

(2) It shall have the like extent as the Principal Act.

(3) It shall come into force at once.

Amendment
of Section 30
of Assam Act
XXIII of
1947.

“Prohibition
Commission-
er.

2. For Section 30 of the Principal Act, the following shall be substituted, namely :—

30. For the purposes of this Chapter, the State Government may, by notification in the Official Gazette, appoint a person to be the Prohibition Commissioner on such salary as may be determined by the Government.”

Amendment
of Section 32
of Assam Act
XXIII of
1947.

“Prohibition
Committee.

3. For sub-section (1) of Section 32 of the Principal Act, the following shall be substituted, namely :—

32. (1) The Commissioner may, by notification in the Official Gazette, constitute for any district or any part thereof a ‘Prohibition Committee’ consisting of not more than five persons. He may also, by like notification, dissolve or reconstitute any such Committee.”

ASSAM ACT No. XII OF 1961
THE ASSAM SLUM AREAS (IMPROVEMENT AND CLEARANCE)
ACT, 1959

Received the assent of the President on the 22nd April 1961
[Published in the *Assam Gazette*, Extraordinary, dated the 5th May 1961]

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**HTE ASSAM SLUM AREAS (IMPROVEMENT
AND CLEARANCE) ACT 1959**

**An
Act**

**to provide for [the improvement and clearance
of slum areas in towns and country sides of the
State of Assam**

Preamble. Whereas it is expedient to improve and/or clear the slum areas in the State of Assam on sound planning principles with the object of securing proper sanitary conditions, to conserve and promote the public health, safety and general welfare of the people;

It is hereby enacted in the Tenth Year of the Republic of India as follows:—

CHAPTER I

Preliminary

Short title,
extent and
commence-
ment.

1. (1) This Act may be called the Assam Slum Area (Improvement and Clearance) Act, 1959.

(2) It shall extend to the whole of Assam:

Provided that if any District Council desires that all or any of the provisions of this Act should apply to the Autonomous District concerned, a notification may be issued to that effect and this Act shall

then extend to that Autonomous District subject to such exceptions or modifications as may be specified in the notification.

(3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

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

(1) "Authority" shall mean the Local or Regional Authority appointed by the State Government the purpose of administering the Act. Unless otherwise appointed by the State Government, the Authority in the case of Municipal areas shall be taken to mean the Municipal Board and Town Committee Assam Act for the area constituted under the Assam Municipal XV of 1957. Act, 1956.

(2) "Council" means the Assam Slum Areas (Improvement and Clearance) Advisory Council constituted under Section 3 of this Act.

(3) "Building" means any construction for whatsoever purpose and of whatsoever materials constructed and every part thereof, whether used as human habitation or not and includes plinth wall, chimney, drainage work, fixed platform, verandah, balcony, cornice or projection, or part of a building or anything affixed thereto or any wall, earth bank, fence or other construction enclosing or delimiting or intended to enclose or delimit any land or space.

(4) "Director" means Director of Town and Country Planning or any other officer appointed by the State Government.

(5) "Work of improvement" includes in relation to any building in a slum area the execution of any one or more of the following works, namely:—

- (i) necessary repair ;
- (ii) structural alteration ;
- (iii) provision of light point and water tap ;
- (iv) construction of drain, open or covered ;
- (v) provision of latrine ;
- (vi) provision of additional or improved fixture or fitting ;
- (vii) opening up or paving of Courtyard ;
- (viii) removal of rubbish ; and



(ix) any other work including the demolition of any building or any part thereof which in the opinion of the authority is necessary for executing any of the works specified above.

(6) "Occupier" includes an owner in occupation of or otherwise using his own land or building.

(7) "Owner" includes any person who is receiving or is entitled to receive the rent, compensation or premium of any building or land whether on his own account or on behalf of himself and others or as agent or trustee, or who would so receive the rent or be entitled to receive it if the building or land were let to a tenant.

(8) "Open space" means any land whether enclosed or not, on which not more than one-twentieth part is covered with buildings and the whole of the remainder has been laid out as a public garden or used for purposes of recreation or lies waste and unoccupied.

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

(10) "Reconstituted plot" means a plot which is in any way altered by the making of a Scheme.

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

(12) "Slum clearance" means the clearance of any slum area by the demolition and removal of buildings therefrom.

CHAPTER II Constitution of the Council

Constitution of the Slum Areas (Improvement and Clearance) Council.

3. (1) The State Government may constitute, by a notification in the Official Gazette, the Council consisting of the following members to advise Government on matters referred to it by the Government:—

- | | |
|--|------------|
| (i) Minister-in-charge of Town and Country Planning. | Chairman. |
| (ii) Director of the Town and Country Planning Department. | Secretary. |
| (iii) Secretary, Town and Country Planning Department. | Member. |

(iv) Chief Engineer, Public Works Department (R. & B.) or his nominee.	Member.
(v) Director of Housing	Do
(vi) Public Health Engineer or his nominee.	Do
(vii) Secretary, Local Self-Government or his nominee.	Do
(viii) Secretary, Finance Department or his nominee.	Do
(ix) Secretary, Revenue Department or his nominee.	Do
(x) Six members half of whom shall be elected by the State Legislative Assembly and half nominated by the State Government.	Do

- (ii) Such number of representatives of Local Authorities falling within the area not exceeding to as may be co-opted by the Council, by notification, published in the Official Gazette.

(2) Five of the members attending any meeting of the Council shall form the quorum for the purpose of transacting the business of that meeting of the Council.

(3) All members of the Council including the co-opted members shall have one vote each and the Chairman shall have a casting vote in case of equality of division, in addition to his own vote.

(4) Nothing done by the Council in its meeting shall be held to be invalid because of any vacancy in the seats of the nominated or elected members or the absence of any of the members.

(5) The Chairman shall preside over the meetings of the Council and in his absence the members present shall elect one among themselves to be the Chairman for that particular meeting.

4. Any non-official member may at any time resign his office, provided that his resignation shall not take effect until accepted by the State Government.

5. The term of office of any non-official member shall ordinarily be three years.

Provided that in case of members representing the Legislature or the Local Authorities, their terms of office shall terminate as soon as they cease to be members of such Legislature or Local Authority concerned.

6. (1) The term of office of non-official members shall commence on such date as may be notified in the Official Gazette in this behalf by the State Government.

Commencement of the term of office of non-official members.

(2) A person ceasing to be member by reason of the expiry of his term of office as described in Section 5 shall be eligible for re-nomination or re-election.

7. The State Government may remove from the Council any member who—

Removal of non-official members.

(a) refuses to act, or becomes incapable of acting or absents himself from three consecutive meetings of the Council and is unable to explain his absence to the satisfaction of the Council,

or

(b) has so flagrantly abused in any manner his position as a member of the Council as to render his continuance detrimental to the public interest:

Provided that when the State Government proposes to take action under the foregoing provisions of the section, an opportunity of explanation shall be given to the member concerned and when such action is taken the reasons thereof shall be placed on record.

8. (1) When the place of a member becomes vacant for any reason, such vacancy shall be filled up in the manner it was ordinarily filled.

Filling of casual vacancies.

(2) The term of office of a member nominated or elected or co-opted under sub-section (1), shall be the remainder of the term of office of the member in whose place he has been nominated or elected or co-opted.

9. (1) The State Government may constitute by notification in the Official Gazette an Authority for the purpose of carrying out the purposes of this Act.

Constitution of the Authority.

(2) The State Government may frame rules in order to enable the Authority to carry out the functions and duties.

CHAPTER III

Slum Areas

Declaration of Slum Areas. 10. (1) Where the State Government upon report from the Authority or other information in its possession, is satisfied in respect of any area that the buildings in that area—

- (a) are in any respect unfit for human habitation ; or
- (b) are by reason of dilapidation, over-crowding, faulty arrangement and design of such buildings, narrowness or faulty arrangement of streets, lack of ventilation, light or sanitation facilities, or any combination of some or all of these factors, are detrimental to safety, health or morals of the people of the area ;

it may, by notification in the Official Gazette, declare such area to be a slum area.

(2) In determining whether a building is unfit for human habitation for the purpose of this Act, regard shall be had to its condition in respect of the following matters, that is to say —

- (a) repair,
- (b) stability,
- (c) freedom from damp,
- (d) natural light and air
- (e) water supply,
- (f) drainage, sanitary conveniences,
- (g) facilities for storage, preparation and cooking of food and for the disposal of waste water,

and the building shall be deemed to be unfit as aforesaid if it is so defective that it is not reasonably suitable for occupation in that condition.

CHAPTER IV

Slum improvement

Power of Authority to require improvement of buildings and/or land unfit for human habitation. 11. (1) When the Authority is satisfied that any building and/or land in a slum area is in any respect unfit for human habitation, it may, unless in its opinion the building and/or land is not capable at a reasonable expense of being rendered so fit, serve upon the owner of the building and/or land a notice requiring him within such time not being less than thirty days as may be specified in the notice, to execute the works of improvement specified therein

(2) In addition to serving a notice under this section on the owner, the Authority may serve a copy of the notice on any other person having an interest in the building and/or land whether as lessee, mortgagee or otherwise.

Enforcement of notice requiring execution of works of improvement. 12. (1) If a notice under Section 11 requiring the owner of the building and/or land to execute the works of improvement is not complied with, then, after the expiration of the period specified in the notice, the Authority may itself do the works required to be done by the notice.

(2) All expenses incurred by the Authority under sub-section (1), may be recovered by the Authority from the owner of the building and/or land as arrear of land revenue.

(3) If the owner of the building and/or land is different from the person who owns the land on which the building and/or land stands and the expenses incurred by the Authority under this section are recoverable from both those persons, then, such expenses shall be recovered from them in such proportion as may be determined by the Authority or by an officer empowered by the Authority in this behalf.

Expenses of maintenance of works of improvement, etc., to be recoverable from the occupiers of buildings. 13. Where works of improvement have been executed in relation to any land or building in a slum area in pursuance of the provisions of Sections 11 and 12, the expenses incurred by the Authority, in connection with the maintenance of such works of improvement or the enjoyment of amenities and convenience rendered possible by such works, shall be recoverable from occupier or occupiers of the land or buildings as arrear of land revenue.

Power of Authority to order demolition of building unfit for human habitation. 14. (1) When the Authority is satisfied that any building within a slum area is unfit for human habitation and is not capable at a reasonable expenses of being rendered so fit, it shall serve upon the owner of the building, and upon any other person having an interest in the building, whether as lessee, mortgagee or otherwise, a notice to show cause, within such time as may be specified in the notice, as to why an order of demolition of the building should not be made.

(2) If any of the persons upon whom a notice has been served under sub-section (1) appears, in pursuance thereof, before the Authority and gives an undertaking to the Authority that such person shall, within a period specified by the Authority execute such works of improvement in relation to the building as will, in the opinion of the Authority, render the

building fit for human habitation, and that it shall not be used for human habitation until the Authority on being satisfied that it has been rendered fit for that purpose, the Authority shall withdraw the order of demolition of the building.

(3) If no such undertaking as is mentioned in sub-section (2) is given, or if in a case where any such undertaking has been given, any work of improvement to which the undertaking relates is not carried out within the specified period or the building is at any time used in contravention of the terms of the undertaking, the Authority may forthwith make an order of demolition of the building requiring that the building shall be vacated within a period, to be specified in the order, not being less than thirty days from date of receipt of the order, and that it shall be demolished within six weeks after the expiration of the period.

Procedure to be followed where demolition order has been made.

15. (1) Where an order for demolition of a building under the preceding section has been made, the owner of the building or any other person having an interest therein shall demolish that building within the time specified in that behalf by the order and if the building is not demolished within that time, the Authority shall enter and demolish the building and sell the materials thereof.

(2) Any expenses incurred by the authority under sub-section (1), if not satisfied out of the proceeds of sale of materials of the building, shall be recoverable from the owner of the building or any other person having an interest therein as arrear of land revenue;

Provided that this sub-section shall not apply in a case when the owner himself is the occupier.

CHAPTER V

Slum clearance and re-development

Power to declare any slum area to be a clearance area.

16. (1) When the State Government upon a report from the Authority or other information in its possession, is satisfied in respect of any slum area that the most satisfactory method of dealing with conditions in the area is the demolition of all the buildings in the area, it shall by an order notified in the Official Gazette, declare the area to be a clearance area, that is to say, an area to be cleared of all buildings in accordance with the provision of this Act:

Provided that any building in the area which is not unfit for human habitation or dangerous or injurious to health may be excluded from the declaration if the Authority so recommends.

(2) The State Government shall forthwith transmit to the Authority a copy of the declaration under this section.

(3) After an area has been declared to be a clearance area, the State Government shall ask the Authority to prepare a development scheme for that area and to submit the same to the State Government for its approval within a period of six months from such declaration. The State Government may refuse to approve or approve, with such modification as it may deem necessary, for the implementation of the object of this chapter.

(4) The State Government on approval of the development scheme shall publish it in the Official Gazette and it shall become operative from the date of such publication.

Slum clearance order

17. (1) As soon as may be, after the State Government has declared any slum area to be a clearance area, the Authority shall make a slum clearance order in relation to that area ordering the demolition of each of the building specified therein and requiring each such building to be vacated within such time as may be specified in the order.

(2) When a slum clearance order has become operative, the owners of buildings to which the order applies shall demolish the buildings before the expiration of six weeks from the date on which the buildings are required by the order to be vacated or before the expiry of such longer periods in the circumstances of the case the Authority may deem reasonable.

(3) If the buildings are not demolished before the expiry of the period mentioned in sub-section (2) the Authority may enter and demolish the buildings and sell the materials thereof after expiry of the period of the order.

(4) Any expenses incurred by the Authority in demolishing any building shall, if not satisfied out of the proceeds of sale of materials thereof be recoverable by the Authority as arrears of land revenue:

Provided, however, the expenses not covered by the sale proceeds shall not be recoverable when the owner is himself the occupier.

(5) When a slum clearance order has become operative, no land to which the order applies shall be re-developed except in accordance with the scheme approved by the State Government and except in accordance with the conditions contained in the scheme:

Provided that an owner who is aggrieved by a restriction of condition so imposed on the use of his land or by a subsequent refusal of the Authority to cancel or modify any such restriction or condition, may appeal to the Appellate Authority whose decision shall be final.

(6) No person shall commence or cause to be commenced any work in contravention of the scheme approved or a restriction or condition imposed under sub-section (5):

Provided if any work is commenced, the person concerned may be evicted and no fresh notice shall be necessary for demolition of such work or eviction of such person.

Power of Authority to redevelop clearance area or any part thereof.

18 (1) When the land has been cleared of buildings in accordance with a slum clearance order, the Authority may at, any time after the expiry of twelve months from the date on which the order becomes operative, acquire and re-develop any land which on the date of the making of the order has not been, or is not in the process of being re-developed by the owner thereof in accordance with the scheme approved by the State Government and any restrictions and conditions imposed under sub-section (5) of Section 17.

(2) The Authority may also decide to acquire land within, adjoining or surrounding clearance area which in its opinion is necessary for the purpose of improvement and re-development of a clearance area.

CHAPTER VI

Acquisition of land for slum clearance schemes

Power of State Government to acquire land.

19. (1) Where on any representation from the Authority it appears to the State Government that, in order to enable the Authority to execute any work of improvement in relation to any building in a slum area or to re-develop any clearance area it is necessary that land within, adjoining or surrounded by any such area should be acquired, the State Government may acquire the land by publishing in the Official Gazette a notice to the effect that the State Government has decided to acquire the land in pursuance of this Section:

Provided that, before publishing such notice, the State Government may call upon the owner of, or any other person who, in the opinion of the State Government may be interested in such land to show cause why it should not be acquired; and after considering the cause, if any, shown by the owner or any other person interested in the land, the State Government may pass such order as it deems fit.

(2) When a notice as aforesaid is published in the Official Gazette, the land shall on and from the date on which the notice is so published, vest absolutely in the State Government free from all encumbrances.

Land acquired by State Government to be made available to the Authority. 20. Where any land in a slum area or clearance area has been acquired under this Act, the State Government shall make the land available to the Authority for the purpose of executing any work of improvement or carrying out any order of demolition or for the purpose of re-development.

Right to receive compensation. 21. Every person having any interest in any land acquired under this Act shall be entitled to receive from the State Government compensation as provided hereafter in this Act.

Basis for determination of compensation. 22. (1) The amount payable as compensation in respect of any land acquired under this Act shall be an amount equal to sixty times the net average monthly income actually derived from such land during the period of five consecutive years immediately preceding the date of publication of the notice referred to in Section 16.

(2) The net average monthly income referred to in sub-section (1) shall be calculated on the following basis:—

(i) The Authority shall first determine the gross rent actually derived by the owner of the land acquired including any building on such land during the period of five consecutive years referred to in sub-section (1).

(ii) For such determination the Authority may hold any local inquiry and obtain, if necessary, certified copies of extracts from the property tax assessment books of the municipal or other local authority concerned showing the rental value of such land.

(iii) The net average monthly income referred to in sub-section (1) shall be sixty per cent

of the average monthly gross rent which shall be one-sixtieth of the gross rent during the five consecutive years as determined by the Authority under paragraph (i).

- (iv) Forty per cent of the gross monthly rental referred to above shall not be taken into consideration in determining the net average monthly income but shall be deducted in lieu of the expenditure which the owner of the land would normally incur for payment of any property tax to the municipal or other local authority, for collection charges, income-tax or bad debts as well as for works of repair and maintenance of the buildings, if any, on the land.
- (v) Where the land or any portion thereof has been unoccupied or the owner has not been in receipt of any rent for the occupation of the land during the whole or any part of the said period of five years, the gross rent shall be taken to be the income which the owner would in fact have derived if the land had been leased out for rent during the said period, and for this purpose the rent actually derived from the land during a period prior or subsequent to the period during which it remained vacant or from similar land in the vicinity shall be taken into account.

(3) The Authority shall, after holding an inquiry in the prescribed manner, determine in accordance with the provisions of sub-section (2) the net average monthly income actually derived from the land and publish a notice in the official Gazette specifying the amount so determined and calling upon the owner of the land and every person interested therein to intimate to it before a date specified in the notice whether such owner or person agrees to the amount so determined and if he does not so agree, what amount he claims to the net average monthly income actually derived from the land.

(4) Any person who does not agree to the amount of the net average monthly income determined by the authority under sub-section (3) and claims a sum in excess of that amount may prefer an appeal to the Appellate Authority within thirty days from the date specified in the notice referred to in that sub-section.

(5) On appeal, the Appellate Authority shall, after hearing the appellant, determine the net average monthly income and his determination shall be final and shall not be questioned in any court of law.

(6) Where there is any building on the land in respect of which the net average monthly income has been determined no separate compensation shall be paid in respect of such building:

Provided that where the owner of the land and the owner of the building on such land are different, the Authority shall apportion the amount of compensation between the owner of the land and the owner of the building in such proportion as it considers reasonable:

Provided further that the compensation in respect of the building shall not in any case exceed fifty per cent of the total amount of compensation which has been determined in accordance with the provisions of this Section.

Apportionment of compensation. 23. (1) Where several persons claim to be interested in the amount of compensation determined under Section 22, the Authority shall determine the persons who in its opinion are entitled to receive compensation and the amount payable to each of them.

(2) If any dispute arises as to the apportionment of compensation or any part thereof, or as to the persons to whom the same or any part thereof is payable, the Authority may refer the dispute to the decision of the Appellate Authority and the Appellate Authority in deciding any such dispute shall follow, as far as may be, the provisions of Part III of the Land Acquisition Act, 1894.

1 of 1894.

Payment of compensation or deposit of the same in Cour. 24. (1) After the amount of compensation has been determined, the Authority shall on behalf of the State Government, tender payment of, and pay the compensation to the person entitled thereto.

(2) If the persons entitled to compensation do not consent to receive it, or if there be any dispute as to the title to receive compensation or as to the apportionment of it, the Authority shall deposit the amount of the compensation in the court of the District Judge and that the court shall deal with the amount so deposited in the manner laid down in Sections 32 and 33 of the Land Acquisition Act, 1894.

1 of 1894

Powers of Authority in relation to determination of compensation, etc. 25. (1) The Authority may, for the purposes of determining the amount of compensation or apportionment thereof, require, by order, any person to furnish such information in his possession as may be specified in the order.

(2) The Authority shall, while holding inquiry under section 22 have all the powers of civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, V of 1908 namely:—

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of any document;
- (c) reception of evidence on affidavits;
- (d) requisitioning any public record from any court or office;
- (e) issuing commissions for examination of witness.

CHAPTER VII

Appeals and the Appellate Authority

Appointment of Appellate Authority. 26. (1) Save as otherwise provided, the State Government shall appoint an Appellate Authority to hear all appeals arising out of the provisions of this Act. The decision of Appellate Authority shall be final.

(2) The person or persons appointed by the State Government as Appellate Authority shall have the qualification of a District and Sessions Judge. The appointment shall be on such terms and conditions as the State Government may decide.

Duties of the Appellate Authority. 27. (1) The duties and powers of the Appellate Authority shall be as follows:—

- (a) to hear and decide appeals against the orders of the Authority;
- (b) to decide and hear appeals in respect of such other matters and exercise such other powers as may be entrusted to and conferred upon it by the State Government in accordance with the provision of this Act.

(2) All appeals to the Appellate Authority shall be filed within a month from the date of the order appealed against. The time required for taking out copies of the order shall be excluded. The Appellate Authority may however in its discretion condone any delay in filing appeal for sufficient reasons.

Procedure of working of the Appellate Authority. 28. (1) The Appellate Authority shall conduct its proceedings in the prescribed manner after giving the opposite party or any one interested in the order appealed against an opportunity of being heard.

(2) The Appellate Authority may, at any time, call for any extract from any proceedings before the State Government or Authority and call for any return or statement or report concerning or connected with any matter pending before it.

(3) The Appellate Authority shall have all the powers of a Civil Court for the purposes of taking evidence on oath and of enforcing the attendance of witnesses including the parties interested or any of them and compelling the production of documents and material objection if considered necessary.

(4) The Appellate Authority in its discretion may make any orders regarding the costs to be paid by any of the parties to the proceedings and the Appellate Authority shall have full powers to determine by whom or out of what property and to what extent such costs are to be paid and the Authority shall be bound to execute the orders of the Appellate Authority in accordance with the directions, if any contained in the order.

Right to appear by recognised Agent. 29. Every party to any proceeding before the Appellate Authority shall be entitled to appear either in person or by his recognised agent.

Protection of action taken under this Act. 30. (1) No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any order made thereunder.

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

CHAPTER VIII

Finance

Development Fund. 31. The receipt of Authority under this Act shall form a separate development fund and all expenditure under this Act, or any development scheme thereunder, shall be defrayed

out of such fund. No portion of the fund shall, except with the sanction of Government, be expended for purposes not provided by this Act.

Powers to borrow. 32. Authority as defined in this Act shall be deemed to be a local authority as defined in the Local Authorities Loans Act, 1914 for the purpose of borrowing money under that Act, and the making and execution of a plan and scheme shall be deemed to be work which such local authority is legally authorised to carry out. IX of 1914.

Grant, advances and loans. 33. The Government may make such grants, advances, and loans to the Authority as the Government may deem necessary for the performance of functions of the Authority under this Act issued all grants.

CHAPTER IX

Legal proceedings

penalty for breach of the provisions of the scheme. 34. (1) When an area has been declared to be a slum area or a slum clearance area under this Act, any person who commits or knowingly permits a breach of any specified provision of the re-development or improvement scheme or who neglects or fails to comply with any such provisions shall be punishable under this Section.

(2) In case of any such breach or default the Authority shall send to any such person a notice calling on him to discontinue the breach or cause it to be discontinued or to comply with such provision of the re-development or improvement scheme within a reasonable time to be specified in the notice.

(3) If after such time any such person under subsection (1) continues to neglect or breach, such person shall on conviction, be punishable by any or all of the following:—

(i) with fine which may extend to Rs.500 with or without simple imprisonment not exceeding a period of two months ;

(ii) if the breach, neglect or failure continues after such conviction, with fine which may extend to Rs.30 for every day during which the breach, neglect or failure continues after such conviction.

Power to execute works on failure to comply with notice. 35. 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 or to provide or do or refrain from doing anything within a time specified in the notice and if such person fails to comply with such notice, then the Authority may cause such work to be executed or such thing to be provided or done and may recover all expenses incurred by it on such account from the said persons as an arrear of land revenue.

Right of occupier to execute works in default of owner. 36. When default is made by the owner of a building or land in the execution of any work required under this Act to be executed by him, the occupier of such building or land may, with the prior approval of the Authority after serving notice to the owner cause such works to be executed.

Recovery of cost of work by the occupier. 37. When the occupier of a building or land in compliance with a notice issued under this Act, executed a work for which the owner of such building or land is responsible, either in pursuance of the contract of tenancy or by law, he shall, in the absence of any contract to the contrary, be entitled to recover from the owner by deduction from the rent payable by him or otherwise the reasonable cost of such work.

Procedure upon opposition to execution by occupier. 38. (1) If, after receiving notice in writing 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 action, the owner, may apply to a Magistrate of the First Class for taking necessary action

(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 expiry of eight days from the date of the Magistrate's order, the occupier continues to refuse to allow the owner to execute such work, the occupier shall be liable, upon conviction, to a fine which may extend to Rs.30 for every day during which he has so continued to refuse.

(4) Every owner, during the continuance of such refusal, shall be discharged from any liability on account of such breach or default.

Penalty for obstructing contractor or removing mark.

39. If any person—

- (a) obstructs or assaults any person with whom the Authority has entered into a contract for the performance or execution by such person of his duty or of anything which he is empowered or required to do under 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, shall be punishable with fine which may extend to Rs. 500 or with or without simple imprisonment for a term which may extend to two months

Officers under the Act to be public servants.

40. Every officer and servant of the Authority and every other officer employed by the State Government for the purposes of this Act, shall be deemed to be a public servant within the meaning of Section 21 of the XV of 1860 Indian Penal Code.

Authority for prosecution.

41. 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 Authority or some person authorised by the Authority by orders in this behalf.

Power of Authority to institute proceedings, etc., and to take legal advice.

42. The Authority shall subject to rules framed under this Act have powers to—

- (a) institute, defend or withdraw from legal proceedings under this Act ;
- (b) compound any offence under this Act before the matter is referred to the court ;
- (c) admit, compromise, or withdraw any claim made under this Act ; and
- (d) obtain such legal advice and assistance as it may, from time to time, think necessary or expedient to obtain for any of the purposes, referred to in the foregoing clauses of this Section for securing the lawful exercise or discharge of any power or duty vested in or imposed upon the Authority or any officer or servant of the Authority.

Bar to suits and prosecutions in certain cases 43. (1) No suit, prosecution or other proceeding shall lie against an Authority or any officer or servant thereof or any person acting under their direction or any Government Officer or servant employed for the purposes of this Act, for anything which is in good faith done in pursuance of this Act, or any rules made thereunder.

(2) No suit, prosecution or other proceedings shall lie against any officer or servant of the Authority or any Government Officer or servant employed for the purposes of this Act for anything done under this Act—

(a) unless the previous sanction of the State Government has been obtained ;

(b) and until the expiry of two months after notice in writing has been given to the person to be sued, clearly stating the cause of action, and the nature of relief sought, etc.

Punishment or malicious abuse of powers. 44. The Authority or any officer or servant of the Authority or of the Government who wilfully or negligently abuses any power conferred on him by or under this Act, shall be punishable with imprisonment which may extend to two months or with fine which may extend to Rs. 500 or with both:

Provided that no prosecution shall be instituted under this Section—

(a) unless the previous sanction of the State Government has been obtained ; and

(b) until the expiry of two months notice in writing has been given to the person concerned clearly stating the cause of action and the nature of relief sought, etc.

Registration of documents, plans or maps in connection with a Scheme. 45. (1) Nothing in the Indian Registration Act, 1908 shall be deemed to require the registration of any document, plan or map prepared, made or sanctioned in connection with a scheme which has come into force. XV of 1908

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

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

Order under the Act not to be questioned in any Court. 46. No order made in exercise of any power conferred by or under this Act shall be called in question in any court except as provided in this Act.

Effect of orders inconsistent with other enactments. 47. Any order made under this Act shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or any instrument having effect by virtue of any enactment other than this Act.

CHAPTER X

Miscellaneous Provisions

Service of notice. 48. Every notice issued under this Act shall be served as prescribed by rules.

Method of giving public notice. 49. Subject to the provisions of this Act, every public notice required under this Act shall be deemed to have been given if it is published in some local newspapers (if any) or a paper of general circulation in the area and posted upon a notice board to be exhibited for public information at the building in which the meetings of the local authority are ordinarily held or by publishing it in Official Gazette.

Formal defect in assessments and demands. 50. No assessment list or other list, notice or other such document specifying, or purporting to specify with reference to any charge, or fee, any person's property, thing or circumstances shall be invalid only by reason of a clerical or technical mistake in the name, residence, place of business or occupation of the person or in the description of property, thing or circumstances and it shall be sufficient if the person, property, thing or circumstances is described sufficiently for the purpose of identification, and it shall not be necessary to name the owner or occupier of any property liable in respect of the charge.

Power and duties of police in respect of offences and assistance to Authorities. 51. Every police officer, mauzadar or officer of the Local Authority shall give immediate information to the Authority of an offence coming to his knowledge which has been committed under this Act, or against any rule, made under this Act and shall be bound to assist all members, officers and servants of the Authority in the exercise of their lawful Authority.

Decision of disputes between Authorities. 52. Should a dispute arise between one Authority and any other Authority on any matter in which they are jointly interested, such dispute shall be referred to the State Government, whose decision shall be final.

Powers to enter into land or Inspection, etc. 53. For the purpose of making or execution of any Improvement or Re-development Scheme, the Authority or persons appointed by the State Government, their subordinates and contractors, may, after giving notice, enter into or upon any land, in order:—

- (a) to make any inspection, survey, measurement, valuation or enquiry;
- (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 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 hereunder or any scheme which the local authority intends to frame hereunder:

Provided as follows:

- (a) except when it is otherwise specially provided by the rules no such entry shall be made between sunset and sunrise;
- (b) except when it is otherwise specially provided by the rules, 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 24 hours' previous notice in writing of the intention to make such entry; and
- (c) due regard shall always be had, so far as may be compatible with the exigencies of the purpose for which the entry is made, to the social and religious usages and customs of the occupants of the premises entered.

Mode of proof of the records of the Authority. 54. A copy of receipt, application, plan, notice, order, entry in a register, or other document in the possession of the authority shall, if duly certified by the lawful keeper thereof or other person authorised by the Authority 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.

Power of the Authority to make agreements. 55. The Authority shall be competent to make any agreement with any person in respect of any matter, which is to be provided for in a scheme and, unless it is otherwise expressly provided therein, such agreement shall take effect on and after the day on which the scheme comes into force.

Powers of the State Government to make rules. 56. (1) The State Government shall have powers to make rules for carrying out the purposes of this Act, and such rules shall be laid before the Assam Legislative Assembly.

(2) In particular and without prejudice to the generality of the foregoing powers, the State Government shall have power to make rules in respect of the following matters:—

- (i) The manner of publication of the notification regarding schemes, their modifications, variations, revocations, submission and sanction by the State Government.
- (ii) Powers that may be delegated to any Authority established under this Act or to any officer.
- (iii) Procedure to be adopted for securing co-operation of various Government Departments, the owners or other persons or bodies interested in schemes.
- (iv) All matters pertaining to land acquisition including procedure and making of awards, compensation and the possession of land by authority in ordinary and emergent cases.
- (v) Procedure of filing, hearing and deciding objections and appeals under the Act and all matters connected therewith.
- (vi) The delegation of powers to and the duties that shall be discharged by the Director and the matters on which and the manner in which he shall be *consulted*.
- (vii) Matters other than those referred to in foregoing clauses which are expressly or by implication required or allowed by this Act to be prescribed by rules and other matters in respect of which the Act makes no provision or insufficient provision is, in the opinion of the State Government, necessary.

Power of the Authority to make bye-laws. 57. (1) The Authority may, from time to time, at a meeting which shall be expressly convened for the purpose, and of which due notice shall have been given, frame bye-laws not being inconsistent with this Act or the rules made thereunder, regarding—

- (i) land subdivision and layout of public street,
- (ii) width for different classes of public streets according to the nature of traffic to be carried thereon,
- (iii) street, lanes and setting back of buildings from the regular line of the street,
- (iv) zoning regulations prescribing the type or description of building which may or may not be, and the purpose for which a building may or may not be created, in any prescribed area or areas,
- (v) regulation and display of advertisements in the interest of amenity, aesthetic sense or public safety,
- (vi) regulations in any manner not specifically provided for in this Act, the erection of any enclosure, wall, fence, tent or other structure on any land within the limits of the scheme.

(2) The power to make bye-law under this Act shall be subject to the condition of previous publication.

(3) No such bye-law shall come into force until it has been confirmed by the State Government.

(4) The State Government may withdraw their confirmation of any such bye-law and thereupon the bye-law shall cease to have effect.