

# The Darbhanga Improvement Act, 1934

BIHAR

India

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### Act 4 of 1934

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The Darbhanga Improvement Act, 1934 Bihar and Orissa Act 4 of 1934 [Dated 30th October, 1934] An Act to provide for the Improvement of the Town of Darbhanga. Whereas it is expedient to make provision for the improvement of the town of Darbhanga. And whereas the previous sanction of the Governor-General under subsection (3) of Section 80-A of the Government of India Act has been obtained to the passing of this Act. It is hereby enacted as follows:-

## Chapter I Preliminary

### 1. Short title, extent and commencement.

(1) This Act, may be called the Darbhanga Improvement Act, 1934. (2) It extends to the area for the time being, included within the Darbhanga Municipality. (3) It shall come into force on such date as the [State] [Substituted by Adaptation of Laws Order for 'Provincial'.] Government may by notification direct.

### 2. Definitions.

(1) In this Act unless there is anything repugnant in the subject or context-(i) "building line" means a line (in rear of the road alignment) up to which the main wall of a building abutting on a projected road may lawfully extend; (ii) "land" includes land as defined in clause (a) of Section 3 of the Land Acquisition Act, 1894; (iii) "local area" means the area to which this Act, has been applied and the area within which a Trust has been created for the purposes of carrying out the provisions of this Act; (iv) "Municipal Commissioners" means the Municipal Commissioners of the Darbhanga Municipality; (v) "prescribed" means prescribed by rules made by the [State] [Substituted by Adaptation of Laws Order for 'Provincial'.] Government under this Act; (vi) "road alignment" means lines forming the boundaries of a road dividing the same from lands adjoining on either side; (vii) all

references to anything done, required, authorised, permitted, forbidden or punishable, or to any power vested under this Act, shall include anything done, required, authorised, permitted, forbidden or punishable or any power vested-(a)by any provision of this Act, or(b)by any Rule scheme made under the provisions of this Act, or(c)under any provision of the Bihar and Orissa Municipal Act, 1922, which the Trust, as defined in Section 3, has by virtue of this Act, power to enforce.(2)Words and expressions used in this Act and not otherwise defined have the same meaning as has been assigned to them in the Bihar and Orissa Municipal Act (hereinafter referred to as the Municipal Act).

## **Chapter II**

### **Constitution of the Trust**

#### **3. Creation and incorporation of the Trust.**

- The duty of carrying out the provisions of this Act, shall, subject to the conditions and limitations hereinafter contained, be vested in a board to be called "The Darbhanga Improvement Trust", hereinafter referred to as "The Trust", and the Trust shall be a body corporate and have perpetual succession and a common seal and have power to acquire, hold and deal with property, both movable and immovable, and to contract and shall by the said name sue and be sued.

#### **4. Constitution of the Trust.**

(1)The Trust shall consist of seven Trustees, namely:-(a)a Chairman appointed by the [State] [Substituted by the Adaptation of Laws Order.] Government,(b)two Municipal Commissioners to be elected at a meeting by the Municipal Commissioners from among their own number within the period prescribed by the [State] [Substituted by the Adaptation of Laws Order.] Government in this behalf,(c)three persons appointed by the [State] [Substituted by the Adaptation of Laws Order.] Government of whom not more than one shall be a salaried servant of Government and one shall be selected as a representative of the poorer classes inhabiting the area likely to be effected by the operations of the Trust, and(d)one person appointed by the [State] [Substituted by the Adaptation of Laws Order.] Government on the nomination of Maharajadhiraja Sir Kameshwara Singh of Darbhanga, or his successor in interest:Provided that, if the Municipal Commissioners fail within a time prescribed to elect any Trustee whom they are entitled to elect under clause (b), the [State] [Substituted by the Adaptation of Laws Order.] Government shall appoint one or more Municipal Commissioners, as the case may be, to be Trustees, and any person so appointed shall be deemed to be a Trustee duly elected by the Municipal Commissioners.(2)The names of the Trustees elected or appointed under this Act, shall be published in the Gazette.

#### **5. Election of Vice-Chairman.**

- The Trustees shall elect at a meeting one from among their own number to be Vice-Chairman.

## **6. Term of office of Chairman.**

- The term of office of the Chairman shall be three years, but when the Trust ceases to exist, the said term of office shall be deemed to expire on the date of the dissolution of the Trust. The Chairman shall be eligible for re-appointment, and he may be removed from office by the [State] [Substituted by the Adaptation of Laws Order.] Government at any time.

## **7. Term of office of other Trustees.**

(1)The term of office of every Trustee elected under clause (b) of sub-section (1) of Section 4 shall be three years, or until he ceases to be a Municipal Commissioner, whichever period is less, and the term of office of every Trustee appointed under clause (c) or (d) of the said sub-section shall ordinarily be three years, but when the Trust ceases to exist, the said term of office shall be deemed to expire on the date of the dissolution of the Trust:Provided that in the case of a Trustee appointed under clause (c) of the said sub-section, the [State] [Substituted by the Adaptation of Laws Order.] Government may appoint a Trustee for any period not exceeding three years.(2)The term of office of appointed and elected Trustees shall commence from the date of the publication of their name in the [Official Gazette] [Substituted by A.O. for 'Gazette']. (3)A person ceasing to be a Trustee by reason of the expiry of his term of office shall, if otherwise qualified, be eligible for re-election or re-appointment.

## **8. Resignation of Trustees.**

- Any Trustee may at anytime resign his office, provided that his resignation shall not take effect until it has been accepted by the [State] [Substituted by the Adaptation of Laws Order.] Government.

## **9. Causal vacancies.**

(1)When the place of a Trustee appointed by the [State] [Substituted by the Adaptation of Laws Order.] Government becomes vacant by acceptance of his resignation or his ceasing to be a Trustee or his death or otherwise the [State] [Substituted by the Adaptation of Laws Order.] Government shall appoint a person to fill the vacancy.(2)When the place of an elected Trustee becomes vacant by acceptance of his resignation or his ceasing to be a Trustee or his death or otherwise, the vacancy shall be filled in the manner provided in clause (b) of sub-section (1) of Section 4 within two months of the existence of such vacancy being notified to the Municipal Commissioners by the Trust:Provided that if the Municipal Commissioners fail to elect a qualified person to fill the vacancy within the said period, the [State] [Substituted by the Adaptation of Laws Order.] Government shall appoint a Municipal Commissioner to be a Trustee, and any person so appointed shall be deemed to be a Trustee elected by the Municipal Commissioners.(3)Every person appointed or elected to fill a casual vacancy under this section shall hold office for the time for which and subject to the conditions upon which, it was tenable by the person in whose place he has been so appointed or elected, but he may if otherwise qualified, be re-appointed or re-elected:Provided that no person

elected or appointed under sub-section (2) shall continue to be a Trustee after he has ceased to be a Municipal Commissioner.

## 10. Removal of Trustees.

- The [State] [Substituted by the Adaptation of Laws Order.] Government may by notification declare that any Trustee shall cease to be a Trustee-(a)if he refuses to act, or becomes in the opinion of the [State] [Substituted by the Adaptation of Laws Order.] Government incapable of acting or has been adjudicated an insolvent, or has been convicted of any such offence, or subjected by a Criminal Court to any such order as implies, in the opinion of the [State] [Substituted by the Adaptation of Laws Order.] Government, a defect of character which unfits him to be a Trustee; or(b)if he has been declared by notification to be disqualified for employment in, or has been dismissed from, the public service and the reason for the disqualification or dismissal is such as implies, in the opinion of the [State] [Substituted by the Adaptation of Laws Order.] Government, a defect of character which unfits him to be a Trustee; or(c)if he has absented himself for more than three consecutive months from the meeting of the Trust, or of any Committee of which he is a member, and is unable to explain such absence to the satisfaction of the [State] [Substituted by the Adaptation of Laws Order.] Government; or(d)if in the opinion of the [State] [Substituted by the Adaptation of Laws Order.] Government, he has flagrantly abused his position as a Trustee; or(e)if he has knowingly acquired or continued to hold without the permission in writing of the [State] [Substituted by the Adaptation of Laws Order.] Government directly or indirectly or by a partner any share or interest in any contract or employment with, by or on behalf of the Trust; or(f)if he has knowingly acted as a Trustee in a matter, other than a matter referred to in clause (iv) or (v) of the provision to this section in which he or a partner had, directly or indirectly, a personal interest, or in which he was professionally interested on behalf of a client, principal or other person; or(g)if he has knowingly contravened the provisions of Section 16; or(h)being a legal practitioner, if he acts or appears on behalf of any person against the Trust in any legal proceedings relating to any matter in which the Trust is or has been concerned, or acts or appears on behalf of any person in any legal proceeding instituted by or on behalf of the Trust against such person; or(i)in the case of a salaried servant of Government, if his continuance in office is, in the opinion of the [State] [Substituted by the Adaptation of Laws Order.] Government, unnecessary or undesirable:Provided that a person shall not be deemed, for the purpose of clause (e), to acquire or continue to have a share or interest in a contract or employment by reason only of his-(i)having a share or interest in any lease, sale or purchase of land or building, or in any agreement for the same, provided that such share or interest was acquired before he became a Trustee, or(ii)having a share in a joint stock company which shall contract with, or be employed by, or on behalf of, the Trust, provided that such share was acquired before he became a Trustee, or(iii)having a share or interest in a newspaper in which an advertisement relating to the affairs of the Trust is inserted, or(iv)holding a debenture or otherwise being interested in a loan raised by, or on behalf of, the Trust, or(v)being retained by the Trust as a legal practitioner, or(vi)having a share or interest in the occasional sale of an article in which he regularly trades to the Trust to a value not exceeding, in any one year, such amount as the Trust, with the sanction of the [State] [Substituted by the Adaptation of Laws Order.] Government, may fix in this behalf.

## **11. Disabilities of Trustees ceasing to be Trustees under Section 10.**

(1)A Trustee ceasing to be a Trustee under clauses (a), (b) or (d) of Section 10 shall not be eligible for re-election or re-appointment for a period of three years from the date of such cessation:Provided that if a Trustee has ceased to be a Trustee by reason of his having been adjudicated an insolvent, he shall be eligible for re-election or re-appointment when he shall have obtained his discharge.(2)A Trustee ceasing to be a Trustee under any other clause of Section 10 shall not be eligible for re-election or re-appointment until he is declared by the [State] [Substituted by the Adaptation of Laws Order.] Government to be so eligible.

## **Chapter III**

## **Proceedings of the Trust and Committee**

### **12. Conduct of business.**

- The business of the Trust or of any Committee appointed under Section 15 shall be conducted in accordance with the Rules prescribed by the [State] [Substituted by the Adaptation of Laws Order.] Government in this behalf.

### **13. Delegation of the powers and duties of the Trust to Chairman, etc.**

- The Trust may delegate to the Chairman all or any of the powers and of Trust under this Act. The Chairman may delegate with the sanction of the Trust any or all of such powers and duties to the Vice-Chairman.

### **14. Temporary association of members with the Trust for particular purposes.**

(1)The Trust may associate with itself in such manner and for such period as may be prescribed by bye-laws made under Section 48 any person whose assistance or advice it may require in carrying out any of the purposes of this Act.(2)A person associated with the Trust under sub-section (1) for any purpose shall have a right to take part in the proceedings of the Trust relating to that purpose, but shall not have a right to vote at a meeting of the Trust, and shall not be deemed to be a Trustee for any other purpose.

### **15. Constitution and functions of Committees.**

(1)The Trust may from time to time appoint Committees of the Trust consisting of any one or more of the following classes as it may deem fit, namely:(i)Trustees,(ii)persons associated with the Trust under Section 14,(iii)other persons whose services, assistance or advice the Trust may require as members of such a Committee:Provided that such a Committee shall consist of not less than three persons, and that at least one Trustee shall be a member thereof.(2)The Trust may-(a)refer to such

Committee, for inquiry and report, any matter relating to any of the purposes of this Act; and (b) delegate to such Committee by resolution, and in accordance with the bye-laws made by the Trust in this behalf, any of the powers or duties of the Trust. (3) The Trust may, at any time, dissolve, or, subject to the provisions of sub-section (1), after the constitution of any such Committee. (4) Every such Committee shall conform to any instructions, from time to time, given to it by the Trust. (5) The proceedings of every such Committee shall be subject to confirmation by the Trust. (6) Any person associated with the Trust under Section 14 or appointed a member of a Committee of the Trust under clause (iii) of sub-section (1) shall be entitled to receive such remuneration, either by way of monthly salary or by way of fees, or partly in one of these ways and partly in the other, as the [State] [Substituted by the Adaptation of Laws Order.] Government may prescribe.

## **16. Trustee and associated members of the Trust or Committee not to take part in proceeding in which they are personally interested.**

(1) A Trustee who—(i) has directly, or indirectly, by himself or by any partner, employer, or employee any such share or interest as is described in the proviso to Section 10, in respect of any matter; or (ii) has acted professionally, in relation to any such share or interest as aforesaid, shall not vote or take any other part in any proceedings of the Trust or any Committee appointed under this Act, relating to such matter. (2) If any Trustee, or any person associated with the Trust under Section 14 or any other member of Committee appointed under Section 15 has, directly or indirectly, any beneficial interest in any land situated in an area comprised in any Improvement Scheme framed under this Act, or in any area in which it is proposed to acquire land for any of the purpose of this Act,—(i) he shall, before taking part in any proceeding at a meeting of the Trust or any Committee appointed under this Act, relating to such area, inform the person presiding at the meeting of the nature of such interest; (ii) he shall not vote at any meeting of the Trust or any such Committee upon any resolution or question relating to such land; and (iii) he shall not take any other part in any proceeding at a meeting of the Trust or any such Committee relating to such area, if the person presiding at the meeting considers it inexpedient that he should do so.

## **17. Officers and servants.**

- The power of determining the number of officers and servants of the Trust, of fixing their salaries, fees and allowances, of appointing, promoting, granting leave to them, reducing, suspending and dismissing them for misconduct and of dispensing with their services for any reason other than misconduct shall be vested in the Trust in accordance with the rules made by the [State] [Substituted by the Adaptation of Laws Order.] Government in this behalf.

## **18. Delegation of powers and duties of the Chairman.**

(1) The Chairman may, by general or special order in writing, with the previous sanction of the Trust, delegate to the Vice-Chairman any of the powers or duties of the Chairman under this Act. (2) The exercise by the Vice-Chairman of any powers delegated to him under sub-section (1) shall be subject

to such conditions and limitations, if any, as may be prescribed in the said order, and also to the control of and revision by the Chairman and the Trust.

## **19. Supply of information and documents to Government.**

(1)The Chairman shall forward to the [State] [Substituted by the Adaptation of Laws Order.] Government a copy of the minutes of the proceedings of each meeting of the Trust, within ten days from the date on which the minutes of the proceedings of such meeting were signed.(2)If the [State] [Substituted by the Adaptation of Laws Order.] Government so directs in any case, the Chairman shall forward to it a copy of all papers which were laid before the Trust for consideration at any meeting.(3)(a)The [State] [Substituted by the Adaptation of Laws Order.] Government may require the Chairman to furnish it with-(i)any return, statement, estimate, statistics or information regarding any matter under the control of the Trust; or(ii)a report on any such matter;(iii)a copy of any document in the charge of the Chairman.(b)The Chairman shall comply with every such requisition without unreasonable delay.

## **Chapter IV**

### **Scheme under the Act**

## **20. General Improvement Schemes or Re-building Schemes.**

(1)Whenever it appears to the Trust that-(a)any buildings which are used or are intended or likely to be used as dwelling places within its local area are unfit for human habitation; or(b)danger is caused or likely to be caused to the lives or health of the inhabitants of such local area or part thereof by reason of-(i)the congested condition of roads or buildings or groups of buildings in such local area or part thereof; or(ii)the want of light, air, ventilation or proper conveniences in such local area or part thereof; or(iii)any other sanitary defects in such local area or part thereof; the Trust may pass a resolution to the effect that a General Improvement Scheme shall be framed in respect of such locality and may then proceed to frame such a scheme.(2)Whenever the Trust is of opinion that having regard to the comparative value of the buildings on such local area or part thereof and the sites on which they are erected, it is undesirable to frame a General Improvement Scheme and that the most satisfactory method of dealing with the local area or any part thereof is a Rebuilding Scheme, it may proceed to frame such a scheme, which may provide for the reservation of roads and the enlargement of existing roads, the relaying out of the local area, or part, thereof upon the roads so reserved or enlarged, the demolition of existing buildings and their appurtenances upon such sites and the erection of buildings in accordance with the scheme.

## **21. Road Scheme.**

- Whenever it appears to the Trust that for the purpose of-(i)providing buildings sites; or(ii)remedying defective ventilation; or(iii)creating new or improving existing means of communication and facilities for traffic;(iv)affording better facilities for conservancy,within its local area or part thereof it is expedient to lay out new roads, thoroughfares and open spaces, or alter

existing roads, the Trust may pass a resolution to that effect, and shall then proceed to frame a Road Scheme which shall prescribe improved alignments for roads, thoroughfares and open spaces for such local area or part thereof the Trust may deem fit.

## **22. Re-housing Scheme.**

- Whenever the Trust deems it necessary that accommodation should be provided for persons who are displaced or are likely to be displaced by the execution of any scheme, which it is intended to submit to the [State] [Substituted by the Adaptation of Laws Order.] Government for sanction under this Act, it may frame a Re-housing Scheme which may include either the provision of building sites or the construction of dwellings and shops for such persons or both, and may also provide for the exchange of land of approximately the same area and value.

## **23. Combination of schemes and matters which may be provided for in schemes.**

(1)A scheme under this Act, may combine one or more types of scheme or any special features thereof.(2)A scheme under this Act, may provide for all or any of the following matters, namely:-(i)the acquisition, under the Land Acquisition Act, 1894, as modified by this Act, of any land or any interest in land necessary for or affected by the execution of the scheme, or any land adjoining any road, thoroughfare or open space to be improved or formed under the scheme;(ii)the acquisition by purchase, lease, exchange or otherwise of such land or interest in land;(iii)the retention, letting on hire, lease, sale, exchange or disposal or otherwise of any land vested in or acquired by the Trust;(iv)the demolition of buildings or portions of buildings that are unfit for the purpose for which they are intended and that obstruct light or air, or project beyond the building line;(v)the relaying out of any land comprised in the scheme and the redistribution of sites belonging to owners of property comprised in the scheme;(vi)the laying out and alteration of roads;(vii)the provision of open spaces in the interests of the residents of any locality comprised in the scheme or any adjoining locality and the enlargement or alteration of existing open spaces;(viii)the raising, lowering or reclamation of any land vested in, or to be acquired by, the Trust for the purposes of the scheme, and the reclamation or reservation of land production of fruit, vegetables, fuel, fodder and the like for the residents of the local area;(ix)the draining, water-supply and lighting of roads altered or constructed;(x)the provision of a system of drains and sewers for the improvement of ill-drained and insanitary localities;(xi)the doing of all acts intended to promote the health or safety of the residents of the area comprised in the scheme, including the conservation and preservation from injury or pollution of rivers and other sources and means of water-supply;(xii)the demolition of existing buildings and the erection and re-erection of buildings by the Trust or by the owners or by the Trust in default of the owners;(xiii)the advance to the owners of land comprised within the scheme upon such terms and conditions as to interest and sinking fund and otherwise as may be prescribed under the scheme, of the capital requisite for the erection of buildings in accordance with the scheme;(xiv)the provision of facilities for communication;(xv)all other matters which the [State] [Substituted by the Adaptation of Laws Order.] Government may deem necessary to promote the general efficiency of a scheme or to improve the locality comprised in such scheme.



## **24. Effect of prescribing a road alignment on powers of Municipal Commissioners.**

- Notwithstanding anything contained in the Municipal Act, whenever any road alignment has been prescribed by the Trust in any scheme under this Act, with the sanction of the [State] [Substituted by the Adaptation of Laws Order.] Government, the Municipal Commissioners shall not have power to prescribe a regular line for the road within the limits of the scheme, and any such line previously prescribed by the Municipal Commissioners within such limits shall cease to be the regular line of the road.

## **25. Powers of the Trust to set back or forward buildings adjacent to the road alignment.**

(1) Should any building or part of a building project beyond the regular line of a road, either existing or determined on for the future, or beyond the front of the building on either thereof, the Trust may, whenever such building or part thereof has been either entirely or in greater part taken down, or burnt down, or has fallen down, by written notice, require such building or part thereof when being rebuilt to be set back to or towards the said regular line or the front of the adjacent buildings, and the portion of the land added to the road by such setting back or removal shall become part of the road and shall vest in the Trust. (2) The Trust may, on such terms as it may deem fit, require or allow any building to be set forward for the improvement of the line of the road. (3) When any building is set back or forward in pursuance of a requisition made under the preceding sub-sections, the Trust shall forthwith make reasonable compensation to the owner of the building for any damage or loss that he may sustain. (4) If the additional land, which will be included in the premises of any person required or allowed to set forward a building, or part thereof, belongs to the Trust, the requisition or permission of the Trust to set forward the buildings shall be sufficient conveyance to the said owner of the said land, and the terms and conditions of the conveyance shall be set forth in the said requisition or permission.

## **26. Prohibition of building beyond road alignment.**

- In the locality comprised in a scheme and this Act, no person shall erect, re-erect, and to or alter any building so as to make the same project beyond a road alignment or building line duly prescribed by the Trust.

## **27. Preparation, publication and transmission of notice as to improvement schemes, and supply of documents to applicants.**

(1) When a scheme under this Act has been framed, the Trust shall prepare a notice stating: (i) the fact that the scheme has been framed, (ii) the boundaries of the locality comprised in the scheme, (iii) the place at which details of the scheme, including a statement of the land proposed to be acquired and a general map of the locality comprised in the scheme, may be inspected at reasonable hours, and (iv) the period, being not less than thirty days, during which objections will be received. (2) The

Trust shall cause the said notice to be published on the notice board of the office of the Trust for a period of not less than thirty days and send a copy of it to the Municipal Commissioners.(3)The Chairman shall cause copies of all documents referred to in clause (iii) of sub-section (1) to be delivered to any applicant on payment of such fees as may be prescribed by bye-laws under Section 48.

## **28. Notice of proposed acquisition of land.**

(1)Within seven days of the publication of the notice prescribed under sub-section (2) of Section 27 in respect of a scheme under this Act, the Trust shall serve a notice on-(i)every person whom the Trust has reason to believe after due inquiry to be the owner of any immovable property which it is proposed to acquire in executing the scheme; and(ii)the occupier (who need not be named) of such premises as the Trust proposes to acquire in executing the scheme.(2)Such notice shall-(a)state that the Trust proposes to acquire such property for the propose of carrying out a scheme under this Act, and(b)require such person, if he objects to such acquisition, to state his reasons in writing before the expiry of the period specified by the Trust under clause (iv) of sub-section (1) of Section 27.(3)Every such notice shall be singed by, or by the order of the Chairman.

## **29. Representation by Municipal Commissioners.**

- The Municipal Commissioners may, within a period of thirty days from the receipt of the notice prescribed under sub-section (2) of Section 27, forward to the Trust any representation which they may deem fit to make with regard to the scheme.

## **30. Abandonment of scheme or application to State Government to sanction it.**

(1)After the expiry of the period prescribed under Sections 27, 28 and 29 in respect of any scheme under this Act, Trust shall consider any objection or representation received thereunder, and after hearing all persons or their representative making any such objection or representation, who may desire to be heard, the Trust may either abandon the scheme or apply to the [State] [Substituted by the Adaptation of Laws Order.] Government for sanction to the scheme with such modifications if any as the Trust may deem necessary.(2)Every application submitted to the [State] [Substituted by the Adaptation of Laws Order.] Government for sanction under sub-section (1) shall be accompanied by-(i)complete plans and details of the scheme and an estimate of the cost of executing it;(ii)a statement of the reasons for modifications, if any, made in the scheme as originally framed;(iii)a statement of objections, if any, received under clause (iv) of subsection (1) of Section 27;(iv)a list of the names of all persons, if any, who have objected, under clause(b) of sub-section (2) of Section 28, to the proposed acquisition of their property and a statement of the reasons given for such objection;(v)the representation, if any, received under Section 29; and(vi)a statement of the arrangements made or proposed by the Trust for the re-housing of persons who are likely to be displaced by the execution of the scheme and for whose re-housing provision is required.

### **31. Power of State Government to sanction, reject, or return scheme.**

(1)The [State] [Substituted by the Adaptation of Laws Order.] Government may sanction either with or without modification, or may refuse to sanction, or may return for reconsideration, any scheme submitted to it under Section 30:Provided that in sanctioning a scheme the [State] [Substituted by the Adaptation of Laws Order.] Government shall issue such instructions to the Trust as will secure that all persons displaced by the execution of the scheme are given the opportunity to secure new sites at reasonable prices.(2)If a scheme returned for reconsideration under sub-section (1) is modified by the Trust, it shall be republished in accordance with Section 27-(a)in every case in which the modification affects the boundaries of the locality comprised in the scheme or involves the acquisition of any land not previously proposed to be acquired; and(b)in every other case, unless the modification is, in the opinion of the [State] [Substituted by the Adaptation of Laws Order.] Government not of sufficient importance to require republication.

### **32. Notification of sanction of scheme.**

(1)The [State] [Substituted by the Adaptation of Laws Order.] Government shall notify the sanction of every scheme under this Act, and the Trust shall forthwith proceed to execute such scheme.(2)A notification under sub-section (1) in respect of any scheme shall be conclusive evidence that the scheme has been duly framed and sanctioned.

### **33. Alteration of Improvement Scheme after sanction.**

- At any time after any Improvement Scheme has been sanctioned by the [State] [Substituted by the Adaptation of Laws Order.] Government, and before it has been executed, the Trust may alter it with the sanction of the [State] [Substituted by the Adaptation of Laws Order.] Government:Provided that if any such alteration involves the acquisition, otherwise than by agreement, of any land, the acquisition of which has not been sanctioned by the [State] [Substituted by the Adaptation of Laws Order.] Government the procedure prescribed in Sections 27, 28, 29 and 30 shall, so far as applicable, be followed, as if the alteration were a separate scheme.

## **Chapter V**

### **Powers and duties of the Trust when a scheme has been sanctioned**

### **34. Transfer to the Trust of building or land vested in municipality for purposes of scheme.**

(1)Whenever any building, or any road or other land, or any part thereof which is vested in the Municipal Commissioners is required for executing any scheme under this Act, the Trust shall give notice accordingly to the Municipal Commissioners and such building, road, land or part shall thereupon vest in the Trust, subject to the payment to the Municipal Commissioners of such sum as

the Trust may consider reasonable to compensate them for actual loss resulting from the transfer of any building to the Trust.(2)If any question or dispute arise as to the sufficiency of the compensation paid or proposed to be paid under sub-section (1), the matter shall be referred to the [State] [Substituted by the Adaptation of Laws Order.] Government whose decision shall be final.

### **35. Provision of amenities.**

- The Trust may-(a)lay out and make new public roads and bridges,(b)widen, lengthen, extend, enlarge, raise the level of, or otherwise improve, any existing public road if vested in the Trust,(c)turn, divert, discontinue or close any public road so vested,(d)provide buildings sites, recreation grounds or open spaces,(e)plant trees, shrubs or turf in recreation grounds, on open spaces, or on roads,(f)build shops, dwellings or other structures,(g)sink wells,(h)construct drains, and(i)do other acts for carrying out the purposes of this Act.

### **36. Certain sections of the Bihar and Orissa Municipal Act, 1922, to apply to schemes.**

- The provisions of Sections 164 to 170, 173, 175 to 185, 186 to 203, 222 to 226 and 235 to 242 of the Municipal Act, shall, so far as they are not inconsistent with the provisions of this Act, apply to the local area or part thereof in respect of which a scheme under this Act, is in force and for the period during which such scheme remains in force, and the powers and duties conferred and imposed on the Municipal Commissioners by the provisions of the said sections of the Municipal Act, shall be exercised and performed by the Trust alone in respect of such local area or part thereof:Provided that the Trust may delegate to the Chairman or to any officer of the Trust specially authorised in this behalf by the Trust, all or any of the powers and duties conferred and imposed by this section.

### **37. Power of the Trust to make surveys or contribute towards their cost.**

- The Trust may-(a)cause a survey of any land to be made whenever it considers that a survey is necessary or expedient for carrying out any of the purposes of this Act, or(b)contribute towards the cost of any such survey made by any other local authority.

### **38. Power of entry.**

(1)The Chairman or any person authorised by him or by the Trust in writing may, with or without assistants or workmen, enter into or upon any land in order-(i)to make any inspection, survey, measurement, valuation or inquiry,(ii)to take levels,(iii)to dig or bore into the sub-soil,(iv)to set out boundaries and intended lines of work,(v)to mark such levels, boundaries and lines by placing marks and cutting trenches, or(vi)to do any other things, whenever it is necessary to do so for any of the purposes of this Act or scheme sanctioned hereunder or any scheme which the Trust intends to frame hereunder:Provided as follows:(a)that no such entry shall be made between sunset and sunrise;(b)that no building which is used as a human dwelling shall be so entered, unless with the consent of the occupier or if there be no occupier, the owner thereof without giving the said occupier

or owner, as the case may be, at least twenty-four hours' previous notice in writing of the intention to make such entry;(c)that whenever any premises may be entered, reasonable warning and facility to withdraw shall be given to any female not appearing in public according to the customs of the country; and(d)that due regard shall always be paid, so far as the exigencies of the occasion permit, to the social and religious usages of the occupants or the premises entered.(2)Whenever any person enters into or upon any land in pursuance of subsection (1), he shall at the time of such entry pay or tender payment for all necessary damage to be done as aforesaid; and, in case of dispute as to the sufficiency of the amount so paid or tendered, he shall at once refer the dispute to the Trust whose decision shall be final.(3)It shall be lawful for any person authorised under sub-section (1) to make an entry for the purpose of inspection, to open or cause to be opened a door, gate or other barrier-(a)if he considers the opening thereof necessary for the purposes of such entry or inspection, and(b)if the occupier or owner, as the case may be, is absent, or being present, refuses to open such door, gate or barrier.

### **39. Vesting in municipality of roads laid out or altered and open spaces provided by the Trust.**

(1)Whenever-(a)any road laid out or altered by the Trust, or(b)any open space or recreation ground provided by the Trust,has been duly completed in the manner provided in the plans sanctioned by the [State] [Substituted by the Adaptation of Laws Order.] Government under Section 31, such road or open space or recreation ground shall, on completion, be transferred to the Municipal Commissioners, by a resolution of the Trust, and shall thereupon vest in, and be maintained at the expense of, the Municipal Commissioners.(2)If any difference of opinion arises between the Trust and the Municipal Commissioners in respect of any matter referred to in sub-section (1) the matter shall be referred to the [State] [Substituted by the Adaptation of Laws Order.] Government whose decision shall be final.

## **Chapter VI**

### **Acquisition and disposal of land**

#### **40. Power of the Trust to purchase or lease by agreement.**

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

#### **41. Power of the Trust to acquire land under the Land Acquisition Act, 1894.**

(1)The Trust may acquire land under the provisions of the Land Acquisition Act, 1894 (in this section referred to as the said Act), for carrying out any of the purposes of this Act.(2)For the purpose of acquiring lands under the said Act, for the Trust, the said Act, shall be subject to the following modifications:-(i)in the construction of Section 4 of the said Act, the application of a notice of an Improvement Scheme under Section 27 shall be deemed to be the publication of a

notification and of a public notice required to be given by the Collector under sub-section (1) of Section 4 of the said Act;(ii)where a notice as prescribed by Section 28 has been served, the provisions contained in Section 5-A of the said Act, shall not apply; and(iii)in the construction of Section 6 of the said Act, the publication of a notification under Section 32 shall be deemed to be the date of the publication of the declaration under Section 6 of the said Act for the purposes of Section 23 sixthly and Section 24 fourthly of the said Act.

#### **42. Power of the Trust to dispose of land.**

- The Trust may retain, or let on hire, lease, sell, exchange or otherwise dispose of, any land vested in or acquired by it under this Act.

### **Chapter VII Finance**

#### **43. Power of the Trust to borrow money under the Local Authorities Loans Act, 1914.**

- The Trust shall be deemed to be a local authority as defined in the Local Authorities Loans Act, 1914, for the purpose of borrowing money under the provisions of that Act, and the making and execution of any scheme under this Act shall be deemed to be a work which such local authority is legally authorised to carry out.

#### **44. Priority of payments for interest on loans.**

- All payments due from the Trust for interest on loans shall be made in priority to all other payments due from the Trust.

#### **45. Custody and investments of Trust money.**

(1)All moneys to the Trust shall be kept in the district treasury or a sub-treasury or in any bank or branch bank used as a Government treasury.(2)Notwithstanding anything contained in sub-section (1), the Trust may, with the previous sanction of the [State] [Substituted by the Adaptation of Laws Order.] Government invest any such moneys, which are not required for immediate expenditure, in any of the securities described in Section 20 of the Indian Trusts Act, 1882, or place them in fixed deposit with any bank or branch bank used as a Government treasury.

#### **46. The Trust to be a local authority under the Bihar and Orissa Local Fund Audit Act, 1925.**

- The Trust shall be deemed to be a local authority under the Bihar and Orissa Local Fund Audit Act, 1925.

## Chapter VIII

### 47. Power of State Government to make rules.

(1)The [State] [Substituted by the Adaptation of Laws Order.] Government may make rules to carry out the purposes of this Act.(2)In particular, and without prejudice to the generality of the foregoing powers, the [State] [Substituted by the Adaptation of Laws Order.] Government may make rules-(i)as to the appointment, election and nomination of Trustees and prescribing the period within which the Trustees are to be elected by the Municipal Commissioners under Section 4 and the filling of casual vacancies under Section 9;(ii)for fixing and regulating the remuneration of person associated with the Trust or appointed members of a Committee of the Trust;(iii)as to the meetings, the procedure to be followed in summoning, adjourning and conducting the proceedings of such meetings and as to the rules of business of the Trust or of any Committee appointed by the Trust;(iv)as to the employment of officers and servants of the Trust, their salaries, fees, allowances, grant of leave, punishment and dismissal under Section 17;(v)as to the person by whom, the conditions subject to which and the mode in which contracts may be entered into and executed on behalf of the Trust;(vi)as to the authority on which money may be paid by the Trust;(vii)as to the accounts to be kept by the Trust;(viii)as to the preparation of estimates of income and expenditure of the Trust and as to the authority by whom and the conditions subject to which such estimates may be sanctioned;(ix)as to the intermediate officer or officers, if any, through which correspondence between the Trust and the [State] [Substituted by the Adaptation of Laws Order.] Government or officers of the [State] [Substituted by the Adaptation of Laws Order.] Government shall pass;(x)as to the returns, statements and reports to be submitted by the Trust;(xi)to prescribe and define the mutual relations to be observed between the Trust and other local authorities in any matter in which they are jointly interested; and(xii)generally for the guidance of the Trust and public officers in all matters connected with the carrying out of the provisions of this Act.(3)The power to make rules conferred by this section shall be subject to the condition of the rules being made after previous publication.(4)All rules made under this Act, shall be published in the Gazette and on such publication shall have effect as if enacted under this Act.

### 48. Power of the Trust to make Bye-Laws.

(1)The Trust may, from time to time, make bye-laws not inconsistent with this Act and with any rules made thereunder by the [State] [Substituted by the Adaptation of Laws Order.] Government for carrying out the purpose of this Act.(2)In particular, and without prejudice to the generality of the foregoing powers, such bye-laws may provide for-(i)regulating the delegation of the powers and duties of the Trust under this Act, to the Chairman or Vice-Chairman under Section 13;(ii)associating members with the Trust under Section 14;(iii)appointing persons other than Trustees and persons associated with the Trust under Section 14, to be members of Committees under Section 15;(iv)regulating the delegation of the powers and duties of the Trust to Committees under Section 15;(v)forwarding of proceedings of committees to the Trust for confirmation under sub-section (5) of Section 15;(vi)regulating the delegation of the powers and duties of the Chairman to the Vice-Chairman under Section 18;(vii)fixing the fees payable for copies of documents delivered

under subsection (3) of Section 27;(viii)regulating the delegation of the powers and duties of the Trust to the Chairman or any officer of the Trust under the proviso to Section 36;(ix)fixing the amount of security to be furnished by any officer and servant of the Trust from whom it may be deemed expedient to require security;(x)the management, use and regulation of dwellings constructed under any scheme under this Act; and(xi)the guidance of persons employed by the Trust under this Act.(3)The power of the Trust to make bye-laws under this section shall be subject to the sanction of the [State] [Substituted by the Adaptation of Laws Order.] Government and to the condition of the bye-laws being made after previous publication.(4)All bye-laws made under this Act, shall be published in the [Official Gazette] [Substituted by the Adaptation of Laws Order.] and on such publication shall have effect as if enacted under this Act.

#### **49. Power of State Government to cancel Bye-Laws.**

- The [State] [Substituted by the Adaptation of Laws Order.] Government may, after consulting the Trust and after previous publication of its intention, cancel any bye-law made by the Trust which it has sanctioned, and thereupon the bye-law shall cease to have effect.

### **Chapter IX**

### **Procedure and Penalties**

#### **50. Stamping signature on notices.**

- Every notice issued under this Act, shall be signed by the Chairman, or the Vice-Chairman or any officer or servant of the Trust specially or generally authorised by the Trust, or authorised by the Chairman under sub-section (1) of Section 18, and every notice shall be deemed to be properly signed if it bears the facsimile of the signature of the Chairman or Vice-Chairman or such officer or servant stamped or printed thereon:Provided that no notice issued by the Trust under this Act, shall be invalid by reason of any defect of form.

#### **51. Method of giving public notice.**

- Subject to the provisions of this Act, every public notice required under this Act, shall be deemed to have been duly given, if it is published in some local newspaper (if any) and pasted upon a notice board to be exhibited for public information at the office of the Trust, upon the notice board of the Collector and the municipal office, and also announced by beat of drum.

#### **52. Service of notice.**

(1)Every notice, other than a public notice issued under this Act, shall, unless it is otherwise expressly provided in this Act, be served-(a)by giving or tendering the notice, or sending it by registered post to the person to whom it is addressed; or(b)if such person cannot be found, then by leaving the notice at his last known place of abode, if within municipal limits or by giving or



tendering it to some adult male member or servant of his family ordinarily residing with him, or by causing it to be affixed on some conspicuous part of the building or land to which it relates.(2)When a notice is required or permitted under this Act to be served upon the owner recorded in the municipal register, the service thereof, in cases not otherwise specially provided for in this Act, shall be effected either-(a)by giving or tendering the notice, or sending it by post, to such owner; or(b)if such owner cannot be found, then by giving or tendering the notice to an adult male member or servant of his family ordinarily residing with him or by causing the notice to be affixed on some conspicuous part of the building or land to which it relates.(3)Whenever the person on whom a notice is to be served is a minor, service upon his guardian or upon an adult male member or servant of his family ordinarily residing with him shall be deemed to be service upon such minor.

### **53. Penalty for disobedience to Act or to notice.**

- Where under this Act, or under a notice issued thereunder the public or any person is required to do or to refrain from doing anything, a person who fails to comply with such requisition shall, if such failure is not an offence punishable under other section any of this Act, be liable on conviction by a Magistrate to a fine not exceeding five hundred rupees for every such failure, and in the case of a continuing breach, to a further fine which may extend to five rupees for everyday after the date of the last conviction during which the offender is proved to have persisted in the breach.

### **54. Power to prevent or demolish buildings in contravention of Sections 25 and 26.**

- If any owner or occupier or any other person without the permission of the Trust erects, re-erects, adds to or alters any building so as to make the same project beyond a road alignment or building line fixed by the Trust, or erects, re-erects, adds to or alters any building in contravention of Section 26 or 25, the Chairman of the Trust may, by a written notice require him-(a)to stop the erection, re-erection addition or alteration of the building, and(b)to demolish or alter the portion erected, re-erected, added or altered as the Chairman of the Trust may deem necessary.

### **55. Powers of the Trust for non-compliance of notice.**

- If the person on whom a notice has been issued under Section 54 fails to comply with the requisition within fourteen days of the receipt of the notice, the Magistrate may on the application of the Trust, order that the encroachment or projection be removed or that the projection be altered, and thereupon the Trust may remove such encroachment or project or alter such projection.

### **56. Recovery of cost of removal.**

- The cost incurred by the Trust in carrying out any work under Section 55 shall be recoverable under the procedure laid down under the Bihar and Orissa Public Demands Recovery Act, 1914, for the recovery of public demands, from the owner or occupier or other person by whom the encroachment or projection was built, erected or placed, and, if such person is not known or cannot

be found, the Trust may recover such costs by sale of the materials removed.

### **57. Penalty for obstructing or removing mark.**

- If any person-(a)obstructs or molests any person with whom the Trust has entered into a contract, in the performance or execution by such person of duties imposed on him by such contract or of anything which he is empowered or required to do under this Act; or(b)removes any mark set up for the purpose of indicating any level or direction necessary for the execution of works authorised under this Act, he shall be punishable with fine which may extend to two hundred rupees or with imprisonment for a term which may extend to two months.

### **58. Fees fines and penalties to be paid to the Trust.**

- All fees realized under this Act [Omitted by Adaptation of Laws Order.] shall be paid to the Trust.

## **Chapter X Supplemental Provisions**

### **59. Trustees, etc., deemed public servants.**

- Every Trustee, and every officer and servant of the Trust, shall be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code.

### **60. Authority for proceedings.**

- Notwithstanding anything contained in the Code of Criminal Procedure, 1898, no Court shall take cognizance of any offence punishable under this Act, except on the complaint of or upon information received from the Trust or some person authorised by the Trust in this behalf.

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

- The Chairman may, subject to the control of the Trust,-(i)institute, defend or withdraw from legal proceedings under this Act;(ii)compound any offence against this Act, which under any law for the time being in force, may lawfully be compounded;(iii)admit, compromise or withdraw any claim made under this Act; and(iv)obtain such legal advice and assistance as he may from time to time deem necessary or expedient to obtain, or as he may be desired by the Trust to obtain for any of the purposes referred to in the foregoing clauses of this section, or for securing the lawful exercise or discharge of any power or duty vested in or imposed upon the Trust or any officer or servant of the Trust.

## **62. Notice of suits.**

(1) No suit shall be instituted against the Trust or any Trustee, or any person associated with the Trust under Section 14, or any members of a committee appointed under Section 15, or any officer or servant of the Trust, or any person acting under the direction of the Trust or of the Chairman or of any officer or servant of the Trust, in respect of anything done or intended to be done under this Act, until the expiration of two months next after notice in writing has been, in the case of the Trust, delivered at its office, and in any other case, delivered at the office or place of abode of the person to be sued, with a copy of the plaint; and the plaint shall contain a statement that such notice has been so delivered: Provided that nothing in this sub-section shall apply to a suit wherein the only relief claimed is an injunction of which the object would be defeated by the giving of the notice or the postponement of the commencement of the suit or proceedings: Provided further that no such suit shall be commenced otherwise than within six months after the accrual of the cause of action, unless it is an action for the recovery of an immovable property or for the declaration of the title thereto. (2) If the Trust or other person referred to in sub-section (1) shall, before the action is commenced, have tendered sufficient amendments to the plaintiff shall not recover. Evidence

## **63. Mode of proof of Trust records.**

- A copy of any receipt, application, plan, notice, order, entry in a register, or other document in the possession of the Trust shall if duly certified by the Chairman or any officer of the Trust, or other person authorised by the Trust in this behalf, be received as conclusive evidence of the existence of the entry or document and shall be admitted as evidence of the matters and transactions therein recorded in every case where, and to the same extent as, the original entry or document would, if produced, have been admissible to prove such matters.

## **64. Restriction on the summoning of Trust servants to produce documents.**

- No Trustee or officer or servant of the Trust shall in any legal proceedings to which the Trust is not a party be required to produce any register or document, the contents of which can be proved under Section 63 by a certified copy, or to appear as a witness to prove the matters and transactions recorded therein unless by order of the Court made for special cause.

## **65. Savings.**

- No act done or proceeding taken under this Act, shall be questioned on the ground merely of:-(a) the existence of any vacancy in, or any defect in the constitution of, the Trust or any Committee; or (b) any person having ceased to be a Trustee; or (c) any Trustee or any person, associated with the Trust under Section 14 or any other member of a Committee appointed under Section 15 having taken any part (other than voting) in any proceeding in contravention of Section 16; or (d) the failure to serve a notice on any person, where no substantial injustice has resulted from such failure; or (e) any omission, defect or irregularity not affecting the merits of the case. Compensation

## **66. General power of the Trust to pay compensation.**

- In any case not otherwise expressly provided for in this Act, the Trust may pay reasonable compensation to be assessed by the Trust to any person who sustains damage by reason of the exercise of any powers vested under this Act, in the Trust or the Chairman or any officer or servant of the Trust.

## **67. Ultimate dissolution of the trust and transfer of its assets, and liabilities to the municipality.**

(1) When all schemes sanctioned under this Act, have been executed or have been so far executed as to render the continued existence of the Trust, in the opinion of the [State] [Substituted by the Adaptation of Laws Order.] Government, unnecessary, or when in the opinion of the [State] [Substituted by the Adaptation of Laws Order.] Government it is expedient that the Trust shall cease to exist, the [State] [Substituted by the Adaptation of Laws Order.] Government may by notification declare that the Trust shall be dissolved from such date as may be specified in this behalf in such notification; and the Trust shall be deemed to be dissolved accordingly. (2) From the said date:-(a) all properties, funds and dues which are vested in or realizable by the Trust, shall vest in and be realizable by the Municipal Commissioners; (b) all liabilities which are enforceable against the Trust shall be enforceable only against the Municipal Commissioners; (c) for the purpose of completing the execution of any scheme sanctioned under this Act, which has not been fully executed by the Trust, and of realizing properties, funds and dues referred to in clause (a), the functions of the Trust; and the Chairman under this Act, shall be discharged by the Municipal Commissioners and the Chairman of the municipality respectively; and (d) the Municipal Commissioners shall keep separate accounts of all moneys received and expended by them under this Act, until all loans raised hereunder have been repaid, and until all other liabilities referred to in clause (b) have been duly met. (3) Notwithstanding anything contained in this section, if, in the opinion of the [State] [Substituted by the Adaptation of Laws Order.] Government, the liabilities of the Trust due on the date of its dissolution as notified under sub-section (1) exceed the assets of the Trust, the [State] [Substituted by the Adaptation of Laws Order.] Government shall:-(i) either make a payment to the Municipal Commissioners equivalent to the amount by which in the opinion of the [State] [Substituted by the Adaptation of Laws Order.] Government, the liabilities exceed the assets, and thereafter the provisions of subsection (2) shall apply, or (ii) discharge and satisfy all the liabilities of the Trust, and thereafter the funds and property of the Trust shall vest in [the State Government] [Substituted by the Adaptation of Laws Order.] and the [State] [Substituted by the Adaptation of Laws Order.] Government may retain them or dispose of them in such manner as they deem fit, provided that the [State] [Substituted by the Adaptation of Laws Order.] Government may require the Municipal Commissioner to take over and maintain any road [so vested in the State Government] [Substituted by the Adaptation of Laws Order.].