

**THE CHITTAGONG DEVELOPMENT AUTHORITY
ORDINANCE, 1959**

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**THE CHITTAGONG DEVELOPMENT AUTHORITY
ORDINANCE, 1959**

ORDINANCE NO. LI OF 1959

[27th July, 1959]

***An Ordinance to provide for the development, improvement and expansion of the ¹[city] of Chittagong and certain areas in its vicinity and the constitution of an Authority therefore.**

WHEREAS it is expedient to make provision for the development, improvement and expansion of the ²[city] of Chittagong and certain areas in its vicinity by opening up congested areas, laying out or altering streets, providing open spaces for purposes of ventilation or recreation, demolishing or constructing buildings, acquiring land for the said purposes and for the re-housing of persons displaced by the execution of improvement schemes, and otherwise as hereinafter appearing;

AND WHEREAS it is expedient that an Authority should be constituted and invested with special powers for carrying out the objects aforesaid;

NOW, THEREFORE, in pursuance of the Presidential Proclamation of the 7th October, 1958, and in exercise of all other powers enabling him in that behalf, the Governor of East Pakistan is pleased to make and promulgate the following Ordinance, namely:-

* Throughout this Ordinance, the words "Government", "Corporation" and "taka" were substituted for the words "Provincial Government", "Municipal committee" or "Municipality" and "rupees" respectively by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

¹ The word "city" was substituted for the word "town" by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

² The word "city" was substituted for the word "town" by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

CHAPTER I

PRELIMINARY

Short title,
extent and
commencement

1. (1) This Ordinance may be called the Chittagong Development Authority Ordinance, 1959.

(2) It extends to the areas comprised within the limits of the ¹[Chittagong City Corporation]; but the Government may, by notification, extend the Ordinance or any provision thereof to such other areas in the vicinity of the said Corporation as may be specified in the notification.

(3) It shall come into force in such areas and on such dates as the Government may, by notification, specify.

Definitions

2. In this Ordinance unless there is anything repugnant in the subject or context,-

(a) “Authority” means the Authority established under sub-section (1) of section 3;

(b) “Chairman” means the Chairman of the Authority appointed under sub-section (1) of section 4;

(c) “Controlled area” means an area declared to be controlled area under section 26;

²[(c1) “Corporation” means the Chittagong City Corporation;]

(d) “Land” includes benefits to arise out of land and things attached to the earth or permanently fastened to anything attached to the earth;

(e) “Member” means a member of the Authority appointed under sub-section (1) of section 4;

³[* * *]

¹ The words “Chittagong City Corporation” were substituted for the words “Chittagong Municipality” by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

² Clause (c1) was substituted by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

³ Clause (f) was omitted by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

- (g) “Notification” means notification published in the *official Gazette*;
- (h) “Prescribed” means prescribed by rules made under this Ordinance; and
- (i) “Secretary to the Authority” means the person for the time being appointed by the Authority to discharge the functions of Secretary to the Authority;
- ¹(j) “Union Parishad” means a Union Parishad constituted under the Local Government (Union Parishads) Ordinance, 1983 (Ord. No. LI of 1983) and situated in any part of the Chittagong District in which this Ordinance is in force;
- (k) “Zilla Parishad” means the Chittagong Zilla Parishad.]

CHAPTER II

CONSTITUTION OF THE AUTHORITY

3. (1) The Government may, by notification, establish an Authority to be known as the Chittagong Development Authority for carrying out the purpose of this Ordinance.

Establishment
of the
Authority

(2) The Authority shall be a body corporate, shall be entitled to acquire and hold property, shall have perpetual succession and common seal, and shall by the said name sue and be sued.

4. (1) The Authority shall consist of-

- | | |
|---|-----------------|
| (a) a Chairman to be appointed by the Government | <i>Chairman</i> |
| (b) the Deputy Commissioner, Chittagong, <i>ex-officio</i> ... | <i>Member</i> |
| ² (c) the Mayor of the Corporation, <i>ex-officio</i> ... | Do |
| (d) a representative of the ³ [Bangladesh] Railway to be nominated by the Government ... | Do |

Chairman,
Members,
Terms

¹ Clauses (j) and (k) were substituted for the previous clause (j) by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

² Clause (c) was substituted by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

³ The word “Bangladesh” was substituted for the words “Pakistan eastern” by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

- | | |
|---|---------------|
| (e) a representative of the Chittagong Port Trust to be nominated by the Port Trust | <i>Member</i> |
| | |
| (f) the Chairman of the Chittagong Water Supply and Sewerage Authority, <i>ex-officio</i> ; | Do |
| (g) a representative of the Chambers of Commerce and Industry to be appointed by Government from among a panel of three names to be nominated by the Chittagong Chambers of Commerce and Industry, <i>ex-officio</i> ; | Do |
| ¹ (h) two Commissioners of the Corporation to be elected by Commissioners of the Corporation, <i>ex-officio</i>]; | Do |
| (i) not more than four members to be appointed by the Government: | Do |

Provided that if at any time ²[the Corporation is superseded under section 146 of the Chittagong City Corporation Ordinance, 1982 (Ord. No. XXXV of 1982)], the seats allotted to it under clauses (c) and (h) of this sub-section shall be deemed to have fallen vacant, and such vacancies shall be filled by the Government by appointment, by notification, and the persons so appointed shall hold office until the re-constitution of the Corporation under the provisions of the said Ordinance:

Provided further that at least two of the persons so appointed shall be tax-payers of the Corporation;

(2) The term of office of the Chairman shall be not more than five years and that of a Member except *ex-officio* Members three years, at a time.

¹ Clause (h) was substituted by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

² The words, figures, comma and brackets “the Corporation is superseded under section 146 of the Chittagong City Corporation Ordinance, 1982 (Ord. No. XXXV of 1982)” was substituted for the words, figures, comma and brackets “the Municipal Committee is superseded under section 112 of the Municipal Administration Ordinance, 1960” by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

Any person ceasing to be the Chairman or Member by reason of the expiry of the term of his office may be reappointed for another term or for such shorter period as the Government may decide:

Provided that the Government may, by notification, remove the Chairman or a Member at any time during the term of his office.

(2A) [*Was inserted by section 2 of the Chittagong Development Authority (Amendment) Act, 1964 (Act No. VII of 1964) and was omitted by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).*]

(3) The Chairman may be either a wholetime or a part-time officer.

5. (1) The Chairman shall receive such monthly salary and allowances as may be fixed by the Government and be subject to such conditions of service as may be prescribed and shall perform such duties as are assigned to him under this Ordinance or rules framed under it.

Remuneration and condition of service of Chairman and Members

(2) Every Member shall be entitled to receive such fee or allowance for attending the meetings of the Authority, as may be prescribed.

6. The Chairman or any Member may at any time resign, provided that his resignation shall not take effect until accepted by the Government.

Resignation of Chairman, Member

7. (1) A person shall be disqualified for being appointed Chairman or Member of the Authority; if he-

Removal of Chairman or Member

(a) has been declared insolvent; or

(b) has been declared to be disqualified for employment in, or has been dismissed from the service of ¹[Bangladesh], or has been convicted of an offence involving moral turpitude; or

¹ The word "Bangladesh" was substituted for the word "Pakistan" by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

- (c) has knowingly acquired or continued to hold, without the permission in writing of the Government, directly or indirectly or through a partner any share or interest in any contract or employment with or by or on behalf of the Authority, or in any land or property which, in his knowledge, is likely to benefit him or has benefited him as a result of the operation of the Authority,

and the Government may, by notification, remove a Chairman or any Member for any of the above disqualifications, or if he refuses, or fails to discharge, or becomes, in the opinion of the Government, incapable of discharging his responsibilities under this Ordinance.

(2) No person shall be disqualified as aforesaid, or be deemed to have any share or interest in such contract or employment as aforesaid, by reason only of having a share or interest in-

- (i) any sale, purchase, lease, or exchange of land or any agreement for the same; or
- (ii) any agreement for the loan of money, or any security for the payment of money only; or
- (iii) any newspapers in which any advertisement relating to the affairs of the Authority is inserted; or
- (iv) the occasional sale to the Authority, to a value not exceeding two thousand taka in any one financial year, of any article in which he trades;

or by reason only of his having a share or interest, otherwise than as director, secretary, manager or other salaried officer, in any incorporated company which has any share or interest in any contract or employment with, by, or on behalf of, the Authority.

Filling of
casual
vacancies

8. If the Chairman or any Member is granted leave or any one of them dies, resigns, or is removed from office, the Government may appoint a Chairman, or Member, as the case may be, for the period of absence or remainder of the term, as the case may be.

Conduct of Business

9. (1) The Authority shall meet at such time and place and in such manner, as may be prescribed: Meetings of the Authority

Provided that until rules are made in this behalf such meetings shall be convened by the Chairman.

(2) The Chairman, or in his absence, a Member authorised by the Chairman, and two other Members shall be present to constitute a quorum at a meeting of the Authority.

10. (1) The Authority may associate with itself any person whose assistance or advice it may desire in carrying out any of the provisions of the Ordinance or rules thereunder. Temporary Association of Members

(2) Any person associated with itself by the Authority for any purpose shall have a right to take part in the discussions of the Authority but shall exercise no vote. An associate Member may be given such fee or allowance, as may be prescribed.

11. No act done or proceeding taken under this Ordinance shall be questioned on the ground merely of- Indemnity

(a) the existence of any vacancy in, or any defect in the establishment of the Authority; or

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

12. The Authority may enter into and perform all such contracts as they may consider necessary or expedient for carrying out any of the purposes of this Ordinance. Power to make and perform contracts

¹[**13.** (1) Every such contract shall be made by the Chairman on behalf of the Authority: Making of contracts

Provided that a contract involving expenditure exceeding Taka five lakhs shall not be made by the Chairman without the previous sanction of the Authority.

¹ Section 13 was substituted by section 2 of the Chittagong Development Authority (Amendment) Ordinance, 1976 (Ordinance No. LXVII of 1976).

(2) Every estimate for expenditure of any sum for carrying out the purposes of this Ordinance, all specifications of work and of the material or goods to be supplied and the conditions of the contract shall be approved,-

- (a) where the expenditure involved does not exceed Taka five lakhs, by the Chairman; and
- (b) in other cases, by the Authority.

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

Further provisions as to execution of contracts, and provisions as to seal of authority

14. (1) Every contract made by the Chairman on behalf of the Authority shall be entered into in such manner and form as would bind the Chairman if such contract were made on his own behalf, except that the common seal of the Authority shall used; and every such contract may in the like manner and form be varied or discharged.

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

(3) The common seal of the Authority shall remain in the custody of the Secretary to the Authority and shall not be affixed to any contract or other instrument except in the presence of a Member (other than the Chairman), who shall attach his signature to the contract or instrument in token that the same was sealed in his presence.

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

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

Tenders

¹[**15.** (1) No contract shall be made for execution of any work or for supply of any material or goods without inviting tenders in respect thereof by notice published in local newspapers.

¹ Section 15 was substituted by section 3 of the Chittagong Development Authority (Amendment) Ordinance, 1976 (Ordinance No. LXVII of 1976).

(2) The time to be stipulated in the notice for submission of a tender under sub-section (1) shall be,-

- (a) in a case where the work to be executed or the material or goods to be supplied involves an expenditure not exceeding Taka ten thousand, not less than seven days; and
- (b) in all other cases, fourteen days.

(3) A tender submitted under sub-section (1) may be accepted by the Chairman but, in a case where the expenditure involved in the work to be executed or the material or goods to be supplied exceeds Taka five lakhs, the tender shall not be accepted by him without the prior approval of the Authority.

(4) The provisions of this section shall not be construed as requiring the acceptance by the Chairman or approval by the Authority of a tender; and the Chairman, where necessary with the approval of the Authority, may-

- (a) accept any tender which appears to him, in consideration of all circumstances, to be the most advantageous, or
- (b) reject all the tenders submitted to him.]

16. The Chairman shall take sufficient security for the due performance of every contract involving an expenditure exceeding one thousand taka.

Security for performance of contract

17. (1) The Chairman shall forward to the Government a copy of the minutes of the proceedings of each meeting of the Authority, within ten days from the date on which the minutes of the proceedings of such meeting were signed.

Supply of documents and information to the Government

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

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

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

(b) a report on any such matter, or

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

(4) The Government, at the time, cause an investigation to be made by an officer appointed in this behalf into the affairs of the Authority.

CHAPTER III

ESTABLISHMENT

Appointment of officers, etc.

¹[18. Subject to such rules as may be made by the Government in this behalf, the Authority may create such posts and appoint such officers and other employees as it considers necessary for the efficient performance of its functions on such terms and conditions as may be determined by regulations:

Provided that no post the maximum pay of which, excluding technical pay, if any, is above Taka 1,250 per month shall be created or filled up by the Authority except with the prior approval of the Government:

Provided further that the creation of any post shall be subject to specific provision being made in the approved budget in that behalf.]

19. [Appointment, punishment and appeal.- Omitted by section 5 of the Chittagong Development Authority (Amendment) Ordinance, 1976 (Ordinance No. LXVII of 1976).]

Delegation of powers to Chairman, etc.

20. The Authority may, by general or special order delegate to Chairman, a Member or an Officer of the Authority, any of its power, duties or functions under this Ordinance subject to such conditions as it may think fit to impose.

Immunity of the Authority and its employees

21. (1) The Chairman, Members, Officers and other employees of the Authority shall, when acting or purporting to act in pursuance of any of the provisions of this Ordinance, be deemed to be public servants within the meaning of section 21 of the ²[* * *] Penal Code, 1860.

¹ Section 18 was substituted by section 4 of the Chittagong Development Authority (Amendment) Ordinance, 1976 (Ordinance No. LXVII of 1976).

² The word "Pakistan" was omitted by Article 6 of the Bangladesh (Adaptation of Existing Laws) Order, 1972 (President's Order No. 48 of 1972).

(2) No suit, prosecution or other legal proceedings shall lie against the Authority, the Chairman, Members or Officers and other employees of the Authority in respect of anything done or intended to be done, in good faith, under the Ordinance.

CHAPTER IV

POWERS AND DUTIES OF THE AUTHORITY

Master Plan

22. (1) The Authority shall, as soon as feasible, but not more than two years after the provisions of this Ordinance come into force, prepare and submit to the Government for approval a Master Plan for the Corporation and the areas in its vicinity indicating the manner in which it proposes that land should be used (whether by carrying out thereon of development or otherwise) and the stages by which any such development should be carried out.

Preparation of
Master Plan by
the Authority

(2) The Master Plan shall include such maps and such descriptive matter as may be necessary to illustrate the proposals aforesaid with such degree of particularity as may be appropriate between different parts of the ¹[city], and any such plan may, in particular, define the sites of proposed roads, public and other buildings and works, or fields, parks, pleasure-grounds and other open spaces or allocate areas of land for use for agricultural, residential, industrial or other purposes of any class specified in the Master Plan.

(3) The Government shall, within one month from the date of receipt of the Master Plan from the Authority, publish the same in the *official Gazette*.

(4) Any person objecting to the Plan or part thereof shall file objection with the Government within thirty days from the date of the publication of the Master Plan.

¹ The word "city" was substituted for the word "town" by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

(5) The Government after considering the objects that may be filed, shall approve the Master Plan within three months from the date of publication under sub-section (3), either with or without modification.

Publication of
Master Plan

23. (1) When the Government approves the Master Plan submitted under section 22 it shall announce the fact by notification and the publication of such notification shall be conclusive evidence that the Master Plan has been duly made and approved, and thereafter it shall be unlawful for any person to use any land for any purposes other than that laid down in the Master Plan, unless he has been permitted to do so under section 24.

(2) The Authority may, from time to time, with the approval of the Government and the Government may, at any time, amend or alter any specific provision of the Master Plan. Any such amendment or alteration shall be published in the *official Gazette*.

(3) All future developments and construction, both public and private, shall be in conformity with the Master Plan or with the amendment thereof.

(4) The Master Plan, or an amendment thereof, shall neither before nor after it has been approved, be questioned in any legal proceedings whatsoever and shall become operative on the day it is published in the *official Gazette* under sub-section (1) or sub-section (2), as the case may be.

Permission for
use of land
contrary to the
Master Plan

24. (1) If any person desires to use any land for any purpose other than that laid down in the Master Plan approved under section 23, he may apply in writing to the Chairman for permission so to do.

(2) If the Chairman refuses permission to any person, such person may, within sixty days of the Chairman's refusal, appeal to the Authority against such refusal.

(3) The decision of the Authority on any appeal under sub-section (2) shall be final.

(4) No compensation shall be payable to any person owing to the restricted use to which his land may be put under section 23.

25. After publication of the Master Plan, the Chairman or any Officer of the Authority, from such date as the Government may, by notification, declare, shall be deemed to be the only authorised Officer, within the meaning of clause (a) of section 2 of the ¹[* * *] Building Construction Act, 1952, which Act shall be deemed to be modified to that extent, so far as it relates to the area within the jurisdiction of the Authority.

Authorised
Officer

26. The Authority may, by notification, declare any area included in the Master Plan to be a controlled area for the purpose of this Ordinance, and may issue in respect of such area such directions as it considers fit and appropriate, and may do all things as may be necessary for the prevention or correction of substandard or haphazard growth of colonies, and buildings and operations in such area.

Controlled Area

27. (1) The Authority may, after giving due notice in writing to the persons affected thereby and after giving such persons an opportunity of being heard, declare any area included in the Master Plan to be a use area.

Declaration of
use area and
location thereof

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

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

¹ The words "East Pakistan" were omitted by Article 6 of the Bangladesh (Adaptation of Existing Laws) Order, 1972 (President's Order No. 48 of 1972).

Outline Programme and Improvement Schemes

Preparation of
Development
Programmes

28. (1) After publication of the Master Plan under sub-section (3) of section 22, the Authority shall prepare, and submit to the Government Five year Programmes of development and improvement of the areas covered by the Master Plan, on the basis of the said Plan, listing the schemes of development and improvement, including works of water supply and sewerage in their approximate order of execution and with approximate cost of each.

(2) The Government shall, within six months of its submission, either approve or disapprove the Programme referred to in sub-section (1), or approve it with such additions or modifications as, in consultation with the Authority, it deems fit to make.

Preparation and
submission of
specific
schemes to
Government

29. (1) After approval of the Programmes by the Government, with or without any modification, the Authority shall prepare and submit to the Government specific schemes on the basis of the Programme, including any other scheme or schemes which the Government may direct the Authority to prepare, and all such schemes shall contain plans for the proposed development, including those for housing, if any, with estimates of cost and proposed methods of financing. Any such scheme involving ejection of persons should also indicate the manner of resettlement or re-housing of affected persons:

Provided that the Authority may, without need for further approval by the Government, under intimation to the Government, undertake execution of any scheme already approved by it in the Programmes, the total estimated cost of which does not exceed taka one lakh and specific provision for which exists in the annual estimate for income and expenditure of the Authority:

Provided further that the Authority may, with prior approval of the Government, take up for execution schemes of urgent public importance even before the preparation of the Master Plan under section 22 and of the Development Programme prepared thereon under this section.

(2) The Government may sanction, with or without any modification, or may refuse to sanction, or may return for reconsideration, any specific scheme submitted to it under subsection (1), 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.

(3) A Scheme framed and sanctioned under this Ordinance may be amended or modified by the Authority at any time but if a material change is made in the scheme, previous sanction of the Government shall be obtained.

Explanation.- An increase in the cost of the scheme by more than ten per cent of the sanctioned cost shall be deemed to be a material change for the purpose of this section.

30. An improvement or development scheme may provide for all or any of the following matters, namely:-

Matters to be provided for in improvement scheme

- (a) the acquisition by the Authority of any land, in the area comprised in the scheme, which will, in their opinion, be required for the execution of the scheme or be affected by the execution of the scheme;
- (b) the laying out or re-laying out of the land in the said area;
- (c) such demolition, alteration or reconstruction of buildings situated on land which it is proposed to acquire in the said area, as the Authority may think necessary;
- (d) the construction of any buildings which the Authority may consider it necessary to erect for any purpose other than sale;
- (e) the laying out or alteration of streets (including bridges, causeways and culverts);
- (f) the levelling, paving, metalling, flagging, channelling, sewerage and draining of the said streets and the provision therein of water, lighting and other sanitary conveniences ordinarily provided in a Municipality;
- (g) the raising, lowering or levelling of any land in the area comprised in the scheme;

- (h) the formation, establishment, retention or enlargement of open spaces, parks, recreational zones, play grounds, markets, bazars, shopping areas, or any other type of development, as may be considered necessary for urban communities;
- (i) the augmentation of the present water-supply, or any other scheme for the improvement of the water-supply;
- (j) the making of a drainage and sewerage scheme including outfall works; and
- (k) the development of residential areas, commercial areas, industrial areas, recreational areas, educational zones and administrative zones;
- (l) the development of such areas outside, but contiguous to, the area of a particular scheme or schemes as the Authority may think fit to develop; and
- (m) any other matters consistent with this Ordinance which the Authority may think fit.

Discontinuance of use of land and alteration or removal of building

31. Whenever it appears to the Authority that it is expedient in the interests of the public and for the proper planning of the area included in any improvement or development scheme-

- (a) that any use of land should be discontinued, or that any conditions should be imposed on the continuance thereof; or
- (b) that any building or works or factory should be altered or removed,

the Authority may pass a resolution to the effect and such resolution shall form part of the particulars of the scheme under clause (c) of sub-section (1) of section 33.

Re-housing of persons displaced by improvement schemes

32. The Authority may frame schemes (hereinafter called the re-housing schemes) for the construction, maintenance and management of such and so many dwellings and shops as they may consider ought to be provided for persons of the poorer and working classes who are displaced or likely to be displaced by the execution of any improvement or development scheme sanctioned under this Ordinance.

33. (1) When any improvement or development scheme or re-housing scheme has been framed, for any area within the Corporation, the Authority shall prepare a notice, stating-

- (a) the fact that the scheme has been framed,
- (b) the boundaries of the area comprised in the scheme, and
- (c) the place at which particulars of the scheme, a map of the area comprised in the scheme, and a statement of the land which it is proposed to acquire and of the land in regard to which it is proposed to recover a betterment fee, may be seen at reasonable hours.

Preparation, publication and transmission of notice as to improvement scheme and supply of documents to applicants

(2) The authority shall-

- (i) cause the said notice to be published weekly for three consecutive weeks in the *official Gazette* and in local newspapers, with a statement of the period within which objections will be received, and
- (ii) send a copy of the notice to the ¹[Mayor of the Corporation].

(3) The Chairman shall cause copies of all documents referred to in clause (c) of sub-section (1) to be delivered to any applicant on payment of such fee as may be prescribed.

34. The ²[Mayor of the Corporation] to whom a copy of the notice has been sent under clause (ii) of sub-section (2) of section 33 shall, within a period of thirty days from the receipt of the said copy, forward to the Authority any representation which the Corporation may think fit to make with regard to the scheme.

Transmission to Board of representation by Corporation

¹ The words "Mayor of the Corporation" were substituted for the words "Chairman of the Municipal Committee" by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

² The words "Mayor of the Corporation" were substituted for the words "Chairman of the Municipal Committee" by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

Furnishing list of persons and copy of, or extract from assessment list

35. As soon as possible after the publication of a notice under section 33, the Chairman shall send a statement containing the particulars of the land which it is proposed to acquire in executing the scheme or in regard to which it is proposed to recover a betterment fee, to the ¹[Mayor of the Corporation], with a request to furnish-

- (i) a list of the names and addresses of the persons whose lands are likely to be acquired for, or affected by, the execution of the scheme, and
- (ii) a copy of or extract from the municipal assessment list, within fourteen days of the receipt of such request and on payment of prescribed fee.

Abandonment of improvement scheme, or application to Government to sanction it

36. (1) After the expiry of the periods respectively prescribed under clause (i) of sub-section (2) of section 33 and by section 34 in respect of any improvement scheme or re-housing scheme, the Authority shall consider any objection, representation and statement of dissent received thereunder and after hearing all persons making any such objection, representation or dissent who may desire to be heard, the Authority may either abandon the scheme or apply to the Government for sanction to the scheme with such modification (if any), as the Authority may consider necessary.

(2) Every application submitted under sub-section (1) shall be accompanied by-

- (a) a description of, and full particulars relating to the scheme, and complete plans and estimates of the cost of executing the scheme;
- (b) a statement of the reasons for any modifications made in the scheme as originally framed;
- (c) a statement of objections (if any), received under section 33;
- (d) any representation received under section 34;

¹ The words "Mayor of the Corporation" were substituted for the words "Chairman of the Municipal Committee concerned" by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

- (e) a statement of the arrangements made or proposed by the Authority for the re-housing of persons of the poorer and working classes who are likely to be displaced by the execution of the schemes.

¹[**36A.** The Government may sanction, either with or without modification, or may refuse to sanction, any improvement scheme or rehousing scheme submitted to it under section 36 but in either case, it shall communicate its decision to the Authority within four months from the date of receipt of the scheme from the Authority.

Power to sanction or reject improvement scheme

36B. (1) Whenever the Government sanctions any improvement scheme or rehousing scheme, it shall announce the fact by notification, and the Authority shall forthwith proceed to execute the scheme.

Notification of sanction to improvement scheme

(2) The publication of a notification under sub-section (1) in respect of any scheme shall be conclusive evidence that the scheme has been duly framed and sanctioned.]

37. Any number of areas in respect of which improvement, development or re-housing schemes have been, or are proposed to be framed, may at any time, be included in one combined scheme.

Combination of improvement scheme

38. No street laid out or altered by the Authority shall be of less width than-

Width of streets

- (a) forty feet, if the street be intended for vehicular traffic, or
- (b) twenty feet, if the street be intended for pedestrian traffic only:

Provided as follows:-

- (i) the width of an existing street need not be increased to the minimum required by this section, if the Authority consider it impracticable to do so; and

¹ Sections 36A and 36B were inserted by section 4 of the East Bengal Building Construction (Amendment) Ordinance, 1960 (East Pakistan Ordinance No. V of 1960).

- (ii) nothing in this section shall be deemed to prevent the Authority from laying out service passages for sanitary purposes of any width less than twenty feet.

Transfer to authority for purposes of improvement scheme of building or land vested in a ¹[Corporation, etc.]

39. (1) Whenever any building, or any street, square or other land, or any part thereof, which-

- (a) is situated in the Municipality and is vested in Corporation, or
- (b) is situated in any part of the ²[Zilla Parishad or any Union Parishad] in which this Ordinance is for the time being in force, and is vested ³[in that Zilla or Union Parishad],

is within the area of any improvement or development scheme or re-housing scheme and is required for the purpose of such scheme, the Authority shall give notice accordingly to the ⁴[Mayor of the Corporation or to the Chairman of the Zilla Parishad or of the Union Parishad], and such building, street, square, other land or part, shall thereupon vest in the Authority.

(2) Where any street or square, or any part thereof vests in the Authority under sub-section (1), no compensation shall be payable by the Authority to the ⁵[Corporation, the Zilla or the Union Parishad], in respect of such street, square or part.

¹ The words and comma “Corporation, etc.” were substituted for the words and comma “Municipality, Union Board or District Board” by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

² The words “Zilla Parishad or any Union Parishad” were substituted for the words “District Council or any Union Council” by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

³ The words “in that Zilla or Union Parishad ” were substituted for the words “in that District or Union Council” by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

⁴ The words “Mayor of the Corporation or to the Chairman of the Zilla Parishad or of the Union Parishad” were substituted for the words “Chairman of the Municipal Committee or of the District Council or of the Union Council concerned” by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

⁵ The words and comma “Corporation, the Zilla or the Union Parishad” were substituted for the words and comma “Municipal Committee, the District or the Union Council” by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

(3) Where any land, not being street or square, vests in the Authority under sub-section (1), compensation in respect of such land shall not be payable by the Authority except to the ¹[Zilla or the Union Parishad], as the case may be.

(4) Where any building vests in the Authority under sub-section (1), compensation for such building shall be payable by the Authority to the ²[Corporation, the Zilla or the Union Parishad], as the case may be.

(5) If any question or dispute arises-

- (a) whether compensation is payable under any of the sub-sections (3) and (4), or
- (b) as to the amount of the compensation paid or proposed to be paid under sub-section (3) or sub-section (4), or
- (c) whether any building or street, or square or other land, or any part thereof is required for the purpose of the scheme,

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

Explanation.- For the purposes of this section, “Building” means only the structure, and does not include any land other than the land on which it actually stands; and “Compensation” means a sum equal to the market value of the land or building on the date of the service of the notice under sub-section (1).

40. Whenever the Authority are satisfied-

- (a) that any street laid out or altered by the Authority has been duly levelled, paved, metalled, flagged, channelled,

Taking over of
laid out or altered
streets by
Corporation

¹ The words “Zilla or the Union Parishad” were substituted for the words “District or the Union Council” by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

² The words and comma “Corporation, the Zilla or the Union Parishad” were substituted for the words and comma “Municipal Committee, the District or the Union Council” by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

sewered and drained in the manner provided in the plans sanctioned by the Government under sub-section (2) of section 29;

- (b) that such lamps, lamp-posts and other apparatus for the lighting of such street as ought to be provided by the Authority have been so provided, and
- (c) that water and other sanitary conveniences ordinarily provided in a ¹[within the Corporation] have been duly provided in such street,

the Authority shall pass a resolution to that effect and shall call upon the Corporation to take over such street as and from the date fixed by such resolution for the purpose.

Transfer of any scheme or property of Government or local authority to the Authority

41. (1) After the provisions of this Ordinance is brought into force under sub-section (3) of section 1, the Government may, upon such terms and conditions as may be laid down, transfer to the Authority any scheme sanctioned or undertaken by the Government or by any local authority and may 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 Government.

(2) 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 sub-section (1).

(3) The Government may, upon such terms and conditions as may be laid down, place at the disposal of the Authority any property or fund held by the Government, or any local authority or any other body, or permit the Authority to levy and retain duties which, immediately before establishment of the Authority, were leviable by the Government, local authority or

¹ The words "within the Corporation" were substituted for the word "Municipality" by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

local body, and thereupon the Authority shall hold such property or fund and levy such duties in accordance with such terms and conditions.

Survey

42. The Authority may-

- (a) cause a survey of land to be made, whenever they consider that a survey is necessary or expedient for carrying out the purposes of this Ordinance, or
- (b) contribute towards the cost of any survey made by any other local authority.

Power to make survey or contribute towards their cost

Power of Entry

43. (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-

Power of Entry

- (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 Ordinance or any rule made or scheme sanctioned hereunder or any scheme which the Authority intend to frame hereunder:

Provided as follows:

- (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 at least 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 the inmates of any apartment appropriated to females to remove to some part of the premises where their privacy need 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) Whenever the Chairman or a person authorised under sub-section (1) enters into or upon any land in pursuance of that sub-section, he shall at the time of such entry pay or tender payment for all necessary damage to be done as aforesaid and, in case of dispute as to the sufficiency of the amount so paid or tendered, he shall at once refer the dispute to the Authority whose decision shall be final.

CHAPTER V

Finance

Chittagong
Development
Fund

44. (1) There shall be a fund to be known as the "Chittagong Development Authority Fund" (hereinafter referred to as the Fund) vested in the Authority which shall be utilised by the Authority to meet charges in connection with its functions under this Ordinance including the payment of salaries and other remuneration to the Chairman, Members and Officers and of the other employees of the Authority.

(2) The said Fund shall consist of-

- (a) contribution of the Corporation under section 45;
- (b) grant made by Government;
- (c) loans obtained from Government;
- (d) loans obtained by the Authority with special or general sanction of the Government under section 46;

- (e) foreign aid and loan obtained from the Development Loan Fund, with the sanction of, and on such terms and condition as may be approved by Government; and
- (f) proceeds of the betterment fee levied under section 77; water rate, conservancy rate or any other rate levied by the Authority under the provisions of this Ordinance, with the sanction of the Government;
- (g) all other sums received by the Authority.

45. (1) The ¹[Corporation] shall pay from the ²[Corporation Fund] to the Authority on the first day of each quarter, so long as the Authority continue to exist, a sum equivalent to one-half per cent per quarter on the annual value determined under Chapter V of the ³[Chittagong City Corporation Ordinance, 1982 (Ord. No. XXXV of 1982)] as it stood on the first day of the last preceding quarter:

Contribution
from
⁴[Corporation
Fund]

Provided that if this Ordinance is directed to come into force during a quarter, the amount of the first of such payments shall bear such proportion to the sum payable hereunder as the unexpired portion of that quarter bears to the whole quarter.

(2) The payments prescribed by sub-section (1) shall be made in priority to all other payments due from the ⁵[Corporation].

¹ The word "Corporation" was substituted for the words "Municipal Committee" by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

² The words "Corporation Fund" were substituted for the words "Municipal Funds" by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

³ The words, comma, figures and brackets "Chittagong City Corporation Ordinance, 1982 (Ord. No. XXXV of 1982)" were substituted for the words, comma, figures and brackets "Municipal Administration Ordinance, 1960 (Ord. No. X of 1960)" by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

⁴ The words "Corporation Fund" in the marginal heading were substituted for the words "Municipal Funds" by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

⁵ The word "Corporation" was substituted for the words, commas, figures and brackets "Municipal Committee, except those referred to in section 32 of the Municipal Administration, 1960 (Ord. No. X of 1960)" by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

Loans

Power of Authority to borrow money

46. The Authority may from time to time borrow, at such rate of interest, and for such period, and upon such terms, as to the time and method of repayment and otherwise, as the Government may approve, any sum necessary for the purpose of-

- (a) meeting expenditure debitable to the capital account under section 59, or
- (b) repaying any loan previously taken under this Ordinance.

Authority to be deemed to be a local Authority

47. The Authority shall be deemed to be a local authority under the Local Authorities Loans Act, 1914, for the purpose of borrowing money under the said Act, and the making and execution of any scheme under this Ordinance shall be deemed to be a work which such Authority is legally authorised to carry out.

Application of money borrowed

48. When any sum of money has been borrowed under section 46 for the purpose of meeting particular expenditure or repaying a particular loan, no portion thereof shall be applied to any other purpose without the previous sanction of the Government.

Limited liability

49. The liability of the Government to the creditors of the Authority shall be limited to the extent of grants made by the Government and the loan raised by the Authority with the sanction of the Government.

Priority of payments for interest and repayment of loans

50. All payments due from the Authority for interest on, or the repayment of loans, shall be made in priority to all other payments due from the authority.

Budget Estimate

Estimate of income and expenditure

51. (1) The Authority shall, before three months of the expiry of the financial year, submit to the Government, for approval, a statement of estimated receipts and expenditure in respect of the next financial year:

Provided that the first estimate of receipts and expenditure of the Authority shall be prepared as soon as may be expedient after the establishment of the Authority.

(2) Every estimate prepared under sub-section (1) shall differentiate capital and revenue funds and shall be prepared in such form and shall contain such details as the Government may from time to time direct.

(3) On its receipt the budget estimate will be examined by the Government who shall approve it with or without modification and communicate its approval to the Authority before the commencement of the next financial year.

Approval of Government to such estimates

52. The Authority may, at any time during the financial year for which an estimate has been sanctioned, cause a supplementary estimate to be prepared and submitted to the Government.

Supplementary estimate

53. (1) No sums shall be expended by or on behalf of the Authority unless the expenditure of the same is covered by a current budget grant or can be met by reappropriation or by drawing on the closing balance.

Adherence to estimate and maintenance of closing balance

(2) The closing balance shall not be reduced below such sums as may be fixed by the Government in this behalf, without the previous sanction of the Government.

(3) The following items shall be excepted from the provisions of sub-sections (1) and (2), namely-

- (a) repayments of moneys belonging to contractors or other persons and held in deposit, and of moneys collected by, or credited to, the Authority by mistake;
- (b) payments due under a decree or order of a Court passed against the Authority or, against the Chairman, *ex-officio*;
- (c) sums payable under a compromise of any suit or other legal proceedings;
- (d) sums payable under this Ordinance by way of compensation;

- (e) payments required to meet some pressing emergency; and
- (f) gratuitous payments up to a maximum of five hundred taka.

(4) Whenever any sum exceeding five thousand taka is expended under clause (e) of sub-section (3) or whenever any sum is expended under clause (f) of that sub-section, the Chairman shall forthwith report the circumstances to the Government, and shall at the same time explain how the Authority propose to cover the expenditure.

Receipt of
money and
deposit in Bank

54. (1) All moneys at the credit of the Authority shall be kept in the ¹[Bangladesh Bank], or any other Bank approved by the Government in this behalf.

(2) All moneys payable to the Authority shall be received by the Chairman and shall forthwith be paid into the aforesaid Bank to the credit of any account which shall be styled "The Account of the Chittagong Development Authority".

Payment by
cheques

55. (1) No payment shall be made by the Bank out of the account referred to in section 54 except upon a cheque.

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

Signature of
cheques

56. All cheques referred to in section 55 must be signed by the Chairman and the Secretary of the Authority, or in absence of either the Chairman or the Secretary, by the Secretary or Chairman, and a Member.

Accounts

Management of
accounts

57. The Authority shall maintain complete and accurate books of accounts in such form as may be prescribed. There shall be kept a capital account and a revenue account. The capital account shall show separately all expenditure incurred by the Authority on each improvement, development and re-housing scheme.

¹ The words "Bangladesh Bank" were substituted for the words "State Bank of Pakistan" by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

58. There shall be credited to the capital account-

Credit to capital account

- (a) such proportion of grants by Government under clause (b) of sub-section (2) of section 44, as may be fixed by the Government from time to time;
- (b) loans obtained from Government;
- (c) loans obtained by the Authority with special or general sanction of the Government;
- (d) foreign aid and loans obtained from the Development Loan Fund;
- (e) the proceeds of the sale of any land vested in the Authority which was purchased out of any loan;
- (f) the proceeds of the sale of any movable property (including securities for money invested from the capital account) belonging to the Authority;
- (g) any other sum which the Government may direct to be credited to the capital account.

59. The moneys credited to the capital account shall be held by the Authority in trust, and shall be applied to-

Application of capital account

- (a) meeting all costs of framing and executing improvement, development and re-housing schemes;
- (b) meeting the cost of acquiring land for carrying out any of the purposes of this Ordinance;
- (c) meeting the cost of constructing buildings required for carrying out any of the purposes of this Ordinance;
- (d) the repayment of loans from money borrowed in pursuance of clauses (c), (d) and (e) of sub-section (2) of section 44;
- (e) making, or contributing towards the cost of making, surveys in pursuance of section 42;
- (f) meeting such proportion of the cost of management as the Authority may, with the sanction of the Government, fix in this behalf; and

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

Credit to
revenue account

60. There shall be credited to the revenue account-

- (a) contribution of the Corporation under section 45;
- (b) such proportion of grants made by Government under clause (b) of sub-section (2) of section 44, as may be fixed by the Government from time to time;
- (c) proceeds of any improvement or betterment levy, water rate, conservancy rate or any other rate levied by the Authority with the sanction of Government under clause (f) of sub-section (2) of section 44;
- (d) all interest received by the Authority;
- (e) all damages received by the Authority;
- (f) all annually recurring sums received from the Government in aid of the funds of the Authority;
- (g) all premia received by the Authority in connection with leases;
- (h) all rents of land and buildings vested in the Authority; and
- (i) any other sums which the Government may direct to be credited to the revenue account.

Application of
revenue account

61. The moneys credited to the revenue account shall be held by the Authority in trust, and shall be applied to-

- (a) meeting all charges for interest due on account of any loan taken in pursuance of clauses (c), (d) or (e) of sub-section (2) of section 44 and all other charges incurred in connection with such loans;
- (b) paying all sums due from the Authority in respect of rates and taxes imposed under the ¹[Chittagong City Corporation Ordinance, 1982 (Ord. No. XXXV of 1982)], upon land vested in the Authority;

¹ The words, comma, figures and brackets “Chittagong City Corporation Ordinance, 1982 (Ordinance No. XXXV of 1982)” were substituted for the words, comma, figures and brackets “Municipal Administration Ordinance, 1960 (Ordinance No. X of 1960)” by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

- (c) paying the cost (if any) of maintaining a separate Establishment for the collection of the rents and other proceeds of land vested in the Authority;
- (d) paying all sums which the Government may direct to be paid to an auditor under section 69;
- (e) making payments in pursuance of section 94 for compensation or for expenses of maintenance of works; and
- (f) paying the cost of management.

Explanation.- The expression “cost of management” means-

- (a) the salary and allowances of the Chairman and fees of the Members of the Authority;
- (b) all fees and allowances paid for attendance at meeting;
- (c) the salaries, fees and allowances of, and the contributions paid under the proviso to section 18 in respect of employees of the Authority appointed under that section; except employees who are paid by the day or whose pay is charged to temporary work; and
- (d) all office expenses incurred by the Authority.

Explanation.- “Office expenses” means expenses incurred for carrying on office work, and includes the rent of offices, the provision of furniture therefore, the charges for printing and stationery and any other incidental expenses necessary for the efficient working of an office.

62. (1) Notwithstanding anything contained in section 61, the Authority may advance any sum standing at the credit of the revenue account for the purpose of meeting capital expenditure.

Advances from revenue account to capital account

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

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

Advances from capital account to revenue account

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

Submission of abstract of accounts

64. (1) The Authority shall submit to the Government at the end of each half of every financial year, an abstract of the accounts of their receipts and expenditures.

Submission of yearly reports and returns

65. (1) The Authority shall submit to the Government, as soon as possible but within three months after the end of every financial year, a report on the conduct of its affairs for that year.

(2) The Government may require the Authority to furnish-

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

and the Authority shall comply with every such requisition.

Recovery of dues of Authority

66. The Authority shall have power to realise its dues from any person under the ¹[* * *] Public Demands Recovery Act, 1913, as a public demand.

Annual audit of accounts

67. The accounts of the Authority shall, once in every financial year, be examined and audited by such Auditor as the Government may appoint in this behalf.

Power of Auditors

68. The Auditor so appointed may,-

- (a) by written summons, require the production before him of any document which he may consider necessary for the proper conduct of the audit;
- (b) by written summons, require any person having the custody or control of, or being accountable for, any such document to appear in person before him; and

¹ The word "Bengal" was omitted by Article 6 of the Bangladesh (Adaptation of Existing Laws) Order, 1972 (President's Order No. 48 of 1972).

- (c) require any person so appearing before him to make and sign a declaration with respect to any such document to answer any questions, or to prepare and submit any statement.

69. The Authority shall pay to the said Auditor such remuneration as the Government may direct. Remuneration of Auditor

70. The Auditor shall- Auditor's report

- (a) report to the Authority any material impropriety or irregularity which he may observe in the expenditure, or in the recovery of moneys due to the Authority, or in the accounts, and report the same to the Government;
- (b) furnish to the Authority such information as they may, from time to time, require concerning the progress on his audit; and
- (c) soon after the completion of his audit, forward his report upon the accounts to the Chairman.

71. It shall be the duty of the Authority forthwith to remedy any defects or irregularities that may be pointed out by the Auditor. Authority to remedy defects

72. The Chairman shall furnish each Member a copy of the report mentioned in clause (c) of section 70 and shall bring such report before the Authority for consideration at their next meeting. Auditor's report to be sent to each Member

73. As soon as practicable after the receipt of the said report, the Authority shall prepare an abstract of the accounts to which it relates, and shall publish such abstract by notification, and shall send a copy of the abstract to the ¹[Mayor of the Corporation] and to the Government. Publication and transmission of an abstract of the accounts

¹ The words "Mayor of the Corporation" were substituted for the words "Chairman of the Municipal Committee" by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

CHAPTER VI

ACQUISITION AND DISPOSAL OF LAND

Land Acquisition

Acquisition and disposal of land

74. (1) The Authority, may, for carrying out the purposes of this Ordinance acquire, by purchase, lease, exchange or otherwise, any land or interest in land and dispose of by sale, lease, exchange or otherwise, such land or any interest on such land.

(2) The acquisition of any land or interest in land for the Authority under this section, or for any scheme under this Ordinance, shall be deemed to be an acquisition for a public purpose within the meaning of the ¹[Acquisition and Requisition of Immovable Property Ordinance, 1982 (Ord. No. II of 1982)] and the provisions of the said Act shall apply to all such proceedings.

(3) *[Omitted by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).]*

Acquisition by agreement

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

Abandonment of acquisition

76. (1) In any case in which land in any area comprised in an improvement, development or re-housing scheme 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. The Authority may, after consideration of such application, abandon

¹ The words, comma, figures and brackets “Acquisition and Requisition of Immovable Property Ordinance, 1982 (Ord. No. II of 1982)” were substituted for the words, figures and brackets “Land Acquisition Act of 1894 (I of 1894)” by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

the proceedings for the acquisition of such land and make it over to the applicant on payment by him sum fixed by the Authority in this behalf.

(2) The Government may prescribe the manner of disposal of application and determination of the amount of payment and mode thereof, under sub-section (1).

(3) If the Authority enters into any agreement with any owner regarding the partial acquisition of any land which it is authorised to acquire under this Ordinance, such land as is not required for the execution of the scheme may be abandoned from acquisition under sub-section (1).

Betterment Fee

77. (1) When by the making of any improvement, development or re-housing scheme, any land in the area comprised in the scheme which is not required for the execution thereof will, in the opinion of the Authority, be increased in value, the Authority, in framing the scheme, may, in lieu of providing for the acquisition of 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.

Payment of betterment fee

(2) Such betterment fee shall be an amount equal to one-half of the increase in value of the land resulting from the execution of the scheme, and shall be calculated upon 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 buildings exceeds the value of the land prior to the execution of the scheme estimated in like manner.

78. (1) When it appears to the Authority that an improvement, development or re-housing 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 owner of such land that the Authority propose to assess the amount of the betterment fee payable in respect of such land under section 77.

Assessment of betterment fee by Authority

(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.

(3) Any person aggrieved by the assessment made by the Authority under sub-section (2) may, within thirty days from the date of such assessment, appeal to the Government whose decision thereon shall be final.

Authority to give notice to persons liable to payment of betterment fee

79. When the amount of all betterment fees payable in respect of land in the area comprised in the scheme has been determined under section 78, the Authority shall, by a notice in writing to be served on all persons liable to such payment, fix a date by which such payment shall be made; and an interest at the rate of five *per cent per annum* upon any amount outstanding shall be payable from that date.

Agreement to make payment of betterment fee a charge on land

80. Any person liable to the payment of a betterment fee may, at his option, instead of making a payment thereof to the Authority, execute an agreement with the Authority to leave the said payment outstanding as a charge on his interest in the land, subject to the payment in perpetuity of interest at the rate of five *per cent per annum*, the first annual payment of such interests to be made one year from the date referred to in section 79.

CHAPTER VII

RULES

Power to make rules

81. (1) The Government may make rules, not inconsistent with the provisions of this Ordinance, for carrying out the purposes of this Ordinance.

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

- (a) a salary, and allowances and conditions of service of Chairman and fees of Members of the Authority under section 5;
- (b) time and place and manner of holding meetings of the Authority under sub-section (1) of section 9;

- (c) fees and allowances of associate members under sub-section (2) of section 10;
- (d) appointment, pension, leave and disciplinary matters of employees of the Authority, under sub-section (1) of section 19;
- (e) rate of fee for copies of documents under sub-section (3) of section 33;
- (f) form of accounts under section 57;
- (g) manner of disposal of applications and determination of amount of payment and mode thereof under sub-section (2) of section 76; and
- (h) any other matter in respect of which this Ordinance makes no provision or insufficient provision, and for which provision is, in the opinion of the Government, necessary, or which is directed to be prescribed.

82. The power to make rules under section 81 is subject to the condition of the rules being made after previous publication, and to the following further conditions, namely:-

Conditions precedent to making of rules

- (a) a draft of the rules shall be published by notification and in local newspapers;
- (b) such draft shall not be proceeded with until after the expiration of one month from such publication; and
- (c) for one month at least during such period; a printed copy of such draft shall be kept at the Authority office for public inspection:

Provided that the provision of clause (a) may be relaxed by the Government in case of rules under clauses (a), (b), (c) and (d) of sub-section (2) of section 81.

83. When any rule has been made under section 81, it shall be published by the Government by notification, and such publication shall be conclusive proof that the rule has been duly made.

Publication of rules

Power to
Authority to
make
regulations

84. The Authority may, with previous approval of the Government, make regulations, not inconsistent with the provisions of this Ordinance or any rules thereunder, for carrying out the purpose of this Ordinance.

Government
power to cancel
regulation

85. The Government may, at any time, by notification, cancel any regulation made by the Authority under section 84.

CHAPTER VIII

SUPPLEMENTAL PROVISIONS

86. [*Power to extend the Bengal Municipal Act, 1932, to areas to which provisions of this Ordinance, have been extended.- Omitted by section 2 and the First Schedule of the East Pakistan Repealing and Amending Ordinance, 1966 (East Pakistan Ordinance No. XIII of 1966).*]

Publication of
notification

87. (1) Before finally publishing any notification under subsection (3) of section 1 the Government shall publish a draft of the same in the *official Gazette*.

(2) Any tax-payer or inhabitant of the area affected by such draft, may, if he objects to the draft, submit his objection in writing to the Government within six weeks from its publication, and the Government shall take such objection into consideration.

Legal Proceedings

Cognizance of
offences

88. Notwithstanding anything contained in the Code of Criminal Procedure, 1898, all offences against this Ordinance or any rule made hereunder shall be cognizable by a Magistrate of the first class; and no such Magistrate shall be deemed to be incapable of taking cognizable of any such offence by reason only of being liable to pay any duty imposed by this Ordinance or of his being benefited by the funds to the credit of which any fine imposed by him will be payable.

89. No person shall be liable to punishment for any offence against this Ordinance or any rule made hereunder unless complaint of such offence is made before a Magistrate of the first class within three months next after the commission of such offence.

Limitation of time for prosecution

90. The Chairman may, subject to the control of the Authority-

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

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

91. No suit shall be instituted against the Authority or Chairman, or any member, or any employee of the Authority or any person acting under the direction of the Authority, or of the Chairman or of any employee of the Authority in respect of any act purporting to be done under this Ordinance or any rule made hereunder, until the expiration of one month next after written notice has been delivered or left at the Authority's office or the place of abode of such employee or person, stating the cause of action, the name and place of abode of the intending plaintiff, and the relief which he claims; and the plaint must contain a statement that such notice has been so delivered or left.

Notice of suit against Authority, etc.

92. On the written application of the Chairman, any Police Officer above the rank of constable shall arrest any person who obstructs any employee of the Authority in the exercise of any of the powers conferred by this Ordinance or any rule made hereunder.

Arrest of offenders

Evidence

Proof, consent,
etc. of authority
or Chairman or
employee of
Authority

93. Whenever, under this Ordinance or any rule made hereunder, the doing or the omitting to do anything 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 employee of the Authority,

a written document, signed, in case (a) by the Chairman, and in case (b) by the said employee, purporting to convey or set forth such approval, sanction, consent, concurrence, declaration, opinion or satisfaction, shall be sufficient evidence of such approval, sanction, consent, concurrence, declaration, opinion or satisfaction.

Compensation

General power
of Authority to
pay
compensation

94. In any case not otherwise expressly provided for in this Ordinance, the Authority may pay reasonable compensation to any person who sustain damage by reason of the exercise of any of the powers vested, by this Ordinance or any rule made or scheme sanctioned hereunder, in the Authority or the Chairman or any employee of the Authority.

Compensation
to be paid by
offenders for
damage caused
by them

95. (1) If, on account of any act or omission, any person has been convicted of any offence against this Ordinance or any rule made hereunder, and, by reason of the same act or omission of the said person, damage has occurred 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) The amount of compensation payable by the said person shall be determined by the Magistrate while convicting him of the said offence.

(3) If the amount of any compensation due under this section be not paid, the same shall be recovered under a warrant from the said Magistrate as if it were a fine inflicted by him on the person liable therefore.

CHAPTER IX

PENALTIES

- 96.** If the Chairman, any Member, or any employee of the Authority knowingly acquire, directly or indirectly, by himself or by any partner, employer or employee, otherwise than as such Chairman, Member or employee, any share or interest in any contract or employment with, by or on behalf of, the Authority, not being a share or interest such as, under sub-section (2) of section 7, he shall be deemed to have committed the offence made punishable by section 168 of the ¹[* * *] Penal Code, 1860.
- Punishment for acquiring share or interest in contract, etc., with the Authority
- 97.** If any person, without lawful authority,-
- Penalty for removing fence, etc., in street
- (a) removes any fence or shoring-timber, or removes or extinguishes any light, set up in course of execution of any work by or under the auspices of the Authority, or
- (b) infringes any order given, or removes any bar, chain or post fixed, in connection with above, he shall be punishable with fine which may extend to two hundred taka .
- 98.** If the owner for the time being of any wall or building in respect of which an agreement has been executed in this behalf with the Authority fails-
- Penalty for failure to remove wall or building in respect of which agreement has been executed
- (a) to remove such wall or building, or any specified portion thereof, when so required by notice issued in that behalf,
- (b) within fifteen days from the receipt of such notice to authorise the Chairman, by permission in writing to remove the said wall, building or portion, he shall be punishable-
- (i) with fine which may extend, in the case of a masonry wall or building, to five hundred taka, and, in the case of a hut, to fifty taka; and

¹ The word "Pakistan" was omitted by Article 6 of the Bangladesh (Adaptation of Existing Laws) Order, 1972 (President's Order No. 48 of 1972).

- (ii) with a further fine, in the case of a masonry wall or building, to twenty taka, and, in the case of a hut, to five taka, for each day after the first during which the failure continues.

Penalty for use of land in Master Plan in contravention of section 23

99. Whoever uses any land, included in a Master Plan, in contravention of section 23, shall be punishable-

- (i) with fine which may extend to one thousand taka, and
- (ii) with a further fine which may extend to fifty taka for each day after the first during which such contravention continues.

Removal of unauthorised construction

100. (1) The Court, convicting any person under section 98 or section 99 shall order the removal of the unauthorised construction, if any, by such person within a time to be fixed by the Court.

(2) If such person fails to remove the unauthorised construction, within the time fixed, it shall be lawful for the Authority to cause such construction to be removed, and the cost of such removal shall be recoverable from that person as a public demand.

Penalty for failure to comply with requisition made by auditor

101. If any person fails to comply with any requisition made under section 68 he shall be punishable-

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

Penalty for obstructing contractor or removing mark

102. If any person-

- (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 Ordinance of any rule hereunder; 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 Ordinance or any rule made or scheme sanctioned hereunder, he shall be punishable with fine which may extend to five hundred taka, or with imprisonment for a term which may extend to two months.

CHAPTER X

CONTROL

103. If, in the opinion of the Government, the Authority have shown their incompetency to perform or have persistently made default in the performance of the duties imposed on them by or under this Ordinance or have exceeded or abused their powers, the Government may, by an order published in the *official Gazette*, supersede them for a period specified in the order:

Powers of the Government to supersede the Authority

Provided that the Government before six months of such order of supersession shall give notice to the Authority to show cause why such action shall not be taken and also to provide them an opportunity to take remedial measures:

Provided further that except in case of misappropriation of Authority funds or persistent default in the performance of duties by the Authority the Government shall not ordinarily exercise powers under this section.

Dissolution of Authority

104. (1) When all schemes sanctioned under this Ordinance have been executed, or have been so far executed as to render the continued existence of the Authority in the opinion of the Government unnecessary, the Government may, by notification, declare that the Authority shall be dissolved from such date as may be specified in this behalf in such notification; and the Authority shall be deemed to be dissolved accordingly.

Ultimate dissolution of Authority and transfer of their assets and liabilities to the Municipal Committee

(2) On and from the said date-

- (a) all properties, funds and dues which are vested in or realisable by the Authority and the Chairman respectively shall vest in and be realisable by the Corporation;
- (b) all liabilities which are enforceable against the Authority shall be enforceable only against the Corporation;
- (c) for the purposes of completing the execution of any scheme, sanctioned under this Ordinance, which has not been fully executed by the Authority and of realising properties, funds and dues referred to in clause (a), the functions of the Authority and the Chairman under this Ordinance shall be discharged by the ¹[Corporation and its Mayor] respectively; and
- (d) the Corporation shall keep separate accounts of all moneys respectively received and expended by them under this Ordinance until all loans raised hereunder have been repaid, and until all other liabilities referred to in clause (b) have been duly met.

¹ The words "Corporation and its Mayor" were substituted for the words "Municipal Committee and its Chairman" by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).