The West Bengal Town and Country (Planning and Development) Act, 1979

Act 13 of 1979

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West Bengal Act XIII of 1979

THE WEST BENGAL TOWN AND COUNTRY
(PLANNING AND DEVELOPMENT)
ACT, 1979.

CONTENTS

CHAPTER I
Preliminary.

Section.
1. Short title, extent and commencement.
2. Definitions.

CHAPTER II
State Town and Country Planning Advisory Board

4. Composition of the Board.
5. Functions of the Board.
6. Term of office and conditions of service of the members of the Board.
7. Meeting of the Board.
8. Quorum.

CHAPTER III
Declaration of Planning Areas and Constitution of
Planning Authorities and Development Authorities

9. Declaration of Planning Areas, their amalgamation, sub-division and inclusion of any area in Planning Area.
10. Power to withdraw Planning Area from the operations of this Act.
12. Term of office and terms and conditions of service of the Chairman and members of Planning Authority and Development Authority.
13. Powers and functions of Planning Authority and Development Authority.
CHAPTER IV

Kolkata Metropolitan Development Authority

Section.

17. Kolkata Metropolitan Development Authority.
18. Powers and functions of the Kolkata Metropolitan Development Authority.
19. Composition of the Kolkata Metropolitan Development Authority.
20. Meeting of the Kolkata Metropolitan Development Authority.
21. Power to appoint Officers and Secretary and other staff.
24. Power of the Kolkata Metropolitan Development Authority to give directions.
25. Power of the Kolkata Metropolitan Development Authority to execute any plan.
27. Amendment of the Kolkata Improvement Act, 1911, the Howrah Improvement Act, 1956, and the Kolkata Metropolitan Water and Sanitation Authority Act, 1966.

CHAPTER V

Preparation of present Land Use Map

28. Preparation of present Land Use Map and Land Register.
29. Notice of the preparation of the Map and the Register.
30. Power of State Government in case of default of the Planning Authority or Development Authority to prepare the Map or the Register.

CHAPTER VI

Preparation of Land Use and Development Control Plans and Procedure for their Statutory Approval

31. Land Use and Development Control Plan.
32. (Omitted.)
33. Land Use and Development Control Plan prepared prior to the application of the Act to be deemed Land Use and Development Control Plan under this Act.
XIII of 1979.

34. Power of State Government to direct preparation of Land Use and Development Control Plan.
35. Approval of the State Government to the publication of notice of preparation of Land Use and Development Control Plan.
37. Approval of the State Government.
38. Coming into operation of the Land Use and Development Control Plan.
39. References to High Court questioning the validity of the Land Use and Development Control Plan.
40. Amendment of Land Use and Development Control Plan.
41. Changes in the Land Use and Development Control Plan.
42. Annulment of the Land Use and Development Control Plan.
42A. Validation of plan prepared or adopted prior to the coming into force of the West Bengal Town and Country (Planning and Development) (Amendment) Act, 1994.
43. Power to acquire land under the Land Acquisition Act, 1894.

CHAPTER VII

Control of Development and Use of Land

44. Use and development of land to be in conformity with Land Use and Development Control Plan.
45. Prohibition of development without payment of development charges and without permission.
46. Permission for development.
47. Appeal against grant of permission subject to conditions or refusal of permission.
48. Lapse of permission.
49. Obligation to acquire land on refusal of permission or on grant of permission in certain cases.
50. Compensation for refusal of permission or grant of permission subject to conditions in certain cases.
51. Power of revocation and modification of permission to develop.
52. Penalty for unauthorised development or for use otherwise than in conformity with the Land Use and Development Control Plan.
Section.

53. Notice regarding unauthorised development or use otherwise than in conformity with the Land Use and Development Control Plan.

54. Power to stop unauthorised development.

55. Power to require removal of unauthorised development or use.

56. Interim provision pending preparation of Land Use and Development Control Plan.

CHAPTER VIII

Development Schemes

57. Preparation of development schemes.

58. Scope of the development scheme.

59. Contents of the scheme.

60. Reconstitution of plot scheme.

61. Publication of the scheme.

62. Power of the State Government to require the Development Authority to make scheme.

63. Power of State Government to suspend rules, by-law, etc.

64. Procedure in case of disputed claims to land.

65. Restrictions on use and development of land after the publication of the scheme.

66. Possession of land in advance of development scheme.

67. Magistrate to enforce delivery of possession of land.

68. Persons interested in land of which possession is taken entitled to interest.

69. Consideration of objections and submission of scheme to the State Government.

70. Public notice of the scheme.

71. Withdrawal of scheme by the Development Authority.

72. Effect of scheme.

73. Determination of certain matters by the Development Authority.

74. Appeal.

75. Tribunal of Appeal.

76. Place where Tribunal may sit.

77. Decision of questions of law and other questions.
XIII of 1979.]

Section.
78. Powers of Tribunal to decide matter finally.
79. Tribunal not to be Court.
80. Remuneration of Assessors and payment of incidental expenses of Tribunal.
81. Decision of the Development Authority to be final in certain matters.
82. Power of the Development Authority to evict summarily.
83. Power to enforce scheme.
84. Power to vary scheme on ground of error, irregularity or infirmity.
85. Power to vary development scheme.
86. Apportionment of cost of scheme withdrawn.
87. Cost of development scheme.
88. Calculation of increment.
89. Contribution towards cost of scheme.
90. Certain amount to be added to or deducted from contribution leviable from person.
91. Transfer of rights from existing to reconstituted plot or extinction of such rights.
92. Damage in respect of property or right injuriously affected by scheme.
93. Exclusion or limitation of damage in certain cases.
94. Provision for cases in which amount payable to owner exceeds amount due from him.
95. Provision for cases in which value of development plots is less than the amount payable by owner.
96. Payment by adjustment of account.
97. Payment of net amount due to Planning Authority or Development Authority.
98. Power of Development Authority to make agreement.
100. Disposal of surplus amount.
101. Execution of works in the scheme by the Development Authority.

CHAPTER IX

Levy, Assessment and Recovery of Development Charge

102. Levy of development charge.
103. Rates of development charges.
104. Assessment of development charge.
105. Appeals against assessment.
106. Development charge to be charged on land and to be recoverable as arrears of land revenue.
106A. Levy of civic amenity charge.
CHAPTER X

Finance, Accounts and Audit

Section.

107. Fund of the Planning Authority or Development Authority.
108. Fund of the Kolkata Metropolitan Development Authority.
110. Budget of the Planning Authority or Development Authority.
111. Accounts and Audit.
112. Annual reports.
114. Power of the Planning Authority, Development Authority and the Kolkata Metropolitan Development Authority to borrow money.

CHAPTER XI

Supplemental and Miscellaneous Provisions

115. Power of entry.
116. Service of notices.
117. Public notice how to be made known.
118. Notices, etc., to fix reasonable time.
119. Authentication of orders and documents of the Planning or Development Authority.
120. Mode of proof of records of the Planning Authority or Development Authority.
121. Restriction on the summoning of officers and employees of the Planning Authority or Development Authority.
122. Offences by companies.
123. Penalty for obstruction or removing mark.
124. Sanction of prosecution.
125. Composition of offences.
126. Right to appear by recognised agent.
127. Power to compel attendance of witness, etc.
128. Jurisdiction of courts.
129. Fine when realised to be paid to Planning Authority or Development Authority.
130. Members, officers and employees to be public servants.
XIII of 1979.

Section.

131. Protection of action taken in good faith.
132. Finality of orders.
133. Validation of acts and proceedings.
134. Power to delegate.
135. Control by the State Government.
136. Returns and information.
137. Overriding effect.
138. Power to make rules.
139. Power to make regulations.
140. Laying of rules before State Legislature.
141. Dissolution of Planning and Development Authorities.
142. Repeal and Savings.

FIRST SCHEDULE.

SECOND SCHEDULE.
West Bengal Act XIII of 1979


[11th June, 1979.]

An Act to provide for the planned development of rural and urban areas in West Bengal and for matters connected therewith or incidental thereto.

Whereas it is expedient in the public interest to provide for the planned development of rural and urban areas in West Bengal and for matters connected therewith or incidental thereto;

It is hereby enacted in the Thirtieth Year of the Republic of India, by the Legislature of West Bengal, as follows:—

CHAPTER I

Preliminary.

1. (1) This Act may be called the West Bengal Town and Country (Planning and Development) Act, 1979.

(2) It extends to the whole of West Bengal, excluding any area to which the provisions of the Cantonments Act, 1924, apply.

(3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different areas.

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

(1) "agriculture" includes horticulture, farming, growing of crops, fruits, vegetables, flowers, grass, fodder and trees, or any kind of cultivation of soil, breeding and keeping of live-stock including cattle, horses, donkeys, mules, pigs

Footnotes:

1 For Statement of Objects and Reasons, see the Calcutta Gazette, Extraordinary, Part IV of the 16th November, 1978, pages 2370-2371; for the report of the Select Committee, see the report of that Committee presented before the Assembly on the 21st February, 1979; for proceedings of the West Bengal Legislative Assembly, see the proceedings of the meetings of that Assembly held on the 21st February, 1979 and 22nd February, 1979.

and poultry, and the use of land which is ancillary to the
farming of land or any other agricultural purposes, but shall
include the use of any land attached to a building for the
purpose of a garden to be used along with such building;
and the expression "agricultural" shall be construed
accordingly;

(2) "amenities" includes roads and streets, open spaces, parks,
recreational grounds, playgrounds, water and electric supply,
street lighting, sewerage, drainage, public works and other
utilities, services and conveniences;

(3) "building operations" includes—
(a) erection or re-erection of a building or any part of it,
(b) roofing or re-roofing of a building or any part of a
building or an open space,
(c) any material alteration or enlargement of any building,
(d) any alteration of a building as is likely to affect an
alteration of its drainage or sanitary arrangements or
materially affect its structural stability, and
(e) the construction of a door opening on any street or land
not belonging to the owner of a building;

(4) "[[Kolkata] Metropolitan Area" means the [[Kolkata]
Metropolitan Planning Area as referred to in section 16
of this Act;

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

(6) "commercial use" means the use of any land or building or
part thereof for purposes of commerce or for storage of
goods or as an office, whether attached to any industry or
otherwise;

(7) "development" with its grammatical variations means the
carrying out of building, engineering, mining or other
operations, in, on, over, or under land or the making of any
material change in any building or land or in the use of any
building or land and includes division of any land;

(8) "Development Authority" means a Development Authority
constituted under this Act and includes the [[Kolkata]
Metropolitan Development Authority as referred to in section
17 of this Act;

*The word within the square brackets was substituted for the word "Calcutta" by s. 5 of
the West Bengal Capital City (Change of Name) Act 2001 (West. Reg. Act XVIII of 2001),
w.e.f. the 1st January, 2001.*

XIII of 1979.]

(Chapter I.—Preliminary.—Section 2.)

69 of 1948.

(10) “industry” includes the carrying on of any manufacturing process as defined in the Factories Act, 1948, and the expression “industrial” shall be construed accordingly;

1 of 1894.

(11) “industrial use” includes the use of any land or building or part thereof for purposes of industry;

(12) “land” shall have the same meaning as in the Land Acquisition Act, 1894 and shall include land covered by water.

(12A) “Land Use and Development Control Plan” means any Land Use and Development Control Plan prepared under this Act;


(13) “local authority” means a municipal corporation or committee or a board or any other authority legally entitled to, or entrusted by the State Government with, the control or management of a municipal or local fund or which is permitted by the State Government to exercise the powers of a local authority and includes a Zilla Parishad, a Panchayat Samity and a Gram Panchayat constituted under the West Bengal Panchayat Act, 1973.

Explanation.—The expression “local authority concerned” shall mean that authority if any land within its local limits falls in the area of a plan prepared or to be prepared under this Act;

(14) “local newspaper” in relation to a Planning Area means any newspaper published or circulated within the Planning Area;

(15) “notification” means a notification published in the Official Gazette;

(16) “occupier” includes—

(a) a tenant,

(b) an owner in occupation of or otherwise using his land,

(c) a licensee in occupation of any land, and

(d) any person who is liable to pay to the owner damages for the use and occupation of any land;

(17) “operational construction” means any construction, whether temporary or permanent, which is necessary for the operation, maintenance, development or execution of any of the following services:—

(i) railways,

(ii) national highways,

(iii) national waterways,

1Clause (9) was omitted by s. 2(3) of the West Bengal Town and Country (Planning and Development) (Amendment) Act, 1994 (West Ben. Act XXVI of 1994).

2Clause (12A) was inserted by s. 2(b), ibid.
(Chapter I.—Preliminary.—Section 2.)

(iv) major ports,
(v) airways and aerodromes,
(vi) posts and telegraphs, telephones, wireless, broadcasting and other like forms of communication,
(vii) regional grid for electricity,
(viii) any other service which the State Government may, if it is of opinion that the operation, maintenance, development or execution of such other service is essential to the life of the community, by notification, declare to be a service for the purposes of this clause.

Explanation.—For the removal of doubts, it is hereby declared that the construction of—

(i) new residential buildings not connected with operations like gate lodges, hospitals, clubs, institutions, schools, railway colony roads, drains, etc., in the case of railways, and

(ii) a new building, new structure or new installation or any extension thereof, in the case of any other service, shall not be deemed to be construction within the meaning of this clause:

(18) "owner" includes a mortgagee in possession, a person who for the time being is receiving, or is entitled to receive, or has received, the rent or premium for any land whether on his own account or on account of, or on behalf of, or for the benefit of, any other person or as an agent, trustee, guardian or receiver for any other person or for any religious or charitable institution or who would so receive the rent or premium or be entitled to receive the rent or premium if the land were let to a tenant; and also includes the Head of a Department or an Undertaking of the Central or a State Government, the General Manager of a Railway, the Secretary or other principal officer of a local authority, statutory authority or company in respect of properties under their respective control;

(19) "Planning Area" means any area declared to be a Planning Area under this Act and includes [(Kolkata) Metropolitan Area];

(20) "Planning Authority" means any Planning Authority constituted under this Act;

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

(22) "public place" means any place or building which is open to the use or enjoyment of the public whether it is actually used or enjoyed by the public or not and whether the entry is regulated by any charge or not;

*See foot-note 1 on page 110, ante.*
(Chapter II.—State Town and Country Planning Advisory Board.—Sections 3, 4.)

(23) "regulation" means a regulation made under this Act;
(24) "residence" means the use for human habitation of any land or building or part thereof of including gardens, grounds, garages, stables and out-houses, if any, appertaining to such building; and the expression "residential" shall be construed accordingly.

CHAPTER II

State Town and Country Planning Advisory Board

3. (1) The State Government, after the commencement of this Act, shall, for the purpose of carrying out the functions assigned to it under this Act, constitute by notification an Advisory Board to be called the West Bengal Town and Country Planning Advisory Board (hereinafter referred to as the Board).

(2) The Board shall consist of a Chairman, two Vice-Chairmen and not more than 45 other members.

4. (1) The Chief Minister of the State of West Bengal shall be the Chairman of the Board and he shall nominate two persons to be the Vice-Chairmen.

(2) The other members shall be—
(i) the Mayor of the "(Kolkata) Municipal Corporation;"
(ii) one Member of Parliament to be nominated by the Chairman of the Board from amongst those elected from the State of West Bengal;
(iii) three Members of the West Bengal Legislative Assembly to be nominated by the Speaker of that Assembly;
(iv) the Chairman of three municipalities to be nominated by the State Government;
(v) the Sarbadhikaryas of three Zilla Parishads to be nominated by the State Government;
(vi) the Chief Secretary to the Government of West Bengal;
(vii) not more than seven officers of the rank of Secretary to the State Government Departments dealing with metropolitan development, local Government, planning, health, industry, housing, finance, agriculture, community development, transport, education, power, public works, irrigation, panchayat and land and land reforms;
(viii) the Chairman of the West Bengal Housing Board;
(ix) the Engineer-in-Chief, Public Works Department, Government of West Bengal;

The words within the square brackets were substituted for the words "Corporation of Calcutta" by s. 2 of the West Bengal Town and Country (Planning and Development) (Amendment) Act, 1986 (West Ben. Act XXVIII of 1986).

See foot-note 1 on page 110, ante.
(Chapter II.—State Town and Country Planning Advisory Board.—Sections 5-7.)

(x) the Chief Conservator of Forests and Wild Life, Government of West Bengal;
(xi) the Chief Executive Officer, [Kolkata] Metropolitan Development Authority;
(xii) the Chairman of the West Bengal State Electricity Board;
(xiii) the Chairman of the West Bengal Industrial Development Corporation;
(xiv) representatives of the Central Government dealing with railways, steel and mines, civil aviation and transport and communications;
(xv) non-officials to be nominated by the State Government who, in its opinion, have special knowledge or practical experience in matters relating to town and country planning, engineering, transport, industry, environmental engineering, geography, sociology, municipal engineering, agriculture and economics;
(xvi) the Secretary, Town and Country Planning Department, Government of West Bengal, who shall be designated as the Member-Secretary of the Board.

5. The Board shall, in accordance with the provisions of this Act and the rules made thereunder, advise the State Government in matters relating to planning, development, co-ordination and use of rural and urban land and such other connected functions as the State Government may, from time to time, assign to it.

6. (1) The term of office and allowances of the nominated members of the Board shall be such as may be prescribed:

Provided that the State Government may, if it thinks fit, terminate the appointment of any nominated member before the expiry of his term of office.

(2) A nominated member of the Board may resign his membership by giving notice in writing to the State Government. He shall cease to be a member on acceptance of such resignation.

(3) Any vacancy by resignation, death or otherwise of a nominated member shall be filled by fresh nomination by the State Government.

7. (1) The Board shall meet at least four times in a year at such time and place as it thinks fit and the meeting shall be held according to such procedure as may be prescribed.

(2) The Chairman or in his absence a Vice-Chairman shall preside at a meeting of the Board. In case both the Vice-Chairmen are present the members present shall elect one of the Vice-Chairmen to preside at the meeting. In the absence of Chairman and both the Vice-Chairmen the members present shall elect any member present for presiding at the meeting.
8. Thirty percent. of the members of the Board shall form a quorum for a meeting:

Provided that no quorum shall be necessary for any adjourned meeting.

CHAPTER III

Declaration of Planning Areas and Constitution of Planning Authorities and Development Authorities

9. (1) The State Government may, by notification, declare any area in West Bengal to which the provisions of this Act have come into force under sub-section (3) of section 1 to be a Planning Area for the purposes of this Act.

(2) Every such notification shall define the limits of the area to which it relates.

(3) The State Government may amalgamate two or more Planning Areas into one Planning Area, sub-divide a Planning Area into different Planning Areas and include such sub-divided areas in any other Planning Area

(4) The State Government may, by notification, direct that all or any of the rules, regulations, orders, directions and powers made, issued, or conferred under this Act or deemed to have been made, issued or conferred under this Act and in force in any Planning Area at the time, with such exceptions, adaptations and modifications as may be considered necessary by the State Government, shall apply to the area amalgamated with, or included in, the other Planning Area under this section and such rules, regulations, orders, directions and powers with such exceptions, adaptations and modifications, if any, shall forthwith apply to the said area without further publication in the Official Gazette.

(5) When Planning Areas are amalgamated or sub-divided, or suchsub-divided areas are included in other Planning Areas, the State Government shall, after consulting the Planning Authority or the Development Authority concerned, frame a scheme determining what portion of the assets of the Planning Authority or the Development Authority shall vest in the Planning Authority or the Development Authority concerned, and in what manner the properties and liabilities of the Planning Authority or the Development Authority shall be apportioned amongst them and on the scheme being published by notification, such fund, property and liabilities shall vest and be apportioned accordingly.
10. (1) The State Government may, by notification, withdraw from the application of this Act any Planning Area or part thereof.

(2) When a notification is issued under sub-section (1) in respect of any Planning Area or part thereof—

(i) this Act and all notifications, rules, regulations, orders, directions and powers issued, made or conferred under this Act shall cease to apply to the said area or part thereof;

(ii) the State Government shall, after consulting the local authority or authorities concerned, frame a scheme determining what portion of the fund of the Planning Authority or the Development Authority concerned shall vest in the State Government, and the local authority or authorities concerned and in what manner the properties and liabilities of the Planning Authority or the Development Authority concerned shall be apportioned between the State Government and the local authorities and on the scheme being published by notification, the fund, property and liabilities of the Authority concerned shall vest and be apportioned accordingly.

11. (1) As soon as may be, after declaration of an area as a Planning Area, the State Government may, by notification, constitute for the purposes of this Act a Planning Authority for that area or a Development Authority in respect of the Planning Area or a part of it.

(2) A Planning Authority or a Development Authority, if it is not a local authority or a Government department or agency, shall be a body corporate having perpetual succession and a common seal with power to acquire, hold and dispose of property, both moveable and immovable, and to enter into contracts and shall by its corporate name sue and be sued.

(3) Every Planning Authority or Development Authority constituted under sub-section (1) shall consist of a Chairman and not more than thirteen but not less than seven other members to be appointed by the State Government.

(4) The State Government may appoint a local authority or any other authority or Corporation (statutory or otherwise), or any officer of the State Government, as the Planning Authority or the Development Authority for the area within the jurisdiction of that authority.
XIII of 1979.]

(Chapter III.—Declaration of Planning Areas and Constitution of Planning Authorities and Development Authorities.—
Sections 12, 13.)

(5) The provisions of sub-section (3) of this section and sections 12, 14 and 15 shall not apply to a Planning Authority or a Development Authority appointed under sub-section (4) and the provisions of the Act by which such authority is constituted shall continue to apply in respect of the area within the jurisdiction of that authority.

12. (1) The term of office and terms and conditions of service of the Chairman and other members of a Planning Authority or a Development Authority not being a local or statutory authority, shall be such as may be prescribed.

(2) Any vacancy occurring in the office of the Chairman or any other member of an Authority referred to in sub-section (3) of section 11 shall be filled by fresh appointment by the State Government.

13. (1) Subject to the provisions of this Act, and the rules made thereunder and any direction which the State Government may give from time to time—

(i) a Planning Authority shall have the following powers and functions:—

(a) to prepare a present Land Use Map;
(b) to prepare and enforce 'a Land Use and Development Control Plan';
(c) * * * * * * * *
(d) to prescribe use of land within its area;
(e) to perform any other function which is supplemental, incidental or consequential to any of the functions aforesaid or which may be prescribed;

(ii) a Development Authority shall have the following powers and functions:—

(a) to prepare a present Land Use Map;
(b) to prepare and enforce 'a Land Use and Development Control Plan';
(c) * * * * * * * * * * * * * *

The words within the square brackets were substituted for the words "an Outline Development Plan" by s. 3(b)(ii) of the West Bengal Town and Country (Planning and Development) (Amendment) Act, 1994 (West Ben. Act XXVI of 1994).

Sub-clause (c) was omitted by s. 3(b)(ii), ibid.

The words within the square brackets were substituted for the words "an Outline Development Plan" by s. 3(b)(ii), ibid.

Sub-clause (c) was omitted by s. 3(b)(ii), ibid.
(Chapter III.—Declaration of Planning Areas and Constitution of Planning Authorities and Development Authorities.—
Sections 14, 15.)

(d) to prescribe use of land within its area;
(e) to prepare and execute development schemes;
(f) to co-ordinate development activities of all departments and agencies of the State Government or local authorities operating within the Planning Area;
(g) to carry out or cause to be carried out such works as are contemplated in the 'Land Use and Development Control Plans';
(h) to acquire, hold and manage such property, both moveable and immovable, as the Development Authority may deem necessary for the purposes of any of its activities and to lease, sell or otherwise transfer any property held by it;
(i) to purchase by agreement or to take on lease or under any form of tenancy, any land and to erect thereon such buildings and to carry out such operations as may be necessary for the purpose of carrying on its undertakings;
(j) to enter into or perform such contracts as may be necessary for the performance of its duties and for exercise of its powers under this Act;
(k) to provide facilities for the consignment, storage and delivery of goods;
(l) to perform any other function which is supplemental, incidental or consequential to any of the functions aforesaid or which may be prescribed.

(2) A Planning Authority or a Development Authority for performance of its functions, may appoint such number of officers and other employees on such terms and conditions as may be approved by the State Government.

14. A Planning Authority or a Development Authority shall meet at such times and places and observe such rules of procedure in regard to the transaction of its business at its meetings as may be determined by regulations.

15. (1) Every Development Authority shall, subject to the provisions of section 22 of this Act, as soon as may be, constitute an Advisory Council for the purpose of advising it on the formulation and co-ordination of plans for the development of the area within its jurisdiction.

(2) The Advisory Council shall consist of not more than fifteen but not less than eight members as may be appointed by the State Government in this behalf.

"The words within the square brackets were substituted for the words "Development Plans" by s.30(iii) of the West Bengal Town and Country Planning and Development (Amendment) Act, 1994 (West Ben. Act XXVI of 1994)."
CHAPTER IV

16. (1) Notwithstanding the repeal of the [Kolkata] Metropolitan Development Area (Use and Development of Land) Control Act, 1965, by section 142 of this Act, the controlled area declared under that Act with such modifications as mentioned in the First Schedule to this Act shall be known as the [Kolkata] Metropolitan Planning Area for the purposes of this Act.

(2) The State Government may, if it thinks fit, by notification, enlarge, curtail or modify the [Kolkata] Metropolitan Planning Area or any part thereof.

17. (1) Notwithstanding the repeal of the [Kolkata] Metropolitan Development Authority Act, 1972, by section 142 of this Act, the [Kolkata] Metropolitan Development Authority constituted under that Act shall be known as the [Kolkata] Metropolitan Development Authority under this Act and it shall be deemed to be a Development Authority for the purposes of this Act.

(2) All the provisions of this Act relating to a Development Authority shall, if not inconsistent with the provisions in this Chapter, apply to the [Kolkata] Metropolitan Development Authority.

18. Subject to the provisions of this Act and the rules made thereunder and any direction which the State Government may give, from time to time, the powers and functions of the [Kolkata] Metropolitan Development Authority shall be as provided in section 13 of this Act.

19. (1) The [Kolkata] Metropolitan Development Authority shall consist of the following members:

(a) the Chief Minister of the State of West Bengal or any person nominated by him shall be the Chairman, and a Minister of the State of West Bengal to be nominated by the Chief Minister shall be the Vice-Chairman;

Provided that when there is no Council of Ministers functioning in the State of West Bengal, the State Government shall nominate such persons, as it may think fit, to be the two members and the Chairman and Vice-Chairman respectively of the [Kolkata] Metropolitan Development Authority.

\[1\text{See foot-note }1\text{ on page }119, \\text{ante.}\]
(b) the Chief Executive Officer of the \(|\text{Kolkata}\) Metropolitan Development Authority, \textit{ex-officio};

(c) not more than three officers of the rank of Secretary to the State Government to be nominated by the State Government;

and

(d) not more than five persons to be nominated by the State Government of whom—

(i) two shall be Councillors or Aldermen of the \(|\text{Kolkata}\) Municipal Corporation,

(ii) one shall be a Councillor or Alderman of the Howrah Municipal Corporation, and

(iii) two shall be Commissioners of any municipality within the \(|\text{Kolkata}\) Metropolitan Area;

Provided that when no order of supersession of the \(|\text{Kolkata}\) Municipal Corporation or the Howrah Municipal Corporation or the municipality, as the case may be, has been made and is in force, it shall be competent for the State Government to nominate, in place of the Councillors or Aldermen or Commissioners, as the case may be, such persons as have experience in or knowledge of administration of local self-government to be members of the \(|\text{Kolkata}\) Metropolitan Development Authority:

Provided further that on the revocation of the order of supersession as aforesaid, the members nominated under the first proviso shall, notwithstanding that the term of office of such members has not expired, cease to hold office and the vacancies shall be filled up in accordance with the provisions of clause (d).

(2) The Vice-Chairman shall discharge such functions and exercise such powers as may be delegated to him by the Chairman and shall, during the absence of the Chairman, perform the functions and exercise the powers of the Chairman.

(3) The members referred to in clause (d) of sub-section (1) shall hold office for a term of three years from the date of their nomination by the State Government and shall receive such allowances for attending the meetings of the \(|\text{Kolkata}\) Metropolitan Development Authority or any committee thereof, as may be prescribed:

Provided that every such member, on ceasing to be a Councillor or Alderman of the \(|\text{Kolkata}\) Municipal Corporation or the Howrah Municipal

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\(^1\)See foot-note 1 on page 110, ante.

\(^2\)Clause (d) was substituted for the original by s. 3(c) of the West Bengal Town and Country (Planning and Development) (Amendment) Act, 1986 (West Ben. Act XXIII of 1986). Prior to this substitution the second proviso was inserted by s. 2 of the West Bengal Town and Country (Planning and Development) (Amendment) Act, 1981 (West Ben. Act XXXVIII of 1981).

\(^3\)The proviso was substituted for the original by s. 3(b) of the West Bengal Town and Country (Planning and Development) (Amendment) Act, 1986 (West Ben. Act XXIII of 1986).
Corporation or Commissioner of a municipality within the 'Kolkata' Metropolitan Area, as the case may be, shall, notwithstanding that the term of office of such member has not expired, cease to hold office and the vacancy shall be filled up in accordance with the provisions of clause (d) of sub-section (1).

(4) No act or proceeding of the 'Kolkata' Metropolitan Development Authority shall be deemed to be invalid merely by reason of any vacancy in, or defect, initial or subsequent, in the constitution of that Authority.

20. (1) The 'Kolkata' Metropolitan Development Authority shall meet at such places and at such times, and shall observe such rules of procedure in regard to the transaction of business at its meeting (including the quorum at its meetings) as may be prescribed.

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

21. (1) The State Government shall appoint a Chief Executive Officer who shall be a whole-time officer of the 'Kolkata' Metropolitan Development Authority.

(2) The Chief Executive Officer shall discharge such functions and exercise such powers as may be assigned to him by the 'Kolkata' Metropolitan Development Authority.

(3) The 'Kolkata' Metropolitan Development Authority may appoint a whole-time Secretary and such other staff as it may think fit for the exercise of its powers and discharge of its functions under this Act.

(4) The expenditure on account of the salary and allowance of the Chief Executive Officer, Secretary and the other staff shall be defrayed out of the fund of the 'Kolkata' Metropolitan Development Authority.

22. (1) The 'Kolkata' Metropolitan Development Authority shall, as soon as may be, after the commencement of the Act, constitute an Advisory Council, for the purpose of advising it on the formulation and co-ordination of plans for the development of the 'Kolkata' Metropolitan Area.

(2) The Advisory Council shall consist of the following members—
(a) the Chairman of the 'Kolkata' Metropolitan Development Authority, ex-officio, who shall be the President thereof;
(b) the Vice-Chairman of the 'Kolkata' Metropolitan Development Authority, ex-officio;

[West Ben. Act

(Chapter IV.—[Kolkata] Metropolitan Development Authority.—

Section 22.)

(c) a representative of the [Kolkata] Improvement Trust;
(d) a representative of the Howrah Improvement Trust;
(e) one person holding office, for the time being, as the [Municipal Commissioner of the [Kolkata] Municipal Corporation;]
(f) two persons with knowledge of town planning and architecture, to be nominated by the State Government;
(g) one representative of the Department of Health of the State Government;
(h) three representatives of the municipal corporations and other municipal authorities, other than the [Kolkata] Metropolitan Area, to be nominated by the State Government;
(i) a representative of the [Kolkata] State Transport Corporation, to be nominated by the State Government;
(j) a representative of the [Kolkata] Tramways Company Limited, to be nominated by the State Government;
(k) one representative of the [Kolkata] Electric Supply Corporation Limited, to be nominated by the State Government;
(l) four Members of the West Bengal Legislative Assembly, to be nominated by the Speaker of that Assembly;
(m) two representatives of the Indian Railways of whom one shall be from the Metropolitan Transport Project (Railways), [Kolkata]; and
(n) six other persons to be nominated by the State Government.

(3) If for any reason the Chairman of the [Kolkata] Metropolitan Development Authority is unable to attend any meeting of the Advisory Council, such meeting shall be presided over by the Vice-Chairman. If both the Chairman and the Vice-Chairman are absent, the members present shall elect one amongst themselves to preside over the meeting.

(4) The Advisory Council shall meet as and when necessary and shall regulate its own procedure.

(5) The members of the Advisory Council shall hold office for such terms, and shall receive such allowances for attending the meetings of the Advisory Council, as may be prescribed.

See foot-note 1 on page 110, ante.

The words within the square brackets were substituted for the words "Commissioner of the Corporation of Calcutta" by s. 4(a) of the West Bengal Town and Country (Planning and Development) (Amendment) Act, 1984 (West Ben. Act XXIII of 1984).

The words within the square brackets were substituted for the words "Corporation of Calcutta" by s. 4(b), ibid.

XIII of 1979.)

(Chapter IV.—'Kolkata] Metropolitan Development Authority.—Sections 23-25.)

23. (1) The 'Kolkata] Metropolitan Development Authority may constitute as many committees, consisting wholly of members of such Authority or wholly of other persons or partly of members of such Authority and partly of other persons and for such purpose or purposes, as it may think fit.

(2) A committee constituted under this section shall meet at such place and at such time, and shall observe such rules of procedure in regard to the transaction of business at its meetings, as may be determined by regulations made in this behalf.

(3) The members of a committee, other than the members of the 'Kolkata] Metropolitan Development Authority, shall be paid such fees and allowances for attending its meetings and for attending to any other work of the 'Kolkata] Metropolitan Development Authority as may be determined by regulations made in this behalf.

24. (1) Notwithstanding anything contained in any other law for the time being in force, the 'Kolkata] Metropolitan Development Authority may give such directions with regard to the implementation of any development project, as it may think fit, to an authority to which payment of any money from its fund has been made under this Act.

(2) The 'Kolkata] Metropolitan Development Authority shall exercise the powers of supervision referred to under this Act as may be necessary to ensure that each development project is executed in the interest of the overall development of the 'Kolkata] Metropolitan Area and in accordance with the approved development plan.

25. (1) Where the 'Kolkata] Metropolitan Development Authority is satisfied that any direction given by it under sub-section (1) of section 24 with regard to any development project has not been carried out by the authority referred to therein or that any such authority is unable to fully implement any scheme undertaken by it for the development of any part of the 'Kolkata] Metropolitan Area, the 'Kolkata] Metropolitan Development Authority may itself undertake the works and incur any expenditure for the execution of such development projects or implementation of such schemes, as the case may be.

(2) The 'Kolkata] Metropolitan Development Authority may also undertake any works in the 'Kolkata] Metropolitan Area as may be directed by the State Government and may incur such expenditure as may be necessary for the execution of such work.

1See foot-note 1 on page 110, ante.

[West Ben. Act

(Chapter IV.—[Kolkata] Metropolitan Development Authorities.—Sections 26, 27.)

(3) Where any work is undertaken by the [Kolkata] Metropolitan Development Authority under sub-section (1), it shall be deemed to be, for the purposes of any law for the time being in force, that authority referred to in sub-section (1) of section 24.

(4) The [Kolkata] Metropolitan Development Authority may, for the purpose of carrying out the powers conferred by sub-sections (1) and (2), undertake survey of any area within the [Kolkata] Metropolitan Area and for that purpose it shall be lawful for any officer of the [Kolkata] Metropolitan Development Authority—

(a) to enter in or upon any land and to take level of such land;
(b) to dig or bore into the sub-soil;
(c) to mark levels and boundaries by placing marks and cutting trenches;
(d) where otherwise the survey cannot be completed and levels taken and boundaries marked, to cut down and clear away any part of any standing crop, fence or jungle:

Provided that before entering upon any land the [Kolkata] Metropolitan Development Authority shall give notice of its intention to do so in such manner as may be specified in the regulations made under this Act.

Delegation

26. The [Kolkata] Metropolitan Development Authority may, by order in writing and subject to such conditions as it may think fit to impose, delegate any of its powers, duties and functions under this or any other Act or any rule or regulation made thereunder to the Chairman, Vice-Chairman, Chief Executive Officer, Secretary or any other officer appointed under this Act.

27. The [Kolkata] Improvement Act, 1911, the Howrah Improvement Act, 1956 and the [Kolkata] Metropolitan Water and Sanitation Authority Act, 1966, shall stand amended to the extent and in the manner specified in the Second Schedule to this Act.


[See foot-note 1 on page 110, ante.]
CHAPTER V
Preparation of present Land Use Map

28. Every Planning Authority or Development Authority shall, within one year after its constitution or within such time as the State Government may, from time to time, extend, prepare a present Land Use Map (hereinafter called the Map) and a Land Register (hereinafter called the Register) in such form as the concerned Authority may think fit indicating the present use of lands in the Planning Area:

Provided that the concerned Authority may prepare the Map and the Register in respect of any portion of the Planning Area but the Map or Maps with Register in respect of the entire Planning Area shall be completed within the said period of one year or within such time as the State Government may from time to time extend.

Explanation.—The predominant use to which the land is put on the date of preparation of the Map shall be considered to be the present land use by the Planning Authority or the Development Authority.

29. (1) After the preparation of the Map and the Register, the Planning Authority or the Development Authority shall publish a public notice of the preparation of the Map and the Register and of the place or places where copies of the same may be inspected, inviting objections in writing from any person with respect to the Map and the Register within thirty days of the publication of such notice.

(2) After the expiry of the period of thirty days mentioned in sub-section (1), an officer designated by the Planning Authority or the Development Authority shall, after allowing a reasonable opportunity of hearing to objects, if any, submit a report to the concerned authority.

(3) The concerned authority shall consider the report submitted under sub-section (2) and may make such modifications in the Map or the Register or both as it considers proper and adopt the Map and the Register with such modifications, if any.

(4) Where a local authority or a statutory authority has been declared as the Planning Authority or the Development Authority for any area and it has prepared a similar Map or Register in respect of an area before the application of this Act to that area, the Map or the Register already prepared shall be deemed to be a Map or a Register, as the case may be, under section 28.

(5) As soon as may be, after the adoption of the Map and the Register under sub-section (3), the Planning Authority or the Development Authority, as the case may be, shall publish a public notice of such adoption of the Map and the Register and the place or places where copies of the same may be inspected and shall submit copies of the Map and the Register to the State Government.
30. (1) If no Map or Register is prepared by the Planning Authority or the Development Authority within the period referred to in section 28 or if at any time the State Government is satisfied that the Planning Authority or the Development Authority is not taking necessary steps to prepare the Map and the Register, the State Government may direct any of its officers to prepare or cause to be prepared the Map and the Register.

(2) After preparation of the Map and the Register, the said officer shall submit the same to the State Government and the State Government shall follow the procedure laid down in section 29 as if it is the authority concerned.

(3) Any expenses incurred under this section in connection with the preparation and the publication of the Map and the Register with respect to a Planning Area shall be paid by the concerned authority.

CHAPTER VI
Preparation of [Land Use and Development Control Plans] and Procedure for their Statutory Approval

31. (1) A Planning Authority or Development Authority shall, within two years of the declaration of a Planning Area, prepare a plan (hereinafter called the "Land Use and Development Control Plan") for the Planning Area and forward a copy thereof to the State Government:

Provided that the concerned authority may prepare the plan in respect of any portion of the Planning Area, but the plan in respect of the entire Planning Area shall be completed within a period of three years or within such time as the State Government may from time to time extend.

\[\text{The words within the square brackets were substituted for the words 'Development Plan' by s. 4(a) of the West Bengal Town and Country (Planning and Development) (Amendment) Act, 1994 (West Ben. Act XXVI of 1994).}\]

\[\text{The marginal note was substituted for the original by s. 4(b)(i), ibid.}\]

\[\text{The words within the square brackets were substituted for the words 'Online Development Plan' by s. 4(b)(ii), ibid.}\]
XIII of 1979.]

(Chapter VI.—Preparation of Land Use and Development Control Plans and Procedure for their Statutory Approval.—Section 31.)

(2) The Land Use and Development Control Plan in any area shall be a written statement,—

(a) formulating the policy and the general proposals including maps of the Planning Authority or the Development Authority in respect of the development and general use of land in that area including measures for the improvement of the physical environment;

(b) stating relationship between these proposals and general proposals for the development and general use of land in neighbouring areas which may be expected to affect the area; and

(c) containing such other matters as may be prescribed or directed by the State Government.

(3) A Land Use and Development Control Plan in any area shall contain or be accompanied by such maps, diagrams, illustrations and descriptive matters as the Planning Authority or the Development Authority thinks appropriate for the purpose of explaining or illustrating the proposals in the plan and such diagrams, illustrations and descriptive matters shall be treated as parts of the plan.

(4) The Land Use and Development Control Plan may also—

(a) (i) indicate broadly the manner in which the Planning Authority or the Development Authority proposes that land in such area should be used;

(ii) indicate areas or buildings requiring preservation and conservation for historical, architectural, environmental and ecological and religious purposes;

(b) allocate areas or zones of land for use—

(i) for residential, commercial, industrial, agricultural, natural scenic beauty, forest, wildlife, natural resources, fishery and land-scaping;

(ii) for public and semi-public open spaces, parks and playgrounds;

(iii) for such other purposes as the Planning Authority or the Development Authority may think fit;

(c) indicate, define or provide for—

(i) the existing and proposed national highways, arterial roads, ring roads and major streets;

(ii) the existing and proposed lines of communications, including railways, transports, air-ports, canals and linkage between towns and villages;

1See foot-note 3 on page 126, ante.

[West Ben. Act

(Chapter VI.—Preparation of Land Use and Development Control Plans and Procedure for their Statutory Approval.—Sections 32, 33.)

(iii) the existing and proposed amenities, services and utilities, systems for water supply including improvement of lake, rivers, fountains and the like, sewerage, drainage and waste disposal, generation and distribution of electric power and distribution of gas, etc;

(d) include regulations (hereinafter called zoning and sub-division regulations) to control within each zone the location, height, number of storeys and size of buildings and other structures, the size of yards, courts and other open spaces and the use of buildings, structures and land and sub-division of land and the street alignments, set back distances, embankment, constructional activities destroying natural scenic beauty and provide for amenities in hill areas and coastal areas and such other issues as may be considered appropriate by the Authority;

(c) locate cluster of villages and huts and designate land for huts, markets, cottage industry, livestock, pasture festivals, fairs, melas and like community facilities and conservation of trees and forests;

(f) indicate areas or zones for catchment, soil conservation, plantation, unsafe for any construction, subsidence for any reason including operation of mines, earthquake prone area and control of natural disaster.

Explanation.—The expression "mine" has the same meaning as defined in the Mines Act, 1952;

(g) designate land as subject to acquisition for any public purposes.

32. [Preparation of Detailed Development Plan.—Omitted by s. 4(c) of the West Bengal Town and Country Planning and Development (Amendment) Act, 1994 (West Ben. Act XXVI of 1994).]

33. If any local or statutory authority has been declared a Planning or a Development Authority for a Planning Area and the said authority has prepared a "[Land Use and Development Control Plan] similar to that contemplated in this Act, for the Planning Area before this Act has been brought in force in that area, the "[Land Use and Development Control Plan] already prepared may be deemed to be a "[Land Use and Development Control Plan] under section 31 or section 32 of this Act, according to the nature of the plan, provided it includes the features of a plan contemplated in this Act.

1 The words within the square brackets were substituted for the words "Development Plan" by s. 4(d)(i) of the West Bengal Town and Country Planning and Development (Amendment) Act, 1994 (West Ben. Act XXVI of 1994).
2 The words within the square brackets were substituted for the words "Development Plan" by s. 4(d)(ii), ibid.
34. (1) Where by virtue of the provisions of this Act, a ["Land Use and Development Control Plan"] to be prepared,

(a) if within the period prescribed or within such period which the State Government has extended, no ["Land Use and Development Control Plan"] has been prepared; or

(b) if at any time the State Government is satisfied that the Planning Authority or the Development Authority is not taking steps necessary to prepare such a ["Land Use and Development Control Plan"] within that period,

the State Government may direct any office of the State Government to prepare the ["Land Use and Development Control Plan"].

(2) After the preparation of the ["Land Use and Development Control Plan"], the said officer shall submit the ["Land Use and Development Control Plan"] to the State Government and he shall follow the procedure and exercise the powers of the Planning Authority or the Development Authority, as the case may be.

(3) Any expenses incurred under this section in connection with the preparation and publication of the ["Land Use and Development Control Plan"] for the Planning Area of any Planning Authority or Development Authority shall be paid by the concerned authority.

35. As soon as may be after the ["Land Use and Development Control Plan"] has been submitted to the State Government, but not later than the time prescribed, the State Government shall direct the Planning Authority or the Development Authority to make such modifications in the ["Land Use and Development Control Plan"] as the State Government thinks fit and thereupon the concerned authority shall make the modifications.
36. (1) After the modifications, if any, the Planning Authority or the Development Authority shall publish a notice in the Official Gazette and in one or more local newspapers, of the preparation of the [Land Use and Development Control Plan] and the place or places where copies of the same may be inspected, inviting objections in writing from any person with respect to the [Land Use and Development Control Plan] within a period of sixty days from the date of publication of the notice in the Official Gazette or from the date of publication of the notice in the newspaper, whichever is later.

(2) The notice of preparation of the [Land Use and Development Control Plan] as provided under the preceding sub-section, shall, notwithstanding anything contained in the Land Acquisition Act, 1894, be deemed to be a declaration duly made under section 4 of the said Act.

(3) After the expiry of the period mentioned in sub-section (1), the concerned authority shall appoint a Committee consisting of its members, to consider the objections filed under sub-section (1) and submit report within such time as the Planning Authority or the Development Authority may fix in this behalf.

(4) The Committee so appointed shall have power to invite any other person, and such a person shall have a right to take part in the discussions of the Committee 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.

(5) The Committee so appointed shall afford a reasonable opportunity of being heard, to any person, including representatives of Government Departments, or local authorities who has or have filed any objection, and who has or have made a request for being so heard.

(6) As soon as may be, after the receipt of the report from the Committee, [but not later than such time as may be prescribed] the Planning Authority or the Development Authority shall consider the report and may make such modifications in the [Land Use and Development Control Plan] as it considers proper, and shall submit the [Land Use and Development Control Plan] with or without modifications together with the report of the Committee to the State Government.

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1 The words within the square brackets were substituted for the words “Development Plan” by s. 4(3)(ii) of the West Bengal Town and Country (Planning and Development) (Amendment) Act, 1994 (West Ben. Acts XCVI of 1994).

2 The words within the square brackets were substituted for the words “Development Plan” by s. 4(3)(ii), ibid.

3 The words within the square brackets were inserted by s. 4(3)(ii), ibid.

4 The words within the square brackets were substituted for the words “but was later than sixty days” by s. 4(3)(ii), ibid.

XIII of 1979.

(Chapter VI.—Preparation of Land Use and Development Control Plans and Procedure for their Statutory Approval.—Sections 37, 38.)

37. (1) As soon as may be, after the receipt of the [Land Use and Development Control Plan], together with the report of the Committee, but not later than such time as may be prescribed, the State Government may either approve the [Land Use and Development Control Plan], with or without modifications, or return the [Land Use and Development Control Plan] to the concerned authority to modify the plan or to prepare a fresh plan in accordance with such directions as the State Government may issue in this behalf.

(2) After modification in the plan or preparation of a fresh plan in accordance with the directions of the State Government under sub-section (1), the same shall be submitted to the State Government for approval and the State Government shall intimate its decision within such time of the receipt of the plan as may be prescribed.

38. (1) Immediately after the [Land Use and Development Control Plan] has been approved by the State Government, the Planning Authority or the Development Authority shall publish a public notice in the Official Gazette and in a daily newspaper or newspapers, of the approval of the [Land Use and Development Control Plan] and the place or places where copies of the [Land Use and Development Control Plan] may be inspected.

(2) The publication of the notice in the Official Gazette of the approval of the [Land Use and Development Control Plan] shall, notwithstanding anything contained in the Land Acquisition Act, 1894, be deemed to be a declaration duly made under section 6 of the said Act.

(3) The [Land Use and Development Control Plan] shall come into operation from the date of publication of the aforesaid notice in the Official Gazette.

(5) If the [Land Use and Development Control Plan] contains zoning and subdivision regulations as referred to in clause (a) of sub-section (4) of section 31, it shall be the duty of the Corporation or the Commissioners of the municipality or any other local authority, within whose jurisdiction such area or area in situ, to enforce such regulatory measures in supersession of the rules and regulations, if any, applicable to such area or area.
39. (1) Within one month of the coming into operation of the "[Land Use and Development Control Plan], any person aggrieved by it may make an application to the High Court questioning the validity of the "[Land Use and Development Control Plan] or any provisions contained therein on the following grounds—

(a) that it is not within the powers conferred by this Act, or
(b) that any requirement of this Act, or any rules made thereunder have not been complied with in relation to the making of the "[Land Use and Development Control Plan].

(2) The High Court, after giving an opportunity to the authority concerned and the State Government to be heard,—

(a) may stay, until the final determination of the proceedings, the operation of any provisions contained therein so far as it affects any property of the applicant; and
(b) if satisfied that the "[Land Use and Development Control Plan] or any provision contained therein is not within the powers conferred by this Act, or that the interest of the applicant has been substantially prejudiced by a failure to comply with any requirement of this Act or rules, may quash the plan or any provision contained therein generally or in so far as it affects any property of the applicant.

(3) Subject to the above provisions of this section, a "[Land Use and Development Control Plan] shall not, either before or after it has been approved, be questioned in any manner, in any legal proceeding whatsoever.

40. (1) At any time after the date on which the "[Land Use and Development Control Plan] for an area comes into operation, and at least once in every 10 years after that date, the concerned authority shall, after carrying out such fresh surveys as may be considered necessary, prepare and submit to the State Government a "[Land Use and Development Control Plan] for any alterations or additions considered necessary.

(2) The provisions of sections 36, 37 and 38 shall, mutatis mutandis, apply to such a "[Land Use and Development Control Plan].

References to High Court questioning the validity of the "[Land Use and Development Control Plan]

Amendment of "[Land Use and Development Control Plan]

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Footnotes:

1. The words within the square brackets were substituted for the words "Development Plan" by s. 4(j)(i) of the West Bengal Town and Country (Planning and Development) (Amendment) Act, 1994 (West Ben. Act XXVI of 1994).

2. The words within the square brackets were substituted for the words "Development Plan" by s. 4(k)(i) of the West Bengal Town and Country (Planning and Development) (Amendment) Act, 1994 (West Ben. Act XXVI of 1994).

3. The words within the square brackets were substituted for the words "Development Plan" by s. 4(k)(ii). ibid.

4. The words within the square brackets were substituted for the words "Development Plan" by s. 4(k)(ii). ibid.
41. At any time after the date on which the [Land Use and Development Control Plan] for an area comes into operation, the Planning Authority or the Development Authority may, with the previous approval of the State Government, make such changes in the [Land Use and Development Control Plan] as may be necessitated by topographical and cartographical errors and omissions, details of proposals not fully indicated in the plan or changes arising out of the implementation of the proposals in the [Land Use and Development Control Plan]: Provided that—
(1) all such changes are in the public interest, and
(2) all such changes are notified to the public.

42. (1) The State Government may, in the public interest or for any other sufficient reason, amend any [Land Use and Development Control Plan] or any portion thereof or any provision contained therein.
(2) Immediately after the amendment of the [Land Use and Development Control Plan] or any portion thereof or any provision contained therein, the State Government shall publish a public notice of the said amendment.

42A. Any plan, by whatever name called, prepared or adopted by any Planning Authority or Development Authority under any provision of this Act prior to the coming into force of the West Bengal Town and Country (Planning and Development) (Amendment) Act, 1994, shall, on the coming into force of the West Bengal Town and Country (Planning and Development) (Amendment) Act, 1994, be deemed to be a Land Use and Development Control Plan prepared or adopted, as the case may be, under this Act, as amended by the West Bengal Town and Country (Planning and Development) (Amendment) Act, 1994.

43. Any land acquired, reserved or designated in a [Land Use and Development Control Plan] or a Development Scheme under Chapter VIII shall be deemed to be land needed for a public purpose within the meaning of the Land Acquisition Act, 1964 and may be acquired under the said Act.

The words within the square brackets were substituted for the words "Development Plan" by s. 40(3) of the West Bengal Town and Country (Planning and Development) (Amendment) Act, 1994 (West Bengal Act XXVI of 1994).

The words within the square brackets were substituted for the words "Development Plan" by s. 40(3) of 1994.

The words within the square brackets were substituted for the words "Development Plan" by s. 40(3) of 1994.

The words within the square brackets were substituted for the words "Development Plan" by s. 40(3) of 1994.

Section 42A was inserted by s. 40 of 1994.

The words within the square brackets were substituted for the words "Development Plan" by s. 40(3) of 1994.
CHAPTER VII
Control of Development and Use of Land

44. After the coming into operation of any '[Land Use and Development Control Plan]' in any area, no person shall use or permit to be used any land or carry out any development in that area otherwise than in conformity with such '[Land Use and Development Control Plan]'.

Provided that the Planning Authority or the Development Authority may allow the continuance, for a period not exceeding 7 years, of the use, upon such terms and conditions as may be imposed by the concerned authority, of any land for the purpose and to the extent, for and to which it is being used on the date on which such '[Land Use and Development Control Plan]' comes into operation.

45. After the coming into force of this Act to any area and subject to the provisions relating to the development charge and other provisions of this Act, no development, institution or change of use, of any land shall be undertaken or carried out in that area—

(a) without obtaining a certificate from the concerned authority certifying that the development charge as leviable under this Act has been paid or that no such development charge is leviable; and

(b) without obtaining the permission in writing as provided for hereinafter:

Provided that no such permission shall be necessary—

(i) for the carrying out such works for the maintenance, improvement or other alteration of any building, which affect only the interior of the building or which do not materially affect the external appearance of the building;

(ii) for the carrying out by the Central or the State Government or any local authority of any works required for the maintenance or improvement of a highway, road or public street, being works carried out on land within the boundaries of such highway, road or public street;

(iii) for the carrying out by the Central or the State Government or any local authority of any works for the purpose of inspecting, repairing or renewing any drains, sewers, mains, pipes, cables or other apparatus including the breaking open of any street or other land for that purpose;

The words within the square brackets were substituted for the words "Development Plan," by s. 5(a) of the West Bengal Town and Country (Planning and Development) (Amendment) Act, 1994 (West Ben. Act XXVI of 1994).

The words within the square brackets were substituted for the words "Development Plan" by s. 5(b), ibid.
XIII of 1979.]

(Chapter VII.—Control of Development and Use of Land.—
Section 46.)

(iv) for the excavation (including wells) made in the ordinary
course of agricultural operations;
(v) for the construction of unmetalled road intended to give
access to land solely for agricultural purposes;
(vi) for normal use of land which has been used temporarily
for other purposes;
(vii) in case of land, normally used for one purpose and
occasionally used for any other purpose, for the use of
land for that other purpose on occasions;
(viii) for use, for any purpose incidental to the use of a building
for human habitation, or any other building or land
attached to such building.

46. (1) Any person or body (excluding a department of the Central or
the State Government or any local authority) intending to carry out
any development on any land shall make an application in writing to the
Planning Authority or Development Authority for permission in such form
and containing such particulars and accompanied by such documents and
plans as may be prescribed.

(2) On such application having been duly made, and on payment of the
development charge as may be assessed under Chapter IX,—
(a) the Planning Authority or the Development Authority may pass
an order—
   (i) granting permission unconditionally; or
   (ii) granting permission subject to such conditions as it may
       think fit; or
   (iii) refusing permission.
(b) without prejudice to the generality of clause (a) of this sub-
section the concerned authority may impose conditions—
   (i) to the effect that the permission granted is only for a
       limited period and that after the expiry of that period, the
       land shall be restored to its previous condition or the use
       of the land permitted shall be discontinued;
   (ii) for regulating the development or use of any other land
       under the control of the applicant or for the carrying out of
       works on any such land as may appear to the authority
       expedient for the purpose of the permitted development.

(3) (i) The concerned authority in dealing with the applications for
permission shall have regard to—
   (a) the provisions of the 'Land Use and Development Control
       Plan,' if it has come into operation; and

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*The words within the square brackets were substituted for the words "development plan," by s. 6(a)(i) of the West Bengal Town and Country (Planning and Development) (Amendment) Act, 1994 (West Ben Act XXVI of 1994).

[West Ben. Act

(Chapter VII.—Control of Development and Use of Land.—
Section 46.)

(b) the regulations, if any, made under section 139 and applicable to the land on which the development is intended to be carried out, the building rules, if any, of a Panchayat or a Municipality in so far as they are not inconsistent with the regulations as aforesaid and applicable to such land, the provisions of Land Use and Development Control Plan as forwarded to the State Government under section 31 or as modified thereafter, and any other material consideration.

Explanation.—"Panchayat" has the same meaning as in clause (d) of article 243, and "Municipality" has the same meaning as in clause (e) of article 243P, of the Constitution of India.

(ii) The provision of sub-section (1) shall not apply to applications under sub-section (5).

(4) When permission is granted subject to conditions or is refused, the grounds of imposing such conditions or such refusal shall be recorded in the order and the order shall be communicated to the applicant.

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

(6) Where the concerned authority raises any objection in respect of the conformity of the proposed development either to any [Land Use and Development Control Plan] under preparation, or to any of the building byelaws in force at the time, or due to any other material consideration under sub-section (7), the department or the authority, as the case may be, shall—

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

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

1Sub-clause (b) was substituted for the original by s. 6(a)(ii) of the West Bengal Town and Country (Planning and Development) (Amendment) Act, 1994 (West Ben. Act XXVI of 1994).

2The words within the square brackets were substituted for the words "development plan" by s. 6(b), ibid.

XIII of 1979]  

(Chapter VII.—Control of Development and Use of Land.—Sections 47-49.)

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

47. (1) Any applicant aggrieved by an order passed under section 46, or if no order is passed under that section, may appeal, within one month of the communication of that order to him or after the expiry of the period of three months from the date of submitting the application, as the case may be, in the manner and accompanied by such fees as may be prescribed, to the State Government or any officer of the State Government appointed in this behalf.

(2) The State Government or the said officer, on receiving the appeal and after giving a reasonable opportunity of hearing to the appellant and the concerned authority, may dismiss the appeal or allow the appeal and pass order—

(a) granting permission unconditionally; or
(b) granting permission subject to such conditions as may be considered fit; or
(c) removing the conditions subject to which permission has been granted and imposing other conditions, if any, as may be considered fit.

48. (1) Every permission for any development granted under this Act shall remain in force for a period of one year from the date of such permission.

(2) The concerned authority may, on application made in this behalf before the expiry of the aforesaid period, extend the same for such times as it may think proper, but the total period shall in no case exceed three years.

(3) If any permission lapses under sub-section (1) or (2), such lapse shall not bar any subsequent application for fresh permission under this Act.

49. (1) Where any person, interested in the land and aggrieved by an order in appeal under section 47 refusing permission or granting permission subject to conditions, claims—

(a) that the land has become incapable of reasonably beneficial use in the existing state, or
(b) that the land, in a case where permission to develop has been granted subject to conditions, cannot be rendered capable of reasonably beneficial use by carrying out the permitted development in accordance with the conditions,

he may within three months and in the manner prescribed serve on the State Government a notice (hereinafter referred to as an acquisition notice) requiring the State Government to acquire his interest in the land and a copy of the notice shall at the same time be served on the authority concerned.

(2) After receiving the notice, the State Government shall appoint a person who shall, after reasonable opportunity of hearing to the person serving the acquisition notice and the authority concerned, submit his report thereon to the State Government.

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

Lapse of permission.

Obligation to acquire land on refusal of permission or on grant of permission in certain cases.

Chapter VII.—Control of Development and Use of Land.—
Section 50."

(3) The State Government, on a consideration of the report—
(a) (i) if satisfied that the conditions specified in clause (a) or (b) of sub-section (1) are not fulfilled, or
(ii) if the order appealed against was passed on the ground of not complying with any provisions of this Act, rules or regulations that may be applicable,
shall pass an order refusing to confirm the notice;
(b) if satisfied that the conditions specified in clause (a) or (b) of sub-section (1) are fulfilled regarding the land or any part of the land, shall pass an order,—
(i) confirming the notice; or
(ii) directing the concerned authority to grant such permission to develop the land or grant the permission subject to such conditions as will keep the land capable of reasonably beneficial use.

(4) If within the period of one year from the date on which an acquisition notice is served under sub-section (1), the State Government does not pass any order under sub-section (3), the notice shall be deemed to have been confirmed at the expiration of that period.

(5) Upon confirmation of the notice either under clause (b) of sub-section (3) or under sub-section (4), the State Government shall proceed to acquire the land or that part of any land regarding which the notice has been confirmed within one year of the confirmation.

50. (1) Where an order in appeal under section 47 refusing to grant permission or granting permission subject to conditions, relates to any of the following developments—
(a) re-erection of a building which has been destroyed or demolished so long as the cubic content of the original building is not exceeded by more than one-tenth;
(b) enlargement, improvement or other alteration of any building which was in existence on the date, the development plan relating to the area comes into operation for the first time, so long as the cubic content of the original building is not exceeded by more than one-tenth;
(c) carrying out, on land used for the purposes of agriculture, of any building or other operation required for that purpose, other than operations for the erection, enlargement, improvement or alteration of a building for human habitation or of building used for the purpose of marketing of the produce of land.
XIII of 1979.

(Chapter VII.—Control of Development and Use of Land.—
Section 50.)

(d) where any part of any building or other land which on the date of coming into operation for the first time of the development plan relating to the area is used for a particular purpose, the use for that purpose of any additional part of the building or land not exceeding one-tenth of the cubic content, of the part of the building used for that purpose on that day, or, as the case may be, one-tenth of the area of the land so used on that date, the owner may, within the time and in the manner prescribed, claim upon the concerned authority, if he has not served an acquisition notice, or if the acquisition is not confirmed by the State Government under section 49 for an amount for such refusal or for grant of permission subject to conditions:

Provided that no amount shall be claimable if such refusal or grant of permission subject to conditions was based on any provision of any development plan.

(2) When a claim is received by such officer of the concerned authority as may be appointed in this behalf he shall, after giving an opportunity of hearing to the applicant, make a report to the concerned authority.

(3) (i) On receipt of the report referred to in sub-section (2), the concerned authority shall consider it and assess the amount and offer it to the owner.

(ii) The amount shall be equal to—

(a) where permission is refused, the difference between what would have been the value of the land if the permission had been granted and the value of the land in its existing state;

(b) where permission is granted subject to conditions, the difference between what would have been the value of the land if the permission had been granted unconditionally and what would be the value of the land with permission granted subject to conditions.

(4) If the owner does not accept the amount and gives notice, within thirty days from the date of offer, of his refusal to accept, the concerned authority shall refer the matter for the adjudication of the Court and the decision of the Court shall be final and binding on the owner and the authority.

Explanation.—The expression “Court” means a principal Civil Court of original jurisdiction, and includes any other Civil Court empowered by the State Government to perform the function of the Court under this Act within the pecuniary and local limits of its jurisdiction.
51. (1) If it appears to the Planning Authority or the Development Authority that it is expedient, having regard to the [Land Use and Development Control Plan] prepared or under preparation or to be prepared and to any other material consideration, that any permission to develop land granted under this Act or any other law, should be revoked or modified, the Planning Authority or the Development Authority may, by order, revoke or modify the permission to such extent as appears to it to be necessary:

Provided that—

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

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

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

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

(2) When permission is revoked or modified by an order made under sub-section (1), if the owner claims from the Planning Authority or the Development Authority within thirty days from the date of revocation or modification, an amount for the expenditure incurred in carrying out the works after the grant of permission and in accordance with such permission, which has been rendered abortive by the revocation or modification, the Planning Authority or the Development Authority shall, after giving the owner a reasonable opportunity of hearing by an officer appointed by it in this behalf, and after considering the officer's report assess and offer such amount to the owner as it thinks fit.

(3) If the owner does not accept the amount and gives notice, within thirty days from the date of offer, the Planning Authority or the Development Authority shall refer the matter for the adjudication of the Court and the decision of the Court shall be final and binding on the owner and the concerned authority.

Explanation.—The expression "Court" has the same meaning as in section 50.

*The words within the square brackets were substituted for the words "development plan" by s. 7 of the West Bengal Town and Country (Planning and Development) (Amendment) Act, 1994 (West Ben. Act XXVI of 1994).*
52. (1) Any person who, whether at his own instance or at the instance of any other person, commences, undertakes or carries out development, or changes use of any land or building,—
   (a) in contravention of any [Land Use and Development Control Plan];
   (b) without obtaining a certificate regarding development charge under clause (a) of section 45;
   (c) without permission as required under this Act;
   (d) in contravention of any condition subject to which such permission has been granted;
   (e) after the permission for development has been revoked under section 51; or
   (f) in contravention of the permission which has been modified under section 51:
   shall be punishable with simple imprisonment for a term which may extend to six months or with fine which may extend to five thousand rupees or with both, and in the case of a continuing offence with a further fine which may extend to five hundred rupees for every day during which the offence continues.

   (2) any person who continues to use or allows the use of any land or building in contravention of the provisions of a [Land Use and Development Control Plan] without having been allowed under section 44 or where the continuance of such use has been allowed under that section, continues such use after the period for which the use has been allowed or without complying with the terms and conditions under which the continuance of such use is allowed, shall be punishable with simple imprisonment for a term which may extend to six months or with a fine which may extend to two thousand rupees or with both, and in the case of a continuing offence with a further fine which may extend to two hundred and fifty rupees for every day during which such offence continues.

53. (1) Where any development of land has been or is being carried out as mentioned in section 52, the Planning Authority or the Development Authority shall serve on the owner a notice requiring him, within a period of one month after the service of the notice, to take such steps as may be specified in the notice, which shall be—
   (a) in cases specified in clauses (a), (c) or (e) of sub-section (1) of section 52 to restore the land to its condition before the said development took place:

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1 The words within the square brackets were substituted for the words “development plan” by s. 8(a) of the West Bengal Town and Country (Planning and Development) (Amendment) Act, 1994 (West Ben. Act XXVI of 1994).
2 The words within the square brackets were substituted for the words “development plan” by s. 9 ibid.
3 The words within the square brackets were substituted for the words “development plan” by s. 9 ibid.
(Chapter VII.—Control of Development and Use of Land.—

Section 53.)

(b) in a case specified in clause (b) of sub-section (1) of section 52 to pay the development charge and such penalty, if any, as may be prescribed;

(c) in cases specified in clauses (d) or (f) of sub-section (1) of section 52 to secure compliance with the conditions or with the permission as modified.

(2) In particular, any such notice may, for the purpose aforesaid, require—

(a) the demolition or alteration of any building or works;

(b) the carrying out on land, of any building or other operations; or

(c) the discontinuance of any use of land:

Provided that in case the notice relates to the discontinuance of any use of land, the Planning Authority or the Development Authority shall serve a notice on the occupier also.

(3) Any person aggrieved by such notice may, within the period specified in the notice—

(a) apply for permission under section 46 for the retention on the land of any buildings or works or for the continuance of any use of the land, to which the notice relates; or

(b) apply to the concerned authority for reconsideration and withdrawal of the notice.

(4) (a) The notice shall be of no effect pending the final determination or withdrawal of the application.

(b) (i) The provisions of sections 45, 46 and 47 shall apply to such application with such modifications as may be necessary.

(ii) If permission is granted on an application made under clause (a) of sub-section (3), the notice shall not take effect, or if such permission is granted for the retention only of some buildings or works or for the continuance of use of only a part of the land, the notice shall not take effect regarding such buildings or works or such part of the land, but shall have full effect regarding other buildings or works or other parts of the land.

(5) The authority or any officer of the authority, appointed in this behalf, may dismiss the application or accept it by quashing or varying the notice as he may think fit.

(6) If within the period specified in the notice or within such period after the disposal or withdrawal of the application under sub-section (3), the notice or so much of it as continues to have effect, or the notice with variation made under sub-section (5) is not complied with, the Planning Authority or the Development Authority may—

(a) prosecute the owner for not complying with the notice and in case where the notice required the discontinuance of any use of land, any other person also who uses the land or causes or permits the land to be used in contravention of the notice; and
XIII of 1979.

(Chapter VII.—Control of Development and Use of Land.—
Section 54.)

(b) (i) in the case of a notice requiring the demolition or alteration of any building or works or carrying out of any building or other operations, itself cause the restoration of the land to its condition before the development took place and secure the compliance with the conditions of the permission or with the permission as modified, by taking such steps as the Planning Authority or the Development Authority may consider necessary including demolition or alteration of any building or works or carrying out of any building or other operations;

(ii) the Planning Authority or the Development Authority may recover the cost of any expenses incurred by it in this behalf from the owner as arrears of land revenue.

(7) Any person prosecuted under clause (a) of sub-section (6) shall be punishable with simple imprisonment for a term which may extend to six months or with a fine which may extend to two thousand rupees, or with both, and in the case of a continuing offence, with a further fine which may extend to two hundred rupees for every day during which such offence continues.

54. (1) Where any development of land as mentioned in section 52 is being carried out but has not been completed, the Planning Authority or the Development Authority may serve on the owner and the person carrying out the development a notice requiring the development of land to be discontinued from the time of the service of such notice.

(2) Where such notice has been served, the provisions of clause (b) of sub-section (4) and sub-section (5) of section 53 shall apply with such modifications as may be necessary:

Provided that the provisions of clause (a) of sub-section (4) of section 53 shall not apply and in spite of the filing of application under clauses (a) or (b) of sub-section (3) of section 53 the notice shall continue to have full effect.

(3) If such notice is not complied with forthwith, the Planning Authority or the Development Authority, or such officer of the concerned authority, who may be authorised in this behalf, may require any police officer to remove such person and all assistants and workmen from the land at any time after the service of such notice and such police officer shall comply with the requisition accordingly.

(4) After the requisition under sub-section (3) has been complied with, the Planning Authority or the Development Authority, or such officer of the concerned authority who may be authorised in this behalf, may, if it or he thinks fit, depute, by a written order, a police officer or any officer or employee of the Planning Authority or the Development Authority to watch the land in order to ensure that the development is not continued.
(5) Where a police officer or an officer or employee of the Planning Authority or Development Authority has been deputed under sub-section (4) to watch the land, the cost of such deputation shall be paid by the person at whose instance such development is being continued or to whom notice under sub-section (1) was given and shall be recoverable from such person as arrears of land revenue.

55. (1) If it appears to the Planning Authority or the Development Authority that it is expedient in the interest of the proper planning of its areas (including the interests or amenities), having regard to the 'Development Plan' prepared, or under preparation, or to be prepared, and to any other material consideration—

(a) that any use of land should be discontinued; or

(b) that any conditions should be imposed on the continuance thereof; or

(c) that any building or works should be altered or removed, the Planning Authority or the Development Authority may, by notice served on the owner,—

(i) require the discontinuance of that use; or

(ii) impose such conditions, as may be specified in the notice, on the continuance thereof; or

(iii) require such steps, as may be specified in the notice, to be taken for the alteration or removal of any buildings or works, as the case may be, within such period, being not less than one month, as may be specified therein, after the service of the notice.

(2) Any person aggrieved by such notice may, within the period specified in the notice, apply to the authority for the cancellation of the notice.

(3) If an application is filed under sub-section (2) the provisions of sub-sections (4) and (5) of section 53 shall apply, with such modifications as may be necessary.

(4) If any person—

(a) who has suffered damage in consequence of the compliance with the notice, by the depreciation of any interest in the land to which he is entitled or by being disturbed in his enjoyment of the land; or

The words within the square brackets were substituted for the words "development plan" by s. 10 of the West Bengal Town and Country (Planning and Development) (Amendment) Act, 1994 (West Ben. Act XXVI of 1994).
(Chapter VII.—Control of Development and Use of Land.—
Section 56.—Chapter VIII.—Development Schemes.—
Section 57.)

(b) who has carried out any works in compliance with the notice, claims, from the Planning Authority or the Development Authority within the time and in the manner prescribed, for an amount in respect of that damage, or of any expenses reasonably incurred by him for complying with the notice, the provisions of sub-sections (3) and (4) of section 50 shall apply with such modifications as may be necessary.

(5) (a) If any person interested in the land in respect of which a notice is issued under this section, claims that by reason of the compliance with the notice, the land will become incapable of reasonably beneficial use, he may within the period specified in the notice or within such period after the disposal of the appeal, if any, filed under sub-section (2) and in the manner prescribed, serve on the State Government, an acquisition notice requiring his interest in the land to be acquired.

(b) When a notice is served under clause (a) the provisions of subsections (2) to (5) of section 49 shall apply with such modifications as may be necessary.

56. Where the Planning Authority or the Development Authority, in the exercise of its functions and powers with respect to any area under it, is required to have regard to the provisions of \(2\) [Land Use and Development Control Plan] before such \(2\) [Land Use and Development Control Plan] has become operative, the concerned authority shall have regard to the provisions which, in its opinion, will be required to be included for securing the proper planning of the concerned area.

CHAPTER VIII
Development Schemes.

57. A Development Authority may, as soon as may be, after the \(2\) [Land Use and Development Control Plan] has been approved by the State Government, for the purpose of implementing the proposals contained in the \(3\) [Land Use and Development Control Plan], prepare one or more development schemes for the area within its jurisdiction or any part thereof.

\(1\) The words within the square brackets were substituted for the words “development plan” by s. 11(a) of the West Bengal Town and Country (Planning and Development) (Amendment) Act, 1994 (West Ben. Act XXVI of 1994).

\(2\) The words within the square brackets were substituted for the words “development plan” by s. 11(b), ibid.

\(3\) The words within the square brackets were substituted for the words “development plan” by s. 12, ibid.
58. (1) A scheme may be made in accordance with the provisions of this Act in respect of any land which is—
(a) in the course of development,
(b) likely to be used for building and other purposes, or
(c) already built upon.

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

(2) Such schemes may make provisions for all or any of the following matters:—
(a) the laying out or relaying out of land, either vacant or already built upon;
(b) the filling up or reclamation of low laying swamp or land to which damage has been caused by subsidence due to operation of mines or unhealthy areas or levelling up of land;
(c) the laying out of new streets of roads, construction, diversion, alteration, improvement and stopping up of streets, roads and communications;
(d) the reconstitution of plots;
(e) the construction, alteration or removal of buildings, bridges or other structures;
(f) the allotment or reservation of land for roads, open spaces, gardens, recreation grounds, schools, markets, industrial and commercial activities, green belts and dairies, transport facilities and public purposes of all kinds;
(g) the undertaking of housing schemes for different income groups, commercial areas, industrial estates, provision of community facilities like schools, hospitals, and similar types of developments;
(h) drainage inclusive of sewerage, surface or sub-soil drainage and sewage disposal;
(i) lighting;
(j) water supply;
(k) the preservation and protection of objects of historical importance or natural beauty and of buildings actually used for religious purpose;
(Chapter VIII.—Development Schemes.—Sections 59, 60.)

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

(m) the suspension, to the extent necessary, for the proper carrying out of the scheme, of any rule, bye-law, regulation, notification or order made or issued under any Act of the State Legislature or any of the Acts which the State Legislature is competent to amend;

(n) acquisition by purchase, exchange or otherwise of any property necessary for or effected by the execution of the scheme; and

(o) such other matters not inconsistent with the objects of this Act, as may be directed by the State Government.

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

(a) the area, ownership and tenure of all existing plots covered by the scheme;

(b) the land allotted or reserved under clause (f) of sub-section (2) of section 58 with a general indication of the uses to which such land is to be put and the terms and conditions subject to which such land is to be put to such uses;

(c) a full description of all the details of the scheme under such clause of sub-section (2) of section 58 as may be necessary;

(d) the laying out or relaying out of the land either vacant or already built upon;

(e) the filling up or reclamation of low lying swamp or land to which damage has been caused by subsidence due to operation of mines or unhealthy areas or levelling up of land;

(f) the extent to which it is proposed to alter the boundaries of the existing plots in accordance with the proposed schemes;

(g) an estimate of the total cost of the scheme and the net cost to be borne by the Development Authority; and

(h) any other particulars which may be prescribed.

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

(a) to form a final plot by reconstitution of an existing plot by alteration of the boundaries of the existing plot, if necessary;

(b) to form a reconstituted plot from an existing plot by the transfer wholly or partly of the adjoining lands;

(c) to provide, with the consent of the owners, that two or more existing plots each of which is held in joint-ownership or in severally shall thereafter with or without alteration of boundaries, be held in ownership in common as a reconstituted plot;

(d) to allot a reconstituted plot to any person if dispossessed of land in furtherance of the same; and

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

61. (1) As soon as may be, after the scheme under section 57 has been prepared, the Development Authority shall publish the scheme in the Official Gazette and in one or more local newspapers specifying the place or places where copies of the same may be inspected, and inviting objections in writing from any person with respect to the scheme within such period as may be specified in the notice which shall not be less than two months from the date of publication of the notice in the Official Gazette:

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

(2) Simultaneously with the publication of the scheme the Development Authority shall submit copies of the notice and of the scheme to the State Government drawing particular attention to the provision in the scheme, if any, referring to clause (m) of sub-section (2) of section 58.

(3) The publication of the scheme as provided under sub-section (1) of this section shall, notwithstanding anything contained in the Land Acquisition Act, 1894, be deemed to be a declaration duly made under section 4 of the said Act.

62. (1) Notwithstanding anything contained in this Act the State Government may, after making such inquiry as it deems necessary, by notification, direct the Development Authority to make and publish in such manner as the State Government may direct, a scheme in respect of any land in regard to which a development scheme may be made.
(Chapter VIII.—Development Schemes.—Sections 63, 64.)

(2) If the Development Authority fails to make the scheme within three months from the date of direction given under sub-section (1) or within such time as the State Government may extend from time to time, an officer shall be appointed by the State Government to make and publish and submit the scheme for the land to it and thereafter the provisions of this Act shall, as far as may be, apply to the making of such scheme.

63. (1) Where the Development Authority has published the scheme under sub-section (1) of section 61, the State Government may, on an application of the Development Authority, by order published in the Official Gazette, suspend to such extent only, as may be necessary for the purpose of implementing the scheme, any rule, bye-law, regulation, notification or order made or issued under any law which the Legislature of the State is competent to amend.

(2) Any order issued under sub-section (1) shall cease to operate in the event of the scheme being withdrawn by the said authority either on its own motion or under the directions of the State Government under section 71.

64. (1) Where there is a disputed claim as to the ownership of any piece of land included in an area in respect of which the scheme has been published under sub-section (1) of section 61 and any entry in the records of rights or mutation register relevant to such disputed claims is inaccurate or inconclusive, an enquiry may be held on a submission being made by the Development Authority at any time prior to the date of final publication of the scheme under section 70, by such officer as the State Government may appoint for the purpose of deciding who shall be deemed to be owner for the purpose of this Act.

(2) The decision under sub-section (1) shall not be subject to appeal but it shall not operate as a bar to a regular suit.

(3) Such decision shall be corrected, modified or rescinded as may be necessary to give effect to the decree or order of the Civil Court after the same has been brought to the notice of the Development Authority either by the Civil Court or by any person affected by such decree or order.

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

(5) Where such a decree or order of the court is passed after the scheme has been published, such scheme shall be deemed to have been suitably varied by reason of such decree.
65. (1) On or after the date on which the scheme is published in the Official Gazette under sub-section (1) of section 61—

(a) no person shall within the area included in the scheme erect or proceed with any building work, remove, pull down, alter, make additions to or make any substantial repair to any building, part of a building, a compound wall or any drainage work or remove any earth, stone or material, or sub-divide any land or change the use of any land or building unless such person has applied for and obtained necessary permission from the Development Authority in the form prescribed;

(b) the Development Authority on receipt of an application referred to in clause (a) shall at once furnish the applicant with a written acknowledgement of its receipt and may, after an enquiry, either grant or refuse such permission or grant it subject to such conditions as the Development Authority may think fit to impose. If the Authority communicates no decision to the applicant within three months from the date of such acknowledgement, the applicant shall be deemed to have been granted such permission:

(c) if any person contravenes the provisions contained in clause (a) or clause (b), the Development Authority may direct such person by notice in writing to stop any work in progress and after making inquiry in the prescribed manner, remove, pull down, or alter any building or other work or restore the land in respect of which such contravention is made to its original condition; and

(d) any expenses incurred by the concerned Authority under clause (c) shall be a sum due to such Authority under this Act from the person in default or the owner of the plot.

(2) No person shall be entitled to any compensation in respect of any damage, loss or injury resulting from any action taken by the Development Authority under sub-section (1) of this section except in respect of a building or work begun or a contract entered into before the date on which the Development Authority published the scheme under sub-section (1) of section 61 or the notification under sub-section (1) of section 62 was published by the State Government and only in so far as such building or work has proceeded at the time of the publication of the scheme:

Provided that such claim to compensation in the excepted cases shall be subject to the conditions of any agreement entered into between such person and the concerned Authority.
(Chapter VIII.—Development Schemes.—Section 66.)

(3) Where under clause (a) of sub-section (2) of section 58 or under section 59, the purposes to which,—

(a) any plot of land may not be used has been specified, such plot of land shall, within such period of not less than one year, as may be specified in the scheme, cease to be used for the purposes and shall be used only for the purpose specified in the scheme;

(b) any existing building may not be used has been specified, such building shall, within such period of not less than three years as may be specified in the scheme cease to be used for any purpose other than the purposes specified in the scheme; and

(c) any plot of land with existing buildings may not be used has been specified in the scheme and the existence of such buildings is inconsistent with the provisions of the scheme, such buildings shall, within such period of not less than ten years as may be specified in the scheme, cease to exist:

Provided that such period shall not be less than the reasonable life of the buildings.

(4) Any person aggrieved by the decision of the Development Authority under this section may, within sixty days from the date of the decision, appeal to the Authority as may be prescribed and the order of such Authority in the appeal shall be final.

(5) The provisions of section 50 shall, mutatis mutandis, apply in relation to the unauthorised development or use of land included in a development scheme.

(6) The restrictions imposed by this section shall cease to operate in the event of the scheme being withdrawn by the Planning Authority or the Development Authority on its own or on the direction of the State Government under section 71.

66. (1) Where the Development Authority thinks that in the interest of the public it is necessary to undertake forthwith any of the works included in a scheme for a public purpose, the said Authority shall make an application to the State Government that the land required for the scheme shall vest in the Authority provided there is no building on it.

(2) The State Government may, if satisfied that it is urgently necessary in the public interest to empower the Development Authority to enter on such land for the purpose of executing any of such work, direct such Authority by notification to take possession of the land.

[West Ben. Act]

(Chapter VIII.—Development Schemes.—Sections 67-70.)

3. The said Authority shall then give a notice in the prescribed manner to the person interested in the land, the possession of which is to be taken requiring him to give possession of the land to the said Authority or any person authorised by it in this behalf within a period of one month from the date of service of the notice: and if no possession is delivered within the period specified in the notice, such Authority shall take possession of the land. Such land shall thereupon, notwithstanding anything contained in this Act, vest absolutely in the said Authority free from all encumbrances.

67. (1) If the Development Authority is opposed or obstructed in taking possession of the land under section 66, it shall apply to the Commissioner of Police, [Kolkata], or to the District Magistrate of the District, within whose jurisdiction the land is situated, to enforce the delivery of the possession of the land to the said Authority. The Commissioner of Police, [Kolkata], or the District Magistrate, as the case may be, shall take or cause to be taken such steps and use or cause to be used such force as may be reasonably necessary for securing the delivery of possession of the land to the Authority.

(2) For the avoidance of doubt, it is hereby declared that the power to take steps under sub-section (1) includes the power to enter upon any land or other property whatsoever.

68. Where possession of the land is taken by the Development Authority under sections 66 or 67, the person interested in such land shall be entitled to interest at the rate of six per cent. per annum on the amount payable to him under the scheme in respect of the said land from the date on which such possession is taken till the date on which the amount is paid to him by the concerned Authority.

69. After the expiry of the period specified in sub-section (1) of section 61 the Development Authority shall examine the scheme in the light of the objections that may be received, giving a reasonable opportunity of being heard to all such interested persons who have filed objections and who have made requests for being so heard in the manner prescribed and make such amendments in the scheme as may be considered proper and shall, as soon as may be, but not later than the time prescribed by the rules, prepare the scheme with or without modifications and submit it to the State Government together with a copy of the objections received by it and its decisions thereon.

70. (1) Simultaneously with the submission of the scheme to the State Government, the Development Authority shall publish notice in the Official Gazette and in a local newspaper of the scheme and the place or places where copies of the scheme may be inspected.

1See foot-note 1 on page 110, ante.

XIII of 1979.

(Chapter VIII.—Development Schemes.—Sections 71, 72.)

(2) The public notice under sub-section (1) shall specify a date (which shall not be earlier than one month after the date of the publication of the notice) on which the scheme shall take effect and come into force:

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

(3) The publication of the notice under sub-section (1) shall be—

(a) conclusive evidence that the scheme has been duly prepared and adopted; and

(b) notwithstanding anything contained in the Land Acquisition Act, 1894, deemed to be a declaration duly made under section 6 of the said Act.

71. (1) If at any time before the publication of the notice of the scheme under section 70, a representation is made to the Development Authority in this behalf by a majority of the owners in the area that the scheme should be withdrawn, the Development Authority shall invite from all persons interested in the scheme objections to such representation.

(2) After receiving the objections, if any, and after making such inquiry as it may think fit, the Development Authority may, by notification, withdraw the scheme or any part thereof and upon such withdrawal, no further proceedings shall be taken in regard to such scheme or such part.

(3) Simultaneously with such withdrawal, the Development Authority shall submit to the State Government the copy of the notice withdrawing the scheme and a report of its inquiry made in this behalf.

(4) At any time before the publication of notice of the scheme under section 70, the State Government, if it is satisfied that it is in the public interest, may direct the concerned Authority to withdraw the scheme or part thereof. Thereupon the said Development Authority shall withdraw the scheme or such part by a notification. Upon such withdrawal no further proceedings shall be taken in regard to such scheme or such part thereof.

72. On and after the day on which a scheme comes into force—

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

(b) all rights in the existing plots which have been reconstituted shall determine, and the reconstituted plots shall become subject to the rights settled by the Development Authority;

(c) the said Authority shall hand over possession of the reconstituted plots to the owners to whom these are allotted in the scheme.
73. (1) As soon as may be after publication of the notice of the scheme in the Official Gazette under sub-section (1) of section 70, but not later than the time prescribed by rules, the Development Authority shall, in accordance with the procedure that may be prescribed, proceed to—

(a) define, demarcate and decide the areas allotted to, or reserved, for the public purpose or purposes of the said Authority, and also the reconstituted plots;

(b) decide the person or persons to whom a reconstituted plot is to be allotted: when such plot is to be allotted; and when such plot is not to be allotted to persons in ownership in common, decide the shares of such persons;

(c) estimate the value of and fix the difference between the values of the existing plots and the values of the reconstituted plots included in the scheme, in accordance with the provisions contained in clause (f) of sub-section (1) of section 87;

(d) estimate the compensation payable for the loss of the area of the existing plot in accordance with the provisions contained in clause (f) of sub-section (1) of section 87 in respect of any existing plot which is wholly acquired under the scheme;

(e) determine whether the areas allotted or reserved for the public purpose or purposes of the Development Authority are beneficial wholly or partly to the owners or residents within the area of the scheme;

(f) estimate the proportion of the sums payable as compensation on each plot used, allotted or reserved for public purpose or for the purposes of the Authority which is beneficial partly to the owners or residents within the area of the scheme and partly to the general public, which shall be included in the costs of the Scheme;

(g) determine the proportion of contribution to be levied on each plot used, allotted or reserved for purposes of the Development Authority which is beneficial partly to the owners or residents within the area of the scheme and partly to the general public;

(h) determine the amount of exemption, if any, from the payment of the contribution, that may be granted in respect of plots or portions thereof exclusively used or occupied for religious or charitable purposes on the date of publication of the notice of the scheme under section 70;

(i) estimate the value of reconstituted plots included in the scheme and the increment to accrue in respect of such plots in accordance with the provisions of section 88;

(j) calculate the proportion in which the increment in respect of the reconstituted plots included in the scheme shall be liable to contribution to the cost of the scheme in accordance with the provisions contained in section 89;
(Chapter VIII—Development Schemes.—Section 74.)

(k) calculate the contribution to be levied on each reconstituted plot included in the scheme;
(l) determine the amount to be deducted from or added to, as the case may be, the contribution leviable from a person in accordance with the provisions contained in section 93;

(m) provide for the total or partial transfer of any right in an existing plot to a reconstituted plot or provide for the extinction of any right in an existing plot in accordance with the provisions contained in section 91;

(n) where a plot is subject to a mortgage with possession or a lease, decide the proportion of compensation payable to or contribution payable by the mortgagee or lessee on one hand and the mortgagee or lessee on the other;

(o) estimate, with reference to claims made before it, after the notice given by it to the owner of any property or right injuriously affected by the making of a scheme in accordance with the provisions contained in section 92;

(p) determine the period in which the works provided in the scheme shall be completed by the Development Authority:

Provided that the Development Authority may make variations from the scheme subject to the condition that any variation estimated by it to involve an increase of ten per cent. in the total cost of the scheme or to require one third, whichever is lower, shall require the sanction of the State Government.

Provided that no substantial variation shall be made without the consent of the State Government and without hearing any objections which may be raised by the owners concerned.

(2) The State Government may, if it thinks fit, whether the period prescribed by rules for deciding all the matters stated in sub-section (1) has expired or not, extend from time to time by notification in the Official Gazette, the period for deciding the matter referred to.

74. (1) (a) Every decision of the Development Authority in matters arising out of clause (a), (b), (c), (d) and (e) of sub-section (1) of section 73, an appeal shall lie within one month from the date of the decision, to the authority to be prescribed.

(b) Any person aggrieved by the order of the prescribed authority under clause (b) may prefer an appeal within sixty days from the date of the order of the prescribed authority, to the District Judge within the local limits of whose jurisdiction the area included in the scheme is situated.

(c) The District Judge may hear the appeal or transfer the appeal filed before him to an Additional District Judge for disposal.
(Chapter VIII.—Development Schemes.—Section 75.)

(d) The District Judge or the Additional District Judge, as the case may be, may after hearing the parties either direct the concerned Authority to reconsider its proposals or accept, modify, vary or reject the proposals of such Authority and shall decide all matters arising out of the different clauses of sub-section (1) of section 73 and referred to in clause (a) of this sub-section.

(c) The decision of the District Judge or the Additional District Judge, as the case may be, shall be final and binding on all the parties and a copy of such decision shall be sent to the concerned Authority.

(2) (a) Any decision of the Development Authority under clauses (d) to (m) (both inclusive) and clause (p) of sub-section (1) of section 73 shall be forthwith communicated to the party concerned and any party aggrieved by such decision may within sixty days from the date of communication of the decision, appeal to the Tribunal of Appeal, appointed under section 75, for decision.

(b) The provisions of sections 5, 12 and 14 of the Limitation Act, 1963, shall apply to appeals submitted under this section.

75. (1) As soon as may be, after the Development Authority has decided all the matters referred in sub-section (1) of section 73, the State Government shall, if necessary, appoint a Tribunal of Appeal, hereinafter referred to as the Tribunal, to hear and decide appeals arising out of matters referred to in clause (a) of sub-section (2) of section 74.

(2) The Tribunal shall consist of a Chairman and two assessors.

(3) The Chairman shall be an officer of the rank of District Judge or such Judicial Officer as may be appointed by the State Government.

(4) The Chairman shall appoint fit and proper persons as Assessors who shall, as far as possible, have knowledge, or experience of town planning, valuation of land or civil engineering.

(5) The Chairman and the Assessors shall be appointed members of the Tribunal for such period as the State Government may, by notification, specify for deciding appeals preferred against the decision under clauses (d) to (m) (both inclusive) and clause (p) of sub-section (1) of section 73.

(6) The State Government may, if it thinks fit, remove for incompetence or misconduct or for any other good and sufficient reasons, any Assessor appointed under sub-section (4).

(7) If any Assessor is removed or dies or refuses or neglects to act or becomes incapable of acting, the Chairman shall appoint forthwith a fit and proper person to take the place of such Assessor.
XIII of 1979.]

(Chapter VIII.—Development Schemes.—Sections 76-81.)

76. The Tribunal may sit either at the headquarters of the Chairman or at any other place within the local limits of his jurisdiction which he may deem convenient for the consideration and decision of any matter before such Tribunal.

77. All questions of law and procedure shall be decided by the Chairman. All other questions shall be decided by the Chairman and the two Assessors or by a majority.

78. (1) The Tribunal shall, after hearing, either confirm the proposals of the Development Authority or direct it, where necessary, to reconsider, vary or modify its proposals.

(2) Every decision of the Tribunal shall be final and binding on all the parties including the Development Authority. A copy of the decision of the Tribunal shall be sent to such Authority.

79. Nothing contained in this Act shall be deemed to constitute the Tribunal to be a Civil Court.

80. (1) The Assessors shall, save where they are salaried Government Officers, be entitled to such remuneration, either by way of monthly salary or by way of fees or partly in one way and partly in the other, as the State Government may, from time to time, decide:

Provided that, in exceptional cases where the scheme is a large one or the work involved is complicated, the State Government may authorise the Chairman and the Assessors, even if they are salaried Government Officers, to receive such special salary or remuneration, as the State Government may, by order, decide from time to time.

(2) The salary of the Chairman of the Tribunal or an Assessor who is a salaried Government Officer, and any remuneration payable under subsection (1) of this section and all expenses incidental to the working of the Tribunal shall, unless the State Government otherwise determines, be defrayed out of the funds of the Development Authority and shall be added to the cost of scheme.

81. (1) Where no appeal has been preferred under section 74, the decision of the Development Authority shall be final and binding on the parties.

(2) Where an appeal has been preferred under section 74 and a copy of the decision in appeal is received by the concerned Authority, it shall then, where necessary, make variations in the scheme in accordance with such decision and may also rectify such errors or omissions, if any, as
may have been brought to its notice after publication of notice of the scheme and shall also forward such scheme or schemes together with a copy of its decisions and a copy of the decisions in appeal to the State Government.

82. (1) On and after the day on which a scheme comes into force, any person continuing to occupy any land which he is not entitled to occupy under the scheme may, in accordance with the prescribed procedure, be summarily evicted by the Development Authority or any of its officers authorised in that behalf.

(2) If the Development Authority is opposed or obstructed in evicting such persons or taking possession of land from such persons, the Commissioner of Police, [Kolkata] or the District Magistrate, within whose jurisdiction the land is situated, shall, on the application of the Authority, enforce the eviction of such persons or secure delivery of possession of the land to such Authority.

83. (1) On and after the day on which the notice of a scheme has been published under section 70, the Development Authority may, after giving the prescribed notice,—

(a) remove, pull down, or alter any building or other work in the area included in the scheme which contravenes the scheme or in the erection of which or carrying out of which, any provision of the scheme has not been complied with;

(b) execute any work which it is the duty of any person to execute under the scheme, in any case where it appears to the concerned Authority that delay in the execution of the work would prejudice the efficient operation of the scheme.

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

(3) If any action proposed to be taken under sub-section (1) of this section by the Development Authority is questioned, the matter shall be referred to the State Government or any officer authorised by the State Government in this behalf; and the decision of the State Government or of the officer, as the case may be, shall be final and binding on all persons.

84. (1) If after the scheme has come into force the Development Authority considers that the scheme is defective on account of an error, irregularity or infirmity or that the scheme needs variation or modification of a minor nature, the Development Authority shall prepare and publish by notification a draft of such variation.

1See foot-note 1 on page 110, ante.
(2) The draft variation published under sub-section (1) shall state every amendment proposed to be made in the scheme, and if any such amendment relates to a matter specified in any of the clauses of sub-section (2) of section 58, the draft variation shall also contain such other particulars as may be prescribed.

(3) The draft variation shall be open to inspection of the public at the office of the Development Authority during the office hours.

(4) Not later than one month of the date of publication of the draft variation, any person affected thereby may communicate in writing his objection to the Development Authority.

(5) After receiving the objections under sub-section (4) the concerned Authority shall, after making such enquiry as it may think fit, publish the variation with or without modification by notification.

(6) From the date of the publication of the variation, such variation shall take effect as if it were incorporated in the scheme.

85. A development scheme may, at any time, be varied by a subsequent scheme made and published in accordance with this Act:

Provided that, when a scheme is so varied, the provisions of this Act shall, as far as may be, apply to such variation and making of subsequent scheme; and the date of publication of the varied scheme shall, for the purposes of sections 63, 65, 87, 88 and 90 be deemed to be the date of publication of the scheme referred to in those sections.

86. In the event of a development scheme being withdrawn the costs of the scheme shall be borne by the Development Authority or be paid to such Authority by the owners concerned, in such proportion as the State Government may in each case determine.

87. (1) The cost of a development scheme shall include—

(a) all sums payable by the Development Authority which are not specifically excluded from the cost of the scheme;

(b) all sums spent or estimated to be spent by the Development Authority in the making and in the execution of the scheme, the estimates for works included in the scheme being made on the date the notice of the scheme is published under section 70;

(c) all sums payable as compensation for land reserved or allotted for any public purpose or purposes of the Development Authority which is solely beneficial to the owners or residents within the area of the scheme.
Chapter VIII.—Development Schemes—Sections 88, 89.

(1) Such portion of the amount payable for land reserved or allowed for any public purpose or purposes of the Development Authority which is beneficial partly to the owners or residents within the area of the scheme and partly to the general public, as is attributable to the benefit accruing to the owners or residents within the area of the scheme from such reservation or allowance;

(a) all legal expenses incurred by the Development Authority in the making and in the execution of the scheme;

(b) the amount by which the total of the value of the existing plots and of such being estimated as its market value on the date of the publication of the scheme under section 61 with all the buildings and works thereon or then constructed, will exceed the cost of the schemes as defined in sub-section (1).

Whereas the value of the existing plots included in the final scheme exceeds the sum of the values of the existing plots, each of such plots being estimated in the manner provided in clause (b) of sub-section (1), then the amount of such excess shall be deducted in arriving at the cost of the schemes as defined in sub-section (1).

88. For the purposes of this Act, the increment shall be deemed to be the amount by which, on the date of the publication of the scheme under section 61, the market value of any plot with reference to the improvements contemplated in the scheme, on the assumption that the scheme has been completed, would exceed the market value of the same plot, estimated without reference to such improvements.

Provided that in estimating such value, the value of buildings or other works granted or in courses of section on such plot shall not be taken into consideration.

89. (1) The cost of the scheme shall be met wholly or in part by contributions to be levied by the Development Authority on each plot included in the scheme calculated in proportion to the increment which is estimated to accrue in respect of each plot by the Development Authority.

Provided that—

(a) no such contribution shall exceed the increment estimated by the Development Authority to accrue in respect of each plot;

(b) where a plot is subject to mortgage with possession or to a lease, the Development Authority shall determine in what proportion the mortgagee or lessee on the one hand and the mortgagee or lessee on the other hand, shall pay such contribution.
XIII of 1979.)

(Chapter VIII.—Development Schemes.—Sections 90-93.)

(c) no such contribution shall be levied on a plot used, allotted or reserved, for a public purpose or purposes of the Development Authority, such plot being solely for the benefit of the owners or residents within the area of the scheme:

(d) the contribution levied on a plot used, allotted or reserved for a public purpose or purposes of the Development Authority, which is beneficial partly to the owners or residents within the area of the scheme and partly to the general public, shall be calculated in the proportion of the benefit estimated to accrue to the general public from such use, allotment or reservation.

(2) The owner of each plot included in a scheme shall be primarily liable for the payment of the contribution leviable in respect of such plot.

90. The amount by which the total value of reconstituted plots included in a scheme with all the buildings and works thereon allotted to the person falls short of or exceeds the total value of the existing plots with all the buildings and works thereon of such person shall be deducted from or added to, as the case may be, the contribution leviable from such person of each of such plots being estimated at its market value on the date of publication of the scheme under section 61, and without reference to improvements contemplated in the scheme other than improvements due to the alteration of its boundaries.

91. Any right in an existing plot which, in the opinion of the Development Authority, is capable of being transferred wholly or in part, without prejudice to the making of a development scheme to a reconstituted plot shall be so transferred and any right in an existing plot which, in the opinion of the Development Authority is not capable of being so transferred shall be extinguished:

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

92. The owner of any property or right which is injuriously affected by the making of a development scheme shall, subject to provisions of section 91, if he makes a claim before the Development Authority within sixty days of the receipt of the notice from such Development Authority, be entitled to obtain an amount in respect thereof from the said Authority or from any person benefited or partly from such Authority and partly from such person as the said Authority may in each case determine.

93. (1) No amount shall be payable in respect of any property of private right of any sort which is alleged to be injuriously affected by reason of any provisions contained in the development scheme, if under any other law for the time being in force applicable to the area for which such scheme is made, no amount is payable for such injurious affection.
(Chapter VIII.—Development Schemes.—Sections 94-97.)

(2) Property or a private right of any sort shall not be deemed to be injuriously affected by reason of any provision contained in a development scheme, which with a view to securing the amenity of the area included in such scheme or any part thereof, imposes any conditions and restrictions in regard to any of the matters specified in clause (b) of section 59.

94. If the owner of a plot attracted by a scheme is not provided with another plot in the scheme or if the contribution to be levied from him under section 90 is less than the total amount to be deducted therefrom under any of the provisions of this Act, the net amount of his loss shall be payable to him by the Development Authority in cash or in such other way as may be agreed upon by the parties.

95. (1) If for any cause the total amount which would be due to the Development Authority from the owner of a plot to be included in the scheme exceeds the value of such plot estimated on the assumption that the scheme has been completed, the said Authority shall direct that owner of such plot to make payment of such excess amount to it.

(2) If such owner fails to make such payment within the prescribed period, the said Authority shall acquire the plot of such defaultor by paying the value of such plot estimated at its market value on the date of publication of the scheme under section 61 and without reference to improvements contemplated in the scheme, and apportion the compensation among the owner and other persons interested in the plot, and thereupon the plot included in the scheme shall vest absolutely in the said Authority free from all encumbrances, but subject to the provisions of this Act:

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

96. All payments due to be made to any person by a Development Authority shall, as far as possible, be made by an adjustment in such person’s account with such Authority in respect of the reconstituted plot concerned or of any other plot in which he has an interest and failing such adjustment, he shall be paid in cash or in such other way as may be agreed upon by the parties.

97. (1) The net amount payable under the provisions of this Act by the owner of a plot included in a scheme may at the option of the contributor be paid at a time or in annual instalments not exceeding ten. If the owner elects to pay the amount by instalments, interest at six per cent, per annum shall be charged on the net amount payable. If the owner of a plot fails to elect the option on or before the date specified in a notice issued to him in that behalf by the Development Authority, he shall be deemed to have elected the
option of paying contribution by instalments and the interest in the
contribution shall be calculated from the date specified in the notice, being
the date before which he was required to make an election as aforesaid:

Provided that, where an owner elects to pay the amount at a time but fails
to do so interest at six per cent. per annum shall be payable by him to the said
Authority, from the date specified in the notice to the date of payment.

(2) Where two or more plots included in a scheme belong to the same
owner, the net amount payable by such owner under the provisions of this Act
shall be distributed over his several reconstituted plots in proportion to the
increment which is estimated to accrue in respect of each constituted plot
unless the owner and the said Authority agree to a different method of
distribution.

98. (1) A Development Authority shall competent to make any agree-
ment with any person in respect of any matter which is to be provided for in
the development scheme subject to the power of the State Government to
modify or disallow such agreement and unless it is otherwise expressly
provided therein, such agreement shall take effect on and after the day on
which the development scheme comes into force.

(2) Such an agreement shall not in any way affect the determination of
the matters at standing in section 73 or the rights of third parties, but it shall
be binding on the parties to the agreement:

Provided that if any agreement contains any provisions which are
inconsistent with the scheme as published by the Development Authority
under section 61, such an agreement shall be void:

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

99. Any sum due to a Development Authority under the provision of this
Act or any rule or any regulation made thereunder shall be a first charge on
the plot on which it is due, subject to the prior payment of the land revenue,
if any, due to the State Government thereon and if it is not paid on demand
on the day on which it becomes due or on the day fixed by the said Authority,
it shall be recoverable by such Authority as arrears of land revenue.

100. Where after completing and meeting all the costs of a scheme as
provided in this Act, any amount from the sums paid to the Development
Authority remains as surplus, such Authority shall, in consultation with the
owners of the plots, spend the same amount for providing further amenities
within the area of the scheme.
101. (1) The Development Authority shall complete all the works provided in a scheme within the period prescribed:

Provided that, in exceptional circumstances on application by the said Authority, the State Government may, by order in writing specifying these circumstances, grant to such Authority further extension of time as it may think fit.

(2) If the Development Authority fails to complete the work within the prescribed period or within the period extended under the proviso to subsection (1) the State Government may appoint any of its officers to complete such works at the cost of the said Authority.

CHAPTER IX

Levy, Assessment and Recovery of Development Charge.

102. (1) In accordance with the provisions of this Act, and the rules made thereunder and with the previous sanction of the State Government, every Planning Authority or Development Authority shall, by notification published in the Official Gazette, levy a charge (hereinafter called the development charge) on the carrying out of any development or change of use of land, for which permission is required under Chapter VII, in the whole or any part of the Planning Area, at rates not exceeding those specified in section 103:

Provided that the rates may be different for different parts of the Planning Area.

(2) The charge shall be leviable on any person who undertakes or carries out such development or changes any such use.

(3) Notwithstanding anything contained in sub-sections (1) and (2) no development charge shall be levied on development, or change of use, of any land vested in or under the control or possession of the Central Government, the State Government or any local authority.

(4) The State Government may, by rules, provide for the exemption from the levy of development charge of any development or change of any use of any land specified in the rules.

103. The development charge shall not exceed—

(a) for the institution of use—

(i) for residence Rs. 10:00 per sq. metre

(ii) for industry Rs. 50.00 per sq. metre

(iii) for commerce Rs. 200:00 per sq. metre;
(Chapter IX.—Levy, Assessment and Recovery of Development Charge.—Section 104.)

(b) for change of use—

(i) from agriculture to residence  Rs. 15.00 per sq. metre
(ii) from agriculture to industry  Rs. 55.00 per sq. metre
(iii) from agriculture to commerce  Rs. 205.00 per sq. metre
(iv) from residence to industry  Rs. 40.00 per sq. metre
(v) from residence to commerce  Rs. 150.00 per sq. metre

(vi) from industry to residence  Rs. 40.00 per sq. metre
(vii) from industry to commerce  Rs. 150.00 per sq. metre

(c) for carrying out development by erection or re-erection of any building or works  Rs. 0.5 per cubic metre of the content of such building or works.

104. (1) Any person who intends to carry out any development or to change any use of any land for which permission under Chapter VII is necessary, whether he has applied for such permission or not, or who has commenced the carrying out of any such development or has carried out such development or change of any such use, shall apply to the Planning Authority or the Development Authority for the assessment of development charge payable in respect thereof.

(2) The said Authority shall, on such application being made or, if no such application is made, after serving a notice on the person liable for development charge, determine whether or not, and if so, what development charge is leviable in respect of that development or use or change in use.

(3) The said Authority shall after giving a reasonable opportunity of hearing to the person who has made an application under sub-section (1) or who has been served with notice under sub-section (2) assess the amount of development charge:

Provided that—

(a) where permission under Chapter VII has not been granted for carrying out the said development, the Planning Authority or the Development Authority may postpone the assessment of the development charge;

(b) where the application relates to the carrying out of any development, the said Authority may refuse to assess the development charge payable in respect thereof unless it is satisfied that the applicant has an interest in the land sufficient to enable him to carry out such development, or that the applicant is able to obtain such interest and that the applicant will carry out the development within such period as the said Authority considers appropriate:

[West Ben. Act

(Chapter IX.—Levy, Assessment and Recovery of Development Charge.—Sections 105, 106.)

c) where the application relates to the change of any use, the said Authority may refuse to assess the amount of development charge in respect thereof unless it is satisfied that the change of use will be effected within such period as the said Authority considers appropriate:

d) the Planning Authority or the Development Authority shall deliver or serve a copy of each order on the applicant or the person concerned; and

e) such order or assessment, subject to the provisions of section 105 shall be final and shall not be questioned in any Court.

105. (1) Any person liable for such development charge dissatisfied with the order of assessment may within thirty days from the date of the order appeal to the State Government.

(2) On an appeal made under sub-section (1), an officer of the State Government appointed in that behalf shall, after giving a reasonable opportunity of hearing to such person and the Planning Authority or Development Authority concerned, pass such order as he deems fit.

106. (1) If any development of land is commenced or carried out or any use is changed without payment of the amount of the development charge, such development charge shall, subject to prior payment of the land revenue, if any, be a first charge upon the land involved and also in any other land in which such person has any interest.

(2) The development charge shall be recoverable as arrears of land revenue.

106A. (1) Notwithstanding anything contained in the foregoing provisions of this chapter, every Planning Authority or Development Authority may, in accordance with the provisions of this Act and the rules made thereunder and with the previous sanction of the State Government, by notification levy a charge (hereinafter called the civic amenity charge) for extending such civic amenity to the whole or any part of the Planning Area and at such rate as may be prescribed.

(2) The civic amenity charge shall be recoverable as arrears of land revenue.

Explanation.—For the purposes of this section, "civic amenity" shall have the same meaning as in the West Bengal Government Townships (Extension of Civic Amenities) Act, 1975.


1Section 106A was inserted by s.2 of the West Bengal Town and Country (Planning and Development) (Amendment) Act, 1993 (West Ben. Act VII of 1993).
CHAPTER X
Finance, Accounts and Audit.

107. (1) Every Planning Authority or Development Authority (other than the [Kolkata] Metropolitan Development Authority) shall have and maintain its own fund to which shall be credited—
   (a) all moneys received by the said Authority from the State Government by way of grants, loans, advances or otherwise;
   (b) all development charges or other charges or fees received by the said Authority under this Act or rules or regulations made thereunder; and
   (c) all moneys received by the said Authority from any other source.

(2) Every such Authority may keep in current account in any branch of the State Bank of India, or any other Bank approved by the State Government in this behalf, such portion of its fund as may be prescribed and any money in excess of the said sum shall be invested in such manner as may be approved by the State Government.

108. (1) There shall be a fund for the [Kolkata] Metropolitan Development Authority to which shall be credited—
   (a) such moneys as may be paid to it by the State Government under the Taxes on Entry of Goods into [Kolkata] Metropolitan Area Act, 1972;
   (b) all moneys borrowed by it;
   (c) such other moneys as may be received by it from the State Government or from any other authority or source.

(2) The [Kolkata] Metropolitan Development Authority shall maintain a sinking fund for the repayment of money borrowed by it, and shall every year deposit into the said fund such moneys as may be paid to it by the State Government under the Taxes on Entry of Goods into [Kolkata] Metropolitan Area Act, 1972.

(3) The money paid into the sinking fund shall be invested in such manner and in such securities as may be prescribed.

(4) The sinking fund or any part thereof shall be applied in, or towards, the discharge of the loan or part thereof for which such fund was created, and until such loan or part thereof is wholly discharged, the money standing to the credit of the fund shall be applied for no other purpose.

109. The State Government may make such grants, advances and loans to any Planning Authority or Development Authority (including the [Kolkata] Metropolitan Development Authority) as it may deem necessary for the performance of the functions under this Act and all such grants, loans and advances made shall be on such terms and conditions as the State Government may determine.

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Footnote 1: See foot-note 1 on page 110, ante.
Every Planning Authority or Development Authority shall prepare every year, in such form and within such time as may be approved by the State Government, a budget in respect of the next financial year, showing the estimated receipts and expenditure of such Authority.

(1) Every Planning Authority or Development Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts including the balance sheet in such form as may be approved by the State Government.

(2) The audit of the accounts of the Planning Authority or Development Authority shall be made by such person as may be appointed by the State Government.

(3) The audit shall be made in such manner as may be prescribed.

(4) The auditor shall submit his report to the concerned Authority and shall forward a copy thereof to the State Government.

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

(1) Every Planning Authority or Development Authority shall constitute, for the benefit of its whole-time paid members, officers and other employees, in such manner and subject to such conditions as may be prescribed, such provident funds as it may deem fit.

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

An Authority constituted or deemed to have been constituted under this Act, may, from time to time, borrow at such rate of interest and for such period and upon such terms, as the State Government may approve, any sum of money required for carrying out the purposes of this Act or servicing any loan obtained by it.

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1See foot-note 1 on page 110, ante.

XIII of 1979.]

(Chapter XI.—Supplemental and Miscellaneous Provisions.—
Section 115.)

CHAPTER XI

Supplemental and Miscellaneous Provisions.

115. (1) Any officer of the Planning Authority or the Development Authority authorised in this behalf may enter into or upon any land or building with or without assistance or workmen for the purpose of—

(a) making any enquiry, inspection, measurement or survey or taking levels of such land or building;
(b) setting out boundaries and intended lines of works;
(c) specifying such levels, boundaries and lines by placing marks and cutting trenches;
(d) examining works under construction and ascertaining the course of sewers and drains;
(e) digging or boring into the sub-soil;
(f) ascertaining whether any land is being or has been developed in contravention of any provision of this Act or rules or regulations made thereunder; and
(g) doing any other thing necessary for the efficient administration of this Act:

Provided that—

(i) in the case of any building used as a dwelling house, or upon any enclosed part or garden attached to such a building, no such entry shall be made without giving the occupier at least twenty-four hours' notice in writing of the intention to enter, unless such occupier agrees:
(ii) sufficient opportunity shall be given to enable women (if any) to withdraw from such land or building;
(iii) due regard shall always be had, so far as may be compatible with the exigencies of the purpose for entry, to the social and religious usages of the occupants of the land or building.

(2) The power of the officer under sub-section (1) shall extend only to the Planning Area of the concerned Authority and such other area which the State Government may have directed to be included in the development plan.

(3) Any person who obstructs the entry of a person empowered or authorised under this section to enter into or upon any land or building or molests such person after such entry shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees, or with both.
116. All documents including bills, notices and orders required by this Act or any rule or regulation made thereunder to be served upon or issued or presented to any person shall, save as otherwise provided in this Act or rule or regulation, be effected—

(a) by giving or tendering the said document to such person; or

(b) if such person is not found, by leaving such document at his last known place of abode or by giving or tendering the same to some adult member or servant of his family; or

(c) if his address elsewhere is known, by forwarding such document to him by registered post under a cover bearing the same address; or

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

117. Every public notice given under this Act or rules or regulations made thereunder shall be in writing over the signature of such officer who may be authorised in this behalf by any Planning Authority or Development Authority and shall be widely made known in the locality to be affected thereby, by affixing copies thereof in conspicuous public places within the said locality, or by proclaiming the same by beat of drum or by advertisement in a local newspaper and by such other means which the concerned authority thinks fit.

118. Where any notice, order or other document issued or made under this Act or any rule or regulation made thereunder, requires anything to be done for the doing of which no time is fixed, the notice, order or other document shall specify a reasonable time for doing the same.

119. All permissions, order, decisions, notices and other documents of the Planning Authority or the Development Authority shall be authenticated, by the signature of the Secretary of the concerned authority or such other officer as may be authorised by the Planning Authority or the Development Authority in this behalf.

120. A copy of any receipt, application, plan, notice, order, entry in a register, or other document in the possession of any Planning Authority or Development Authority, if duly authenticated by the person authorised by the concerned Authority, shall be received and admitted as evidence of the matters and transactions therein recorded to the same extent, as the original entry or document would, if produced, have been admissible to prove such matters.

XIII of 1979.

(Chapter XI.—Supplemental and Miscellaneous Provisions.—
Sections 121-123.)

121. No officer or employee of any Planning Authority or Development Authority shall, in any legal proceedings to which such Authority 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 witness to prove the matters and transactions recorded therein, unless by order of the Court made for special cause.

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

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

(2) Notwithstanding anything contained in sub-section (1) where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officers shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purpose of this section—
(a) “company” means a body corporate and includes a firm or other association of individuals; and
(b) “director” in relation to a firm means a partner in the firm.

123. If any person—
(a) obstructs, or molests any person engaged or employed by any Planning Authority or Development Authority, or any person with whom any such Authority 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.
Sanction of prosecution.

124. No prosecution for any offence punishable under this Act shall be instituted except with the previous sanction of the Planning Authority or the Development Authority concerned or any officer authorised by such authority in this behalf.

Composition of offences.

125. (1) The Planning Authority or the Development Authority concerned or any person authorised in this behalf may, either before or after the institution of the proceedings, compound any offence made punishable by or under this Act.

(2) The composition of an offence under sub-section (1) shall have the effect of an order of acquittal.

Right to appear by recognised agent.

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

Power to compel attendance of witnesses, etc.

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

Jurisdiction of courts.

128. No court inferior in that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try an offence punishable under this Act.

Fines when realised to be paid to Planning Authority or Development Authority.

129. All fines realised in connection with prosecution under this Act shall be paid to the Planning Authority or the Development Authority concerned.

Members, officers and employees to be public servants.

130. Every member and every officer or other employee of a Planning Authority or Development Authority shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Prosecution of action taken in good faith.

131. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act or any rule or regulation made thereunder.

Finality of orders.

132. Save as otherwise expressly provided in this Act, every order passed or direction issued by the State Government or order passed or notice issued by any Planning Authority or Development Authority shall be final and shall not be questioned in any suit or other legal proceeding.
XIII of 1979.}

(Chapter XI—Supplemental and Miscellaneous Provisions.—
Sections 133-137.)

133. (1) No act done or proceeding taken under this Act shall be questioned on the ground merely of—
   (a) the existence of any vacancy, initial or subsequent, in or any defect in the constitution of any Planning Authority or Development Authority;
   (b) any person having ceased to be a member;
   (c) the failure to serve a notice on any person, where no substantial injustice has resulted from such failure; or
   (d) any omission, defect or irregularity not affecting the merits of the case.

   (2) Every meeting of any Planning Authority or Development Authority shall be presumed to have been duly convened and to be free from all defects and irregularities.

134. Any Planning Authority or Development Authority may, by resolution, direct that any power exercisable by it under this Act or rules or regulations made thereunder [except the power to make regulations] may also be exercised by any local authority or any officer of the State Government with previous consent of the State Government, or any officer of the Planning Authority, Development Authority or local authority as may be mentioned therein, in such cases and subject to such conditions, if any, as may be specified therein.

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

   (2) If in, or in connection with, the exercise of its powers and discharge of its functions by any Planning Authority or Development Authority, any dispute arises between the Planning Authority, Development Authority, the local authority and the State Government, the decision of the State Government on such dispute shall be final.

136. Every Planning Authority or Development Authority shall furnish to the State Government such reports, returns and other information as the Government may from time to time require.

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

1The words and brackets within the square brackets were substituted for the words and brackets "(except the power to prepare any development plan or development scheme or to make regulations)" by s. 30 of the West Bengal Town and Country (Planning and Development) (Amendment) Act, 1993 (West Ben. Act VII of 1993).
(2) Notwithstanding anything contained in any other law—

(a) when permission for development in respect any land has been obtained under this Act, such development shall not be deemed to be unlawfully undertaken or carried out by reason only of the fact that permission, approval or sanction required under any other law for such development has not been obtained; this shall not, however, be construed as exemption to application for permission and of payments of such fees and charges as required by such other law;

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

(3) Notwithstanding the provisions of sub-sections (1) and (2), the provisions of the West Bengal Slum Areas (Improvement and Clearance) Act, 1972, if in conflict with the provisions of this Act, shall prevail.

138. (1) The State Government may, by notification, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the functions and powers of the Planning Authority and Development Authority;

(b) the term of office and conditions of service of the members of the Planning Authority and Development Authority;

(c) the qualifications and disqualifications for being chosen as, and for being, members of the Planning and Development Authorities;

(d) the matters in which and the purpose for which any Planning or Development Authority may associate with itself any person under the provisions of this Act;

(e) the control restriction in relation to the appointment of officers and other employees of Planning and Development Authorities;

(f) the form and content of the "Land Use and Development Control Plan" and the Development Scheme and the procedure to be followed in connection with the preparation, submission and approval of such plans, schemes and the form and the manner of publication of the notice relating to such plan and scheme;

*The words within the square brackets were substituted for the words "Outline Development Plan," by s. 13(a)(i) of the West Bengal Town and Country (Planning and Development) (Amendment) Act, 1994 (West Ben. Act XXVI of 1994).

*The words "Detailed Development Plan" were omitted by s. 13(a)(ii), ibid.
(g) the periodical amendment of "Land Use and Development Control Plans," the period on the expiration of which such an amendment may be taken up, procedure to be followed in making such amendment;

(h) the form in which any application for permission for development shall be made, the particulars to be furnished in such application and documents and plans which shall accompany such application;

(i) the form of registration of application and the particulars to be contained in such register;

(j) the manner of filing, and the fees to be paid for and the procedure to be followed in, appeals;

(k) the manner in which an acquisition notice is to be served, and claim for compensation is to be made, the time within which such claim is to be made and the procedure to be followed for assessment of compensation;

(l) procedure for the levy of development charges and exemption from it on any development or change of any use of any land;

(m) the manner, in which application for the assessment of development charge is to be made;

(n) the sum of money that may be kept in current account;

(o) the form of the budget of Planning and Development Authorities, the date on or before which it shall be prepared, the manner of preparing it and the number of copies that have to be sent to the State Government;

(p) the form of the annual statement of accounts and balance sheet;

(q) the form of the annual report of the Planning and Development Authorities and date on or before which it shall be submitted to the State Government;

(r) the manner and the constitution of provident funds for the whole-time paid members and officers and other employees of Planning and Development Authorities and the conditions subject to which such funds may be constituted;

(s) the documents of which copies may be granted and the fees for such copies; and

(t) any other matter which has to be or may be prescribed by rules.

139. Any Planning Authority or Development Authority may, with the previous approval of the State Government, make regulations consistent with this Act and the rules made thereunder, to carry out the purposes of this Act and without prejudice to the generality of this power such regulations may provide for:---

(a) the time and place of holding and procedure to be followed in meetings of the Planning Authority, Development Authority and Advisory Committee, and the number of members necessary to form a quorum therein;

*The words within the square brackets were substituted for the words "development plans," by s. 13(b) of the West Bengal Town and Country (Planning and Development) (Amendment) Act, 1994 (West Ben. Act XXVI of 1994).
(Chapter XI.—Supplemental and Miscellaneous Provisions.—)

Sections 140-142.)

(b) the powers and duties of the officers and employees of the Planning Authority and Development Authority;
(c) the salaries, allowances and conditions of service of its officer and employees;
(d) the terms and conditions for the continuance of use of any land used otherwise than in conformity with a development plan; and
(e) any other matter which has to be or may be prescribed by rules.

140. All rules made under this Act shall be laid for not less than thirty days, before the State Legislature, as soon as may be, after they are made and shall be subject to such modifications as the Legislature may make during the session in which they are so laid or the session immediately following.

141. (1) Where the State Government is satisfied that the purposes for which any Planning Authority or Development Authority was established under this Act have been substantially achieved so as to render the continued existence of such authority unnecessary, it may, by notification, declare that the authority in question shall be dissolved with effect from such date as may be specified in the notification, and the concerned authority shall stand dissolved accordingly.

(2) With effect from the date specified in sub-section (1)—
(a) all properties, funds and dues which are vested in, or realisable by, the Planning or the Development Authority shall vest in or be realisable by the State Government;
(b) all liabilities which are enforceable against the concerned authority shall be enforceable against the State Government; and
(c) for the purpose of realising properties, funds and dues referred to in clause (a), the functions of the Planning or Development Authority shall be discharged by the State Government.

142. (1) The [(Kolkata) Metropolitan Development Authority Act, 1972, and the [(Kolkata) Metropolitan Planning Area (Use and Development of Land) Control Act, 1965 shall stand repealed with effect from the date on which the [(Kolkata) Metropolitan Planning Area as referred to in section 16 of this Act is declared to be a Planning Area under sub-section (1) of section 9 of this Act.

(2) The Durgapur (Development and Control of Building Operations) Act, 1958 shall stand repealed with effect from the date on which the Durgapur area as defined in that Act is declared to be a Planning Area under sub-section (1) of section 9 of this Act.

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

1See foot-note 1 on page 110, ante.

XIII of 1979.] (First Schedule.)

FIRST SCHEDULE
(See section 16.)

"[Kolkata] Metropolitan Planning Area" comprises the areas included within the boundaries of the [Kolkata] Metropolitan Area specified below except that it does not comprise any area included in a cantonment declared as such under section 3 of the Cantonments Act, 1924.

[Kolkata] Metropolitan Area

The [Kolkata] Metropolitan Area is the area comprised of land situated on the west and east banks of the river Hooghly, the respective boundaries of which are as follows, namely:

A. West-bank of the river Hooghly

1. Northern boundary

In District Hooghly:

A line starting from the point where a straight line drawn eastward along the northern boundary of mouza Jatrasudi (J.L. No. 30) meets the eastern boundary-line of the Hooghly District in the river Hooghly and proceeding westward along the northern boundaries of mouzas Jatrasudi (J.L. No. 30), Refaitpur (J.L. No. 29), Banipur (J.L. No. 34), north-western boundary of mouza Tribeni Balamunipur (J.L. No. 36), and northern boundary of mouza Amodghata (J.L. No. 40) within P.S. Magra.

2. Western boundary

In District Hooghly:

The aforesaid line then bends southward and runs along the western boundaries of the said mouza Amodghata (J.L. No. 40) and mouza Alikhoja (J.L. No. 43) within P.S. Magra.

Thereafter it follows the western boundary of mouza Hosanabad (J.L. No. 148), north-western of mouza Jhanpa (J.L. No. 150), western of mouzas, Tarabihari (J.L. No. 151), Nandipur (J.L. No. 155), Panchakash (J.L. No. 154), Amarpur (J.L. No. 176), south-western of mouza Mahespur (J.L. No. 178), and western of mouza Bhushanara (J.L. No. 192) within P.S. Polka;

Thereafter the same line follows the western boundaries of mouzas Khaishani (J.L. No. 1), Belkuli (J.L. No. 2), Bajra (J.L. No. 4), north-west and western of mouza Garzi (J.L. No. 6), western and southern of mouza Bighati (J.L. No. 14) within P.S. Bhadreswar;

Then the said line follows the western boundary of Baidyabati Municipality:

*See foot-note 1 on page 110, ante.*

(First Schedule.)

It then follows the western boundaries of mouzas Purapur (J.L. No. 7), Belumuki (J.L. No. 11), Madpur (J.L. No. 20), Bangihati (J.L. No. 21), Jagannathpur (J.L. No. 26), Bamunary (J.L. No. 25), and north-western boundary of mouza Bhadua (J.L. No. 23) within P.S. Serampur;

Then the line follows the north-western boundary of mouza Chakundi (J.L. No. 94), north-western and western boundaries of mouza Dankuni (J.L. No. 93), western of mouza Mouahpur (J.L. No. 98), and western and southern of mouza Mrigala (J.L. No. 102) up to the point where it meets the northern boundary line of District Howra within P.S. Chanditala;

In District Howrah:

The same line then follows the northern and western boundary-line of mouza Bagachhi (J.L. No. 1), western and southern of Juglishpur (J.L. No. 2) and western of Chamrail (J.L. No. 5) within P.S. Bully;

Then it runs south-westward along the north-western boundary of mouza Pakuria (J.L. No. 54), north-western and western of mouzas Tantulkuti (J.L. No. 53), Kantia (J.L. No. 50) and Ankurhati (J.L. No. 30) and eastern, northern and western boundaries of mouza Bipla Naopara (J.L. No. 27) within P.S. Domjur;

Then it runs along the northern boundary of mouza Jangalpur (J.L. No. 22) and Argari (J.L. No. 27) within P.S. Sankrail;

Then it runs along the northern boundary of mouza Sankharidaha (J.L. No. 28) and Argari (J.L. No. 27) within P.S. Sankrail;

Thereafter it follows the northern and western boundaries of mouza Antiara (J.L. No. 28) and western of mouzas Saigharia (J.L. No. 27) and Belkutia (J.L. No. 31) within P.S. Panchla.

It then follows the northern, western and south-western boundaries of mouza Raghubdebpur (J.L. No. 99), western of mouzas Balarampota (J.L. No. 103) and Deebhaga (J.L. No. 104), north-western of mouza Chengail (J.L. No. 105), northern and western of mouza Jagapur (J.L. No. 95), western of mouzas Kotalghata (J.L. No. 167), Fuleswar (J.L. No. 108), Lalibpur (J.L. No. 106) and Bahir Gangarampur (J.L. No. 85) within P.S. Uluberia.

3. Southern boundary

In District Howrah:

The aforesaid line then takes a sharp bend towards the east following the southern boundaries of the said mouza Bahir Gangarampur (J.L. No. 85) and mouza Uluberia (J.L. No. 109) within P.S. Uluberia; and thereafter it proceeds further eastward in a straight line and meets the eastern boundary-line of Howrah District in the river Hooghly.
4. Eastern boundary:

Thereafter the same line proceeds northward following the eastern boundary-line of District Howrah and Hooghly in the river Hooghly and meets the starting point of the northern boundary.

B. East-bank of the river Hooghly

1. Northern boundary

In District Nadia:

A line starting from the point where a straight line drawn westward along the northern boundary of mouza Majher Char (J.L. No. 54) meets the western boundary-line of the Nadia District in the river Hooghly and proceeding eastward along the northern boundaries of mouzas Majher Char (J.L. No. 54), Gustia (J.L. No. 61), Jadabhati (J.L. No. 65), Chak Manikkanda (J.L. No. 66), northern and north-eastern of mouza Mathurabati (J.L. No. 68), northern of mouza Dakshin Bhabanipur (J.L. No. 69), northern and north-eastern of mouza Gopalpur (J.L. No. 75), western, northern and north-eastern of mouza Raghunathpur (J.L. No. 82), northern and northern of mouza Degachhia (J.L. No. 88) within P.S. Chakdaha;

2. Eastern boundary

In District Nadia:

The said line then bends southward and runs along the eastern boundaries of the said mouza Degachhia (J.L. No. 88) and mouza Gayespur (J.L. No. 87), south-eastern boundary of mouza Kanpur (J.L. No. 86) and southern boundaries of mouzas Gokulpur (J.L. No. 73) and Satrapara (J.L. No. 72) within P.S. Chakdaha;

In District 24-Parganas:

Thereafter the same line follows the south-eastern and southern boundaries of mouza Palladaha (J.L. No. 5); then it sharply bends southward following the eastern boundary line of the Kanchrapara Municipality and then it runs along the northern, eastern and southern boundaries of mouza Sritribati (J.L. No. 20), eastern and southern of mouza Chandua (J.L. No. 18), southern of mouza Jetia (J.L. No. 16), south eastern of mouza Manna (J.L. No. 15) and eastern of mouza Jadunathbati (J.L. No. 12) within P.S. Bijpur;

Then the same line proceeds along the eastern and southern boundaries of mouza Rajendrapur (J.L. No. 10), south-eastern of mouza Naihati (J.L. No. 3) and eastern of mouza Deulpara (J.L. No. 5) within P.S. Naihati;
Thereafter it follows the eastern and south-eastern boundaries of mouza Madraul (J.L. No. 2), eastern boundaries of mouzas Naraynapur (J.L. No. 4), Mandalpada (J.L. No. 10), Vidyaipara (J.L. No. 17), south-eastern and southern of mouza Rahuta (J.L. No. 22), eastern of mouza Muljor (J.L. No. 17), north-eastern, eastern and southern boundaries of mouza Gurdaha (J.L. No. 21) and eastern of mouza Gurdaha (J.L. No. 21) and eastern of mouza Palma (J.L. No. 25) within P.S. Jagaddal:

Then it runs along the eastern boundary of mouza Bobanpur (J.L. No. 1) and then proceeds eastward along the northern boundaries of mouzas Jalvapur (J.L. No. 9), Mohanpur (J.L. No. 8) and Tulinpara (J.L. No. 10) and again bends southward along the eastern boundary of the said mouza Tulinpara (J.L. No. 10) and north-eastern of mouza Nilganja (J.L. No. 13) within P.S. Titagarh:

Thereafter the same line proceeds further eastward along the northern boundaries of mouzas Salurhat (J.L. No. 13), Rangpur (J.L. No. 12), Kokapur (J.L. No. 11), Barbaria (J.L. No. 8), Chaturia (J.L. No. 34), Napara (J.L. No. 83), Palpakuria (J.L. No. 82), Natikur (J.L. No. 100), Murali (J.L. No. 99), Wandalgant (J.L. No. 98), then it bends southward following the eastern boundaries of mouzas Sikdespukhuria (J.L. No. 95), Bara (J.L. No. 113), Sarbaria (J.L. No. 112), Kuberpur (J.L. No. 108), Chandida (J.L. No. 109), Kayburi (J.L. No. 171), Dagband Saliabaria (J.L. No. 172) and south-eastern of mouza Krishnapur Madanpur (J.L. No. 18), then it sharply bends north-westward following the southern and northern western boundaries of the said mouza Krishnapur Madanpur (J.L. No. 181), southern of mouza Bagberia (J.L. No. 68), eastern of mouza Kachuz (J.L. No. 66), eastern southern and western of mouza Singhapara (J.L. No. 65), western of the said mouza Kaochus (J.L. No. 68), south-eastern and southern boundaries of mouza Digberia (J.L. No. 74), southern boundary of mouza Abdulpur (J.L. No. 53), then the line again bends southward along the south-eastern boundary of mouza Chandnagar (J.L. No. 44), eastern and south-eastern of mouza Delharia (J.L. No. 45), south-eastern of mouza Gonngar (J.L. No. 49), north-eastern of mouza Donnagar (J.L. No. 48) within P.S. Barasat;

Then it follows the eastern boundary of mouza Ganti (J.L. No. 1), eastern, south-eastern and south of mouza Gopalpur (J.L. No. 2), south-eastern of mouzas Atghara (J.L. No. 10), and Teghari (J.L. No. 16), eastern of mouzas Krishnapur (J.L. No. 17), and Malishbathan (J.L. No. 18) within P.S. Rajpur:

Then it follows the north-eastern and eastern boundaries of mouza Dhopa Manpur (J.L. No. 1) within P.S. Bhangar;
Thereafter the same line runs along the southern boundaries of mouzas Dhapa (J.L. No. 2) and Choubaga (J.L. No. 3), eastern boundaries of mouzas Nonadanga (J.L. No. 10), Madurda (J.L. No. 12), Kalikapur (J.L. No. 20), Barakhola (J.L. No. 21), north-eastern and eastern of mouza Chak Ganiagachi (J.L. No. 24) and eastern of mouza Chak Garia (J.L. No. 26) within P.S. Tollygunge;

Then it runs along the northern and eastern boundaries of mouza Dheelu (J.L. No. 43), north-eastern of mouza Tentulbaria (J.L. No. 44), northern and eastern of mouza Kamrabah (J.L. No. 41) eastern of mouza Gorkhara (J.L. No. 22), eastern and southern of mouza Sonarpur (J.L. No. 39), thereafter it proceeds southward along the eastern boundary-line of Rajpur Municipality, and then along the eastern boundaries of mouzas Chak Harinabhi (J.L. No. 33) and Bangiadharpur (J.L. No. 34) within P.S. Sonarpur;

Then it proceeds southward along the eastern boundary-line of Rajpur Municipality and thereafter it follows the eastern boundaries of mouzas Mallikpur (J.L. No. 10), Ganespur (J.L. No. 12), Sultanpur (J.L. No. 16), Boralia (J.L. No. 17), Kapindapur (J.L. No. 18), Baruipur (J.L. No. 31) and B eliaghata (J.L. No. 67) within P.S. Baruipur;

3. Southern boundary

In district 24-Parganas:

The aforesaid line then takes a turn towards the west following the southern boundary of the said west mouza Beliaghata (J.L. No. 67), southern boundaries of mouzas Sasan (J.L. No. 66), Paschim Madhabpur (J.L. No. 51), Sanpukuria (J.L. No. 50), southern and western of mouza Nihata (J.L. No. 49), western of mouza Madhya Kalyanpur (J.L. No. 42), south-western of mouza Dhopagachhi (J.L. No. 43) within P.S. Baruipur;

Then it follows the southern and western boundaries of mouza Baragachhia (J.L. No. 86), then it runs northward following the western boundaries of mouzas Srikrishnapur (J.L. No. 85), Baragachhia (J.L. No. 84), Baruli (J.L. No. 83), Ragunathpur (J.L. No. 68), then it takes a turn towards the west and follows the southern boundary of mouza Jayanpur (J.L. No. 66), eastern, southern and western of mouza Hogalkuria (J.L. No. 67), south-western of mouzas Ban Hugli (J.L. No. 65) and Danga (J.L. No. 64) within P.S. Sonarpur;

Thereafter the line follows the southern boundaries of mouzas Magurkhali (J.L. No. 35), Ramjibanpur (J.L. No. 34), Sajnabaria (J.L. No. 33), Gopalnagar (J.L. No. 32), Kalua (J.L. No. 22), Hanspukuria (J.L. No. 20) within P.S. Behala;

(Second Schedule.)

It then proceeds along the southern boundaries of mouzas Kalagachhia (J.L. No. 40), Senkaripota (J.L. No. 36), Naoabad (J.L. No. 35), Khanberia (J.L. No. 32), Chandigar (J.L. No. 31), Sibhugli (J.L. No. 21) and Rameswarpur (J.L. No. 20) within P.S. Maheshtola;

Thereafter the same line follows the southern boundaries of mouzas Betuabali Rajarampur (J.L. No. 26), Santoshpur (J.L. No. 25), Uttar Raipur (J.L. No. 15), Benjan Saria Charial (J.L. No. 13), eastern and southern of mouza Nischintapur (J.L. No. 35) and southern of mouzas Uttar Ramchandrapur (J.L. No. 37), Raghunathpur (J.L. No. 40), Rajarampur (J.L. No. 41), Achulpur (J.L. No. 44) within P.S. Budge Budge; and then it proceeds further westward in a straight line and meets the western boundary-line of District 24-Parganas in the river Hooghly.

4. Western boundary

Thereafter the same line proceeds northward following the western boundary-line of District 24-Parganas. [Kolkata], District—24 Parganas and Nadia in the river Hooghly and meets the starting point of the northern boundary.

Explanation.—The expression "[Kolkata]" means the area comprised within the local limits for the time being of the ordinary original civil jurisdiction of the High Court at [Kolkata].

SECOND SCHEDULE
(See section 27.)

A. Amendments to the [Kolkata] Improvement Act, 1911 (Ben. Act V of 1911).

1. In sub-section (2) of section 17, for clause (a), the following clause shall be substituted, namely:—

"(a) the Chairman—such period not exceeding three years as may be fixed by the State Government:
Provided that the State Government may, if it thinks fit, extend or reduce the period from time to time.".

2. For section 177, the following sections shall be substituted, namely:—

"Power of State Government to supersede the Board.
177. (1) If in the opinion of the State Government it is necessary so to do with a view to better co-ordination and speedier execution of development work and maintenance thereof the State Government may, by an order published in the Official Gazette and mentioning therein the reason for the order, supersede the Board for such period as may be specified in the order.

1See foot-note 1 on page 110, supra.
For removal of doubts it is hereby declared that no notice whatsoever is required to be given to the Board for submission of any representation before making any such order of supersession under sub-section (1).

(3) The State Government may, if it considers necessary so to do, by order, extend or modify from time to time the period of supersession.

Consequences of supersession.

177A. (1) When an order of supersession has been made under section 177, then with effect from the date of the order—

(a) all Trustees of the Board and all members or other persons constituting committees shall vacate their respective offices;

(b) all properties, funds and dues which are vested in or realisable by the Board and the Chairman, respectively, shall vest in and be realisable by the 'Kolkata' Metropolitan Development Authority;

(c) all contracts and liabilities which are enforceable by or against the Board shall be enforceable by or against the 'Kolkata' Metropolitan Development Authority;

(d) all the powers and duties which may, under the provisions of this or any other Act or any rule, regulation, bye-law, order or notification made thereunder, be exercised or performed by the Board, committee or the Chairman shall be exercised or performed by the 'Kolkata' Metropolitan Development Authority;

(e) all legal proceedings instituted by or against the Board may be continued or enforced by or against the 'Kolkata' Metropolitan Development Authority;

(f) all officers and other employees of the Board continuing in office immediately before the date of the order shall be deemed to be employed by the 'Kolkata' Metropolitan Development Authority on such terms and conditions not being less advantageous than what they were entitled to immediately before the said date.

(2) The State Government shall, before the expiration of the period of supersession, reconstitute the Board in accordance with the provisions of this Act.

(3) The State Government may make such incidental or consequential orders as may appear to it to be necessary for giving effect to the order made under sub-section (1) or (3) of section 177 or under sub-section (2) of this section."

1See foot-note 1 on page 110, ante.
For section 184, the following sections shall be substituted, namely:

184. (1) If in the opinion of the State Government it is necessary so to do with a view to better co-ordination and speedier execution of development work and maintenance thereof the State Government may, by an order published in the Official Gazette and mentioning therein the reason for the order, supersede the Board for such period as may be specified in the order.

(2) For the removal of doubts it is hereby declared that no notice whatsoever is required to be given to the Board for submission of any representation before making any such order of supersession under subsection (1).

(3) The State Government may, if it considers necessary so to do, by order, extend or modify from time to time the period of supersession.

Consequences of supersession.

184A. (1) When an order of supersession has been made under section 184, then with effect from the date of the order—

(a) all Trustees of the Board and all members or other persons constituting committees shall vacate their respective offices;

(b) all properties, funds and dues which are vested in or realisable by the Board and the Chairman, respectively, shall vest in and be realisable by the [Kolkata] Metropolitan Development Authority;

(c) all contracts and liabilities which are enforceable by or against the Board shall be enforceable by or against the [Kolkata] Metropolitan Development Authority;

(d) all the powers and duties which may, under the provisions of this or any other Act or any rule, regulation, bye-law, order or notification made thereunder, be exercised or performed by the Board, committee or the Chairman shall be exercised or performed by the [Kolkata] Metropolitan Development Authority;

(e) all legal proceedings instituted by or against the Board may be continued or enforced by or against the [Kolkata] Metropolitan Development Authority;

(f) all officers and other employees of the Board continuing in office immediately before the date of the order shall be deemed to be employed by the [Kolkata] Metropolitan Development Authority on such terms and conditions, not being less advantageous than what they were entitled to immediately before the said date.
(2) The State Government shall, before the expiration of the period of supersession, reconstitute the Board in accordance with the provisions of this Act.

(3) The State Government may make such incidental or consequential orders as may appear to it to be necessary for giving effect to the order made under sub-section (1) or (3) of section 184 or under sub-section (2) of this section.”


After section 190, the following sections shall be inserted, namely:

"Power of State Government to supersede the Authority.

90A. (1) If in the opinion of the State Government it is necessary so to do with a view to better co-ordination and speedier execution of development work and maintenance thereof the State Government may, by an order published in the Official Gazette and mentioning therein the reason for the order, supersede the Authority for such period as may be specified in the order.

(2) For the removal of doubts it is hereby declared that no notice whatsoever is required to be given to the Authority for submission of any representation before making any such order of supersession under sub-section (1).

(3) The State Government may, if it considers necessary so to do, by order, extend or modify from time to time the period of supersession.

Consequences of supersession.

90B. (1) When an order of supersession has been made under section 90A, then with effect from the date of the order—

(a) all Directors and members of the Authority shall vacate their offices;

(b) all properties, funds and dues which are vested in or realisable by the Authority shall vest in and be realisable by the [Kolkata] Metropolitan Development Authority;

(c) all contracts and liabilities which are enforceable by or against the Board shall be enforceable by or against the [Kolkata] Metropolitan Development Authority;

(d) all the powers and duties which may, under the provisions of this or any other Act or any rule, regulation, bye-law, order or notification made thereunder, be exercised or performed by the Authority shall be exercised or performed by the [Kolkata] Metropolitan Development Authority;"

[West Ben. Act XIII of 1979.]

(Second Schedule.)

(a) all legal proceedings instituted by or against the Authority may be continued or enforced by or against the 'Kolkata Metropolitan Development Authority;

(b) all officers and other employees of the Authority continuing in office immediately before the date of the order shall be deemed to be employed by the 'Kolkata Metropolitan Development Authority on such terms and conditions not being less advantageous than what they were entitled to immediately before the said date.

(2) The State Government shall, before the expiration of the period of supersession, re-establish the Authority in accordance with the provisions of this Act.

(3) The State Government may make such incidental or consequential orders as may appear to it to be necessary for giving effect to the order made under sub-section (1) or (3) of section 90A or under sub-section (2) of this section."

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1See foot-note 1 on page 110, ante.