspicuous place in or near such street, square or part, a notice signed by the Chairman—

(a) stating the purpose for which the street, square or part is required, and

(b) declaring that the Trust will, on or after a date to be specified in the notice, such date being not less than thirty days after the date of the notice, take over charge of such street, square or part from the owner thereof; and

shall simultaneously send a copy of such notice to the owner of such street, square or part.

(2) After considering and deciding all objections, if any, received in writing before the date so specified, the Trust may take over charge of such street, square or part from the owner thereof; and the same shall thereupon vest in the Trust.

(3) When the Trust alters or closes any street or square or part thereof which has vested in it under sub-section (2), it shall pay reasonable compensation to the previous owner for the loss of his rights therein.

(4) If the alteration or closing of any such street, square or part causes damage or substantial inconvenience to owners of property adjacent thereto or to residents in the neighbourhood, the Trust—

(i) shall forthwith provide some other reasonable means of access for the use of persons who were entitled to use such street, square or part as a means of access to any property or place, and

(ii) if the provision of such means of access does not sufficiently compensate any such owner or resident for such damage or inconvenience, shall also pay him reasonable compensation in money.

45. *Provision of drain or water work to replace another situated on land vested in the Trust under section 42 or section 43 or section 44.*—(1) When any building or any street, square or other land, or any part thereof, has vested in the Trust under section 42 or section 43 or section 44, no drain or water work therein shall vest in the Trust until another drain or water work, as the case may be, if required, has been provided by the Trust, to the satisfaction of the Municipal Board in place of the former drain or water work.

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

46. *Power of Trust to turn or close street or square vested in it.*—

(1) The Trust may—

(a) turn, divert, discontinue the public use of, or permanently close, any public street vested in it or any part thereof, or

(b) discontinue the public use of, or permanently close, any public square vested in it or any part thereof.

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

(3) Whenever the Trust discontinues the public use of, or permanently closes, any public square vested in it or any part thereof, it shall pay reasonable compensation to every person—

(a) who was entitled, otherwise than as a mere licensee, to use such square or part as a means of access, or

(b) whose immovable property was ventilated by such square or part,

and who has suffered damage—

(i) in case (a), from such discontinuance or closing, and

(ii) in case (b), from the use to which the Trust has put such square or part.

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

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

47. *Powers under the Municipal laws vested in the Trust.*—(1) Such provisions of the Municipal law for the time being in force in any part of the State as may be prescribed in the case of each Trust, shall, so far as may be consistent with the tenor of this Act, apply to all areas in respect of which a scheme is in force; and for the period during which such

scheme remains in force all references in the said provisions to the Municipal Board, Council or Corporation shall be construed as references to the Trust which, in respect of any such areas may alone exercise and perform all or any of the powers and functions which under any of the said provisions might have been exercised and performed by the Municipal Board, Council or Corporation or by the Chairman or President or by any officer thereof :

Provided that the Trust may delegate to the Chairman or to any officer of the Trust all or any of the powers conferred under this section.

(2) The Trust may make bye-laws for any areas comprised in a scheme which is outside the limits of the municipality generally for carrying out the purpose of the scheme.

(3) The power of the Trust to make bye-laws shall be subject to the condition of the bye-laws being made after previous publication and of their not taking effect until they have been confirmed by the State Government ; and the State Government may—

(a) in confirming a bye-law, make any change in its form that appears necessary, and

(b) after previous publication of its intention, rescind any bye-law which it has confirmed whereupon such bye-law shall cease to have effect.

(4) No alteration or rescission of a bye-law by the Trust shall have effect unless and until it has been confirmed by the State Government.

(5) In making a bye-law the Trust may direct that a breach of it shall be punishable with fine which may extend to five hundred rupees, and, when the breach is a continuing one, with a further fine which may extend to five rupees for every day after the day of the first conviction during which the offender is proved to have persisted in the offence.

48. *Transfer of duties etc. of Municipal Board to Trust.*—The State Government may by notification in the official Gazette transfer to the Trust any of the duties, powers, functions and responsibilities of the Municipal Board and thereupon the Trust shall carry out, exercise, perform and discharge such duties, powers, functions and responsibilities.

49. *Power to make surveys or contribute towards their cost.*—The Trust may—

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

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

50. Vesting in Municipal Board of street laid out or altered and open spaces provided by the Trust under scheme.—(1) Whenever the Municipal Board is satisfied—

(a) that any street laid out or altered by the Trust has been duly levelled, paved, metalled, flagged, channelled, sewered and drained in the manner provided in the scheme sanctioned by the State Government under this Act,

(b) that such lamps, lamp-posts and other apparatus for the lighting of such street as ought to be provided by the Trust have been so provided, and

(c) that water and other sanitary conveniences have been duly provided in such street,

the Municipal Board, after obtaining the assent of the Trust, or failing such assent, the assent of the State Government under sub-section (3), shall, by a written notice affixed in some conspicuous position in such street, declare the street to be a public street; and the street shall thereupon vest in the Municipal Board and shall thenceforth be maintained, kept in repair, lighted, and cleansed by the said Board.

(2) When any open space for purposes of ventilation or recreation has been provided by the Trust in executing any scheme, it shall, on completion, be transferred to the Municipal Board by resolution of the Trust and shall thereupon vest in, and be maintained at the expense of, the said Board:

Provided that the said Board may require the Trust, before any such open space is so transferred, to enclose, level, turf, drain and lay out such space and provide footpaths therein, and, if necessary, to provide lamps and other apparatus for lighting it.

(3) If any difference of opinion arises between the Trust and the Municipal Board in respect of any matter referred to in the foregoing provisions of this section, the matter shall be referred to the State Government, whose decision shall be final.

CHAPTER VII

ACQUISITION AND DISPOSAL OF LAND

51. Power to purchase or lease by agreement.—The Trust may enter into an agreement with any person for the purchase, leasing or exchange by the Trust from such person, of any land which the Trust is authorised to acquire or any interest in such land.

52. Compulsory acquisition of land.—(1) Where on a representation from the Trust it appears to the State Government that any land is required for the purpose of improvement or for any other purpose under this Act,

the State Government may acquire such land by publishing in the official Gazette a notice specifying the particular purpose for which such land is required and stating that the State Government has decided to acquire the land in pursuance of this section.

(2) Before publishing a notice under sub-section (1), the State Government shall by another notice call upon the owner of the land and any other person who in the opinion of the State Government may be interested therein to show cause, within such time as may be specified in the notice, why the land should not be acquired.

(3) After considering the cause, if any, shown by the owner of the land and by any other person interested therein and after giving such owner and person an opportunity of being heard, the State Government may pass such orders as it deems fit.

(4) When a notice under sub-section (1) is published in the official Gazette, the land shall, on and from the date of such publication, vest absolutely in the State Government free from all encumbrances.

(5) Where any land is vested in the State Government under sub-section (4), the State Government may, by notice in writing, order any person who may be in possession of the land to surrender or deliver possession thereof to the State Government or any person duly authorised by it in this behalf within thirty days of the service of the notice.

(6) If any person refuses or fails to comply with an order made under sub-section (5), the State Government may take possession of the land and may for that purpose use such force as may be necessary.

(7) Where the land has been acquired for the Trust the State Government shall, after it has taken possession of the land and on payment by the Trust of the amount of compensation determined under section 53, on the amount of interest thereon, and of the other charges incurred by the State Government in connection with the acquisition, transfer the land to the Trust for the purpose for which the land has been acquired.

53. *Compensation for compulsory acquisition of land.*—(1) Where any land is acquired by the State Government under this Act, the State Government shall pay for such acquisition compensation the amount of which shall be determined in accordance with the provisions of this section.

(2) Compensation payable under sub-section (1) shall be deemed to be due as from the date of taking over possession of the land under sub-section (5) or sub-section (6) of section 52 and shall carry simple interest at the rate of six per cent per annum from that day up to the date of payment:

Provided that no interest shall be payable on any amount of compensation which remains unpaid for any default of the person entitled to receive it or his agent or representative in interest or for any of the reasons specified in sub-section (3) of section 57.

(3) Where the amount of compensation can be determined by agreement between the State Government and the person to be compensated, it shall be determined in accordance with such agreement.

(4) Where no such agreement can be reached, the State Government shall refer the case to the Collector for determination of the amount of compensation to be paid for such acquisition as also the person or persons to whom such compensation shall be paid.

(5) Before finally determining the amount of compensation, the Collector shall give an opportunity to every person to be compensated to state his case as to the amount of compensation.

(6) In determining the amount of compensation, the Collector shall be guided by the following principles, namely :—

(a) no allowance shall be made on account of the acquisition being compulsory;

(b) the value of the land shall be taken to be the market value of the land on the date on which the notice calling upon the owner to show cause why the land should not be acquired is issued under sub-section (2) of section 52 hereinafter referred to as 'the date of notice', such market value being determined on the basis of the use of the land on that date;

(c) the special suitability or adaptability of the land for any purpose shall not be taken into account if that purpose is a purpose to which it would be applied only in pursuance of statutory powers, or for which there is not a market apart from the special needs of a particular purchaser or the requirements of any department of Government or any local or public authority;

(d) where the value of the land is increased by reason of the use thereof or of any premises thereon in a manner which could be restrained by any court, or is contrary to law, or is detrimental to the health of the inmates of the premises, or to public health, the amount of that increase shall not be taken into account.

(7) For the purpose of determining the amount of compensation—

(a) the Collector shall have the power to require any person to deliver to him such returns and assessments as he considers necessary;

(b) the Collector shall also have the power to require any person known or believed to be interested in the land to deliver to him a statement containing, as far as may be practicable, the name of every other person having any interest in the land as co-owner, mortgagee, tenant or otherwise, and the nature of such interest, and of the rents and profits, if any, received or receivable on account thereof for three years next preceding the date of the statement.

(8) Every person required to deliver a return, assessment or statement under sub-section (7) shall be deemed to be legally bound to do so within the meaning of section 175 and section 176 of the Indian Penal Code, 1860 (Central Act 45 of 1860).

(9) The Collector may hear expert witnesses if it be necessary to do so in any particular case.

(10) The Collector shall be entitled to enter on and inspect any land which is the subject of proceedings before him.

(11) The Collector shall dispose of every case referred to him under sub-section (4) for determination of compensation as expeditiously as possible and in any case within such time as may be prescribed.

(12) The Collector shall determine the amount of costs incurred in any case disposed of by him under this section, and by what parties and in what proportions they are to be paid.

(13) In determining the amount of costs under sub-section (12) the Collector shall also decide what portion, if any, of the costs so determined shall be paid by the State Government.

54. *Appeal to the District Judge against decision of the Collector.*—Any party aggrieved by the decision of the Collector determining the amount of compensation may within sixty days from the date of such decision appeal to the court of the District Judge having jurisdiction.

55. *Disputes as to apportionment of compensation.*—If any dispute arises as to the apportionment of compensation among persons claiming to be entitled thereto the State Government shall refer such dispute for the decision of the Court of the District Judge having jurisdiction.

56. *Appeals to the High Court.*—An appeal shall lie to the High Court from the decision of the District Judge under section 55 and the provisions of the Code of Civil Procedure, 1908 (Central Act V of 1908) with respect to appeals from original decrees shall, so far as may be, apply to appeals under this section.

57. *Payment of compensation or deposit of the same in court.*—(1) Where the amount of compensation is determined by agreement, the State Government shall pay such amount together with interest thereon to the person or persons entitled thereto.

(2) Where the amount of compensation is determined by the Collector under the provisions of section 53 the State Government shall tender payment of the compensation determined together with interest thereon to the persons entitled thereto according to such determination and shall pay to them unless prevented by some one or more of the contingencies mentioned in the next sub-section.

(3) If the persons entitled to compensation according to the decision of the Collector do not consent to receive it, or if there be no person competent to alienate the land or if there be any dispute as to the title to receive the compensation, the State Government shall deposit the amount of the compensation in the Court of the District Judge having jurisdiction :

Provided that any person admitted to be interested may receive such payment under protest as to the sufficiency of the amount of compensation:

Provided further that nothing herein contained shall affect the liability of any person who may receive the whole or any part of any compensation determined under this Act to pay the same to the person lawfully entitled thereto.

58. *Investment of the amount of compensation deposited in court.*—Where any amount of compensation has been deposited in court under section 57 the court may either of its own motion or on the application made by or on behalf of any party interested or claiming to be interested in such amount, order the same to be invested in such Government or other approved securities as it may think proper, and may direct the interest or other proceeds of any such investment to be accumulated and paid in such manner as will, in its opinion, give the parties interested therein the same benefit therefrom as they might have had from the land in respect whereof such amount has been deposited or as near thereto as may be.

59. *References of disputes as to sufficiency or otherwise of compensation payable by the Trust under other provisions.*—(1) If any question or dispute arises as to the sufficiency of the compensation paid or proposed to be paid under any provision of this Act otherwise than under the foregoing provisions of this Chapter, the matter shall be determined by the District Judge having jurisdiction upon a reference made to him either by the Trust or by the claimant within a period of three months from the date on which the said person was informed of the decision of the Trust fixing the amount of compensation to be paid to him or of the rejection of his claim to compensation by the Trust:

Provided that the District Judge shall not entertain the application of any claimant who has not applied to the Trust for compensation within three months of the date on which his claim for compensation accrued.

(2) If a reference to the District Judge be not made within the period prescribed by sub-section (1), the decision of the Trust shall be final.

60. *Disposal of land by the Trust.*—The trust may—

(a) with the sanction of the State Government, dispose of any land acquired by the State Government and transferred to the Trust without undertaking or carrying on any improvement thereon, or

(b) subject to any directions given by the State Government; dispose of any such land after undertaking, or carrying on such improvement as it thinks fit,

to such persons, in such manner and subject to such terms and conditions as it considers expedient for securing the improvement of the urban area concerned according to the master plan and the scheme.

(2) The power of the Trust with respect to the disposal of land under sub-section (1) shall be so exercised as to secure, so far as practicable, that persons who are living or carrying on business or other activities on the land shall, if they desire to obtain accommodation on land belonging to the Trust and are willing to comply with any requirements of the Trust as to

its improvement and use, have an opportunity to obtain thereon accommodation suitable to their reasonable requirements on terms settled with due regard to the price at which any such land has been acquired from them:

Provided that where the Trust proposes to dispose of by sale any land without any improvement having been undertaken or carried out thereon, it shall offer the land in the first instance to the persons from whom it was acquired, if they desire to purchase it, subject to such requirements as to its improvement and use as the Trust may think fit to impose.

(3) Nothing in this Act shall be construed as enabling the Trust to dispose of land by way of gift, mortgage or charge but subject as aforesaid references in this Act to the disposal of land shall be construed as references to the disposal thereof in any manner, whether by way of sale, exchange or lease or by the creation of any easement, right or privilege or otherwise.

CHAPTER VIII

FINANCE

61. *Improvement Fund.*—(1) A fund to be called 'the Improvement Fund' of the place where the principal office of a Trust is situated shall be constituted for each Trust as soon as it is formed.

(2) There shall be credited to this Fund—

(i) such sums as may be placed by the State Government at the disposal of the Trust, from time to time, either by way of loan or as subsidy;

(ii) such contribution from the Municipal Board as may, from time to time, be ordered by the State Government to be made, after considering the relief or addition to the resources of such Board accruing or likely to accrue from the schemes undertaken by the Trust;

(iii) the rents, profits, and sale proceeds of all lands, buildings, and other property vested or vesting in, or acquired by, the Trust under this Act;

(iv) sums borrowed by the Trust with the previous sanction of the State Government, subject to the prescribed conditions, for any of the purposes of the Trust; and

(v) all fees and charges payable to or received by the Trust under this Act.

62. *Power of Trust to levy betterment charges.*—(1) Where as a consequence of any scheme having been executed by the Trust in any area, the value of any property in that area, in the opinion of the Trust, has increased or will increase, the Trust shall, with the sanction of the State Government, be entitled to levy upon the owner of the property or any person having interest therein a betterment charge in respect of the increase in the market value of the property resulting from the execution of the scheme.

(2) Such betterment charge shall be an amount equal to one-fourth of the amount by which the market value of the property on the completion of the execution of the scheme, estimated as if the property were clear of buildings, exceeds the market value of the property prior to such execution estimated in like manner.

63. *Assessment of betterment charge.*—(1) Where it appears to the Trust that any particular scheme is sufficiently advanced to enable the amount of the betterment charge to be determined, the Trust may, by an order made in this behalf, declare that, for the purpose of determining the betterment charge, the execution of the scheme shall be deemed to have been completed and shall thereupon give notice in writing to the owner of the property or any person having an interest therein that the Trust proposes to assess the amount of the betterment charge in respect of the property under section 62.

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

(3) When the assessment proposed by the Trust is accepted by the person concerned within the period specified in sub-section (2), such assessment shall be final.

(4) If the person concerned dissents from the assessment or fails to give the Trust the information required by sub-section (2) within the period specified therein, the matter shall be determined by arbitrators in the manner provided in section 64.

64. *Settlement of betterment charge by arbitrators.*—(1) For the determination of the matter referred to in sub-section (4) of section 63, the State Government shall appoint three arbitrators of whom one at least shall have special knowledge of the valuation of land.

(2) The arbitrators shall follow such procedure as may be prescribed.

(3) In the event of any difference of opinion among the arbitrators, the decision of the majority shall prevail and that decision shall be the award of the arbitrators.

(4) If any arbitrator dies, resigns, or is removed under sub-section (5) or refuses or neglects, in the opinion of the State Government, to perform his duties or becomes incapable of performing the same, then the State Government shall forthwith appoint another fit person to take the place of such arbitrator.

(5) If the State Government is satisfied after such inquiry as it thinks fit—

(a) that an arbitrator has misconducted himself, the State Government may remove him from his office; or

(b) that the award of the arbitrator has been improperly procured or that any arbitrator has misconducted himself in connection with such award, the State Government may set aside the award.

(6) An award which has not been set aside by the State Government under clause (b) of sub-section (5) shall be final and shall not be questioned in any court.

(7) The provisions of the Arbitration Act, 1940 (Central Act 10 of 1940) shall not apply to the arbitration under this section.

65. *Payment of betterment charge.*—(1) The betterment charge levied under this Act shall be payable in such number of instalments and each instalment shall be payable at such time and in such manner as may be fixed by regulations made in this behalf.

(2) Any arrear of betterment charge shall be recoverable in the manner laid down in the Municipal law for the time being in force for the recovery of municipal claims.

66. *Custody, investment and application of Trust Fund.*—(1) All the moneys of the Trust shall be kept in a Government treasury or sub-treasury or a bank to which the Government treasury business has been made over.

(2) Nothing in the foregoing sub-section shall be deemed to preclude a Trust from investing, with the previous sanction of the State Government, any such moneys which are not required for immediate expenditure, in any of the securities described in section 20 of the Indian Trusts Act, 1882 (Central Act 2 of 1882) or placing them in fixed deposit with a bank approved by the State Government.

(4) The Trust Fund shall be applied towards meeting the expenses incurred by the Trust in the carrying out of schemes framed and sanctioned under this Act, and in the administration of the other provisions of this Act and for no other purpose.

67. *Budget of the Trust.*—The Trust shall prepare in such form and at such time every year as may be prescribed a budget in respect of the financial year next ensuing, showing the estimated receipts and expenditure of the Trust and shall forward to the State Government such number of copies thereof as may be prescribed.

68. *Accounts and audit.*—(1) The Trust shall maintain proper accounts and other relevant records and prepare an annual statement of accounts including the balance sheet in such form as the State Government may prescribe.

(2) The accounts of the Trust shall be subject to audit annually by the Examiner of Local Fund Audit and the provisions of the Rajasthan Local Fund Audit Act, 1954 (Rajasthan Act 38 of 1954) shall apply.

69. *Annual Report.*—The Trust shall prepare for every year a report of its activities during that year and submit the report to the State Government in such form and on or before such date as may be prescribed.

70. *Pension and provident funds.*—(1) The Trust shall constitute for the benefit of its officers and other employees, in such manner and subject to such conditions as may be prescribed, such pension and provident funds as it may deem fit.

(2) Where any such pension or provident fund has been constituted, the State Government may declare that the provisions of the Provident Funds Act, 1925 (Central Act 19 of 1925) shall apply to such fund as if it were a Government Provident Fund.

71. *Failure to repay loans or other dues.*—If the Trust fails to repay any loan or any interest or costs in respect thereof, according to the conditions of the loan, the State Government will attach the rents and other income of the Trust and apply the same in satisfaction of such loan and other dues.

CHAPTER IX

GENERAL PROVISIONS AS TO IMPROVEMENT.

72. *Restrictions on improvement in certain areas.*—(1) After the coming into operation in any area of a master plan as provided in section 7 or the notification of the sanction of a scheme as provided in section 38—

(i) no improvement shall be undertaken or carried out in that area unless it is in accordance with the master plan or the scheme, as the case may be, and

(ii) no improvement shall be undertaken or carried out in such area by any person or department of Government unless permission for the same has been obtained in writing in accordance with the provisions of section 73—

(a) from the Trust in case a scheme relating thereto has been notified, or

(b) in case a master plan relating thereto is in operation, from the Municipal Board exercising jurisdiction therein or if no such Board exercises jurisdiction, from the Collector or such other officer or authority as may be authorised in this behalf by the State Government.

(2) After the coming into operation of a master plan or scheme, no person shall use or permit to be used any land or building in the area to which the plan or scheme relates otherwise than in conformity with that plan or scheme :

Provided that it shall be lawful to continue to use, upon such terms and conditions as may be prescribed by regulations made in this behalf, any land or buildings for the purpose and to the extent for and to which it is being used upon the date on which such plan or scheme comes into force.

73. *Application for permission.*—(1) Every person or department of the Government desiring to obtain the permission referred to in section 72 shall make an application in writing in such form and containing such particulars in respect of the improvement to which the application relates as may be prescribed by regulations.

(2) Every application under sub-section (1) shall be accompanied by such fee as may be prescribed:

Provided that no such fee shall be necessary in the case of an application made by a department of the Government.

(3) On the receipt of an application for permission under sub-section (1), the officer or authority competent under section 72 to grant the permission, after making such inquiry as may be considered necessary in relation to any matter, shall, by order in writing, either grant the permission, subject to such conditions, if any, as may be specified in the order or refuse to grant such permission:

Provided that, before making an order refusing such permission, the applicant shall be given a reasonable opportunity to show cause why the permission should not be refused.

(4) Where permission is refused, the grounds of such refusal shall be recorded in writing and communicated to the applicant in the manner prescribed by regulations.

(5) A register of applications for permission under this section shall be kept in such form as may be prescribed by regulations.

(6) The said register shall contain such particulars including information as to the manner in which applications for permission have been dealt with as may be prescribed by regulations and shall be available for inspection by any member of the public at all reasonable hours on payment of such fee not exceeding rupees five as may be prescribed by regulations.

(7) Where 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, on an application for refund being made within three months of the communication of the grounds of the refusal under sub-section (4), such portion of the fee as may seem proper in the circumstances of the case may be refunded.

CHAPTER X

RULES AND REGULATION

74. *Power of Government to make rules.*—(1) The State Government may make rules consistent with this Act—

(a) as to the authority on which money may be paid from the Trust fund;

(b) for prescribing the fees payable for a copy of or extracts from the assessment list under section 35 or section 73 ;

(c) as to the conditions on which officers and servants of the Trust appointed to offices requiring professional skill may be appointed, suspended or dismissed ;

(d) as to the intermediate office or offices, if any, through which correspondence between the Trust and the State Government or officers thereof shall pass ;

(e) as to the manner and form in which the Trust shall maintain accounts and prepare an annual statement thereof including the balance sheet ;

(f) as to the authority by whom, the conditions subject to which and the mode in which contracts may be entered into and executed on behalf of the Trust ;

(g) as to the form in which and the time at which the Budget shall be prepared ;

(h) as to the returns, statements and reports to be submitted by the Trust ;

(i) as to the mutual relations to be observed between the Trust and other local authorities in any matter in which they are jointly interested ;

(j) for regulating the grant of leave allowances and acting allowances to the officers and servants of the Trust ;

(k) for establishing and maintaining a pension, provident or annuity fund, for compelling all or any of the officers in the service of the Trust to contribute to such fund at such rates and subject to such conditions as may be prescribed and for supplementing such contributions out of the funds of the Trust ;

Provided that a Government servant employed as an officer or servant of the Trust shall not be entitled to leave or leave allowance otherwise than as may be prescribed by the conditions of his service under the State Government ;

(l) for determining the conditions under which the officers and servants of the Trust or any of them shall, on retirement, receive pensions or gratuities or compassionate allowances and the amount of such pensions, gratuities and compassionate allowances ;

(m) for regulating every matter which, under this Act, may be or is required to be prescribed ; and

(n) generally for the guidance of Trusts and public officers in all matters connected with the carrying out of the provisions of this Act.

(2) The power of the State Government to make rules under this section is subject to the condition of the rules being made after previous publication and of their not taking effect until they have been published in the official Gazette.

75. *Power of the Trust to make regulations.*—(1) Every Trust may, from time to time, make regulations consistent with this Act and with any rules made under this Act by the State Government—

(a) for fixing the amount of security to be furnished by any officer or servant of the Trust from whom it may be deemed expedient to require security,

(b) for associating members with the Trust under section 19,

(c) for appointing persons, other than Trustees and persons associated with the Trust under section 19, to be members of committees under section 20,

(d) for regulating the delegation of powers or duties of the Trust to committees or to the Chairman,

(e) for regulating, summoning and holding of meetings of the Trust and the committees appointed by it and the conduct of business thereat,

(f) for the guidance of persons employed by it under this Act,

(g) for prescribing the fees payable for copies of documents delivered under sub-section (3) of section 33 or under section 76,

(h) for the management, use and regulation of dwellings constructed under any scheme, and

(i) generally for carrying out the purpose of this Act.

(2) All regulations made under sub-section (1) shall be subject to the sanction of the State Government and shall, when so sanctioned, be notified in the official Gazette.

76. *Printing and sale of copies of rules and regulations.*—(1) The Chairman shall cause all rules made under section 74 and all regulations made under section 75 and for the time being in force, to be printed and shall cause printed copies thereof to be delivered to any applicant on payment of such fees as may be prescribed by regulations.

(2) Notice of the fact of copies of rules and regulations being obtainable at the said price and of the place where and the persons from whom the same are obtainable shall be given by the Chairman by advertisement in a local news-paper.

77. *Power of Government to cancel regulations made under section 75.*—The State Government may, after previous publication of its intention, rescind any regulations made by the Trust which it has sanctioned, and thereupon the regulations shall cease to have effect.

CHAPTER XI

PROCEDURE AND PENALTIES

78. *Stamping signature on notices or bills.*—Every notice or bill which is required under this Act to bear the signature of the Chairman or of any other Trustee or of any officer or servant of the Trust shall be deemed to be properly signed if it bears a facsimile of the signature of the Chairman or of such other Trustee or of such officer or servant, as the case may be, stamped thereupon.

79. *Public notice how to be made known.*—Every public notice given under this Act shall be in writing over the signature of any officer of the Trust authorised in this behalf 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 publishing the same by beat of drum or by advertisement in local news-paper or by any two or more of these means, and by any other means that the Trust may think fit.

80. *Service of notices, etc.*—(1) All notices, orders and other documents required by this Act or any rule or regulation made thereunder to be served upon any person shall, save as otherwise provided in this Act or such rule or regulation, be deemed to be duly served—

(a) where the person to be served is a company, if the document is addressed to the secretary of the company at its registered office or at its principal office or place of business and is either—

(i) sent by registered post, or

(ii) delivered at the registered office or at the principal office or place of business of the company ;

(b) where the person to be served is a partnership, if the document is addressed to the partnership at its principal place of business, identifying it by the name or style under which its business is carried on, and is either—

(i) sent by registered post, or

(ii) delivered at the said place of business;

(c) where the person to be served is a public body or a corporation or society or other body, if the document is addressed to the secretary, treasurer or other head officer of that body, corporation or society at its principal office, and is either—

(i) sent by registered post, or

(ii) delivered at that office ;

(d) in any other case, if the document is addressed to the person to be served and—

(i) is given or tendered to him ; or

(ii) if such person cannot be found, is affixed on some conspicuous part of his last known place of residence or business, if within the State or is given or tendered to some adult member of his family or is affixed on some conspicuous part of the land or building to which it relates, or

(iii) is sent by registered post to that person.

(2) Any document which is required or authorised to be served on the owner or occupier of any land or building may be addressed to "the owner" or "the occupier", as the case may be, of that land or building naming that land or building, without further name or description, and shall be deemed to be duly served—

(a) if the document so addressed is sent or delivered in accordance with clause (d) of sub-section (1); or

(b) if the document so addressed or a copy thereof so addressed, is delivered to some person on the land or building or where there is no person on the land or building to whom it can be delivered, is affixed to some conspicuous part of the land or building.

(3) Where a document is served on a partnership in accordance with this section, the document shall be deemed to be served on each partner.

(4) For the purpose of enabling any document to be served on the owner of any property, the Trust may, by notice in writing, require the occupier, if any, of the property to state the name and address of the owner thereof.

(5) Where the person on whom a document is to be served is a minor, the service upon his guardian or any adult member of his family shall be deemed to be service upon the minor.

(6) A servant is not a member of the family within the meaning of this section.

81. *Disobedience to Act or to notice.*—Where, under this Act or a notice given thereunder, the public or any person is required to do or to refrain from doing anything, a person who fails to comply with such requisition, shall, if such failure is not an offence punishable under any other section, be liable, on conviction by a Magistrate to a fine not exceeding five hundred rupees for every such failure and, in the case of a continuing breach, to a further fine which may extend to five rupees for every day after the date of the first conviction during which the offender is proved to have persisted in the breach.

82. *Powers to Trust 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, movable or immovable, public or private, 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 Trust 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 in the manner provided in the Municipal law for the time being in force for the recovery of municipal claims.

83. *Liability of occupier to pay in default of owner.*—(1) If the person to whom the notice mentioned in section 82 has been given is the owner of the property in respect of which it is given, the Trust may, whether any action or other proceeding has been brought or taken against such owner or not require the person, if any, who occupies such property or a part thereof under such owner, to pay to the Trust instead of to the owner, the rent payable by him in respect of such property, as it falls due, up to the amount recoverable from the owner under section 82; and any such payment made by the occupier to the Trust shall be deemed to have been made to the owner of the property.

(2) For the purpose of deciding whether action should be taken under sub-section (1) the Trust may require an occupier of property to furnish information as to the sum payable by him as rent on account of such property and as to the name and address of the person to whom it is payable and if the occupier refuses to furnish such information he shall be liable for the whole of the expenses as if he were the owner.

(3) All moneys recoverable by the Trust under this section shall be recoverable in the manner provided in the Municipal law for the time being in force for the recovery of municipal claims.

84. *Right of occupier to execute works in default of owner.*—Whenever default is made by the owner of a building or land in the execution of a work required under this Act to be executed by him, the occupier of such building or land may, with the approval of the Trust, cause such work to be executed, and the expense thereof shall, in the absence of any contract to the contrary, 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.

85. *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 refuses to allow such owner to take such action, the owner may apply to a Magistrate of the first class.

(2) The Magistrate upon proof of such refusal may make an order in writing requiring the occupier to allow the owner to execute all such works, with 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 expiration 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 twenty-five rupees 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 penalties to which he might otherwise have become liable by reason of his default in executing such work.

86. *Recovery of cost of work by the occupier.*—When the occupier of a building or land has, in compliance with a notice given under this Act, executed a work for which the owner of such building or land is

responsible either in pursuance of the contract of tenancy or by law, he shall be entitled to recover from the owner, by deduction from the rent payable by him or otherwise, the reasonable cost of such work.

87. *Relief to agents and trustees.*—(1) When a person, by reason of his receiving or being entitled to receive, the rent of immovable property, as trustee or agent of a person or society would, under this Act, be bound to discharge an obligation imposed by this Act on the owner of the property and for the discharge of which money is required, he shall not be bound to discharge the obligation unless he has, or but for his own improper act or default, might have had, in his hands, funds belonging to the owner sufficient for the purpose.

(2) When an agent or trustee has claimed and established his right to relief under this section, the Trust may give him notice to apply to the discharge of such obligation as aforesaid the first moneys which come to his hands on behalf, or for the use, of the owner, and, should he fail to comply with such notice, he shall be deemed to be personally liable to discharge such obligation.

88. *Application of provisions relating to recovery of municipal claims.*—Whenever in this Act or in any municipal law for the time being in force made applicable by section 47 of this Act, it is provided that any sum shall be recoverable in the manner provided for the recovery of municipal claims, then, in applying those provisions, all references to the Municipal Board shall be construed as referring to the Trust and all references to the Municipal office, a Municipal officer or the Municipal fund shall be construed as referring to the office of the Trust, to an officer of the Trust and the funds of the Trust respectively.

89. *Penalty for removing fence etc. in street.*—If any person without lawful authority—

(a) removes any fence, or any timber used for propping or supporting any building, wall or other thing, or extinguishes any light set up at any place where the surface of street or other ground has been opened or broken up by the Trust for the purpose of carrying out any work, or

(b) infringes any order given or removes any bar, chain or post fixed by the Trust for the purpose of closing any street to traffic,

he shall be punishable with fine which may extend to fifty rupees.

90. *Power to prevent or demolish building.*—If any person without the permission of the Trust erects, adds to or alters any building or wall so as to make the same project beyond the street alignment or building line shown in any plan finally adopted by the Trust, or erects or alters any building or wall in an area specified in a scheme, the Trust may, by a written notice—

(a) direct that the erection, alteration or addition be stopped, and

(b) require such building or wall to be altered or demolished as it may deem necessary.

91. *Penalty for non-compliance with notice under section 90.*—If any person, after due notice given under section 90 does not stop erection, alteration or addition, or does not demolish or alter any building or wall he shall be punishable with fine which may extend to five hundred rupees, or with simple imprisonment, for a period of six months or with both and the said unauthorised construction shall be demolished or altered by the order of the Magistrate dealing with the case if so requested by the Trust.

92. *Penalty for obstructing contractor or removing mark.*—If any person—

(a) obstructs or molests any person with whom the Trust has entered into a contract in the performance or execution by such person of his duty or of anything which he is empowered or required to do under this Act, or

(b) removes any mark set up for the purpose of indicating any level or direction necessary to the execution of works authorised under this Act,

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

CHAPTER XII

SUPPLEMENTAL PROVISIONS

93. *Trustees etc. deemed public servants.*—Every Trustee and every officer and servant of the Trust shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

94. *Contribution by Trust towards leave allowance and pensions of Government servants.*—The Trust shall be liable to pay such contributions for the leave allowance and pension of every Government servant employed as an officer or servant of the Trust as may be required, by the conditions of his service under Government, to be paid by him or on this behalf.

95. *Authority for prosecutions.*—Unless otherwise expressly provided, no court shall take cognizance of any offence punishable under this Act, except on the complaint of or upon information received from, the Trust or some person authorised by the Trust by general or special order in this behalf.

96. *Powers to Chairman as to institution, etc. of legal proceedings and obtaining legal advice.*—The Chairman may, subject to the control of the Trust,—

(a) institute, defend or withdraw from legal proceedings under this Act,

(b) compound any offence against this Act,
 (c) admit, compromise or withdraw any claim made under this Act, and

(d) obtain such legal advice and assistance as he may from time to time think it necessary or expedient to obtain or as he may be desired by the Trust to obtain for any of the purposes referred to in the foregoing clauses of this section, or for securing the lawful exercise or discharge of any power or duty vested in or imposed upon the Trust or any officer or servant of the Trust.

97. *Indemnity to Trust etc.*—No suit, prosecution or other legal proceeding shall be maintainable against the Trust, or any Trustee, or any officer or servant of the Trust, or any person acting under the direction of the Trust or the Chairman, or any officer or servant of the Trust in respect of anything lawfully and in good faith and with due care and attention done under this Act.

98. *Notice of suit against Trust etc.*—(1) No suit shall be instituted against the Trust or any trustee, or any person associated with the Trust under section 19 or any member of a Committee appointed under section 20 or any officer or servant of the Trust, or any person acting under the direction of the Trust or of the Chairman or of any officer or servant of the Trust in respect of an act purporting to be done under this Act, until the expiration of two months next after notice in writing has been, in the case of a Trust, left at its office and, in any other case, delivered to or left at the office or place of abode of the person to be sued, explicitly stating the cause of action, the nature of the relief sought, the amount of compensation claimed and the name and place of abode of the intending plaintiff, and the plaintiff shall contain a statement that such notice has been so delivered or left.

(2) If the Trust or other person referred to in sub-section (1) shall, before the action is commenced, have tendered sufficient amends to the plaintiff, the plaintiff shall not recover any sum in excess of the amount so tendered and shall also pay all costs incurred by the defendant after such tender.

(3) No action such as is described in sub-section (1) shall, unless it is an action for the recovery of immovable property or of a declaration of title thereon, be commenced otherwise than within six months next after the accrual of the cause of action therefor.

(4) Nothing in sub-section (1) shall be construed to apply to a suit wherein the only relief claimed is an injunction of which the object would be defeated by the giving of the notice of the postponement of the commencement of the suit or proceeding.

99. *Mode of proof of Trust records.*—A copy of any receipt, application, plan, notice, order, entry in a register or other document in the possession of the Trust shall, if duly certified by the legal keeper thereof, the secretary of the Trust or any person authorised by the Trust in this behalf, be received as *prima facie* evidence of the entry or document

and shall be admitted as evidence of the matters and transactions therein recorded in every case where, and to the same extent as, the original entry or document would, if produced, have been admissible to prove such matters.

100. *Restriction on the summoning of Trust servants to produce documents.*—No trustee or officer or servant of the Trust shall in any legal proceeding to which the Trust is not a party be required to produce any register or document the contents of which can be proved under the preceding section by a certified copy, or to appear as a witness to prove the matters and transactions recorded therein unless by order of the court made for special cause.

101. *Validation of acts and proceedings.*—(1) No act done or proceeding taken under this Act shall be questioned on the ground merely of—

(a) the existence of any vacancy in, or any defect in the constitution of, the Trust or any committee; or

(b) any person having ceased to be a trustee; or

(c) any trustee, or any person associated with the Trust under section 19 or any other member of a committee appointed under this Act having voted or taken part in any proceeding in contravention of section 23; or

(d) the failure to serve a notice on any person, where no substantial injustice has resulted from such failure; or

(e) any omission, defect or irregularity not affecting the merits of the case.

(2) Every meeting of the Trust shall be taken to have been duly convened and to be free from all defect and irregularity.

102. *Power of entry.*—(1) The Chairman or any other person who may be authorised in that behalf by the State Government may, with or without assistants or workmen, enter into or upon any land in order—

(a) to make any inspection, survey, measurement, valuation or inquiry,

(b) to take levels,

(c) to dig or bore into the sub-soil,

(d) to set out boundaries and intended lines of work,

(e) to mark such levels, boundaries and lines by marks and cutting trenches, or

(f) to do any other thing,

whenever it is necessary to do so for any of the purposes of this Act or any rule made or scheme sanctioned thereunder or any scheme which the Trust intends to frame thereunder :

Provided as follows—

(a) except when it is otherwise specially provided by rule, no such entry shall be made between sunset and sunrise ;

(b) except when it is otherwise specially provided by rule, no building which is used as a human dwelling shall be so entered, unless with the consent of the occupier thereof, without giving the said occupier at least twenty-four hours previous written notice of the intention to make such entry ;

(c) sufficient notice shall in every instance be given, even when any premises may otherwise be entered without notice, to enable the inmates of any apartment appropriated to females to remove to some part of the premises where their privacy need not be disturbed;

(d) due regard shall always be had, so far as may be compatible with the exigencies of the purposes for which the entry is made, to the social and religious usages of the occupants of the premises entered.

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

(3) It shall be lawful for any person authorised under sub-section (1) to make an entry for the purpose of inspection or search to open or cause to be opened a door, gate or other barrier—

(a) if he considers the opening thereof necessary for the purpose of such entry, inspection or search, and

(b) if the owner or occupier is absent or, being present, refuses to open such door, gate or barrier.

103. *General power of Trust to pay compensation.*—In any case not otherwise expressly provided for in this Act, the Trust may pay reasonable compensation to any person who sustains damage by reason of the exercise of any of the powers vested under this Act in the Trust or the Chairman or any officer or servant of the Trust.

104. *Compensation to be paid by offenders for damage caused by them.*—
(1) If, on account of any act or omission, any person has been convicted of an offence under this Act, and by reason of such act or omission, damage has occurred to any property of the Trust, compensation shall be paid by the said person for the said damage, notwithstanding any punishment to which he may have been sentenced for the said offence.

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

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

105. *Ultimate dissolution of Trust, and transfer of its assets and liabilities to the Municipal Board.*—(1) When all schemes sanctioned under this Act have been executed or have been so far executed as to render the continued existence of the Trust, in the opinion of the State Government, unnecessary, the State Government may by notification declare that the Trust shall be

dissolved from such date as may be specified in this behalf in such notification, and the Trust shall be deemed to be dissolved accordingly.

(2) From the said date—

(a) all properties, funds, and dues which are vested in or realisable by the Trust shall vest in and be realisable by the Municipal Board;

(b) all liabilities which are enforceable against the Trust shall be enforceable against the Municipal Board;

(c) for the purpose of completing the execution of any scheme sanctioned under this Act, which has not been fully executed by the Trust, and of realising properties, funds and dues referred to in clause (a) the functions of the Trust under this Act shall be discharged by the Municipal Board as if it were the Trust under this Act; and

(d) the Municipal Board shall keep separate accounts of all moneys respectively received and expended by it under this Act, until all loans raised hereunder have been repaid and until all other liabilities referred to in clause (b) have been duly met.

106. *Repeal and savings.*—The Alwar State Town and Village Improvement Act, 1947, the City of Kota Improvement Act, 1946 and all other corresponding laws or rules, in force in any part of the State shall stand repealed in any area for which a Trust is constituted under this Act or for which a master plan is ordered to be prepared thereunder on and from the date on which such Trust is constituted or such order is made :

Provided that such repeal shall not in any way affect anything done or action taken under the Act, law or rule so repealed, previously to such coming into force.

PRABHU DAYAL LOIWAL,
Secretary to the Government.

Government Central Press, Jaipur.