

ASSAM ACT No.XXXII OF 1962

THE ASSAM TOWN AND COUNTRY PLANNING (AMENDMENT)
ACT, 1962

(As passed by the Assembly)

(Received the assent of the President on the 22nd November 1962)

[Published in the *Assam Gazette*, Extraordinary, dated the 26th November
1962]

An
Act

to amend the Assam Town and Country Planning Act, 1959

Preamble WHEREAS it is expedient to amend the Assam Act
Assam Town and Country Planning Act, 1959, II of 1960.
hereinafter called the principal Act, in the manner
hereinafter appearing ;

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

Short title,
extent and
commence-
ment. 1. (1) This Act may be called the Assam Town
and Country Planning (Amendment) Act, 1962.

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

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

Insertion of
Chapter II-
A in Assam
Act II of
1960.

2. After Chapter II of the principal Act, the following shall be inserted as Chapter II-A, namely:—

“CHAPTER II-A

Constitution of the Development Authority

Constitution
of the
Authority.

8A. (1) The State Government may, by notification in the Official Gazette, constitute for the purposes of this Act, an Authority to be called “The..... Development Authority” (hereinafter referred to as the Authority) with jurisdiction over such area as may be specified in the said notification.

(2) The Authority shall be a body corporate having perpetual succession and a common seal with power to acquire, hold and dispose of properties both moveable and immovable and to enter into any agreement, and shall by the said name sue and be sued.

8B. (1) The Authority shall consist of the following members, namely:—

Composition
of the
Authority.

- (a) A Chairman to be appointed by the State Government ;
- (b) Engineer-in-chief of the Authority to be appointed by the State Government ;
- (c) Town Planning Officer of the Authority to be appointed by the State Government ;
- (d) Finance Officer to be appointed by the State Government ;
- (e) Deputy Commissioner or Subdivisional Officer, as the case may be ;
- (d) Chairman or Chairmen of the local authority or authorities covered by the Master plan ;
- (g) One member representing Commerce and Industry (Private Sector) to be nominated by the State Government ;
- (h) One member representing the Railways, to be nominated by the State Government ;
- (i) One member representing Industry (Public Sector) to be nominated by the State Government ;
- (j) One person each from the local authorities covered by the Master plan to be elected by the members at a meeting from amongst them.

Notification of members. The name of the members elected and appointed shall be published in the Official Gazette.

Disqualification for election or appointment as member. (3) A person shall be disqualified for appointment, nomination or election as a member, if he,—

- (a) has been convicted of any offence involving moral turpitude ;
- (b) is an applicant to be adjudicated as a bankrupt or insolvent or is an uncertificated bankrupt or undischarged insolvent ;
- (c) holds any office of profit under the Authority except those mentioned in clauses (a), (b), (c) and (d) of sub-section (1) ;
- (d) has, directly or indirectly, by himself or by any partner, any share or interest, in any contract or employment with, by, or on behalf of, the Authority ; or
- (e) is a Director, or a Secretary, Manager or other salaried officer of any incorporated company which has any share or interest in any contract or employment, with, by, or on behalf of the Authority.

Removal of members. (4) The State Government may remove from the Authority any member including the Chairman who,—

- (a) refuses to act or becomes incapable of acting or absents himself from three consecutive meetings of the Authority and is unable to explain such absence to the satisfaction of the Authority ;
- (b) has so flagrantly abused in any manner his position as a member of the Authority as to render his continuance detrimental to the public interest :
Provided that when the State Government proposes to take any action under any of the above provisions, an opportunity shall be given to the member concerned to show cause why action as proposed should not be taken against him ;
- (c) ceases to be a member of the local Authority from which he was elected ;

(5) A member removed under clauses (a) and (b) of sub-section (4) shall not be eligible for re-appointment or re-election, as the case may be.

Term of office and conditions of service of the Chairman and member of the Authority.

8C. (1) The term of office and conditions of service of the Chairman and members of the Authority shall be such as may be prescribed and they shall be entitled to receive such salaries and allowances as may be fixed by the State Government.

(2) The Chairman or any member may resign his membership of the Authority by giving notice in writing to the State Government and on the resignation being accepted by the State Government, he shall cease to be a member of the Authority.

(3) Any vacancy created by resignation or removal shall be filled by fresh appointment or nomination by the State Government, or by election, as the case may be.

Functions and powers of the Authority.

8D. Subject to the provisions of this Act, rules and directions of the State Government, the functions of the Authority shall be to promote and secure the development of the area according to the Master plan and for that purpose it may carry out or cause to be carried out surveys of the area and to prepare report or reports of such surveys, and to perform any other function which is supplemental, incidental or consequential to any of the functions aforesaid or which may be prescribed.

Meeting of the Authority.

3E. (1) Each Authority shall meet once in a month at such time and place and shall subject to the provisions of sub-section (2) and (3) observe such procedure in regard to the transaction of business at its meeting, as may be prescribed by bye-laws to be framed under section 74 of this Act.

(2) The Chairman, or in his absence any member chosen by the members from amongst themselves, shall preside at a particular meeting of the Authority.

(3) All questions of the meeting of the Authority shall be decided by a majority of the votes of the members present and voting and in the case of an equality of votes, the person presiding shall have a second or casting vote.

(4) Nothing done by the Authority in its meeting shall be held to be invalid because of any vacancy in the seats of the appointed, nominated or elected members or the absence of any of the members for any reason whatsoever.

(5) Minutes shall be kept of the names of the members present and of the proceedings at each meeting in a book to be kept for this purpose, which shall be signed at the next ensuing meeting by the person presiding at such meeting, and shall be open to inspection by any member during office hours.

Temporary association of persons with the Authority for particular purposes. 8F. (1) The Authority may associate with itself in such manner and for such purposes as may be prescribed by rules any person whose assistance or advice it may desire in performing any of its functions under this Act.

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

Staff of the Authority. 8G. (1) Subject to such control and restrictions as may be prescribed by rules, the Authority may appoint such number of officers and employees as may be necessary for the efficient performance of its functions and may determine their designations and grades.

(2) The officers and employees of the Authority shall be entitled to receive such salaries and allowances, if any, as may be fixed by the Authority and shall be governed by such terms and conditions of service as may be determined by rules and regulations made in this behalf."

Amendment of Section 10 of Assam Act II of 1960. 3. In section 10 of the Principal Act—

(1) in sub-section (1), between the words "the" and "Regulation" the word "Zoning" shall be inserted;

(2) in sub-section (2), the full-stop at the end shall be deleted and the words and the full-stop "and adopt the same." shall be added.

Substitution of Section 12 of Assam Act II of 1960. 4. For section 12 of the principal Act, the following shall be substituted, namely:—

"Implementation of the Plan. 2. After adoption of the Plan and Zoning Regulation they shall be sent by the State Government for implementation to the Authority constituted under section 8A."

Amendment of Section 14 of Assam Act II of 1960. 5. In section 14 of the principal Act, between the words "the" and "Regulation" the word "Zoning" shall be inserted.

Substitution of Section 15 of Assam Act II of 1960. 6. For section 15 of the principal Act, the following shall be substituted, namely:—

"Preparation of development Scheme. 15. (1) After the commencement of this Act, the Authority may, by notification in the Official Gazette, declare any area to be a scheme area and shall thereafter prepare a scheme. Where no Authority has been constituted, the State Government may, by notification in the Official Gazette, declare any area to be a scheme area and the Director shall thereafter prepare a scheme.

(2) Notwithstanding anything contained in sub-section (1), the State Government may, after making such enquiry as they may deem necessary by notification in the Official Gazette, direct any local authority to prepare, publish and submit for their sanction before an appointed date a scheme under this section for an area specified in such notification.

(3) While preparing the scheme, the Authority, the Director or the local authority, as the case may be, shall issue a notice inviting the names of all the claimants of any interest on any land or building within the area under the scheme to be submitted within a period not more than one month.

(4) Save as provided in this Act, the Authority, Director or local authority shall not undertake or carry out any development of land in any area which is not a scheme area.

(5) After the commencement of this Act, no development of land shall be undertaken or carried out in the scheme area by any person or body of persons except in the manner prescribed under section 13 of this Act."

Substitution of Section 16 of Assam Act II of 1960. 7. For section 16 of the principal Act, the following shall be substituted, namely:—

"Publication of the Development Scheme. 16. (1) The Authority, the Director or the local authority, as the case may be, shall have the scheme and the report and the names of all the claimants published in the manner prescribed under sub-section (1) of section 10 and have a copy of them served on all persons who preferred claims under sub-section (3) of section 15, inviting objection to be filed within a period not more than two months.

(2) After the expiry of the aforesaid period, the Authority, the Director or the local authority, as the case may be, shall examine the scheme in the light of such objection, giving sufficient opportunity for hearing to all such interested persons who have filed objections and demanded a hearing in the manner prescribed, and shall approve or refuse to approve or approve with such modifications as it may deem necessary, for the implementation of the scheme and for imposing for that purpose reasonable restrictions in the use of land and building within the area.

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

Amendment
of Section 17
of Assam Act
II of 1960,

8. In section 17 of the principal Act,—

(1) the sub-section (1) shall be deleted and sub-section (2) shall be renumbered as section 17 ;

(2) In section 17 so re-numbered, for the words "No person shall within the area in which the Government has sanctioned the Development Scheme" the words "No person shall within any area where a scheme has come into force" shall be substituted.

Amendment
of Section 34
of Assam Act
II of 1960.

9. In section 34 of the principal Act, the words "and with the previous sanction of the State Government" occurring between the words "Act" and "the" shall be deleted.

Insertion of
Section 59A
in Assam Act
II of 1960.

10. After section 59 of the principal Act, the following section shall be inserted as section 59A, namely :—

"Power to
recover dues
as an arrear
of land revenue."

59A. Any sum recoverable by the Authority under this Act, if not paid on demand, shall be recoverable as an arrear of land revenue."

Amendment
of Section 73
of Assam Act
II of 1960.

11. In section 73 of the principal Act,—

(1) for sub-section (1), the following shall be substituted, namely:—

"(1) The State Government may, after previous publication in the official Gazette, make rules for carrying out the purposes of this Act.";

(2) in sub-section (2), the words "in consultation with the Council" occurring between the words "State Government" and "shall", shall be deleted.

(3) after sub-section (2), the following shall be inserted as sub-section (3), namely :—

"(3) All rules made under this section shall be laid for not less than fourteen days before the Assam Legislative Assembly as soon as possible, after they are made and shall be subject to such modification as the Legislative Assembly may make during the session in which they are so laid or the session immediately following."

Amendment of Section 74 of Assam Act II of 1960. 12. In section 74 of the principal Act, in sub-section (1) after clause (vi), the following shall be inserted as clause (vii), namely :—

"(vii) time and place and transaction of business of the meetings of the Authority."

Validation.

13. Notwithstanding anything contained in the principal Act and any rule made thereunder, any action taken by any Authority constituted before the coming into force of this Act shall be deemed to have been validity taken as if the Authority was duly constituted under the principal Act, as amended by this Act, and no action of such Authority shall be called in question in any Court on the ground of incompetency of the Authority to act under the principal Act as amended by this Act.