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**THE ARUNACHAL PRADESH URBAN AND COUNTRY PLANNING  
(AMENDMENT) ORDINANCE, 2025**

**AN  
ORDINANCE  
(No. 5 of 2025)**

further to amend the Arunachal Pradesh Urban and Country Planning Act, 2007 (Act No. 3 of 2008).

WHEREAS, the State Legislative Assembly is not in Session;

AN WHEREAS, the Governor of Arunachal Pradesh is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 213 of the Constitution of India, the Governor of Arunachal Pradesh is pleased to promulgate the following Ordinance in the Seventy- Sixth Year of the Republic of India as follows: -

1. Short title, extend and commencement
  - (1) This Ordinance may be called the Arunachal Pradesh Urban and Country Planning (Amendment) Ordinance, 2025.
  - (2) It shall come into force on the date of its promulgation by the Governor.

Amendment of  
section 2.

2.

In the Arunachal Pradesh Urban and Country Act, 2007 (Act No. 3 of 2008) hereinafter referred to as the principal Act, after sub-section (XXIX) of section 2, the following sub-sections shall be inserted namely: -

- (xxx) "Development Control Regulation" means regulations for development in proposed zones.
- (xxxi) "final plot" means a plot reconstituted from an original plot and allotted in a town planning scheme as a final plot;
- (xxxii) "local area plan" means a statutory planning mechanism to guide and facilitate re-development of already developed areas of the city in a systematic and organised manner;
- (xxxiii) "operational construction" means any construction whether temporary or permanent, which is necessary for the operation, maintenance, development or execution of any of the following services, namely: -
  - (a) Railway;
  - (b) National highway;

- (c) National waterways;
- (d) Major ports;
- (e) Airways and aerodromes;
- (f) Posts and telegraphs, telephone, wireless, broadcasting and other like forms of communication
- (g) Regional grid for electricity;
- (h) Any other service which the State Government may, if it is of opinion that the operation, maintenance, development or execution of such service is essential to the life of the community, by notification, declare to be a service for the purposes of this clause.

*Explanation-* For the removal of doubts, it is hereby declared that the construction of-

- (a) New residential buildings (other than gate, lodges, quarters for limited essential operational staff and the like) roads and drains in railway colonies, hotels, clubs, institutes and schools, in the case of railways; and
  - (b) A new building new structure or new installation or new extension thereof, in the case of any other service,
- (xxxiv) "outgrowth" means expansion of city/ town taken place beyond the statutory (Municipalities or Census town or city) limits but it is not qualified as an independent town.
- (xxxv) "owner" in relation to any property includes any person who is, for the time being, receiving or entitled to receive, whether on his own account or on account of or on behalf or, or for the benefit of, any other person or as an agent, trustee, guardian, manager or receiver for any other person or for any religious or charitable institution, the rents or profits of the property; and also includes a mortgagee in possession thereof;
- (xxxvi) "plot" means a portion of land held in one ownership and numbered and shown as one plot in a town planning scheme;
- (xxxvii) "reconstituted plot" means a plot which is in any way altered by the making of town planning



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scheme;

*Explanation-* For the purposes of this clause "altered" includes the alteration of ownership of a plot.

(xxxviii) "Regional Plan" means a plan for the region prepared under this Act and approved by the State Government;

(xxxix) "residence" includes the use for human habitation of any land or building or part thereof, the use of gardens, grounds, garages, stables and out-houses, if any appertaining to such land or building and the expression "residential" shall be construed accordingly;

(xl) "scheme" means a town planning scheme prepared under this Act, and includes a plan or plans, together with the descriptive matter, if any, relating to such scheme;

(xli) "site plan" means a detailed architectural drawing that exhibits the form, location and orientation of a building on a site.

(xlii) "sponge city" means an area that acts like a sponge, soaking up and retaining water during rain and storms and releasing it slowly.

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

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

(xlv) "Transferable Development Right" means a development right to transfer the potential of a plot designated for a public purpose in a plan under this Act, expressed in terms of total permissible built-up space calculated on the basis of floor area ratio allowable for that plot, for utilization by the owner himself/herself or by



way of transfer by him/her to someone else from the present location to a specified area in the plan as additional built-up space over and above the permissible limit in lieu of compensation for the surrender of the concerned plot free from all encumbrances to the Urban Local Body (ULB) Development Authority

- (xlvi) "urban areas" means a human settlement with a high population density and an infrastructure of built environment.
- (xlvii) "zonal plan" - A Zonal Development Plan means a plan for each Zone (Division) containing information regarding the provision of social infrastructure, parks and open spaces, circulation system etc.
- (xlviii) "zoning regulation" means regulation for the use of land, buildings built thereon, consistent with maintain the minimum standard of density of building, protection of open spaces, sanitation and environmental hygiene etc. for the different zones proposed in the Zoning Plan of the Development Plan.

Insertion of New Chapter VII-1 and sections


3. In the principal Act, after section 38, following chapter and sections shall be inserted.

**"Chapter- VII-1  
Town Planning Scheme**

Preparation of town planning schemes.

38A. (1) Subject to the provisions of this Act or any other law for the time being in force-

- (i) a Local Planning Authority may for the purpose of implementing the proposals in the final Development plan or in respect of any land which is likely to be in the course of development or which is already built upon, prepare one or more town planning schemes for the area within its jurisdiction, or any part thereof;
- (ii) a town planning scheme may make provision for any of the following matters, that is to say:
  - (a) any of the matters specified in sub-section (2) of section 18 and sub-section (2) of section 19 of the Act;
  - (b) the laying out or re-laying out of land, either vacant or already built upon,

  
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including areas of comprehensive development;

- (1) the filling-up or reclamation of low-lying, swampy or unhealthy area, or levelling-up of land;
  - (2) layout of new streets or roads, construction, diversion, extension, alteration, improvement and closing up of streets and roads and discontinuance of communications;
  - (3) the construction, alteration and removal of buildings, bridges and other structures;
  - (4) the allotment or reservation of land for open spaces, gardens, recreation grounds, schools, markets, green-belts, dairies, transport facilities and public purposes of all kinds;
  - (5) drainage, inclusive of sewerage, surface or sub-soil drainage and sewage disposal;
  - (6) lighting;
  - (7) water supply;
  - (8) the preservation of objects of historical or national interest or natural beauty, and of building actually used for religious purposes;

(c) the suspension, as far as may be necessary for the proper carrying out of the scheme, of any rule, bye-law, regulation, notification or order made or issued under any law for the time being in force which the Legislature of the State is competent to make;

(d) such other matter not inconsistent with the object of this Act, as may be directed by the State Government.

(2) In making provisions in a draft town planning scheme for any of the matters referred to in clause (ii) of sub-section (1), it shall be lawful for a Local Planning Authority with the approval of the Director of Town Planning/ Chief Town

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- Planner and subject to the provisions of section 38J to provide for suitable amendment of the Development Plan/ Master Plan.
- Power of Local Planning Authority to resolve on declaration of intention to make scheme 38B
- (1) A Local Planning Authority may by resolution declare its intention to make a town planning scheme in respect of any part of the area within its jurisdiction.
  - (2) Not later than thirty days from the date of such declaration of intention to make a scheme hereinafter referred to as the declaration, the Local Planning Authority shall publish the declaration in the Official Gazette, and in such other manner as may be prescribed and despatch a copy thereof (together with a copy of the plan showing the area to be included in the scheme) to the State Government or to the Director of Town Planning/ Chief Town Planner.
  - (3) A copy of the plan shall be opened for inspection of the public at all reasonable hours at the head office of the Local Planning Authority.
- Preparation and publication of draft scheme (by means of notice) 38C
- (1) Not later than nine months from the date of the declaration, subject, however, to sub-section (3) of Section-38C, the Local Planning Authority shall, in consultation with the Director of Town Planning/ Chief Town Planner, make a draft scheme for the area in respect of which the declaration was made, and publish a notice in the Official Gazette, and in such other manner as may be prescribed stating that the draft scheme in respect of such area has been made. The notice shall state the name of the place where a copy thereof shall be available for inspection by the public and shall also state that copies thereof or any extract therefrom certified to be correct shall be available for sale to the public at a reasonable price.
  - (2) If the Local Planning Authority fails to make a draft scheme and publish a notice regarding its making within the period specified in sub-section (1) or within the period extended under sub-section (3), the declaration shall lapse, unless the State Government appoints an Officer to prepare and submit the draft scheme to the State Government on behalf of the Local Planning Authority not later than [nine months] from the date of such appointment or the extended period under sub-section (3); but any such lapse of declaration shall not debar the Local Planning Authority from making a fresh declaration

  
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any time in respect of the same area.

- (3) The State Government may, on application made by the Local Planning Authority or, as the case may be, the officer, by notification in the Official Gazette, extend the period specified in sub-section (1) or (2) by such period not exceeding [three months] as may be specified in the notification.

Inclusion of additional area in draft scheme

38D If at any time before a draft scheme is prepared and submitted to the State Government for sanction, the Local Planning Authority or the officer is of the opinion, or on any representation made to it or him/her that an additional area be included within the said scheme, the Local Planning Authority or the officer may, after informing the State Government and giving notice in the Official Gazette, and also in one or more local newspapers, include such additional area in the scheme; and thereupon, all the provisions of sections 38A, 38B and 38C shall apply in relation to such additional area as they apply to any original area of the scheme and the draft scheme shall be prepared for the original area and such additional area and submitted to the State Government for sanction.

Power of State Government to require Local Planning Authority to make scheme:

38E

- (1) Notwithstanding anything contained in this Act, the State Government may, in respect of any Local Planning Authority after making such inquiry as it deems necessary, direct that Authority to make and submit for its sanction, a draft scheme in respect of any land in regard to which a town planning scheme may be made after a notice regarding its making has been duly published in the prescribed manner.
- (2) If the Local Planning Authority fails to make the declaration of intention to make a scheme within three months from the date of direction made under sub-section (1), the State Government may by notification in the Official Gazette, appoint an officer to make and submit the draft scheme for the land to the State Government after a notice regarding its making has been duly published as aforesaid and thereupon the provisions of sections 38B, 38C and 38D shall, as far as may be applicable, apply to the making of such a scheme.

Contents of draft scheme.

38F

A draft scheme shall contain the following particulars so far as may be necessary, that is to say, -

- (1) the ownership, area and tenure of each original plot;
- (2) reservation, acquisition or allotment of land required under sub-clause (ii)(a) of sub-section (1) of section 38A with a general indication of the uses to



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which such land is to be put and the terms and conditions subject to which, such land is to be put to such uses;

- (3) the extent to which it is proposed to alter the boundaries of the original plots by reconstitution;
- (4) an estimate of the total cost of the scheme and the net cost to be borne by the Local Planning Authority;
- (5) a full description of all the details of the scheme with respect to such matters referred to in clause (ii) of sub-section (1) of section 38A as may be applicable;
- (6) the laying out or re-laying out of land either vacant or already built upon including areas of comprehensive development;
- (7) the filling up or reclamation of low-lying swamp or unhealthy areas or levelling up of land;
  - (a) the allotment of land from the total area covered under the scheme, to the extent of, -
    - (i) the reservation of land to the extent of ten per cent. of the total area covered under the scheme, for the purpose of providing housing accommodation to the members of economically weaker section and for lower income group and for persons dispossessed in the scheme;
    - (ii) the allotment of land to the extent of forty per cent of the total area covered under the scheme, in the aggregate, for any or all of the following purposes, namely: -
      - (1) for roads;
      - (2) for parks, playgrounds, garden and open spaces;
      - (3) social infrastructure such as schools, dispensary, fire brigade and public utility place;
      - (4) sale by Local Planning Authority for residential, commercial or industrial use depending upon the nature of development:

Provided that, -

- (i) the proceeds from the sale of land

referred to in sub-clause 4(ii) of clause (a) of sub section (7) shall be used for the purpose of providing infrastructural facilities in the area covered under the scheme;

(ii) the use of land allotted for the purposes referred to in 2 of clause (a) of sub-section (7) shall not be changed by variation of scheme for a purpose other than the purpose for which it is so allotted;

(iii) the land allotted for the purposes referred to in sub-clause 3 of clause (a) of sub-section (7) may be allowed to be developed, without variation of scheme, for any public purpose not contrary to the intent of the provisions of the draft scheme.

(8) any other prescribed particulars.

Reconstituted plot 38G

- (1) In the draft scheme, the size and shape of every reconstituted plot shall be determined, so far as may be, to render it suitable for building purposes, and where a plot is already built upon, to ensure that the buildings as far as possible comply with the provisions of the scheme as regards open spaces.
- (2) For the purpose of sub-section (1), a draft scheme may contain proposals-
- (a) to form a final plot by reconstitution of an original plot by alteration of the boundaries of the original plot, if necessary;
  - (b) to form a final plot from an original plot by the transfer wholly or partly of the adjoining lands;
  - (c) to provide, with the consent of the owners, that two or more original plots each of which is held in ownership in severally or in joint ownership shall hereafter, with or without alteration of boundaries be held in ownership in common as a final plot;
  - (d) to allot a final plot to any owner dispossessed of land in furtherance of the scheme; and
  - (e) to transfer the ownership of an original plot from one person to another.



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Compensation for discontinuance of use

38H

Where under clause (ii)(a) of sub-section (1) of section 38A the purposes to which the buildings or areas may not be appropriated have been specified, then the building or area shall cease to be used for a purpose other than the purposes specified in the scheme within such time as may be specified in the final scheme; and the person affected by this provision shall be entitled to such compensation, from the Local Planning Authority as may be determined by the Arbitrator :

Provided that, in ascertaining whether compensation be paid, the time within which the person affected was permitted to change the user shall be taken into consideration.

Objections to draft scheme to be considered

38I

If within thirty days from the date of the publication of notice regarding the preparation of the draft scheme, any person affected thereby communicates in writing any objection relating to such scheme, the Local Planning Authority, or the officer appointed under sub-section (2) of section 38 C or section 38E shall consider such objection and may, at any time before submitting the draft scheme to the State Government as hereinafter provided, modify such scheme as it or he/she thinks fit.

Power of State Government to sanction draft scheme.

38J

- (1) The Local Planning Authority or, as the case may be, the officer aforesaid shall, not later than [three months] from the date of the publication of the notice in the Official Gazette, regarding the making of the draft scheme, submit the same with any modifications which it or he/she may have made therein together with a copy of objections received by it or him /her to the State Government, and shall at the same time apply for its sanction.
- (2) On receiving such application, after making such inquiry as it may think fit and consulting the Director of Town Planning/Chief Town Planner, the State Government may, not later than [three months] from the date of its submission, by notification in the Official Gazette, either sanction such draft scheme with or without modifications and subject to such conditions as it may think fit to impose or refuse to give sanction.
- (3) If the State Government sanctions such scheme, it shall in such notification state at what place and time the draft scheme shall be open to the inspection of the public and the State Government shall also state therein that copies of the scheme or any extract therefrom certified to be correct shall on application

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Effect of sanction  
draft scheme.

38K

be available for sale to public at a reasonable price.

- (1) Where a draft scheme has been sanctioned by the State Government under sub-section (2) of section 38J (hereinafter in this section, referred to as "the sanctioned draft scheme"), all lands required by the Appropriate Authority for the purposes specified in sub-clauses (b)(2), (b)(5), (b)(6) and (b)(7) of clause (ii) of sub-section (1) of section 38A shall vest absolutely in the Appropriate Authority free from all encumbrances.
- (2) Nothing in sub-section (1) shall affect any right of the owner of the land vesting in the Appropriate Authority under that sub-section.
- (3) The provisions of sections 38 ZF and 38ZG shall, mutatis mutandis applies, to the sanctioned draft scheme as if, -sanctioned draft scheme were a preliminary scheme.

Restrictions on use  
and development of  
land after  
declaration for town  
planning scheme.

38L

- (1) On or after the date on which a declaration of intention to make a scheme is published in the Official Gazette-

- (a) no person shall within the area included in the scheme, institute or change the use of any land or building or carry out any development, unless such person has applied for and obtained the necessary permission which shall be contained in a commencement certificate granted by the Local Planning Authority in the prescribed form;
- (b) the Local Planning Authority on receipt of such application shall at once furnish the applicant with a written acknowledgment of its receipt, and
  - (i) in the case of a Local Planning Authority other than a municipal corporation, after inquiry and where an Arbitrator has been appointed in respect of a draft scheme after obtaining his/her approval; or
  - (ii) in the case of a municipal corporation/council, after inquiry, may either grant or refuse such certificate, or grant it subject to such conditions as the Local Planning Authority may, with the previous approval of the State Government thinks fit to impose.



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- (2) If a municipal corporation gives permission under clause (b) of sub-section (1), it shall inform the Arbitrator/State Government accordingly, and shall send him/her a copy of the plan:

Provided that, a municipal corporation/council shall not grant a commencement certificate for any purpose which is in conflict with the provisions of the draft scheme, unless the corporation/council first obtains concurrence of the Arbitrator/State Government for the necessary change in the proposal of the draft scheme.

- (3) If a Local Planning Authority communicates no decision to the applicant within two months from the date of such acknowledgment, the applicant shall be deemed to have been granted such certificate.
- (4) If any person contravenes the provisions contained in clause (a) or clause (b) of sub-section (1), the Local Planning Authority may direct such person by notice in writing to stop any development in progress, and after making inquiry in the prescribed manner, remove, pull down or alter any building or other development or restore the land in respect of which such contravention is made to its original condition.
- (5) Any expense incurred by the Local Planning Authority under sub-section (4) shall be a sum due to the Local Planning Authority under this Act from the person in default or the owner of the plot.
- (6) The provisions of Chapter VII shall, mutatis mutandis apply in relation to the development and use of land included in a town planning scheme in so far as they are not inconsistent with the provisions of the Chapter.
- (7) The restrictions imposed by this section shall cease to operate in the event of the State Government refusing to sanction the draft scheme or the final scheme or in the event of the withdrawal of the scheme under section 38ZD or in the event of the declaration lapsing under sub-section (2) of section 38C.

Power of State Government to suspend rule, bye-law, etc.

38M

- (1) Where a Local Planning Authority has published a declaration under section 38C the State Government may, on an application of the Local Planning Authority by order published in the Official Gazette, suspend to such extent only as may be necessary for

the proper carrying out of the scheme any rule, bye law, regulation, notification or order made or issued under any law which the Legislature of the State is competent to amend.

- (2) Any order issued under sub-section (1) shall cease to operate in the event of the State Government refusing to sanction the scheme, or in the event of the withdrawal of the scheme under section 38ZD or in the event of the coming into force of the final scheme or in the event of the declaration lapsing under sub-section (2) of section 38C.
- Disputed ownership. 38N (1) Where there is a disputed claim as to the ownership of any piece of land included in an area in respect of which a declaration of intention to make a town planning scheme has been made and any entry in the record of rights or mutation register relevant to such disputed claim is inaccurate or inconclusive, an inquiry may be held on an application being made by the Local Planning Authority or the Arbitrator at any time prior to the date on which the arbitrator draws up the final scheme under sub-section (3) of section 38O by such officer as the State Government may appoint for the purpose of deciding who shall be deemed to be owner for the purposes of this Act.
- (2) Such decision shall not be subject to appeal but it shall not operate as a bar to a regular suit.
- (3) Such decision shall, in the event of a civil court passing a decree which is inconsistent therewith, be corrected, modified or rescinded in accordance with such decree as soon as practicable after such decree has been brought to the notice of the Local Planning Authority either by the Civil Court or by some person affected by such decree.
- (4) Where such a decree of the civil court is passed after final scheme has been sanctioned by the State Government under section 38ZC, such final scheme shall be deemed to have been suitably varied by reason of such decree.
- The Arbitrator and the Tribunal of appeal 38O (1) Within one month from the date on which the sanction of the State Government to the draft scheme is published in the Official Gazette, the State Government shall for purposes of one or more planning schemes received by it for sanction appoint any person possessing such qualifications as may be prescribed to be an Arbitrator with sufficient

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establishment and his/her duties shall be as hereinafter provided.

(2) The State Government may, if it thinks fit at any time, remove for incompetence or misconduct or replace for any good and sufficient reason an Arbitrator appointed under this section and shall forthwith appoint another person to take his/her place and any proceeding pending before the Arbitrator immediately before the date of his/her removal or replacement shall be continued and disposed of by the new Arbitrator appointed in his/her place.

(3) The Arbitrator shall, after following the prescribed procedure, sub-divide the town planning scheme into a preliminary scheme and a final scheme. The Arbitrator shall prepare preliminary scheme within nine months and as far as possible the final scheme within eighteen months, from the date of his appointment:

Provided that, the State Government may, by an order in writing, extend the said period by such further period not exceeding three months in the aggregate and any such order extending the period may be made so as to have retrospective effect:

(4) In the preliminary scheme, the Arbitrator shall, -

- (i) after notice given by him/her in the prescribed manner, define, demarcate and decide the areas allotted to, or reserved for the public purpose or purposes of the Local Planning Authority, and also the final plots;
- (ii) after notice given by him/her in the prescribed manner, decide the person or persons to whom a final plot is to be allotted; when such plot is to be allotted; and when such plot is to be allotted to persons in ownership in common, decide the shares of such persons;
- (iii) provide for the total or partial transfer of any right in an original plot to a final plot or provide for the transfer of any right in an original plot in accordance with the provisions of section 38ZR.
- (iv) determine the period within which the works provided in the scheme shall be completed by the Appropriate Authority.

(5) The Arbitrator shall submit the preliminary scheme



so prepared to the State Government for sanction and shall also prepare and submit to the State Government the final scheme for sanction in accordance with the provisions of sub-section (6).

- (6) In the final scheme, the Arbitrator shall, -
- (i) estimate the amount of compensation payable under section 38H;
  - (ii) calculate the proportion in which the increment in respect of the final plots included in the final scheme shall be liable to contribution to the cost of the scheme in accordance with the provisions contained in section 38ZN;
  - (iii) estimate the value of and fix the difference between the values of the original plots and the values of the final plots included in the final scheme, in accordance with the provisions contained in clause (f) of sub-section (1) of section 38ZN;
  - (iv) estimate the compensation payable for the loss of the area of the original plot in accordance with the provisions contained in clause (f) of sub-section (1) of section 38ZN in respect of any original plot which is wholly acquired under the scheme;
  - (v) estimate the value of final plots included in the final scheme and the increment to accrue in respect of such plots in accordance with the provisions of section 38ZO;
  - (vi) determine the amount to be deducted from or added to, as the case may be, the contribution leviable from a person in accordance with the provisions contained in section 38ZQ;
  - (vii) estimate in reference to claims made before him/her, after the notice given by him/her in the prescribed manner, the compensation to be paid to the owner of any property or right injuriously affected by the making of a town planning scheme in accordance with the provisions contained in section 38ZS;
  - (viii) determine whether the areas allotted or reserved for the public purpose or purposes of the Local Planning Authority are beneficial wholly or partly to the owners or residents within the area of the scheme;

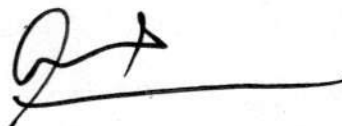


- (ix) estimate the proportion of the sums payable as compensation of each plot used, allotted or reserved for the public purpose or purposes of the Local Planning Authority which is beneficial partly to the owners or residents within the area of the scheme and partly to the general public, which shall be included in the cost of the scheme;
  - (x) determine the proportion of contribution to be levied on each plot used, allotted or reserved for a public purpose or purposes of the Local Planning Authority which is beneficial partly to the owners or residents within the area of the scheme and partly to the general public;
  - (xi) determine the amount of exemption, if any, from the payment of the contribution that may be granted in respect of plots or portions thereof exclusively used or occupied for religious or charitable purposes on the date on which the final scheme is drawn up under sub-section (7);
  - (xii) calculate the contribution to be levied on each final plot included in the final scheme;
  - (xiii) where a plot is subject to a mortgage with possession or a lease, decide the proportion of compensation payable to or contribution payable by the mortgagee or lessee on one hand and the mortgagor or lessor on the other.
- (7) The Arbitrator shall draw in the prescribed form the preliminary and final schemes in accordance with the draft scheme:

Provided that, -

- (a) he/she may make variation in the draft scheme;
- (b) he/she may, with the previous sanction of the State Government, after hearing the Local Planning Authority and any owners who may raise objections, make substantial variations in the draft scheme.

Explanation. -For the purposes of clause (b) of this provision, "substantial variation" means increase in the total cost of the draft scheme by more than twenty per cent. or, two lakhs' rupees, whichever is higher, on account of the provision of new works or the reservation of additional sites for public



purposes included in the final scheme drawn up by the Arbitrator.

Certain decisions of Arbitrator to be final. 38P

Except in matters arising out of [clauses (i), (ii), (iv), (v) and clauses (vii) to (xiii) (both inclusive) of sub-section (6)] of section 38O, every decision of the Arbitrator shall be final and conclusive and binding on all parties including the Local Planning Authority.

Appeal.

38Q

(1) Any decision of the Arbitrator under [clauses (i), (ii), (iv), (v) and clauses (vii) to (xiii) (both inclusive) of sub-section (6)] of section 38O, shall be forthwith communicated to the party concerned including the Local Planning Authority; and any party aggrieved by such decision may, within two months from the date of communication of the decision, apply to the Arbitrator to make a reference to the Tribunal of Appeal for decision of the appeal.

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

Constitution of Tribunal of Appeal. 38R

(1) The Tribunal of Appeal shall consist of a President and two Assessors.

(2) The President shall be the District Judge or the Civil Judge of the Senior Division as may be appointed by the State Government on the recommendation of the District Judge:

Provided that, the State Government may, if it thinks fit, appoint as President any person who has held the post (i) Judge of the High Court and (ii) elsewhere of a Judge of the District Court.

(3) The President shall appoint fit and proper persons as Assessors, who shall as far as possibly have knowledge, or experience of town planning, valuation of land or civil engineering.

(4) The President and the Assessors shall be appointed members of the Tribunal of Appeal for such period as may be required by such Tribunal to decide an appeal made against the decision under clauses (ii), (v), (vii), (ix) or clause (x) sub-section (6) of section 38O.

(5) The State Government may, if it thinks fit, remove for incompetence or misconduct or any other good and sufficient reason any Assessor appointed under sub-section (3).

(6) If any Assessor is removed or dies or refuses or

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Arbitrator to assist Tribunal in advisory capacity and his/her remuneration.	38S	<p>(1) The Arbitrator shall be present at the proceedings before the Tribunal of Appeal. He/she shall not be required to give evidence in such proceedings but the President may require him/her to assist the Tribunal in an advisory capacity.</p> <p>(2) Where the Arbitrator is required under sub-section (1) to assist the Tribunal of Appeal, he/she shall, save where he/she is a salaried officer of Government, be entitled to such fees as the State Government may from time to time determine.</p>
Place where Tribunal may sit.	38T	The Tribunal of Appeal may sit either at the headquarters of the President or at any other place within the local limits of his/her jurisdiction which he/she may deem convenient for the consideration and decision of any matter before such Tribunal.
Decision of question of law and other questions.	38U	All questions of law and procedure shall be decided by the President. All other questions shall be decided by the President and the two Assessors or by a majority.
Powers of Tribunal to decide matter finally.	38V	<p>(1) The Tribunal of Appeal shall, after making such inquiry as it may think fit, decide all matters arising out of clauses (ii), (v), (vii), (ix) or clause (x) sub-section (6) of section 38O in respect of appeals referred to the Tribunal: and may either confirm the proposals of the Arbitrator or direct him/her where necessary to reconsider, vary or modify his/her proposals only in respect of such matters aforesaid.</p> <p>(2) Every decision of the Tribunal of Appeal shall be final and conclusive and binding on all persons and parties including the Planning Authorities.</p>
Tribunal not to be Court.	38W	Nothing contained in this Act shall be deemed to constitute the Tribunal of Appeal to be a Court.
Remuneration of Arbitrator and Assessors and payment of incidental expenses of Tribunal.	38X	<p>(1) The President and the Assessors shall, save where they are salaried Government Officers, be entitled to such remuneration, either by way of monthly salary or by way of fees or partly in one way and partly in the other, as the State Government may, from time to time, decide:</p> <p>Provided that, in exceptional cases where the scheme is a large one or the work involved is complicated, the State Government may authorise the President and the Assessors, even if they are salaried Government Officers to receive such</p>

special salary or remuneration, as the State Government may by order, decide from time to time.

- (2) The salary of the President of the Tribunal of Appeal or an Assessor who is a salaried Government Officer, and any remuneration payable under sub-section (1) of this section and fees payable to an Arbitrator under sub-section (2) of section 38S and all expenses incidental to the working of the Tribunal of Appeal shall, unless the State Government otherwise determines, be defrayed out of the funds of the Local Planning Authority and shall be added to the cost of the scheme.

Decision of Arbitrator to be final in certain matters.

38Y

- (1) Where no appeal has been made under section 38Q, the decisions of the Arbitrator under clauses (ii), (v), (vii), (ix) or clause (x) sub-section (6) of section 38O shall be final and binding on the parties.

- (2) The Tribunal of Appeal shall send a copy of its decision in appeal to the Arbitrator who shall then, where necessary, make variation in the scheme in accordance with such decision and may also rectify such errors or omissions, if any, as may have been brought to his/her notice after publication of the final scheme as drawn up by him/her under sub-section (1) and (2) of section 38V; and the Arbitrator shall forward such final scheme together with a copy of his/her decisions under section 38O and a copy of the decision of the Tribunal of Appeal in appeal to the State Government for the sanction of the final scheme.

Possession of land in advance of town planning scheme.

38Z

- (1) Where a Local Planning Authority thinks that, in the interest of the public, it is necessary to undertake forthwith any of the works included in a draft scheme for a public purpose, the Local Planning Authority shall make an application through the Arbitrator to the State Government to vest in it the land without any building shown in the draft scheme.

- (2) The State Government may, if satisfied that it is urgently necessary in the public interest to empower the Local Planning Authority to enter on such land for the purpose of executing any of such works, direct the Arbitrator, by notification in the Official Gazette, to take possession of the land, or may, after recording its reasons refuse to make any such

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direction:

Provided that, no such direction shall be made without the Arbitrator giving a hearing to any person or Local Planning Authority affected by such direction, and considering the report of the Arbitrator in that behalf.

- (3) The Arbitrator shall then give a notice in the prescribed manner to the person interested in the land the possession of which is to be taken by Arbitrator requiring him/her to give possession of his/her land to the Arbitrator or any person authorised by him/her in this behalf within a period of one month from the date of service of notice ; and if no possession is delivered within the period specified in the notice, the Arbitrator shall take possession of the land and shall handover the land to the Local Planning Authority. Such land shall thereupon, notwithstanding anything contained in this Act, vest absolutely in the Local Planning Authority free from all encumbrances.

Superintendent of Police or Magistrate to enforce delivery of possession of land.

38ZA

- (1) If the Arbitrator is opposed or impeded in taking possession of the land under section 38Z, he/she shall request the Superintendent of Police, or as the case may be, the District Magistrate to enforce the delivery of possession of the land to the Arbitrator. The Superintendent of Police or the District Magistrate, as the case may be, shall take or cause to be taken such steps and use or cause to be used such force as may be reasonably necessary for securing the delivery of possession of the land to the Arbitrator.
- (2) For the avoidance of doubt, it is hereby declared that the power to take steps under sub-section (1) includes the power to enter upon any land or other property whatsoever.

Owner of land of which possession is taken entitled to interest.

38ZB

- (1) Where possession of land is taken by the Arbitrator under section 38Z or 38ZA, the person interested in such land shall be entitled to interest at the rate of 4 per cent per annum on the amount of compensation payable to him/her under the final scheme in respect of the said land from the date on which such possession is taken till the date on which amount of compensation is paid to him/her by the Local Planning Authority.
- (2) The Local Planning Authority may, at the request of the person interested, pay after consulting the

Arbitrator, where possession of land is taken, the Local Planning Authority, or Development Authority, or as the case may be, the Appropriate Authority may, at the request of the person interested, pay an advance not exceeding two-thirds of the amount estimated to be payable to such person on account of the land after executing an agreement.

- (3) Unless otherwise provided in this Act, a Local Planning Authority or Development Authority shall be competent to make any agreement with any person or party in respect of any matter which is provided for under this Act subject to the right of the State Government to modify or disallow such agreement.
- (4) Such agreement shall not in any way affect the rights of the State Government or third parties, but it shall be binding on the parties to the agreement notwithstanding any decision that may be passed by the State Government:

Provided that, if the agreement is modified by the State Government, either party shall have the option of avoiding it if it so elects.

Sanction of State Government to preliminary or final scheme.

38ZC

- (1) On receipt of the preliminary scheme or, as the case may be, the final scheme, the State Government may, -
- (a) in the case of the preliminary scheme, within a period of two months from the date of its receipt, and
- (b) in the case of the final scheme, within a period of three months from the date of its receipt, by notification in the Official Gazette, sanction the preliminary scheme or the final scheme or refuse to give such sanction, provided that in sanctioning any scheme, the State Government may make such modifications as may, in its opinion, be necessary for the purpose of correcting an error, irregularity or informality.
- (2) Where the State Government sanctions the preliminary scheme or the final scheme, it shall state in the notification,
- (a) the place at which the scheme shall be kept open for inspection by the public; and
- (b) a date (which shall not be earlier than one

month after the date of the publication of the notification) in which all the liabilities created by the scheme shall come into force:

Provided that, the State Government may, from time to time, by notification in the Official Gazette, extend such date, by such period, not exceeding three months at a time, as it thinks fit.

Withdrawal of scheme.

38ZD

- (3) On and after the date fixed in such notification, the preliminary scheme or the final scheme, as the case may be, shall have effect as if it were enacted in this Act.
- (1) If at any time before the preliminary scheme is forwarded by the Arbitrator to the State Government, a representation is made to the Arbitrator by the Local Planning Authority and a majority of the owners in the area that the scheme should be withdrawn, the Arbitrator shall, after inviting from all persons interested in the scheme objections to such representation, forward such representation together with the objections, if any, to the State Government.

Effect of preliminary scheme

38ZE

- (2) After making such inquiry as it may think fit, the State Government may, by notification in the Official Gazette, direct that the scheme shall be withdrawn; and upon such withdrawal, no further proceedings shall be taken in regard to such scheme.
- On and after the day on which a preliminary scheme comes into force-

- (a) all lands required by the Local Planning Authority shall, unless it is otherwise determined in such scheme, vest absolutely in the Local Planning Authority free from all encumbrances;
- (b) all rights in the original plots which have been reconstituted shall determine and the reconstituted plots shall become subject to the rights settled by Arbitrator;

Power of Local Planning Authority to evict summarily.

38ZF

- (1) On and after the day on which a preliminary scheme comes into force, any person continuing to occupy any land which he/she is not entitled to occupy under the preliminary scheme may, in accordance with the prescribed procedure, be summarily evicted by the Local Planning Authority or any of its officers authorised in that behalf by that Authority.
- (2) If the Local Planning Authority is opposed or



impeded in evicting such person or taking possession of the land from such person, the Superintendent of Police, or as the case may be, the District Magistrate shall at the request of the Local Planning Authority enforce the eviction of such person or secure delivery of possession of the land to the Local Planning Authority as may be necessary.

Power to enforce scheme.

38ZG

- (1) On and after the day on which a preliminary scheme comes into force, the Local Planning Authority may, after giving the prescribed notice and in accordance with the provisions of the scheme, -
  - (a) remove, pull down or alter any building or other work in the area included in the scheme which is such as to contravene the scheme or in the erection of which or carrying out of which, any provision of the scheme has not been complied with;
  - (b) execute any work which it is the duty of any person to execute under the scheme, in any case where it appears to the Local Planning Authority that delay in the execution of the work would prejudice the efficient operation of the scheme.
- (2) Any expenses incurred by the Local Planning Authority under this section may be recovered from the person in default or from the owner of the original plot in the manner provided for the recovery of sums due to the Local Planning Authority under the provisions of this Act.
- (3) If any action taken by the Local Planning Authority is questioned, the matter shall be referred to the State Government or any officer authorised by the State Government in this behalf; and the decision of the State Government or of the officer, as the case may be, shall be final and conclusive and binding on all persons.
- (4) No person shall be entitled to compensation in respect of any damage, loss or injury resulting from any action taken by the Appropriate Authority under the provisions of this section except in respect of the building constructed or work begun before the date referred to in sub-section (1) and only in so far as such building or work has proceeded until that date:  
 Provided that, any claim to compensation, which is not barred by this sub-section shall be subject to the




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Power to vary  
scheme on ground  
of error, irregularity  
or informality.

38ZH

- condition of any agreement entered into between the claimant and the Appropriate Authority.
- (5) The provisions of this section shall not apply to any operational construction undertaken by the State Government or the Central Government.
- (1) If after the final scheme has come into force, the Local Planning Authority considers that the scheme is defective on account of an error, irregularity or informality or that the scheme needs variation or modification of a minor nature, the Local Planning Authority may apply in writing to the State Government for variation of the scheme.
- (2) If, on receiving such application or otherwise, the State Government is satisfied that the variation required is not substantial, the State Government shall, by notification in the Official Gazette, authorise or direct the Local Planning Authority to prepare a draft of such variation and publish a notice in the Official Gazette, and in such other manner as may be prescribed stating that a draft variation has been prepared.
- (3) The notice of preparation of draft variation published under sub-section (2) shall state every amendment proposed to be made in the scheme, and if any such amendment relates to a matter specified in any of the sub-clauses (a) to (b) of clause (ii) of sub-section (1) of section 38A, the draft variation shall also contain such other particulars as may be prescribed.
- (4) The draft variation shall be open to the inspection of the public at the office of the Local Planning Authority during office hours and copies of such draft variation or any extract therefrom certified to be correct shall be available for sale to the public at a reasonable price.
- (5) Not later than one month of the date of the publication of the notice regarding preparation of draft variation, any person affected thereby may communicate in writing his/her objections to such variation to the State Government, and send a copy thereof to the Local Planning Authority.
- (6) After receiving the objections under sub-section (5), the State Government may, after consulting the Local Planning Authority and after making such enquiry as it may think fit, by notification in the Official Gazette, -

  
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- (a) appoint an Arbitrator, and thereupon the provisions of this Chapter shall, so far as may be, apply to such draft variation, as if it were a draft scheme submitted to the State Government for sanction;
  - (b) sanction the variation with or without modifications; or
  - (c) refuse to sanction the variation.
- (7) From the date of the notification sanctioning the variation, with or without modifications, such variation shall take effect as if it were incorporated in the scheme.

Power to vary town planning scheme. 38ZI

Notwithstanding anything contained in section 38ZC, a town planning scheme may at any time be varied by a subsequent scheme made, published by means of notice and sanctioned in accordance with this Act;

Provided that, when a scheme is so varied, the provisions of this Chapter shall so far as may be applicable, apply to such variation and making of subsequent scheme; and the date of the declaration of intention of the Local Planning Authority to vary the scheme shall, for the purposes of sections 38L, 38M, 38ZN, 38ZO and 38ZQ, be deemed to be the date of declaration of intention to make a scheme referred to in those sections.

Apportionment of cost of scheme withdrawn or not sanctioned. 38ZJ

In the event of a town planning scheme being withdrawn or sanction to a final scheme being refused by the State Government, the State Government may direct that the costs of the scheme shall be borne by the Local Planning Authority or be paid to the Local Planning Authority by the owners concerned, in such proportion as the State Government may in each case determine.

Right to appear by recognised agent. 38ZK

Every party to any proceeding before an Arbitrator or the Tribunal of Appeal shall be entitled to appear either in person or by his/her agent authorised in writing in that behalf.

Power to compel attendance of witnesses. 38ZL

For the purpose of this Act, an officer appointed under sub-section (1) of section 38N or an Arbitrator or the Tribunal of Appeal may summon and enforce the attendance of witnesses including the parties interested or any of them and compel them to give evidence and compel the production of documents by the same means and as far as possible, in the same manner as is provided in the case of a Civil Court by the Code of Civil Procedure, 1908.



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Joint development plans and joint town planning schemes.

38ZM

- (1) When the State Government or two or more Planning Authorities are of opinion that the interests of contiguous areas within the jurisdiction of such Planning Authorities can best be served by the making of a joint development plan or a joint town planning scheme, the Local Planning Authority, with prior approval of the State Urban and Country Planning Board constitute a Sub-Divisional Local Planning Authority under sub-section (5) of section 9 of the Act.
- (2) Such Sub-Divisional Local Planning Authority, when duly constituted, shall make a declaration of the intention to make a joint development plan or a joint town planning scheme in respect of the contiguous areas in the manner provided in section 38B and thereafter, the Sub-Divisional Local Planning Authority shall have all the powers and be liable to all the duties of a Local Planning Authority under this Act and all the foregoing provisions of this Act in respect of the procedure to be followed in preparing, publishing and submitting a development plan, or, as the case may be, a town planning scheme for sanction of the State Government shall apply so far as may be applicable.
- (3) The joint development plan or the joint town planning scheme shall specify the parts of the joint development plan or the joint town planning scheme to be executed by the several Planning Authorities in the several contiguous areas, and the several parts of the joint development plan or joint town planning scheme shall, when the joint development plan or the joint town planning scheme is sanctioned by the State Government under section 38ZC, have effect in the several contiguous areas as if they are separate development plans or town planning schemes :

Provided that, a joint development plan, or a joint town planning scheme may be executed partly or wholly by the two or more Planning Authorities concerned jointly as they may decide in this behalf.

Cost of schemes.

38ZN

- (1) The cost of a town planning scheme shall include, -
- (a) all sums payable by a Local Planning Authority under the provisions of this Act which are not specifically excluded from the costs of the scheme;
- (b) all sums spent or estimated to be spent by a

Local Planning Authority with reference to the period during which the preliminary scheme is to be implemented, after it is sanctioned under section 38ZC;

- (c) all sums payable as compensation for land reserved or allotted for any public purpose or purpose of a Local Planning Authority which is solely beneficial to the owners or residents within the area of the scheme;
  - (d) such portion of the sums payable as compensation for land reserved or allotted for any public purpose or purpose of the Local Planning Authority which is beneficial partly to the owners or residents within the area of the scheme and partly to the general public, as is attributable to the benefit accruing to the owner or residents within the area of the scheme from such reservation or allotment;
  - (e) all legal expenses incurred by the Local Planning Authority in the making and in the execution of the scheme;
  - (f) the amount by which the total of the values of the original plots exceeds the total of the values of the plots included in the final scheme, each of such plots being estimated at its market value at the date of declaration of intention to make a scheme, with all the buildings and works thereon at that date and without reference to improvements contemplated in the scheme other than improvements due to the alteration of its boundaries.
  - (g) twenty per cent of the amount of the cost of the infrastructure provided in the area adjacent to the area of the scheme as is necessary for the purpose of and incidental to the scheme.
- (2) If in any case the total of the values of the plots included in the final scheme exceeds the total of the value of the original plots, each of such plots being estimated in the manner provided in clause (f) of sub-section (1), then the amount of such excess shall be deducted in arriving at the costs of the scheme as defined in sub-section (1).

Calculation of  
increment.

38ZO

For the purposes of this Act, the increment shall be deemed to be the amount by which at the date of the declaration of intention to make a scheme, the market

value of any plot with reference to the improvements contemplated in the scheme on the assumption that the scheme has been completed would exceed on the same date the market value of the same plot estimated without reference to such improvements:

Provided that, in estimating such values, the value of buildings or other works erected or in the course of erection on such plot shall not be taken into consideration.

Contribution  
towards cost of  
scheme.

38ZP

- (1) The cost of the scheme shall be met wholly or in part by a contribution to be levied by the Local Planning Authority on each final plot included in the final scheme calculated in proportion to the increment which is estimated to accrue in respect of such plot by the Arbitrator:

Provided that-

- (i) no such contribution shall exceed half the increment estimated by the Arbitrator to accrue in respect of such final plot, subject to the condition that where the total cost of a scheme exceeded half the total amount of increments, the proportion of such contribution shall not be less than half the increment;
- (ii) no such contribution shall be levied on a plot used, allotted or reserved, for a public purpose or purpose of the Local Planning Authority, such plot being solely for the benefit of the owners or residents within the area of the scheme;
- (iii) the contribution levied on a plot used, allotted or reserved for a public purpose or purposes of the Local Planning Authority which is beneficial partly to the owners or residents within the area of the scheme and partly to the general public shall be calculated in the proportion to the benefit estimated to accrue to the general public from such use, allotment or reservation.

- (2) The owner of each final plot included in a final scheme shall be primarily liable for the payment of the contribution leviable in respect of such plot.

Certain amount to  
be added to or  
deducted from  
contribution

38ZQ

The amount by which the total value of final plots included in a final scheme with all the buildings and works thereon allotted to the person falls short of or exceeds the total value of the original plots with all the buildings and works thereon of such person shall be



leviable from  
person.

deducted from or added to, as the case may be, the contribution leviable from such person, each of such plots being estimated at its market value at the date of the declaration of intention to make a scheme and without reference to improvements contempt in the scheme other than improvements due to the alteration of its boundaries:

Provided that, in lieu of the amount that qualifies to be deducted from the contribution leviable from a person, the Local Planning Authority or the Arbitrator may, at the request of such person, grant FSI (Floor Space Index) equivalent to the reduction in the area of his/her original plot resulting from reconstitution.

Transfer of right  
from original to  
reconstituted plot or  
extinction of such  
right.

38ZR

Any right in an original plot which in the opinion of the Arbitrator is capable of being transferred wholly or in part, without prejudice to the making of a town planning scheme to a final plot shall be so transferred and any right in an original plot which in the opinion of the Arbitrator is not capable of being so transferred shall be extinguished:

Provided that, an agricultural lease shall not be transferred from an original plot to a final plot without the consent of all the parties to such lease.

Compensation in  
respect of property  
or right injuriously  
affected by scheme.

38ZS

The owner of any property or right which is injuriously affected by the making of a town planning scheme shall, subject to provisions of section 38ZR, if he/she makes a claim before the Arbitrator within sixty days of the receipt of the notice from the Arbitrator, be entitled to obtain compensation in respect thereof from the Local Planning Authority or from any person benefited or partly from the Local Planning Authority and partly from such person as the Arbitrator may in each case determine.

Exclusion or  
limitation of  
compensation in  
certain cases.

38ZT

- (1) No compensation shall be payable in respect of any property or private right of any sort which is alleged to be injuriously affected by reason of any provisions contained in the town planning scheme, if under any other law for the time being in force applicable to the area for which such scheme is made, no compensation is payable for such injurious affection.
- (2) Property or a private right of any sort shall not be deemed to be injuriously affected by reason of any provision inserted in a town planning scheme which with a view to securing the amenity of the area included in such scheme or any part thereof, imposes any conditions and restrictions in regard to any of the matters specified in sub-section (2) of section 38F.

  
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Provision for cases in which amount payable to owner exceeds amount due from him/her. 38ZU

If the owner of an original plot is not provided with a final plot in the final scheme or if the contribution to be levied from him/her under section 38ZQ is less than the total amount to be deducted therefrom under any of the provisions of this Act, the net amount of his/her loss shall be payable to him/her by the Local Planning Authority in cash or in such other way as may be agreed upon by the parties.

Provision for case in which value of developed plot is less than amount payable by owner. 38ZV

(1) If from any cause the total amount which would be due to a Local Planning Authority under the provisions of this Act from the owner of a final plot to be included in the final scheme exceeds the value of such plot estimated on the assumption that the scheme has been completed, the Arbitrator shall, at the request of the Local Planning Authority, direct the owner of such plot to make payment to the Local Planning Authority of the amount of such excess.

(2) If such owner fails to make such payment within the prescribed period, the Arbitrator shall, if the Local Planning Authority so requests acquire the original plot of such defaulter and apportion the compensation among the owner and other persons interested in the plot on payment by the Local Planning Authority of the value of such plot estimated as its market value at the date of the declaration of intention to make a scheme and without reference to improvements contemplated in the scheme ; and thereupon, the plot included in the final scheme shall vest absolutely in the Local Planning Authority free from all encumbrances but subject to the provisions of this Act :

Provided that, the payment made by the Local Planning Authority on account of the value of the original plot shall not be included in the costs of the scheme.

Payment adjustment of account. by 38ZW

All payments due to be made to any person by a Local Planning Authority under this Act shall, as far as possible, be made by an adjustment in such person's account with the Local Planning Authority in respect of the final plot concerned or of any other plot in which he/she has an interest, and failing such adjustment shall be paid in cash or in such other way as may be agreed upon by the parties.

Payment of net amount due to Local Planning Authority. 38ZX

(1) The net amount payable under the provisions of this Act by the owner of a final plot included in a final scheme may at the option of the contributor be paid in one sum or annual instalments not exceeding ten.

If the owner elects to pay the amount by instalments, interest at 6 percent per annum shall be charged on the net amount payable. If the owner of a plot fails to elect the option on or before the date specified in a notice issued to him/her in that behalf by the Local Planning Authority, he/she shall be deemed to have elected the option of paying contribution by instalments and the interest on the contribution shall be calculated from the date specified in the notice, being the date before which he/she was required to make an election as aforesaid:

Provided that, where an owner elects to pay the amount in one sum but fails to do so, interest at 6 percent per annum shall be payable by him/her to the Local Planning Authority from the date specified in the notice to the date of payment.

- (2) Where two or more final plots included in a final scheme are in the same ownership, the net amount payable by such owner under the provisions of this Act shall be distributed over his/her several final plots in proportion to the increment which is estimated to accrue in respect of each final plot unless the owner and the Local Planning Authority agree to a different method of distribution.

Power of Local  
Planning Authority  
to make agreement.


38ZY

- (1) A Local Planning Authority shall be competent to make any agreement with any person in respect of any matter which is to be provided for in a town planning scheme subject to the power of the State Government to modify or disallow such agreement and unless it is otherwise expressly provided therein, such agreement shall take effect on and after the day on which the town planning scheme comes into force.

- (2) Such agreement shall not in any way affect the duties of the Arbitrator as stated in section 38O or the rights of third parties, but it shall be binding on the parties to the agreement, notwithstanding any decision that may be passed by the Arbitrator:

Provided that, if any agreement contains any provisions which are inconsistent with the final scheme as drawn up by the Arbitrator under section 38O or the final scheme as sanctioned by the State Government under section 38ZC such an agreement shall be void:

Provided further that, if the agreement is modified

  
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- by the State Government, either party shall have the option of avoiding it if it so elects.
- Recovery of arrears. 38ZZ (1) Any sum due to a Local Planning Authority under this Act, rule or any regulation made thereunder shall be a first charge on the plot on which it is due, subject to the prior payment of land revenue, if any, due to the Government thereon.
- (2) Any sum due to the Local Planning Authority under this Act, rule or any regulation made thereunder which is not paid on demand on the day on which it becomes due or on the day fixed by the Local Planning Authority, shall be recoverable by the Local Planning Authority from the defaulter as if they were arrears of land revenue.
- (3) If any question arises whether a sum is due to the Local Planning Authority within the meaning of sub-section (2), it shall be referred to a tribunal constituted by the State Government consisting of one or more persons not connected with the Local Planning Authority or any authority subordinate to it or with the person by whom the sum is alleged to be payable which the tribunal shall, after making such inquiry as it may deem fit and after giving to the person by whom the sum is alleged to be payable, an opportunity of being heard, decided the question ; and the decision of the tribunal thereon shall be final and shall not be called in question in any court or before any other authority.
- (4) The procedure to be followed by the tribunal in deciding questions referred to it under sub-section (2) shall be such as may be prescribed by the State Government.
- Disposal of surplus amount. 38ZAA Where after completing and meeting all the costs of a scheme as provided in this Act, any amount from the sums paid to the Local Planning Authority under this Act remains as surplus, the Local Planning Authority shall, in consultation with the owners of the plots, spend such surplus amount for providing further amenities within the area of the scheme.
- Execution of works in final scheme by Local Planning Authority. 38ZAB (1) A Local Planning Authority shall complete all the works provided in a final scheme within the period prescribed in the final scheme by the Arbitrator under sub-section (3) of section 38O.
- Provided that, in exceptional circumstances on application by the Local Planning Authority, the State Government may by an order in writing

specifying those circumstances grant to the Local Planning Authority in this behalf further extension of time as it may think fit.

- (2) If the Local Planning Authority fails to complete the work within the prescribed period or within the period extended under sub-section (1), the State Government may, notwithstanding anything contained in subsection (1), require the Local Planning Authority to complete the works within a further period as it may consider reasonable or appoint an officer to complete such works at the cost of the Local Planning Authority and recover the cost from the Local Planning Authority in the manner provided as below; -

“Any expenses incurred by the State Government or by such person in exercising such power or performing such duty shall be paid out of the funds of such Board or Authority; and if the Board or Authority fails to pay the expenses, then the State Government may make an order directing any person who for the time being has custody of any such funds to pay such expenses from such funds, and such person shall be bound to obey such order”.

Penalty for removal of boundary stones.

38ZAC

Whoever wilfully destroys or injures or without lawful authority removes, a boundary stone or mark lawfully fixed or constructed, the Collector, on receipt of the intimation from the Arbitrator or the Local Planning Authority, may order such person to pay a fine, not exceeding rupees ten thousand for each stone or mark so destroyed, injured or removed as may in his/her opinion be necessary to defray the expenses of restoring the same.

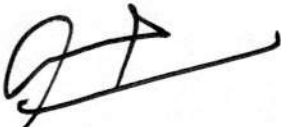
Power to make agreements

38ZAD

In the principal Act, after sub -section (2) of section 70, the following sub-section (3) shall be inserted, namely, -

- (3) (a) Unless otherwise provided in this Act, a Local Planning Authority or Development Authority shall be competent to make any agreement with any person or party in respect of any matter which is provided for under this Act subject to the right of the State Government to modify or disallow such agreement.
- (b) Such agreement shall not in any way affect the rights of the State Government or third parties, but it shall be binding on the parties to the agreement notwithstanding any decision that may be passed by the State Government:

Provided that, if the agreement is modified by

  
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the State Government, either party shall have the option of avoiding it if it so elects.

Insertion of clause  
(za)

In the principal Act, after clause (z) of sub-section (2) of section 71, the following clause shall be inserted, namely;

“(za) for the implementation of development schemes as per the provision of Development Plan/ Master Plan, may prepare policy documents for Town Planning Schemes/ Land Pooling Scheme, Local Area Plan, Transit Oriented Development, Transferable Development Right, Sponge City, New Town Development Authority, Greenfield cities, Neighbourhood improvement Plans, City Mobility/City logistics Plan, Risk Informed master Plan etc.


Power to remove 4  
doubts and  
difficulties.

- 1) If any difficulty arises in giving effect to the provisions of this Ordinance, the Government may, by order published in the Official Gazette make such provisions, not inconsistent with the provisions of this ordinance as appear to it to be necessary or expedient for removing the difficulty:
- 2) Provided that no order shall be made under this section after the expiry of one years from the date of commencement of this ordinance
- 3) Every order made under this section shall, as soon as may be after it is made be laid before the State Legislature.

I promulgate this Ordinance.



(Lt. Gen. KT Parnaik)  
PVSM, VYSM, YSM (Retd.)  
Governor  
Arunachal Pradesh



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Legislative Assembly  
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