

THE ASSAM TOWN AND COUNTRY PLANNING (AMENDMENT) BILL, 2022

A BILL

further to amend the Assam Town and Country Planning Act, 1959.

Preamble

Whereas it is expedient to amend the Assam Town and Country Planning Act, 1959, hereinafter referred to as the principal Act, in the manner hereinafter appearing;

Assam
Act No. 1
of 1960

It is hereby enacted in the Seventy-third Year of the Republic of India as follows:-

Short title, extent and commencement

1. (1) This Act may be called the Assam Town and Country Planning (Amendment) Act, 2022.
- (2) It shall have the like extent as the principal Act.
- (3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

Amendment of section 2

2. (i) In the principal Act, in section 2, for clause (1), the following shall be substituted, namely,-
“(1) “Authority” means the Development Authority constituted by the State Government for the purpose of implementation of the provisions made under this Act. In case of Municipal areas, Authority shall be the Municipal Boards or Municipal Corporation constituted under the Assam Municipal Act, 1956 and Guwahati Municipal Corporation Act, 1969. Where there is no Development Authority or Municipality, the office of the Deputy Director/Assistant Director of Town and Country Planning under whose jurisdiction the area falls, shall perform the functions to carry out the provisions of this Act and rules made hereunder.”
- (ii) for clause (10), the following shall be substituted, namely,-
“(10) “Master Plan” means a statutory plan document, prepared for stream-lining the land use within the delineated planning area. It is a long term plan that provides a conceptual layout for the future urban growth and development.”
- (iii) after clause (10), the following new clauses (10A) and (10B) shall be inserted, namely,-
“(10A) “Development Plan” means a plan for the development or redevelopment or improvement of an area within the jurisdiction of an Authority as defined under clause (1) of section 2 of this Act. A Development Plan may be a Regional Development Plan, a Metropolitan Development Plan, Area Development Plan, Master Plan, Peripheral Zone Development Plan, Town Development Plan, Zonal Development Plan, District Development Plan, Local

Assam Act
XV of 1957

Assam Act I
of 1973


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Area Plan, Town Planning Scheme or any other plan or scheme prepared under this Act by whatsoever name known;

(10B) "Zoning Regulation" means regulations for the use of land, buildings built thereon, consistent with maintaining the minimum standard of density of building, protection of open spaces, sanitation and environmental hygiene etc. for the different zones proposed in the Zoning Plan of the Master Plan."

(iv) after clause (16), the following new clauses (16A), (16B), (16C), (16D), (16E) and (16F) shall be inserted, namely, –

"(16A) "Town Planning Scheme" means a comprehensive plan for a particular area within the framework of the Master Plan, if any or for the local planning area. The planning process consists of merging and redistribution of land parcels in the urban expansion zone.

(16B) "Transferable Development Right" means a development right to transfer the potential of a plot designated for a public purpose in a plan under this Act, expressed in terms of total permissible built-up space calculated on the basis of floor area ratio allowable for that plot, for utilization by the owner himself or by way of transfer by him to someone else from the present location to a specified area in the plan as additional built-up space over and above the permissible limit in lieu of compensation for the surrender of the concerned plot free from all encumbrances to the Urban Local Body (ULB).

(16C) "Accommodation Reservation" means a permission to the owner of the land, which is required for public amenities in any plan prepared under this Act, to use the potential of a plot in the form of built-up space guided by Floor Area Ratio, in addition to the area required for the amenities, in lieu of the cost of the land and the built-up space of such amenity, to be transferred to the Authority as prescribed;

(16D) "Local Area Plan" is the principal statutory planning instrument for setting out a balanced understanding, vision and spatial strategies at the local level within the framework of Master Plan;,

(16E) "Transit Oriented Development" is the integration of landuse with Transport Systems, which is essentially any development, macro or micro that is focused around a transit node, and facilitates complete ease of access to the transit facility thereby inducing people to prefer walk and use public transport over personal modes of transport;

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(16F) "Central Business District (CBD)" is that part of the city which contains the principal commercial streets. It is the functional area of a city that has maximum concentration of commercial, retail and business activities;"

(v) after clause (17), following clause (17A) shall be inserted, namely,-

"(17A) "Town Planning Officer" means Deputy Director or Assistant Director of Town and Country Planning, Assam appointed by the State Government."

Amendment of section 3 3. In the principal Act, in section 3, for sub-section (1), the following shall be substituted, namely,-

"(1) The State Government shall constitute the council, by notification published in the Official Gazette to advise the Government on matters referred to it. The Council shall consist of the following members, namely:-

(i)	Minister in- Charge of Department of Housing and Urban Affairs	Chairman
(ii)	Director of Town and Country Planning, Assam	Secretary
(iii)	Senior most Secretary, Department of Housing and Urban Affairs	Member
(iv)	Senior most Secretary, Public Works Department (B and NH) or his nominee	Member
(v)	Senior most Secretary, Public Works Department (Roads) or his nominee	Member
(vi)	Senior most Secretary, Water Resource Department or his nominee	Member
(vii)	Senior most Secretary, Public Health Engineering or his nominee	Member
(viii)	Senior most Secretary, Panchayat and Rural Development	Member
(ix)	Senior most Secretary, Finance Department or his nominee	Member
(x)	Senior most Secretary, Revenue Department or his nominee	Member
(xi)	Senior most Secretary, Transformation and Development Department or his nominee	Member
(xii)	Senior most Secretary, Department of Transport or his nominee	Member
(xiii)	Senior most Secretary, Environment and Forest Department or his nominee	Member
(xiv)	Six others non official members half of whom shall be elected by the Assembly and the rest shall be nominated by the State Government	Member

(xv)	Such member of representatives of Local Authorities falling within the area as may be covered by the Master Plan not exceeding two or may be co-opted by the Council by a notification, published in the Official Gazette	Member”
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Insertion of section 7A,7B,7C

“Functions and Powers of the Council

4. In the principal Act, after section 7, following new sections 7A, 7B and 7C shall be inserted, namely,-

- 7A (1) Subject to the provisions of this Act and rules framed there under, the functions of the Council shall be to advise the Government in matters relating to planning and development and use of rural and urban land in the State, to guide, direct and advise the District Offices of Town and Country Planning or any other Development Authority/(ies) constituted under the Act and to perform such other functions as the Government may, from time to time assign to the Council.
- (2) In particular and without prejudice to the generality of the foregoing provision, the Council may and, if required by Government, shall,-
- (a) advise on preparation of policies for Urban Development;
 - (b) advise on the delineation of the Planning Area(s) for purposes of planned development and direct the preparation of Development Plan;
 - (c) direct the preparation of one or more Development Plan(s) and/or Regional Plan (s) by the Authorities;
 - (d) perform any other functions which is incidental, supplemental or consequential to any of the functions mentioned above;
 - (e) evaluate and review the operations made by various Government Departments/ Institutions, in the context of implementation of the Plans prepared under this Act, based on the consolidated reports forwarded by the District Offices of Town and Country Planning and the Development Authorities and submit reports thereon to the Government;
 - (f) advise the Government on,-
 - (i) resolving issues, if any, pertaining to inter-district spatial planning and infrastructure development; and

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(ii) identification of probable location of major investment inputs which are likely to have substantial impact on the development scenario of the State;

(g) perform such other functions as may be prescribed.

(3) The Council may exercise all such powers as may be necessary or expedient for the purpose of carrying out its functions under this Act.

Meetings of the Council

7B (1) The Council shall meet at such times and place as it thinks fit, not less than twice in a year and shall observe such procedure as may be prescribed in regard to the transaction of its business at such meetings.

(2) The Chairperson or in absence of the Chairperson, any member chosen by the members from amongst themselves, shall preside over the meeting of the Council.

Office of the Council

7C The office of the Director, Town and Country Planning, Assam shall act as the office of the Council.”

Amendment of section 8A

5. In the principal Act, in section 8A, after sub-section (2), the following sub-section shall be inserted, namely, -

“(3) Where no Authority is constituted, the Deputy Director/ Assistant Director of Town and Country Planning under whose jurisdiction the area falls shall perform functions to carry out the provisions of this Act.”

Amendment of section 8B

6. In the principal Act, in section 8B, in sub-section (1),

(i) for clause (c), the following shall be substituted, namely, -

“(c) Town Planning Officer of the Authority shall be the Deputy Director/ Assistant Director of the respective district office of the Directorate of Town and Country Planning, Assam under whose jurisdiction the Authority falls. He/she shall be the Member Secretary of the Authority”.

(ii) in clause (e), in second line, in between the word “Officer” and “as the” the following shall be inserted, namely,-

“of the concerned District shall be the Vice Chairman of the Development Authority”.

(iii) in clause (g), in between the words “representing” and “Commerce” the words “Chamber of” shall be inserted.

(iv) for clause (i), the following shall be substituted, namely,-

“(i) one member representing District Industries and Commerce Centre (Public Sector) shall be nominated by the State

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Government.”

(v) for clause (j), the following shall be substituted, namely:-

“(j) (i) President of Gaon Panchayat ,
(ii) President of Anchalik Panchayat,
(iii) Chief Executive Officer of Zila Parisad and
(iv) Block Development Officer of the area covered by
the Master Plan.”

(vi) for clause (l), the following shall be substituted, namely,-

“(l) One Member each from Public Works (Roads) Department
and Public Works Building and National Highways Department.”

(vii) after clause (m), the following new clauses (n), (o), (p) and (q) shall
be inserted, and thereafter the existing clause (n) shall be
renumbered as clause (r) namely,-

“(n) Chief Engineer, Water Resource Department or his nominee,

(o) One member from Airport Authority (wherever applicable),

(p) One member from Forest Department,

(q) Two eminent Social workers to be nominated by the State
Government.”

Amendment of 7.
section 8D

“The powers and functions of a Development Authority shall be-

(i) to undertake the preparation of Development Plan,
Development Scheme, Town Planning Scheme or any other
plan under the provisions of this Act for the Master Plan area
and also to prepare fringe area plan in the periphery of a town
to prevent haphazard and uncontrolled growth as per guidelines
published by the Government from time to time in this respect
in the Official Gazette;

(ii) to carry out surveys in the Master Plan area for the preparation
of development plans, town Planning Schemes or such other
plans;

(iii) the Authority shall have the power to acquire, by way of
purchase or otherwise, hold, manage, plan, develop and
mortgage or otherwise dispose of land and other property, to
carry out by or on its behalf building, engineering, and other
operations, to execute works in connection with services and
amenities and generally to do anything necessary or expedient
for purposes incidental thereof;

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- (iv) to guide, direct and assist the local authority or authorities and/or other statutory authorities functioning in the urban development area in matters pertaining to the planning, development and use of urban land as per the Master Plan;
- (v) to control the development activities in accordance with the Master plan in the Master Plan area;
- (vi) to levy and collect such security fees for scrutiny and processing of documents and for permission for development as may be prescribed;
- (vii) to enter into contracts, agreements or arrangements with any person or organisation as the Development Authority may deem necessary for performing its function;
- (viii) to exercise such other powers and perform such other functions as are supplemental, incidental or consequential to any of the foregoing powers and functions or as may be directed by the State Government.”

Amendment of 8.
section 8G

In the principal Act, in section 8G, after sub-section (2), the following sub-sections (3) and (4) shall be inserted, namely, -

- “(3) Notwithstanding anything contained in this Act, or the rules made thereunder, the Government may, after consulting all the Development Authorities, may by notification create any class of officers or employees of the Authorities into an Urban Development Authorities Service for the State.
- (4) The methods of recruitment, conditions of service, pay and other allowances, and conduct of such officers and employees of the Urban Development Authorities service, shall be as may be prescribed.”

Insertion of 9.
new section 8I
and 8J

In the principal Act, after section 8H, the following new sections 8I and 8J shall be inserted, namely, -

“Declaration of
Planning Areas

- 8I (1) The Government may, for the purpose of securing planned development of regions or areas within the State, after consultation with the Director, Town and Country Planning Assam, declare by notification, published in the Official Gazette, any such region or area or regions or areas, including a Metropolitan Area or area for development of new towns in the State to be a Planning Area, by whatsoever name known for the purposes of this Act.
- (2) Every such notification shall precisely define the limits of such Planning Area.

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- (3) The Government, after consultation with the Director, Town and Country Planning Assam, may declare, with reference to such Planning Area, its surrounding area, defining clearly and unambiguously, as its Peripheral Area:
- (4) The Government, after consultation with the Director, Town and Country Planning Assam and the concerned Authorities, may amalgamate two or more Planning Areas into one Planning Area, sub-divide Planning Area(s) into different Planning Areas and include such sub-divided areas in any other Planning Area.
- (5) The Government, by notification, published in the Official Gazette may direct that all or any of the rules, regulations, orders, directions and powers made, issued, and in force in any other Planning Area at that time, with such exceptions, adaptations and modifications, as may be considered necessary to apply to the area declared as amalgamated or included in a Planning Area under this section and such rules, regulations, bye-laws, orders, directions and powers forthwith shall apply to such Planning Area without further publication.
- (6) When Planning Areas are amalgamated or sub-divided, the Government after consultation with the Director, Town and Country Planning Assam, shall frame a Scheme determining what portion of the balance of the funds shall vest in the Planning Authority (ies) concerned and in what manner the properties and liabilities of the Planning Authority (ies) shall be apportioned amongst them and on the Scheme being notified, the fund, property and liabilities shall be vested and be apportioned accordingly.
- (7) On or after the date of such notification of declaration of the Planning Area as well as Peripheral Area, the Government may impose such restrictions and conditions for transaction or any use of land in any part lying within these areas for such period as it considers necessary for preparation and implementation of the Master Plan or any other Plan as described in this Act in the manner prescribed.

Withdrawing of
Planning Area

- 8J (1) The Government, after consultation with the Director, Town and Country Planning Assam may, by notification, published in the Official Gazette withdraw from the operation of any of the provisions of this Act, the whole or a part of any Planning Area declared.

- (2) When such a notification is issued for any Planning Area:-

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- (a) the relevant provisions of this Act and all notifications, rules and regulations, orders, directions and powers issued, made or conferred under this Act shall, cease to apply to the said area.
- (b) the Government shall, after consulting the Authority (ies) concerned, frame a Scheme for determining the portion of the balance of the fund of the Planning Authority that shall vest in the Government and the Local Authority (ies) concerned and in what manner the properties and liabilities of the Authority shall be apportioned between the Government and the Local Authority (ies) and on the Scheme being notified, the fund, property and liabilities of the Authority shall vest and be apportioned accordingly.”.

Amendment of 10.
section 9

In the principal Act, for section 9 ,the following shall be substituted, namely,-

“ (1) Master Plan is a statutory plan document, prepared for streamlining the land use within the delineated planning area. It is a long term plan that provides a conceptual layout for the future urban growth and development. The uniform zoning regulation notified by the State Government from time to time shall be used in laying down broad directions of growth and controlled urban development on rational lines.

(2) A Master Plan hereinafter referred to as “Plan” in this Act for the development of any area within the state which the State Government may consider necessary, shall be drawn up by the Director or the Office of the Deputy Director/ Assistant Director of the Director Town and Country Planning in consultation with the local authority/ authorities concerned and submitted to the State government through the Advisory Council for examination and approval.”

Amendment of 11.
section 10

In the principal Act, in section 10, in sub-section (1), in second line, the words “and the regulation” appearing in between the words “plan” and “from” shall be deleted and in third line, in between the word “published” and “in”, the words “in the Official Gazette and in some local newspaper” shall be inserted.

Amendment of 12.
section 11

In the principal Act, for section 11 ,the following shall be substituted, namely,-

“Contents of
Master Plan

11. The Master Plan as defined under section 9 shall include, as far as may be applicable, the following namely:-

(1) **EXISTING LANDUSE MAP:**

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- (i) **Residential:** (including slum areas, space for affordable housing and Government provided housing Scheme, if any);
 - (ii) **Commercial :** major markets and commercial hubs including existing and proposed vending zones and vendors markets, daily and weekly markets, etc.;
 - (iii) **Industrial:** current manufacturing areas and industrial warehouses, etc; also including, current and proposed LPG Storage areas;
 - (iv) **Public/Semi-public:** Pay and Use Toilets, Cemetery, Burial and Cremation grounds, Religious buildings, Lifeline Buildings like Hospitals, PHCs, Police stations, Major Institutional Buildings like educational institution and offices such as Deputy Commissioner's office, Fire Stations; etc;
 - (v) **Recreational spaces:** Parks, gardens, stadium and sports complex ;
 - (vi) **Open Spaces:** Restricted developable multi-purpose open space like maidans for public assembly, functions, sports, etc.;
 - (vii) **Green belt:** Restricted development, including plantations, fisheries, urban forestry, hills, grazing lands, barren land, non-agricultural char areas in and along rivers, etc.;
 - (viii) **Eco-zone :** Undevelopable areas, including Reserved forest, wetlands, wildlife corridors, sanctuaries, etc.
 - (ix) **Agriculture;**
 - (x) **Water bodies:** Rivers, beels, wetlands, swamps, big ponds, Natural channels as already demarcated in Cadastral maps;
 - (xi) **Transport:** Bus terminals, Truck Terminals, Airport, railway station, internal water ways, etc.;
 - (xii) **Special areas:** Old-build up, Heritage, Pilgrimage and Notified Archeological sites, if any.
- (2) **PROPOSED LAND USE MAP:**
- (i) **Residential:** (also including slum areas, space for affordable housing and Government provided housing Scheme, if any);


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- (ii) **Commercial:** major retail and wholesale markets and commercial hubs including existing and proposed vending zones and vendors markets, daily and weekly markets, etc.;
- (iii) **Industrial:** current manufacturing areas and industrial warehouses, etc., also including, current and proposed LPG Storage areas;
- (iv) **Public/Semi-public:** Pay and Use Toilets, Cemetery, Burial and Cremation grounds, Religious buildings, Stadiums, Lifeline Buildings like Hospitals, Primary Health Centres, Police stations, major Institutional Buildings like educational institution and offices such as Deputy Commissioner's office, Fire Stations, etc.;
- (v) **Agriculture;**
- (vi) **Open Space:** Restricted developable multi-purpose open space like maidans for public assembly, functions, sports, etc.;
- (vii) **Green belt:** Restricted development, including plantations, fisheries, urban forestry, hills, grazing lands, barren land, non-agricultural char areas in and along rivers, etc.
- (viii) **Eco-zone :** Undevelopable areas, including Reserved forest, wetlands, wildlife corridors, sanctuaries, etc.;
- (ix) **Recreational spaces:** Parks, gardens, stadium and sports complex ;
- (x) **Water bodies:** Rivers, beels, wetlands, swamps, big ponds; Natural channels as already demarcated in Cadastral maps;
- (xi) **Transport:** Bus terminals, Truck Terminals, Airport, railway station, internal water ways, etc.;
- (xii) **Special areas:** Old-city Build-up, Heritage, Pilgrimage and Notified Archeological sites, if any, in proposed area;
- (xiii) **Composite uses:** Mix of Commercial, Residential, Public-semi public, existing industrial, etc.;
- (xiv) Eco-sensitive zones;
- (xv) Central Business District(CBD);
- (xvi) Transit Oriented Development zones.(TOD);
- (xvii) Transferable Development Right emanating zones;

(3) **PROPOSED ZONING MAP**


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- (i) Residential;
- (ii) Commercial;
- (iii) Industrial;
- (iv) Public and Semi-public;
- (v) Agriculture;
- (vi) Green belt;
- (vii) Recreational Spaces;
- (viii) Open Spaces;
- (ix) Eco-zone ;
- (x) Transport zones;
- (xi) Water Bodies;
- (xii) Composite Zone;
- (xiii) Eco-sensitive zones;
- (xiv) Central Business District (CBD);
- (xv) Transit Oriented Development zones (TOD);
- (xvi) Transferable Development Right (TDR) emanating zones;
- (xvii) Land use permissibility in different zones.

(4) PROPOSED CIRCULATION MAP

(Existing and proposed)

- A. (i) Road hierarchy in the city including bye-pass road;
- (ii) Demarcation of incomplete loops of major roads;
- (iii) Bus terminals, and major bus stops (with or without infrastructure);
- (iv) Freight zones and Logistics (including truck and inland water) ;
- (v) On-street parking for trucks and heavy vehicles and other vehicles (only existing);
- (vi) Proposed truck and heavy vehicle parking bays, designated parking for other vehicles ;
- (vii) Major accident-prone zones;
- (viii) Multi-car parking; mechanized parking, proposed parking for major transit zones like bus stops, railway station and ferry ghats, proposed parking for major commercial and institutional areas;
- (ix) Designated Cycle tracks in suitable streets;
- (x) Footpaths of minimum 2 metre width;
- (xi) Proposed major rotary and junction improvements (road curves, signals signage, etc.);

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- (xii) Proposed streets for Street lighting;
- (xiii) Railway track (existing track and proposals by Railways, if any);
- (xiv) Inland water transport (Ferry ghats, and their freight zones);
- (xv) Petrol/diesel Filling Stations;
- (xvi) Fly-overs, bridges, river bridges;
- (xvii) Transit Oriented Development zones.(TOD).

B. Alignment and Reservation of land

(5) PROPOSED UTILITIES PLANS

(existing and proposed)

(i) Water Supply and Drainage Plan:

(a) Water Supply Plan: Distribution zones, Intake points, raw water mains, Water treatment plant, Clean water overhead reservoirs, distribution network, important ponds for intake of water by Fire Department during disaster/emergency, fire hydrants.

(b) Drainage plan: delineation of basin area, major drains, sluice gates, silt traps, if any, major water logged areas.

(c), Alignment and Reservation of land

(ii) Sewerage plan and Solid Waste Management Plan

(a) Sewerage plan: indicating trunk lines below and along roads, sewerage treatment plant (lower-most points of the city for analyzing gravity flow);

(b) Solid Waste Management: Location of Urban Local Body (ULB)-provided garbage bins; major garbage dumping areas near vegetable and fish markets; commercial areas, residential areas, Vending zones, Bus terminus, industrial areas, etc.; garbage collection points; garbage transfer stations; Industrial effluent treatment plants; Urban Local Body (ULB) Disposal Sites for garbage treatment/recycle; current and proposed landfill site.

- (6) At the time of preparation of the Master plan, concerned District Disaster Management Authority shall be consulted,

relevant norms, rules, plans etc. as provided by the District Disaster Management Authority shall be considered and incorporated in the Master Plan.

- (7) A report giving relevant data and information in respect of the proposals in the Plan and any other things which the State Government may deem necessary.”

Amendment of section 12

13. In the principal Act, in section 12,

- (i) in second line, the words “and the Regulations” appearing in between the words “Plan” and “they” shall be deleted.
(ii) in last line, after the word ‘behalf’ the following shall be inserted, namely:-

“The copies of final Master Plan shall also be sent to all other stakeholder Agencies/ Departments for implementation of projects in compliance with the Master Plan/ Uniform Zoning Regulation and Building Rules/Byelaws. Any micro level Project, Scheme etc which are not specified in the Master Plan but proposed to be undertaken by the related Agencies/Departments shall be intimated to the Director, Town and Country Planning, Assam for necessary updation in the Master Plan.”

Insertion of section 12A

14. In the principal Act, after section 12, the following new section 12A and 12B, 12C and 12D shall be inserted, namely ,-

“Area without any Authority


12A. Where no authority is constituted; concerned Office of the Deputy Director/ Assistant Director of Directorate of Town and Country Planning Assam shall be the implementing authority of Master Plan, Zoning Regulation, Building Rule/ Building Bye Law and all the provisions as mentioned in the Act. The required Planning Permit shall be issued by the Office of the Deputy Director/ Assistant Director under Director of Town and Country Planning, Assam.

Implementation of Master plan when not notified

12B. Notwithstanding anything contained in this Act or any other Act or rules, where there is no Master Plan notified, in that case, the Deputy Director/ Assistant Director of the District Offices of Town and Country Planning, Assam shall implement the provisions of Master Plan, Zoning Regulation, Building Rule/Building Bye Law etc, through preparation of Proposed Landuse and Zoning Map as per section 11 of this Act.

Procedure for implementing Master Plan

12C. (1) All development projects including commercial, industrial, public and semi-public, recreational, residential projects etc. shall conform to the provisions of the Master Plan, Zoning Regulation, Building Bye Law/ Rules etc. Moreover all


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private development by individual and group shall also conform to the same.

- (2) The applicant shall obtain a Zoning Certificate from the Deputy Director/ Assistant Director of the Town and Country Planning under whose jurisdiction the area falls before applying for any building or land sale permission from the concerned Authority to ensure whether the proposed use is permissible in the zone.
- (3) The concerned Authority shall forward all such applications received for building and land sale permission to the Deputy Director/ Assistant Director of Town and Country Planning under whose jurisdiction the area falls for scrutinizing whether such proposals are in conformity with the Master Plan, Zoning Regulation, Building Bye Law/Rule etc and to obtain recommendation from him for the same. The concerned Authority shall not grant/reject any such permission without obtaining the said recommendation by the Deputy Director/Assistant Director of Town and Country Planning.

No
reclassification
of Agricultural
landuse

- 12D. Notwithstanding anything inconsistent therewith contained in any other law for the time being in force, there shall be no reclassification of Agriculture land use to residential landuse if such land already falls in the residential zone earmarked in the Master Plan of the City or Area. The landuse prescribed in the Zoning Map of Master Plan shall prevail and permissible activities as provided in the Uniform Zoning Regulation as notified by the state shall be allowed to operate.”

Amendment of
section 13

15. In the principal Act,
- (i) after sub-section (2), the following sub-section (2A) shall be inserted, namely –
“(2A). The Authority shall furnish the applicant with a written acknowledgment of its receipt and after satisfying itself that the development charge and scrutiny fees, if any, payable by the applicant has been paid and after making such inquiry as it thinks fit may, subject to the provisions of this Act, by order in writing.-

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(i) Grant the permission with or without any condition; or

(ii) Grant the permission, subject to any general or special orders made by the State Government in this behalf.”

(ii) after sub-section (4), the following sub-sections (4A) and (4B) shall be inserted, namely, –

“(4A). If any person carries out any development work or retains the use of any building or work or continues the use of land in contravention of the provisions of section 13 or of any permission granted under sub-section (1) of this section, the Authority may direct such person, by notice in writing, to stop further progress of such work or to discontinue any use and may, after making an inquiry in the prescribed manner, remove or pull down any building or work carried out and restore the land to its original condition or, as the case may be.

(4B). Any expenses incurred by the Authority under sub-section (4) shall be a sum due to the Authority under this Act from the person in default.”

(iii) for sub section (5), the following shall be substituted, namely:-

“(5) Notwithstanding anything contained in the sub-section (1) to (4) of this section, no person shall make any construction or land development by land filling, which blocks the flow of a natural drainage channel or a drain constructed by the local Authority. The Authority shall serve a notice to the person under whose instance the construction or land development has been undertaken, requiring him to pull down or remove the work for such contravention within a period of three days.”

Amendment of section 13A

16. In the principal Act, in section 13A, after the last line, the following shall be inserted, namely, –

“The Town Planning Officer of the Authority shall scrutinize such application for NOC before it is placed for approval by the Authority.”

Insertion of section 13B

17. In the principal Act, after section 13A the following section 13B shall be inserted, namely, –

“Lapse of permission


13B. Every permission granted or deemed to have been granted under section 13 of this Act shall remain in force for a period of two years from the date of such grant and thereafter it shall lapse:

Provided that, the Authority may, on application made to it accompanied with required fee, from time to time, extend such period by a further period or periods not exceeding one year at a

time, so however, that the extended period shall in no case exceed five years in the aggregate :

Provided further that the lapse of the permission as aforesaid shall not bar any subsequent application for fresh permission under this Act.”.

- Insertion of new section 21A
18. In the principal Act, after section 21, the following new sections 21A, 21B, 21C, 21D, 21E, 21F and 21G shall be inserted, namely, --
- “Detailed Town Planning Scheme
- 21A. *"Detailed Town Planning Scheme"* means a layout plan for a particular area within the designated planning area, conceived within the framework of the Master Plan, if any, providing detailed proposals, indicating the manner in which the use of land and development therein shall be carried out.
- Power to take up Detailed Town Planning Schemes
- 21B. After commencement of this Act, by notification in the Official Gazette, the Authority may undertake development of an area, including regulation of activities in that area, under its jurisdiction, by framing and implementing Detailed Town Planning Schemes, within the framework of Master Plan, if any, under this Act.
- Scope and Contents of Town Planning Scheme
- 21C. (1) A Town Planning Scheme may have detailed proposals, including but not limited to the following matters, namely:-
- (a) establishment of new housing development schemes for different income groups including housing for economically weaker sections of the society, destitutes, women and children in distress, disabled, physically challenged, senior citizens etc.;
 - (b) establishment of commercial centres, including specialised markets, wholesale and retail trade centres;
 - (c) establishment of tourist centres and tourism related infrastructure;
 - (d) establishment of industries, industrial estates, factories, service industries etc.;
 - (e) development and landscaping of open spaces, recreational grounds, parks, zoological and botanical gardens and social forestry;
 - (f) conservation of ecologically sensitive areas;
 - (g) protection of environmentally sensitive areas;


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- (h) conservation of heritage sites and buildings, objects of historical importance or natural beauty and of buildings actually used for religious purposes;
 - (i) proposals for natural hazard prone areas;
 - (j) resettlement, rehabilitation and up-gradation of slum areas;
 - (k) provision of health care, religious, cultural and educational facilities;
 - (l) construction, reconstruction, alteration, improvement and maintenance of public roads and streets, bridges, pedestrian facilities, safe path for the cycle-riding, parking facilities, transport terminals including bus depots, bus bays, bus stops, street lighting and avenue plantation, improvement of road junctions;
 - (m) provision of public transportation including mass transportation;
 - (n) informal sectors;
 - (o) such other matters not inconsistent with the objects of this Act, as may be considered necessary.
- (2) Every Detailed Town Planning Scheme shall contain details, as far as may be applicable, in respect of,-
- (a) land assembly over which the Detailed Town Planning Scheme is to be implemented;
 - (b) layout plan and other relevant drawings and details including, if necessary, the imposition of conditions and restrictions in regard to the open space to be maintained about buildings, the number, and character of buildings allowed in specified areas, the purposes for which buildings or specified areas may or may not be appropriated, the subdivision of plots, the discontinuance of objectionable uses of land in any area in reasonable periods, floor area ratio, coverage, height, parking space, the size of projections and advertisement signs and hoardings;
 - (c) total estimated cost, source of funding, cost recovery statement, if any;
 - (d) manner of disposal of assets, if any;

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- (c) management and maintenance mechanism; and
- (f) any other matters as may be considered necessary for ensuring planned development.”

Procedure for
preparation,
publication and
sanctioning of
Town Planning
Scheme

- 21D (1) The Authority may, at any time, by resolution, decide to prepare or adopt a Town Planning Scheme and shall notify same, in the Official Gazette and in at least one newspaper having wide circulation and such notification shall contain the boundaries of the planning area and the purpose for which such Plan is intended to be prepared.
- (2) The Authority shall, in consultation with the Director, Town and Country Planning, State Government and other Government Departments and agencies, prepare or get prepared a draft Town Planning Scheme for the planning area within two years from the date of notification in the Official Gazette of the intention to prepare the Plan under sub-section (1) above, after reviewing Plans, if any, prepared earlier, duly approve such plan through resolution of the Advisory Council, and publish the draft Town Planning Scheme in the website and the notice of publication in the Official Gazette and in at least two newspapers having wide circulation in the local planning area, of which one must be in the regional language, specifying the place or places where a copy of the same is available for inspection and also inviting objections and suggestions to be submitted within 60 (sixty) days from the date of publication of the notice in the Official Gazette.
- (3) After the expiry of the period allowed under sub-section (2) above for filing objections and suggestions, the Authority concerned shall consider all the objections and suggestions received and shall after allowing a reasonable opportunity of being heard, to any person who has made a request for being so heard, make such modifications in the Town Planning Scheme as it considers proper, as far as possible, within a period of sixty days from the time limit prescribed for receiving objections and suggestions under sub-section (2) above and shall submit the Town Planning Scheme with or without modifications, together with all objections and suggestions in original, for sanction of the Government.

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- (4) The Government may, as far as possible, within sixty days from the date of the receipt of such Town Planning Scheme after considering all objections and suggestions in consultation with the Director, Town and Country Planning, either accord sanction with or without modifications or refuse such sanction specifying reasons thereof:

Provided that if the Town Planning Scheme is returned for incorporating modifications, if any, suggested by the Government, the modified Town Planning Scheme shall be resubmitted within ninety days for sanction as if the same is submitted afresh under this Act.

- (5) Immediately after a Town Planning Scheme is sanctioned by the Government under this Act the Authority concerned shall notify the fact of sanctioning of the Town Planning Scheme in the Gazette and publish a notice in at least one local newspaper having wide circulation mentioning the place or places where a copy of the same shall be available to the public for reference or for sale. The sanctioned Town Planning Scheme shall also be published in the website of the Director, Town and Country Planning.
- (6) The procedures for sanctioning the Town Planning Scheme specified above shall continue to be in operation until sanction has been accorded, even if the time limit specified under sub-sections (2) to (4) above are not complied with:

Provided that in cases where a sanctioned Master Plan or Town Planning Scheme already exists in the area, its provisions shall only apply until the published Town Planning Scheme is sanctioned in accordance with this Act.

Set-up special function agencies 21E. An appropriate Authority, with the prior approval of the Government, may set-up special function agencies for the performance of such specific functions, in accordance with and not inconsistent with the objects of this Act, in such cases where it considers appropriate that it would be in public interest and would effect economy and efficiency in the performance of the functions assigned to it."

Town Planning Schemes that are published but not sanctioned within the time limit prescribed Local Area Plan 21F Notwithstanding anything contained in this Act. in respect of any area for which planned development is necessary and the published Town Planning Scheme is not sanctioned within the time limit prescribed, the Government, may, after making such enquiry as they may deem necessary, require the Development

Authority concerned to process and sanction the Town Planning Scheme as laid down in this Act.

21G (1) Preparation of Local Area Plan :

Subject to the provisions of this Act or any other law for the time being in force, the Authority may after the draft Master Plan has been notified by the Government, prepare Local Area Plan(s) for the purpose of implementing the proposals contained in the Master Plan or as per the requirement as identified by the Authority or Government time to time and prepare Local Area Plan for such area or areas within its jurisdiction or any part thereof:

Provided that when the notification of a draft Master Plan has been notified in the Official Gazette the Government may direct an Authority to prepare or invite Local Area Plan through the district office of Director of Town and Country Planning Assam under which jurisdiction the areas falls as per Local Area Plan so identified.

(2) Scope and Contents of the Local Area Plan:

- (i) A Local Area Plan may be made in accordance with provisions of this Act in respect of any land which is,-
- (a) In the process of development,
 - (b) Likely to be used for any development including building purposes, or
 - (c) Already built upon
 - (d) For the purpose of redevelopment
 - (e) For the purpose of undefined as investment area or zone by the Government
 - (f) Likely to be used for Transit Oriented Development Zone or any other Rapid Transit System Zone
 - (g) Any other purpose which meant for the comprehensive development of the area

Explanation:-

- The expression "land likely to be used for building purposes" shall include any land likely to be used as or for the purpose of providing adequate open spaces, roads, streets, parks, pleasure or recreational grounds, parking spaces, market area, institutional area, healthcare facility

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- etc. 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.
- (ii) A Local Area Plan may make provisions for any or all of the following matters, namely:-
- (a) The area, ownership and tenure of all existing plots covered by the scheme;
 - (b) The laying out or relaying out of land, either vacant or already built upon;
 - (c) The filling up or reclamation of low-lying swamp or unhealthy areas or leveling up of land;
 - (d) Layout of new streets or roads, construction, diversion, extension, alteration, improvement, closure or relocation of streets, roads and communications;
 - (e) The reconstitution of plots;
 - (f) The construction, alteration and removal of buildings, bridges and other structures;
 - (g) The allotment or reservation of land for roads, open spaces, gardens, parks, recreation grounds, schools, markets, residential purposes, industrial and commercial activities, green belts and dairies, transport facilities and public purposes of all kinds, the portion of land which can be acquired;
 - (h) Undertaking housing schemes for different income groups, including housing for economically weaker sections (EWS), commercial areas, industrial estates, provision of community facilities like schools, hospitals and similar type of developments;
 - (i) Drainage, sewerage, surface or sub-soil drainage and sewage disposal;
 - (j) Lighting;
 - (k) Water supply;
 - (l) The preservation and protection of objects of historical importance or of natural beauty and of buildings actually used for religious purposes;
 - (m) the imposition of conditions and restrictions in

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regard to the open space to be maintained around 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;

- (n) The suspension, so far as may be necessary, for the proper carrying out of the scheme, of any rule, bye-law, regulation, notification or order made or issued under any Act which the State Legislature is competent to amend;
 - (o) Acquisition by purchase, exchange, negotiating settlement or otherwise of any property necessary for or effected by the execution of the scheme;
 - (p) The reservation of land for development of infrastructure, parks, common amenities, parking etc, shall be made from the total area covered under the scheme, as prescribed in the Rules.
 - (q) Such other matters not inconsistent with the objects of this Act, as may be directed by the Government or as may be prescribed.
- (3) Approval of the Local Area Plan:
- (i) The draft Local Area Plan prepared by the Authority shall be submitted by the Authority to the Director, Town and Country Planning Assam for further draft notification by the Government.
 - (ii) The Authority shall examine the Local Area Plan in the light of the Act and objections that may be received from the stakeholders, giving reasonable opportunity of being heard to all such interested stakeholders who have filed objections and who have made request for being so heard in the manner prescribed within the period of sixty (60) days from the date of publication of draft Local Area Plan. Further, the Authority shall make such amendments in

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the draft of the Local Area Plan as it considers proper and shall, as soon as may be, but not later than the time prescribed by the Rules, submit to the Director, Town and Country Planning Assam for Govt. approval of the Local Area Plan through an order published in Official Gazette, with or without modifications and it shall also provide a copy of the objections received by it and its decisions thereon.

- (iii) The Authority shall, after incorporating all the modification or changes, if any after the expiry of sixty (60) days from the draft publication of the Draft Local Area Plan, shall submit to the Director, Town and Country Planning for placing it before the Advisory Council for approval and final publication in the Official Gazette after the recommendation of the Advisory Council.

(4) Power of the Government to require the Authority to make Local Area Plan:

- (i) Notwithstanding anything contained in this Act, the Government may, in respect of any Planning Area after making such enquiry as it deems necessary, direct the concerned Authority through the Director, Town and Country Planning Assam to make and publish in the prescribed manner, a Local Area Plan in respect of any land in regard to which a Local Area Plan may be made.
- (ii) If the Authority fails to make the Local Area Plan within three months from the date of direction made under clause (i) above, the Government may direct the Director, Town and Country Planning Assam to make and publish and submit the Local Area Plan to the Government, and thereupon the provisions of this Act shall, as far as may be applicable, apply to the making of such Local Area Plan.

(5) Power of Government to suspend rules, bye-laws or regulations:

- (i) Where the Local Area Plan through order published in Official Gazette, the Government may, on an application by the Authority, suspend by order published in the Official Gazette to such extent only as may be necessary for the purpose of carrying out

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of the Local Area Plan, any rule, bye-law, regulation, notification or order made or issued under any law which the Legislature of the State is competent to amend.

- (ii) Any order issued under clause (1) above shall cease to operate in the event of the Local Area Plan being withdrawn by the Planning Authority either on its own or under the directions of the Government.
- (iii) No person shall within any area where a Scheme has come into force erect or proceed with any building or work or remove or alter or make additions or make any substantial repair to a building or a part of it, a compound wall or any drainage work or remove any earth or change the use of any land or building except on permission of the authority on application submitted for the purpose. Unless the permission has been refused within one month from the date of receipt of the application it shall be presumed that the permission has been given.

(6) Appeal against matters determined by the Authority:

From every decision of the Authority in matters arising out of aforesaid provisions, an appeal shall lie within one month from the date of the decision, to the Tribunal constituted under this Act.

(7) Exclusion or Limitation of Compensation in Certain Cases:

- (i) No compensation shall be payable in respect of any property or private right of any sort which is alleged to be injuriously affected by reason of any provision(s) contained in the Local Area Plan, if under any other law for the time being in force applicable to the area for which such Local Area Plan is made, no compensation is payable for such injurious affection.
- (ii) Any property or a private right of any sort shall not be deemed to be injuriously affected by reason of any provision contained in a Local Area Plan securing the amenity of the area included in such Local Area Plan or any part thereof or imposing any conditions and restrictions in regard to any of the matters specified in clause (1) above.

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(8) Decision of Authority to be final in certain matters:

- (i) Where no appeal has been made under sub-section, (6) section 21 the decision of the Authority shall be final and binding on the parties.
- (ii) Where an appeal has been made under sub-section (6) and a copy of the decision in appeal is received by the Authority, it shall then, where necessary, make variation in the Local Area Plan in accordance with such decision and may also rectify such error(s) or omission(s), if any, as may have been brought to its notice after publication of the Local Area Plan and shall also forward such Local Area Plan together with copies of its decisions and copies of the decisions in appeal to the Board.

(9) Power to Vary Scheme on ground of error, irregularity or informality:

- (i) If after the Local Area Plan has come into force, the Authority considers that the Local Area Plan is defective on account of an error, irregularity or informality or that the Local Area Plan needs variation or modification of a minor nature, the Authority shall prepare and publish a draft of such variation in the prescribed manner and submit to Government for notification in the Official Gazette through the Director, Town and Country Planning Assam,
- (ii) The draft variation published under clause (i) above shall state every amendment proposed to be made in the Local Area Plan, and if any such amendment relates to a matter specified in the Act, the draft variation shall also contain such other particulars as may be prescribed.
- (iii) The draft variation shall be open to the inspection of the public at the office of the Authority during office hours for one month.
- (iv) Not later than one month from the date of the publication of the draft variation, any person affected thereby may communicate in writing his objections to the Authority.
- (v) After receiving the objections under clause (iv) above, the Planning Authority shall after making such enquiry as it may think fit, notify the variation

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with or without modification by submitting it to Government for notification in the Official Gazette through the Director, Town and Country Planning Assam.

- (vi) From the date of the notification of the variation, with or without modifications, such variation shall take effect as if it were incorporated in the Local Area Plan.

(10) Power to vary Local Area Plan:

Any Local Area Plan may at any time be varied by a subsequent Local Area Plan made, and published in accordance with this Act:

Provided that, when an Local Area Plan is so varied, the provisions of this Act shall, so far as may be applicable, apply to such variation and making of subsequent Local Area Plan; and the date of publication of the varied Local Area Plan shall be deemed to be the date of publication of the Local Area Plan referred in the relevant sections.

(11) Execution of Works in the Local Area Plan by the Authority:

- (i) The Authority shall complete all the works provided in a Local Area Plan within the period prescribed;
- (ii) Notwithstanding anything contained in clause (i) above, require the Authority to complete the works within a further period as it may consider reasonable or appoint other agency/agencies to complete such works.”

Amendment of section 22 19. In the principal Act, in sub-section (1), in fourth line, in between the word “the” and “minimum” the word “height” shall be inserted.

Amendment of section 30 20. In the principal Act, in section 30, before the word “should” the punctuation mark and number “(1)” shall be inserted and in the sixth line, after the word “plan” the words “within a period of 7 days from the date of notice served” shall be inserted and thereafter the following new sub-sections (2) and (3) shall be inserted, namely:-

“(2) If any building is erected or re-erected in contravention of any development scheme or any Building Byelaws/ Building Rules or without plans having been deposited to the Authority or not withstanding rejection of plans or otherwise then in accordance with any requirements under this Act/ Building Byelaws/ Master Plan, the Authority shall serve a notice to the person under whose

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instance the construction has been undertaken, requiring him to pull down or remove the work for such contravention within a period of 7 days.

- (3) If a person to whom a notice has been served under the foregoing provisions of this Section fails to comply with the notice, the Authority may pull down or remove the work in question or effect such alteration therein as Authority may deem necessary and may recover from him the expenses incurred during the demolition. Such action shall be taken by the Authority after expiry of 7 days of the Notice served under the foregoing provisions of this section.”


Amendment
of section 31

21. In the principal Act,
(i) in section 31, in the second line, in between the words “not exceeding” and “on any person” for the word and number “Rs. 250”, the word and number “Rs. 50000” shall be substituted and in the sixth line, the words “may be imposed for the days after the first conviction” shall be deleted.
(ii) in the fifth line, in between the words “a fine of” and “per day” for the word and number “Rs. 50” the word and number “Rs. 1000” shall be substituted

Amendment
of section 33

22. In the principal Act, for section 33, the following shall be substituted, namely, -
“(1) Any land required, reserved or designated in any Master Plan, Development Scheme, Town Planning Scheme shall be deemed to be land needed for a public purpose within the meaning of “The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013”, or any other Land Acquisition Act in force from time to time, and may be acquired by the Government under the said Act as modified in the manner provided in this Act on request by the respective Authority or Director, Town and Country Planning Assam.
(2) Where any land has been acquired by the Government, after taking possession of the land, the Government may transfer the land to the concerned Authority for the purpose for which the land has been acquired on payment by the concerned Authority of the compensation awarded under that Act and of the fee.

Central
Act 30
of 2013


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- (3) On receipt of an application made under sub-section (1) above, if the Government is satisfied that the land specified in the application is needed for the public purpose specified therein, the Government may make a declaration to that effect in the Gazette, in the manner provided in relevant section of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.
- (4) On the publication of such declaration, the Deputy Commissioner of the district within whose jurisdiction the land is situated, shall proceed to take order for the acquisition of such land under the said Act; and the provisions of that Act shall, so far as may be, apply to the acquisition of the said land.”.

Insertion of 23.
section 33A,
33B, 33C and
33D

In the principal Act, after section 33, the following new sections 33A, 33B, 33C and 33D shall be inserted, namely:-

“Transfer of
Government Land
to the Respective
Authority

33A The Government may by order and on such terms and conditions as may be agreed upon between the Government and the concerned Authority, place at the disposal of such Authority any developed and undeveloped government lands situated within the jurisdiction of such Authority for the purpose of development in accordance with the provisions of this Act.

Purchase of Land
by Negotiated
Settlement

33B Where after the publication of a Master Plan, Development Scheme, Town Planning Scheme, any land is required, reserved or designated in such plan, the concerned Authority may enter into agreement with any person for acquisition from him by purchase by paying such amount as may be arrived through negotiated settlement:


Provided the amount shall not exceed the minimum reserve value of land by more than the limit as decided by the Council and approved by the Government.

Acquisition of
Land by
Transferable
Development
Right

33C (1) Any area within a Master Plan Area, Development Scheme Area, Town Planning Scheme Area may be acquired by the Authority for public purposes with the consent of the owner, by way of according Transferable Development Right in lieu of compensation payable by the authority in such manner as may be prescribed:

Explanation: - For the purpose of this section public purpose means:-

- (a) Widening of an existing road or formation of a new road, provision for drainage, sewer lines etc;
- (b) Creation of civic amenities and infrastructure
- (c) Providing for parks, playgrounds, open spaces, green areas and any other civic amenities;


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(d) Maintaining or improving heritage building or precincts notified by the State Government

(e) Conservation of heritage sites

(f) Implementation of development control regulations

(2) The Transferable Development Right so permitted may be utilized either by himself or by transfer to any other person, as may be prescribed. The area remaining after surrender shall have such permissible built up area as may be prescribed by the Rules or Regulations or bye-laws.

(3) The procedure for award of Transferable Development Right shall be as may be prescribed.”

Acquisition of
Land by
Accommodation,
Reservation

33D A Planning Authority or the Local Authority may, with the consent of the owner, acquire land and built up space for public purposes indicated in the Development Plan from the owner, and provide a built up space equivalent to area of the land and the built up space required for the amenity or facility, in lieu of the cost of land and the built up space acquired for the infrastructure, public amenity, public utility and services which is transferred to the respective Planning Authority or Local Authority, in the manner as may be prescribed.”

Amendment of
section 34

24. In the principal Act, for section 34, the following shall be substituted, namely:-

“Disposal of
Land or other
Property by the
Authority

34 The disposal of any land acquired by the Government and transferred to the respective Authority with or without development thereon, or any other immovable property belonging to the Authority shall be provided to land owner following the procedure as may be prescribed for the purpose.”

Insertion of
section 34A

25. In the principal Act, after section 34, the following new section 34A shall be inserted, namely:-

“Creation and
Management of
Development
Land Bank

34A The concerned Authority shall create and maintain a land bank, in which all lands acquired, allotted, purchased and obtained, shall be monitored and maintained and reviewed periodically.”

Insertion of
section 36A to
36U

26. After section 36, the following new sections 36A to 36U shall be inserted, namely:-

“Authority to
prepare Land
Pooling Scheme

36A Subject to the provisions of this Act or any other law for the time being in force, after the final Master Plan shall be notified by the State Government in the Official Gazette for the purpose of implementing the proposals contained in the plan, the Authority shall prepare one or more Land Pooling Schemes for any part of the area within their jurisdiction.


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Declaration of
intention to
prepare Land
Pooling Scheme

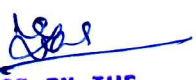
- 36B (1) The Authority may by a resolution declare its intention to make Land Pooling Scheme in respect of any part of the area within its jurisdiction for which a final Master Plan shall be notified in the Official Gazette by the State Government.
- (2) The Authority shall publish the declaration in the form of a notice in at least two local news papers.
- (3) The declaration published under sub-section (2) above shall contain the following, namely:-
- (a) The resolution of the Authority declaring its intention to prepare a Land Pooling Scheme.
- (b) The name of the place or places as well as the copy of the plan showing the boundary of the area to be included in the Land Pooling Scheme together with the proposals of the final Master Plan for that area shall be open for inspection of the public during office hours; and
- (c) An invitation to furnish information in the form prescribed (to be appended with the notice) within thirty days from the date of publication of such notice in respect of any title or interest which any person may have, in the land or building covered by the intended Land Pooling Scheme.
- (4) The Authority shall forward a copy of the resolution together with the notice and the plan as indicated in sub section (3) above to the Government through the Director, Town and Country Planning Assam.

**Engagement of
the Project
Planner**

- 36C Immediately before the declaration of the intention to prepare the Land Pooling Scheme, the Authority shall, with prior approval of the Director, Town and Country Planning Assam engage a Project Planner, for preparation of Land Pooling Scheme.

**Contents of
Land Pooling
Scheme**

- 36D The Land Pooling Scheme shall contain the following particulars or details, namely:-
- (a) The area, ownership and tenure of all original plots covered by the Land Pooling Scheme.
- (b) Reservation, acquisition or allotment of land with general indication of such uses of land, which is contained in the Land Pooling Scheme and the terms and conditions, subject to which, such land is to be pooled for the Scheme;
- (c) The laying out or relaying out of the land either vacant or already built upon.
- (d) Preservation proposal for all eco-sensitive areas, RAMSAR


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sites, forest areas, water catchment areas, natural water bodies, streams, rivers, lakes, etc.

- (e) The extent to which it is proposed to alter the boundaries of the original plots in accordance with the proposed Land Pooling Scheme as the reconstituted final plots.
- (f) An estimate of the total cost of the Land Pooling Scheme and the net cost to be borne by the Authority.
- (g) Proposals to allocate Transferable Development Right (TDR) to any final plot owner in lieu of loss of area from the original plot with the consent of the owner; and
- (h) The imposition of conditions and restrictions in regard to the open space to be maintained around the buildings, the percentage of building area for a plot, the number, height and character of buildings allowed in specified areas, the purpose for which buildings or specified areas may or may not be appropriated, the sub-division of plots, the discontinuance of objectionable uses of land in any area in reasonable periods, parking space, loading and unloading space for any building and the size of projections and advertisements;
- (i) Any other particulars as may be considered necessary by the Project Planner.

**Reconstitution
of Original
Plots into Final
Plots**

36E

- (1) In a Land Pooling 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 up to ensure that the buildings, as far as possible, comply with the provisions of the Land Pooling Scheme as regards to open spaces.
- (2) For the purpose of sub-section (1), the Land Pooling Scheme may contain proposals:-
 - (a) to form a final plot by reconstitution of an original plot by alteration of boundaries of the original plot, if necessary by the Project Planner.
 - (b) to form a reconstituted final plot, from an original plot by the transfer wholly or partially of the adjoining lands;
 - (c) to allot a reconstituted final plot to any land owner dispossessed in furtherance of the objectives of the Land Pooling Scheme; and
 - (d) to transfer the ownership of an original plot from one person to another.
 - (e) to provide ownership, with consent of the owners,


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having separate plots in originally, a joint ownership with or without alteration of boundaries, in common as a reconstituted plot.

Disputed ownership

- 36F (1) Where there is a disputed claim as to the ownership of any piece of land included in an area in respect of which declaration of intention to prepare a Land Pooling Scheme has been made under section 36B and any entry in the records of rights or mutation register relevant to such disputed claim is inaccurate or inconclusive, an enquiry may be held by the Deputy Commissioner of the concerned district on submission being made by the Authority at any time for the purpose of deciding who shall be deemed to be the owner for the purpose of this Act.
- (2) Such decision of Deputy Commissioner shall be final but it shall not operate as a bar to a regular suit by the landowner or claimant.
- (3) Such decision if becomes inconsistent to any decree of civil court be corrected, and modified or rescinded in accordance with such decree as may be practicable after such decree has been brought to the notice of the Authority either by the civil court or by any person affected by such decree.
- (4) Where such a decree of the court is passed after the scheme has been notified under section 36K of this Act, such schemes shall be deemed to have been suitably verified by reason of such decree.

Restriction on of use of land after declaration of Land Pooling Scheme

- 36G (1) On or after the date of declaration of Land Pooling Scheme in the Official Gazette under sub-section (1) of section 36B of this Act,-
- (a) No person shall within the area included in the declaration erect or proceed with any building work remove, pull down, alter, make addition 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 Authority in the form prescribed;
- (b) The Authority on receipt of such application shall at once furnish the applicant with a written


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acknowledgment of its receipt and may, after an enquiry, either grant or refuse such permission or grant it subject to such condition as the Authority may think fit to impose. If the Authority communicates no decision to the applicant within thirty (30) working days 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 Authority may direct such person by a 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 the work or restore the land in respect of which such contravention is made to its original condition;
 - (d) Any expenses incurred by the Authority under clause (c) above, 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 compensation in respect of any damage, loss or injury resulting from any action taken by the Authority under sub-section (1) above except, in respect of a building or work begun or a contract entered into before the date on which the Authority has published the declaration of Land Pooling Scheme under sub section (2) of section 36B and only to such extent of such building or work which has already been proceeded at the time of the publication of the aforesaid declaration:

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 Authority.

- (3) Whereunder section 36D-
- (a) The purpose to which any plot of land may not be used has been specified, such plot and land shall, within such period of not less than one year, as may be stipulated in the scheme, cease to be used for such purpose and shall be used only for the purpose specified in the Land Pooling Scheme.
 - (b) The purpose to which any existing building may not be

used as 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 the purpose other than the purposes specified in the Land Pooling Scheme;

- (c) The purpose to which any plot of land with existing building may not be used has been specified in the Land Pooling Scheme and the existence of such building is inconsistent with the provisions of the Land Pooling Scheme, such building shall, within a period of not less than 10 years or a period as may be stipulated in the Land Pooling Scheme cease to exist:

Provided that such a period shall not be less than the reasonable life of the building as determined by the Authority;


- (4) Any person aggrieved by the decision of the Authority under this section may, within thirty days from the date of the decision, appeal to the Authority as may be prescribed and the order of the said Authority in appeal shall be final.
- (5) The provision of any development control and use of land as specified in this Act shall mutatis mutandis apply in relation to the unauthorized development or use of land included in a Land Pooling Scheme.
- (6) The restrictions imposed by this section shall cease to operate in the event of the Land Pooling Scheme being withdrawn by the Authority on its own or on the direction of the Government under section 36R.

**Engagement of
the Project
Planner**

36H Immediately before the declaration of the intention to prepare the Land Pooling Scheme, the Authority shall, with the prior approval of the Director, Town and Country Planning Assam, engage a project planner for preparation of the Land Pooling Scheme. The Project Planner shall be not below the rank of Assistant Director appointed by the State Government to the Directorate of Town and Country Planning, Assam.


**Preparation of
Land Pooling
Scheme**

- 36 I (1) Immediately after appointment, the Project Planner shall proceed to formulate a draft Land Pooling Scheme in accordance with the provisions of the sections 36D and 36E of this Act.
- (2) Immediately after the draft Land Pooling Scheme has been prepared, the Project Planner shall convene a meeting of the


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owners of the original plots through a public notice and explain the salient features of the draft Land Pooling Scheme. A brief record of the aforesaid meeting shall be maintained.

- (3) The Project Planner shall immediately thereafter proceed to prepare the final draft Land Pooling Scheme taking into account of the record of the meeting under sub-section (2) and decide any or all matters as given below:
- (a) Define, demarcate and decide the areas allotted to or reserved for the public purpose or purpose of the Authority and also the reconstituted final plots;
 - (b) Decide the person or persons to whom a reconstituted plot is to be allotted; when such plot is to be allotted; and in case such plot is to be allotted to persons in ownership in common, decide the share of such persons;
 - (c) Estimate the value of and fix the difference between the values of the original plots and the values of the reconstituted final plots included in the Land Pooling Scheme in the manner as prescribed under the rules and the amount of compensation payable for loss of the value and the area of in lieu thereof the extend of allowable Transferable Development Rights (TDR) if the owner so agrees;
 - (d) Estimate the compensation payable for the loss of area of the original plot in respect of any original plot which is wholly acquired under the Land Pooling Scheme or in lieu thereof, estimate allowable Transferable Development Rights (TDR) with the consent of the owner of the plot;
 - (e) 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 institutional, religious or charitable purposes at the date on which public notice declaring the intention of preparation of the Land Pooling Scheme is published under section 36B of this Act;
 - (f) Calculate the contribution to be levied on each reconstituted plot included in the Land Pooling Scheme, in order to partly meet the cost of the Land Pooling Scheme which shall be levied on all final plots excluding those allotted to the Authority in proportion


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to the area of the final plots allotted to each owner on pro-rata basis;

- (g) Where a plot is subject to a mortgage with possession or a lease, to decide the proportion of compensation payable to or contribution payable by the mortgagee or lessee on the one hand and the mortgagor or the lessor on the other hand;
- (h) Estimate in reference to claims made before him, after the notice given by him in the prescribed manner, the compensation to be paid to the owner of any property of right injuriously affected by the making of a Land Pooling Scheme in accordance with the provisions contained in this Act;
- (i) Determine the period in which the works provided in the Land Pooling Scheme shall be completed by the Authority:

Provided that the Project Planner may make variations in the Land Pooling Scheme subject to the condition that any variation estimated by him to involve an increase of 10% of the total cost of the Land Pooling Scheme or Rupees One Lakh whichever is lower shall require the sanction of the Authority.

- (4) Immediately after the draft final Land Pooling Scheme has been prepared, the Project Planner shall convene the second and final meeting of the owners of the original plots to whom final plots are been allotted through a public notice and explain the draft final Land Pooling Scheme. A brief record of the aforesaid meeting shall be maintained.
- (5) Immediately after the meeting under sub-section (4) above, the Project Planner shall decide all matters referred in sub-section (3) above, after taking into account the brief record of the aforesaid meeting and submit the draft Land Pooling Scheme to the Authority.
- (6) On receipt of the draft Land Pooling Scheme under sub-section (5) above, the Authority may make such modification in such scheme as it may consider necessary with the association of the Project Planner.
- (7) The Authority, after considering the provision under sub-section (6) above, of the draft Land Pooling Scheme, shall submit to the State Government for draft notification of the draft Land Pooling Scheme in the Government Gazette

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through the Director Town and Country Planning, Assam.

- (8) Immediately after the Gazette Notification of the draft Land Pooling Scheme, the Authority shall publish notice of the preparation of the draft Land Pooling Scheme in two local news papers for wide publicity and inviting objections and suggestions from the public within sixty days of the date of publication of the aforesaid notice in the newspaper. The notice shall state the name of the place or places where a copy thereof shall be available for inspection by the public and that copies thereof or extracts there from certified to be correct shall be available for sale to the public at reasonable rate.

**Consideration
of objections
and submission
of final draft**

- 36J (1) After the expiry of the time and the period mentioned in sub section 36 I, the authority shall examine the final draft Land Pooling Scheme in the light of the objections that may have been received and after giving reasonable opportunity of being heard to all such persons who have filed objections and who have made request for being so heard, may make such amendments as it considers proper and prepare the final draft Land Pooling Scheme.

- (2) The final draft Land Pooling Scheme prepared under sub section (1) above, shall be forwarded to Government for approval and final Official Gazette notification through the Director, Town and Country Planning Assam.

- (3) The Government, as far as possible, within sixty days from the date of receipt of such Land Pooling Scheme after considering all objections and suggestions in consultation with the Director Town and Country Planning Assam either accord sanction with or without modification or refuse such sanction specifying the reason thereof:

Provided that if the Land Pooling Scheme is returned for incorporating modifications, if any, suggested by the Government, the modified Land Pooling Scheme shall be resubmitted within ninety days for sanction as if the same is submitted afresh under this Act.

- (4) Immediately after a Land Pooling Scheme is sanctioned by the Government under this Act the Authority concerned shall notify the fact of sanctioning of the Land Pooling Scheme in the Gazette and publish a notice in at least two local newspapers having wide circulation mentioning the place or places where a copy of the same shall be available to the

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public for reference or for sale. The sanctioned Land Pooling Scheme shall also be published in the website of the Directorate of Town and Country Planning, Assam.

- (5) The procedures for sanctioning the Land Pooling Scheme specified above shall continue to be in operation until sanction has been accorded, even if the time limit specified under this Act are not complied with:

Provided that in cases where a sanctioned Master Plan or Land Pooling Scheme already exists in the area, its provisions shall only apply until the published Scheme is sanctioned in accordance with this Act.

Appeal

- 36K (1) From every decision contained in the Land Pooling Scheme, in matters arising out of clauses (a),(b),(c),(g) and (h) of sub-section (3) of section 36 I, an appeal shall lie within one month of the notification of approval of the Land Pooling Scheme to the appellate authority prescribed under this Act.
- (a) Any person aggrieved by the decision in appeal of the prescribed Authority in matters referred to in subsection (1) above, may appeal within sixty days from the date of decision of the prescribed Authority in appeal, to the District Judge within the local limits of whose jurisdiction the area included in the Land Pooling Scheme is situated.
- (b) The District Judge may transfer the appeal file before him to the additional District Judge for disposal.
- (c) The District Judge or the Additional District Judge, as the case may be, after making such enquiry as he may think fit, may either direct the Authority to reconsider the decision or accept, modify, vary or reject the decision contain in the approved Land Pooling Scheme and shall decide all matters arising out of clauses referred to in sub-section (1) above.
- (d) The decision of the District Judge or the Additional District Judge, as the case may be, shall be final and conclusive and binding on all persons. A copy of the decision in appeal shall be sent to Government and the Authority.
- (2) All other decisions pertaining to clauses (d) to (f) (both inclusive) and clause (i) of sub-section (3) of section 36 I contained in the Land Pooling Scheme shall forthwith be communicated to the party concerned and any party

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aggrieved by such decision may, within thirty days from the date of communication of the decision, appeal to the Tribunal for Land Pooling Scheme constituted under section 36M of this Act, in the manner and accompanied by such fee as may be prescribed.

(3) Notwithstanding anything contained in section 36M of this Act, the filing of the appeal in matters referred to in sub-section (1) above, to the prescribed Authority or to the Tribunal of appeal for Land Pooling Scheme, as the case may be, shall not operate as a bar to the execution of Land Pooling Scheme.

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

Central Act
36 of 1963

**Constitution of
Tribunal for
Land Pooling
Scheme**

36L (1) The Tribunal for Land Pooling Scheme shall be a permanent Tribunal to be appointed by the Government consisting of a Chairperson and two Assessors for all Land Pooling Scheme within the State.

(2) The Chairperson of the Tribunal for Land Pooling Scheme shall not be below the rank of a District Judge. A Civil Engineer not below the rank of Executive Engineer, Town and Country Planning Assam and a Town Planner not below the rank of Deputy Director, Town and Country Planning Assam shall be the two Assessors of the Tribunal. The Assessors shall be appointed by the Government by notification in the Official Gazette.

(3) The Government, as far as possible, within sixty days from the date of receipt of such Land Pooling Scheme after considering all objections and suggestions in consultation with the Director Town and Country Planning Assam either accord sanction with or without modification or refuse such sanction specifying the reason thereof:

Provided that if the Land Pooling Scheme is returned for incorporating modifications, if any, suggested by the Government, the modified Land Pooling Scheme shall be resubmitted within ninety days for sanction as if the same is submitted afresh under this Act.

(4) The Government may, if it thinks fit, remove for incompetence or misconduct or any other good and sufficient reason any assessors under sub-section (2) above.

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Place where Tribunal for Land Pooling Scheme may sit

36M The Tribunal for Land Pooling Scheme may sit either at the head quarter of the Chairperson or at any other place within the local limits of his jurisdiction which he may deem convenient for consideration and decision of any matter before such Tribunal for Land Pooling Scheme.

Decision on question of law and other questions

36N (1) All questions of law and procedure shall be decided by the Chairperson. All other questions shall be decided by the Chairperson and the two Assessors or by a majority of votes.
(2) The Tribunal while deciding an application under section 36 L of this Act, shall, have the same powers as are vested in a, Civil Court while trying a suit under the Code of Civil Procedure, 1908 in respect of the following matters, namely,-
(a) requiring the production and inspection of documents;
(b) Issuing of summons for hearing;
(c) Or any other matter which may be prescribed.

Central Act
5 of 1908

Tribunal for Land Pooling Scheme not to be court


36 O Nothing contained in this Act shall be deemed to constitute the Tribunal for Land Pooling Scheme to be a court.

Remuneration of Assessors and payment of incidental expenses of Tribunal for Land Pooling Scheme

36P (1) In exceptional cases where the Land Pooling Scheme is a large one or the work involved is complicated, the Government may authorize the Chairperson and the Assessors even to receive such special salary or remuneration, as the Government may, by order, decide from time to time.
(2) All expenses under sub-section (1) above, and all expenses incidental to the working of the Tribunal for Land Pooling Scheme shall, be defrayed out of the funds of the Government.

Withdrawal of Land Pooling Scheme by the Authority

36Q (1) If at any time before the Land Pooling Scheme is published under sub-section (7) of section 36 I and representation is made to the Authority by a majority of the owners in the area that the Land Pooling Scheme should be withdrawn, the Authority shall invite from all persons interested in the Land Pooling Scheme, objections to such representation.
(2) On receipt of the objection, and after making such inquiry as it may think fit the Authority by a notification in the Official Gazette, withdraw the Land Pooling Scheme and upon such withdrawal, no further proceedings shall be taken in regard to such scheme.
(3) Simultaneously with such withdrawal, the Authority shall submit to the Government the copy of the notice withdrawing


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the Land Pooling Scheme and a report of its enquiry made in this behalf.

- (4) At any time prior to the publication of the Land Pooling Scheme under sub-section (7) of section 36 I of this act, the Government if it is satisfied that it is in the public interest, may direct the Authority to withdraw a Land Pooling Scheme. Thereupon, the Authority shall withdraw the Land Pooling Scheme by a notification published in the Official Gazette. Upon such withdrawals, no further proceedings shall be taken in regard to such Land Pooling Scheme.

Effect of Scheme

36R On and after the day on which a Land Pooling Scheme comes into force:

- (1) All land required by the Authority shall, unless it is otherwise determined in such scheme, vest absolutely in the Authority free from all encumbrances.
- (2) All rights in the original plots which have been reconstituted as final plots shall stand determined, and the final plots shall become subject to the rights settled by the Authority and the land records shall be changed accordingly by the concerned Authority; and
- (3) The Authority shall hand over possession of the final plots to the owners to whom they are allotted.

Power of Authority to evict summarily

36S (1) On and after the day on which a Land Pooling Scheme comes into force, any person continuing to occupy any land which he is not entitled to occupy under the Land Pooling Scheme may, in accordance with the prescribed procedure, be summarily evicted by the Authority or any of its officers authorized in that behalf.

- (2) The Authority is opposed or impeded in evicting such person or taking possession of the land from such person, the Deputy Commissioner of the district concerned shall, at the request of the Authority enforce the eviction of such person or secure delivery of possession of the land to the Authority.

Power to enforce Land Pooling Scheme

36T (1) On and after the day on which the approval of a Land Pooling Scheme has been notified, the Authority after giving the prescribed notice and in accordance with the provisions of the Land Pooling Scheme:

- (a) Remove, pull down or alter any building or other civil works in the area included in the Land Pooling Scheme which is such as it contravenes the Land Pooling Scheme or in the erection of which or carrying out of

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which, any provision of the Land Pooling Scheme has not been complied with;

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

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

(3) If any action taken by the Authority is questioned, the matter shall be referred to the Government or any officer authorized by the Government in this behalf and the decision of the Government or of the said officer, as the case may be shall be final and conclusive and binding on all persons.

Power to make variations in Land Pooling Scheme

36U (1) If after the Land Pooling Scheme has come into force, the Authority considers that the Land Pooling Scheme is defective on account of an error, irregularity or informality or that the Land Pooling Scheme needs variation or modification of a minor nature, the Authority shall, by a notice in the local news paper prepare and publish a draft of such variation in the prescribed manner.

(2) The draft variation published under sub-section (1) above, shall state every amendment proposed to be made in the Land Pooling Scheme.

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

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

(5) After receiving the objection under sub-section (4) above, the Authority shall after making such enquiry as it may think fit; notify the variation with or without modification by notification in the Official Gazette and in at least two local news papers.

(6) From the date of the notification of the variation in the Official Gazette, with or without modifications, such variation shall take effect as if it were incorporated in the Land Pooling Scheme.

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- Power to vary Land Pooling Scheme 36V A Land Pooling Scheme may at any time be varied by a subsequent Land Pooling Scheme prepared and, published in accordance with this Act:
- Provided that, where a Land Pooling Scheme is so varied, the provisions of this act shall, so far as may be applicable, apply to such variation and making of subsequent Land Pooling Scheme and the date of publication of the varied scheme shall, for the purposes of section 36G and be deemed to be the date of publication of scheme referred to in this section.
- Apportionment of cost of Land Pooling Scheme withdrawn 36W In the event of a Land Pooling Scheme being withdrawn, the cost of the Land Pooling Scheme shall be borne by the Authority or be paid to the Authority, as the case may be by the owners concerned, in such proportion as the Government may in each case determine.”.
- Amendment of section 51 27. In the principal Act, for section 51, for sub-section (3),-
The following shall be substituted, namely:-
If after such time any such person under sub-section (1) continues to neglect or cause a breach of any specified provisions, such persons shall be liable to fine:-
(i) which may extend to 50000;
(ii) if the breach, neglect or failure continues the authority may further impose fine which may extend up to Rs. 1000 every day during which the breach neglect or failure continues after such fine.
- Amendment of section 54 28. In the principal Act, in section 54, in sub-section (3), in fourth line, for the words, and number “Rs. 30” the words and number “Rs. 1000” shall be substituted.
- Amendment of section 56 29. In the principal Act, in section 56, in clause (b), -
in fourth line, for the words and number “Rs. 500”, the words and number “minimum Rs. 50,000” shall be substituted and thereafter the words “or with or without simple imprisonment for a term which may extend to two months” shall be deleted.
- Amendment of section 61 30. In the principal Act, in section 61, in the third line, for the words “punishable with imprisonment which may extend to six months or with fine which may extend to or with both”, shall be substituted by the words “liable for fine which may extend to Rs. 50000 and departmental proceeding may be drawn against the erring officer as per provision of Government rules and regulation” shall be substituted.
- Insertion of new section 76 31. In the principal Act, after section 75, the following new section shall be

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inserted, namely:-

“Act to have
overriding
effect

76. Notwithstanding anything inconsistent therewith contained in any other law for the time being in force the provision of this Act shall prevail.”

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