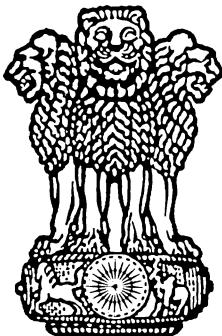


The



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PART IV—Bills introduced in the West Bengal Legislative Assembly; Reports of Select Committees presented or to be presented to that Assembly; and Bills published before introduction in that Assembly.

GOVERNMENT OF WEST BENGAL

LAW DEPARTMENT

Legislative

NOTIFICATION

No. 296-L.—8th March, 2010.—The Governor having been pleased to order, under rule 66 of the Rules

of Procedure and Conduct of Business in the West Bengal Legislative Assembly, the publication of the following Bill, together with the Statement of Objects and Reasons which accompanies it, in the *Kolkata Gazette*, the Bill and the Statement of Objects and Reasons are accordingly hereby published for general information:—

Bill No. 2 of 2010

**THE NEW TOWN, KOLKATA DEVELOPMENT AUTHORITY
(AMENDMENT) BILL, 2010.**

**A
BILL**

to amend the New Town, Kolkata Development Authority Act, 2007.

WHEREAS it is expedient to amend the New Town, Kolkata Development Authority Act, 2007, for the purposes and in the manner hereinafter appearing;

West Ben. Act
XXX of 2007.

It is hereby enacted in the Sixty-first Year of the Republic of India, by the Legislature of West Bengal, as follows:—

Short title and commencement.

1. (1) This Act may be called the New Town, Kolkata Development Authority (Amendment) Act, 2010.

(2) This section shall come into force at once, and the remaining sections shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint and different dates may be appointed for different provisions of this Act.

*The New Town, Kolkata Development Authority
(Amendment) Bill, 2010.*

(Clauses 2-6.)

Amendment of
section 10 of West
Ben. Act XXX of
2007.

Amendment of
section 11.

Amendment of
section 20.

Insertion of new
section 36A after
section 36.

2. In section 10 of the New Town, Kolkata Development Authority Act, 2007 (hereinafter referred to as the principal Act), in clause (a), for the words "an Executive Officer", the words "Chief Executive Officer" shall be substituted.

3. In section 11 of the principal Act, for the words "as Executive Officer," , the words "Chief Executive Officer," shall be substituted.

4. For sub-section (4) of section 20 of the principal Act, the following sub-section shall be substituted:—

"(4) The Member-Secretary or the Chief Executive Officer will jointly operate the account of the Development Authority with Finance Officer or any other officer to be designated by the Development Authority:

Provided that in the absence of Finance Officer or any other officer, the Member-Secretary and the Chief Executive Officer will jointly operate the account of the Development Authority.".

5. After section 36 of the principal Act, the following section shall be inserted:—

"Fees for certificate of enlistment for profession, trade and calling. 36A. (1) Every person engaged or intending to be engaged in any profession, trade or calling within the area of New Town Kolkata either by himself or by an agent or representative, shall obtain certificate of enlistment or get the same renewed annually, as the case may be, from the Development Authority upon presentation of an application in such form as may be specified by the Development Authority by regulation together with such application fee, not exceeding rupees two thousand five hundred, as may be determined by the Development Authority. Such application form shall be available from the Development Authority on payment of such fee as may be determined by the Development Authority:

Provided that such enlistment or renewal thereof shall not absolve such person from any liability to take out any license under any other law for the time being in force.

(2) The Development Authority shall, after making such enquiry as may be necessary and within thirty days of the receipt of the application, grant him such certificate if the application is in order, or shall reject the application if it is not in order.

(3) The Development Authority will determine the amount of renewal fee not exceeding five hundred rupees:

Provided that no profession, trade or calling, referred to in sub-section (1), shall be commenced or carried on without any license or permission, as required under any law, being obtained and produced before the Chairman, failing which the certificate of enlistment shall be revoked or shall not be renewed as the case may be."

Provided further that if it is subsequently detected that the profession, trade or calling is carried on without any license or permission the enlistment shall be revoked or shall not be renewed, as the case may be.".

6. In Part V, after Chapter X of the principal Act, the following Chapter shall be inserted:—

**"Chapter XA
Registration**

Record of
registration of
record of land,
building etc.
Authority.

86A. (1) Every title of land, building, dwelling unit, shop establishment or other unit situated within the area of New Town Kolkata shall be recorded in the register of the Development

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(Amendment) Bill, 2010.*

(Clause 7.)

(2) A person shall, on getting right, title and possession of land, building, dwelling unit, shop, establishment or any other unit, as specified in sub-section (1), apply to the Development Authority in such form as may be specified by the Development Authority to record the same.

(3) The format of register for registration shall be such as may be decided by the Development Authority.

Notice of transfer. 86B. (1) Whenever the title of any person to any land, building, dwelling unit, shop, establishment and other unit situated within the area of New Town Kolkata is transferred, such person, and the person to whom the title is so transferred shall, within three months after the execution of the instrument of transfer, if it is registered, or after the transfer is effected, if no instrument is executed, give notice of such transfer in writing to the Development Authority.

(2) On the death of any person primarily liable as aforesaid, the person on whom the title of such land or building devolves shall, within six months from the date of death of the former, give notice of such devolution in writing to the Chairman.

(3) The notice under this section shall be in such form as may be prescribed, and the transferee or the person on whom the title devolves shall, if so required, be bound to produce before the Development Authority any document evidencing the transfer or devolution.

(4) The Development Authority shall, on receipt of a notice of transfer or devolution of title under this section and upon payment of such fee as may be determined by regulations, record such transfer or devolution in a book and also in the relevant register or book of the Development Authority:

Provided that nothing in this sub-section shall derogate the power of the Development Authority to refuse mutation in a case where there is arrear of any dues to the Development Authority on account of the transfer to the predecessor-in-interest of the applicant.”.

Insertion of new sections after section 137.

7. After section 137 of the principal Act, the following sections shall be inserted:—

“Prohibition of advertisements without written permission of the Development Authority.

137A. (1) No person shall erect, exhibit, fix or retain upon or over any land, building, wall, hoarding, frame, post, kiosk or structure any advertisement, or display any advertisement to public view in any manner whatsoever, visible from a public street or public place (including any advertisement exhibited by means of cinematograph), in any place within the area of New Town Kolkata as described in the Schedule I of the Act, without the written permission of the Development Authority:

Provided that the permission under this sub-section shall be accorded subject to the submission of written consent, in original, of the owner or the authority of land, building, wall, hoarding, frame, post, kiosk or structure, if the same is not owned by the applicant, upon or over which the advertisement has been proposed to be erected, exhibited, fixed or retained, by the person intending to erect, exhibit, fix or retain any advertisement, or display any advertisement to public view:

Provided further that application for permission under this sub-section shall accompany a declaration by the advertiser stipulating a time-frame within which the advertisement shall be erased, removed or taken down:

Provided also that the application for permission shall also accompany a security deposit of such amount, as may be determined by the Development Authority by order, which shall, if the advertisement is not erased, removed or taken down by the advertiser within seven days after the expiry of the time-frame for erasure, removal or taken down

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(Amendment) Bill, 2010.*

(Clause 7.)

of such advertisement as mentioned in the declaration, be deemed to have been forfeited and the money, as forfeited, shall be used by the Development Authority for erasure, removal or taken down of the advertisement:

Provided also that when the advertisement is erased, removed or taken down within seven days after the expiry of the time-frame in the declaration, the security deposit shall forthwith be refunded.

(2) The Development Authority shall not grant such permission if—

- (a) a licence for the use of the particular site for purpose of advertisement has not been taken out; or
- (b) the advertisement contravenes any provisions of this Act or the rules or the regulations made thereunder, or any other Act or rule made thereunder for the purpose of advertisement.

(3) No person shall broadcast any advertisement, except on All India Radio or Doordarshan, without the written permission of the Development Authority.

(4) Notwithstanding anything contained in this section or elsewhere in this Act or in any other law for the time being in force, non-commercial advertisement or advertisement related to public interest may, with the consent, in writing, of the owner or the authority of the property be erected, exhibited, fixed or retained upon or over any land, building, wall, hoarding, frame, post, kiosk or structure, or displayed to public view in any manner whatsoever:

Provided that no permission of the Development Authority shall be required for erecting, exhibiting, retaining upon or over any land, building, wall, hoarding, frame, post, kiosk or structure displaying any advertisement under this sub-section:

Provided further that no non-commercial advertisement, other than the advertisement related to public interest, shall be erected, exhibited, fixed or retained on—

- (i) the surface of any solid wall, or on any other permanent structure, including the terrace, in such manner which shall cover, even partially, any door, window, ventilation shaft, chimney, air-conditioner, balcony or any other portion of the building covered with iron grill;
- (ii) the building or fence of any educational institution or hospital;
- (iii) the building used for religious purposes;
- (iv) the gate or exit requirement of any building;
- (v) the electrical installation, like transformer, lamp post, switchgear box, meter room;
- (vi) the water supply installation, like pump house, pump, water main, boosting station or machinery, water tank or water reservoir;
- (vii) the portion of any public transport;
- (viii) the buildings or the structures owned by the Central Government, State Government or any local authority or on any heritage building;
- (ix) the public street which may block the flow of pedestrians or traffic.

*Explanation.—*In this Chapter,—

- (a) the words ‘non-commercial advertisement’ mean the advertisement which is related to the campaign of any political party or any independent candidate to an election, or any campaign of any mass organization;
- (b) the words ‘advertisement related to public interest’ mean the advertisement which is related to promoting public health, preservation and conservation of environment, literacy campaign, fire protection, awareness of traffic rules, communal harmony, displayed by the

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(Amendment) Bill, 2010.*

(Clause 7.)

Government or registered non-Government organization, but shall not include the displaying advertisement, in any manner whatsoever, for the purposes of—

- (i) selling or buying goods, real estates, services, concepts in lieu of financial or any other consideration, or
- (ii) entertainment or recreational programme, or
- (iii) setting up any marketing chain or network, or
- (iv) admission in any tutorial, academy, training centre, commercial school, commercial college, or any other organization which imparts, or shall impart, any education, including technical education, in lieu of financial or any other consideration, or
- (v) recruitment of personnel through any private agency;
- (c) the words 'mass organisation' include any registered trade union, organized workers' organization, teachers' organization, youth organization, women organization, peasants' organization, students' organization, pensioners' organization, unorganized workers' organization,
- (d) the words 'political party' shall mean a political party as defined in clause (f) of section 2 of the Representation of the People Act, 1951.

(5) Whoever contravenes the provisions of sub-section (4) shall be guilty of an offence and shall, on conviction, be punished with imprisonment for a term which may extend to six months and with fine not exceeding fifty thousand rupees:

Provided that if such contravention is made for the benefit of any political party, or any mass organisation, or an independent candidate, then such other person and every president, chairman, director, partner, manager, secretary, agent or any other person, who was in charge of, and was responsible to such political party or mass organisation or independent candidate, shall also be deemed to be guilty of the offence and shall be liable to be proceeded and punished accordingly:

Provided further that nothing contained in this sub-section shall render such other person, president, chairman, director, partner, manager, secretary, agent or any other person who was in charge of, and was responsible to, such political party, mass organisation or independent candidate liable to any punishment under this sub-section, if he proves that the offence was committed without his knowledge or that he had exercised due diligence during the commission of such offence.

Licence for use of
site for purpose of
advertisement.

137B. (1) Except under and in conformity with the terms and conditions of a license, no person being the owner, lessee, sub-lessee, occupier or any advertising agent shall use or allow to be used any site in any land, building, wall or erect or allow to be erected on any site, any hoarding, frame, post, kiosk, structure, neon sign or sky-sign for the purpose of display of any advertisement.

(2) For the purpose of advertisement, every person—

- (a) using any site before commencement of this Act, within ninety days from the date of such commencement, or
- (b) intending to use any site,

shall apply for a licence or renewal of a licence, as the case may be, to the Development Authority in such form as may be specified by the Development Authority.

(3) The Development Authority shall, after making such inspection as may be necessary and within thirty days of the receipt of the application, refuse, grant, renew or cancel a licence, as the case may be, on payment of such fees as may be determined by the Development Authority by regulations.

43 of 1951.

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(Amendment) Bill, 2010.*

(Clause 7.)

(4) The Chairman may, if in his opinion the proposed site for any advertisement is unsuitable from the consideration of public safety, traffic hazards, aesthetic design, or obstruction of the view of, or harmony with, any heritage building, refuse a licence or refuse to renew any existing licence.

(5) Every licence shall be for a period of one year except in case of sites used for temporary fairs, exhibitions, sports events or cultural or social programmes.

(6) The Chairman shall cause to be maintained a register wherein the licences issued under this section shall be separately recorded in respect of advertisement sites—

- (a) on telephone, telegraph, electric or other posts or poles erected on or along public streets or private streets or public places;
- (b) on lands or buildings;
- (c) in cinema halls, theatres, or other places of public resort.

Tax on Advertisements. 137C. (1) Every person, who erects, exhibits, fixes or retains upon or over any land, building, wall, hoarding, frame, post, kiosk or structure any advertisement or, displays any advertisement to public view in any manner whatsoever, visible from a public street or public place (including any advertisement exhibited by means of cinematograph) shall pay for every advertisement which is so erected, exhibited, fixed or retained or so displayed to public view, a tax calculated at such rate as the Development Authority may determine by regulations:

Provided that a surcharge not exceeding fifty per cent, of the applicable rate may be imposed on any advertisement on display in temporary fairs, exhibitions, sports events or cultural or social programmes.

(2) Chairman may, however, exempt tax if he considers any advertisement which—

- (a) relates to 'advertisement related to public interest' as defined in the *Explanation* to sub-section (3) of section 137A; or
- (b) relates to the trade, profession or business carried on within the land or building upon or over which such advertisement is exhibited or to any sale or letting of such land or building or any effects therein or to any sale, entertainment or meeting to be held on or upon or in the same; or
- (c) relates to the name of the land or building upon or over which the advertisement is exhibited or to the name of the owner or occupier of such land or building; or
- (d) relates to any activity of the Government or the Municipality.

(3) The tax on any advertisement leviable under this section shall be payable in advance in such number of instalments and in such manner as the Development Authority may by regulations determine.

(4) The Development Authority may determine the procedure for collection of tax.

**Permission of
Development
Authority to
become void in
certain cases.**

137D. The permission granted under section 137A shall become void—

- (a) if the advertisement contravenes any regulations made under this Act; or
- (b) if any material change is made in the advertisement or any part thereof without the previous permission of the Development Authority; or
- (c) if the advertisement or any part thereof falls otherwise than through accident; or
- (d) if due to the work by Government, Development Authority or by any statutory authority, the advertisement has to be displaced.

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(Amendment) Bill, 2010.*

(Clause 7.)

Licence for use of site for purpose of advertisement to become void in certain cases.

137E. The license granted under section 137B shall become void,—

- (a) if the licensee contravenes any terms and conditions of licence; or
- (b) if any addition or alteration is made to, or in the building, wall, hoarding, frame, post, kiosk, or structure upon or over which the advertisement is erected, exhibited, fixed or retained; or
- (c) if the building, wall, hoarding, frame, post, kiosk or structure over which the advertisement is erected, exhibited, fixed or retained is demolished or destroyed.

Presumption in case of contravention.

137F. Where any advertisement has been erected, exhibited, fixed or retained upon or over any land, building, wall, hoarding, frame, post, kiosk or structure or displayed to public view from a public street or public place in contravention of the provisions of this Act or any regulations made thereunder, it shall be presumed, unless the contrary is proved, that the contravention has been committed by the person or persons on whose behalf the advertisement purports to be or the agents of such person or persons.

Power of the Development Authority in case of contravention.

137G. If any advertisement is erected, exhibited, fixed or retained in contravention of the provisions of this Act or any regulations made thereunder, the Development Authority may require the owner or the occupier of the land, building, wall, hoarding, frame, post, kiosk or structure upon or over which the same is erected, exhibited, fixed or retained to take down or remove such advertisement or may enter any land, building or property and cause the advertisement to be dismantled, taken down, removed, spoiled, defaced or screened.

Explanation I.—The word “structure” in this Chapter includes any movable board on wheels used as an advertisement or advertisement medium.

Explanation II.—The word “advertisement” in relation to a tax on advertisement under this Act shall mean any word, model, sign, sky-sign, placard, notice, device or representation, whether illuminated or not in the nature of and employed wholly or in part for the purposes of advertisement, announcement or direction.

Removal of poster, hoarding, etc.

137H. Notwithstanding any other action that may be taken against the owner or the occupier of any land or building, upon or over which there is any hoarding, frame, post, kiosk or structure for erecting any advertisement in contravention of the provisions of this Act or any regulations made thereunder, or the person who owns such hoarding, frame, post, kiosk or structure, the Development Authority may, for removal and storage of such hoarding, frame, post, kiosk or structure, realize from the person who owns such hoarding, frame, post, kiosk or structure, such charges as may be fixed by the Chairman from time to time.

Fine for not paying tax under section 137C.

137I. If any person erects, exhibits, fixes or retains any advertisement referred to in this Chapter without paying the tax under section 137C, he shall be punished with fine which—

- (i) may extend to an amount equal to three times the amount payable as such tax; and
- (ii) shall not ordinary be less than an amount equal to one and a half times such tax.”.

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(Amendment) Bill, 2010.*

(Clause 8.)

Amendment of
Schedule II.

8. In schedule II of the principal Act, in the first column, after section 132 and the entries relating thereto in columns 2, 3 and 4, the following entries in column 1 and entries relating thereto in columns 2, 3 and 4 shall be inserted:—

1	2	3	4
“Section 137B	License for use of site for purpose of advertisement	One thousand rupees	One hundred rupees.”.

STATEMENT OF OBJECTS AND REASONS.

With the enormous growth of population during the last few decades in the city of Kolkata and its neighbourhood area, the Government of West Bengal intended to launch a New Town very close to the city pursuant to the norms of National Housing Policy announced by the Government of India. It was, therefore, considered necessary and expedient to make provisions to ensure maintenance of services during the period of processing of infrastructural development in the New Town, Kolkata, which being a Greenfield Project with its integrated self-sustainable development, needs regulations, *inter alia*, for providing services and imposition of charges and other incidentals within the said New Town. Since the Project is estimated to take ten to fifteen years time span in processing the incremental development to reach the finality of the settlement manned with a substantial number of populations as targeted, the instant legislation was necessarily be of utmost importance just for a contemporary period to the benefit of the project as a whole. Hence, the New Town, Kolkata Development Authority Act, 2007 (West Ben. Act XXX of 2007) has been enacted. The Act, *inter alia*, includes,—

- (a) regulation for erection, re-erection of buildings,
- (b) development and maintenance of roads, streets and other public places,
- (c) provisions for water supply system,
- (d) provisions for drainage and sewerage system,
- (e) disposal of solid wastes,
- (f) market and other allied services.

New Town, Kolkata Development Authority has started functioning. The present status is that large number of people have started activities in New Town and demanded for some mere essential services. Moreover, with the development of township, some regulatory powers are to be vested in the Development Authority for smooth development of the township. These are normally supposed to be rendered by a municipal body but the present residential population does not satisfy the requirement of constitution of a municipal body in terms of section 3 of West Bengal Municipal Act, 1993 (West Ben. Act XXII of 1993).

2. To get out of the impasse, State Government proposes amendment of New Town, Kolkata Development Authority Act, 2007 for providing some more services and to vest regulatory powers namely,—

- (a) enlistment of trade, profession and callings,

*The New Town, Kolkata Development Authority
(Amendment) Bill, 2010.*

- (b) recording of title of land building, dwelling units etc.,
- (c) prohibition and control of advertisement and certain other services.

All the items incorporated in the amendment proposal are taken exclusively from the State List (List II) and also do not overlap or contravene the provisions of the constitution (74th Amendment) Act, 1992.

3. The Bill has been framed with the above objects in view.
4. There is no financial implications involved in the Bill.

KOLKATA,
The 4th March, 2010.

GAUTAM DEB,
Member-in-charge.

By order of the Governor,

ASHIM KUMAR ROY,
*Secy.-in-charge to the Govt. of West Bengal,
Law Department.*