

MINISTRY OF REHABILITATION

PRESIDENT'S ORDER No. 5 OF 1957

WHEREAS it is expedient to make provision for the development and improvement of certain areas in the Karachi Division* by opening up congested areas, laying out or altering streets, providing public amenities like parks, gardens and playgrounds, executing works for water supply and sewerage or by demolishing, improving or constructing buildings; for the acquisition of land for such development or improvement, including the re-housing of persons affected thereby and certain other persons, for the preparation and execution of development or improvement schemes, building research schemes and similar other schemes; and for matters connected therewith or incidental thereto:

Now, THEREFORE, in exercise of the powers conferred by clause (2) of Article 211 of the Constitution, and of all other powers enabling him in that behalf, the President is pleased to make the following Order:—

PRELIMINARY

Chapter - I

1. *Short title, extent and commencement*:—(1) This order may be called the Karachi Development Authority Order, 1957.

(2) It extends to the Karachi Division.*

(3) It shall come into force at once, except Chapter VII which shall come into force on such date as the Central Government may by notification in the official Gazette appoint.

2. *Definitions*.—(1) In this Order, unless there is anything repugnant in the subject or context:—

- (a) "Affected persons" means persons affected by the development or improvement carried out in accordance with the provisions of this Order;
- (b) "Authority" means the Karachi Development Authority established under Article 3;
- (c) "Betterment fee" means the fee prescribed by Article 104 in respect of an increase in the value of land resulting from the execution of any improvement scheme;
- (d) "Chairman" means the Chairman of the Governing Body, appointed under clause (1) of Article 6;
- (e) "City" means the city as defined in the Municipal Act;
- (f) "Controlled area" means an area declared to be a controlled area under Article 12;
- (g) "Constituent body" means any one of the following namely:—
 - (i) the Corporation;
 - (ii) the Karachi Port Trust;
 - (iii) the Ministry of Defence;
 - (iv) the Cantonment Board of Karachi;
 - (v) the North Western Railway;
 - (vi) the Sind and Landhi Industrial Trading Estates, and
 - (vii) any such local authority or Department of Government as the Provincial Government may, by notification in the official Gazette, declare to be a constituent body, and constituent bodies shall be construed accordingly;

Amended on 27th March, 1962.

THE PRESIDENT
 FEDERAL GOVERNMENT OF PAKISTAN
 10, MAHATMA JAWAHARLAL NEHRU ROAD
 KARACHI-2
 20 APR 1957

- (h) "Corporation" means the Municipal Corporation of the City of Karachi;
- (i) "Governing Body" means the Governing Body constituted under Article 5;
- (j) "House" means any building intended for human habitation, together with the land upon which it is situated, comprising one or more family housing units and structures appurtenant thereto;
- (k) "Improved area" means any area which is under an improvement scheme and "scheme" means a scheme connected with housing, improvement, development, construction, sewerage, water supply, resettlement, financing and research and matters incidental thereto;
- (l) "Industrial Trading Estate" means Sind Industrial Trading Estate Ltd., Landis Industrial Trading Estate Ltd., or any other Estate which may be established;
- (m) "Land" has the meaning assigned to it by clause (a) of the Land Acquisition Act, 1894 (I of 1894);
- (n) "Municipal Act" means the City of Karachi Municipal Act, 1933 (Bom. Act XVII of 1933);
- (o) "Use area" means an area of land in private ownership, which the Authority declares has been ripe for development and improvement, but which has remained unimproved and undeveloped for a period of two years from the date of such declaration;
- (p) "Prescribed" means prescribed by rules or regulations made under this Order;
- (q) "Tribunal" means the Tribunal constituted under Article 95;
- (r) "Unauthorised building" means a building declared by the Authority to be unauthorised.

(2) All words and expressions not defined in this Order and defined in the Municipal Act shall have the meanings respectively assigned to them by that Act.

(3) All references to anything done, required, authorised, permitted, forbidden, or made punishable, or to any power vested, by or under this Order include anything done, required, authorised, permitted, forbidden, or made punishable, any power vested,

- (a) by or under any scheme made under the provisions of this Order or
- (b) by or under any provision of the Municipal Act or the Bombay Local Boards Act, 1923 (Bom. Act XVII of 1923, Bom. Act VI of 1923) which the Authority has, by virtue of this Order power to enforce.

Chapter—II

CONSTITUTION AND FUNCTIONS OF THE AUTHORITY

1. **Establishment and Incorporation.**—(1) As soon as may be after the commencement of this Order, the Central Government shall establish an Authority for the purpose of this Order.

(2) The Authority established under clause (1) shall be a body corporate, by the name of the Karachi Development Authority, having perpetual succession and a common seal, with power, subject to the provision of this Order, to acquire and hold property, both movable and immovable and shall by the said name sue and be sued.

4. **Management.**—(1) The general direction and administration of the Authority and its affairs shall vest in the Governing Body which may exercise all powers and do all acts and things which may be exercised or done by the Authority.

(2) The Governing Body in discharging its functions shall act on sound principles of development, town-planning and housing with special regard to the re-housing of affected persons and shall be guided on question of policy by such direction as Provincial Government may from time to time give.

(3) If a question arises as to whether any matter of policy or not, the decision of the Central Government shall be final.

5. **Constitution of the Governing Body.**—(1) The Governing Body shall consist of a Chairman, a Director-General, and five other Members to be appointed by the Provincial Government.

(2) Not less than two of the Members, other than the Director-General, shall be whole-time Members.

(3) The Commissioner, Karachi, shall be the ex-officio Chairman of the Governing Body.

6. (1) The Chairman and the Director-General shall be appointed on such terms and conditions and shall hold office for such period as Provincial Government may determine.

*Amended on 27th March, 1962.
 **Amended on 20th September, 1962.
 ***Amended on 17th March, 1972.
 * Vide PAS/Legis/Bill-7/73 dt 26-5-73.
 **Vide PAS/Legis/Bill-32/74 dt 11-12-74.
 *Amended on 2nd January 1962, at page 48.

- (2) The Director-General shall exercise such power and perform such functions as may be prescribed.
- (3) When the Director-General is on leave or is absent outside Pakistan on the business of the Authority, the senior most whole-time Member shall exercise the functions of the Director-General.

Explanation—For the purposes of this Article, the seniority of a Member shall be computed with reference to the date of his appointment as Member.

6A. (1) Every Member, other than the Director-General, shall:—

- hold office for a period of three years unless sooner removed, and may be re-appointed thereafter for such period or periods, not exceeding three years at a time, as the Provincial Government may in each case determine;
- receive such remuneration, fees or allowances as may be prescribed by rules or as the Provincial Government may determine;
- perform such functions and duties as may be prescribed by the Regulations or as the Authority may assign to him.

(2) A casual vacancy in the office of a Member shall be filled by the Provincial Government, and the person appointed in such vacancy shall hold office for the unexpired period of the term of his predecessor.

7. *Disqualification of the members of the Governing Body.*—(1) No person shall be or shall continue to be a member of the Governing Body who:—

- is or, at any time, has been convicted of an offence involving moral turpitude; or
- is or, at any time, has been adjudicated insolvent; or
- is found to be a lunatic or of unsound mind; or
- is a minor; or
- has a financial interest in any scheme or a conflicting interest directly or indirectly between his interests as a member of the Governing Body and his private interests and has failed to disclose such interest in writing to the Provincial Government.

8. *Appointment, Punishment and Appeal.*—(1) The Authority may appoint such officers, advisers and employees as it considers necessary for the efficient performance of its functions, on such terms and conditions as it may deem fit.

(1—A) **Notwithstanding anything contained in clause (1), or clause (2), the Provincial Government may, from time to time, specify the posts under the Authority, which shall be filled by persons belonging to the Local Councils Service constituted under Article 44 of the Basic Democracies Order, 1959 (P.O. 18 of 1959), and in relation to the said posts and the persons appointed thereto, the provisions of Chapter VIII of Part II of the said Order and any rules framed in pursuance thereof shall mutatis mutandis apply and as if any reference in the said provisions and the rules to:—

- a local council, were a reference to the Authority;
- the Controlling Authority, were a reference to the Provincial Government;
- the Basic Democracies Order, 1959 (P.O. 18 of 1959), were a reference to this Order.

*** (2) Subject to any rules for the time being in force, the power of making appointments and promotions to posts in the service of the Authority, of granting leave to officers and servants holding such posts, of 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 of duty or other misconduct, and of discharging such officers and servants from the service of the Authority for any other reason, shall be exercised by the under-mentioned authorities:—

- in the case of posts the monthly salary or the maximum monthly salary of which does not exceed Rs. 750 and officers and servants holding such posts—the Director-General;
- in the case of posts the monthly salary or the maximum monthly salary of which does not exceed one thousand rupees and servants holding such posts the Chairman;
- in the case of posts the monthly salary or the maximum monthly salary of which does not exceed Rs. 1,500 and officers and servants holding such posts the Governing Body; and
- in the case of posts the monthly salary or the maximum monthly salary of which exceed Rs. 1,500 and officers and servants holding such posts—the Governing Body with the previous sanction of the Provincial Government;

*Amended on 27th March, 1962.

**Amended on 15th July, 1968.

***Amended on 21st January, 1978.

*Amended on 2-1-1983 at page 56.

Provided that a servant of the Central Government or the Provincial Government or a Local Authority whose services have been lent to the Authority shall not be so punished except by an authority which would have been competent to inflict such punishment if his services had not been so lent; and the Director-General, the Chairman, or the Governing Body, as the case may be, shall be entitled only to make recommendations in that behalf to such authority.

(2—A) Notwithstanding anything contained in Clauses (1) and (2), no person shall be appointed to the post of legal adviser to the Authority, by whatever designation called or known, or to advise the Authority in regard to legal matters, save with the approval of Government, and no legal practitioner shall be entrusted by the Authority with any matter pending in any Civil, revenue or Criminal Courts or a tribunal exercising Civil or revenue powers in which the Authority is a party or has any interest, unless the name of such legal practitioner is on the approved list of Government.

(3) An officer or servant of the Authority against whom an order under clause (2) imposing any punishment has been passed, may appeal—

- (a) to the Governing Body, if the order was passed by the Director-General; and
- (b) to the Provincial Government, if the order was passed by the Governing Body or the Chairman.

(4) The Governing Body may, upon appeal made to it under sub-clause (a) of Clause (3), enhance the punishment awarded by the Director-General, but an appeal shall lie to the Provincial Government against such enhancement.

(9) (1) The meeting of the Governing Body shall be held at such times and at such places as may be prescribed by Regulations:

Provided that until such Regulations are made, such meetings shall be convened by the Chairman.

(2) To constitute a quorum at a meeting of the Governing Body, not less than four members, including the Chairman, shall be present.

(3) The Chairman shall preside at every meeting at which he is present, and if the Chairman is absent from a meeting, a member of the Governing Body present and chosen for the purpose by the Members present shall preside at the meeting.

(4) Each Member, including the Chairman, shall have one vote, and in the event of an equality of votes, the Chairman shall have a second or casting vote.

10. *Office*—The Authority shall establish its office in Karachi.

11. *Power to sanction, reject or revise scheme*—(1) The Authority shall, as soon as feasible, prepare, and from time to time submit for the approval of the *Provincial Government an outline programme for the development and improvement of such areas within Karachi Capital, as it may consider necessary for the purpose, listing such areas and the approximate order of their development, and outlining the proposed improvements, including the water supply, sewage and buildings required for residential, commercial and other purposes incidental thereto.

(2) The *Provincial Government shall, within such time as may be prescribed by rules, either approve or disapprove any programme referred to in clause (1) or approve with such additions or modifications as, in consultation with the Authority, it deems fit to make.

(3) The Authority shall within such time as may be prescribed by rules, prepare for submission to the *Provincial Government specific schemes set forth in the outline programme, including any other scheme or schemes which the *Provincial Government in writing directs the Authority to prepare, and all such schemes shall contain plans for the proposed development, including approximations of posts proposed, methods of financing, ejection, and resettlement or rehousing of affected persons.

Provided that the Authority may without reference to the *Provincial Government execute any scheme the provisional estimated cost of which does not exceed rupees ten lacs for which no loan or grant is required from Government.

(4) The *Provincial Government may sanction, with or without modification, or may refuse to sanction, or may return for reconsideration, any scheme submitted to it under clause (3), or may call for such further details or information about the scheme, or may direct such further examination of the scheme as it may consider necessary.

*Amended on 27th March, 1972.

*Amended on 2-1-1983 at page 56, Gov.

(5) Where the *Provincial Government has sanctioned a scheme for any area it shall be lawful for the Authority to execute and maintain all works and carry out all operations in the said area required for the execution of any such scheme.

(6) As soon as may be after the commencement of this Order, the *Provincial Government may upon such terms and conditions as may be laid down, transfer to the Authority any scheme sanctioned or undertaken by the *Provincial Government or by any local authority or other body and also place at the disposal of the Authority any properties, movable or immovable, connected with or ancillary or appurtenant to any such scheme, and any scheme so transferred shall be deemed to be a scheme sanctioned by the *Provincial Government under this Order.

(7) It shall be lawful for the Authority to execute and maintain all works and carry out all unfinished works and operations required for the execution of any scheme transferred under clause (6).

(8) The *Provincial Government may, upon such terms and conditions as may be laid down, place at the disposal of the Authority any properties or funds held by the *Provincial Government or by any local authority or other body, or permit the Authority to levy and retain duties which, immediately before the commencement of the Order, were leviable by such Government, authority or body and thereupon the Authority shall hold such properties or funds and levy such duties in accordance with such terms and conditions.

12. *Declaration of Controlled Area and issue of appropriate directions.*—The Authority may, by notification in the official Gazette, declare any area to be a controlled area for the purposes of this Order, and may issue in respect of any such area such directions as it considers fit and appropriate, and do all such things as may be necessary for the prevention of haphazard growth of colonies, buildings and operations in such area.

13. *Additional powers of Authority to undertake work and incur expenditure.*—The Authority may, subject to such directions as the *Provincial Government may give —

- (1) prepare or arrange for the preparation of such land use and Master plans as may be required and for such modifications thereof as may from time to time be deemed necessary.
- (2) establish and maintain Housing Research Stations and conduct scientific industrial research on housing including research on low-cost housing.
- (3) sponsor, for the purpose of giving effect to any of the provisions of this Order, limited liability companies under the Companies Act, 1912 (VII of 1913), Co-operative Societies under the Co-operative Act, 1912 (II of 1912), or Registered Societies under the Literary, Scientific and Charitable Societies Act, 1860 (XXI of 1860), and upon its request be represented on the Management of any such company or society.
- (4) undertake any work connected with or incidental to the purposes of this Order that may be assigned to it by the *Provincial Government from time to time.

13A. *Power of Authority to undertake work entrusted to it by Central Government.*—(1) Notwithstanding anything contained in this Order, the Authority may, upon such terms and conditions as may be laid down by the Central Government, undertake and execute any housing scheme of the Central Government entrusted to it by that Government.

(2) That Authority shall comply with all instructions issued to it from time to time by the Central Government in relation to the schemes entrusted to it.

(3) Necessary funds shall from time to time be placed by the Central Government at the disposal of the Authority for the execution of the Schemes entrusted to it.

(4) The Authority shall render complete accounts of the funds advanced to it by Central Government under clause (3).

(5) It shall be open to the Central Government to authorise the Comptroller and Auditor General of Pakistan to conduct a test or other audit of the accounts submitted to it on such terms and conditions as the Central Government may determine.

(6) The Authority shall submit to the Central Government progress reports in respect of the schemes entrusted to it by that Government and such other reports as the Central Government may require from time to time.

14. *Power of Government to make rules.*—The *Provincial Government may make rules not inconsistent with this Order for the purpose of giving effect to the provisions of this Order and where the rules made under this Article are inconsistent with the regulations made under the next succeeding Article the rules shall prevail.

15. *Power of the Authority to make regulations.*—(1) The Authority may make regulations not inconsistent with this Order or with the rules made under Article 14, to provide for all matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of this Order.

(2) In particular and without prejudice to the generality of the foregoing power such regulations may provide for:—

- (a) the meetings of the Governing Body and the manner in which business shall be conducted at such meeting;
- (b) the expenditure of the funds placed at the disposal of the Authority;
- (c) recruitment policy;
- (d) conditions and terms of service including provident fund and pensions, if any; and
- (e) any other matter for which provision is required for the efficient discharge of the business of the Authority.

16. *Rules and regulations to be published in the official Gazette.*—All rules and regulations made under this Order shall be published in the official Gazette and shall come into force upon such publication.

Chapter—III

FINANCE

17. *Funds of the authority.*—(1) Necessary funds shall from time to time be placed by the *Provincial Government at the disposal of the Authority for the execution of its schemes and for the conduct of its business, upon such terms and conditions as may be laid down in each case.

(2) The Corporation shall contribute to the Authority every year by such date as may be prescribed such percentage of the proceeds of the property taxes realised by the Corporation during the previous financial year as the Provincial Government may determine.

(3) If the Corporation fails to make the contribution referred to in clause (2), the *Provincial Government may make an order directing the bank in which any moneys of the Corporation are deposited or the person in charge of the local Government Treasury or any other place of security in which the moneys of the Corporation are deposited, to pay such contribution from such moneys as may be standing to the credit of the Corporation in such bank or may be in the hands of such person or as may from time to time, be received from or on behalf of the Corporation by way of deposit by such bank or person and such bank or person shall be bound to obey such order.

18. *Power to borrow money.*—The Authority may, from time to time, with the previous sanction of the *Provincial Government, and on such terms and conditions as may be approved by the *Provincial Government borrow moneys necessary for the purpose of defraying any cost, charges or expenses, incurred or to be incurred:—

- (a) for the execution of any work authorised by or under this Order, or
- (b) for the payment of compensation for any land acquired for the purpose of this Order, or
- (c) for the payment of a loan raised under this Order, or
- (d) for any other purpose within the intendment of this Order.

19. *Deposit Account.*—The Authority may open a deposit account with the State Bank of Pakistan or with any agency of the State Bank or, with the prior approval of the *Provincial Government, with any Scheduled Bank.

20. *Investment of funds.*—The Authority may invest its funds in any security of the Central Government or Provincial Government or in any security that has been declared an approved security by the *Provincial Government.

21. *Sinking fund*—The Authority may if it so decides and shall, if the *Provincial Government so requires, establish a sinking fund for the repayment of any loan borrowed by the Authority and shall pay into that fund such sums as will, with accumulations of interest be sufficient after the payment of all expenses to pay off the loan:

Provided that if at any time the sum standing at credit in such fund is such as will, if allowed to accumulate with interest, be sufficient to repay the loan within the period of the loan, than further payment into such fund may be discontinued.

22. *Application of sinking fund*.—Every sinking fund shall be applied in the first place to the repayment of the loan in respect of which such fund was established and shall not, until such loan is fully discharged, be applied to any other purpose.

23. *Annual Examination of sinking fund*.—(1) Every sinking fund established* by the Authority shall be examined every year by the Accountant General, Pakistan Revenues, who shall certify the total assets represented by the cash and the current market value of the securities standing at credit in such fund at the time of examination.

(2) If the Accountant General certifies that such assets are less than the assets which would have stood at credit had payments into the fund been made on the due dates and had the rate of interest considered to be obtainable when the fund was established been obtained, the authority shall forthwith pay into the fund a sum equivalent to the difference so certified. Except in cases where private loans to the authority are outstanding, the *Provincial Government may by previous general or special order, sanction the payment of such sum into the fund by instalments or permit the difference to be made up in any other manner.

(3) If any dispute arises between the Authority and the Accountant General as to the accuracy of any certificate under clause (2), the Authority may, after making the payment referred to in that clause but always subject to any general or special order in that behalf as aforesaid refer the matter to the *Provincial Government whose decision shall be final.

24. *Renewal and replacement fund*.—The Authority may, if it so decides and shall, if the *Provincial Government so require, for the purpose of the renewal and replacement of any or all works and property vested in it, maintain a fund or funds in such manner and subject to such conditions as the Authority may prescribe.

25. *Audit*.—(1) The Authority shall with the previous approval of the *Provincial Government appoint Auditors who shall be chartered accountants within the meaning of the Chartered Accountants Ordinance, 1961 (X of 1961).

(2) A statement of accounts in the prescribed form audited by the Auditors referred to in the preceding clause shall be furnished to the *Provincial Government as soon as possible after the end of every financial year.

(3) It shall be open to the *Provincial Government to authorize the Comptroller and Auditor General of Pakistan to conduct a test or other as to the account submitted to it in the form prescribed under Article 26 on such terms and conditions as the *Provincial Government may determine.

26. *Accounts*—The accounts of the Authority shall be maintained in such form as the Authority may prescribe.

27. *Annual report and budget proposals*.—The Authority shall, within three months after the end of every financial year, submit to the *Provincial Government an annual report on the conduct of its affairs for that year. It shall also submit its proposals and budget estimates for the next ensuing financial year six months before the commencement of such year and obtain their approval.

**A—The Statement of Accounts of the Authority referred to in clause (2) of Article 25 together with the report of the Comptroller and Auditor-General of Pakistan, if any, on the test or other audit made under clause (3) thereof and the annual report referred to in Article 27 shall be laid before the provincial Assembly of West Pakistan as soon as may be following the receipt thereof by the Provincial Government, and the provincial Assembly shall refer the same to its Committee on Public Accounts for scrutiny.

*Amended on 27th March, 1964.

**Amended on 29th July, 1967.

(2) The Committee on Public Accounts shall scrutinize and examine the reports referred to it under sub-section (1) in the same manner as, and shall in respect thereof perform the same functions and exercise the same powers as, are required by it to be performed and exercised in respect of the Appropriation Accounts of the Provincial Government and the report of the Comptroller and Auditor General of Pakistan thereon.

(3) The Authority shall produce such documents and furnish such explanation and information to the Committee referred to in sub-section (1) as the Committee may require at the time of examination of the Accounts.

(4) Government may require the Authority to furnish it with—

- (i) any return, statement, estimate, statistics or other information regarding any matter under the control of the Authority; or
- (ii) a report on any such matter; or
- (iii) a report on any document in the charge of the Authority;

and the Authority shall comply with every such requisition.

Chapter—IV

DEVELOPMENT, IMPROVEMENT, HOUSING AND OTHER SCHEMES

28. *Schemes to be deemed to be for public purpose*—All schemes framed under this Order and operated by the Authority or by an organisation sponsored by the Authority shall be deemed to be schemes for a public purpose.

29. *Matters to be provided for by improvement schemes*.—An improvement scheme may provide for all or any of the following matters, namely:—

- (a) the development of land for housing or re-housing;
- (b) the clearance or improvement of congested areas;
- (c) the construction of houses, flats and other kinds of residential premises and of industrial, commercial and other buildings for community-facilities, such as slaughter-houses, vocational training centres and amenity buildings like schools, dispensaries, and maternity or community development centres;
- (d) the acquisition by purchase, exchange or otherwise of any property or interest therein necessary for or affected by the execution of the scheme;
- (e) the laying out afresh of any land comprised in the scheme;
- (f) the re-distribution of sites belonging to owners or property comprised in the scheme;
- (g) the closing, alteration or demolition of any dwelling or portion thereof unfit for human habitation;
- (h) the demolition of any building or portion thereof unfit for the purpose for which it is being used or which obstructs light or air or projects beyond the building line;
- (i) the demolition of any building inconsistent with the scheme;
- (j) the construction and re-construction of any building by the Authority or by the owner or by the Authority on default by the owner;
- (k) the sale, lease, exchange, or disposal in any other manner of any property vested in or acquired by the Authority;
- (l) the construction and alteration of streets (including bridges, causeways and culverts) and back lanes, and the provision of footpaths and sidewalks;
- (m) the levelling, paving, metalling, flagging, channelling, sewerage, and drainage of the streets so constructed or altered, and the provision therein for lighting and sanitary facilities;
- (n) parks, playing-grounds and other open spaces for the benefit of persons residing in any area comprised in the scheme or any adjoining area and the extension of existing park, playing-grounds and other open spaces and approaches to the same;
- (o) sanitation and conservancy for the area comprised in the scheme, including the prevention of contamination to rivers and canals and other sources and means of water supply;

- (p) drains and sewers for the improvement of any ill-drained or insanitary locality;
- (q) accommodation for any class of inhabitants;
- (r) means of access and communication;
- (s) the reclamation or reservation of land for markets and gardens, for afforestation and to provide fuel and grass and supply the other needs of persons in the said area;
- (t) the raising, lowering, levelling or reclamation of any land comprised in the scheme;
- (u) the recovery of a betterment fee from owners of properties improved by the scheme;
- (v) any other matter for which, in the opinion of the Authority, it is expedient to make provision with a view to the improvement of any area comprised in the scheme or of any adjoining area for the general efficiency of the scheme.

30. *Types of improvement scheme*.—An improvement scheme shall be of one of the following kinds or a combination of any two or more of such kinds or of any special incidents thereof, namely:—

- (a) a general improvement scheme;
- (b) a re-building scheme;
- (c) a re-housing scheme;
- (d) a street scheme;
- (e) a deferred street scheme;
- (f) a development scheme;
- (g) a housing accommodation scheme;
- (h) a town-expansion scheme;
- (i) a zonal plans scheme;
- (j) a transport scheme;
- (k) a drainage and sewage disposal scheme;
- (l) a scheme for the re-distribution of sites; and
- (m) health and welfare scheme.

31. *Loans for housing etc.*—The Authority may, in connection with any scheme, provide for the financing a housing or facilities incidental thereto and may advance loans to those persons or families who cannot be provided for by private enterprise or by the House Building Finance Corporation established under the House Building Finance Corporation Act, 1952 [XVIII of 1952]. Such financing shall be upon such terms and conditions as the Authority shall consider feasible.

32. *General improvement scheme*.—Whenever it appears to the Authority—

- (a) that an area is in need of development,
- (b) that, in any area, any buildings used or intended or likely to be used as dwelling places are unfit for human habitation, or
- (c) that danger to the health of the inhabitants of any building in any area or of any building in the neighbourhood of such area results or is likely to result from—
 - (i) the narrowness, closeness, or bad arrangement or condition of streets or buildings or groups of building 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 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.

33. *Rebuilding scheme*.—(1) Whenever it appears to the Authority that any area is an insanitary area and that it is not possible or not desirable to frame a general improvement scheme in respect thereof, and that having regard to the value of buildings in such area and of the sites on which they stand, the most satisfactory method of dealing with the area or any part thereof is a re-building scheme, the Authority may pass a resolution to that effect and shall then proceed to frame a scheme in accordance with the provisions of this Article.

(2) A rebuilding scheme may provide for—

- (a) the reservation of streets, lanes, and open spaces to such extent as the Authority considers necessary for the purposes of the scheme;
- (b) the laying out afresh of the sites of the area upon streets, lanes or open spaces so reserved or enlarged.

- (c) the payment of compensation in respect of any such reservation or enlargement, and the construction of streets, lanes and open spaces so reserved or enlarged ;
- (b) the re-construction, alteration or demolition of any existing building and its appurtenances by the owner, or by the Authority in default of the owner, and the erection of any building in accordance with the scheme by the said owner or by the Authority in default of the owner, upon any site defined under the scheme ;
- (c) the acquisition by the Authority of any site or building comprised in the area included in the scheme.

34. *Re-housing scheme.*—The Authority may frame re-housing scheme, for the construction, maintenance and management of such and so many dwellings and shops as it may consider necessary for persons who—

- (a) are affected by the execution of any improvement scheme sanctioned under this Order, or
- (b) are likely to be affected by the execution of any improvement scheme which it intended to frame, or to submit to the *Provincial Government for sanction, under this Order,

35. *Street scheme.*—(1) Whenever the Authority is of opinion that for the purpose of—

- (a) providing building site, or
- (b) remedying defective ventilation, or
- (c) creating or improving new or existing means of communication and passage for traffic, or
- (d) providing better consanvancy,

it is expedient to lay out new streets or alter existing streets (including bridges ; caneways and culverts) in any area, the Authority may pass a resolution to that effect and shall then proceed to frame a street scheme for such area.

(2) A street scheme within the limits of the area comprised in the scheme may provide for the following matters, that is to say—

- (a) the acquisition of any land necessary in the opinion of the Authority for its execution ;
- (b) the laying out afresh of all or any lands so acquired including the construction and re-construction of buildings by the Authority or by persons authorised by the Authority in that behalf, and the laying out, construction and alteration of streets and thoroughfares ;
- (c) the draining, 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 Authority for the purposes 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, thoroughfare, or open space to be formed under the scheme.

36. *Deferred street scheme.*—(1) Whenever the Authority is of the opinion that it is expedient for any of purposes mentioned in Article 35 to provide for the ultimate widening of any street by drawing up new alignments therefore but that it is not expedient immediately to acquire all or any of the properties lying between the existing alignments, and the aforesaid new alignments, the Authority may pass a resolution to that effect, and shall proceed to make a scheme to be called a "deferred street scheme" and draw up an alignment for each side of the street

(2) A deferred street scheme shall provide for—

- (a) the acquisition, within the time limit specified in the scheme (which may be extended by the *Provincial Government), of the whole or any part of any property lying within the improved alignments ;
- (b) the laying out afresh of all or any such property including the construction and reconstruction of any building by the Authority or by any other person, and the formation and alteration of any street ;
- (c) the drainage, water-supply and lighting of any street so formed or altered.

*Amended on 27th. March 1961.

(3) After a deferred street scheme has been sanctioned by the Provincial Government—

- (a) no person shall, except with the written permission of the Authority, erect, re-erect, add to, or alter any building or wall so as to make the same project beyond the improved alignment of the street;
- (b) if the Authority fails to acquire or to institute proceedings for the acquisition of any property within the improved alignment of any street within the time limit specified in the scheme or extended by the Provincial Government, the owner of such property may at any time thereafter give the Authority notice requiring it to acquire or to institute proceedings for the acquisition of such property before the expiration of six months from the date of such notice, and thereupon the Authority shall itself acquire the property or institute proceedings to acquire the same, and if the Authority fails itself to acquire the property or to institute the proceeding, it shall pay reasonable compensation to the owner for any damage sustained by him in consequence of such failure;
- (c) before proceeding to acquire any property lying within the improved alignment of any street (other than property regarding which it has received a notice under sub-clause (b)), the Authority shall give six months' notice to the owner of its intention to acquire such property;
- (d) notwithstanding anything contained in the Municipal Act, the Corporation shall have no power to require any alignment of a street within the limits of the scheme and any alignment previously so required within such limits shall cease to be the alignment of the street.

37. *Development scheme.*—(1) In regard to any area the Authority may, and if so directed by the Provincial Government shall, prepare a scheme of proposed public streets with plans showing, with reference to the locality to be developed and the purposes for which particular portions of such locality are to be utilised, the direction of such streets, the street alignment and building line on each side of them, their intended width and such other details as may appear desirable.

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

(3) No person shall, without the permission of the Authority, 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.

(4) If the Authority refuses to grant permission to any person 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 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 projecting beyond or remaining behind the street alignment or building line shown in any plan adopted as aforesaid has fallen, or been demolished or otherwise damaged beyond repair, the Chairman may by written notice require or permit the same to be set back, or set forward, as the case may be, from or towards the street alignment or building line.

(6) When any building or wall is required under clause (5) to be set back or set forward and it is so set back or set forward accordingly, the Authority shall make full compensation to the owner of the building or wall for any damage that he may sustain thereby.

(7) If the setting forward of any building or wall in pursuance of a notice under clause (5) brings within the precincts of the building or wall set forward any land belonging to the Authority, the notice shall operate as a conveyance of such land to the owner of the building or wall on the terms and conditions specified in the notice.

(8) Any owner aggrieved by any term or condition aforesaid may within fifteen days of the communication to him of such term or condition, apply to the Chairman in writing for a reference of his case to the Tribunal, and the Chairman shall forthwith refer the case to the Tribunal, and the decision of the Tribunal shall be final.

(9) When any scheme under this Article is sanctioned by the *Provincial Government, then notwithstanding anything contained in the Municipal Act, the Corporation shall have no power to require the alignment of any street within the limits of the scheme, and any alignment previously required within such limits shall cease to be the alignment of the street.

38. *Housing scheme*—Whenever the Authority is of the opinion that it is expedient and for the public advantage to provide housing accommodation for any class of the inhabitants of any area, the Authority may frame a scheme, to be called a "housing scheme."

39. *Town expansion scheme*—Whenever the Authority is of the opinion that it is expedient and for the public advantage to control and provide for the future expansion or development of the City, the Authority may, and if so directed by the *Provincial Government shall, frame a scheme to be called a "town expansion scheme"

(2) Such scheme shall ordinarily be framed in respect of an area wholly without, wholly within, or partly within and partly without, the City :

Provided that the *Provincial Government shall, before giving its sanction to any such scheme, satisfy itself that a development scheme under Article 37 in respect of the area would not be suitable.

(3) Such scheme shall specify the proposed layout of the area to be developed and the purposes to which particular portions thereof are to be put.

(4) After any such scheme has been notified no person, shall, without written permission of the Authority, erect, re-erect add to or alter any building or wall within the area comprised in the scheme.

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

40. *Zonal Plan Scheme*—(1) The Authority may, from time to time, in regard to any area wholly within or wholly without or partly within and partly without the City, make Zonal Plans showing the purpose for which any land in any area shall be primarily used ; such plans may indicate any area reserved for residential purposes, commercial purposes, industrial purposes, agricultural purposes, open spaces, height, coverage, type, density, spacing and any other purpose, which the Authority may consider necessary.

(2) The procedure laid down in Article 36 for proposed deferred street scheme shall, so far as applicable apply to plans under clause (1).

(3) An order of the *Provincial Government sanctioning the Zonal Plan Scheme shall be notified in the official Gazette and thereafter it shall be unlawful for any person to use or cause to be used any land for any purpose other than that laid down in the Zonal Plan Scheme unless he has been permitted to do so under clause (4).

(4) If any person desires to use any land for any purpose other than that laid down in the Zonal Plan Scheme notified under clause (3), he may apply to the Authority for permission to do so and the Authority may order a public hearing and give notice to all persons it deems affected.

(5) If the Authority refuses permission to any person, such person may within thirty days of the Authority's refusal, move the *Provincial Government for a revision of the case.

(6) The decision of the *Provincial Government on any such revision shall be final.

41. *Construction of all buildings, structures, etc., in an area under Zonal Plan Scheme*—(1) All plans with proposals for the erection of buildings or structures in any area covered by a Zonal Plan Scheme shall be submitted to the Authority in triplicate for sanction.

(2) The Authority may refuse sanction, if the purpose for which the proposed building or structure is to be used is contrary to the provision made in the Zonal Plan Scheme sanctioned by the *Provincial Government, or if the proposed height coverage, or elevation of the proposed building or structure is unsuitable, for the locality or is likely to deteriorate the value of adjoining lands or on any other reasonable grounds.

(3) If the Authority refuses sanction under clause (2), it shall communicate the reasons for such refusal to the owner of the site and forward a copy of such refusal to the Corporation if the area in respect of which such proposal for building has been made is within the City.

(4) The owner of the site may, within a period of one month from the date of issue of the Authority's refusal, move the Authority to review the case and the decision of the Authority thereon shall be final.

(5) The Corporation or any other local Authority shall refuse to grant permission for erection of any structure or building which is not sanctioned by the Authority.

(6) The Authority may make regulations for giving effect to the provisions of this Article.

PROCEDURE TO BE FOLLOWED IN FRAMING DEVELOPMENT, IMPROVEMENT, HOUSING AND OTHER SCHEMES

42. *Official representation.*—(1) An improvement scheme may be framed by the Authority of its own motion, or on an official representation by the Corporation, the Karachi Port Trust or the Cantonment Board of Karachi or on an order of the *Provincial Government in writing.

(2) The official representation referred to in clause (1) may be made by the Corporation or Port Trust or Cantonment Board as aforesaid—

(a) of its own motion, or

(b) on a written application by its Chief Officer, Chairman or President, or

(c) in respect of any area comprised in any ward of the City on a written application signed by twenty-five or more residents of such ward who are liable to pay property tax under the Municipal Act.

(3) If the Corporation, Port Trust or Cantonment Board as aforesaid decides not to make an official representation on any application made to it under sub-clause (b) or sub-clause (c) of clause (2), it shall cause a copy of such application to be sent to the Authority with a statement of the reasons for its decision.

43. *Consideration of official representation.*—(1) The Authority shall consider every official representation made under Article 42, and, if satisfied of the necessity for an improvement scheme on the lines recommended therein and of the sufficiency of its resources for executing such scheme, it shall decide whether the scheme should be framed forthwith or not, and shall intimate its decision to the body which made the representation.

(2) If the Authority decides that it is not necessary or that it is not expedient to frame any improvement scheme or to frame a scheme forthwith, it shall inform the aforesaid body of the reasons for its decision.

(3) If the Authority fails, for a period of twelve months after the receipt of any official representation made under Article 42, to intimate its decision thereon to the body which made the representation, or intimate a decision that it is not necessary or that it is not expedient to frame an improvement scheme forthwith or a decision to frame a scheme of a kind other than that recommended by the said body, the body may, if it thinks fit, refer the matter to the *Provincial Government.

(4) The *Provincial Government shall consider every reference made to it under clause (3), and—

(a) if it considers that the Authority ought, in the circumstances, to have made a decision within the period mentioned in clause (3), it shall direct the Authority to make a decision within such further period as the *Provincial Government may think reasonable; or

(b) if it considers that it is, in the circumstances, expedient that a scheme should forthwith be framed, it shall direct the Authority to proceed forthwith to frame a scheme, and in giving such direction may prescribe the kind of scheme to be framed.

(5) The Authority shall comply with every direction given by the *Provincial Government under clause (4).

44. *Matters to be considered when framing Improvement schemes.*—When framing an Improvement Scheme in respect of any area, the Authority shall have regard to—

- (a) the nature and the conditions of neighbouring areas of the City as a whole ;
- (b) the directions in which the City appears likely to expand ; and
- (c) the likelihood of improvement schemes being required for other parts of the City.

45. *Preparation, publication and transmission of notice as to improvement scheme and supply of documents to applicants.*—

(1) When any improvement scheme has been framed, the Authority shall give notice thereof specifying—

- (a) the boundaries of the area comprised in the scheme, and
- (b) the place at which particulars of the scheme may be seen at reasonable hours.

(2) The Authority shall—

- (a) cause the said notice to be published weekly for three consecutive weeks in the official Gazette and in newspapers published in the *Karachi Division specifying the period within which objections will be received, and
- (b) send a copy of the notice to the Chief Officer, Chairman or President of the Corporation, Port Trust or Cantonment Board, if any such scheme affects any such agency or has been undertaken at the request of any of them.

(3) The Chairman shall cause copies of all documents containing particulars of the scheme to be delivered to any applicant on payment of the fee fixed by the Authority.

46. *Transmission to the Authority of representation by Corporation, etc. as to.*—The Chief Officer, Chairman or President of the Corporation, Port Trust or Cantonment Board, to whom a copy of a notice has been sent under sub-clause (b) of clause (2) of Article 45 shall, within a period of thirty days from the receipt of the said copy, forward to the Authority any representation which the Corporation thinks fit to make with regard to the scheme.

47. *Notice of proposed acquisition of land.*—(1) During the thirty days following the day on which the first notice required under Article 45 in respect of any improvement scheme is first published, the Authority shall serve a notice on—

- (a) every person whose name appears in the assessment list of the Corporation or Cantonment Board as being primarily liable to pay property tax on any building or land which it is proposed to acquire in executing the scheme, or in regard to which the Authority proposes to recover a betterment fee.
- (b) every occupier (who need not be named) of premises entered in the assessment list of the Corporation or Cantonment Board which the Authority proposes to acquire in executing the scheme, and
- (c) the occupier of any land (who need not be named) within the *Karachi Division in respect of which a local cess is payable under sections 93 and 95 of the Bombay Local Boards Act, 1923 (Bom. Act. VI of 1923).

(2) Such notice shall —

- (a) state that the Authority proposes to acquire such land or to recover such betterment fee for the purpose of carrying out an improvement scheme, and
- (b) require such person or occupier, if he objects to such acquisition or recovery, to state his reasons in writing within a period of thirty days from the service of the notice.

(3) Every such notice shall be signed by the Chairman or by a person authorised by him in that behalf.

48. *Furnishing of copies or extracts from the assessment book of the Corporation, etc.*—The Chief Officer of the Corporation or the President of the Cantonment Board shall furnish the Chairman at his request with a copy of, or extracts from, the assessment list of the Corporation or Cantonment Board on payment of such fees as may be prescribed by rules.

49. *Abandonment of improvement Scheme, or application to Government for sanction.*—(1) After considering any objection and representation received in pursuance of clause (2) of Article 45, Article 46 and sub-clause (b) of clause (2) of Article 47 and after hearing all persons making any such objection or representation who may desire to be heard, the Authority may either abandon the scheme by an order published in the official Gazette or proceed therewith in accordance with the provisions of this Order.

(2) Any persons whose objection or representation has been refused may within 15 days after such refusal appeal to the *Provincial Government in writing and the *Provincial Government shall dispose of it within 60 days thereafter and its decision shall be final.

50. *Notification of sanction of a scheme.*—(1) An order of the *Provincial Government sanctioning any scheme shall be published in the official Gazette and except in the case of a deferred street scheme, a development scheme or a town expansion scheme, the Authority shall forthwith proceed to execute the same either directly or through an agency sponsored by it under Article 13.

(2) The publication of a sanction under clause (1) in respect of any scheme shall be conclusive evidence that the scheme has been duly framed and sanctioned.

51. *Alteration of improvement scheme after sanction.*—At any time after an improvement scheme has been sanctioned by the *Provincial Government and before it has been completed, the Authority may alter it—Provided that—

- If any alteration is considered likely to increase the estimated net cost of executing a scheme by more than ten per cent, or by more than fifty thousand rupees, such alteration shall not be made without the previous sanction of the *Provincial Government.
- If any alteration involves the acquisition, otherwise than by agreement, of any land the acquisition of which has not been sanctioned by the *Provincial Government, the procedure mentioned in the foregoing Authority of this Chapter shall, so far as applicable, be followed as if the alteration were a separate scheme.
- If any alteration renders any land not previously liable under the scheme to the payment of a betterment fee liable to such payment the procedure prescribed in Articles 45, 47 and 49 shall so far as applicable be followed in regard to such land.

52. *Combination of improvement scheme.*—The Authority may at any time include in a combined scheme the improvement scheme framed or proposed to be framed for two or more areas.

52A. (1) The Authority shall, immediately after any housing scheme is sanctioned by or altered with approval of, Government, submit to the Commissioner the details including the survey numbers, area and location of each plot reserved for roads, hospitals, schools, colleges, libraries play-grounds, gardens, parks, community centres, mosques, grave-yards or such other purpose and the Commissioner shall notify such details in the official Gazette.

(2) The Authority or the Housing Society may at any time prior to utilization of any plot reserved for the purpose mentioned in sub-section (1), apply to the Commissioner for conversion of such plot to any other purpose.

(3) The Commissioner shall, on receipt of an application under sub-section (2), invite objections from the general public through a notice published in one English and one vernacular leading local daily newspaper and the objections, if any, shall be submitted to the Commissioner within 30 days from the date of the publication of the notice.

(4) The Commissioner shall, after considering the objections received under sub-section (3) and hearing such persons as he may consider necessary forward his recommendations along with the application and other connected papers to Government for orders.

*Amended on 27th March 1962.

** Amended Vide PAF/Legis/Bill-32/74 dt. 11-12-74.

53. *Submission of list of schemes to Government.*—The Authority shall, at the close of every financial year, submit to the *Provincial Government in the prescribed form a list of all the schemes sanctioned under this Order, showing the progress made with respect to each scheme.

54. *Width of street and levelling, etc., thereof.*—(1) No street laid or altered by the Authority shall be less than forty feet wide, if it is intended for vehicular traffic, or less than twenty feet wide, if it is intended only for pedestrian traffic ;
Provided that—

- (i) the width of an existing street need not be increased to the minimum required by this sub-section if, in the opinion of Authority, such increase is impracticable ; and
- (ii) nothing in this sub-section shall apply to service passages for sanitation.

(2) In every street laid out or altered by the Authority, the Authority shall make provision for the levelling, paving, metalling flagging, channelling, sewerage and drainage of the street and the provision therein of lighting, water and sanitary conveniences ordinarily provided in a municipality.

55. *Transfer to the Authority for purposes of improvement scheme of building or land vested in the Corporation etc.*—(1) Whenever any building, or any street, open space, or other land, or any part thereof, which is situated in the *Karachi Division and is vested in the Corporation, the Karachi Port Trust, the Karachi Cantonment Board, or any other local authority is within the area of any improvement scheme and is required for the purposes of such scheme, the Authority shall give notice accordingly to the Chief Officer of the Corporation, the Chairman of the Port Trust or the President of the Cantonment Board or local Authority as the case may be, and such building, street, open space, other land or part thereof shall thereupon vest in the Authority.

(2) Where any land situated in the *Karachi Division vests in the Authority under clause (1) and the Authority makes a declaration that such land shall be retained by the Authority only until it re-vests in the Corporation, Port Trust, Cantonment Board or other local authority and part of a street or an open space under Article 65, no compensation shall be payable by the Authority to the Corporation, Port Trust or Cantonment Board in respect of that land.

(3) Where any land or building vests in the Authority under clause (1) and no declaration is made under clause (2) in respect of the land, the Authority shall pay to the Corporation, Port Trust, Cantonment Board or local authority, as the case may be, as compensation a sum equal to the market value of such land or building on the date of the publication of the sanction under Article 50, and where any building situated on land in respect of which a declaration is made by the Authority under clause (2) is vested in the Authority under clause (1), like compensation shall be payable in respect of such building by the Authority.

(4) If the Authority, having made a declaration in respect of any land under clause (2), retains or disposes of the land under clause (2) retains or disposes of the land contrary to the terms of the declaration so that the land does not vest in the Corporation, Port Trust or Cantonment Board, or local authority, the Authority shall pay to the Corporation, Port Trust, Cantonment Board or local authority compensation in respect of such land in accordance with the provisions of clause (3).

(5) If any question of dispute arises—

- (a) whether compensation is payable under clause (3) or clause (4), or
- (b) as to the amount of the compensation paid or proposed to be paid under clause (3) or clause (4), or
- (c) whether any building or street, or open space or other land, or any part thereof is required for the purposes of the scheme, the matter shall be referred to the *Provincial Government whose decision shall be final.

56. *Transfer of private street or open space to Authority for purpose of improvement scheme.*—(1) Whenever any street or open space or part thereof which is not vested in the Authority or in the Corporation, Port Trust, Cantonment Board or local authority is needed for executing any improvement scheme, the Authority shall cause to be affixed in a conspicuous place in or near such street, open space or part a notice signed by the Chairman or some one authorised by him and—

- (a) stating the purpose for which the street, open space or part is needed, and
- (b) declaring that the Authority will, on or after to be specified in the notice, take over charge of such street, open space or part from the owner thereof, and shall simultaneously send a copy of such notice to the owner at his last known address.

(2) After considering any objection received in writing before the date specified under sub-clause (b) of clause (1), the Authority may take charge of such street, open space or part, and the same shall thereupon vest in the Authority.

(3) When the Authority alters or closes any streets or open space or part thereof which has vested in it under clause 2, it shall pay reasonable compensation to the owner for the loss of his rights therein.

(4) If the alteration or closing of any street, open space or part causes damage or substantial inconvenience to any one having property right therein the Authority—

- (i) shall forthwith provide some other reasonable means of access for the use of such person, and
- (ii) If the provision of such means of access does not sufficiently compensate him for such damage or inconvenience shall also pay him reasonable compensation in money.

57. *Provision of drain or water work to replace another situated on old land vested in the Authority.*—(1) Where in any building, or street, open space or other land, or part thereof, referred to in Article 55 or 56 there is any drain, water-work, electric main or installation belonging to the Corporation, Port Trust, Cantonment Board, or other local authority, such drain, water-work, electric main installation shall not vest in the Authority until the Authority has provided, if such provision is necessary, another drain, water-work, electric main or installation.

(2) If any dispute arises 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 Authority under clause (1) such dispute shall be referred to the Provincial Government, whose decision thereon shall be final.

58. *Bar to application of section 34 of the Municipal Act to streets.*—(1) Clause (18) of section 34 of the Municipal Act shall not apply to any street which is vested in the Authority.

(2) Clause (1) of section 34 of the Municipal Act shall apply when any drain vested in the Corporation is opened or broken up by the Authority or when any public street is under construction by the Authority.

59. *Repair and watering of streets.*—Whenever the Authority allows any street vested in to be used for public traffic it shall—

- (a) as far as practicable, keep the street in good repair and do all things necessary for the safety and convenience of person using it, and
- (b) cause the street to be watered, if it considers necessary to do so for the public convenience.

60. *Street repairs to be fenced and lighted.*—Whenever any drain in, or the pavement or surface of any street vested in the Authority is at any place opened or broken up by the Authority for the purpose of carrying on any work, or whenever the Authority allows to be used for public traffic any street which it has under construction and when is at any place only partly constructed, or not yet constructed, the Authority shall cause the place to be fenced and guarded and to be sufficiently lighted during the night, and shall where necessary shore up and protect adjoining buildings, and shall with all convenient speed complete the said work, fill in the ground, and repair the said drains pavement or surface, and carry away any rubbish occasioned by the aforesaid operations or complete the construction of the said street, as the case may be.

61. *Power to close streets during repairs.*—(1) when any work referred to in Article 60 is being executed by the Authority in any public street vested in it, or when any other work which may lawfully be done is being executed by the Authority in any street vested in it, the 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 Authority shall give notice in the official Gazette of its intention to do so and set up in a conspicuous position 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.

62. *Duty to provide alternative routes and amenities.*—(1) When any work is being executed by the Authority in any public street vested in it, the Authority shall, so far as may reasonably be practicable, make adequate provision—

- (a) for the passage or diversion of traffic ;
- (b) for securing access to all premises approached from such street ; and
- (c) in respect of any drainage, water-supply or means of lighting interrupted by the execution of the work.

(2) The Authority shall pay reasonable compensation to any person who sustains special damage by reason of the execution of any such work.

63. *Powers of Authority to turn or close public streets or open space vested in it.*—(1) The Authority may

- (a) turn, divert, discontinue the public use of, or permanently close, any public street vested in it or any part thereof, or
- (b) discontinue the public use of, or permanently close, any open space vested in it or any part thereof.

(2) Whenever the 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 a member of the general public, to use such street or part as a means of access and has suffered damage from such discontinuance or closing.

(3) Whenever the Authority discontinues the public use of, or permanently closes, any open space vested in it, or any part thereof, it shall pay reasonable compensation to every person—

- (a) who was entitled, otherwise than as a member of the general public, to use such open space or part as a means of access, or
- (b) whose immovable property was ventilated by such open space or part, and who has suffered damage—
 - (i) in case (a), from such discontinuance or closing, or
 - (ii) in case (b), from the use to which the Authority has put such open space or part or has allowed the same to be put.

(4) In determining the compensation payable to any person under clause (2) or clause (3), the Authority shall make allowance for any benefit accruing to him from the construction, provision or improvement of any other public street or open space 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 open space vested in the Authority, or any part thereof, is permanently close, the Authority may, subject to such conditions as may be prescribed, sell, lease or otherwise dispose off, so much of the same as is no longer required.

(6) In this Article the power to turn includes the power to alter the direction of traffic in that street, the gradient or levels of the sewers connected therewith.

64. *Disputes to be referred to Tribunal.* (1) If any dispute arises—

- (a) between the Authority and the previous owner of any street or open space or part thereof which has vested in the Authority under Article 56 and has been altered or closed by it, as to the sufficiency of the compensation paid or proposed to be paid under clause (3) of that Article, or

- (b) between the Authority and any person who was entitled, otherwise than as a member of the general public, to use as a means of access any street or open space thereof which has vested in the Authority under Article 56—
- (i) whether the alteration or closing of such street, open space or part causes damage or substantial inconvenience to owners of property adjacent thereto or to residents in the neighbourhood, or
 - (ii) whether the other means of access provided or proposed to be provided under clause (4) of the said Article 56 are reasonably sufficient, or
 - (iii) as to the sufficiency of any compensation paid or proposed to be paid under the said clause (4), or
- (c) between the Authority and any person as to the sufficiency of any compensation paid or proposed to be paid to him under Article 33, 36, 37, 39, 62, 63, or 134.

The matter shall be determined by the Tribunal if referred to it by the Authority or by the claimant within a period of three months from—

- in case (a) or case (b)—the date on which the street or open space or part thereof was altered or closed by the Authority, and
- in case (c)—the date on which the said person was informed of the decision of the Authority fixing the amount of compensation to be paid to him or rejecting his claim to compensation, and the determination of the tribunal shall be final.

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

(3) For the purpose of determining any matter referred to it under clause (1), the Tribunal shall have all the powers with regard to witnesses, documents and costs which it would have if the Land Acquisition Act, 1894, as modified by Article 95 of this Order, were applicable to the case.

65. *Vesting of streets Corporation.*—(1) Whenever the Authority has completed any street or streets or open or recreational spaces in all respects, it shall so inform the Corporation, Port Trust, Cantonment Board or other local authority, as the case may be, in writing and such streets or space shall thereupon vest in the Corporation, and shall thenceforth be maintained, kept in repair, lighted and cleaned by the Corporation.

(2) If any difference of opinion arises between the Authority and the Corporation in respect of any matter referred to in clause (1), the matter shall be referred to the Provincial Government whose decision shall be final.

66. *Power of Authority to retain service Passages.*—Notwithstanding anything contained in Article 65 the Authority may retain any service passage which it has laid out for sanitary purposes, and may enter into an agreement with the Corporation or any person for the supervision, repair, lighting and management of any passage so retained.

CHAPTER—V

BUILDINGS AND STREETS

67. *Prohibition of erection or re-erection of buildings without permission.*—No person shall—

- (i) erect or re-erect any building; or
- (ii) make any material external alteration in or addition to any existing building; or
- (iii) construct or re-construct any projecting portion of a building in respect of which the Chairman is empowered by Article 48 to enforce an alteration or demolition or is empowered to give permission to construct or re-construct it unless the Authority has either by an order in writing granted permission or has failed to intimate within the prescribed period his refusal of permission for the erection or re-erection of the building or for the construction or re-construction of the projecting part of the building, thereafter, such permission shall be valid for one year and shall be ineffective thereafter.

68. *Completion certificates and permission to occupy or use building.*—(1). Every person who—

- (i) makes or extends any excavation in a controlled area;
- (ii) erects or re-erects any building; or
- (iii) makes any material external alteration in or addition to any existing building; or
- (iv) constructs or re-constructs any projecting portion of a building in respect of which the Authority is empowered under Article 88 to enforce an alteration or demolition or is empowered to give permission to construct or re-construct it;

shall within one month of the completion of the work deliver to the Authority notice in writing of such completion and shall give to the Authority all necessary facilities for the inspection of such work.

(2) After the receipt of the said notice the Authority shall promptly depute an officer to inspect such work and after such inspection, either approve or disapprove the building for occupancy or make such further order as it may decide.

(3) No person shall occupy or permit to be occupied any such land, building or use or permit to be used any part affected by the re-erection, of such building until the permission referred to in clause (2) has been granted in the prescribed manner.

69. *Power of Authority to direct removal of persons from land or building in which works are being unlawfully carried on or which are unlawfully occupied.*—(1) If any person contravenes any provision of Article 68 or violates any order of the Authority it may direct cessation of such work and the use or occupancy of any land or building and take such measures as may be necessary to enforce its directions:

Provided that any person occupying or using such land or building or part thereof either as tenant or as owner in contravention of clause (3) of Article 68 shall be entitled to receive one week's notice in writing before eviction.

Such notice shall not be required in cases where the Authority believes there is imminent danger to life or that such occupancy is illegal or unauthorised.

(2) All expenditure incurred in the enforcement of the provisions of this Article may be recovered from the offending person.

70. *Provisions regarding buildings unfit for human habitation.*—(1) If for any reason it shall appear to the Authority that any building or part thereof intended or used for human habitation or human occupation for any purposes whatever is unfit for such use, it shall signify its intention to prohibit the further use of such building or part of building and call upon the owner or occupier to state in writing his objections (if any) to such prohibition within seven days after the receipt of such notice. If no objection is raised by such owner or occupier within the prescribed period or if any objection which is raised appears to the Authority to be invalid or insufficient, the Authority may prohibit by an order in writing the further use of such building or part thereof. The owner or occupier of the building shall be given an opportunity of appearing before the Authority in person or by agent in support of his objection.

(2) Notice of such prohibition shall be served in person or by mail upon the owner of any building or part of a building affected thereby and also upon every occupier or user thereof (who need not be named) stating the fact of such prohibition and appointing a day (not being less than fourteen days after the date of such notice) before which every such person shall remove himself and his property from the said building or part thereof; and if on the day so appointed any such person has failed to remove himself and his property as aforesaid, the Authority may cause him and his property to be removed and may recover from him the cost of such removal.

(3) When a building or part of a building has been vacated under clause (2) the Authority shall mark it in the prescribed manner and no person except with the permission in writing of the Authority and in accordance with the terms and conditions of such permission, shall enter into or remain in such building or part of a building.

(4) At any time after a building or part of a building has been vacated under clause (2), if the Authority considers that it can be rendered fit for human habitation by the structural alteration or repairs, the Authority may by notice in writing call upon the owner to commence within 30 days and to complete within a period of not more than six months from the date of receipt of such notice, such structural alterations or repairs, as it deems necessary and if at the expiration of the aforesaid period such alterations or repairs have not been commenced or completed to its satisfaction, the Authority shall issue to the said owner a notice in writing ordering the demolition of such building or part thereof within a period of thirty days from the date of receipt of such notice, or the Authority may at its option repair such building at the owner's expense.

(5) If the Authority considers it impracticable to render such building or part thereof fit for human habitation, it may by notice in writing call upon the owner to demolish it within a period of thirty days from the receipt of such notice.

(6) If at the expiration of the period of thirty days an order to demolish a building or part of a building issued under clause (4) or clause (5) has not been complied with, the Authority may direct, by an order in writing, the demolition thereof by any officer or servant or contractor of the Authority. The materials of the building or part of the building so destroyed shall thereupon be sold by public or private sale and the proceeds of the sale shall first be appropriated towards the cost of such destruction and sale. The balance if any of the cost of such destruction and sale after such appropriation, shall be recovered from the owner, and any surplus, if any, shall accrue to the owner :

Provided that, before such order is given, the owner of the building shall have an opportunity of appearing before the Authority in person or by agent, and of showing cause why such order should not be given.

(7) For sufficient cause, the Authority may extend the time allowed under, or prescribed by, clauses (4), (5) and (6).

(8) If any building or part of a building in respect of which an order under this section has been made is the subject of a lease, such lease shall be voidable at the option of the lessee with effect from the date on which the said order comes into force.

71. *Removal of building in ruinous or dangerous state.*—(1) If in the opinion of the Authority, any building, wall, structure or anything affixed thereto is in a ruinous or dangerous state, the Authority may, by notice in writing, require the owner or occupier thereof forthwith either to remove the same or to cause such repairs to be made thereto as the Authority considers necessary for the public safety; and if the danger appears to be imminent, the Authority may forthwith take such steps as may be required to avert such danger, including the forcible removal without notice from such building of all the occupiers thereof and their property.

(2) Any expenses incurred by the Authority under clause (1), shall be paid by the owner concerned.

**2A) When the owner of any building, wall, structure or any thing affixed thereto fails to execute the repairs required of him by the Authority under clause (1), the occupier of such building, wall, structure or anything affixed thereto may, with the previous approval of the Authority carry out such repairs, and without prejudice to any other right of recovery deduct the cost thereof from the rent which may become due and payable by him to the owner from time to time

(3) Except with the permission in writing of the Authority no person shall enter into or remain in any building from which the occupier has been removed under clause (1).

72. *Power of removal of unauthorized building.*—The Authority may, by a notice served in the prescribed manner, direct the owner of an unauthorised building erected prior or subsequent to the date of coming into force of this Order to remove the same within the period mentioned in the notice or within such further period as may be granted by the Authority.

73. *Power of removal of building under construction.*—The Authority may, by a notice served in the prescribed manner, direct the owner of an unauthorised under construction on the date of the commencement of this Order not to proceed with the construction and to remove such building within the period mentioned in the notice or within such further period as may be granted by the Authority and the owner thereof shall remove the same within the period aforesaid.

74. *Ejection of occupier.*—(1) Simultaneously with the issuance of a notice to be served on the owner of a building under Article 72 or under Article 73, the Authority may serve a notice, on any occupier thereof to vacate such building within the period mentioned therein or within such further periods as may be granted by the Authority.

(2) If the occupier does not vacate the building within the aforesaid period in compliance with a notice issued under clause (1) he shall, notwithstanding anything contained in any other law for the time being in force, be liable to be summarily evicted therefrom by the Authority and the Authority may, in effecting such eviction, use such force as it deems necessary.

75. *Removal of building.*—If any person fails to comply with any direction for the removal of any building given to him under Article 72 or Article 73 within the period fixed thereof, the Authority may cause the unauthorised building or the building under construction, as the case may be, to be removed at the owner's expense.

76. *Reclamation of low-lying sites.*—If it appears to the Authority that the level of a site on which it is proposed to erect a building is so low that such building is likely to become insanitary, dangerous or create a nuisance, it shall give to the owner thereof notice in writing calling upon him to raise the level of such site to a height prescribed by the Authority within a period fixed by it. If the owner fails to comply with the order, the Authority may forbid any building or further building thereon, or at its option, raise the level of the site at the owner's expense.

77. *Power to prohibit re-erection of building on insanitary site.*—(1) If any building on a site in respect of which the Authority may make an order under Article 76 or any building which is situated in such a way as to be inaccessible to a fire-engine or to prevent a fire-engine from reaching other buildings is demolished or destroyed by fire or otherwise the Authority by notice in writing addressed to the owner or occupier of such site or to the owner of such building may direct that no building shall be erected in its place until the said site has been raised to such height and with such materials as the Authority may specify in such notice or that no building shall be erected which does not give a fire-engine access to itself or other buildings as the case may be.

(2) No person shall erect or re-erect any building in contravention of such notice.

78. *Expense incurred by Authority to have priority in line.*—Any expense incurred by the Authority under this Chapter shall have a priority in lien over other debts affecting the property and if unpaid shall be recoverable by sale of the land, and any deficiency, thereafter, remaining shall be recoverable from the owner.

79. *Notice of intention to lay out new private street to be given to Authority.*—Every person who intends make or lay out a new private street shall file with the Authority an application for permission to do so and shall simultaneously submit the following:—

- (a) correct plans and sections in duplicate of the proposed private street or streets which shall be drawn to a horizontal scale of not less than one inch to every twenty feet and a vertical scale of not less than one and a half inches to every ten feet, and shall show thereon the level of the present surface of the ground above some known fixed datum, the level and rate of inclination of the intended new street, the level and inclination of the streets with which it is intended to be connected and the widths which are proposed to be laid out as carriage-ways and footpaths respectively;
- (b) specifications with detailed descriptions of the materials to be employed in the construction of the said street or streets and its carriage-way and footpaths;
- (c) a plan showing the intended lines of drainage of such street or streets and of the buildings proposed to be erected the intended size, depth, and inclination of each drain, and the details of the arrangement proposed for the ventilation of the drains;
- (d) a scheme accompanied by plans and sections for the laying out into street, plots and open spaces of the other land of such person or of so much of such other land as the Authority shall consider necessary.

80. *Authority to grant or refuse application.*—The Authority shall either grant or refuse the application or return it for modification or additional information.

81. *New Private street not to be made and buildings on either side thereof not to be erected except in accordance with the direction or approval of Authority.*—(1) No person shall make or lay out any new private street or erect any building either side thereof otherwise than in accordance with the directions of the Authority.

(2) If any such new private street be made or laid out or any building on either side of any such street be erected, by any person in contravention of the above Articles the Authority may, by written notice, require the said person to show cause in writing or appear in person on or before a date specified in such notice why such street or building should not be altered, abandoned, demolished or removed.

(3) If such person shall fail to show sufficient cause as aforesaid, the Authority may cause the street or building to be altered, abandoned demolished or removed and may recover the expense thereof from the said person.

82. *Laying and draining of private streets.*—(1) If any private street be not metalled, paved, lighted, sewered, drained, channelled or flagged to the satisfaction of the Authority it may by written notice require the owner of such street and the owners of the several premises fronting or adjoining the said street or abutting thereon, or to which access is obtained through such street or who will benefit by works executed under this Article to metal, pave, light, sewer, drain channel or flag the same in such manner as the Authority shall direct.

(2) If such requisition be not complied with on or before the date specified in such notice, the Authority may do or cause such work to be done on its own account, and expense incurred in so doing shall be paid by the owners of the premises aforesaid in such proportion as the Authority shall think fit.

(3) Not less than fifteen days before the commencement of any work under clause (2) the Authority shall give written notice to all the said owners of—

- (a) the nature of the intended work,
- (b) the estimated expenses thereof, and
- (c) the proportion of such expenses payable by each owner.

(4) Any owner who is of opinion that the proportion of expenses payable by him in accordance with the order of the Authority under clause (2) is incurred or unjust may appeal against such order to the Tribunal.

(5) Any expenditure incurred by the Authority under Articles 81 and 82 shall have a priority in lieu over other debts affecting the properties, and shall, if unpaid, be recoverable by sale of the property, and any deficiency thereafter remaining shall be recoverable from such owner.

83. *Power to declare private street when metalled etc., public streets.*—When any private street has been metalled, paved, made good, lighted, sewered, drained, channelled and flagged to the satisfaction of the Authority it may upon receiving the consent of the owner or of the majority of the owners of such street, by notice put up in any part of such street declare the same to be a public street. The said street shall thereupon become a public street.

84. *Power to regulate future construction of certain classes of buildings in particular streets or localities.*—(1) The Chairman may give public notice of his intention to declare, subject to any valid objection that may be preferred within a period of three months,

- (a) that in any street or portions of streets specified in such notice the elevation and construction of the frontage of all buildings thereafter erected or re-erected shall, in respect of their architectural features, be such as the Authority may consider suitable to the locality; or
- (b) that in any localities specified in such notice there shall be allowed the construction of only detached or semi-detached buildings or both, and that land appurtenant to each building shall be of an area not less than that specified in such notice; or
- (c) that in any localities specified in the notice the construction of more than specified number of houses on each acre of land shall not be allowed; or
- (d) that in any streets, portions of streets, or localities specified in such notice the construction of shops, warehouses, factories, huts or buildings of a specified architectural character, or buildings designed for particular use shall not be allowed without the special permission of the Authority.

(2) The Governing Body shall consider all objections received within a period of three-months from the publication of such notice, and shall then submit the notice with a statement of objections received and of its opinion thereon to the Authority.

(3) No objection received after the said period of three months shall be considered.

(4) Within a period of two months after the receipt of the same the Authority shall submit all the documents referred to in clause (2), with or without a statement of its opinion thereon, to the *Provincial Government.

(5) The *Provincial Government may pass such orders with respect to such declaration as it may think fit:

Provided that such declaration shall not thereby be made applicable to any street, portion of a street or locality not specified in the notice issued under clause (1).

(6) The declaration as confirmed or modified by the *Provincial Government shall be published in the official Gazette and shall take effect from the date of such publication.

(7) No person shall erect or re-erect any building in contravention of any such declaration.

85. *Authority to prescribe street line and building line*—(1) The Authority shall prescribe a street line and a building line on each side of every public street within the City, and may from time to time prescribe a fresh line in substitution for any line so prescribed or for any part thereof.

Provided that—

(a) at least one month before prescribing such line or such fresh line, as the case may be, the Chairman shall give public notice of the proposal in this respect inviting objections or suggestions in writing thereto within a specified period, and shall put up a special notice thereof in the street or part of a street for which such line or fresh line is proposed to be prescribed, and

(b) the Chairman shall comply with any orders that may be passed by the Authority after considering any written objection or suggestion in regard to such proposal which has been delivered at the office of the Authority within the specified period.

(2) (a) No person shall construct or reconstruct any portion of any building within the street line without the permission of the Authority under Article 88.

(b) When the Authority refuses permission to construct or reconstruct any building in any area within the street line, such area shall, with the approval of the Authority, be added to the street and shall thenceforth be deemed to be part of the public street and shall vest in the Authority,

(c) Compensation shall be paid by the Authority to the owner of any land added to a street under sub-clause (b) for the loss of the said land, and to the owner of any building for any loss or damage or expense incurred by such owner in consequence of any action taken or order passed by the Authority under this clause. In the case of dispute the amount of such compensation shall be ascertained and determined by the Collector or any officer specially authorized by him in this behalf in the manner prescribed.

Provided that no such compensation shall be payable in respect of buildings removed under Article 71,

(3) (a) The Chairman may direct that the construction or reconstruction of any building in contravention of the provisions of clause (2) be stopped.

(b) The Authority may by written notice require such building or part thereof to be altered or demolished in accordance with the directions contained in such notice.

86. *Erection or re-erection of building beyond street line prohibited.*— (1) No person shall erect or re-erect a building or part of a building so as to project beyond a street line fixed under Article 85.

(2) Any owner of land who is prevented by the provision of this Article from erecting or re-erecting any building on his land may require the Authority to make compensation for any damage which he may sustain by reason of such prevention and upon the payment of compensation in respect of any land situated within such street line, such land shall become part of the said street and shall vest in the Authority.

The Chairman may require the alteration or demolition of any building or part of a building which may have been erected or re-erected in contravention of clause (1).

87. *Setting back projecting buildings.*— (1) If any part of a building other than a building used for religious worship projects beyond the street line of a public street as prescribed under Article 85 or beyond the front of the building on either side thereof, the Authority may—

- (a) If the projecting part thereof is a verandah, step or some other structure external to the main building then at any time, or
- (b) If the projecting part is not such external structure as aforesaid, then whenever the greater portion of such building or any material portion of such projecting part has been demolished or destroyed by fire or has fallen, require by written notice that the part so projecting shall be removed or that such building when being re-built shall be set back to or towards the said line. The portion of the land added to the street by such removal or setting back shall thenceforth be deemed to be part of the public street and shall vest in the Authority.

(2) If any land not vested in the Authority, whether upon or enclosed by within the street line and is not occupied by building, or if a platform, verandah, step or such other external structure or portion thereof is within the street line, the Chairman may take possession on behalf of the Authority of the said land (together with its enclosing wall, hedge or fence) or of the said structure or any portion thereof, after giving to the owner of the land or building not less than seven clear days' written notice of his intention so to do, and, if necessary, may clear the same; and the land so taken possession of shall thenceforward be deemed to be part of the public street and vest in the Authority.

(3) Notwithstanding the provisions of clauses (1) and (2), no land or building vested in the Central Government or a Provincial Government shall be taken possession of as aforesaid without the previous sanction of that Government, nor shall any land or building vested in any Corporation incorporated by any law for the time being in force be taken possession of as aforesaid without the previous sanction of the Provincial Government.

(4) *Compensation payable by the Authority.* Compensation, the amount of which in case of dispute shall be ascertained and determined by the Collector or any officer specially authorised by him in this behalf, in the prescribed manner shall be paid by the Authority to the owner of any land added to a public street under clause (1) or taken possession of under clause (2) and to the owner of any building for any loss, damage or expense incurred by such owner in consequence of any action taken by the Authority under either of the said clauses—

Provided that no such compensation shall be payable in respect of buildings removed under Article 71.

(5) When the amount of the compensation payable under clause (4) has been so ascertained and determined, or when a ruinous or dangerous building falling under clause (1) has been taken down under the provisions of Article 71, the Authority, after realising the amount of the compensation, if any be payable, may take possession of the land so added to the street, and, if necessary may clear the same.

88. *Setting forward of front to building line.*— (1) If the front of any building other than a building used for religious worship which abuts on a public street is behind a building line fixed under Article 85 and it is proposed to erect or re-erect such building in any manner involving the removal of such building or of the front portion thereof to an extent exceeding one-half of such building or portion thereof above the ground level (such half to be measured in cubic feet), the Authority may, in any order relating to the erection or re-erection of such building, permit or require the front of such building to be set forward to the building line.

(2) Except with the permission of the Authority, no person shall erect or re-erect any building or any part of a building between a street line and a building line fixed under Article 85.

89. *Setting forward to the street line.*—(1) The Authority may, upon such terms as it thinks fit, allow any building to be set forward if the street line of the street in which such building is situated will be thereby improved.

(2) If any land which will be included in the premises of any person permitted to set forward a building under clause (1), vests in the Authority the permission of the Authority to set forward the building shall be a sufficient conveyance to the owner of the said building; and the price to be paid to the Authority by the said owner for such land and any other terms and conditions of the conveyance shall be set forth in the said permission.

90. *Building at corner of street.*—(1) The Authority may require any building intended to be erected at the corner of two streets to be rounded or splayed off to such height and in such manner as it may determine.

(2) The owner of the site of such building may require Authority to compensate him for the loss of any portion of such site resulting from any requirement under clause (1) and or payment of compensation thereof such portion of the site shall vest in the Authority.

91. *Preparation of standard plan for division of lands into building sites.*—(1) The owner of any land which is intended for division into building sites shall prior to any division thereof prepare and submit for the Authority's approval a plan drawn to a scale specified by the Authority and signed by a licensed surveyor, showing the streets which such owner proposes to construct on such land and the position and boundaries of the building sites into which he proposes to divide such land substantially as hereinbefore set forth in Article 79.

(2) On receipt of any plan prepared as aforesaid the Authority may approve or disapprove of it or give such directions for such alterations and amendments to be made therein as it shall think fit.

(3) If the said owner fails to submit the aforesaid plan within the period specified, the Authority may cause such a plan as is prescribed in clause (1) to be prepared at his expense in accordance with the instructions of the Authority, and shall cause a copy thereof to be delivered at the last known place of abode of such owner and to be affixed to some conspicuous position of the land.

(4) When a plan has been approved by the Authority under clause (2) or has been prepared under the instructions of the Authority under clause (3) it shall be known as the "standard plan" of such land and a copy thereof, signed by such person as may be authorised in his behalf, shall be deposited in the Authority's office and another copy similarly signed shall be supplied on application to the owner of such land.

(5) Except with permission of the Authority and in accordance with the terms and conditions of such permission, no person shall construct any street or erect any building on such land otherwise than in accordance with such approved plan and sale or occupancy of any land or buildings not so approved shall be illegal.

Chapter—VI

ACQUISITION, DISPOSAL AND USE OF LAND BETTERMENT FEES

92. *Power to purchase or lease by agreement.*—The Authority may enter into an agreement with any person for the acquisition from him by purchase, lease, or exchange, of any land which the Authority is authorised to acquire, or any interest in such land.

93. *Power to acquire land under the Land Acquisition Act 1894.*—The Authority may, with previous sanction of the *Provincial Government, acquire for carrying out the purposes of this Order land under the provisions of the Land Acquisition Act, 1894 (1 of 1894), or any other law for the time being in force.

94. *Tribunal to be constituted.*—(1) The *Provincial Government shall constitute a Tribunal as provided in Article 96 for the purpose of performing the functions of the Court in reference to the acquisition of land for the acquisition Authority under the land Acquisition Act, 1894 (1 of 1894).

(2) The Tribunal shall—

- (a) perform the functions of the Court with reference to the acquisition of land for the Authority under the Land Acquisition Act, 1894 (1 of 1894); and
- (b) decide disputes referred to it under Article 93.

95. *Modification of Land Acquisition Act, 1894.*—For purposes relating to the acquiring of land by the Authority under the Land Acquisition Act, 1894 (1 of 1894)—

- (a) the said act shall be subject to the modifications specified in the Schedule to this Order; and
- (b) in case a Tribunal is constituted under Article 96—
 - (i) the Tribunal shall (except for the purposes of section 54 of the said Act) be deemed to be the Court, and the President of the Tribunal shall be deemed to be the Judge thereof;
 - (ii) the President of 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 civil court under the Code of Civil Procedure, 1908 (Act V of 1908), when trying a civil suit; and
 - (iii) the award of the Tribunal shall be deemed to be the award of the Court under the Land Acquisition Act, 1894 (1 of 1894), and shall be final.

96. *Composition of Tribunal.*—The Tribunal shall consist of a President and two assessors.

(2) The President of the Tribunal shall be an officer who has for at least three years served as a District Judge, or held judicial office not inferior to that of a Subordinate Judge of the first Class.

(3) The President and the assessors of the Tribunal shall be appointed by the *Provincial Government.

(4) No person shall be appointed or continue as a member of the Tribunal if he is a member of the Governing Body or is, for any of the reasons mentioned in Article 7, disqualified for appointment as a member of the Governing Body.

(5) The term of office of each member of the Tribunal shall be three years, but any member may subject to clause (4), be re-appointed at the end of that term.

(6) The *Provincial Government may remove any member of the Tribunal from office on the ground of incapacity or misbehaviour, or for any other good and sufficient reason:

Provided that before action is taken under this clause the member shall be informed of the action proposed to be taken against him and given an opportunity to show cause why such action should not be taken against him.

(7) Every vacancy, whether permanent or temporary, in the office of member of the Tribunal shall be filled in accordance with the provisions of clause (3).

(8) All appointments made under this Article shall be notified in the official Gazette.

97. *Remuneration of members of Tribunal.*—A member of the Tribunal shall be entitled to receive such remuneration, by way of salary or fees, or both as may be prescribed.

98. *Officers and servants of Tribunal.*—(1) The President of the Tribunal shall maintain a statement showing—

- (a) the member and grades of the clerks and other officers and servants whom he employs for carrying on the business of the Tribunal.

- (b) the salary to be paid to each such officer and servant, and
- (c) the contributions payable in respect of each such officers or servant who is in the service of the Central Government or a Provincial Government.

(2) All statements prepared under clause (1) shall be subject to the previous sanction of the *Provincial Government.

(3) The president of the Tribunal shall, with the previous sanction of the *Provincial Government, make rules—

- (i) for regulating the grant of leave of absence, leave allowance and acting allowance to the officers and servants of the Tribunal ;

Provided that a servant of the Central Government or a Provincial Government employed as an officer or servant to the Tribunal shall not be entitled, to leave or leave allowance otherwise than in accordance with the conditions of his service under the Central Government or Provincial 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 servants of the Tribunal (other than any servant of the Central Government or a Provincial Government, in respect of whom a contribution is paid), to subscribe to such fund, at such rates and subject to such conditions as may be prescribed, and with the sanction of the Authority, for supplementing such subscriptions out of the funds of the Authority ;
- (iii) for determining the conditions under which the officers and servants of the Tribunal, or any of them, shall on retirement receive a gratuity or compassionate allowance and the amount of such gratuity and compassionate allowance ;

Provided that it shall be at the discretion of the Tribunal to determine subject to the previous sanction of the *Provincial Government, whether all such officers and servants or any and, if so, which or them, shall become entitled on retirement to any such gratuities or compassionate allowances as aforesaid.

(4) Subject to any rules made under clause (3) and for the time being in force, the power of making appointments and promotion to posts in the service of the Tribunal ; of granting leave to officers and servants holding such posts, of 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 of duty or other misconduct and of discharging such officers and servants from the service of the Tribunal for any other reason, shall be exercised by the President of the Tribunal.

99. *Payments by Authority on account of Tribunal.*—The amount necessary for the payment of remuneration, salaries, leave allowance and acting allowances in accordance with Article 97 and 98 shall be provided by the Authority.

100. *Power to make rules for Tribunal.*—(1) The President of the Tribunal may, with the previous sanction of the *Provincial Government, make rules not inconsistent with the Code of Civil Procedure, 1908 (Act V of 1908), for the conduct of business by the Tribunal.

- (2) All such rules shall be published in the Official Gazette.

101. *Award of Tribunal how to be determined.*—(1) For the purpose of determining the award to be made by the Tribunal under the Land Acquisition Act, 1894 (1 of 1894), as amended for the purposes of this Act—

- (a) if there is any disagreement as to the measurement of land, or the amount of compensation or costs to be allowed, the opinion of the majority of the members of the Tribunal shall prevail ;
- (b) questions relating to the determination of the persons to whom compensation is payable or the appointment of compensation may be tried and decided in the absence of the assessors if the President of the Tribunal considers their presence unnecessary, and when so tried and decided, the decision of the President shall be deemed to be the decision of the Tribunal ; and

(b) notwithstanding anything contained in the foregoing sub-clauses, the decision on all questions of law and procedure shall rest solely with the President of the Tribunal.

(2) Questions as to the measurement of land or the amount of compensation or costs to be allowed under award shall be decided in accordance with sub-clause (a) of clause (1).

(3) Every award of the Tribunal, and every award made by the Tribunal for the payment of money, shall be enforceable by the Court of Small Causes, Karachi, as if it were a decree of that Court.

102. *Abandonment of acquisition on special payment.*—(1) In any case in which the *Provincial Government has sanctioned the acquisition of land in any area comprised in an improvement scheme, which is not required for the execution of the scheme, the owner of the land, or any person having an interest therein, may make an application to the Authority, requesting that the acquisition of the land should be abandoned in consideration of the payment by him of a sum to be fixed by the Authority in that behalf.

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

(a) reaches it before the time fixed by the Collector, under section 9 of the Land Acquisition Act, 1894 (1 of 1894) for making claims in reference to the land, and

(b) is made by all person who have interests in the land greater than a lease for years having seven years to run.

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

(4) Within the said period of three months, or, with the permission of the Authority, at any time before the Collector has taken possession of the land under section 16 of the Land Acquisition Act, 1894 (1 of 1894), the person from whom the Authority has arranged to accept the sum so fixed may, if the Authority is satisfied that the security offered by him is sufficient, execute an agreement with the Authority, either—

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

(ii) to leave the said sum outstanding as a charge on his interest in the land, subject to the payment in perpetuity of interest at such rate not exceeding six per cent per annum as the *Provincial Government may fix by notification and to make the first annual payment of such interest four years after the date of the agreement.

Provided that the Authority may, at any time before the Collector has taken possession of the land, under section 16 of the Land Acquisition Act, 1894 (1 of 1894), accept immediate payment of the said sum instead of an agreement as aforesaid.

(5) When any agreement has been executed in pursuance of clause (4), or when any payment has been accepted in pursuance of the provision to that clause in respect of any land, the proceedings for the acquisition of the land shall be deemed to be abandoned.

(6) Every payment due from any person under an agreement executed under clause (4) shall be a charge on the interest of that person.

(7) If any instalment of interest payable under an agreement executed in pursuance of sub-clause (ii) of clause (4) is not paid on the date on which it is due, the sum fixed by the Authority under clause (3) shall be payable on that date in addition to the said instalment.

(8) At any time after an agreement has been executed in pursuance of sub-clause (ii) of clause (4) any person may pay off the charge created thereby, with interest, at the rate fixed under the provisions of that clause up to the date of such payment.

(9) When an agreement in respect of any land has been executed by any person in pursuance of clause (4) or suit with respect to such agreement shall be brought against the Authority by any other person except an heir, executor or administrator of the person first aforesaid claiming to have an interest in the land.

103. *Excess Condemnation.*—In the event that the Authority decides that, as a result of any road development or improvement scheme, acquisition of adjoining land in excess of that needed for the actual improvement or scheme is desirable in the best interest of comprehensive development, the Authority may, in connection with such development or scheme acquire such excess land and may, after planning or making the development or improvement, sell, lease or otherwise dispose of such excess land by public private sale or lease on such terms, conditions and requirements for the future development of such excess land as it considers most suitable for the fulfilment of the development or scheme.

104. *Payment of betterment fee.*—(1) When by the making of any improvement scheme, any land in the area comprised in the scheme which is not required for the execution thereof, is likely, in the opinion of the Authority, to be increased in value, the Authority, in framing the scheme, may, in lieu of proceeding to acquire such land, declare that a betterment fee 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.

(2) Such increase in value shall be the amount by which the value of the land on the completion of the execution of the scheme estimated as if the land were clear of building exceeds the value of the land prior to the execution of the scheme estimated in the like manner, and the betterment fee shall be one-half of such increase in value.

(3) No betterment fee shall be payable by

- (a) the Central Government or the Provincial Government in respect of any land which is the property of, or is managed by the Central Government or as the case may be, the Provincial Government;
- (b) any local authority or any public institution in respect of any land belonging to such authority or institution if, and so long as, such land is used for public charitable or religious purposes.

105. *Assessment of betterment fee.*(1) When it appears to the Authority that an improvement scheme is sufficiently advanced to enable the amount of the betterment fee to be determined, the Authority shall by a resolution passed in this behalf, declare that for the purpose of determining such fee 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 sub-clause (a) of clause (1) of Article 47 or to the successor-in-interest of such person, as the case may be, that the Authority proposes to assess the amount of the betterment fee payable in respect of such land under Article 104.

(2) The Authority shall then assess the amount of betterment fee payable by each person concerned, after giving such person an opportunity to be heard and such person shall, within three months from the date of receipt of notice in writing of such assessment from the Authority, inform the Authority in writing whether or not he accepts the assessment.

(3) When the assessment proposed by the Authority is accepted by the person concerned within the period specified in clause (2) such assessment shall be final.

(4) If the person concerned does not accept the assessment made by the Authority or fails to give the Authority the information required by clause (2) within the period specified therein, the matter shall be determined by the Tribunal.

106. *Authority to give notice to person liable to payment of betterment fee.*—When all betterment fees payable in respect of land have been determined under Article 104, the Authority shall, by a notice in writing to be served on all persons liable to pay the fee, fix a date by which such payment shall be made, and interest at the rate of six per cent, per annum upon any amount due and unpaid shall be payable from that date.

107. *Agreement to make payment of betterment fee a charge on land.*—(1) Any person liable to pay a betterment fee in respect of any land may, at his option, instead of paying the same to the Authority, execute an agreement with the Authority to pay the betterment fee assessed in equal instalment of 10 per cent. of such fee until the assessment shall have been fully paid. Unpaid instalment shall bear interest at the rate of 6% of any unpaid balance and shall be payable with each instalment of the fee.

(2) Every payment due from any person in respect of a betterment fee and every charge referred to in clause (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 Order, be the first charge upon the interest of such person in such land.

(3) If any instalment of principal or interest due under an agreement executed in pursuance of clause (1) is not paid on the date on which it is due, the entire balance of the betterment fee shall, at the Authority's option, become due together with any accrued interest on that date.

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

108. *Recovery of money payable in pursuance of Articles 104 and 106.*—All betterment fees and interest thereon shall be recoverable by the Authority (together with interest due) from the said person or his successor-in-interest in such land as an arrear of land revenue or in the manner provided by the Municipal Act for the recovery of taxes levied under that Act, and if the said money is not so recovered the Chairman, after giving public notice of his intention to do so and not less than one month after the publication of such notice, may sell the interest of the said person or of his successor-in-interest by public auction and may deduct the said moneys due together with the expenses of the sale from the proceeds of the sale, and shall thereafter pay the balance if any, to the defaulter.

109. *Authority to appoint persons for enforcement of dues.*—The Authority shall receive the co-operation of all other authorities or departments which enforce processes for recovery of taxes under the Municipal Act. Such authority or department shall aid the Authority in collecting such moneys as may be due under Article 107.

110. *Agreement for payment not to bar acquisition under a fresh declaration.*—Assessment or payment of a betterment fee shall not be deemed to prevent the acquisition of the land subject to the fee if such land is thereafter required for any public purpose including an improvement scheme.

111. *Power to dispose of land.*—(1) The Authority may retain, or may lease, sell, exchange, rent or otherwise dispose of any land vested in or acquired by it under this Order.

(2) Whenever the Authority decides to lease or sell any land acquired by it under this Order from any person, it shall—

(a) give notice through advertisement in newspapers published in the Karachi Division.

(b) offer to the person or persons, from whom the land has been acquired, or their heirs, executors or administrators, a prior right to lease or purchase such land, at rate to be fixed by the Authority, if in its discretion it determines that such lease or sale is in the public interest.

(3) If in any case two or more persons claim to have the prior right referred to in sub-clause (b) of clause (2) preference shall be given to the person who agrees to pay for the land at the highest rate; not being a rate less than the rate fixed by the Authority under that sub-clause.

112. *Declaration of Use Areas and location thereof.*—(1) The Authority may, after giving notice in writing to the persons affected thereby and after giving such persons an opportunity of being heard, declare any area to be a use area.

(2) If within two years after such declaration has been notified in the official Gazette the area on any part thereof remains, in the opinion of the Authority, unreasonably unutilised or inadequately utilised, then upon such determination such area or part thereof shall be valued by the Authority annually at the rate of 3 per cent. of the value until such time as an improvement satisfactory to the Authority shall have been completed.

(3) The tax revenues accruing under this Article shall belong to, and may be utilised for general purpose of the Authority.

CHAPTER—VII

WATER SUPPLY

113. *Supply of water to constituent bodies.*—The Authority shall continue to supply to each constituent body, subject to such terms and conditions (including the levy of an enhanced rate as may be agreed upon between the Authority and the constituent body, such quantity of water as may be demanded by the constituent body or, if the combined demands of the constituent bodies together are more than the Authority can supply, then such quantity as the Authority may determine in respect of each constituent body.

114. *Supply of water to individual consumers.*—The Authority may supply water to any consumer—

- (a) if the water is taken at a point outside the area subject to the jurisdiction of the Corporation under the Municipal Act, and
- (b) if water is available after supplying water to the constituent bodies, under the agreement referred to in Article 113.

115. *Constituent bodies to pay cost of supply.*—(1) Save as provided in Article 113, every constituent body shall pay for the water supplied to it at the rate in respect of each unit of a thousand gallons of water supplied, calculated in the manner prescribed by regulations hereafter made.

(2) There shall be two rates, namely, the final issue rate and the provisional rate, in accordance with which constituent bodies shall pay for water supplied to them.

116. *Summary recovery of dues.*—If any constituent body fails, within one month of the receipt of a demand for any sum claimed by the Authority, to pay such sum in full summary recovery of dues may be effected in the manner prescribed by the regulations.

117. *Right of user in property.*—(1) The Authority shall have the right to place and maintain aqueducts, conduits and lines of mains or pipes over, under along or across any immovable property without acquiring such property, and shall have the right at any time for the purpose of examining, repairing, altering or removing any aqueduct, conduit or line of mains or pipes, enter on any property, over, under, along or across which the aqueduct, conduit or line of mains or pipes has been placed :

Provided that except as otherwise provided in this Order the Authority shall not acquire any right other than the rights as aforesaid in respect of any property over, under, along or across which any aqueducts, conduits or line of mains or pipes, is placed :

(2) The powers conferred by clause (1) shall not be exercisable in respect of any property vested in, or under the control or management of the Central Government or a Provincial Government, or any local authority or railway administration, save with the previous permission of the Government concerned or the local authority or railway administration, as the case may be, and in accordance with any rules made in this behalf under this Order.

Provided that the Authority may, without such permission, repair, renew or amend any existing works of which the character or position will not thereby be altered if such repair, renewal or amendment is urgently necessary in order to maintain the supply of water without interruption, or is such that delay would be dangerous to human life or property.

118. *Compensation for damage.*—In the exercise of the powers conferred upon it by Article 117 the Authority shall cause as little damage and inconvenience as may be possible, and shall make reasonable and proper compensation for any damage or inconvenience caused by it.

119. *Penalties for obstruction, etc., in respect of water supply Schemes.*—Any person who—

- (a) wilfully obstructs any person acting under the authority of the Authority in setting out the line or any works, or pulls up or removes any pillar, post or stake fixed in the ground for the purpose of setting out the line of such works or defaces or destroys any works made for that purpose ; or

- (b) wilfully or negligently breaks, injures or opens any lock, dock, valve pipe or other water work belonging to the Authority; or
- (c) unlawfully obstructs the flow of, or flushes, draws off, diverts or takes water from, any water work belonging to the Authority, or any water or stream by which any such water work is supplied; or
- (d) unlawfully breaks or damages any electrical transmission lines maintained by the Authority; or
- (e) obstructs any officer or servant of the Authority in the discharge of his duties under this order or refuses or wilfully neglects to furnish him upon his request with the means necessary for making any entry, inspection, examination, or inquiry thereunder in relation to any water works; or
- (f) bathes in, at or upon any water work, or washes, throws or causes to enter therein any animals or throws any rubbish, dirt, filth or other offensive matter into any water work, or washes or cleans therein any cloth, wool or leather or the skin of any animal, or causes the water of any sink, sewer or drain of any steam engine or boiler or any other dirty water to return or be brought into any water work, or does any other act whereby the water in any water work is fouled or likely to be fouled.

shall be punishable with imprisonment of either description for a term which may extend to six months or with fine or with both.

(2) No prosecution under clause (1) shall be instituted except upon a complaint signed by the Chairman or by a person authorized by him in his behalf.

120. *Repeal of Ordinance XIII of 1949*—(1) On the Central Government, notifying in the official Gazette that the provisions of this Chapter have been brought into force, the Karachi Joint Water Board Ordinance, 1949 (XIII of 1949), shall stand repealed.

(2) Notwithstanding the aforesaid repeal—

- (i) all property held by the Karachi Joint Water Board shall vest in the Authority;
- (ii) every appointment, order, rule and regulation made or issued under the Karachi Joint Water Board Ordinance, 1949 (XIII of 1949), and in force immediately before the coming into force of this Chapter shall so far as it is not inconsistent with the provisions of this Order be deemed to have been made or issued under this Order as if this Order were in force at the time at which such appointment, order, rule or regulation was made or issued;
- (iii) all debts and obligations incurred, or contracts entered into or rights acquired and all matters and things engaged to be done by, with or for, the Karachi Joint Water Board before the coming into force of this Chapter, shall be deemed to have been incurred, entered into or acquired or engaged to be done by, with or for, the Authority;
- (iv) all sums of money due to the Karachi Joint Water Board and unpaid at the coming into force of this Chapter, shall be due and payable to the Authority;
- (v) all suits and other legal proceedings instituted by or against the Karachi Joint Water Board before the coming into force of this Chapter may be continued by or against the Authority;
- (vi) references to the Karachi Joint Water Board in any instrument executed before the coming into force of this Chapter shall, unless a different intention appear, be construed as references to the Authority.

CHAPTER—VIII

MISCELLANEOUS PROVISIONS

121. *Officers, servants, etc., deemed to be public servants*—Every member of the Governing Body, every officer and servant of the Authority, and every member, officer and servant of the Tribunal, shall be deemed to be a public servant within the meaning of section 21 of the Pakistan Penal Code (Act XLV of 1860).

122. *Delegation of powers*—The Authority may, with the previous approval of the *Provincial Government, delegate any of its powers under this Order to any other person or body of persons.

123. *Authority may in certain circumstances exercise powers of Corporation under Bombay Town Planning Act, 1915*—In any area *Provincial Government may, by notification in the official Gazette, declare that from such date as may be specified therein the Corporation shall not exercise or discharge any powers or functions under the Bombay Town Planning Act, 1915 (Bom Act 1 of 1915), and that subject to such restriction, and modifications if any, as may be specified in the Notification, the powers and functions of the Corporation, under the said Act shall be exercised and discharged by the Authority.

Provided that if the Corporation deems it necessary that the Authority should take action under any of the provisions of the said Act, it may request the Authority to take such action, and the Authority shall, except as hereinafter provided, comply with such request, and if the Authority does not comply with such request it shall state the reasons therefor and shall submit the matter to the Provincial Government, whose decision shall be final.

124. *Authority and Chairman to exercise powers and functions under the Municipal Act.*—(1) In any area in respect of which an improvement scheme is in force, the *Provincial Government may by notification declare that for the period during which such scheme remains in force and subject to such restrictions and modifications as may be prescribed—

- (i) the powers including the powers to levy taxes, and functions of the Corporation or the standing Committee thereof under the Municipal Act shall be exercised and discharged by the Authority; and
- (ii) the powers and the functions of the Chief Officer of the Corporation under the said Act shall be exercised and discharged by the Chairman.

(2) The Authority or the Chairman may delegate any function exercisable by it or him under clause 1) to any officer or servant of the Authority.

(3) The exercise or discharge of any power or function delegated under clause (2) shall be subject to such limitations, conditions and control as may be laid down by the Authority or the Chairman, as the case may be.

125. *Powers of the Authority for facilitating movement of the population.*—To facilitate transport and communications in and around the City, the Authority may—

- (i) subject to any conditions it may think fit to impose—
 - (a) guarantee the payment or make advances, from funds at its disposal, of such sums as it may think fit, by way of interest or capital expended on the construction, maintenance, or working of means of transport; or
 - (b) make such payment as it may think fit from the said funds, by way of subsidy to users or to persons, undertaking to provide, maintain and work means of transport; or
- (ii) by itself or in combination with any other person, construct, maintain and work any means of transport, under the provisions of any law applicable thereto; or
- (iii) construct, or widen, strengthen or otherwise improve bridges;

Provided that no guarantee or subsidy shall be made under sub-clause (i), and no means of transport shall be constructed, maintained or worked under sub-clause (ii), without the previous sanction of the *Provincial Government.

126. *Saving of Telegraph, Railways and Electricity Acts.*—Nothing in this Order shall affect the operation of the Telegraph Act, 1885 (XII of 1885), or the Railways Act, 1890 (IX of 1890), or the Electricity Act, 1910 (IX of 1910).

127. *Cognizance of offences.*—Notwithstanding anything contained in the Code of Criminal Procedure, 1898, all offences under this Order or any rule made thereunder shall, wherever committed, be tried by a Magistrate of the First Class.

**128. (1) No Magistrate shall take cognizance of any offence punishable under this Order, unless complaint of such offence is made—

- (a) within six months next after the date of such offence ; or
- (b) if such date is not known or the offence is a continuing one, within six months next after the date on which the commission or existence of such offence was first brought to the notice of any officer or servant of the Authority whose duty it is to report such offence to the competent officer of the Authority.

(2) When any person accused of an offence under this Order or any rule made thereunder which is punishable with fine only fails to appear before the Magistrate of the First Class, the Magistrate may, notwithstanding anything in the Code of Criminal Procedure, 1898 (Act V of 1898), thereupon determine the case in his absence.

129. *Power of Chairman as to institution, composition etc., of legal proceedings and obtaining legal advice.*—The Chairman may, subject to the control of the Governing Body,—

- (a) institute, defend or withdraw from, any legal proceedings under this Order or the rules made thereunder ;
- (b) compound any offence against this Order or the rules made thereunder which, under any law for the time being in force, under the said rules may lawfully be compounded ;
- (c) admit, compromise, or withdraw any claim made under this Order or the rules made thereunder, and
- (d) obtain such legal advice and assistance as he may think necessary or expedient to obtain, or as he may be desired by the Authority to obtain, for any of the purposes referred to in the foregoing sub-clauses or for securing the lawful exercise or discharge of any power or duty vested in or imposed upon the Authority or any officer or servant of the Authority.

130. *Indemnity to Authority etc.*—(1) No suit, prosecution, or proceedings shall lie against the Authority or any member, or any officer or servant of the Authority or any person or persons acting under the direction of the Authority or of the Chairman or any officer or servant of the Authority, for anything in good faith done or intended to be done under this Order or a rule, regulation or order made thereunder.

(2) The Authority shall not be responsible for any misfeasance, malfeasance or non-feasance of any officer or employee appointed under this Order :

Provided that nothing in this Article shall protect the Authority from a suit in respect of damage to property or injury to person or any other loss sustained by a person or persons.

131. *Notice of suit against Authority, etc.*—(1) No suit shall be instituted against the Authority or any member or any person associated with the Authority or against any servant of the Authority or against any person or persons acting under the direction or authority of the Chairman or of any officer or servant of the Authority, in respect of any act purporting to be done under this Order or the rules or regulations made thereunder until the expiration of one month from the delivery of a written notice at the Authority office or the place of abode of such member, officer, servant or person, stating the cause of action, the name and place of the intending plaintiff, and the nature of the relief sought.

*Amended on 27th March, 1963.

**Amended on 26th September, 1962.

(2) In every such suit the complaint shall contain a statement that such notice has been so delivered.

(3) Notwithstanding anything in the Limitation Act, 1908 (IX of 1908), no such suit as is described in clause (1) shall, unless it is a suit for the recovery of immovable property or for a declaration of a title thereto, be commenced otherwise than within six months next after the accrual of the cause of action.

132. *Proof of consent etc., of Authority or Chairman or officer or servant of Authority.*—Whenever under this Order or the rules or regulations made thereunder, the doing of a thing or the omission to do a thing or the validity of anything depends upon the approval, sanction, consent, concurrence, declaration, opinion or satisfaction of—

- (a) the Authority or the Chairman or
- (b) any officer or servant of the Authority, a written document, signed in case (a) by the Chairman, and in case (b) by the said officer or servant, 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.

133. *Validation of acts and proceedings.*—(1) No act done or proceeding taken under this Order shall be questioned on the ground merely of—

- (a) the existence of any vacancy in or any defect in the constitution of, the Authority or any Committee; or
- (b) any person having ceased to be a member; or
- (c) the failure to serve a notice under Article 47 on any person where no substantial injustice has resulted from such failure; or
- (d) any omission, defect or irregularity not affecting the merits of the case.

(2) Every meeting of the Authority, the minutes of the proceedings of which have been duly signed by the person presiding, shall be deemed to have been duly convened and to be free from all defect and irregularity.

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

135. *Compensation to be paid by offenders for damage caused by them.*—(1) If on account of any act or omission any person has been convicted of any offence against this Order or any rule made thereunder and by reason of the same act or omission of the said person, damage has been caused to any property of the Authority, compensation shall be paid by the said person for the said damage notwithstanding any punishment to which he may have been sentenced for the said offence.

(2) Any dispute as to the amount of such compensation shall be determined by a Magistrate of the First Class.

(3) If the amount of any compensation payable under this Article be not paid, the same shall be recovered under warrant issued by a Magistrate of the First Class as if it were a fine imposed by him on the said person.

136. *Public notice how to be made known.*—Every public notice given under this Order or the rules or regulations made thereunder shall be in writing and shall be made known to the locality to be affected thereby in not less than two of the following three ways:—

- (a) by affixing copies thereof conspicuously in public places within the said locality;
- (b) by publishing the same by beat of drum, or
- (c) by advertisement in newspapers published in the Karachi Division and by any other means, if the Chairman thinks fit.

137. *Newspapers in which advertisement or notice to be published.*—Whenever it is provided by this Order or any rule made thereunder that notice shall be given by advertisement in newspapers published in the Karachi Division or that a notification or any information shall be published in newspapers, such notice, notification or information shall be inserted, if practicable in four newspapers.

138. *Stamping signature on notice or bill.*—(1) Every notice or bill required by this order or the rules, made thereunder to be signed by the chairman, or any other member or any officer or servant of the Authority shall be deemed to be properly signed if it bears a facsimile of the signature of the Chairman, or of such other member or such officer or servant, as the case may be, stamped thereupon.

(2) Every notice other than a public notice and every bill issued by the Authority under this Order, shall, unless it is otherwise provided, be served or presented in duplicate and the person concerned shall keep one part and sign and return the counterpart thereof to the Authority.

(3) No notice issued by the Authority under this Order shall be invalid by reason only of a defect in form.

139. *Service how to be effected.*—When any notice, bill or other document is required by this Order or any rules or regulations made thereunder to be served upon, issued, or presentation, shall be effected:—

- (a) by giving or tendering the document to him; or
- (b) if he is not found, by leaving the document at his last known place of abode or by giving or tendering the same to some adult male member or servant of his family; or
- (c) if he does not reside in the City and his address elsewhere is known to the Chairman, by forwarding the document to him by registered post under cover bearing the said address; or
- (d) if none of the methods mentioned in the preceding sub-clauses can be used, by causing a copy of the document to be affixed on some conspicuous part of the building or land (if any) to which it relates.

140. *Power to make surveys or contribute towards their cost.*—The Authority may:—

- (a) collect all such information and statistics as may be necessary for carrying out the purposes of this Order;
- (b) 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 order, and keep such survey up to date, and
- (c) contribute towards the cost of the collection of any such information or statistics, or any such survey made by any other local authority.

141. *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, whenever it is necessary to do so for any of the purposes of this order or the rule made or scheme sanctioned thereunder or any scheme which the Authority intends to frame thereunder:

Provided that:—

- (a) no such entry 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 not less than twenty-four hours' previous written notice of the intention to make such entry;
- (c) sufficient notice shall in every instance be given, even when any premises may otherwise be entered without notice, to enable 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 the social and religious usages of the occupants of the premises entered.

(2) The Authority shall be responsible for any damage that may be caused in connection with work done under clause (1).

142. *Punishment for acquiring share or interest in contract etc., with the Authority.*—If, any member or any officer or any servant of the Authority knowingly acquires, directly, or indirectly, by himself or by any partner, employer or employee otherwise than as such member, officer or servant, any share or interest in any contract or employment with, by, or in behalf of, the Authority, he shall be deemed to have committed an offence punishable under section 168 of the Pakistan Penal Code (Act XLV of 1860)

143. *Penalty for removing fence, etc., in street.*—If any person, without lawful authority—

- (a) removes any fence or shoring timber, or removes or extinguishes any light set up by the Authority, or
- (b) infringes any order given, or removes any bar, chain or post fixed under Article 61 of this Order, he shall be punishable with a fine which may extend to fifty rupees.

144. *Penalty for building within street alignment or building line.*—(1) If any person, without the permission of the Authority, erects, re-erects, adds to or alters any walls or building so as to make the same project in to 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 a 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 a further fine which may extend, in the case of a wall or masonry building, to one hundred rupees, and in the case of a hut, to ten rupees for each day after the first during which the projection continues.
- (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 directed 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 the Authority may recover the expenses incurred in so doing from the owner for the time being, in such manner as may be prescribed.

145. *Penalty for failure to comply with requisition made by Authority.*—If any person fails to comply at once with any requisition under this Order he shall be punishable—

- (a) with a fine which may extend to one hundred rupees, or
- (b) in case of a continuing failure, with a fine which may extend to fifty rupees for each day after the first during which the failure continues.

146. *Penalty for obstructing contractor removing marks.*—Whoever—

- (a) obstructs or molests any person with whom the Chairman has entered into a contract on behalf of the 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 Order or any rule or regulation made thereunder, 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 Order or any rule or regulations made or scheme sanctioned thereunder,

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

147. *Penalty for breach of the provisions of the Order etc.*—Whoever contravenes any provision of this order or of any rules or regulations made or scheme sanctioned thereunder shall, if no other penalty is provided for such contravention, be punishable—

- (a) with a fine which may extend to one thousand rupees or, in default, with simple imprisonment which may extend to six months; and
- (b) in case of continuing contravention, with a fine which may extend to one hundred rupees for each day after the first during which the contravention continues.

**147A—All sums due to the Authority shall be recoverable as arrears of land revenue :

Provided that no sum shall be so recovered unless three month's notice has first been given by the Authority to the person liable to pay the same, that he may pay by such instalments as may be fixed in the notice, and that upon his so paying every instalment on or before the due date the recovery may be suspended, but that it shall otherwise proceed as to the entire sum outstanding in case of any default in any instalment (including the first).

148. *Dissolution of Authority and transfer of its assets and liabilities to the *Provincial Government and other agency determined by that Government.*—(1) The *Provincial Government may, by notification in the official Gazette, declare that the Authority shall be dissolved on such date as may be specified in such notification, and the Authority shall stand dissolved accordingly.

(2) On and from the said date—

- (a) (i) all properties, funds and dues placed at the disposal of the Authority by the *Provincial Government ; and
- (ii) all properties, funds and dues exchanged for, derived from, or otherwise attributable to the properties, funds and dues referred to in paragraph (i), which, immediately before said date, were held by or were realisable by the Authority shall vest in, and be realisable by the *Provincial Government ;
- (b) all properties, funds and dues, other than those referred to in sub-clause (a), which, immediately before the said date, were vested in or were realisable by the Authority and the Chairman of the Authority respectively shall vest in and be realisable by such agency as the *Provincial Government may determine, and its decision thereon shall be final ;
- (c) all liabilities which, immediately before the said date, were enforceable against the Authority shall be assumed by and be enforceable against the *Provincial Government; or such agency as the *Provincial Government has determined under sub-clause (b), as the case may be ;
- (d) for the purpose of completing the execution of any scheme sanctioned under this Order which has not been fully executed by the Authority and of realizing properties, funds and dues referred to in sub-clause (a) and (b), the functions of the Authority and the Chairman of the Authority under this Order shall be discharged by the *Provincial Government or by the agency determined by the *Provincial Government under sub-clause (b) and (c), as the case may be ; and
- (e) the agency referred to in sub-clauses (b), (c) and (d) shall keep such accounts of all moneys respectively received and expended by it under this Order, as the *Provincial Government may prescribe.

149. *Repeal etc.*—(1) The Karachi Improvement Trust Act, 1950, (XLVIII of 1950), is hereby repealed,

(2) Notwithstanding the aforesaid repeal :—

- (i) all property held by the Karachi Improvement Trust shall vest in the Authority ;
- (ii) every appointment, order, rule and regulation made or issued under the Karachi Improvement Trust Act, 1950, and in force immediately before the commencement of this Order shall, so far as it is not inconsistent with the provisions of this Order, be deemed to have been made or issued under this Order as if this Order were in force at the time at which such appointment, order, rule or regulation were made or issued ;
- (iii) all debts and obligations incurred or contracts entered into or rights acquired and all matters and things engaged to be done by, with or for, the Karachi Improvement Trust before the commencement of this Order, shall be deemed to have been incurred, entered into acquired or engaged to be done by with or for, the Authority ;

*Amended on 23rd March, 1962.

**Amended on 26th September, 1962.

- (iv) all sums of money due to the Karachi Improvement Trust and unpaid at the commencement of this Order, shall be due and payable to the Authority ;
- (v) all suits and other legal proceedings instituted by or against the Karachi Improvement Trust before the commencement of this Order may be continued by or against the Authority ;
- (vi) references to the Karachi Improvement Trust in any instrument executed before the commencement of this Order shall unless a different intension appears, be construed as references to the Authority.

(3) Sections 186 to 192, 193 to 201, 203 and 204 to 211 in Chapter XII of the Municipal act are hereby repealed.

ISKANDER MIRZA,
President.

A. KHALELI
Secretary.

Savings.—Any rule, order or appointment made, any notification issued, any sanction or direction given, any funds placed or any other thing done or any action taken or any proceedings commenced by the Central Government before the commencement of this Order under any provision of the said Order, wherein for the words "Central Government" the words "Provincial Government" have been substituted by this Order, shall be deemed to have been made, issued, given, placed, done, taken or commenced by the Provincial Government under the said provision as amended by this Order and shall have effect accordingly.

MOHAMMAD AYUB KHAN
N. Pk. H. 2
Field Marshal
President

SCHEDULE

(See Article 95)

1. After clause (c) of section 3 of the Land Acquisition Act, 1894 (hereinafter in this Schedule referred to as the said Act), the following clause shall be deemed to be inserted, namely :—

"(cc) the expression "local authority" includes the Karachi Development Authority, established under Article 3 of the Karachi Development Authority Order, 1957"

2. (1) The first publication of a notice of an improvement scheme under Article 45 of the Karachi Development Authority Order, 1957, shall be substituted for and have the same effect as publication in the official 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 Article 45 and clause (1) of Article 49 of the Karachi Development Authority Order, 1957, shall be substituted for and have the same effect as proceedings under section 5A of the said Act.

(3) Subject to the provisions of paragraphs 6 and 7 this Schedule, the issue of a notice under sub-clause (c) of clause (3) of Article 36 of the Karachi Development Authority Order, 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 Article 50 of that Order 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 have been previously made and is in force.

3. In section 11 of the said Act the word "and" shall be omitted in clause (ii) and added at the end of clause (iii) and, after clause (iii) the following clause shall be inserted :—

"(iv) the costs which, in his opinion, should be allowed to any person who is found to be entitled to compensation and who is not entitled to receive the additional sum of fifteen percent, mentioned in sub-section (2) of section 23 as having been actually and reasonably incurred by such person in preparing his claim and putting his case before the Collector :

Provided that the Collector may disallow wholly or in part the costs incurred by any person if he considers that the claim made by such person is extravagant."

4. In section 15 of the said Act, for the word and figures "and 24", the figures, word and letter "24 and 24A" shall be deemed to be substituted.

5. (1) In sub-section (3) of section 17 of the said Act after the word and figures "section 24", the words, figures and letter "or section 24A", shall be deemed to be inserted.

(2) After sub-section (4) of section 17 of the said Act, the following sub-section shall be deemed to be inserted, namely :—

"(5) The provisions of sections (1) and (3) shall apply in the case of any area which is stated in a certificate granted by a magistrate of the first class to be unhealthy.

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

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

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

“17A. *Transfer of land to Authority*—In every case referred to in section 16 or section 17, the Collector shall, upon payment of the cost of acquisition make over charge of the land to the Authority, and the land shall thereupon vest in the Authority, subject to the liability of the Authority to pay any further costs which may be incurred on account of its acquisition.”

7. (1) In sub-section (1) of section 23 of the said Act for clauses first and sixthly, the following clauses shall respectively be deemed to be substituted, namely:—

“first, the market value of the land at the date of the first publication of the notice under Article 45 of the Karachi Development Authority Order, 1957. Sixthly, the damage (if any) *bona fide* resulting from diminution of the profits of the land between the date referred to in clause first and date on which the Collector takes possession of the land.”

(2) In the same section, to sub-section (2), the following provision shall be deemed to be added, namely:—
“Provided that this sub-section shall not apply to any land acquired under the Karachi Development Authority Order, 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 first 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 with or near to the alignment of a projected public street so much of the increase or decrease as may be due to such cause shall be disregarded;
- (b) if any person, otherwise than in accordance with the provisions of the Karachi Development Authority Order, 1957, 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 that Order, 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 exceptionally high in consequence of the land being put to a use which is unlawful or contrary to public policy, that use shall be disregarded and the market value shall be deemed to be the market value of the land if put to an ordinary use;
- (d) if the market value of any building is exceptionally 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 overcrowding;

Provided that clause (d) shall not apply in the case of a building which is in the actual occupation of the owner or his family.

- (e) the market value of the land shall be the value according to the use to which the land was put at the date with reference to which the market value is to be determined;
- (f) if the market value has been increased by any improvement made by the owner or his predecessor within two years before the aforesaid date such increase shall be disregarded unless it is provided that the improvement so made was made in good faith and not in contemplation of proceedings for the acquisition of the land being taken under this Act;
- (g) when the owner of land or building has, after the commencement of the Karachi Development Authority Order, 1957, and within the two years next preceding the date with reference to which the market value is to be determined, made a return under the City of Karachi Municipal Act, 1933, of the aforesaid land or building the rent in such cases shall not be deemed to be greater than the rent shown in the latest return so made and the market value shall be determined on the basis of such return.

Provided that where addition to, or improvement of, such land or building has been made after the date of such return but previous to the date with reference to which the market value is to be determined, the Court may consider any increase in the letting value due to such addition or improvement."

8. For clause seventh of section 24 of the said Act, the following clause shall be deemed to be substituted, namely :—

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

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

"24-A. *Further provisions for determining compensation.*—In determining the amount to be awarded for any land acquired for the Authority under the Karachi Development Authority Order, 1957, 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 is to be determined, no separate estimate of the value of such interest shall be made so as to increase the amount of compensation to be paid for such land.
- (2) If, in the opinion of the Court, any building is insanitary 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 made sanitary or put into a reasonably good state of repair; as the case may be, minus the estimated cost of so making it or putting it into such condition.
- (3) If, in the opinion of the Court, any building used or intended or likely to be used for human habitation, is not reasonably capable 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."

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

"48-A. *Compensation for delay in making a award.*—(1) Where the Collector has not made any award under section 11 in respect of any land within a period of two years from the date of publication of the declaration under section 6 or of the issue of a notice under Article 36 of the Karachi Development Authority Order, 1957, or of the publication of a notification under Article 50 of that Order, as the case may be, the owner of the land shall, unless he has been responsible to a material extent for the delay, be entitled to receive compensation for the damage suffered by him in consequence of the delay.

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

11. After sub-section (1) of section 49 of the said Act, the following shall be deemed to be inserted, namely :—

"(1a) For the purposes of sub-section (1), land which is held with and attached to a house and is reasonably required for the enjoyment and use of the house shall be deemed to be part of the house."