

THE AZAD JAMMU & KASHMIR NEW MIRPUR TOWN DEVELOPMENT AUTHORITY ACT

(ACT VI of 1962)

Preamble:- Whereas it is expedient to make provision for the construction, development and extension of New Mirpur Town in the

Azad Jammu and Kashmir State, it is hereby enacted as follows :-

CHAPTER I PRELIMINARY

1. Title, extend and commencement:- (1) This Act may be called the Azad Jammu and Kashmir New Mirpur Town Development

Authority Act, 1962.

(2) It extends to the New Mirpur Town area of Azad Jammu and Kashmir State.

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

(1) "Land" includes land as defined in clause (a) of Section 3 of the Land Acquisition Act, 1894;

(2) "Street Alignment" means lines forming the boundaries of a street dividing the same from adjoining lands on either side ;

(3) "Building Line" means a line (in rear of the street alignment) upto which the main wall of a building abutting on a projected street may lawfully extend ;

(4) "Tribunal" means a tribunal constituted under Section 47;

(5) "New Mirpur Town Area" means the area to which this Act has been applied and the area within which the New Mirpur Town Development Authority has been created for the purposes of carrying out the provisions of the Act ;

The boundaries of the New Mirpur Town shall be as under:-

North: Triangulation grid line 10,96000 yards ;

South: Ridge of the hills between 10,94000 and 10,93000 Yards;

East: Triangulation grid line 35,88000 Yards ;

West: Triangulation grid line 35, 82000 vertical between 10,96000 and 10,95000 horizontal and 35,81500 vertical between 10,95000 and 10,94,000 horizontal ;

(6) All references to anything done, required, authorised, permitted, forbidden or punishable, or to any power vested, under this Act shall include anything done, required, authorised, permitted; forbidden or punishable or any power vested :-

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

(7) "Prescribed" means prescribed by rules made by the Government under this Act;

(8) "Notification" means notification published in the Official Gazette of Azad Jammu and Kashmir Government ;

(9) "Authority" means the New Mirpur Town Development Authority ;

(10) "Scheme" means the scheme of construction development and extension of New Mirpur Town ;

(11) "Government" means the Azad Government of the State of Jammu and Kashmir ;

(12) "Water and Power Development Authority" means the West Pakistan Water and Power Development Authority and includes any person empowered by that authority to perform any of its functions under this Act on its behalf ;

(13) "Agency" means any Department or organization of the Government and includes a Municipal Committee or other autonomous or semi-autonomous body set up by the Government.

CHAPTER II

CONSTITUTION OF NEW MIRPUR TOWN DEVELOPMENT AUTHORITY

Creation and incorporation of Town Development

Authority:- The duty of carrying out the provisions of this Act in New Mir Pur Town Area shall, subject to the conditions and limitations hereinafter contained, be vested in a board to be called The New Mirpur Town Development Authority" hereinafter referred to as Authority and this Authority shall be a body corporate and have perpetual succession and a common seal and shall by the said name sue and be sued .

Constitution of New Mirpur Town Development Authority:-

(1) The Authority shall consist of 5 members, namely :-

- (a) Chairman ;
- (b) One Representative of the Water and Power Development Authority ;
- (c) Three members nominated by the Government.

(2) The Chairman and 3 members shall be appointed by the Government and one Representative shall be nominated by the Water and Power Development Authority.

(3) The Government may appoint a Vice-Chairman from amongst the members referred in clauses (b) and (c) of sub-section (1). The Vice Chairman shall have powers, duties and functions as may be delegated to him by the Chairman.

Term of office of Chairman:- The term of office of the Chairman shall be five years, but when the Authority ceases to exist the said term of office shall be deemed to expire on the date of the dissolution of the Authority. He shall be eligible for re-appointment and he may be removed from office by the Government at any time.

Terms of office of other members:- The term of office of every member appointed or nominated under clauses (b) and (c) of sub-section (1) of section 4, shall be five years but when the Authority ceases to exist the said terms of office shall be deemed to expire on the date of the dissolution of the Authority. He may be removed from office at any time by the Authority that

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appointed or nominated him as a member.

Resignation of members:- (1) Any member may at any time resign his office, provided that his resignation shall not take effect until accepted by the Authority.

Commencement of term of office of first members:- (2) The term of office of appointed and nominated members shall commence on such date as shall be notified in this behalf by the Government.

(3) A person ceasing to be member by reason of the expiry of his term of office shall, if otherwise qualified be eligible for re-appointment or nomination again.

Filling of casual vacancies:- (1) When the place of a member appointed or nominated by the Government or the Water and Power Development Authority becomes vacant by his resignation, removal or death, the Government or Water and Power Development Authority shall appoint a person to till the vacancy.

(2) Every person appointed or nominated to fill a casual vacancy under this Section shall hold his place for the time for, and subject to the conditions upon which it was tenable by, the person in whose place he has been so appointed or nominated and no longer; but he may, otherwise qualified, be reappointed or nominated again.

Remuneration of Chairman, Vice-Chairman and members:-
The Chairman, Vice-Chairman and members shall receive such salary or remuneration may be sanctioned by the Government.

The Government may, by notification, remove any member :-

(a) if he refuses to act or becomes, in the opinion of Govt. incapable of acting or has been declared or subjected by a criminal Court to any such order as implies, in the opinion of the Government, a defect of character which unfits him to be a member ; or

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if he has been declared to be disqualified for employment in,

or has been dismissed from, the public service and the reason for the disqualification or dismissal is such as implies, in the

opinion of the Government, a defect of character which

unfits him to be a member ; or

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if he has absented himself for more than three consecutive months from the meeting of the Authority or of any committee of which he is a member and is unable to explain such absence to the satisfaction of the Government ; or

if, in the opinion of the Government, he has flagrantly abused his position as a member ; or

if he has knowingly acquired or continued to hold, without the permission in writing of the Government, directly or indirectly or by a partner, any share or interest in any contract or employment with, by or on behalf of the Authority ; or

if he has knowingly acted as a member in a matter other than a matter referred to in clause (iv) or (v) of the following proviso in which he or a partner had, directly or indirectly, a personal interest, or in which he was professionally interested on behalf of a client principal or other person ; or

if he has acted in contravention of Section 16 ; or

being a legal practitioner, if he acts or appears on behalf of any other person in any criminal proceedings instituted by or on behalf of the Authority; or

in the case of a salaried servant of the Azad Government of the State of Jammu and Kashmir, if his continuance in office is, in the opinion of the Government, unnecessary or undesirable :

Provided that a person shall not be deemed, for the purpose of clause (e), to acquire, or continue to have share, or interest in a contract or employment by reason only of his :-

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

(ii) having a share or interest in a newspaper in which an advertisement relating to the affairs of the Authority is inserted ; or

(iii) having a share in a joint stock company which shall contract with, or be employed by or on behalf of the Authority ; or

(iv) holding a debenture or otherwise being interested in a loan raised by or on behalf of the Authority ;

(v) being retained by the Authority as a legal practitioner ;
or

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

Disabilities of members removed under section 10:- (1) A member removed under clause (a) of Section 10, shall not be eligible for reappointment for a period of five years from the date of his removal:

Provided that if a member has been removed by reason of his having been declared an insolvent, he shall be eligible for reappointment when he shall have obtained his discharge.

(2) A member removed under any other provision of Section 10, shall not, be; eligible for reappointment until he is declared by the Government to be so eligible.

CHAPTER III PROCEEDINGS OF THE AUTHORITY & COMMITTEE

Headquarters of the Authority:- (1) For the purpose of its functioning, the headquarters of the Authority shall be situated at Mirpur, until the Authority establishes its headquarters elsewhere within the area of the New Mirpur Town.

(2) Meetings of the Authority:- (a) The Authority shall ordinarily meet for the transaction of business at least once in every month at such time as it may fix, provided that the Chairman may, whenever he thinks fit, and shall upon the written request of not less than two members call a special meeting ;

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(b) The quorum necessary for the transaction of business at an ordinary or special meeting shall not be less than three and when the business to be transacted is the formation of any scheme under Chapter IV the quorum shall not be less than four ;

(c) At every meeting the Chairman, if he be present, or in his absence such one of the members present as may be chosen

by the meeting, shall preside;

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At questions which come before any meeting shall be decided by a majority of the votes of the members present, the president of the meeting, in case of an equality of votes, having a second or casting vote ;

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Minutes of the names of the members present and of the proceedings at each meeting shall be drawn up and recorded in a book to be kept for the purpose, shall be signed by the person presiding at the meeting or at the next ensuing meeting, and shall at all reasonable times and without charge be open to inspection by any member.

(3) No member shall be entitled to object to the minutes of any meeting unless he was present at the meeting to which they relate.

Temporary association of members with the Authority for particular purposes:- (1) The Authority may associate with itself in such manner and for such period as may be prescribed by rules made under Section 60, any person whose assistance or advice it may desire in carrying out any of the provisions of the Act.

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

Constitution and functions of Committees:- (1) The Authority

may from time to time appoint committees of the Authority consisting of such persons of any of the following classes as it may deem fit, namely ;-

(i) Members ;

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(ii) Persons associated with the Authority under Section 13 ;

(iii) Other persons whose services, assistance, or advice the Authority may desire as members of such committees :

Provided that no such committee shall consist of less than three persons, and that at least out of them shall be a member of the Authority.

(2) The Authority may :-

(a) refer to such committees, for inquiry and report, any matter relating to any of the purposes of this Act ; and

(b) delegate to such committees by resolution and subject to any rules made under Section 60, any of the powers or duties of the Authority.

(3) The Authority, may, at any time, dissolve, or, subject to the provisions of subsection (1), alter the constitution of any such committees.

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

(5) All proceedings of any such committee shall be subject to confirmation by the Authority.

(6) Any person associated with the Authority under Section 13, or appointed a member of committee of the Authority under clause (iii) of subsection (1), shall be entitled to receive such remuneration either by way of monthly salary or by way of fees or partly in one of these ways and partly in the other as the Government may prescribe.

Meeting of the Committee:- (1) Committees appointed under Section 14, may meet and adjourn as they think proper, but the Chairman of the Authority may, whenever he deemed fit, call a special meeting of any such committee, and shall do so upon the written request of not less than two members thereof.

(2) The Chairman may attend any meeting of a committee appointed under section 14, whether he is a member of such committee or not, and shall preside at every such meeting at

which he is present, if he be absent, any member present and being a member of such committee may be chosen by the meeting to preside; provided that if only one member is present, he shall preside.

(3) All questions which come before any meeting of such committee shall be decided by a majority of the votes of the members present, the person presiding, in case of any equality of votes, having a second or casting vote.

(4) No business shall be transacted at any meeting of such committee when less than two members, or when the committee consists of more than eight members when less than one fourth of such members, are present.

Members and associated members of Authority or Committee not to take part in proceeding in which they are personally interested. (1) A member who :-

(i) has, directly or indirectly, by himself or by any partner, employer or employee, any such share or interest as is described in the proviso to Section 10, in respect of any matter; or

(ii) has acted professionally, in relation to any matter, on behalf any person having therein any such share or interest aforesaid ;

shall not vote or take any other part in any proceeding of the Authority or any committee appointed under this Act relating to such matter.

(2) If any member, or any person associated with the Authority under Section 13, or any other member of a committee appointed under this Act, has directly or indirectly, any beneficial interest in any land situated in an area comprised in any New Mirpur Town Scheme framed under this Act, or in any area in which it is proposed to acquire land for any of the purposes of this Act:

(i) He shall, before taking part in any proceeding at a meeting of the Authority or any committee appointed under this Act relating to such area. Inform the person presiding at the meeting of the nature of such interest ;

(ii) he shall not vote at any meeting of the Authority, or any such

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committee upon any resolution or question relating to such land ;
and

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

Power of Authority to fix numbers & salaries of permanent servants & appointment of temporary servants in cases of emergency:- Subject to such rules as the Government may make under clause (iii) of Section 59, the Authority may, from time to time, employ such servants as it may deem necessary and proper or assist in carrying out the purposes of this Act, and may assign to such servants such pay as it may deem fit.

Power of appointment etc.:- Subject to the provisions of Section 17, and to any rules for the time being in force, the power of appointing, promoting and granting leave to Officers and servants of the Authority and reducing, suspending or dismissing them for misconduct and dispensing with their services for any reason other than misconduct, shall be vested :-

i) in the case of officers and servants whose maximum monthly salary does not exceed one hundred rupees, in the Chairman
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ii) in other cases, in the Authority provided that any officer or servant in receipt of a minimum monthly salary exceeding fifty rupees who is reduced, suspended or dismissed by the Chairman, may appeal to the Authority whose decision shall be final.

Control by Chairman:- The Chairman shall exercise supervision and control over the acts and proceedings of all Officers and servants of the Authority and, subject to the foregoing sections shall dispose of all questions relating to the service of the said offices and servants and their pay, privileges and allowances.

Delegation of certain of Chairman's functions:- (1) The Chairman may, by general or special order in writing, delegate to any officer of the Authority any of the Chairman's powers, duties

or functions under this Act or any rules made thereunder except those conferred or imposed upon or vested in him by Sections

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12, 15, 21 and 80, respectively.

(2) The exercise or discharge by any Officer of any powers, duties or functions delegated to him under subsection (1) shall be subject to such conditions and limitations (if any) as may be prescribed in the said order and also to control and revision by the Chairman of the Authority.

SUPPLY OF INFORMATION TO GOVERNMENT

Supply of information and documents to the Government:-

(1) The Chairman shall forward to the Government a copy of the minutes of the proceedings of each meeting of the Authority within ten days from the date on which the minutes of the proceedings of such meeting were signed as prescribed in clause (e) of subsection (1) of Section 12.

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

(3) The Government may require the Chairman to furnish it with:-

i) Any return, statement, estimate, statistics or other information regarding any matter under the control of the Authority ; or

ii) areport on any such matters ; or

iii) a copy of any document in the charge of the Chairman. The Chairman shall comply with every such requisition without unreasonable delay.

CHAPTER IV

SCHEMES UNDER THE ACT

Housing accommodation Scheme:- If the Authority is of opinion that it is expedient, and for the public advantage, to provide housing accommodation for any class of the inhabitants within its local area, such authority may frame "a House Accommodation Scheme" for the purpose aforesaid ; Provided that if the Government are satisfied that within the Authority area it is necessary to provide housing accommodation for industrial labour, the Government may, by order, require

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Authority to frame a scheme under this Section and to do all things necessary under the Act for executing the Scheme so made.

Re-housing Scheme:- Whenever the Authority deems it necessary that accommodation should be provided for persons who are displaced by the execution of any scheme under this Act, or are likely to be displaced by the execution of any Scheme, which is intended to submit to the Government for sanction under this Act, it may frame a Rehousing Scheme for the construction, and sate of such and so many dwellings and shops, as ought, in the opinion of the Authority; to be provided for such persons.

Re-housing of displaced resident house owners:- Any resident house-owner who is likely to be displaced by the execution of any scheme under this Act, may apply to the Authority to be rehoused, and no such scheme shall be put into execution until a rehousing scheme as provided for in Section 23 for the rehousing of such resident houseowners as may apply under this Section, has been completed.

EXPLANATION: The demolition of a portion of a dwelling house which renders the remaining portion uninhabitable shall be deemed to be displacement of the person or persons residing in the said dwelling house.

Combination of scheme & matters which may he provided for in Schemes:- (1) A scheme under this Act may combine one or more types of schemes or any special features thereof.

(2) A scheme under this Act may provide for ail or any of the following matters :-

i) The acquisition under the Land Acquisition Act 1894, as modified by this Act, or the abandonment of such acquisition under Sections 43 and 44 of this Act, of any land or any interest in land necessary for or affected by the execution of the scheme ;

ii) the acquisition by purchase, lease, exchange or otherwise of such land or interest in land ;

iii) the retention, letting on hire, lease, sale, exchange or disposal otherwise of any land vested in or acquired by the

Authority ;

iv) the demolition of buildings or portions of buildings that are unfit for the purpose for which they are intended and that obstruct light or air or project beyond the building line ;

v) a "Development Scheme" or "an expansion scheme" may provide for the layout of the locality to be developed, the purposes for which particular portions of such locality are to be utilized the prescribed street alignment and the building line on each side of the streets proposed in such locality, drainage of localities and other details as may appear desirable ;

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the relaying out of any land comprised in the scheme and the redistribution of sites belonging to owners of property comprised in the scheme ;

vii) the laying out and alteration of Streets ;

viii) the rising, lowering or reclamation of any land vested in or to be acquired by the Authority for the purposes of the Scheme, and the reclamation or reservation of land for the production of fruit, vegetables fuel, fodder and the like for

the residents of the local area ;

ix) the drainage, water supply and lighting or streets altered or constructed ;

x) the provision of a system of drains and sewers for improvement of ill-drained and insanitary localities ;

xi) the doing of all acts intended to promote the health of residents of the area comprised in the Scheme, including the conservation and preservation from injury or pollution of rivers and other sources and means of water supply ;

xii) the demolition of existing buildings and the erection and re-erection of buildings by the Authority or by the owners or by the Authority in default of the owners ;

xiii) the provision of facilities for communication ; and

xiv) all other matters which the Government may deem necessary to promote the general efficiency of a scheme or to

improve the locality comprised in such scheme.

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Powers of Authority to set back or forward building adjacent to the Street alignment:- (1) The Authority may, on such terms as it may deem fit, require or allow any building to be set backward or forward for the improvement of the street alignment.

(2) When any building is set back or forward in pursuance of a requisition made under the preceding clause, the Authority shall forthwith make full compensation to the owner of the building for any damage or loss that he may sustain.

(3) If the additional land, which will be included in the premises of any person required or allowed to set forward a building or part thereof, belongs to the Authority the requisition or permission of the Authority to set forward the building shall be sufficient conveyance to the said owner of the said land, and the terms and conditions of the conveyance shall be set forth in the said requisition or permission.

Prohibition of building beyond a street alignment:- In the locality comprised in a scheme under this Act no person shall, except with the written permission of the Authority, erect, re-erect, add to or alter any building so as to make the same project beyond a street alignment or building line duly prescribed by the Authority.

Matters to be considered when framing Schemes:- When framing a scheme, under this Act in respect of any locality, regard shall be had to :

(a) the nature and the condition of adjoining localities and of the town as a whole ;

(b) the directions in which the town appears likely to expand ;
and

(c) the claims of any other part of the local area likely to require a scheme under this Act.

Preparation, publication and transmission of notice as to schemes, and supply of documents to applicants:- (1) When a

scheme under this Act has been framed, the Authority shall prepare a notice stating :

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- i) the fact that the scheme has been framed ;
- ii) the boundaries of the locality comprised in the scheme; and

iii) the place at which details of the scheme including a statement of the land proposed to be acquired and a general map of the locality composed in the scheme, may be inspected at reasonable hours.

(2) The Authority shall, notwithstanding anything contained in Section 64, cause the said notice to be published weekly for three consecutive weeks in the official Gazette and in a newspaper or newspapers with a statement of the period within which objections will be received.

(3) The Chairman shall cause copies of all documents referred to in clause (iii) of subsection (1) to be delivered to any applicant on payment of such fees as may be prescribed by rules under Section 60.

Notice of proposed requisition of land:- (1) During the thirty days next following under Section 29, in respect of any scheme under this Act the Authority shall serve a notice on:-

i) every person whom the Authority has reason to believe, after due enquiry, to be the owner of any immovable property which it is proposed to acquire in executing the scheme ; and

ii) the occupier (who need not be named) of such premises as the Authority proposes to acquire in executing the Scheme.

(2) Such notice shall :-

(a) State that the Authority proposes to .acquire such property for the purpose of carrying out a scheme under this Act ; and,

(b) require such person, if he objects to such acquisition, to state his reasons in writing within a period-of thirty days from the service of the notice.

(3) Every such notice shall be signed by or by the order of the Chairman.

Furnishing of information available in Revenue Records. The Commissioner of the Mangla Dam Affairs, Mirpur, shall furnish the Chairman, at his request and on payment of such fees as may

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be prescribed by rules, made under Section 59 with a copy of such information relating to a locality regarding which a notice has been published under Section 29, as is available in the Revenue Records.

Application to Azad Jammu and Kashmir Government to sanction the scheme:- (1) After the expiry of the periods respectively prescribed under clause (a) of subsection (2) of Section 29, and by clause (b) of sub-section (2) of Section 30, in respect of any scheme under this Act, the Authority shall consider any objection or representation received thereunder, and after hearing all persons or their representatives making any such objection, or representation who may desire to be heard, the Authority may apply to the Government for sanction to the Scheme with such modifications (if any) as the Authority may deem necessary.

(2) Every application submitted under subsection (1) shall be accompanied by :

- i) Complete plans and details of the scheme and an estimate of the cost of executing it ;
- ii) a statement of the reasons for modifications (if any) made in the scheme as originally framed;
- iii) a statement of objections (if any) received under Section 29;
- iv) a list of the names of a 11 persons (if any) who have objected under clause (b) of sub-section (2) of Section 30, to the proposed acquisition of their property and a statement of the reasons given for such objection ; and
- v) a statement of the arrangements made or proposed by the Authority for the re-housing of persons who are likely to be displaced by the execution of the scheme and for whose rehousing provision is required.

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

Powers to reject sanction or return scheme:- (1) The Government may sanction, either with or without modification, or may return

for reconsideration, any scheme submitted to it under Section 32.

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(2) If a scheme returned for reconsideration under subsection (1), is modified by the Authority it shall be republished in accordance with Section 29 :-

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

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

Notification of sanction of scheme:- (1) The Government shall notify the sanction of every scheme under his Act, and the Authority shall forthwith proceed to execute such scheme.

(2) A notification under subsection (1), in respect of any scheme shall be conclusive evidence that the scheme has- been duly framed and sanctioned.

Alteration of scheme after sanction:- A scheme under this Act may be altered by the Authority at any time between its sanction by the Government and its execution:

Provided that if any alteration is estimated to increase the estimated net cost of executing a scheme by more than Rs. 50,000 or twenty percent of such cost, such alteration shall not be made without the previous sanction of the Government.

Inclusion of different localities in combined scheme:- Any number of localities in respect of which the Authority has framed or has proposed to frame schemes under this Act may, at any time, be included in one combined scheme.

CHAPTER V

POWERS AND DUTIES OF THE AUTHORITY

WHERE A SCHEME HAS BEEN SANCTIONED

Powers of Authority to make and deal with public street:- (1)
The Authority may:

(a) lay out and make a new public street and construct tunnels

and other works subsidiary to the same ;

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(b) widen, lengthen, extend, enlarge, raise the level of or otherwise improve ;any existing public street it vested in the Authority ;

(c) turn, divert, discontinue or close any public street so vested ;

(d) provide, in its discretion, building sites of such dimensions as it deems fit, to abut on or adjoin any public street made, widened, lengthened, extended, enlarged, improved by the Authority under clauses (a), (b) & (c) or the level of which has been raised by the Azad Jammu and Kashmir Government ; and

(e) lease, sell or otherwise dispose of any land used by the Authority for a public street and no longer required therefore subject to the provisions of any rule prescribing conditions under which property vested in the Authority may be transferred ; and, in doing so, may impose any condition regarding the removal of any building existing thereon; construction of any new building to be erected thereon the period within which such new building shall have to be completed and regarding any other, matter that it may deem fit.

(2) Whenever the Authority discontinues the public use of or permanently closes, any street vested in it, or any part thereof, it shall pay reasonable compensation to every person who had an easement or right of way or light and all over upon or from such street or part, and who by such discontinuance or closure has suffered special damage.

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

Powers to make Survey or contribute towards their cost:-

The Authority may :

(a) Cause a survey of any land to be made whenever it considers that a survey is necessary or expedient for carrying out any

of the purposes of this Act ; or

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

Powers of entry :- (1) The Chairman or any person authorised by him or by the Authority in writing may, with or without assistants or workmen, enter into or upon any land in order :

i) To make any inspection, survey, measurement, valuation or inquiry ;

ii) to take levels ;

iii) to dig or bore into sub-soil ;

iv) to set out boundaries and intended lines or work ;

v) to mark such levels, boundaries and lines by marks and cutting trenches ;

vi) to do any other things ;

Whenever it is necessary to do so for any of the purposes of this Act or any rule made or scheme sanctioned hereunder or any scheme which the Authority intends to frame hereunder:

Provided as follows :-

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

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

(c) even when any premises may otherwise be entered without notice reasonable warning and facility to withdraw shall be given to any female not appearing in public according to the customs of the country ;

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(d) due regard shall always be paid so far the exigencies of the occasion permit to the social and religious usages of the occupants of the premises entered.

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

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

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

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

Reference of dispute to Tribunal:- (1) If any question or dispute arises :

(a) between the Authority and any person who was entitled, as of right, to use as a means of access any street or part thereof, which has vested in the Authority under the said Section :

i) As to whether the alteration or closing of such street or part causes special damage or substantial inconvenience to owners of property adjacent thereto or to resident, in the neighbourhood ; or

ii) as to whether the other means of access provided or

proposed to be provided under subsection (4) of the said Section are reasonably sufficient ; or

iii) as to the sufficiency of any compensation paid or proposed to be, paid under the said sub-section (4): or

(b)

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between the Authority and any person as to the sufficiency of any compensation paid or proposed to be paid to him under Sections 26, 27 & 86, the matter shall be determined

by the Tribunal, hereinafter defined, it referred to it either by

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the Authority or by the claimant, within a period of three months from the date on which the said person was informed of the decision of the Authority fixing the amount of compensation to be paid to him or of the rejection of his claim to compensation by the Authority, and determination of the Tribunal shall be final:

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

(2) If a reference to The Tribunal be not be made within the period prescribed by subsection (1) the decision of the Authority shall be final.

(3) For the purpose of determining any matter referred to it under sub-section (1), the Tribunal shall have all the powers with regard to witnesses, documents and costs which it would have if the Land Acquisition Act 1894, as modified by Section 46 of this Act, were applicable to the case.

Powers of Chairman:- The Chairman shall carry out, through his department or some other Agency, the Scheme of New Mirpur town under this Act such as :

- i) necessary Surveys for preparing the contour plans ;
- ii) preparing the Town Plan ;
- iii) Planning, Design and Construction of State and Community Buildings, Roads, Streets and Drains, Water supply and Electricity Schemes ;
- iv) any other work necessary and expedient in connection with sub-section (iii).

Regulating the construction of Buildings:- The construction of buildings shall be controlled by the Authority according to the prescribed bye-laws approved by the Authority.

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ACQUISITION, TRIBUNALS AND APPLICATION OF ACT TO

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OTHER AUTHORITIES

Abandonment of acquisition in consideration of special payment:- (1) Wherever in any locality comprised in the scheme under this Act, the Government has sanctioned the acquisition of land which is subsequently discovered to be unnecessary for the execution of the scheme, the owner of such land or any person having an interest therein, may make an application to the Authority requesting that the acquisition of such land be abandoned in consideration of the payment by him of a sum to be fixed by the Authority in that behalf.

(2) The Authority shall admit every such application if it :-

(a) reaches it before the time fixed by the Collector under Section 9 of the Land Acquisition Act. 1894, for making claims in reference to the land ; and

(b) is made by any person who either owns the lands, is mortgagee thereof, or holds a lease thereof, with an unexpired period of seven years.

(3) The Authority may admit any such application presented by any other person having an interest in the land.

(4) On the admission by the Authority of any such application, it shall forthwith inform the Collector; and the Collector shall thereupon stay for a period of three months all further proceedings for the acquisition of the land and the Authority shall proceed to fix the sum in consideration of which the acquisition for the land may be abandoned.

(5) Within the said period of three months, or with the permission of The Authority at any time before the Collector has taken possession of the land under Section 16, of the Land Acquisition Act, 1894, the person from whom the Authority has agreed to accept the sum so fixed may, if the Authority is satisfied that the Security offered by him is sufficient, execute an agreement with the Authority either :

i) to pay the said sum three years after the date of the agreement ; or

ii) to leave the said sum outstanding as a charge on his interest in the land, subject to the payment of interest at a rate to be agreed upon by such person and the Authority until the said sum has been paid in full and to make The first annual payment of such interest four years after the date of the agreement :

Provided that the Authority may, at any time before the Collector has taken possession of the land under Section 16 of the Land Acquisition Act, 1894, accept immediate payment of the said sum instead of an agreement as aforesaid.

(6) When any agreement has been executed in pursuance of subsection (5) or when any payment has been accepted in pursuance of the proviso to that subsection in respect of any land, proceedings for the acquisition of the land shall be deemed to be abandoned.

(7) Every payment due from any person under any agreement executed under subsection (5), shall be a charge on the interest of that person.

(8) If any installment of interest payable under an agreement executed in pursuance of clause (ii) of subsection (5), be not paid on the due date, the sum fixed by the Authority under subsection (4), shall be payable on that date, in addition to the said installment.

(9) At any time after an agreement has been executed in pursuance of clause (ii) of subsection (5), any person may pay in full the charge erected thereby, with interest at the agreed rate, up to the date of such payment.

(10) When an agreement in respect of any land has been executed by any person in pursuance of subsection (5), no suit with respect to such agreement shall be brought against the Authority by any other person (except an heir, executor, or administrator of the person first aforesaid) claiming to have an interest in the land.

(11) When an agreement in respect of any land has been executed by any person in pursuance of subsection (5), if any sum payable in pursuance of that subsection is not duly paid, the same shall be recoverable by the Authority (together with

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interest, upto the date of realization, at the agreed rate), from the said person or his successor in interest in such land and if not so recovered the Chairman may after giving public notice of his intention to do so, and not less than one month after the publication of such notice, sell the interest of the said person or successor in such land by public auction, and may deduct the said money and the expenses of the sale from the proceeds of the sale, and shall pay the balance (if any) to the defaulter.

Agreement or payment under section 41 not a bar to acquisition under a fresh declaration:- If any land in respect of which an agreement has been executed, or a payment has been accepted, in pursuance of subsection (5) of Section 41, be subsequently required for any of the purposes of this Act, the agreement or payment shall not be deemed to prevent the acquisition of the land in pursuance of a fresh declaration published under Section 6 of the Land Acquisition Act, 1894.

Tribunal to be constituted:- A tribunal shall be constituted, as provided in Section 47, for the purpose of performing the functions of the Court in reference to the acquisition of land for the Authority, under the Land Acquisition Act, 1894.

Modification of the land Acquisition Act, 1894:- For the purpose of acquiring land, under the Land Acquisition Act, 1894, for the Authority:

(a) the Tribunal shall (except for the purpose of Section 40 of the said Act) be deemed to be the Court and the President of the Tribunal shall be deemed to be the Judge, under the said Act;

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the said Act shall be subject to the further modification indicated in the Schedule of this Act;

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the President of the Tribunal shall have power to summon and enforce the attendance of witnesses, and to compel the

production of documents, by the same means and (so far as may be) in the same manner as is provided in the case of a Civil Court under Code of Civil Procedure ; and

(d) the award of a Tribunal shall be deemed to be the award of the Court under the Land Acquisition Act, 1894, and shall be final.

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Constitution of Tribunal:- (1) The Tribunal shall consist of a President and two assessors.

(2) The President of the Tribunal shall be either :

(a) a person who is or has been a member of judicial service in Azad Kashmir or in the former Jammu and Kashmir State or in Pakistan, of not less than 10 years standing in such service who has for at least 3 years served as a District Judge or for at least 5 years held judicial office not inferior to that of a subordinate Judge ; or

(b)

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a Barrister, Advocate or pleader of not less than 10 years' standing as an advocate or pleader in High Court in Azad Kashmir or in the former Jammu and Kashmir State or in any High Court in Pakistan or in former British India.

(3) The President of the Tribunal and one of the assessors shall be appointed by the Government and the other assessor shall be appointed by the Water and Power Development Authority or in default of appointment by the Water and Power Development Authority, within two months of their being required by the Government to make such appointment by the Government :

Provided that no person shall be eligible for appointment as a member of the Tribunal if he is a member of the Authority, or would, if he were a member of the Authority, be liable to removal by the Government under Section 10.

(4) The term of office of each member of the Tribunal shall be two years; but any member shall, subject to the proviso to sub-section (3), be eligible of re-appointment at the end of that term.

(5) The Government may remove any member of the Tribunal who would, if he were a member of the Authority, be liable to removal by the Government under Section 10.

(6) When any person ceases for any reason to be a member of the Tribunal or when any member is temporarily absent in consequence of illness or any unavoidable cause, the authority which appointed him shall forthwith appoint a fit person to be member in his place. Where the Authority so appointing was the Water and Power Development Authority, and the Water & Power Development Authority fails to make a fresh appointment within two months of being required to do so by the Azad Jammu and Kashmir Government, the appointment may be made

by the Government.

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Remuneration of members of Tribunal:- Each member of the Tribunal shall receive such remuneration, either by way of monthly salary or by way of fees, or partly in one of these ways and partly in the other, as the Government may prescribe.

Officers and servants of Tribunal:- (1) The president of the Tribunal shall from time to time, prepare a statement, showing :

(a) the number and grades of the clerks and other Officers and servants who, in his opinion should be maintained for carrying on the business of the Tribunal ;

(b) the amount of salary to be paid to each such clerk. Officer and servant.

(2) All statements prepared under sub-section (1), shall be subject to the previous sanction of the Government.

(3) Subject to any directions contained in any statement prepared under subsection (1), and to rules made under Section 59, the power of appointing, promoting and granting leave to clerks. Officers and servants of the Tribunal, and the power of reducing, suspending or dismissing them, shall vest in the President of the Tribunal.

Mode of payment:- The remuneration prescribed under section 48, for members of the Tribunal and the salaries, leave allowances and acting allowances prescribed under this Act. for clerks, Officers and servants of the Tribunal, shall be paid by the Authority to the President of the Tribunal for distribution.

Powers to make rules for Tribunal:- (1) The Government may, from time to time. make rules, not repugnant to the Code of Civil Procedure for the conduct of business by Tribunals established under this Act.

(2) All such rules shall be published by notification.

Award of Tribunal how to be determined:- (1) For the purpose of determining the award to be made by the Tribunal

under the Land Acquisition Act, 1894:

(a) if there is any disagreement as to the measurement of land,

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or to the amount of compensation or costs to be allowed, the opinion of the majority of the members of the Tribunal shall prevail ;

(b) notwithstanding anything contained in the foregoing clause, the decision on all questions of law and title and procedure shall rest solely with the President of the Tribunal, and such questions may be tried and decided by the President in the absence of assessors unless the President considers their presence necessary.

(2) Every award of the Tribunal, and every order made by the Tribunal for the payment of money, shall be enforced by a Court of the District Judge within the local limits of whose jurisdiction it was made, as if it were a decree of that Court.

CHAPTER VII FINANCE

Power of Authority to borrow money:- The Authority under this Act shall be deemed to be a local authority under the Local Authorities Loans' Act, for the purpose of borrowing money under that Act, and the making and execution of any scheme under this Act, shall be deemed, to be a work which such local Authority is legally authorised to carry out.

Custody & investment of Authority funds:- In places where there is a Government treasury or sub-treasury or a bank to which the Government treasury business has been made over, all moneys at the credit of the Authority shall be kept in such treasury, sub-treasury, or bank.

Procedure if the Authority fails to make any Payment in respect of loans of the Authority:- If any money borrowed under Section 53, or any interest or costs due in respect thereof is or are not repaid according to the conditions of the loan, the Government shall itself make such. payment and may attach the rents and other income of the Authority and there-upon the provisions of Section 5 of the Local Authorities Loans Act, shall, with all necessary modifications, be deemed to apply .

Procedure if Chairman of Board fails to make any payment due to Accountant General:- The Government may further impose or increase a tax on the annual value of buildings or lands or of both described in Section 61, (1), (a) of the Municipal

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Act, to such extent as may be necessary for the purpose of recovering a payment made under Section 55.

Payment by Government to be a charge on the property of the Authority:- All moneys paid by the Government shall constitute a charge upon the property of the Authority.

The funds of the Authority shall be at the disposal of the Chairman of the Authority who shall control all its finances or the first five years and if deemed necessary [his period may be extended by the Government for such time till the works mentioned in Section 47, are completed. After the expiry of this period the Chairman shall handover all the funds after settling the accounts to such authority as maybe specified by the Government for the control of the finances of the authority.

CHAPTER VIII RULES

Power of Azad Jammu and Kashmir Govt. to make Rules:-

(1) In addition to the power conferred by Section 51, the Government, may make rules consistent with this Act, and applicable to the Authority :

i) As to the power on which money may be paid from the Authority Funds ;

ii) for fixing the fees payable for copies of or extracts from the Revenue Records furnished to the Chairman under Section 31;

iii) as to the employment, payment, suspension and removal of Officers and servants of the Authority and the conduct of

such Officers and servants ;

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as to the intermediate Office or Offices (if any) through which correspondence between the Authority and the Government shall pass ;

v) as to the accounts to be kept by the Authority, as to the

manner in which such accounts shall be audited and published and as to the powers of auditors in respect of disallowance and surcharge ;

vi) as to the authority by whom the conditions subject to which

and the mode in which contracts may be entered into and executed on behalf of the Authority ;

vii) as to the preparation of estimates of income and expenditure

of the Authority and as to the Authority by whom and the conditions subject to which such estimates may be sanctioned ;

viii) as to the returns, statements, and reports to be submitted by

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Authority ;

to prescribe and define the mutual relations to be observed between the Authority and other local authorities in any matter in which they are jointly interested ;

for regulating the grant of leave of absence, leave allowances and acting allowances to the Officers and servants of the Authority and of the Tribunal ;

for establishing and maintaining a provident or annuity fund, for compelling all or any of the Officers in the service of the Authority or of the Tribunal (other than any Government servant) in respect of whom a contribution is paid under Section 78, to contribute to such fund at such rates and subject to such conditions as may be prescribed by such rules and for supplementing such contributions out of the funds of the Authority :

Provided that Government servant employed as Officer or servant of the Tribunal shall not be entitled to leave or leave allowances otherwise than as may be prescribed by the conditions of his service under the Government ;

xii) for determining conditions under which the Officers and

servants of the Authority or of the Tribunal or any of them shall, on retirement, receive gratuities or compassionate allowances and the amount of such gratuities and compassionate allowances:

Provided that it shall be at the discretion of the Authority or of the Tribunal, as the case may be, to determine whether all such Officers and servants or any, and if so, which of them shall become entitled on retirement to any such gratuities or compassionate allowances as aforesaid ;

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xiii) generally for the guidance of Authority and public Officers in all matters connected with the carrying out of the provisions of this Act ;

xiv) for regulating the grant of subsidies to Authority by the Government, the conditions under which they may be earned, or forfeited, and the arrangements for their repayment.

(2) All acts authorized or enjoined under this Act shall be held to be authorized or enjoined subject to such rules.

Power of the Authority to make Rules:- The Authority may, from time to time, with the previous sanction of the Government, make rules consistent with this Act and with any rules made under this Act by the Government :

i) For fixing the amount of security to be furnished by any Officer and servant of the Authority from whom it may be deemed expedient to require security ;

ii) for associating members with the Authority under Section 13;

iii) for appointing persons (other than members and persons associated with the Authority under Section 13) to be

members of committee under Section 14 ;

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for regulating the delegation of powers or duties of the Authority to committees or to the Chairman ;

v) for the guidance of persons employed by it under this Act;

vi) for fixing the fees payable for copies of documents delivered under sub-section (3) of Section 29, or under Section 61 ;

vii) for the management, use and regulation of dwellings constructed under any scheme under this Act ; and

viii) generally for carrying out the purposes of this Act.

Printing and sale of copies of Rule:- (1) The Chairman shall

cause all rules made under Section 59 or Section 60, and for the time being in force to be printed and shall cause printed copies thereof to be delivered to any applicant on payment of Such fees

as may be fixed.

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(2) Notice of the fact of copies of rules being obtainable at the said price and of the place where and the person from whom the same are obtainable shall be given by the Chairman by advertisement in a newspaper or newspapers.

Power of Azad Jammu and Kashmir Govt. to cancel the Rules under Section 60:- The Government may, after previous publications of its intention, cancel any rule made by the Authority which it has sanctioned, and thereupon the rule shall cease to have effect.

CHAPTER IX PROCEDURE AND PENALTIES

Stamping signature on notice or bills:- (1) Every notice or bill issued under this Act shall be signed by the Chairman, or by any other member or any Officer or servant of the Authority specially or generally authorized by the Authority. or so authorized by the Chairman under sub-section (1) of Section 20, and every notice or bill shall be deemed to be properly signed if it bears the facsimile of (he signature of the Chairman or such member; Officer or servant stamped or printed thereon.

(2) No notice issued by the Authority under this Act or any rule or bye-law made thereunder shall be invalid for defect of form.

Method of giving public notice:- Subject to the provisions of this Act, every public notice required under this Section shall be deemed to have been duly given if it is published in some local newspaper (if any) and posted upon a notice board to be exhibited for public information at that building in which the meetings of the Authority are ordinarily held.

Service of notice:- (1) Every notice, other than a public notice, and every bill, issued under this Act shall, unless it is under this Act otherwise expressly provided, be served or presented:

(a) by giving or tendering the registered notice or bill, or sending it by registered post, to the person to whom it is addressed ; or

(b) if such person cannot be found then by leaving the notice or bill at his last known place of abode, or by giving or

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tendering it to some adult male member or servant of his family, ordinarily residing with him, or by causing it to be affixed on some conspicuous part of the buildings or land (if any) to which it relates.

(2) When a notice is required or permitted under this Act to be served upon an owner or occupier, as the case may be, of a building or land, it shall not be necessary to name the owner or occupier therein, and the service thereof, in cases not otherwise specially provided for in the Act shall be effected either :

(a) By giving or tendering the notice, or sending it by post to the owner or occupier, or if there be more owners or occupiers than one to any one of them ; or

(b) if such owner or occupier can not be found, then by giving or tendering the notice to an adult male member or servant of his family ordinarily residing with him or by causing the notice to be affixed on some conspicuous part of the building or land to which it relates.

(3) Whenever the person on whom a notice or bill is to be served is a minor, service upon his guardian or upon an adult male member or servant of his family ordinarily residing with him shall be deemed to be service upon the minor.

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

Provided that when the notice fixes a time within which a certain act is to be done, and no time is specified in this Act, it shall rest with the Magistrate to determine whether the time so fixed was a reasonable time within the meaning of this Act.

Powers of Authority to execute work on failure to comply with notice:- If a notice has been given under this Act to a person requiring him to execute a work in respect of any

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properly, movable or movable, public or private, or to provide or do or refrain from doing anything within a time specified in the notice, and then if such person fails to comply with such notice the Authority may, after giving six hours' notice, cause such work to be executed or such thing to be provided or done, and may recover all expenses incurred by it on such account from the said person.

Liability of occupier to pay in default of owner:- (1) If the person to whom the notice mentioned in Section 67, has been given is not the owner of the property in respect of which it is given, the Authority may (whether any action or other proceeding has been brought or taken against such owner or not) require the person (if any) who occupies such property or a part thereof under such owner, to pay to the Authority instead of to the owner, the rent payable by him in respect of such property as it falls due, upto the amount recoverable from the owner under Section 67, and any such payment made by the occupier to the Authority, shall in the absence of any contract between the owner and the occupier to the contrary, be deemed to have been made to the owner of the property.

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

Right of occupiers to execute works in default of owners:- Whenever default is made by the owner of a building or land in the execution of a work required under this Act to be executed by him the occupier of such building or land may, with the approval of the Authority, cause such work to be executed and the expense thereof shall, in the absence of any contract to the contrary, be paid to him by the owner or the amount may be deducted out of the rent from time to time becoming due from him to such owner.

Procedure upon opposition to execution by occupier:- (1) If, after receiving information of the intention of the owner of any building or land to take any action in respect thereof in compliance with a notice issued under this Act, the occupier refuses to allow such owner to take such action, the owner may

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apply to a Magistrate.

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(2) The Magistrate, upon proof of such refusal, may, by order in writing, require the occupier to give the owner reasonable facility for executing such works, with respect to such building or land, as may be necessary for compliance with the notice, and may also if he deems fit, order the occupier to pay to the owner the costs relating to such application or order.

(3) If, after the expiration of eight days from the date of the Magistrate's order, the occupier continues to refuse to allow the owner to execute such work the occupier shall be liable, upon conviction, to a fine which may extend to twenty-five rupees for every day during which he has so continued to refuse.

(4) Every owner during the continuance of such refusal, shall be discharged from any penalties to which he might otherwise have become liable by reason of his default in the execution of such works.

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

Recovery of expenses of removal by Authority:- The expenses incurred by the Authority in effecting any removal applied by Section 42 of this Act, or in the event of a written notice not being complied with under Section 67 of this Act, shall be recoverable by sale of the materials removed, and if the proceeds of such sale do not suffice, the balance shall be recoverable from the owner of the said materials.

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

owner sufficient for the purpose.

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

Penalty for removing fence, etc, in street:- If any person without lawful authority :-

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

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infringes any order given or removes any bar chain or post fixed by the Authority for the purpose of closing any street to traffic ;

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

Power to prevent or demolish building in contravention of Sections 26 & 27:- If any person, without the permission of the Authority, erects, re-erects, adds to or alters any building so as to make the same project beyond a street alignment or building line by the Authority or erects, re-erects, adds to or alters any building in contravention of Section 26 or 27, the Chairman of the Authority may, by a written notice :

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

(b) require such building, alteration or addition to be altered or demolished as he may deem necessary.

Penalty for obstructing contractor or removing mark:- If any person :

(a) Obstructs, or molests any person with whom the authority

has entered into a contract in the performance or execution
by such person of his duty or of anything which he

empowered or required to do under this Act ; or

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

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

CHAPTER X SUPPLEMENTAL PROVISIONS

Members, etc., deemed public servants:- Every member and every Officer and servant of the authority and every member and Officer and servant of the Tribunal shall be deemed to be a public servant within the meaning of Section 21 of the Azad Jammu and Kashmir Penal Code.

Contributions by Authority towards leave allowances and pensions of servant of the Government. The Authority shall be liable to pay such contributions for the leave allowances and pension of any Government servant employed as Chairman or as an Officer or servant of the Authority, or as a member or Officer or servant of the Tribunal, as may be required by the conditions of his service under the Government to be paid by him or on his behalf.

LEGAL PROCEEDINGS

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

Powers of Chairman as to institution, etc. of legal proceedings and obtaining legal advice.

The Chairman may, subject to the control of the Authority:-

i) Institute, defend or withdraw from legal proceedings under

this Act ;

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ii) compound any offence under this Act ;

iii) admit, compromise or withdraw any claim made under this Act ; and

iv) obtain such legal advice and assistance as he may, from time to time, deem it necessary or expedient to obtain or as he may be desired by the Authority to obtain, for any of the purposes referred to in the foregoing clause of this Section, or for securing the lawful exercise or discharge of any power or duty vested in or imposed upon the Authority or any officer or servant of the Authority.

Indemnity to Authority etc:- No suit shall be maintainable against the Authority or any member, or any Officer or servant of the Authority, or any person acting under the direction of the Authority or of the Chairman or of any Officer or servant of the authority in respect of anything lawfully and in good faith and with due care and attention done under this Act.

Notice of suit against Authority etc:- (1) No suit shall be instituted against the Authority or any member or any person associated with the Authority under Section 13, or any member of a Committee appointed under Section 14, or any person acting under the direction of the Authority or of the Chairman or of any Officer or servant of the Authority in respect of any act purposing to be done under this Act, until the expiration of two months next after notice in writing has been in the case of Authority, left at the Office, and in any other case delivered to or left at the office or place of abode of the person to be sued, explicitly stating the cause of action, the nature of the relief sought, the amount of compensation claimed and the name and place of abode of the intending plaintiff and the plaint shall contain a statement that such notice has been so delivered or left.

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

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

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Provided that nothing in subsection (1), shall be construed to apply to a suit wherein the only relief claimed is an injunction of which the object would be defeated by the giving of the notice or the postponement of the commencement of the suit or proceedings.

EVIDENCE

Mode of proof of Authority records:- A copy of any receipt, application, plan, notice, order, entry in a register or other document in the possession of the Authority, shall, if duly certified by the legal keeper thereof, or other person authorized by the Authority in this behalf be received as prima facie evidence of the existence of the entry or document and shall be admitted as evidence of the matters and transactions therein recorded in every case where, and to the same extent, as the original entry or document would, if produced, have been admissible to prove such matters.

Restriction on the summoning Authority servants to produce document:- No member or officer or servant of the Authority shall in any legal proceedings to which the Authority is not a party be required to produce any register or document the contents of which can be proved under the preceding Section by a certified copy, or to appear as a witness to prove the matters and transactions recorded therein unless by order of the Court made for special cause.

VALIDATION

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

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

(b) any person having ceased to be member ; or

(c) any member or any person associated with the Authority under Section 13 or any other member of a committee appointed under this Act, having voted or taken any part in any proceeding in contravention of Section 16 ; or

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

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

(2) Every meeting of the Authority, the minutes of the proceedings of which have been duly signed as prescribed in clause (e) subsection (1) of Section 12, shall be taken to have been duly convened and to be free from all defects and irregularities.

COMPENSATION

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

DISSOLUTION OF AUTHORITY

Ultimate dissolution of Authority and transfer of its assets and liabilities to the Committee:- (1) When all scheme, sanctioned under this Act, have been executed or have been so far executed as to render the continued existence of the Authority, in the opinion of the Government, unnecessary, or when, in the opinion of the Government, it is expedient that the Authority shall cease to exist, the Government may by notification declare that the Authority shall be dissolved from such date as may be specified in this behalf in such notification and the Authority shall be deemed to be dissolved accordingly.

(2) From the said date :

(a) All properties, funds and dues which are vested in or are realisable by the Authority and the Chairman shall vest in and be realisable by the Government or by such agency as the Government may determine ;

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all liabilities which are enforceable against the Authority shall be enforceable against the Government of the said agency ;

(c) for the purpose of completing the execution of any scheme

sanctioned under this Act which has not been fully executed by the

Authority and of realising properties, funds, dues referred to in clause (a), the functions of the Authority and the Chairman under this Act, shall be discharged by the Government or by the agency determined by the Government under clause (a) and (b) ; and

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the agency referred to in clauses (a) and (b), shall keep such accounts of all moneys respectively received and expended by it under this Act, as the Government may prescribe.

THE SCHEDULE

(Referred to in Section 46)

FURTHER MODIFICATIONS IN THE LAND ACQUISITION

ACT, 1894, HEREINAFTER CALLED "THE SAID ACT".

Amendment of sections :- After clause (e) of Section 3 of the said Act, the following shall be deemed to be inserted, namely :

"(ee) the expression "Local authority" includes an Authority constituted under the New Mirpur Town Development Authority Act, 1962."

Notification under section 4 & declaration under section ,6 to be replaced by notification under section 29 & 34 of this Act:- (1) The first publication of a notice of any scheme under Section 29 of this Act shall be substituted for, and have the same effect as, publication in the Official Gazette and in the locality of a notification under subsection (1) of Section 4 of the said Act, except where a declaration under Section 4 or Section 6 of the said Act has previously been made and is still in force.

(2) Subject to the provisions of clauses 10 and 11 of this Schedule, the publication of a notification under Section 34, shall be substituted for and have the same effect as, a declaration by the Government under Section 6 of the said Act, unless a declaration under the last mentioned Section has previously been made and is still in force.

Amendment of Section 11:- The "full stop" at the end of Section 11, of the said Act, shall be deemed To be changed to a "semi colon," and the following shall be deemed to be added, namely :-

(iii) "the costs which in his opinion, should be allowed to any

person who is found to be entitled to compensation, and who is not entitled to receive the additional sum of fifteen, per centum mentioned in subsection (2) of Section 23, as having been actually and reasonably incurred by such person in preparing his claim and putting his case before the Collector.

The Collector may disallow, wholly or in part, costs incurred by any person if he considers that the claim made by such person for compensation is extravagant.

Amendment of Section 15:- In Section 15 of the said Act, for the word and figures "and 24" the figures, word and letter "24 and 24-A" preceded by a "comma", shall be deemed to be substituted.

Amendment of Section 17:- (1) In subsection (3) of Section 17 of the said Act, after the figures, "24" the words, figures and letter "Section 24-A" shall be deemed to be inserted. (2) To the said Section 17, the following shall be deemed to be added, namely :-

(4) "Subsections (1) and (3), shall apply also to any area certified to be unhealthy by any Magistrate of the first class.

(5) Before granting any such certificate, the Magistrate shall cause notice to be served as promptly as may be on the person referred to in sub-section (3) of Section 9, and shall hear without any avoidable delay any objections which may be urged by them.

(6) When proceedings have been taken under this Section for the acquisition of any land, and any person sustains damage in consequence of being suddenly dispossessed of such land, compensation shall be paid to such person for such dispossession."

Transfer of land to Authority:- After Section 17 of the said Act, the following shall be deemed to be inserted, namely :

"17-A. In every case referred to in Section 16 or Section 17, the Collector shall, upon payment of the cost of acquisition, make over charge of the land to the Authority and the land shall, thereupon vest in the Authority subject to the liability of the Authority to pay any further costs which may be incurred on

account of its acquisition."

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Amendment of Section 18:- The "fullstop" at the end of subsection (1) of Section 18, of the said Act, shall be deemed to be changed to a "comma", and the words "or the amount of the costs allowed" shall be deemed to be added.

Amendment of Section 19:- After the words "amount of compensation", in clause (c) of Section 19 of the said Act, the words "and of costs (if any)" shall be deemed to be inserted.

Amendment of Section 20:- After the words "amount of the compensation" in clause (e) of Section 20 of the said Act, the words "or costs" shall be deemed to be inserted.

Amendment of Section 23.- (1) In clause firstly and clause sixthly of subsection (1) of Section 23 of the said Act for the words "Publication of the declaration relating there-to under Section 6" and the words "publication of the declaration under Section 6 shall be deemed to be substituted" by the words "first publication of the notification under Section 29 of the New Mirpur Town Development Authority Act, 1962.

(2) The "full stop" at the end of subsection (2) of Section 23, of the said Act shall be deemed to be changed to a "colon" and the following proviso shall be deemed to be added :

"Provided that this subsection shall not apply to any land acquired under New Mirpur Town Development Authority Act ; 1962".

(3) At the end of Section 23 of the Said Act, the following shall be deemed to be added, namely:

(3) for the purposes of clause first of subsection (1) of this Section :

(a) The market-value of the land shall be the market-value according to the use to which the land was put at the date with reference to which the market value is to be determined under that clause ;

(b) if it be shown that before such date, the owner of the land had in good faith taken active steps and incurred expenditure to secure a more profitable use of the same, further

compensation based on his actual loss may be paid to him ;

(c) if any person with the permission of the Authority required by subsection (1) of Section 27 of the New Mirpur Town Development Authority Act, 1962, has erected, re-erected, added to or altered any building or wall so as to make the same project beyond street alignment or building line duly prescribed by the Authority then any increase in the market value resulting from such erection, re-erection, addition or alteration shall be disregarded ;

(d) if the market-value has been increased by means of any improvement made by the owner or his predecessor in interest within two years before the aforesaid date, such increase shall be disregarded unless it be provided that the improvement so made was made in good faith and not in contemplation of proceedings for the acquisition of the land being taken under Town Development Authority Act, 1962;

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if the market-value is specially high in consequence of the land being put to a use which is unlawful or contrary to public policy, that use shall be disregarded, and the market-value shall be deemed to be the market-value of the land if put to ordinary use; and

(f) when the owner of the land or building has, after the passing of the New Mirpur Town Development Authority Act, 1962, and within two years proceeding the date with reference to which the market-value is to be determined, made a return under any enactment in force of the rent of the land or building he rent of the land or building shall not in any case be deemed to be greater than the rent shown in the latest return so made, save as the Court may otherwise direct, and the market-value, may be determined on the basis of such rent, provided that where any addition to or improvement of the land or budding has been made after the date of such latest return and previous to the date with reference to which the market value as to be determined, the court may take into consideration any increase in the letting value of the and due to such addition or improvement.”

11. Amendment of Section 24:- For clause seventhly of Section 24 of the said Act. the following shall be deemed to be substituted, namely :

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"Seventhly, any outlay on additions or improvements to land acquired, which was incurred after the date with reference to which the market-value is to be determined, unless such additions or Improvements were necessary for the maintenance of any building in a proper state of repair."

After Section 24, of the said Act the following shall be deemed to be inserted, namely :

Further provision for determining compensation:- "24-A, In determining the amount of compensation to be awarded for any land acquired for the Authority under (his Act, the Tribunal shall also have regard to the following provisions, namely :

(a) When any interest in any land acquired under this Act has been acquired after the dais with reference to which the market-value is to be determined, no separate estimate of the value of such interest shall be made so as to increase the amount of compensation to be paid for such and;

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If, in the opinion of the Tribunal, any building is in a defective state from a sanitary point of view, or is not in a reasonably good state of repair, the amount of compensation for such building shall not exceed the sum which the Tribunal considers the building would be worth if it were put into a sanitary condition or into a reasonably good stale of repair as the case maybe, minus the estimated cost of pulling it into such condition or state.

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Tf, in the opinion of the Tribunal, any building which is used or is intended or is likely to be used for human habitation, is not reasonably capable of being made it for human habitation, the amount of compensation for such building shall not exceed the value of the materials of the building minus the cost of demolishing the building."

Amendment of Section 31:- (1) After the words "The compensation" in subsection (1) of Section 31 of the said Act, and after the words "the amount of compensation in subsection

(2) of that Section" the words "and cost (if any)" shall be deemed to be inserted.

(2) After the words "any compensation" in the concluding proviso to subsection (2) of Section 31 of the said Act, the words "or costs" shall be deemed to be inserted.

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Compensation to be awarded when land not acquired within one year:- After Section 48, of the said Act, the following shall be deemed to be inserted, namely :

"48-A, (1) If within a period of one year, from the date of the publication under Section 6 in respect of any land, the Collector has not made an award under Section 11 with respect to such land, the owner of the land shall, unless he has been to a material extent responsible for the delay, be entitled to receive compensation for the damage suffered by him in consequence of the delay."

(2) The provisions of Part III of this Act shall apply, so far as may be, to the determination of the compensation payable under this Section."

Amendment of Section 49:- After sub section (1) of Section 49 of the said Act, the following shall be deemed to be inserted, namely ;

"Explanation:- For the purposes of this sub-section, land which held with and attached to a house and is reasonably required for the enjoyment and use of the house shall be deemed to be part of the House."

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