The Odisha

No. **Dated : 22nd April 1957**

THE ORISSA TOWN PLANNING & IMPROVEMENT TRUST ACT, 1956

ACT NO. 10 OF 1957

Revised assent of the President on the 11th April 1957, first published in an

PREAMBLE

AN ACT TO PROVIDE FOR THE IMPROVEMENT, DEVELOPMENT AND EXPANSION OF TOWNS IN THE STATE OF ORISSA

Whereas it is expedient to make provisions for the development, improvement and expansion of towns in the State of Orissa so as to secure to their present and future inhabitants sanitary conditions, amenity and convenience;

It is hereby enacted by the Legislature of the State of Orissa in the Seventh Year of the Republic of India, as follows:

1. Short title, extent and commencement :- (1) This Act may be called The Orissa Town Planning and Improvement Trust Act, 1956.

(2) It extends to the whole of the State of Orissa.

(3) It shall come into force in the whole or any part of any Municipality or any other area or areas on such date or dates as the State Government may, by Notification, appoint.

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

(1) *"betterment charge"* means the charge specified by Section 70 in respect of an increase in the value of land resulting from the execution of an improvement scheme;

(2) *"building line"* means a line (in the rear of the street alignment) up to which the main wall of a building abutting on a projected public street may lawfully extend;

(3) *"Chairman"* means the Chairman of the Planning authority;

(4) *"land"* has the same meaning as in clause (a) of Section 3 of the Land Acquisition Act, 1 of 1894;

(5) *"local area"* means any area in respect of which a Planning authority or Special Planning authority has jurisdiction under Section 6 and Section 80 respectively;

(6) *"local newspaper"* means any newspaper printed and published within the local area and, if there is no such newspaper, any newspaper printed and published within the State of Orissa;

(7) *"Municipality"* means any area to which the Orissa Municipal Act, XXIII of 1950 applies and to which the provisions of this Act have been applied by a Notification under Sub-section (3) of Section 1.

Explanation-A Municipality includes a Notified Area constituted under Chapter XXX-A of the Orissa Municipal Act, XXIII of 1950.

(8) "owner" includes the person for the time being receiving, or entitled to receive, whether on his own account or as agent, trustee, guardian, manager or receiver for another person, or for any religious or charitable purpose, the rents or profits of the property in connection with which the word is used;

(9) *"prescribed"* means prescribed by Rules made under this Act;

(10) *"scheme"* means a town planning scheme and includes a plan relating to a town planning scheme;

forming part of a street from the adjoining land;

(12) *"town planning"* includes town improvement and town development;

(13) *"Tribunal"* means the Tribunal constituted under Section 65;

(14) *"Trust"* means the Town Improvement Trust constituted under Section 7;

(15) 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 under the provisions of this Act; or

(c) under any provisions of the Orissa Municipal Act, XXIII of 1950 which the Planning Authority as defined in Section 6 has, by virtue of this Act, power to enforce;

(16) Words and expressions used in this Act and not otherwise defined have the same meaning as has been assigned to them in the Orissa Municipal Act, XXIII of 1950.

3 - Appointment of Director of Town Planning :- (1) The State Government may by-Notification appoint a person to be the Director of Town Planning hereinafter called "the Director".

(2) The State Government shall assign to the Director such establishment as consisting of such subordinate officers and staff as may be deemed necessary for the purpose of this Act and they shall, subject to the control of the Director, discharge such functions as may be assigned to them by the Director.

4 - Conditions of services of Director and his staff :- The Director and the subordinate officers and staff appointed under this Act shall draw their pay, pension, leave and other allowances from the Consolidated Fund of the State. The conditions of service of the said Director, subordinate officers and staff shall be such as may be prescribed from time to time.

5 - Execution of Town Plan :- (1) Subject to the provisions of this Act, the Director shall direct, assist and supervise planning authorities in the preparation and execution of Town Plans 'and Improvement Schemes for development of towns.

(2) The Director shall advise the State Government in all matters with respect to the Town Planning Schemes that the Planning authorities may submit to the State Government for sanction under the provisions of this Act.

6 - Planning Authorities :- When by virtue of Sub-section (3) of Section 1 the provisions of this Act have been brought into force in the whole or any part of a Municipality or any other area or areas, the Local authorities having jurisdiction or the Improvement Trust hereinafter constituted under this Act for any particular area or areas shall initiate and prepare a Town Planning Scheme for the said Municipality or areas and they shall be called Town Planning Authorities (hereinafter referred to as the Planning authority) for the purpose of this Act.

7 - Incorporation of Town improvement Trust :- (1) The State Government may, by Notification constitute one or more improvement Trusts (hereinafter called the Trust) having jurisdiction over such areas as they may specify in this behalf and thereupon the duty of carrying out the provisions of this Act in the specified local area shall, subject to the conditions and limitations hereinafter provided, be vested in the said Trust.

(2) The Trust so constituted shall be a body corporate by the name of the Trust and shall have perpetual succession and a common seal and may sue and be sued in its corporate name.

(3) When one or more improvement Trusts have been constituted under Sub-section (1) in any local area or areas and there are one or more Local authorities in such area or areas the improvement Trusts so constituted shall, to the execution of the Local authority or authorities, exercise the powers and discharge the functions of the Planning authority in such area or areas.

8 - Constitution of Trust :- [1][(1)] The Trust shall consist of -

(a) a Chairman appointed by the State Government;

(b) the Chairman of the Municipality, ex officio-,

1. Re-numbered by Orissa Act 30 of 1975.

(c) the Chief Engineer of the Public Health Engineering Department, ex officio or his representative;

(d) the Director of the Public Health ex officio or his representative;

(e) the Director of Town Planning, ex officio; and

(f) [1][six] persons appointed by the State Government of whom at least two shall be non-officials:

Provided that where the jurisdiction of the Trust extends over any Local authority other than a Municipality or over more than one Municipality the Chairman of every such Municipality or Local authority shall be a member, exoffcio.

Explanation- The expression "Chairman of a Local authority" shall include "the Chairman of a Notified Area Council, Sarpanch of a Grama Panchayat or the Chairman of an Anchal Sabha".

[2][(2) The State Government shall appoint one of the trustees to be the Vice-Chairman of the Trust who shall exercise the powers and perform the functions of the Chairman during the absence].

9 - Disqualification for appointment as Trustees :- (1) A person shall be disqualified for appointment as a trustee, if he-

(a) has been convicted of any offence involving moral turpitude;

(b) is an undischarged insolvent or being a discharged insolvent has not obtained from the Court a certificate to the effect that insolvency was caused by misfortune without misconduct on his part;

(c) holds any office or place of profit under the Trust;

(d) has directly or indirectly, by himself or by any partner, employer or employee, any share or interest in any contract or employment with by, or on behalf of, the Trust; or

(e) is a Director, Secretary or Manager or other salaried officer of any incorporated company which has any share or interest in any contract or employment with, by, or on behalf, of the Trust.

(2) A person shall not, be disqualified under clause (d) or clause (e) of Sub-section (1) or be deemed to have any share or interest in any contract or employment within the meaning of the said clauses by reason only of his or the incorporated company of which he is a Director, Secretary, Manager or other salaried officer having a share or interest in -

(i) any sale, purchase, lease or exchange of immovable property or any agreement for the same;

(ii) any agreement for the loan of money or any security for the payment of money only;

(iii) any newspaper in which any advertisement relating to the affairs of the Trust is inserted;

1. Substituted by Orissa Act 30 of 1975. 2. Inserted by Orissa Act 30 of 1975.

(iv) the occasional sale to the Trust to a value not exceeding two thousand rupee in anyone financial year, of any article in which he or the incorporated company regularly trades or by reason only of his having a share or interest otherwise than as Director, Secretary or Manager or other salaried officer in any incorporated company which has any share or interest in any contract or employment with, by, or on behalf of the Trust.

10 - Chairman to be a whole-time officer :- (1) The Chairman may be either a whole-time or part-time officer of the Trust and where the Chairman is a whole-time officer, he shall not bold any other salaried office:

Provided that when the Chairman appointed is a whole-time officer of the Trust, be shall be paid such salary and allowances as may be filed by the State Government.

(2) The State Government may grant leave of absence to the Chairman and when such leave is granted the State Government may appoint a person to act as Chairman.

11 - Term of Office :- The Chairman and the other trustees appointed or nominated under Section 8 shall hold office for such term as the State Government may, by Rules provide in this behalf:

Provided that such Chairman and trustees appointed for the first time shall hold office for a term not exceeding three years, and the said term of office of the first trustee shall commence on such date as may be appointed by the State Government:

Provided further that such Chairman and trustees whether appointed for the first time or any subsequent term shall be eligible for reappointment.

[1][**12 - Condition of service of Chairman, Vice-chairman and Trustees :-** The condition of service of the Chairman, Vice-Chairman and the Trustees shall be such as may be prescribed from time to time.

13 - Trustees, etc. shall hold office during the pleasure of the Government :- The Chairman, Vice-Chairman and the Trustees other than ex officio Trustees shall hold office during the pleasure of the State Government.

14 - Leave of absence and filling or casual vacancies in certain cases :- (1) The Trust may permit any Trustee, other than the Chairman or an ex officio Trustee, to absent himself from meetings of the Trust for any period not exceeding such limit (which shall not be less than four consecutive months) as may be prescribed by the State Government.

(2) If any Trustee other than ex officio Trustee is permitted by the Trust to absent himself from its meetings for any period exceeding four months or if any such Trustee dies or resigns his office or is removed from Office under Section 13 the vacancy shall be filled within two months by a fresh nomination or

1. Substituted by Orissa Act 30 of 1975.

appointment, as the case may be, for the unexpired portion of the term of office of the Trustee in whose place the new Trustee is to be nominated or appointed.

15 - Conduct of business-Meeting of Trust :- (1) The Trust shall meet and shall from time to time make such bye-laws with respect to the place, day hour, notice, management and adjournment of its meetings as it may think fit, subject to the following provisions, namely:

(a) an ordinary meeting shall be held once at least in every month;

(b) the Chairman may, whenever he thinks fit, and shall upon the written request of not less than three other Trustees call a special meeting;

(c) the Chairman shall attend every meeting of the Trust unless absence on leave or prevented by sickness or other reasonable cause;

(d) no business shall be transacted at any meeting unless there be present at that meeting a quorum of one-third of the number of Trustees at the commencement of the meeting:

Provided that if at the time appointed for a meeting, or within half an hour thereafter a quorum is not present the meeting shall stand adjourned to some future day to be appointed by the Chairman or in his absence, by the Trustee chosen by the meeting to preside and three days' notice of each adjourned meeting shall be given. The Trustees present at such adjourned meeting shall form a quorum whatever their number may be :

(e) every meeting shall be presided over by the Chairman and in his absence by a Trustee chosen by the meeting to preside for the occasion;

(f) every matter coming before the Trust shall be decided by a majority of votes of the trustees present and voting at the meeting, and in all cases of equality of votes, the person presiding shall have and exercise a second or casting vote;

(g) if a division be deemed on any question at a meeting, the name of the Trustees voting and the nature of their votes, shall be recorded by the person presiding;

(h) minutes of the proceedings at each meeting (together with the names of the Trustees present shall be recorded in a book to be provided for the purpose and such minutes shall be read at the next ensuing meeting and signed by the person presiding at such meeting. The minutes book shall be opened to inspection by any Trustee during office hours.

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

(3) The Trust may associate with itself in such manner and for such period as may be prescribed, any person or persons whose assistance or advice it may desire in carrying out the duties under this Act for any particular purpose.

(4) The person or persons so associated under Sub-section (3) shall not be deemed to be members of the Trust and shall have no right to vote at any meeting thereof but they may take part in the discussion of the Trust relating to the purpose or purposes for which they were associated with Trust.

16 - Constitution and functions of Committee :- (1) The Trust may, from time to time with a view to give effect to the purposes of the Act, appoint one or more Committee of which the Chairman of the Trust shall be a Member ex officio and such Committee or Committees shall consist of such persons of the following clauses as it may think fit, namely:

(i) trustees;

(ii) persons associated with the Trust under Sub-section (3) of Section 15;

(iii) other persons whose assistance or advise the Trust may desire as members of such Committee:

Provided that no Committee shall consist of less than four persons excepting the Chairman.

(2)The Trust may,

(a) refer to such Committee for enquiry and report any matter relating to any of the purposes of this Act; and

(b) delegate to such Committee by specific resolution and subject to any bye-laws made in this behalf any of the powers or duties of the Trust relating to the subject matter for which the Committee has been appointed.

(3) The Trust may, at any time, for reasons to be recorded in writing, dissolve or subject to the provisions of Sub-section (1) after the constitution of any such Committee.

(4) Every Committee shall carry out any instruction given to it by the Trust, and every final decision of such Committee shall, subject to any bye- law to the contrary be laid before the Trust for confirmation.

17 - Meeting of Committee :- (1) A Committee appointed under Section 16 may meet and adjourn as it thinks proper; but the Chairman may, whenever he thinks fit, and

shall, upon the written request of not less than two members thereof, call a special meeting of such Committee.

(2) Every meeting of a Committee shall be presided over by the Chairman if he is present whether he is member thereof or not and when he is absent from the meeting the members present shall elect a person from amongst themselves to preside.

(3) No business shall be transacted at any meeting of the Committee unless there be present at least one-half of the number of the members constituting the Committee.

(4) Every matter at a meeting of a Committee shall be decided by a majority at the votes of the members present and voting, the person presiding having a second or casting vote in all cases of equality of votes.

18 - Trustees (other than Chairman) and associated members of Trust or Committee not to receive any fee for attendance at meetings :-(1) No Trustee (other than the Chairman) and no person associated with the Trust under Section 15 shall receive or be paid from the funds of the Trust any fee or other remuneration for attending any meeting of the Trust or of a Committee appointed under Section 16.

(2) No person appointed as a member of a Committee under clause (iii) of Sub-section (1) of Section 16 shall receive or be paid from the funds of the Trust any fee or other remuneration for attending any meeting of such Committee.

(3) A Trustee, any person associated with the Trust under Section 15 or any person appointed as a member of a Committee under clause (iii) of Sub-section (1) of Section 16 may, subject to the prescribed conditions and restrictions for undertaking any journey in connection with any of the affairs of the Trust or, as the case may be, of any Committee, be paid traveling and other allowances for attending any meeting of such Trust or Committee at such rates as may be fixed by the Trust with the approval of the State Government.

19 - Trustees and associated members of Trust or Committee not to take part in proceedings in which they are personally interested :-(1) A Trustee who "

(a) has directly or indirectly, by himself or by any partner, employer or employees, any such share or interest as is provided in Sub section (1) of Section 9 in respect of any matter; or

(b) has acted professionally in relation to any matter, on behalf of any person having therein any such share or interest as aforesaid, shall not vote or take any other part in any proceedings of the Trust or any Committee relating to such matter.

(2) If any Trustee or any person associated with the Trust under Sub section (3) of Section 15, or any other member of a Committee appointed under Section 16, has, directly or indirectly, any beneficial interest in any land situated in ah area comprised in any improvement scheme framed under this Act or in an 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 Trust or any Committee 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 Trust or the said Committee upon any resolution or question relating to such land; and

(iii) he shall not if so directed by the person presiding take any part in any proceeding at a meeting of the Trust or the said Committee relating to such land.

20 - Power to make and perform contracts :- The Trust may enter into and perform all such contracts as it may consider necessary or expedient for carrying out any of the purposes of this Act.

21 - Execution of contracts and approval of Committee :- (1) Every contract shall be made on behalf of the Trust by, the Chairman:

Provided that:

(a) a contract involving an expenditure exceeding three thousand rupees but not exceeding one lakh rupees shall not be made by the Chairman without the previous sanction of the Trust; and

(b) a contract involving an expenditure exceeding one lakh rupees shall not be made by the Chairman without the previous sanction of the trust and the State Government.

(2) Every estimate for expenditure of any sum for carrying out any of the purposes of this Act shall be subject to the approval of the authority or authorities empowered under Sub-section (1) to make or as the case may be to sanction the making of a contract involving the expenditure of a like sum.

(3) Sub-sections (1) and (2) shall apply to every variation or abandonment of a contract or estimate as well as to an original contract or estimate.

22 - Further provisions as to execution of contract :- (1) Every contract made by the Chairman on behalf of the Trust shall be entitled into in such manner and form as would bind the Chairman as if such contract were made on his own behalf, except that the common seal of the Trust shall be used where necessary and every such contract may in the like manner and form, be varied or discharged.

(2) Every contract for the execution of any work or the supply of any materials or goods, shall be in writing and shall be sealed.

(3) The common seal of the Trust shall remain in the custody of such officer or employee of the Trust as the Chairman may, by any written order direct and shall not be affixed to any contract or other instrument except in the presence of a Trustee (other than the Chairman who shall attach his signature to the contract or instrument in token that the same was sealed in his presence.

(4)The signature of the said Trustee shall be in addition to the signature of any witness to the execution of such contract or instrument.

(5) A contract not executed as provided in this section shall not be binding on the Trust.

(6) The procedure for calling of tenders demand or security for due performance of contracts and such other incidental purposes shall be such as may be prescribed.

23 - Supply of documents and information to the State Government :- (1) The Chairman shall forward to the State Government a copy of the minutes of the proceedings of each meeting of the Trust within ten days from the date on which the minutes are signed as required by clause (h) of Sub-section (1) of
Section 15.

(2) The Chairman shall, if so directed by the State Government forward to them a copy of all papers which were laid before the Trust for consideration at any meeting.

(3) The State Government may require the Chairman to furnish them with-

(a) any return, statement, estimate, statistics or other information regarding any matter under the control of the Trust; or

(b) a report on any such matter; or

(c) a copy of any document in the charge of the Chairman.

24 - Appointment, promotion and punishment of staff :- (1) Subject to the Rules made by the State Government in this behalf, the conditions of Service of the different class or grades of officers and staff and the strength of such services shall be regulated by regulations made under this Act.

(2) Subject to such Rules and Regulations as hereinbefore specified the. power of appointing of and promoting officers and employees of the Trust and reducing, suspending or dismissing them for misconduct and dispensing with their services for any reason other than misconduct, shall be vested in the Trust:

Provided that:

(a) in the case of officers and employees whose monthly salary does not exceed three hundred rupees the appointing authority shall be the Chairman;

(b) in the case of officers whose monthly salary exceeds three hundred rupees, the appointing authority shall be the Trust;

(c) in the case of appointments of officers whose monthly salary exceeds one thousand rupees; the appointing authority shall be the Trust which shall take the previous sanction of the State Government before such appointment.

25 - Control by Chairman:- The Chairman shall exercise supervision and control, over the acts and proceedings of all officers and employees of the Trust and subject to the foregoing sections, and dispose of all questions relating to the service of the said officers and employees, and their salaries, allowances and privileges.

26 - Delegation of certain functions of Chairman :- (1) The Chairman may, by general or special order in writing, delegate to any officers of the Trust any of his powers, duties or functions under this Act or any Rule made there under, except those conferred or imposed upon or vested in him by Sections 15, 17, 21, 24, 105, 109, 111 and 134.

(2) The exercise by any officer of any powers, or discharge of duties of functions delegated to him under Sub-section (1) shall be, subject to such restrictions, conditions

and limitations (if any) as may be laid down by the Chairman, and shall also be subject to his control and revision.

27 - Appeal :- (1) An appeal shall lie from an order of punishment other than an order of censure or fine by the Chairman to the Trust in the case of original orders passed by the said authority to the State Government and the order of the Chairman of the Trust subject to any order passed in appeal, if any, shall be final:

Provided that if the appellate authority enhances the punishment, an appeal shall lie to the State Government against such order.

(2) For the purposes of this section an order of suspension only shall not be deemed to be an order of punishment.

28 - Power to set aside resolution or order of the Trust :- The State Government may set aside any resolution of the Trust or any order of the Chairman or of the Trust, if in the opinion of the State Government, the resolution or order is in excess of the power conferred by law.

29 - Preparation of Master Plan :- (1) The Planning authority within two years from the date of the Notification issued under Sub-section (3) of Section 1, shall undertake and complete in the prescribed manner a civic survey of the area for which the said Notification has been issued and, shall within four years from the date of the said Notification, submit to the State Government through the Director of the Master Plan of the said area.

(2) If in the opinion of the State Government, the Planning authority is unable to complete the civic survey within the said two years or prepare the Master Plan within four years as hereinbefore provided, the Director shall do the said survey and preparei the said plan in which event the cost of the said survey and of the preparation of the Master Plan shall be recovered from the Planning authority, unless for any special reason, the State Government decide to waive such recovery.

30 - Preparation of Master Plan :- The Master Plan shall be prepared with the following, among others objectives in view, namely;

(i) in removal of over crowding;

(ii) clearance of slums and urban obsolescene;

(iii) planned urban expansion;

(iv) reclamation of low-lying and waste areas;

(v) segregation of Industrial areas from residential areas;

(vi) provision for an integrated road system;

(vii) provision for an integrated water-supply system;

(viii) provision for an integrated drainage and sewerage system; (ix) provision for metropolitan green belts;

(x) provision for open spaces in built-up areas;

(xi) development of residential areas on neighbourhood principles;

(xii) reservation of suitable areas for various community needs including play grounds and children's park;

(xiii) utilisation of natural amenities;

(xiv) stoppage of urban development and recovery of ribbonated road side lands;

(xv) preservation of historical monuments;

(xvi) promotion of correct land use; and

(xvii) any other proposal bearing on the health, comfort convenience and general betterment of the inhabitants of the locality.

31 - Publication of Master Plan :- (1) The Planning authority shall immediately, after the preparation of the Master Plan, notify in the Gazette and in a local newspaper, If any, that the said plan has been duly prepared and that person interested in the said plan may see it at a fixed time and place and file objections, if any, within sixty days from the date of such Notification.

(2) When objections and suggestions have been received by the Planning authority within the specified date, the same shall be duly considered by the Planning authority within thirty days from the said date and thereupon a copy of the Master Plan together with their views on the said objections, and suggestions shall be forwarded in case such Planning Authority is a Trust to the State Government and in other cases to the Director.

(3) When a Notification has been published under Sub-section (1) no person shall erect or proceed with any building or work or enter into or carry out a contract in respect of the land within the area included in the Master Plan unless he has applied for and obtained permission from the Planning' authority and while giving such permission the said authority shall .have due regard to the purposes and provisions of the said Master Plan.

32 - Approval of Master Plan and final publication :- The Director or the State Government, as the case may be, shall take into consideration the said views of the Planning authority under Sub-section (2) of Section 52 and approve the said Plan without modifications. Thereupon the Planning authority shall notify in the Gazette and in a local newspaper, if any, that the Master Plan has been duly approved and then any person interested in the said plan may see it at a fixed time and place.

[1][**32A - Variation of Master Plan :-** (1) If on a proposal made in that behalf by the Planning authority or otherwise the State Government are of opinion that it is necessary in the public interest to make any variation in any Master Plan approved under Section 32, they may incorporate the proposed variations in the Master Plan and notify in the Gazette and in a local newspaper, if any, that any person interested therein may see it at a fixed time and place and file objections or suggestions, if any, within sixty days from the date of such Notification.

(2) The State Government may after taking into consideration all objections and suggestion received under Sub-section (1) and making such enquiry as they deem necessary, finalise the variations so made with or without modifications

1. Inserted by Orissa Act 23 of 1969.

and notify in the Gazette and in a local-newspaper, if any, that the variations in the Master plan have been duly made and any person interested therein may see it at a fixed time and place.

(3) If any person who is affected by such variation, has incurred any expenditure in compliance with the Master Plan as it existed before such variation such person shall

be entitled to receive compensation for the loss he has suffered by reason of such variation.

(4) Any person claiming compensation under Sub-section (3) may, within sixty days from the date of the Notification under Sub-section (2), make an application in that behalf to the prescribed authority who shall determine the compensation in the prescribed manner.

(5) The compensation determined under Sub-section (4) shall be paid, where the variation is made on a proposal from the Planning authority, by such authority and in any other case by the State Government].

33 - Duties and liabilities of owners of property :- (1) After issue of the Notification under Section 32 no owner of any land shall erect or proceed with the construction of any building or work to enter into or carry out a contract in respect of land within the area included in the Master Plan unless he has applied for and obtained a licence from the Planning authority to the effect that the proposed building or work or contract is in accordance with and is not contrary to any of the provisions of the approved plan.

(2) It shall be the duty of the owners of land to ensure that developments on their lands are not contrary to the Master Plan.

(3) It shall be the duty of the Planning authority to refuse permission to any applicant for development which is not in according with or is contrary to any of the provisions of the Master Plan.

(4) Dispute, if any, arising between a Planning authority and owner of land with regard to an application for development shall be referred to the State Government through the Director for decision. The decision of the State Government shall be final.

(5) Any development which has been made in any land without the permission of the Planning authority and which is contrary to the Master Plan shall not be taken into account in awarding compensation in the event of the land being acquired subsequently under the provisions of this Act for implementation of the detailed schemes under the Master Plan.

34 - Improvement scheme :- (1) The Planning authority shall prepare within the frame work of the Master Plan a well-defined improvement scheme and such scheme may be one of the following types or combination of arty two or more of such types or any special features thereof, namely. :

(i) a general improvement scheme;

(ii) a re-building scheme;

(iii) a re-housing scheme;

(iv) a street scheme;

(v) a deferred street scheme;

(vi) a development scheme;

(vii) a housing accommodation scheme;

(viii) a town expansion scheme;

(ix) a drainage and sewerage disposal scheme; and (x) a water supply scheme.

(2) An improvement scheme may provide for all or any of the following matters, namely:

(i) the acquisition by purchase, exchange or otherwise of any property necessary for or affected by execution of the scheme;

(ii) the re-laying out of any land comprised in the scheme:

(iii) the re-distribution of sites belonging to owners of property comprised in the scheme;

(iv) the closure or demolition of dwelling or portions of dwellings unfit for human habitation;

(v) the demolition of obstructive buildings or portions of buildings;

(vi) the construction and reconstruction of buildings;

(vii) the sale, lease, exchange of any property comprised in the scheme;

(viii) the laying and alteration of streets and provision of side walks for pedestrians;

(ix) the drainage, sewerage, water supply and lighting of streets so laid or altered;

(x) the provision of open spaces for the benefit of any area comprised in the scheme or any adjoining area, and for the enlargement of existing open space and approaches;

(xi) the provision of sanitary arrangements required for the area comprised in the scheme including drains, the disposal or waste and refuse and the conservation and prevention of injury or contamination to rivers or other sources and means of water-supply;

(xii) provision of accommodation for any class of persons;

(xiii) advance of money for the purposes of the scheme;

(xiv) provision of facilities for communication;

(xv) reclamation or reservation of land for market, gardens, afforestation, provision of fuel and grass supply, and other needs of inhabitants;and

(xvi) any other matter for which, in the opinion of the State Government, it is expedient to make provision with a view to the improvement of any area comprised in the scheme or of any adjoining area or the general efficiency of the scheme.

35 - Power to frame general improvement scheme :- Whenever it appears to any Planning authority that within the frame-work of that portion of the Master Plan which has been allotted it for execution by means of a detailed scheme (hereinafter referred to as the allotted plan)-

(a) in any area, any buildings used or intended or likely to be used as dwelling places, are unfit for human habitation; or

(b) danger to the health of the inhabitants of buildings in any area, or of building in the neighbourhood of such area, is caused by-

(i) the narrowness, closeness, or bad arrangement or condition of streets or buildings or groups of buildings in such area; or

(ii) the want of light, air, ventilation or proper conveniences in such area; or

(iii) any other sanitary defects in such area;

the said authority may pass a resolution to the effect that such area is an insanitary area and that a general improvement scheme ought to be framed in respect of such area and shall then proceed to frame such a scheme:

Provided that where no Master Plan has been finally published under Section 32 or any area included within the frame-work of the Master Plan has not been allotted to a Planning authority for execution by means of a detailed scheme and the State Government are satisfied on a resolution passed by the said authority or otherwise that it is necessary to take immediate steps to frame a scheme under this section in respect of such area, the State Government may direct the said authority to frame such scheme and the provision of this Act shall apply to the said scheme as if it were an improvement scheme within the allotted plan.

36 - Re-building Scheme :- (1) Whenever it appears to the Planning authority that within the frame work of the allotted plan any area is an insanity area within the meaning of the preceding section and that having regard to the comparative value of the buildings in such area and of the sites on which they are erected the most satisfactory method of dealing with the area or any part thereof is a rebuilding scheme the Planning Authority may pass a resolution to that effect and shall then proceed to frame a scheme in accordance with the provisions of this section.

(2) A re-building scheme may provide for-

(a) the preservation of streets lanes and open spaces and the enlargement of existing streets, lanes and open spaces to such extent as may be necessary for the purposes of the scheme;

(b) the re-laying out the sites of the area upon such streets, lanes or open spaces so reserved or enlarged;

(c) the payment of compensation in respect of any such reservation or enlargement and the laying of the streets, lanes and open space so reserved or enlarged;

(d) the recommendation, alteration or demolition of the existing buildings or parts thereof and their appurtenances by the owners or by the Planning authority in default of the owners and the erection of buildings or parts thereof in accordance with the scheme by the site as defined under the scheme;

(e) the advance to the owners, upon such terms and conditions as to interest, sinking fund and otherwise as may be provided under the scheme of such sums as may be necessary to assist them to reconstruct or alter existing buildings or to erect new buildings in accordance with the scheme;

(f) the acquisition by the planning authority of any site or building comprised in the area included in the scheme.

37 - Re-housing Scheme :- The planning authority may frame schemes for development of sites and for construction, maintenance and management of such and so many dwellings and shops as it may consider necessary for persons who -

(a) are displaced by the execution of any improvement scheme sanctioned under this Act; or

(b) are likely to be displaced by the execution of any improvement scheme which it is intended to frame, or submit to the State Government for sanction, under this Act.

38 - Street schemes :- (1) Whenever the planning authority is of opinion that within the frame-work of the allotted plan it is expedient to lay out new streets or alter existing streets (including bridges, causeways and culverts) in any area, for the purpose of -

(a) providing building sites, or

(b) remedying defective ventilation; or

(c) creating new or improving existing means of communication and facilities for traffic; or

(d) affording better facilities for conservancy, the Planning authority, may pass a resolution to that effect, and shall then proceed to frame a street scheme for such area.

(2) A street scheme may, within the limits of the area comprised in the scheme, provide for the following matters;

(a) the acquisition of any land which will in the opinion of Planning authority, be necessary for its execution;

(b) the re-laying out of all or any of lands so acquired, including the construction and reconstruction of buildings by the Planning authority or by persons authorised by the said authority in that behalf and the laying out, construction and alternation of streets and. through fares;

(c) the drainage, water-supply, and lighting of streets and thoroughfares so laid out, constructed or altered;

(d) the raising, lowering or reclamation of any land vested in or to be acquired by the Planning authority for the purpose of the scheme;

(e) the provision of open spaces for the better ventilation of the area comprised in the scheme;

(f) the acquisition of any land adjoining any street, thoroughfares or open space included in the scheme.

39 - Deferred street scheme :- (1) Whenever the Planning authority is of opinion that within the frame-work of the allotted plan, it is expedient for any of the purposes mentioned in Section 38 to provide for the ultimate widening of any street by altering the existing alignment of street to improve alignments to be specified by the Planning authority but that it is not expedient immediately to acquire all or any of the properties lying within the proposed improved alignments, the said authority, if satisfied as to the sufficiency of its resources, may pass a resolution to that effect, and shall forthwith proceed to make a scheme to be called a "deferred street scheme" specifying alignment on each side of the street.

(2) A deferred street scheme shall provide for-

(a) the acquisition of the whole or any part of any property lying within the specified street alignment within the time-limit provided in the scheme which may be extended by the State Government;

(b) the re-laying out of all or any such property, including the construction and reconstruction of buildings by the Planning authority or by any other person, and the formation and alteration of the street.

(c) the drainage, water-supply and lighting of the streets so framed or altered.

(3) After a deferred street scheme has been sanctioned by the State Government -

(a) no person shall, except with the written permission of the Planning authority, erect, re-erect, add to or alter any building or wall so as to make the same project beyond the specified alignment of the street;

(b) the owner of any property included within the specified alignment of any street may, at any time, give the Planning authority notice requiring it to acquire such property before the expiration of six months from the date of such notice, and thereupon the said authorities shall issue notice of the intention to acquire such property and the property shall be acquired accordingly;

(c) before proceeding to acquire any property lying within the specified alignment of the street [other than property regarding which it has received a notice under Clause (b)] the Planning authority shall give six months' notice to the owner of its intention to acquire such property.

40 - Development scheme :- (1) In regard to any area to which this Act applies the Planning authority may, from time to time, prepare, within the frame-work of the allotted plan, a scheme of proposed public streets with plans showing the direction of such streets, the street alignment and building line oh each side
of them, their intended width and such other details as may appear desirable.

(2) When any such scheme has been notified under Section 45 the street to which it refers, shall be deemed to be projected public street.

(3) If any person desires to erect, re-erect, add to, or alter any building or wall so as to make the same project beyond the street alignment or beyond the building line shown in any plan so adopted, he shall apply to the Planning authority for permission to do so.

(4) If the Planning authority refuses to grant permission to any person, within six months of the date of his application to erect on his land any building or wall to project as aforesaid and if it does not proceed to acquire such land within one year from the date of such refusal, the Planning authority shall pay reasonable compensation to such person for any damage sustained by him in consequence of such refusal.

(5) When any building or wall or part thereof projecting into or beyond, or adjacent to the street alignment or building line shown in any plan adopted as aforesaid has fallen down or been demolished or burnt down, or is in the opinion of the Planning authority, in a condition likely to endanger public safety or public health the said

authority, may by written notice, require or permit the same to be set back, or set forward, as the case may be to or towards such street alignment or building line.

(6) When any building or wall is set back or set forward in pursuance of a requisition made under Sub-section (5) the Planning authority shall pay compensation to the owner of the building or wall for any damage that he may sustain thereby.

(7) If the requisition or permission under Sub-section (5) to set forward any building or wall involves the inclusion within the premises of the owner of the building or wall of any land belonging to the Planning authority, the requisition or permission shall operate as conveyance of such land to the said owner on the terms and conditions specified therein.

(8) If the owner is dissatisfied with any of the terms and conditions aforesaid he may within thirty days after the communication to him of such terms and conditions apply to the Planning authority in writing for a reference of his case to the Tribunal hereinafter constituted. On receipt of such application, the said authority shall refer the case to the Tribunal and its decision shall be final.

41 - Housing accommodation Scheme :- Whenever the planning authority is of opinion that the frame-work of the allotted to the plan, it is expedient and for the public advantage to provide housing accommodation for any class of the inhabitants of any area the said authority may frame a scheme to be called a "housing accommodation scheme".

42 - Town expansion scheme :- (1) Whenever the Planning authority is of opinion that within the frame-work of the allotted plan, It is expedient and for the public advantage to control and provide for the future expansion or development of any area to which this Act applies the said authority shall frame a scheme to
be called a "town expansion scheme".

(2) Such scheme shall show the method in which it is proposed to layout the area to be developed and the purposes for which particular areas are to be utilised.

(3) When any such scheme has been notified under Section 45 if any person desires to erect, re-erect, add to or alter any building or wall within the area comprised in the said scheme, he shall apply to the Planning authority for permission to do so.

(4) If the planning authority refuses to grant permission to any person within six months of the date of his application to erect, re-erect, add to or alter any building or wall on his land in the area aforesaid, and if it does not proceed to acquire such land within one year from the date of such refusal, it shall pay compensation to such person for any damage sustained by him in consequence of such refusal.

43 - Matters to be considered when framing improvement scheme :- When framing an improvement scheme in respect of any area, the Planning authority shall have regard to-

(i) the nature and conditions of neighbouring areas and/or of the Municipality as a whole;

(ii) the direction in which the expansion of the area and the Municipality appears likely to take place; and

(iii) the likelihood of improvement schemes being required for other parts of the area or the Municipality.

44 - Initiation of schemes :- (1) An improvement scheme within the frame-work of the allotted plan may be initiated by the Planning authority-

(a) on its own motion;

(b) upon a direction by the State Government; or

(c) on a written representation by twenty-five or more residents of a ward in a Municipality constituted under the provisions of the Orissa Municipal. Act, XXIII of 1950 which are assessed to tax on holdings under the provisions of the said Act or whose names appear in the electoral roll of the said ward such representation having been submitted through the Municipal Council concerned and forthwith forwarded by the said Council with such recommendation as it may deem proper.

(2) The Planning authority shall consider every representation made under Sub-section (1) and if satisfied as to the necessity or expediency for an improvement scheme on the lines suggested and as to the sufficiency of its resources for executing such a scheme shall within ninety days from the date of the receipt of representation decide whether the scheme should be framed forthwith or not and shall intimate its decision to the Director or the State Government as the case may be.

(3) If the Planning authority decides that it is not necessary or expedient either to frame an improvement scheme forthwith, it shall inform the Director or the State Government as the case may be, of the reasons for its decision.

(4) If the Planning authority fails for a period of ninety days after the receipt of any representation made under Sub-section (1) to intimate its decision thereon to the Director or the State Government as the case may be or if the said authority intimates to the Director or the State Government as the case may be, its decision that it is not necessary and expedient to frame an improvement scheme forthwith or decides to frame a scheme of a type other than that represented under the foregoing provisions, the State Government may consider the same whether, referred to directly or through the Director.

(5) The State Government shall consider every reference made to them under Sub-section (4), and -

(a) if they consider that the Planning authority ought, in all circumstances, to have made a decision within the period mentioned in Sub -section (2), shall direct the Planning authority to make a decision within such further period as the State Government may think reasonable; or

(b) if they consider that it is, in all circumstances, expedient that a scheme should forthwith be framed, shall direct the said authority to proceed forthwith to frame a scheme. Such a direction may specify the type of scheme to be framed.

(6) The Planning authority shall comply with every direction given by the State Government under this section.

45 - Preparation, publication and transmission of notice as to improvement scheme, etc. :- (1) When any improvement scheme has been framed, the Planning authority shall prepare a notice stating-

(a) that the scheme has been framed; that the boundaries of the areas comprised in the scheme and the place and time at which particulars of the scheme together with a map of the area comprised in the scheme, and a statement of the land which it is proposed to acquire and of the land in regard to which it is proposed to recover a betterment charge may be seen at reasonable hours.

(2) The Planning authority shall -

(a) cause the said notice to be published in two consecutive issues of the Gazette and in a local newspaper, if any, inviting objections and suggestions from the interested persons within forty-five days of the publication of the notice; and

(b) serve a copy of the notice, within thirty days of the publication of the scheme, on each of the owners of the land which is proposed to be acquired, on any person or persons known or believed to be interested therein.

(3) All the objections, suggestions or representations received within the period specified in Sub-section (2) in respect of any scheme shall be forthwith considered by the Planning authority and it may after hearing all such persons or their duly authorised agent's making any such objection, suggestions or representations as may desire to be heard, send a report to the State Government either directly or through the Director as the case may be.

(4) Every such report shall be accompanied by-

(a) a description of and full particulars relating to the scheme together with the complete plans and estimated cost of its execution;

(b) a statement of the reason for any modification made in the scheme as originally framed;

(c) a statement of objections or representations, if any, received;

(d) a list of the names of all persons, if any, who have objected to the proposed acquistions of their lands or to the proposed recovery of a betterment charge and a statement of the reasons for such objection;

(e) a statement of the arrangements, if any, made or proposed by the Planning authority for re-housing of persons who are likely to be displaced by the execution of the scheme and for whom a re-housing scheme is required; and

(f) such other particulars as may be prescribed.

46 - Power to sanction, reject or return improvement scheme :-(1) The State Government may sanction, either with or without modification, or may refuse to sanction, or return for reconsideration any scheme submitted to them under Section 45. While sanctioning the scheme, the State Government shall ensure that suitable arrangements have been made in the scheme for re-housing of persons and institutions which in the opinion of the Government are devoted to philanthropic purposes, that are likely to be displaced as a result of the execution of the scheme.

(2) If a scheme which is returned for reconsideration under Sub-section (1) and is modified by the Planning authority, it shall be republished in the manner provided in Section 45-

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

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

47 - Notification of sanction of improvement scheme :- (1) Whenever the State Government sanction an improvement scheme, such sanction shall be notified in the Gazette and published in at least two local newspapers and except in the case of a Deferred Street Scheme, Development Scheme or a Town Expansion Scheme, the Planning authority shall forthwith proceed to execute the scheme.

(2) The publication of a Notification under Sub-section (1) in respect of a scheme shall be conclusive evidence that the scheme has been duly framed and sanctioned and shall be sufficient authority for the Planning authority to execute the scheme.

48 - Duty to develop and offer house sites for persons to be displaced from residences :- When as a result of the execution of a scheme any person is likely to be displaced from his residence and when such person has no other residence of his own in the local area, it shall be the duty of the Planning authority to develop and offer, so far as may be practicable, a house site for sale or lease to such person before actually displacing him.

49 - Alteration of improvement scheme after sanction :- At any time after an improvement scheme has been sanctioned by the State Government and before it has been carried into execution, the Planning authority may alter it:

Provided that-

(a) if any alteration is considered likely to increase the estimated net cost of executing the scheme by more than ten per centum or by more than fifty thousand rupees, such alteration shall not be made without the previous sanction of the Government;

(b) if any alteration involves any acquisition otherwise than by agreement, of any land, the acquisition of which has not been sanctioned by the State Government, the procedure provided in the foregoing sections of this Chapter shall, so far they are applicable be followed as if the alteration was a separate scheme;

(c) if, owing to any alteration any land not previously liable under the scheme to the payment of any betterment charge becomes liable to such payment the procedure provided in Section 45 shall so far as applicable be followed in regard to such land.

50 - Transfer to the Planning authority for purposes of improvement scheme of building or land vested in Municipality :- (1) Whenever any building or any street, square or other land or any part thereof which is situated in any part of a Municipality

constituted under the Orissa Municipal Act, XXIII of 1950 and is vested in that Municipality, is within the area of any improvement scheme and is required for the purpose of such scheme, the Planning authority shall give notice accordingly to the executive authority or officer of such Municipality and such building, street, square, other land or part thereof shall, notwithstanding anything contained in the Orissa Municipal Act, XXIII of 1950, thereupon vest in the said authority.

(2) Where any land situated in a Municipality vests in the Planning authority under the provisions of Sub-section (1) and the said authority makes a declaration that such land shall be retained by it only until it reverts to the Municipality as part of a street or an open space under Section 38, no compensation shall be payable by the Planning authority to the Municipality in respect of the land.

(3) Where any land or building vests in the Planning authority under Sub-section (1) and no declaration is made under Sub-section (2) in respect of the land, the said authority shall pay to the Municipality as compensation a sum equal to the market value of such land or building as on the date of the publication of the Notification under Section 47; and where any building situated on land in respect of which a declaration has been made by the said authority under Sub-section (1), like compensation shall be payable in respect of such building by the said authority:

Provided that land of equal market value may be given in exchange in lieu of compensation.

(4) If in any case where Planning authority has made a declaration in respect of any land under Sub-section (2), and retains or disposes of the land contrary to the terms of the declaration so that the land does not revest in the Municipality, the Planning authority shall pay to the Municipality compensation in respect of such land in accordance with the provisions of Sub-section (3).

(5) If any question of dispute arises -

(a) as to whether compensation is payable under Sub-section (3) or Sub-section (4); or

(b) as to the amount of the compensation paid or proposed to be paid under Sub-section (3) or Sub-section (4); or

(c) as to whether any building or street or square or other land or any part thereof is required for the purposes of the scheme;

the matter shall be referred to the State Government whose decision shall be final.

51 - Transfer of private street or square to the Planning authority for **purposes of improvement scheme :-** (1) Whenever any street or square or part thereof which is not vested in any Municipality constituted under the Orissa Municipal Act, XXIII of 1950 is required for executing any improvement scheme the planning authority shall close to be affixed in a conspicuous place in or near such street, square or part, a notice signed by the Chairman; and

(a) stating the purpose for which the street, square or part is required; and

(b) declaring that the Planning authority will, on or after a date to be specified in the notice take over charge of such street, square or part from the owner thereof;

and shall simultaneously send a copy of such notice to the owner of such street, square or part.

(2) After considering the objections (if any) received in writing before the date specified under Clause (b) of Sub-section (1), the Planning authority may take over charge of such street, square or part and the same shall thereupon vest in the said authority.

(3) When the Planning authority alters or closes any street or square or part thereof which has vested in it under Sub-section (2), it shall pay reasonable compensation to the previous owner for the loss of his rights thereon.

(4) If the alteration or closing of any such street, square or part cause damage or substantial inconvenience to owners of property adjacent thereto or to residents in the neighbourhood, the planning authority-

(i) shall forthwith provide some other reasonable means of access for the use of persons who were entitled to use such street square or part as a means of access to any property or place; and

(ii) if the provision of such means of access does not sufficiently compensate any such owner or resident for such damage or inconvenience, shall also pay him reasonable compensation in money.

52 - Provisions of drain or water-work to replace another situated on land vested in the Planning authority under Section 50 or 51 :- (1) Where in any building or street, square or other land or part thereof referred to in Section 50 or 51, there is any Municipal drain water-work, electric main or installation, such drain water-work, electric main or installation shall not vest in the Planning authority until the said authority has provided, if such provision is necessary another drain water work, electric main or installation to the satisfaction of the Municipality.

(2) If any question or dispute arises as to whether another drain water work, electric main or installation is necessary or as to the sufficiency of any drain water-work, electric main or installation provided by the Planning authority under Sub-section (1), such question or dispute shall be referred to the State Government whose decision thereon shall be final.

53 - Repairing and watering of streets vested in Planning authority :- Whenever the Planning authority allows any street vested in it to be used for public traffic, it shall-

(a) keep the Street in good repair, as far as practicable, and do all things necessary for the safety and convenience of persons using it; and

(b) cause the street to be watered, if it considers it necessary to do so for the public convenience.

54 - Guarding and Lighting when street vested in the Planning authority is opened or broken up, when street under construction and speedy completion of work :- Whenever any drain, or the payment or surface of any street vested in the

Planning authority, is opened or broken up by it for the purposes of carrying on any work, or whenever the said authority-allows any street which it has under construction to be used for public traffic, the said authority shall cause the place to be fenced and guarded and to be sufficiently lighted during the night, and shall take proper precautions for guarding against accident by shorting 'up and protecting adjoining buildings and shall with all convenient speed, complete the said work, fill in the ground, and repair the said drain, payment of surface and carry away the rubbish occasioned thereby or complete the construction of the said street as the case may be.

55 - Prevention or restriction of traffic in street vested in the Planning authority during progress of work :- (1) When any work referred to in Section 54 is being executed by the Planning authority in any public street vested in it, or when any other work which lawfully be done, is being executed by the said authority in any street vested in it, the said authority may direct that such street shall, during the progress of such work, be either wholly or partially closed to traffic generally, or to traffic of any specified description.

(2) When any such direction has been given, the Planning authority shall, after notifying in local newspapers its intention to do so, set up, in conspicuous possession in or near the street, an order prohibiting traffic to the extent so directed, and fix such bars, chains or posts across or in the street as it may think proper for preventing or restricting traffic therein.

56 - Provisions of facilities and payment of compensation when work is executed by the Planning authority in public street vested in it :- (1) When any work is being executed by the Planning authority shall, so far as may reasonably be practicable, make adequate provision for -

(a) the passage or diversion of traffic;

(b) securing access to all premises approached from such street; and

(c) any drainage, water-supply or means of lighting which is interrupted by reason of the execution of the work.

(2) The Planning authority shall pay reasonable compensation to any persons who sustains damage by reason of the execution of any such work.

57 - Power of Planning authority to run or close public street or square vested in it :- (1) The Planning authority after giving public notice for fifteen days-

(a) turn, divert, discontinue the public use of, or permanently close any public square vested in it or any part thereof;

(b) discontinue the public use of, or permanently close, any public square vested in it or any part thereof.

(2) Whenever the Planning authority discontinues the public use of or permanently closes any public street vested in it or any part thereof, It shall pay reasonable compensation to every person who was entitled, otherwise than as means of access and his suffered damage from such discontinuance or closing.

(3) Whenever the Planning authority discontinues the public use of or permanently closes, any public square vested in it, or any part thereof, it shall pay reasonable compensation to every person-

(a) who was entitled, otherwise than as a mere member of the public, to use such square or part as means of access; or

(b) whose immovable property was ventilated by such square or part, and who are suffered damage-

(i) in case (a) from such discontinuance or closing; or

(ii) in case (b) from the use to which the said authority has put such square or part.

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

(5) When any public street or square vested in the planning authority or any part thereof is permanently closed under Sub-section (1), the said authority may sell or lease so much of the same as is no longer required.

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

(a) between the Planning authority and the previous owner of any street or square or part thereof which has vested in the said authority under Section 51 and has been altered or closed by it, as to the sufficiency of the compensation paid or proposed to be paid under Sub-section (3) of that section; or

(b) between the Planning authority and any person who was entitled, otherwise than as a member of the public, to use as a means of access any street or square or part thereof which has vested in the said authority under Section 51-

(i) as to whether the other means of access provided or proposed to be provided under Sub-section (4) of Section 51 are reasonably sufficient; or

(ii) as to the sufficiency of any compensation paid or proposed to be paid under Sub-section (4); or

(c) between the Planning authority and any person as to the sufficiency of any compensation paid or proposed to be paid to him under Sections 36, 39, 40, 42, 56 and 57;

the matter shall be determined by the Tribunal if referred to it either by the Planning authority or by the claimant, within a period of three months in case of Clause (a) or Clause (b) from the date on which the street or square or part thereof was altered or closed by the Planning authority, and in case of Clause (c), the date on which the said person was informed of the decision of the Planning authority, the amount of

compensation to be paid to him or rejecting his claim to compensation and the determination of this Tribunal is final.

(2) If a reference to the Tribunal be not made within the period provided in Sub-section (1), the decision of the Planning, 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, 1 of 1894 as modified by Section 64 of this Act, were applicable to the case.

59 - Vesting in Municipality of streets laid out or altered and open spaces provided by the Planning authority under an improvement scheme :- (1) Whenever the Municipality is satisfied-

(a) that any street laid out or altered by the Planning authority, has been duly leveled, paved, metalled, flagged, channeled, sewered and drained in the manner provided in the plans sanctioned by the State Government under Section 46;

(b) that such lamps, lamp posts and other apparatus as the Municipality considers necessary for the lighting of such street and as ought to be provided by the Planning authority have been so provided; and

(c) that water and other sanitary convenience ordinarily provided in the Municipal area have been duly provided in such street;

the Municipality may, with the previous approval of the State Government and after informing the Planning authority of its intention to do so; by written notice affixed in some conspicuous position in such street, declare the street to be a public street; and the street shall, thereupon vest in the Municipality, and shall henceforth be maintained, kept in repair, lighted and cleansed by the Municipality.

(2) When any open space for purposes of ventilation or recreation has been provided by the Planning authority, in executing any improvement scheme, it shall on completion, be transferred to the Municipality by resolution of the said authority and shall thereupon vest in, and be maintained at the expense of the Municipality:

Provided that the Municipality may require the Planning authority before any such open space is so transferred to enclose, level, turf, drain and layout such space and provide footpaths therein and, if necessary to provide lamps and other apparatus for lighting it.

(3) If any difference of opinion arises between the Planning authority and the Municipality in respect of any matter referred to in the foregoing provisions of this section, the matter shall be referred to the State Government whose decision shall be final.

60 - Notice to Municipality to take over certain duties :- (1) When the execution of a scheme prepared within the frame work of the Master Plan has been completed by the Planning authority, the said authority may, by a written notice, ask the Municipality to take over the maintenance of roads and of these werage, drainage, water-supply, lighting and conservancy systems comprised within the scheme and, if the Municipality fails to comply with the notice within two years of the date of the service of

such notice, such road and system shall be deemed to have vested in the Municipality who shall thereupon be responsible for the maintenance of such roads and systems.

(2) If any difference of opinion arises between, the Planning authority and the Municipality in respect of any matter referred to in Sub-section (1) the matter shall be referred to the State Government whose decision shall be final.

61 - Power of Planning authority to retain service passages :-Notwithstanding anything contained in Sections 59 and 60 the Planning authority may retain any service passage which it has laid out for santitary purposes, and may enter into an assignment with the Municipality or any other person for the supervision, repair, lighting and general management of any passage so retained.

62 - Power to purchase or lease by agreement :- The Planning authority may enter into an agreement with any person for the acquisition from him by purchase, lease, or exchange, of any land which the Planning authority is authorised to acquire of any interest in such land.

63 - Power to acquire land under the Land Acquisition Act, 1894:-The Planning authority may with the previous sanction of the State Government, acquire land under the provisions of the Land Acquisition Act, 1 of 1894, for carrying out any of the purposes of this Act.

64 - Notification of the Land Acquisition Act, 1894 :- For the purpose of acquiring land for the Planning authority under the Land Acquisition Act, 1 of 1894 the said Act shall be subject to the modification specified in the Schedule to this Act.

65 - Tribunal to be constituted :- (1) The State Government may, if they think fit, constitute a Tribunal for the purpose of performing the functions of the Court in reference to the acquisition of land for the Planning authority under the Land Acquisition Act, 1 of 1894.

(2) The Tribunal shall consist of one person who is or had been a member of Superior Judicial Service for a period of not less than five years.

(3) When a Tribunal is constituted under Sub-section (1) -

(i) the Tribunal shall (except for the purposes of Section 54 of this Act) be deemed to be the Court;

(ii) The Tribunal shall have the 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 the Code of Civil Procedure, 1 of 1908; and

(iii) the award of the Tribunal shall be deemed to be award of the Court under the Land Acquisition Act, 1 of 1894 and shall be final.

66 - Officers and employees of the Tribunal :- (1) The Tribunal shall from time to time prepare a statement showing -

(a) the number of grades of the assistants and other officer and employees who, it considers should be employed for carrying on the business of the Tribunal;

(b) the amount of the salary to be paid to each such officer and

employees; and

(c) the contribution payable under Section 130 in respect of each such officer or employee who is a Government servant.

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

(3) The Tribunal shall subject to any Rules made by the State Government in this behalf make Regulations-

(i) for regulating the grant of leave of absence, leave allowances and acting allowances of the officers and employees of the Tribunal:

Provided that a Government servant employed as officer or employee of the Tribunal shall not be entitled to leave or leave allowances otherwise than as may be laid down in the conditions of his service under the Government relating to transfer to foreign service;

(ii) for establishing and maintaining a provident or annuity fund, for compelling all or any of the officers or employees of the Tribunal (other than any Government servant in respect of whom a contribution is paid under Section 130), to subscribe such fund, at such rates as subject to such conditions as may be prescribed and, with the sanction of the Planning authority for supplementing such subscriptions out of the funds of the said authority;

(iii) for determining the conditions under which the officers and employees of the Tribunal or any of them, shall on retirement received gratuities or compassionate allowance and the amount of such gratuities and compassionate allowances:

Provided that it shall be in the discretion of the Tribunal to determine whether all or any specified officers and employees shall become entitled on retirement to any such gratuities or compassionate allowances as aforesaid.

(4) Subject to any Regulations made under Sub-section (3) and for the time being in force, the power of making appointment and promotions to posts in the service of the Tribunal, of granting leave to officers and employees holding such posts, or censuring, fining, withholding promotion from, reducing, suspending, removing or dismissing such officers and servants for any breach of departmental rules or discipline or for carelessness, unfitness, neglect or duty or other misconduct and of discharging such officers and employees from the service of the Tribunal for any other reasons, shall be exercised by the Tribunal.

67 - Payment by the Planning authority :- The amount necessary for the payment of remuneration, salaries, leave allowances and acting allowances in accordance with Section 66 shall be provided by the Planning authority.

68 - Power to make regulations for Tribunal :- (1) The Tribunal may, from time to time, with the previous sanction of the State Government, make regulations, not repugnant to the provisions, of the Code of Civil Procedure, 1 of 1908 for the conduct of business by the Tribunal.

69 - Enforcement of the award or order of the Tribunal :- Every award of the Tribunal, and every order made by the Tribunal for the payment of money, shall be enforced by the Civil Court or competent jurisdiction as if it were a decree of the said Court.

70 - Payment of betterment charge :- (1) When by the making of any improvement scheme any land in the areas comprised in the scheme which is not required for the execution thereof will, in the opinion of the Planning authority, be increased in value, the said authority, in framing the scheme, may, in lieu of providing for the acquisition of such land, declare that a betterment charge shall be payable by the owner of the land or any person having an interest therein in respect of the increase in value of the land resulting from the execution of the scheme either in lump sum or in instalments in such number and in such manner as may be prescribed by the State Government:

Provided that the State Government may at their discretion exempt from the provisions of this section such lands as were being used for philanthropic purpose before the sanction of the scheme.

(2) Such betterment charge shall be an amount not exceeding one half of the increase in value of the land resulting from the execution of the scheme as may be prescribed by the State Government.

71 - Assessment of betterment charge by the Planning authority :- (1) When it appears to the Planning authority that an improvement scheme is sufficiently advanced to enable the amount of betterment charge to be determined, the said authority shall, by a resolution passed in this behalf declare that for the purpose of determining such charge the execution of the scheme shall be deemed to have been completed and shall thereupon give notice in writing to every person on whom a notice in respect of land to be assessed, has been served under Section 45 or to the successor-in-interest of such person to assess the amount of the betterment charge payable in respect of such land under Section 70.

(2) The Planning authority shall then assess the amount of betterment charge payable by each person concerned in each particulars area after giving such person an opportunity to be heard and such person shall within thirty days from the date of receipt of notice in writing of such assessment from the Planning authority inform the said authority in writing whether or not he accepts the assessment.

(3) When the assessment proposed by the Planning authority is accepted by the person concerned within the period specified in Sub-section (2) such assessment shall be final.

(4) if the person concerned does not accept the assessment made by the Planning authority or fails to give the said authority the information required by Sub-section (2) within the period specified therein the matter shall be determined by an arbitrator to be appointed by the State Government with same qualification of a Tribunal as specified in Sub-section (2) of Section 65.

(5) Any party aggrieved by the decision of the arbitrator may, within three months from the date of the communication thereof, appeal to the High Court and subject to the result of such appeal, if any, the decision of the arbitrator shall be final and binding on all persons concerned.

72 - Power and duties of arbitrator :- (1) The arbitrator shall give notice of his proceedings and conduct them in the manner prescribed by the State Government and communicate his award to the parties concerned:

Provided that every party to such proceedings shall be entitled to appear before the arbitrator either in person or by its authorised agent.

(2) The arbitrator shall have all the powers of a Civil Court under the Code of Civil Procedure V of 1908 for the purpose of taking evidence on oath and enforcing the attendance of witnesses and compelling the production of documents and other material objects.

(3) The cost of and incident to all proceedings before the arbitrator shall be in his discretion and the arbitrator shall have full power to determine by whom or out of what property and to what extent such costs are to be paid and to give all necessary directions for the purpose.

73 - Planning authority to give notice to persons liable to payment of betterment charge :- When the amount of all betterment charge payable in respect of land in area comprised in the same has been determined under Section 71 the Planning authority Shall, by a notice in writing to be served on all persons liable to such payment fix a date by which such payment shall be made, and interest at the rate of five per centum per annum upon any amount outstanding shall be payable from that date.

74 - Agreement to make payment of betterment charge a charge on land :- (1) Any person liable to pay a betterment charge in respect of any land may at his option, instead of making a payment thereof to the Planning authority execute an agreement with the said authority to leave the said payment outstanding as a charge on his interest in the land subject to the payment of interest at the rate of five per centum per annum, the first annual payment of such interest to be made after one year from the date referred in Section 73.

(2) Every payment due from any person in respect of a betterment charge and every charge referred to in Sub-section (1) shall notwithstanding anything contained in any other enactment and notwithstanding the existence of any mortgage or other charge, whether legal or equitable, created either before or after the commencement of this Act, be the first charge upon the interest of such person in such land.

(3) If any installment of interest due under any agreement executed in pursuance of Sub-section (1) be not paid on the date on which it is due the betterment charge shall become payable on the date, in addition to the said installment.

(4) At any time after an agreement has been executed in pursuance of Sub-section (1), any person may pay off the charge created thereby, with interest
at five per centum per annum up to the date of such payment.

(5) When an agreement in respect of any land has been executed by any person in pursuance of Sub-section (1), no suit with respect to such agreement Shall be brought against the Planning authority, by any other person (except an heir, executor or administrator of the person first aforesaid or the holder or any prior charge on such land) claiming to have an interest in the land.

75 - Recovery of money payable in pursuance of Section 71 or 74 :- All money payable in respect of any land by any person in respect of a betterment charge under Section 71 or any person under any agreement executed in pursuance of Sub-section (1) of Section 74 shall be recoverable by the Planning authority (together with interest due up to the date of realisation at the rate of five per centum per annum), from the said person or his successor-in-interest in such land in the manner provided by the Orissa Municipal Act, XXIII of 1950, for the recovery of taxes and if the said money is not so recovered it shall be recoverable as an arrear of land revenue.

76 - Planning authority to appoint persons for enforcement of processes for recovery Of dues :- The Planning authority may direct by what authority any powers or duties incident Under the Orissa Municipal Act; XXIII bf 1950, to the enforcement of any process for the recovery of taxes shall be exercised and performed when that process is employed under Section 75.

77 - Agreement of payment not to bar acquisition under a fresh declaration :- If any land, in respect of which the payment of a betterment charge has been accepted in pursuance of Sub-section (3) of Section 71 or in respect of which an agreement regarding the betterment charge has been executed under Section 74 be subsequently required for any of the purposes of this Act, the payment or agreement 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, 1 of 1894.

78 - Power to dispose of land :- (1) The Planning-authority may retain, or may lease, sell, exchange, let on hire, or otherwise dispose of, any land vested in or acquired by it under this Act.

(2) Whenever the Planning authority decides to lease or sell any land acquired by it under this Act from any person, it -

(a) shall give notice by advertisement in the local newspapers, and

(b) shall offer to the said person, or his heirs, executors or administrators, a prior right to take on lease or to purchase such land, at a rate to be fixed by the Planning authority if the said authority considers that such an offer can be made without detriment to the carrying out of the purposes of this Act.

(3) If in any case two or more persons claim to exercise a right offered under Clause (b) of Sub-section (2) to take on lease or to purchase any land, the right shall be exercisable by the person who agrees to pay the highest sum for the land, not being less than the rate fixed by the Planning authority, under that
clause to the exclusion of the others.

79 - Conditions for abandonment of acquisition :- (1) The Planning authority may abandon acquisition of any land or portion thereof for which notice of acquisition has been duly served on the owner, if -

(a) the land is not required for any particular improvement Scheme; and

(b) if the owner gives an undertaking to the satisfaction of the Planning authority to develop the land in accordance with the master plan and the direction of the said authority.

(2) In all such cases as above the Planning authority shall enter into an agreement with the owner specifying the conditions under which the land has been abandoned to the owner.

(3) The Planning authority shall recover from the owner such consideration as it thinks fit before it actually abandons the acquisition proceedings.

80 - Constitution and powers of a Special Planning authority :- (1) The State Government may by Notification declare that it is necessary to make administrative provisions for all or any of the purposes of this Act in the whole or any part of a Municipality or any other area to which the provisions of this Act have been applied under Sub-section (3) of Section 1 (hereinafter referred to as the said area) other than a local area for which a Trust has been constituted under Section 7.

(2) The State Government shall thereupon appoint an officer of the Government to exercise powers and perform duties of a Planning authority as hereinafter specified.

(3) The State Government may, by Notification direct that the Planning authority shall in respect of the said area exercise and perform ail or any of the powers and duties which may be conferred or imposed on the said authority under this Act subject to such modification and exceptions as may be specified in the Notification.

(4) The State Government may, by Notification -

(a) apply or adapt to the said area any provisions of the Act which may be applied to a local area within jurisdiction of a Planning authority or any Rule or bye-law in force in relation to the said authority;

(b) impose in the said area any duty, charge or fee or pay any contribution which could be imposed by or paid to the Planning authority if the area were within the jurisdiction of the said authority;

(c) appoint or make Rule for the appointment or election of a Committee or Committees to carry out the purposes of this Act in the said area.

81 - Construction of enactment and expenditure :- When an, enactment or Rule is applied or adapted or to any tax, charge or fee imposed in, or any contribution paid to, the said area under the Chapter then unless a different intention appears, such enactment or Rule shall apply, and the proceeds of such tax, charge or fee or contribution may be expended in such manner as if the said
area were an area within the jurisdiction of the Planning authority.

82 - Grants to Planning authority :- The State Government, any Local authority or any person whether a body corporate or not may make grants to any Planning authority for the purpose of executing any improvement scheme under this Act.

83 - Duty on certain transfers of immovable property :- (1) The duty imposed by the Indian Stamp Act, 1 of 1899, on any deed of transfer of immovable property shall in the case of immovable property situated within the area to which this Act applies be increased by ı[three per centum] on the value of the property transferred in the case of a usufructuary mortgage on the amount secured by the instrument.

(2) For the purposes of this section, Section 27 of the Indian Stamp Act, 1 of 1899, as modified from time to time, shall be read as if it specifically required the particulars referred to therein to be set forth separately in respect of-

(a) property situated in the Municipality or local area, and

(b) property situated outside the Municipality or local area.

(3) For the purposes of this section, Section 64 of the said Indian Stamp Act, 1 of 1899, as modified from time to time, shall be read as if it referred to the Planning authority as well as the State Government.

(4) All collections resulting from the said increase shall after deducting incidental expenses, if any, be paid to the Planning authority at such time as may be prescribed by the State Government.

84 - Annual contribution by State Government :- The State Government shall, contribute to the Planning authority on the first day of April every year after the constitution of the said authority for such period as the State Government may, by Notification fix, such sum as may be specified in the Notification.

85 - Contribution from Municipal Fund :- (1) The Municipal Council shall pay from the Municipal Fund to the Planning authority concerned on the first day of each half year, so Long as such authority continued to exist, a sum equivalent to one per cent per quarter on the annual rateable valuation determined under Chapter XIII of the Orissa Municipal Act, XXIII of 1950, in respect of the local area as the said annual rateable valuation stood on the first day of the last preceding quarter:

Provided that if this Act comes into force in the Municipality during a quarter, the amount of the first of such payments shall bear such proportion to the sum payable hereunder as the unexpired portion of that quarter bears to the whole quarter.

(2) The payments provided by Sub-section (1) shall be made in priority to all other payments due from the Municipality except those referred to in Section 116 of the Orissa Municipal Act, XXIII of 1950:

1. Substituted vide O.A. No. 7 of 2005 O.G.E. No. 860 dated 25.5.2005

Provided that in exceptional cases the State Government may exempt any Municipality wholly or partly from the provisions of Sub-sections (1) & (2) or fix a different percentage or different installments.

(3) If any payment provided by Sub-section (1) cannot in the opinion of the State Government be made without increasing the maximum authorised by Sections 132, 133, 134 or 135 of the Orissa Municipal Act, XXIII of 1950, then that maximum may be increased to such extent as may, in the opinion of the State Government, be necessary to secure the due making of such payment.

86 - Planning authority to be local authority within the meaning of Local Authorities Loans Act, 1914 :- (1) The Planning authorities shall be deemed to be a Local authority as defined in the Local Authorities Loans Act, IX of 1914 for the purposes of borrowing money under that Act but tire provisions of that Act and of the Rules made there under shall have effect subject to the provisions in this Act.

(2) The, Planning authority shall also have power to borrow money from the State Government on such terms as may be approved by them.

87 - Power of Planning authority to borrow money :- The Planning authority may from time to time borrow, at such rate of interest and for such period and upon such terms as the State Government may approve any sum necessary for the purpose of -

(a) meeting expenditure debitable to the capital account under Section 113; or

(b) repaying any loan previously taken under this Act.

88 - Loans from Banks :- Whenever the borrowing of any sum has been approved under Section 87 the Planning authority may instead of borrowing such sum or any part thereof from the public take credit from any Bank on a cash account to be kept in the name of the said authority to the extent of such sum or part and with the previous sanction of the State Government may grant mortgages of all or any property vested in the Planning authority by way of securing the payment of the amount of such credit or of the sums from time to time advanced on such cash account with interest.

89 - Diversion of borrowed money to purposes other than those first approved :- When any sum of money has been borrowed under Section 87 or Section 88 for the purposes of meeting particular expenditure or repaying a particular loan no portion thereof shall be applied to any other purpose without the previous sanction of the State Government.

90 - Form, signature, exchange, transfer and effect of debenture :- (1) Whenever money is borrowed by the Planning authority on debentures the debentures shall be in such form the said authority with the previous sanction of the State Government may from time to time determine.

(2) All debentures shall be signed by the Chairman and one other member of the Planning authority.

(3) The holder of any debenture in any form prescribed under Sub -section (1) may obtain in exchange there for, upon such terms as the Planning authority may, from time to time determine a debenture in any other form so prescribed.

(4) Every debenture issued by the Planning authority shall be transferable by endorsement unless some other mode of transfer by prescribed therein.

(5) The right to use in respect of moneys secured by debentures issued by the Planning authority shall vest in the respective holders of the debentures for the time being, without any preference by reason of some of such debentures being prior to the date to others.

91 - Signature of coupon attached to debenture :- All coupons attached to debentures issued under this Act shall bear the signature of the Chairman and such signature may be engraved, lithographed or impressed by an mechanical process.

92 - Receipt by joint holders for interest or dividend :- Where two or more persons are joint holders of any debentures or security issued under this Act, any one of such persons may give an effectual receipt for any interest or dividend payable in respect of such debenture or security, unless notice to the contrary has been given to the Planning authority by any other of such person.

93 - Priority of payment for interest and repayment of loans :- An payments due from the Planning authority for interest on, or the repayment of loans, shall be made in priority to all other payments due from the said authority.

94 - Repayment of loans taken under Section 87 :- Every loan taken by the Planning authority under Section 87 shall be repaid within the period approved by the State Government under that section by such of the following methods as may be approved, namely:

(a) from a sinking fund established under Section 95 in respect of the loan; or

(b) by paying equal yearly or half yearly installments of principal, or of principal and interest throughout the said period; or

(c) if the Planning authority has before borrowing money on debentures, reserved by public notice, a power to pay off the loan periodical installments and to select by lot, the particular debentures to be discharged at particular periods then by paying such installments at such periods; or

(d) from money borrowed for the purpose under clause (b) of Section 87; or

(e) partly from sinking fund established under Section 95 in respect of the loan, and partly from money borrowed for the purpose under clause (b) of Section 87.

95 - Establishment and maintenance of sinking fund :- (1) Whenever the State Government have approved the repayment of loans from a sinking fund, the Planning authority shall establish such fund and shall pay into it in every
year, until the loan is repaid; a sum so calculated that, if regularly paid throughout the period approved by the State Government under Section 87, it would with accumulations in the way of compound interest, be sufficient, after payment of all expenses to pay off the loan at the end of the period.

(2) The rate of interest on the basis of which the sum referred to in Sub-section (1) shall be calculated, shall be such as may be prescribed by the State Government.

96 - Power to discontinue payment into sinking fund :-Notwithstanding anything contained in Section 95, if at any time the sum standing as credit of the sinking fund established for the repayment of any loan, is of such amount that, if allowed to accumulate at the rate of interest prescribed under Sub-section (2) of that section, it will be sufficient to repay the loan at the end of the period approved by the State Government under Section 87 then with the permission of the State Government, further annual payments into such funds may be discontinued.

97 - Investment of sinking fund :- (1) All money paid into any sinking fund shall as soon as possible be invested, under the order of the Planning authority, in -

(a) Government securities; or

(b) securities guaranteed by the Central or any State Government; or

(c) debentures issued by the Planning authority;

is the joint names of the Secretary to the Government of Orissa in the Finance Department and the Accountant-General of Orissa, to be held by them as trustees for the purpose of repaying from time to time the debentures issued by the Planning authority.

(2) All dividends and other sums received in respect of any such investment shall as soon as possible after receipt, be paid into the appropriate sinking fund and invest in the manner provided in Sub-section (1).

(3) Any investment made under this section may, from time to time, subject to the provisions of Sub-section (1), be varied or transposed.

98 - Application of sinking funds :- The aforesaid trustees may from time to time apply any sinking fund, or any part thereof, in or towards the discharge of the loan at any part of the loan for which such fund was established and until such loan is wholly discharged shall not apply the same for any other purpose.

99 - Annual statement by trustees :- (1) The aforesaid trustees shall at the end of every financial year, transmit to the Chairman a statement showing-

(a) the amount which has been invested during the year under Section 97;

(b) the date of the last investment made previous to the transmission of the statement;

(c) the aggregate amount of the security held by them;

(d) the aggregate amount which has, upto the date of the statement, been applied under Section 98 in or towards repaying loans; and

(e) the aggregate amount already paid into each sinking fund.

100 - Annual examination of sinking fund :- (1) The sinking funds shall be subject to annual examination by the Accountant-General, Orissa, who shall ascertain whether the cash and the current value of the securities at credit of such funds are actually equal to the amount which would have accumulated had investments been regularly made and had the rate of interest as originally estimated been obtained therefrom.

(2) The Planning authority, shall forthwith pay into any sinking fund any amount which the Accountant-General may certify to be deficient, unless the State Government specially sanction a gradual readjustment.

101 - Estimates of income and expenditure to be laid annually before the Planning authority :- (1) The Chairman shall at a special meeting to be held in the month of December in each year, lay before the Planning authority, an estimate of the income and expenditure of the said authority for the next financial year.

(2) Every such estimate shall make provision for the due fulfilment of all the liabilities of the Planning authority and for the efficient administration of this Act.

(3) Every such estimate shall differentiate capital and revenue funds, hereinafter provided and shall be prepared in such form, and shall contain such details, as the State Government or the Planning authority, may from time to time direct.

(4) Every such estimate shall be completed and a copy thereof sent, by post or otherwise, to each member of the Planning authority, at least ten clear days before the date of the meeting at which the estimate is to be laid before the Planning authority.

102 - Sanction of the Planning authority to estimates :- The Planning authority shall consider every estimate so laid before it, and shall sanction the same, either without alteration or with such alterations as it may think fit.

103 - Approval of State Government to estimates :- (1) Every such estimate, as sanctioned by the Planning authority shall be submitted to the State Government which may, at any time within one month after receipt of the same-

(a) approve the estimate, or

(b) disallow the estimate or portion thereof, and return the estimate to the Planning authority for amendment.

(2) If any estimate is so returned to the said authority it shall forthwith proceed to amend it, and shall resubmit the estimate, as amended to the State Government for such order as they deem fit and the order of the State Government thereon shall be final.

104 - Transmission of copies of estimates to Municipalities :- Every such estimate shall when approved by the State Government, be printed and copies hereof shall be sent by the Planning authority to the Municipalities other Local authorities affected by such estimate.

105 - Special provisions as to the first estimate after the constitution of the Planning authority :- (1) A special meeting of the Planning authority as soon as may be shall be held on such date as the Chairman may appoint and he shall at such special meeting lay before the Planning authority for that portion of the financial year which on the said day had not expired.

(2) The provisions of Sub-sections (2) to (4) of Sections 102 to 104 shall apply to the said estimate.

106 - Supplementary estimates :- (1) The Planning authority may, at any time during the year for which any estimate has been sanctioned, cause a supplementary estimate to be prepared and laid before them at a special meeting.

(2) The provisions of Sub-sections (3) and (4) of Section 101 and Sections 102 to 104 shall apply to every supplementary estimate.

107 - Adherence to estimate and maintenance of closing balance :- (1) No sum shall be expended by or on behalf of the Planning authority unless the expenditure of the same is covered by a current budget grant or can be met by re-appropriation.

(2) The closing balance shall not be reduced below such limit as may be fixed in this behalf by the State Government from time to time.

(3) The following items shall be exempted from the provisions of Sub sections (1) and (2), namely:

(a) repayment of moneys belonging to contractors or other persons and held in deposit, and of moneys collected by, or credited to the Planning authority by mistake;

(b) payments due under a decree of order of a Court passed against the Planning authority or against the Chairman, ex officio or under an award of the Tribunal;

(c) sums payable under compromise of any suit or other legal proceeding or claim effected under Section 134;

(d) sums payable under this Act by way of compensation; and

(e) payments required to meet some pressing emergency.

(4) Whenever any sum exceeding five thousand rupees is expended under clause (a) of Sub-section (3), the Chairman shall forthwith report the circumstances to the State Government, and shall at the same time explain how the Planning authority propose to cover the expenditure.

108 - Receipt of moneys and deposit in Bank :- (1) The State Government may direct that all or any money payable to and received by the
Planning authority, may be deposited into the Treasury or such Bank pr Banks as may be approved by them in this behalf, to be credited to an account which shall be styled. The Account of the Planning authority for the improvement of the Municipality or local area (name of town)".

(2) Any person required to pay money to the Planning authority may, instead of making payment to the said authority, directly deposit the same to the credit of the said account.

109 - Investments of surplus money :- (1) Surplus moneys at the credit of the said account may from time to time be -

(a) deposited at interest in the Bank aforesaid or in any other Bank approved by the State Government in this behalf, or

(b) invested in any of the securities or debenture as may be approved by the State Government.

(2) All such deposits and investments shall be made by the Chairman on behalf of and with the sanction of the Planning authority; and with the like sanction the Chairman may at any time withdraw any deposit so made, or dispose of any securities, and redeposit or re-invest the money so withdrawn or the proceeds of the disposal of such securities.

110 - Payment by cheque :- (1) No payment shall be made by the bank out of the account referred to in Section 108 except upon a cheque.

(2) Payment of any sum due by the Planning authority exceeding one hundred rupees in amount shall be made by means of a cheque, and not in any other manner.

111 - Signature of orders under Section 110 and cheques :- All orders for making any deposit investment, withdrawal or disposal Under Section 109 arid ail cheques referred to in Section 110 must be signed -

(a) by the Chairman of the Planning authority;

(b) in the event of the illness or occasional absence on leave of the Chairman by any officer authorised by the Chairman and by another member of the Planning authority.

112 - Duty of Chairman and others before signing cheque :- Before the Chairman or any other officer or member of the Planning authority signs a cheque under Section 111 he must satisfy himself that the sum for which such cheque is drawn either is required for a purpose or work specifically sanctioned by the Planning authority or is an item of payment specified in Sub-section (3) of Section 107.

113 - Definition of "cost of management" :- (1) The expression "cost of management" as used in the following sections in the Chapter, means -

(a) the salary and house rent and conveyance allowance (if any) of the Chairman or acting Chairman, and any other allowances and any contribution payable to or in respect of the Chairman or acting Chairman;

(b) the salaries, fees and allowances of, and the contribution paid under Section 130 in respect of officers and employees of the Planning authority;

(c) the remuneration of other employees of the Planning authority, except employees who are paid by the day or whose pay is charged to temporary work;

(d) all payments made under Section 67 and Section 130 on account of the Tribunal; and

(e) all office expenses incurred by the Planning authority or the Tribunal.

(2) The expression "office expenses" in clause (e) of Sub-section (1), means expenses incurred for carrying on office work, and includes the rent of offices, the provision of furniture and equipment therefor and charges for printing, postage and stationery.

114 - Keeping of capital account and revenue account :- (1) The Planning authority shall keep a capital account and a revenue account.

(2) The capital account shall show separately all expenditure incurred by the Planning authority on each improvement scheme.

115 - Credits to capital account :- There shall be credited to the capital account-

(a) all sums (except interest) received by way of special payments or betterment charges under this Act;

(b) all moneys received on account of loan taken by the Planning authority in pursuance of this Act;

(c) the proceeds of the sale of any land vested in the Planning authority which was purchased out of any such loan;

(d) where land was purchased out of an advance from the revenue account, the portion of the proceeds of the sale of such land which remains after crediting to the revenue account of such advance; (e) the proceeds of the sale of any movable property (including securities for moneys invested from the capital account) belonging to the Planning authority;

(f) all lump sums received from (any Government) in aid or the capital account; and

(g) all premia received by the Planning authority in connection with leases for any term exceeding forty years.

116 - Application of capital accounts :- The moneys credited to the capital account shall be held by the Planning authority in trust, and shall be applied to-

(a) meeting all costs of framing and executing improvement scheme and re-housing scheme;

(b) meeting the cost of acquiring land for carrying out any of the purposes of this Act;

(c) meeting the cost of constructing buildings and executing work required for carrying out any of the purposes of this Act;

(d) all re-payments of loans from money borrowed in pursuance of this Act;

(e) making, or contributing towards the cost of making survey in pursuance of Section 146;

(f) meeting such proportion of the cost of management as the Planning authority may, with the sanction of the State Government permit in this behalf; and

(g) temporarily making good in the deficit (if any) in the revenue account at the end of any financial year.

117 - Credits to Revenue account :- There shall be credited to the Revenue account -

(a) all interest received in pursuance of Section 74;

(b) all proceeds received by the Planning authority of taxes or charges imposed under this Act;

(c) all sums contributed from Municipal Funds which are received by the Planning authority under Section 85 :

(d) all annually recurring sums received from the State Government in aid of the funds of the Planning authority;

(e) all premia received by the Planning authority, in connection with leases for any term not exceeding forty years;

(f) all terms of land vested in the Planning authority; and

(g) all other receipts by the Planning authority, which are not required by Section 115 to be credited to the capital account.

118 - Application of revenue account :- The moneys credited to the Revenue account shall be held by the Planning authority in Trust, and shall be applied to-

(a) meeting all charges for interest and sinking fund due on account of any loan taken in pursuance of this Act and all other charges incurred in connection with such loans;

(b) paying all sums due from the Planning authority in respect of rates and taxes imposed under the Orissa Municipal Act, XXIII of 1950 upon land vested in the said authority;

(c) paying the cost (if any) of maintaining a separate establishment for the collection of the rents and other proceeds of land vested in the Planning authority;

(d) paying the cost of management, excluding such portion thereof as may be debited to the capital account under clause (g) of Section 116;

(e) paying all other sums, due from the Planning authority other than those which are required by Section 116 to be disbursed from the capital account.

119 - Advances from revenue account to capital account :- (1) Notwithstanding anything contained in Section 118, the Planning authority may advance

any sum standing at the credit of the revenue account for the purpose of meeting capital expenditure.

(2) Every such advance shall be refunded to the revenue account as soon as may be practicable.

120 - Advance from capital account to revenue account :- (1) Any deficit in the revenue account at the end of any financial year may be made good by an advance from the capital account.

(2) Every such advance shall be refunded to the capital account in the following financial year.

121 - Submission of abstracts of accounts to State Government :- The Planning authority shall submit to the State Government, at the end of each half of every financial year, an abstract of the account of its receipts and expenditure.

122 - Annual audit of accounts :- The accounts of the Planning authority shall, once in every financial year be examined and audited under the provision of the Orissa Local Fund Audit Act, V of 1948 and it shall be the duty of the Planning authority forthwith to remedy any defects or irregularities that may be pointed out in audit.

123 - Auditors report to be sent to each member of the Planning authority :- The Chairman shall cause the report of the auditor to be printed and shall forward a printed copy thereof to each member of the Planning authority and shall bring such report before the said authority for consideration at their next meeting.

124 - Publication and transmission of an abstract of the accounts :- As soon as practicable after the receipt of the said report, the Planning authority shall prepare an abstract of the accounts to which it relates, and shall publish such abstract in the Gazette and shall send a copy of the abstract to the State Government.

125 - Power of State Government to make Rules :- (1) The State Government may make-Rules to carry out all or any of the purposes of this Act not inconsistent therewith and prescribe forms for any proceedings for which they consider that a form should be provided.

(2) In particular, and without prejudice to the generality of the foregoing, power, they shall have power to make Rules-

(a) with regard, to all matters expressly required or allowed by the Act to be prescribed by the State Government;

(b) as to the conditions on which officers and employees of the Planning authority or of the Tribunal may be appointed reduced, suspended, discharged, removed or dismissed;

(c) as to the Intermediate office 6r offices (if any) through which correspondence between the Planning authority and the State Government or other officers shall pass;

(d) as to the accounts to be kept by the Planning authority;

(e) as to the returns, statements, reports and accounts to be submitted by the Planning authority; and

(f) prescribing and defining the mutual relations to be observed between the Planning authority and other Local authorities in any matter in which they are jointly interested.

(3) The State Government shall have power to make Rules laying down the main principles in accordance within which development may be made in different zones and regions.

126 - Power of Planning authority to make bye-laws :- The Planning authority may, with the previous sanction of the State Government, frame regulations or bye-laws not inconsistent with this Act or the Rules made there under or with any other law generally for carrying out all the purposes of this Act and particularly in regard to all matters; expressly required or allowed by this Act to be regulated by the Planning authority.

127 - Procedure for making Rules, Regulations and bye-laws :-(1) In making Rules or Regulations under Sections 125 and 126 a draft of the same shall be published in the Gazette.

(2) There shall be published with the draft a notice specifying a date, being not earlier than fifteen days, on or after which the draft shall be taken into consideration.

(3) The State Government or the Planning authority, as the case may be, shall consider any objections or suggestions, if any, that may be received before the specified date and make such alteration, modification as they deem fit.

(4) All Rules or Regulations so made shall be finally published in the Gazette and shall come into force on the date of such publication.

(5) All Rules made under Section 125 shall be laid as soon as possible before the Orissa Legislative Assembly for a period of fourteen days, which may be comprised in one session or in two or more sessions, and shall be subject to such modification as the Assembly may make during the said period.

128 - Cancellation of bye-law by State Government :- The State Government may, after previous publication of their intention rescind any regulations or bye-law made by the Planning authority and thereupon such Regulation shall cease to have effect.

129 - Members of the Planning authority, etc., deemed to be public servants :- Every member of a Planning authority and employee of the said authority and every member, officer and employee of the Tribunal, shall be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code, XLV of 1860.

130 - Contribution by the Planning authority towards leave, allowances and pensions of Government servants employed under this Act :- The Planning authority shall be liable to pay such contribution for the leave, allowances and pensions of any Government servant employed as Chairman or as an officer or employee of the said authority or as a member, officer or employee of the said authority or as a member, officer or, employee 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.

131 - Saving of Telegraph, Railways and Electricity Acts :- Nothing in this Act shall be deemed to affect the provisions of the Indian Telegraph Act XIII of 1885, or the Indian Railways Act, IX of 1890 or the Indian Electricity Act, 1910.

132 - Cognizance of offences :- [1][All offences committed against this Act or any rule made there under shall, on a complaint being made, be cognizable by a Magistrate of the first class or by a Magistrate of the second class specially empowered in this behalf by the State Government.]

134 - Power of Chairman as to institution, composition, etc. of legal proceedings and obtaining legal advice :- The Chairman of a Planning authority may, subject to its control -

(a) institute, defend or withdraw from legal proceedings under the Act or any rules made there under;

(b) compound any offence against this Act or any rule made there under which, under any law for the time being in force or the rules made by the State Government, may lawfully be compounded;

(c) admit, compromise or withdraw any claim made under this Act or any rule made there under; and

(d) obtain such legal advice and assistance as he may from time to time think it necessary or expedient to obtain, or as he may be desired by the Planning authority to obtain, for any of the purposes referred to in the foregoing clauses of this section, or for securing the lawful exercise or discharge of any power or duty vested in or imposed under the Planning authority or any officer or employee of the said authority.

135 - Indemnity to Planning authority, etc. :- No suit shall be maintainable against the planning authority or any member or any officer or employee thereof or any person acting under the direction of the said authority or the Chairman or any officer or employee of the said authority, in respect of anything lawfully and in good faith done under this Act or any Rule made there under.

1.Substituted for Sections 132 and 133 by Orissa Act 23 of 1969.

136 - Notice of suit against the Planning authority, etc. :- No suit shall be instituted against the Planning authority or any member or any officer or employee of the said authority or any person acting under the direction of the said authority or of the Chairman or of any officer or employee thereof be, in respect of any act purporting to be under this Act or any Rule made there under until the expiration of sixty days next after written notice has been delivered or left at the office of the Planning authority or of the place of abode of such officer, employee or person, stating the cause of action, the name and place of abode of the intending plaintiff and the relief which he claims, and the plaint must contain a statement that such notice has been so delivered or left.

137 - Relation of Planning authority with Police :- It shall be the duty of every Police Officer -

(i) to communicate without delay to the proper officer or employee of the Planning authority any information which he receives of a design to

commit or of the commission of, any offence against this Act or any Rule made there under; and

(ii) to assist the Chairman or any officer or employee to the Planning authority who reasonably asks his assistance for the lawful exercise of any power vesting in the Chairman or in such officer or employee under this Act or any Rule made there under.

138 - Arrest of offenders :- (1) Every Police Officer, not being below the rank of a Sub-Inspector shall arrest any person who commits in his view of any offence against this Act or any Rule made there under, if the name and address of such person be unknown to him, and if such person, on demand, declines to give his name and address, or gives a name or address which such officer has reason to believe to be false.

(2) The person so arrested shall, without unavoidable delay, be produced before the Magistrate authorised to try the offence for which the arrest has been made, and no person so arrested, shall be detained in custody for a period exceeding twenty-four hours without an order from the aforementioned Magistrate.

139 - Proof of consent, etc. of Planning authority or Chairman or officer of employee of Planning authority :- Whenever, under this Act or any Rule made there under, the doing or the omission to do anything or the validity of anything depends upon the approval, sanction, consent, concurrence, declaration, option or satisfaction of -

(a) the Planning authority or the Chairman; or

(b) any officer or employee of the Planning authority; a written document signed in case (a) by the Chairman and in case (b) by the said officer or employee, conveying or setting forth such approval, sanction, consent, concurrence, declaration, opinion or satisfaction, shall be sufficient evidence of such approval, sanction, consent, concurrence, declaration, opinion or satisfaction.

140 - Validation of acts and proceedings :- Whenever, under this Act or any Rule made there under, the doing or the omission to do anything or the validity of anything depends upon the approval, sanction, consent, concurrence, declaration, option or satisfaction of -

(a) the Planning authority or the Chairman; or

(b) any officer or employee of the Planning authority; a written document signed in case (a) by the Chairman and in case (b) by the said officer or employee, conveying or setting forth such approval, sanction, consent, concurrence, declaration, opinion or satisfaction, shall be sufficient evidence of such approval, sanction, consent, concurrence, declaration, opinion or satisfaction.

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

142 - As to public notices, how to be made known :- Every public notice given under this Act or any Rule made there under shall be in writing over the signature of the Chairman, and shall be widely made known in the locality to be affected thereby, by affixing copies thereof in conspicious public places within the said locality, or by publishing the same by beat of drum or by advertisement in local newspapers, or by any two or more of these means, and by any other means that the Chairman may think fit.

143 - As to newspapers in which advertisements, notices to be published :- Whenever it is provided by this Act or any Rule made there under that notice shall be given by advertisement in local newspapers, or that a Notification or any information shall be published in local newspaper, such notice, Notification or information shall be inserted, if practicable, in at least two local newspapers.

144 - Stamping signature on notices or bills :- Every notice or bill, which is required by this Act or by any Rule made there under to bear the signature of the Chairman or of any other member or of any officer or employee of the Planning authority shall be deemed to be properly signed if it bears a fascimile of the signature of the Chairman or of such other member or of such officer or employee, as the case may be, stamped thereupon.

145 - As to service, how to be effected :- When any notice, bill or other document is required by this Act or any Rule made there under to be served upon or issued or presented to any person, such service, issue or presentation shall be effected -

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

(b) if such person is not found, by leaving such document at his last known place of abode in the Municipality or by giving or tendering the same to some adult member or servant of his family; or (c) if such person does not resides in the Municipality, and his address elsewhere is known to the Chairman, by forwarding such document to him by registered post with acknowledgement due under cover bearing the said address; or

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

146 - Power to make surveys or contribute towards their cost :-The Planning 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

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

147 - Power of entry :- (1) The Chairman or any person either generally or specially authorised by the Chairman in this behalf may, with or without assistants or workmen, enter into or upon any land in order -

(a) to make any Inspection, survey, measurement, valuation or inquiry;

(b) to take levels;

(c) to dig or bore into the sub-soil;

(d) to set out boundaries and intended lines of work;

(e) to mark such levels, boundaries and lines by placing marks, and cutting trenches; or

(f) to do any other thing incidental thereto;

whenever it is necessary to do so for any of the purposes of this Act or any Rule made or scheme sanctioned there under or any scheme with the Planning authority intends to frame there under:

Provided that -

(a) no such survey shall be made between sunset and sunrise;

(b) no dwelling house, and no public building or hut which is used as a dwelling place; shall be so entered, unless with the consent of the occupier thereof, without giving the said occupier at least twenty- four hours previous written notice of the intention to make such entry;

(c) sufficient notice shall, in every instance, be given to enable the inmates of any apartment appropriated to women to remove themselves to some part of the premises where their privacy will not be disturbed; (d) due regard shall always be had, so far as may be compatible with the exigencies of the purpose for which the entry is made to social and religious usages of the occupants of the premises entered.

(2) Whenever the Chairman or a person authorised under Sub-section (1) enters into or upon any land in pursuance of that sub-section, 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 Planning authority whose decision shall be final.

148 - Punishment for acquiring share or interest in contract, etc., with the Planning authority :- If any member or any officer or employee of the Planning authority, knowingly acquires, directly or indirectly, by himself or by any partner, employer or employee, otherwise than as such member, officer or employee any share or interest in any contract or employment with, by, or on behalf of the said authority [not being a share or interest which under Sub-section (2) of Section 9, it is permissible for a member to have without being thereby disqualified for being appointed a member], he shall be deemed to have committed the offence made punishable by Section 168 of the Indian Penal Code, XLV of 1860.

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

(a) removes any fence or shoring timber, or removes or extinguishing any light, set up under Section 54; or

(b) infringes any order given, or removes any bar, chain or post fixed, under Sub-section (2) of Section 55;

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

150 - Penalty for building within street alignment or building line :- (1) If any person, without the permission of the Planning authority, erects, re-erects, adds to or alters any wall or building so as to make the same project into the street alignment or

beyond the building line prescribed by any deferred street scheme, development scheme or town expansion scheme, he shall be punishable-

(a) with fine which may extend, in the case of a wall or masonry building, to five hundred rupees and in the case of a hut to fifty rupees; and

(b) with further fine which may extend, in the case of a wall or masonry building, to one hundred rupees and in case of a hut to ten rupees, for each day during which the projection continues after a sentence of fine has been passed under Clause (a) of this sub-section.

(2) (a) The owner for the time being of the wall or building so erected, re-erected, added to or altered, may be required by a written notice issued by the Chairman to stop further work on such wall or building and to alter or demolish the same in such manner and within such time as may be specified in the notice.

(b) Where the alteration or demolition directly by any such notice is not carried out as directed therein, the Chairman may cause the wall or building or portion thereof to be altered or demolished, as the case may be, and he may recover the expenses incurred in so doing from the owner for the time being in such manner as may be prescribed by the State Government.

151 - Penalty for obstructing contractor or removing work :- If any person -

(a) obstructs or molests any person with whom the Chairman has entered into a contract on behalf of the Planning authority, in the performance or execution by such person of his duty or of anything which he is empowered or required to do by virtue or in consequence of this Act or any Rule made there under; or

(b) removes any mark set up for the purpose of indicating any level or direction necessary to the execution of works authorised by this Act or any Rule made or scheme sanctioned there under;

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

152 - Penalty for breach of the provisions of the Act, etc. :-Whoever contravenes any provision of this Act or any Rule made or any direction issued in pursuance of scheme sanctioned there under, shall, if no other penalty is provided for such contravention, be punishable -

(a) with fine which may extend to one hundred rupees; and

(b) in case of continuing contravention, with fine which may extend to fifty rupees for each day after the first during which the contravention continues.

153 - Dissolution of Planning authority and transfer of its assets and liabilities to the State Government and the Municipality :- (1) When all schemes sanctioned under this Act have been executed or have been so far executed as to render the continued existence of the Planning authority the opinion of the State Government may, by Notification, declare that the said authority shall be dissolved on such date as may be specified in such Notification, and the Planning authority shall be deemed to be dissolved accordingly.

(2) On and from the said date -

(a) (i) all properties, funds and dues placed at the disposal of the Planning authority by the State Government and all properties situated in an area to which the Orissa Municipal Act, XXIII of 1950, does not apply;

(ii) all properties, funds and dues exchanged for, derived from, or otherwise attributable to the properties, funds and dues referred to in Sub-clause (i);

which immediately before the said date were held by or realisable by the planning authority, shall vest in and be reasonable by the State Government;

(b) all properties, funds and dues other than those referred to in Clause (a), which immediately before the said date, were vested in or were realisable by the Planning authority and the Chairman respectively shall vest in and be reasonable by the Municipality and the Chairman of the Municipality respectively;

(c) if any question arises as to whether any properties, funds or dues vest in the State Government under Clause (a) or in the Municipality under Clause (b) the question shall be referred to the State Government whose decision thereon shall be final;

(d) all liabilities which, immediately before the said date, were forceable against the Planning authority shall be enforceable against the State Government or the Municipality as the case may be. The State Government shall determine which of such liabilities shall be enforceable against it and which against the Municipality;

(e) for the purpose of completing the execution of any scheme, sanctioned under this Act, which has not been fully executed by the Planning authority, and of realising properties, funds and dues referred to in Clause (a) and (b), the functions of the said authority and the Chairman under this Act shall be discharged by the State Government or by the Municipality, or the Chairman of the Municipality, as the case may be; and

(f) the Municipality shall keep separate accounts of all moneys respectively received and expended by it under this Act, until all loans raised there under have been repaid and until all other liabilities referred to in Clause (d) have been duly met.

154 - Repeal :- The Madras Town Planning Act VII of 1920 is hereby repealed.

THE SCHEDULE

(Referred to in Section 64)

Further modifications in the Land Acquisition Act, 1894

1. After Clause (e) of Section 3 of the Land Acquisition Act, 1 of 1894 (hereinafter in the Schedule referred to as "the said Act"), the following clause shall be deemed to be inserted, namely:

"(ee) the expression 'Local authority' includes the Improvement Trust; and the Special Planning authority constituted under Sections 7 and 80 respectively of the Orissa Town Planning and Improvement Trust Act, 1956".

2. (1) The first publication of a notice of an improvement scheme under Section 45 of the Orissa Town Planning and Improvement Trusts Act, 1956 (Orissa Act 10 of 1957) shall be substituted for and have the same effect as the publication in the Gazette and in the locality of a Notification under Sub-section (1) of Section 4 of the said Act, except where a Notification under Sub-section (1) of Section 4 or a declaration under Section 6 of the said Act has been previously made and is in force.

(2) Proceedings under Section 45 of the Orissa Town Planning and Improvement Trust Act, 1956 (Orissa Act 10 of 1957) shall be substituted for and have the same effect as proceedings under Section 5-A of the said Act.

(3) Subject to the provisions of paragraphs 6 and 7 of this Schedule, the issue of a notice under Clause (c) of Sub-section (3) of Section 39 of the Orissa Town Planning and Improvement Trust Act, 1956 (Orissa Act 10 of 1957) in the case of land proposed to be acquired in pursuance of that clause, and in any other case the publication of a Notification under Section 47 of that Act shall be substituted for and have the same effect as a declaration under Section 6 of the said Act, except where a declaration under the last mentioned section has been previously made and is in force.

3. In Section 15 of the said Act, to the word and figures "and 24", the figures, words and letter "and 24-A as inserted by this Act in this Schedule" shall be deemed to be added.

4. In Sub-section (3) of Section 17 of the said Act to the word and figures "Section 24", the words, figures and letter "or Section 24-A as inserted by this Act in this Schedule" shall be deemed to be-added.

5. After Section 17 of the said Act, the following section shall be deemed to be inserted, namely:

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

6. (1) In Sub-section (1) of Section 23 of the said Act, for clauses "firstly" and "sixthly" the following clauses shall respectively be deemed to be substituted, namely :

"firstly, the market value of the land according to use to which the land was put -

(a) the date of the issue of the notice under Clause (c) of Sub-section (3) of Section 39 of the Orissa Town Planning and Improvement Trust Act, 1956, in case the land is proposed to be acquired in pursuance of that clause; and

(b) at the date of the first publication of the notice under Section 45 of that Act, in any other case";

"sixthly, the damage (if any) bona fide resulting from diminution of the profits of the land between the date referred to in paragraph (a) or paragraph (b), as the case may be, of clause firstly, and the date on which the Collector takes possession of the land".

(2) In the same section, to Sub-section (2), the following proviso shall be deemed to be added, namely:

"Provided that the sub-section shall not apply, (a) where the land acquired is situated in an area which is declared by the State Government to be a congested or slum area, and where it is not actually occupied by the owner, (to) where during the five years immediately preceding, the land is not in the actual possession of the owner or occupier free of rent by a relative, or (c) where the land is acquired under deferred street scheme and notice of six months have been given under the provisions of the Orissa Town Planning and Improvement Trust Act, 1956 (Orissa Act 10 of 1957)".

(3) In the same section, after Sub-section (2), the following sub-section shall be deemed to be added, namely:

"(3) For the purpose of clause firstly of Sub-section (1) of this section-

(a) if the market value of the land has been increased or decreased owing to the land falling within or near to the alignment of a projected public street, so much of the increase or decrease as the case may be due to such cause, shall be disregarded :

(b) if any person, otherwise than in accordance with the provisions of this Act, erects, re-erects, adds to or alters any wall or building so as to make the same project into the street alignment or beyond the building line prescribed by any scheme made under this Act, then, any increase in the market value resulting from such erection, re-erection, addition or alteration shall be disregarded;

(c) 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 of the land if put to ordinary use;

(d) if the market value of any building is specially high in consequence of the building being so overcrowded as to be dangerous to the health of the inmates, such overcrowding shall be disregarded, and the market value shall be deemed to be the market value of the building if occupied by such number of persons only as could be accommodated in it without risk or danger from overcrowding:

Provided that the provision of this clause shall not apply in the case of a building which is in the actual occupation of the owner during the previous five years.

(e) when the owner of the land has, after passing of this Act and within two years preceding the date with reference to which the market value is to be determined, made a return under Section 143 of the Orissa. Municipal Act, XXIII of 1950 as to the rent or annual value of the land or building or acquiesced in the valuation made by the

Executive Officer of the Municipality, such rent or annual value finally determined shall, unless the Court may otherwise direct, be taken as the basis of fixing the market value."

7. For clause seventhly of Section 24 of the said Act, the following Clause shall be deemed to be substituted, namely: ; .

"seventhly, and 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 or repairs and unless they have been done after obtaining the permission of the competent authority in accordance with the provision of the Orissa Town Planning and Improvement Trust Act, 1956 (Orissa Act 10 of 1957)".

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

"24-A. Further provision determining compensation - In determining the amount to be awarded for any land acquired for the Planning authority under this Act, regard shall also be had to the following provisions, namely:

(1) When any interest in any land acquired under this Act has been acquired after the date with reference to which the market value as 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 land.

(2) If, in the opinion of the Court, 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 shall not exceed the sum which the Court considers the building would be worth if it were put into a sanitary condition or into a reasonably good state of repair, as the case may be, minus the estimated cost of putting it into such condition or state.

(3) If, in the opinion of the Court, any building which is used or is intended or is likely to be used for human habitation, is not reasonably of being made fit for human habitation, the amount of compensation shall not exceed the value of the materials of the building, minus the cost of demolishing the building."

9. After Section 48 of the said Act, the following section shall be deemed to be inserted, namely:

"**48-A. Compensation to be awarded when land not acquired within two years -** (1) Where the Collector has not made an award under Section 11 in respect of any land within a period of two years from the date of the publication of the declaration under Section 6 or of the issue of a notice under Clause (c) of Sub-section (3) of Section 39 of the Orissa Town Planning and Improvement Trust Act, 1956 (Orissa Act 10 of 1957) or of the publication of a Notification under Section 47 of that Act, as the case may be, the owner of the land shall, unless he has been responsible for the delay to a material extent, 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."