

The M.P. Nagar Tatha Gram Nivesh Adhiniyam, 1973

MADHYA PRADESH

India

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Act 23 of 1973

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The M.P. Nagar Tatha Gram Nivesh Adhiniyam, 1973(M.P. Act No. 23 of 1973)[Dated 16th April 1973]Received the assent of the President on the "Madhya Pradesh Gazette" (Extraordinary), dated the 26th April, 1973.An Act to make provision for planning and development and use of land; to make better provision for the preparation of development plans and zoning plans with a view to ensuring town planning schemes are made in a proper manner and their execution is made effective, to constitute Town and Country Planning Authority for Proper implementation of town and country developmentplan, to provide for the development and administration of special areas through Special Area Development Authority\ to make provision for the compulsory acquisition of land required for the purpose of the development plans and for purposes connected with the matters aforesaid.Be it enacted by the Madhya Pradesh Legislature in the Twenty-fourth Year of the Republic of India as follows :-

Chapter I

Preliminary

1. Short title, extent commencement and application.

(1)This Act may be called the Madhya Pradesh Nagar Tatha Gram Nivesh Adhiniyam, 1973.(2)It extends to the whole of Madhya Pradesh.(3)[It shall come into force at once] [Substituted by M.P. Act No. 34 of 1982.],(4)Nothing in this Act shall apply to,-(a)lands comprised within a cantonment under the Cantonments Act, 1924 (No. 2 of 1924);(b)lands owned, hired or requisitioned by the Central Government for the purpose of naval, military and air force works:[Provided that prior no objection certificate from Commanding Officer is required for obtaining planning permissions in the area declared and notified as restricted area under the provision of the Work of Defence Act, 1903 (No. 3 of 1903);] [Inserted by M.P. Act No. 14 of 2017, dated 20.4.2017.](c)[land under the control of railway administration under the Railways Act, 1989 (No. 24 of 1989).] [Substituted by M.P. Act No. 14 of 2017, dated 20.4.2017.]

2. Definitions.

- In this Act, unless the context otherwise requires, - (a) "agriculture" includes horticulture, farming, raising of annual or periodical crops, fruits, vegetables, flowers, grass, fodder, trees or any kind of cultivation of soil, the reserving of land for fodder, grazing or thatching grass, breeding and keeping of livestock including cattle, horses, donkeys, mules, pigs, breeding of fish and keeping of bees, and the use of land ancillary to the farming of land, but does not include - (i) keeping of cattle purely for the purpose of milking and selling the milk and milk products; (ii) a garden which is an appendage of buildings, and the expression 'agricultural' shall be construed accordingly. (b) "amenity" includes roads and streets, water and electric supply, open spaces, parks, recreational area, natural features, play-grounds, street lighting, drainage, sewerage and other utilities, services and conveniences; (c) "building" means a house, hut, shed or other structure for whatever purposes and with whatever material constructed and every parts thereof, whether temporary or permanent and whether used as human habitation or not and includes a well, latrine, drainage work, fixed platform, verandah, plinth, door steps, compound wall, fencing and the like; and any work connected therewith but does not include plant or machinery comprised in a building; (d) "building operation" includes - (i) [erection or re-erection or demolition] [Substituted by M.P. Act No. 4 of 1983 (w.e.f. 19-11-1982).] of a building or any part thereof; (ii) rooting or re-roofing of any part of building or an open space; (iii) any material alteration or enlargement of a building; (iv) any such alteration of a building as is likely to alter its drainage or sanitary arrangements, or materially affect its security; (v) the construction of a door opening on any street or land not belonging to the owner. (e) "commercial use" means the use of land or building or part thereof for the purpose of carrying on any trade, business or profession, or sale or exchange of goods of any type whatsoever and includes running of with a view to making profit, hospitals, nursing homes, infirmaries, educational institution, hotels, restaurants and boarding houses (not being attached to any educational institution) sarais, and also includes the use of any land or buildings for storage of goods or as an office, whether attached to an industry or otherwise; (f) "development" with its grammatical variations means the carrying out of a building, engineering, mining or other operation in, or over or under land, or the making of any material change in any building or land or in the use of either, and includes sub-division of any land; (g) "development plan" includes a zoning, plan; (ga) ["Development Rights Certificate (DRC)" means a certificate granting transferable development rights to its holder and issued by an authority authorised for this purpose by the State Government; [Inserted by M.P. Act No. 14 of 2017, dated 20.4.2017.]] (gb) "DRC Account" means a tabulated account maintained by the authority, having entries of generating area, total allotted area, transferred area at any point of time, the person purchasing such area and the receiving area; (h) "Director" means the Director of Town and Country Planning appointed under this Act; (i) "existing land use map" means a map indicating the use to which lands in any specified area are put at the time of preparing the map, and includes the register prepared, with the map giving details of land use; (ia) ["generating area" means the area proposed for a public project, including public amenities and facilities, recreation, transportation, slum rehabilitation, public housing and any other special use by the Government and its undertakings in the respective planning area, which shall be notified in such form as may be prescribed;] [Inserted by M.P. Act No. 14 of 2017, dated 20.4.2017.] (j) "land" includes benefits to arise out of land and things attached to the earth or permanently fastened to anything attached to the earth; (k) "local authority" means - (i) a Municipal

Corporation constituted by or under the Madhya Pradesh Municipal Corporation Act, 1956 (No. 23 of 1956):(ii)[a Municipal Council or Nagar Panchayat constituted by or under the Madhya Pradesh Municipalities Act, 1961 (No. 37 of 1961); [Substituted by M.P. Act No. 8 of 1996 (w.e.f. 17-4-1996).](iii)a Gram Panchayat constituted under the Madhya Pradesh Panchayat Raj Adhiniyam, 1993 (No. 1 of 1994).](l)"member" means a member of a Town and Country Development Authority or a Special Area Development Authority, as the case may be and includes a Chairman thereof;[(l-a) "natural hazard" means the probability of occurrence, with a specific period of time in a given area, of a potentially damaging natural phenomenon; [Inserted by M.P. Act No. 22 of 2005.](1-b) "natural hazard prone areas" means the areas likely to have-(i)moderate to very high risk zone of earthquakes; or(ii)significant Hood How or, inundation; or(iii)landslide potential or proneness; or(iv)more than one of these hazards.](m)"occupier" includes-(i)a tenant;(ii)an owner in occupation of or otherwise using his land;(iii)a rent free tenant;(iv)a licensee;(v)any person liable to pay to the owner, damages for the use and occupation of the land.(n) ["owner" means the owner of land or building and includes] [Substituted by M.P. Act No. 4 of 1983 (w.e.f. 19-11-1982).] a mortgagee in possession, a person who for the time being is receiving or is entitled to receive, or has received, the rent or premium for any land whether on his own account or on behalf of or for the further benefit of any other person or as an agent trustee, guardian or receiver for any other person or for religious or charitable institutions or who would receive the rent or be entitled to receive the rent or premium if the land were to be let and includes a Head of a Government Department, General Manager of a Railway and the Chief Executive Officer, by whatever name designated, of a local authority, statutory authority, company, corporation or undertaking in respect of properties under their control;.(o)"planning area" means any area declared to be a planning area under this Act and [non-planning area shall be construed accordingly] [Inserted by M.P. Act No. 4 of 1983 (w.e.f. 19-11-1982).];(oo)["Reconstituted plot" means a plot which is altered as a result of preparation of a town development scheme;] [Inserted by M.P. Act No. 12 of 1975 (w.e.f. 4-5-1975).](ooa)["receiving area" means an area notified by the Director where any person is permitted to use an acquired right to build more floor area than base floor area ratio;] [Inserted by M.P. Act No. 14 of 2017, dated 20.4.2017.](p)"region" means any area established to be a region under this Act;(q)"regional plan" means a plan for the region prepared under this Act, and approved by the State Government;(r)["slum" means any area declared to be a slum area under Section 3 of the Madhya Pradesh Gandhi Basti Kshetra (Sudhar Tatha Nirmulan) Adhiniyam, 1976 (No. 39 of 1976);] [Substituted by M.P. Act No. 4 of 1983 (w.e.f. 19-11-1982).](s)"special area" means a special area designated as such under Section 64;(t)"Special Area Development Authority" means an authority constituted under Section 65;(u)"town development scheme" means a scheme prepared for the implementation of the provisions of a development plan by the Town and Country Development Authority and includes "scheme";(v)"Town and Country Development Authority" means an authority established under Section 38;(va)["transfer of the development rights (TDR)" means making available certain amount of additional built-up area in lieu of the area relinquished or surrendered by the owner of the land, so that he can use extra built-up area either himself or transfer it to another in need of the extra built-up area;] [Inserted by M.P. Act No. 14 of 2017, dated 20.4.2017.](w)"zone" means any section of a planning area for which, under the development plan, a detailed zoning plan is prepared;(x)[Omitted.] [[Omitted by M.P. Act No. 21 of 2004. Prior to omission it was as under:(x)'Zila Yojana Samiti' means a samiti constituted under the Madhya Pradesh Zila Yojana Samiti Adhiniyam, 1995 (No. 19 of 1995);]]

Chapter II

Director of Town and Country Planning

3. Director and other officers.

(1)The State Government shall appoint an officer to be the Director of Town and Country Planning for the State and may appoint one or more officers of the following categories to assist him namely :- (a) Additional Director of Town and Country Planning; (b) Joint Director of Town and Country Planning; (c) Deputy Director of Town and Country Planning; (d) Assistant Director of Town and Country Planning; and (e) such other categories of officers as may be prescribed. (2) The Director shall exercise such powers and perform such duties as are conferred or imposed upon him by or under this Act and the officers appointed to assist the Director shall, within such areas as the State Government may specify, exercise such powers and perform such duties conferred and imposed on the Director by or under this Act as the State Government may, by special or general order, direct. (3) The officers appointed to assist the Director shall be subordinate to him and shall work under his guidance, supervision and control.

Chapter III

Regional Planning

4. Establishment of regions.

- The State Government may, by notification, - (a) declare any area in the State to be a region for the purposes of this Act; (b) define the limits of such area; and (c) specify the name by which such region shall be known. (2) The State Government may, by notification, after the name of any such region and on such alteration, any reference in any law or instrument or other document to the region shall be deemed to be a reference to the region as renamed, unless expressly otherwise provided or the context so required. (3) The State Government may by notification, - (a) alter the limits of a region so as to include therein or exclude therefrom such area as may be specified in the notification; (b) amalgamate two or more regions so as to form one region; (c) divide any region into two or more regions; or (d) declare that the whole or part of the area comprising a region shall cease to be a region or part thereof.

5. Director to prepare regional plans.

- Subject to the provisions of this Act and the rules made thereunder, it shall be the duty of the Director, - (i) to carry out a survey of the regions; (ii) to prepare an existing land use map; and (iii) to prepare a regional plan.

6. Survey.

(1)The Director shall, with a view to preparing the existing land use map, and other maps as are necessary for the purpose of regional plan,-(a)carry out such surveys as may be necessary;(b)obtain from any department of Government and any local authority such maps, survey reports and land records as may be necessary for the purpose.(2)It shall be the duty of a local authority and other authorities specified in sub-section (1) to furnish, as soon as may be possible, maps, reports, and records as may be required by the Director.

7. Contents of regional plan.

- The Regional Plan shall indicate the manner in which land in the region should be used, the phasing of development, the net work of communications and transport, the proposals for conservation and development of natural resources, and in particular,-(a)allocation of land to such purposes as residential industrial, agricultural, or as forests or for mineral exploitation;(b)reservation of open spaces for recreational purposes, gardens, tree belts, and animal sanctuaries;(c)access or development of transport and communication facilities such as roads, railways, waterways and the location and development of airports;(d)requirements and suggestions for development of public utilities such as water supply, drainage, and electricity;(e)allocation of areas to be developed as 'special areas' wherein new towns, township, large industrial estates or any other type of large development projects may be established;(f)landscaping and the preservation of areas in their natural state;(g)measures relating to the prevention of erosion, including rejuvenation of forest areas;(h)proposals relating to irrigation, water supply or flood control works.

8. Preparation of regional plan.

(1)After preparation of the existing land use map the Director shall cause to be prepared a draft regional plan and publish it by making a copy thereof available for inspection and publishing a notice in such form and manner as may be prescribed inviting objections and suggestions from any person with respect to the draft plan before such date as may be specified in the notice, such date not being earlier than sixty days from the publication of the notice. Such notice shall specify in regard to the draft plan the following particulars, namely,-(a)the existing land use map and the narrative report thereon;(b)a narrative report supported by necessary maps and charts explaining the provisions of the draft plan;(c)a note indicating the priorities assigned to works included in the draft plan and the phasing of the programme of development as such;(d)a note on the role being assigned to the different departments of Government, the Town and Country Development Authorities, the Special Area Development Authorities and the local authorities in the enforcement and implementation of the draft plan.(2)The Director shall consider all the objections and suggestions received by him within the period specified in the notice under sub-section (1) and shall, after giving a reasonable opportunity to all persons affected thereby of being heard, prepare the regional plan containing such modifications, if any, as he considers necessary and submit it to the State Government for approval together with all connected documents, plans, maps and charts.

9. Finalisation of regional plan.

(1)The State Government may approve the draft regional plan submitted under Section 8 with or without modification or reject or return the same to the Director for reconsideration.(2)Immediately after the draft regional plan is approved under sub-section (1), the State Government shall publish in such manner as may be prescribed, a notice stating that the regional plan has been approved and mentioning a place where a copy of the plan may be inspected at all reasonable hours and shall specify therein a date on which the regional plan shall come into operation :Provided that where the State Government approves the draft regional plan with modifications, it shall not be published, unless the State Government having published such modifications in the Gazette along with a notice inviting objections and suggestions thereon within a period of not less than thirty days from the date of publication of such notice have considered the objections and suggestions after giving a reasonable opportunity of being heard to persons affected thereby.

10. Restriction on use of land or development thereof.

(1)Notwithstanding anything contained in any other law for the time being in force, on or after the date of publication of the draft regional plan, no person, authority, department of Government or any other person shall change the use of land for any purpose other than agriculture, or carry out any development in respect of any land contrary to the provisions of the draft plan, without the prior approval of the Director or an officer not below the rank of Deputy Director authorised by the Director, in this behalf.(2)Notwithstanding anything contained in any law for the time being in force, the permission referred to in sub-section (1) shall not be granted otherwise than in conformity with the provisions of the draft or final plan and no permission, if granted shall be construed to confer any legal right whatsoever on the person seeking the permission.(3)If any work is carried out in contravention of the provisions of this section, the Municipal Corporation or Municipal Council within its local area, and the Collector in areas outside such local areas, may cause such work to be removed or demolished at the cost of the defaulter, which shall be recovered from him in the same manner as an arrear of land revenue :Provided that no action shall be taken under this sub-section unless the person concerned is given a reasonable opportunity of being heard and is, by a notice, called upon to remove or demolish the work within a time specified therein.(4)Any person aggrieved by the order of the Municipal Corporation, Municipal Council or Collector, as the case may be, calling upon to remove or demolish the work may prefer an appeal to the Director within fifteen days of the receipt of the notice under sub-section (3) and the order of the Director in such appeal shall be final.

11. Exclusion from claims of compensation in certain cases.

- Where the final regional plan assigns a particular land use to a certain area and any land situate therein is already put to such use, subject to substantially similar restrictions in force under any other law which was in force on the date on which restrictions were imposed by or under this Act and if compensation in respect of such restrictions have already been paid under any such other law which was in force for the time being in respect of the property or any right or interest therein to the claimant, or any predecessor in interest of the claimant, the owner shall not be entitled to any

further compensation on account of injury or damage caused to his rights by reason of the restrictions placed on the use of land under the provisions of this Act.

12. Review of regional plan.

(1)The Director may, on his own motion or if so required by the State Government shall, at any time after a regional plan has come into operation, undertake the review and evaluation of the regional plan and make such modifications in it as may be justified by the circumstances.(2)The foregoing provisions of this chapter shall, so far as they can be made applicable, apply to the modifications under sub-section (1) as those provisions apply in relation to the preparation, publication and approval of a regional plan.

Chapter IV

Planning Areas and Development Plans

13. Planning area.

(1)The State Government may, by notification, constitute planning areas for the purposes of this Act and define the limits thereof.(2)The State Government may, by notification,-(a)alter the limits of the planning area so as to include therein or exclude therefrom such area as may be specified in the notification;(b)amalgamate two or more planning areas so as to constitute one planning area;(c)divide any planning area into two or more planning areas;(d)declare that the whole or part of the area constituting the planning area shall cease to be a planning area or part thereof.(3)[Notwithstanding anything contained in the Madhya Pradesh Municipal Corporation Act, 1956 (No. 23 of 1956), the Madhya Pradesh Municipalities Act, 1961 (No. 37 of 1961) or the Madhya Pradesh Panchayat Raj Adhiniyam, 1993 (No. 1 of 1994), the Municipal Corporation, Municipal Council or the Nagar Panchayat or a Panchayat, as the case may be, shall, in relation to the planning areas, from the date of the notification issued under sub-section (1), cease to exercise the powers, perform the functions and discharge the duties which the State Government or the Director is competent to exercise, perform and discharge under this Act.] [Inserted by M.P. Act No. 31 of 1995 (w.e.f. 30-5-1994).]

14. Director to prepare development plans.

- Subject to the provisions of this Act and the rules made thereunder, the Director shall,-(a)prepare an existing land use map;(b)prepare a development plan;(c)[x x x] [Omitted by M.P. Act No. 8 of 1996 (w.e.f. 17-4-1996).](d)carry such surveys and inspections and obtain such pertinent reports from Government departments local authorities and public institutions as may be necessary for the preparation of the plans;(e)perform such duties and functions as are supplemental, incidental, and consequential to any of the foregoing or as may be assigned by the State Government for the purpose of carrying out the provisions of this Act.

15. Existing land use maps.

(1)The Director shall carry out the survey and prepare an existing land use map [indicating the natural hazard prone areas] [Inserted by M.P. Act No. 22 of 2005.] and, forthwith publish the same in such manner as may be prescribed together with public notice of the preparation of the map and of place or places where the copies may be inspected,'inviting objections and suggestions in writing from any person, with respect thereto within thirty days from the date of publication of such notice.(2)After the expiry of the period specified in the notice published under sub-section (1), the Director may, after allowing a reasonable opportunity of being heard to all such persons who have filed the objections or suggestions, make such modifications therein as may be considered desirable.(3)As soon as may be alter the map is adopted with or without modifications the Director shall publish a public notice of the adoption of the map and the place or places where the copies of the same may be inspected.(4)A copy of the notice shall also be published in the Gazette and it shall be conclusive evidence of the fact that the map has been duly prepared and adopted.

16. Freezing of land use.

(1)On the publication of the existing land use map under Section 15,-(a)no person shall institute or change the use of any land or carry out any development of land for any purpose other than that indicated in the existing land use map without the permission in writing of the Director :Provided that the Director shall not refuse permission if the change is for the purpose of agriculture;(b)no local authority or any officer or other authority shall, notwithstanding anything contained in any other law for the time being in force, grant permission for the change in use of land otherwise than as indicated in the existing land use map without the permission in writing of the Director.

17. Contents of development plan.

- [A development plan shall take into account any draft five-year and Annual Development plan of the district prepared under the Madhya Pradesh Zila Yojana Samiti Adhiniyam, 1995 (No. 19 of 1995) in which the planning area is situated and shall.] [Substituted by M.P. Act No. 8 of 1996 (w.e.f. 17-4-1996).](a)indicate broadly the land use proposed in the planning area;(b)[allocate broadly areas or zones of land, keeping in view the regulations for natural hazard prone areas, for-] [Substituted for 'allocate broadly areas or zones of land for-' by M.P. Act No. 22 of 2005.](i)residential, industrial, commercial or agricultural, purpose;(ii)open spaces, parks and gardens, green-belts, zoological gardens and playgrounds;(iii)public institutions and offices;(iv)such special purposes as the Director may deem fit;(c)lay down the pattern of National and State Highways connecting the planning area with the rest of the region, ring roads, arterial roads and the major roads within the planning area;(d)provide for the location of air-ports, railway stations, but terminus and indicate the proposed extension and development of railways and canals;(e)make proposals for general landscaping and preservation of natural areas;(f)project the requirement of the planning area of such amenities and utilities as water, drainage, electricity and suggest their fulfilment;(g)propose broad based regulations for zoning, by way of guide lines, within each zone or sector of the location, height, size of buildings and structures, open spaces, court yards and the use to which such buildings and structures and land may be put;(h)lay down the broad-based traffic

circulation patterns in a city;(i)suggest architectural control features; elevation and frontages of buildings and structures;(j)indicate measures for flood control, prevention of air and water pollution, disposal of garbage and general environmental control.

17A. [Constitution of Committee. [Inserted by M.P. Act No. 8 of 1996 (w.e.f. 17-4-1996).]

(1)The State Government shall constitute a committee consisting of the following, namely :- (a)Mayor of the Municipal Corporation or President of the Municipal Council or Nagar Panchayat, as the case may be, which wholly or partly fall within the planning area;(b)President of the Zila Panchayat which wholly or partly fall within the planning area;(c)Members of Parliament representing constituencies which wholly or partly fall within the planning area;(d)All Members of the State Legislative Assembly representing the constituencies which wholly or partly fall within the planning area;(e)Chairman of the Town and Country Development Authority, or Special Area Development Authority, if any, which wholly or partly fall within the planning area;(f)President of the Janpad Panchayat which wholly or partly fall within the planning area;(g)Sarpanchas of the Gram Panchayats which wholly or partly fall within the planning area;(h)other persons not exceeding seven to represent specific interests to be nominated by the State Government;(i)an officer not below the rank of [Deputy Director], Town and Country Planning to be nominated by the Director, who shall be the Convenor of the Committee.(2)[The Committee constituted under sub-section (1) shall hear the objections alter publication of the draft development plan under Section 18 and suggest modifications or alterations, if any, to the Director,] [[Substituted by M.P. Act No. 22 of 2005. Prior to substitution is was as under :'(2) The Committee constituted under sub-section (1), shall, -(a)consider and suggest modifications and alterations in the draft development plan prepared by the Director under Section 4;(b)hear the objections after publication of the draft development plan under Section 18 and suggest modifications or alterations if any, to the Director.]](3)The Convenor of the Committee shall record in writing all the suggestions, modifications and alterations recommended by the committee under sub-section (2) and thereafter, forward his report to the Director.]

18. [Publication of draft development plan. [Substituted by M.P. Act No. 8 of 1996.]

(1)[The Director shall publish the draft development plan prepared under Section 14 in such manner as may be prescribed together with a notice of the preparation of the draft development plan and the place or the places where the copies may be inspected, inviting objections and suggestions in writing from any person with respect thereto, within thirty days from the date of communication of such notice, such notice shall specify in regard to the draft development plan, the following particulars, namely,-](i)the existing land use maps;[(i-a) the natural hazard prone areas with the description of natural hazards;] [Inserted by M.P. Act No. 22 of 2005.](ii)a narrative report, supported by maps and charts, explaining the provisions of the draft development plan;(iii)the phasing of implementation of the draft development plan as suggested by the Director;(iv)the provisions for enforcing the draft development plan and stating the manner in which permission for development

may be obtained;(v)approximate cost of land acquisition for public purposes and the cost of works involved in the implementation of the plan.(2)The committee constituted under sub-section (1) of Section 17-A shall not later than ninety days after the publication of the notice under sub-section (1), consider all the objections and suggestions as may be received within the period specified in the notice under sub-section (1) and shall, after giving reasonable opportunity to all persons affected thereby of being heard, suggest such modifications in the draft development plan as it may consider necessary, and submit, not later than six months after the publication of the draft development plan, the plan as so modified, to the Director together with all connected documents plans, maps and charts.(3)The Director shall, within 30 days of the receipt of the plan and other documents from the committee submit all the documents and plans so received alongwith his comments, to the State Government.]

19. Sanction of development plans.

(1)As soon as may be after the submission of the development plan under Section 18 the State Government may either approve the development plan or may approve it with such modifications as it may consider necessary or may return it to the Director to modify the same or to prepare a. fresh plan in accordance with such directions as the State Government may deem appropriate.(2)Where the State Government approves the development plan with modifications, the State Government shall, by a notice published in the Gazette, invite objections and suggestions in respect of such modifications within a period of not less than thirty days from the date of publication of the notice in the Gazette.(3)After considering objections and suggestions and after giving a hearing to the persons desirous of being heard, the State Government may confirm the modification in the development plan.(4)[The State Government shall publish a public notice in the Gazette and in such other manner as may be prescribed of the approval of the development plan approved under the foregoing provisions and the place or places where the copies of the approved development plan may be inspected.(5)The development plan shall come into operation from the date of publication of the said notice in the Gazette under sub- section (4) and as from such date shall be binding on all Development Authorities constituted under this Act and all local authorities functioning with the planning area.] [Substituted by M.P. Act No. 6 of 1976]

Chapter V

Zoning Plan

20. [Preparation of Zoning Plans. [Substituted by Act No. 8 of 1996 (w.e.f. 17-4-1996).]

- The local authority may on its own motion at any lime after the publication of the development plan, or thereafter if so required by the State Government shall, within six months of such requisition, prepare a Zoning Plan.]

21. Contents of zoning plan.

(1)The zoning plan shall enlarge the details of land use as indicated in the development plan and shall,-(a)indicate the land liable to acquisition for public purpose for the purposes of the Union Government, the State Government, a Town and Country Development Authority, a, Special Areas Development Authority, a local authority, a public utility or any other authority established by or under any enactment for the time being in force :Provided that no land shall be so designated unless the acquisition proceedings are likely to be completed within ten years of the preparation of the plan;(b)define in detail and provide for areas reserved for agriculture, public and semi public open spaces, parks, playground, gardens, recreational areas, green-belts and nature reserves;(c)allocate in detail areas or zones for residential, commercial, industrial, agricultural and other purposes;(d)define and provide for the complete road and street pattern for the present and in the future and indicate the traffic circulation;(e)lay down in detail the projected road and street improvements;(f)indicate and provide for areas reserved for public buildings, institutions, and civic developments;(g)assess, make projections for and provide for the future requirements of amenities, services, and utilities such as municipal transport, electricity, water and drainage;(h)prescribe in detail the zoning regulations for each zone; with a view to facilitating an individual lay out and regulating the location, height number of storeys and the size of buildings and other structures, the size of the courtyards, Courts and other open spaces and the use of the buildings, structures and land;(i)define areas which have been badly laid out or areas which have developed so as to form slums, and provide for their proper development and/or relocation;(j)designate areas for future development and expansion;(k)indicate the phasing of the programme of development.(2)The zoning plan may, and, if possible, shall, indicate,-(a)control over architectural features elevation and frontage of buildings and structures; and(b)the details of development of specific areas for housing, shopping centres, industrial areas, educational and cultural institutions and civic centres.

22. Provisions of Sections 18 and 19 to apply to zoning plan.

- The provisions of Sections 18 and 19 shall apply for the preparation, publication approval and operation of zoning plan as they apply in respect of the development plan.

23. [Review and modifications of development plan or zoning plan.

[Substituted by M.P. Act No. 8 of 1996 (w.e.f. 17-4-1996).]

(1)The Director may, on his own motion or if so required by the State Government shall undertake a review and evaluations of the development plan.(2)The Director may if necessary propose modification of the plan under sub-section (1).(3)The Director shall, if so required by the State Government proceed to review and propose modifications of any planning unit of a development plan.(4)The Local Authority shall on its own motion or if so required by the State Government or the Director undertake review and evaluation of the Zoning Plan.(5)The provisions of Sections 8 and 19 shall, so far as may be, apply to the modifications under sub-section (2), review and modification under sub-section (3) and review and evaluation under sub-section 14 as these provisions apply in relation to the preparation, publication and approval of a development plan.Explanation. - For the

purposes of this section "Planning Unit" means the area shown as planning unit in the development plan.]

23A. [Modification of Development Plan or Zoning Plan by State Government in certain circumstances. [Inserted by M.P. Act No. 22 of 1992 (w.e.f. 31-10-1992).]

- [(1) (a) The State Government may, on its own motion or on the request of a Town and Country Development Authority, [or the Director] make modification in the development plan or the zoning plan for any proposed project of the Government of India or the State Government and its enterprises or for any proposed project related to development of the State or for implementing a scheme of a Town and Country Development Authority [or the Director] [Inserted by M.P. Act No. 14 of 2017, dated 20.4.2017.] and the modification so made in the development plan or zoning plan shall be an integral part of the revised development plan or zoning plan.(b)The State Government may, [on an application from any person or an association of persons made to the Director] [Substituted 'on an application from any person or an association of persons' by M.P. Act No. 14 of 2017, dated 20.4.2017.] for modification of development plan or zoning plan for the purpose of undertaking an activity or scheme which is considered by the State Government or the Director, on the advice of the Committee constituted by the State Government for this purpose, to be beneficial to the society, make such modification in the development plan or zoning plan as may be deemed necessary in the circumstances of the case and the modification so made in the development plan or zoning plan shall be an integral part of the revised development plan or zoning plan.](2)[The Director] [Substituted 'The State Government' by M.P. Act No. 14 of 2017, dated 20.4.2017.] shall publish the draft of modified plan together with a notice of the preparation of the draft modified plan and the place or places where the copies may be inspected, continuously for two days in such two daily newspapers which are in the approved list of Government for advertisement purpose having circulation in the area to which it relates and a copy thereof shall be affixed in a conspicuous place in the office of the Collector, inviting objections and suggestions in writing from any person with respect thereto within fifteen days from the date of publication of such notice.After considering all the objections and suggestions as may be received within the period specified in the notice [and shall after giving reasonable opportunity to all persons affected thereby of being heard, the Director shall submit all the documents related to the proposed modification along with his opinion to the State Government and, the State Government may modify the plan as it deems appropriate.] [Substituted 'and shall, after giving reasonable opportunity to all persons affected thereby or being heard, the State Government shall confirm the modified plan as it deems appropriate' by M.P. Act No. 14 of 2017, dated 20.4.2017.](3)The provisions of Sections 18, 19 and 22 shall not apply for modification made by the State Government.[Explanation.-Omitted.] [[Omitted by M.P. Act No. 22 of 2005. Prior to omission it was as under : 'Explanation. - For the purpose of this section 'public purpose' includes creation, development and maintenance of human settlements or any part thereof.']]

23C. [Additional buildable floor space in the form of DRC. [Inserted by M.P. Act No. 14 of 2017, dated 20.4.2017.]

- Where any land is part of generating area, the Government or its undertaking which is the implementing agency of a public project may apply to the authority for issue of Development Right Certificates to the owner of the land.

23D. Additional buildable floor space in the project area.

- Where any land is part of any project influence area notified by the Government, first fifty percent of maximum permissible additional buildable area can only be purchased from the project authority and remaining additional buildable area may be purchased through DRCs.]

Chapter VI

Control of Development and use of Land

24. [State Government to control development and use of land. [Substituted by M.P. Act No. 4 of 1983 (w.e.f. 19-11-1982).]

(1)The overall control of development and use of land in the State shall vest in the State Government.(2)Subject to the provisions of sub-section (1) and the rules made under this Act, the overall control of development and use of land in the planning area shall vest in the Director with effect from such date as the State Government may, by notification, appoint in this behalf.(3)The State Government may make rules to regulate the control of development and use of land in planning area and non-planning area in the State and may, by notification, apply the said rules to any planning area or non-planning area from such, date as may be specified therein and where the rules are made applicable to a non-planning area, such notification shall define the limits of the non-planning area:Provided that different rules may be made for different classes of local authorities in a planning area or non-planning area, as the case may be.(4)On application of rules to a planning area, the provision of this chapter in its application to that planning area, shall be subject to the provisions of the rules.(5)On application of rules to any non-planning area, the following consequences shall ensue, namely :-(i)relevant provision of the law relating to local authority empowering the local authority to control development and use of land or any other enactment under which the authority entrusted with the functions of. development and use of land is constituted and the rules, or bye-laws, if any, made thereunder shall cease to apply to the area comprised within the limits of the local authority or any other authority, as the case may be;(ii)the local authority or any other authority whose function it is to control development and use of land under any law relating to local authority or under any other enactment for the time being in force shall, notwithstanding anything contained in any such law or enactment, be bound to give effect to the provisions of the rules made under this Act :]

24A. [Construction of an additional floor in a residential building. [Inserted by M.P. Act No. 23-of 1988 (11-8-1988).]

- Where under the provisions of this Act or rules made thereunder or any other law enacted under entry 5 of the State List of the Seventh Schedule to the Constitution of India for the time being in force, regulating the constructions of residential building or any rules or regulations or bye-laws made thereunder it is permissible to construct less than three floors then notwithstanding any thing contained in the Act or the law or the rules or the regulations or the bye-laws aforesaid it shall be permissible to construct an additional floor in such residential building subject to sanction of a plan of such construction under the aforesaid Act or law, as the case may be.]

25. Conformity with development plan.

(1)After the coming into force of the development plan, the use and development of land shall conform to the provisions of the development plan :[Provided that the [Director] [Substituted by M.P. Act No. 26 of 1999.] may, at its discretion, permit the continued use of land for the purpose for which it was being used at the time of the coming into operation of the development plan.]Provided further that such permission shall not be granted for a period exceeding seven years from the date of coming into operation of the development plan.(2)Notwithstanding anything contained in Section 172 of the Madhya Pradesh Land Revenue Code, 1959 (No. 20 of 1959) every permission to divert land granted under that section shall be subject to the provisions of this Act.

26. Prohibition of development without permission.

- After the coming into operation of the development plan, no person shall change the use of any land or carry out any development of land without the permission in writing of the Director.Provided that no such permission shall be necessary,-(a)for carrying out works for the maintenance, repair or alteration of any building which does not materially alter the external appearance of the building;(b)(or carrying out of work for the improvement or maintenance of a highway, road or public street by the Union or State Government or an authority established under this Act or by a local authority having jurisdiction, provided that such maintenance or improvement does not change the road alignment contrary' to the provisions of the development plan;(c)for the purpose of inspecting, repairing or renewing any drains, sewers, mains, pipes, cables, telephone or other apparatus including the breaking open of any street or other land for that purpose;(d)for the excavation or soil-shaping in the interest of agriculture;(e)for restoration of land to its normal use where land has been used temporarily for any other purposes;(f)for use, for any purpose incidental to the use of building for human habitation, or any other building or land attached to such building;(g)for the construction of a road intended to give access to land solely for agricultural purposes.[Provided further that in a planning area to which rules made under sub- section (3) of Section 24 are made applicable, such permission may be given by such authority as may be provided in the said rules.] [Inserted by M.P. Act No. 4 of 1983 (w.e.f. 19-11-1982).]

27. Development undertaken on behalf of Union or State Government.

- [(1) When the Union Government or the State Government intends to carry out development of any land for the purpose of its departments or offices or authorities, the Officer-in-Charge thereof shall inform in writing to the Director the intention of the Government to do so, giving full particulars thereof, accompanied by such documents and plans complying with the provisions of Acts, rules and bye-laws relating to development, control of the natural hazard prone area as may be prescribed atleast thirty days before undertaking such development.] [[Substituted by M.P. Act No. 22 of 2005. Prior to substitution it was as under :'(1) When the Union Government or the State Government intends to carry out development of any land for the purpose of its departments or offices or authorities, the officer-in-charge thereof shall inform in writing to the Director the intention of the Government to do so, giving full particulars thereof, accompanied by such documents and plans as may be prescribed atleast thirty days before undertaking such development.']](2)Where the Director raises any objection to the proposed development on the ground that the development is not in conformity with the provisions of the development plan, the officer shall,-(i)make necessary modifications in the proposals for development to meet the objections raised by the Director; or(ii)submit the proposal for development together with the objections raised by the Director to the State Government for decision :[Provided that where no modification is proposed by the Director within thirty days of the receipt of the plan of the proposed development the plan will be presumed to have been approved to the extent to which the provisions of Development Plan, Zoning Plan, Town Development Scheme or the rules made under this Act or any other enactment in force, is not violated.] [Substituted by M.P. Act No. 26 of 1999.](3)The State Government, on receipt of the proposals for development together with the objections of the Director shall, approve the proposals with or without modifications or direct the officer to make such modifications in the proposals as it considers necessary in the circumstances.(4)The decision of the State Government under sub-section (3) shall be final and binding.(5)[The State Government may, by notification, exempt from the operation of this section development of any land undertaken on behalf of the union or State Government for the purpose of any project or operational construction as may be specified therein.] [Inserted by M.P. Act No. 12 of 1975 (w.e.f. 4-6-1975).]

28. Development by local authority or by any authority constituted under this Act.

- Where a Local Authority or any authority specially constituted under this Act intends to carry out development on any land for the purpose of that authority, the procedure applicable to the Union or State Government under Section 27 shall, mutatis mutandis, apply in respect to such authority.

29. Application for permission for development by others.

- [(1) Any person, not being the Union Government, State Government, a local authority or a special authority constituted under this Act, intending to carry out any development on any land, shall make an application in writing to the Director for permission, in such form and containing such particulars and accompanied by such documents complying with the provisions of Acts, rules and

bye-laws relating to development, control of the natural hazard prone area as may be prescribed.] [[Substituted by M.P. Act No. 22 of 2005. Prior to substitution it was as under; '(1) Any person, not being the Union Government, State Government, a Local Authority or a special authority constituted under this Act intending to carry out any development on any land, shall make an application in writing to the Director for permission, in such form and containing such particulars and accompanied by such documents as may be prescribed.'](2)Such application shall also be accompanied by such fee as may be prescribed.

30. Grant or refusal of permission.

(1)On receipt of an application under Section 29 the Director may, subject to the provisions of this Act, by order in writing, -(a)grant the permission unconditionally;(b)grant the permission, subject to such conditions as may, be deemed necessary under the circumstances;(c)refuse the permission.(2)Every order granting permission subject to conditions, or refusing permission shall state the grounds for imposing such conditions or for such refusal.(3)Any permission granted under sub-section (2) with or without conditions shall be in such manner as may be prescribed.(4)Every order under sub-section (2) shall be communicated to the applicant in such manner as may be prescribed.(5)If the Director does not communicate his decision whether to grant or refuse permission to the applicant within [sixty days] [Substituted by M.P. Act No. 4 of 1983 (w.e.f. 19-11-1982).] from the date of receipt of his application, such permission shall be deemed to have been granted to the applicant on the date immediately following the date of expiry of [sixty days] [Substituted by M.P. Act No. 4 of 1983 (w.e.f. 19-11-1982).] :Provided that in computing the period of [sixty days] [Substituted by M.P. Act No. 4 of 1983 (w.e.f. 19-11-1982).] the period in between the date of requisitioning any further information or documents from the applicant and date of receipt of such information or documents from the applicant shall be excluded.

31. Appeal.

- [(3) Any applicant aggrieved by an order granting permission on condition or refusing permission under Section 30 may, within thirty days of the date of communication of the order to him, prefer an appeal to such authority, in such manner and accompanied by such fees as may be prescribed.] [Substituted by M.P. Act No. 4 of 1983 (w.e.f. 19-11-1982).](2)[The appellate authority may] [Substituted by M.P. Act NO. 4 of 1983 (w.e.f. 19-11-1982).], after giving a reasonable opportunity to the appellant and the Director to be heard, by order, dismiss the appeal or allow the appeal by granting permission unconditionally or subject to the conditions as modified.(3)Subject to the provisions of Section 32 the order of the appellate authority shall be final.

32. Revision.

- The State Government may, at any time, but not later than twelve months of the passing of the order, on its own motion or on an application filed by the person aggrieved by any order of the appellate authority under Section 31 within thirty days of the date of communication of such order to him, call for and examine the record of any case disposed of by Director under Section 30 or appellate authority under Section 31 for the purpose of satisfying itself as to the correctness of the

order and as to the regularity of any proceeding of the Director or the Appellate Authority and may, when calling such record direct that the execution of the order be suspended. The State Government may, after examining the record, pass such order as it thinks fit and its order shall be final and no further application for revision or review thereof shall lie ;Provided that no order shall be passed unless the person affected thereby and the Director have been given a reasonable opportunity of being heard.

33. Lapse of permission.

- Every permission granted under Section 30 or Section 31 or Section 32 shall remain in force for a period of [three years] [Substituted by M.P. Act No. 8 of 1996 (w.e.f. 17-4-1996).] from the date of such grant and thereafter it shall lapse :Provided that the Director may, on an application, extend such period from year to year but the total period shall in no case exceed [five years] [Substituted by M.P. Act No. 8 of 1996 (w.e.f. 17-4-1996).] from the date on which the permission was initially granted :Provided further that such lapse shall not bar any subsequent application for fresh permission under this Act.

34. [Deleted by M.P. Act No. 14 of 2017, dated 20.4.2017.]

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34. Obligation to acquire land.- (1) Where any land is designated by a development plan as subject to compulsory acquisition,-(a) for development for the purpose of town expansion or town improvement, or(b) for development for the purpose of the Union or State Government or a Local Authority or a special authority constituted under this Act, or(c) for development as a highway or a public utility service, and the owner of the land claims that-(i) the land has become incapable of reasonably beneficial use in its existing state; or(ii) where permission to develop land is given subject to conditions, that the land cannot be rendered capable of reasonably beneficial use by carrying out the permitted development, in accordance with the conditions;(iii) the sale value of the land has diminished because of the designation of the land for acquisition or development, the owner may serve on the State Government within such time, in such manner and together with such documents as may be prescribed, a notice requiring the appropriate authority to purchase the interest in land in accordance with the provision of this Act.(2) On receipt of a notice under sub-section (1), the State Government shall, forthwith call from the Director and the appropriate authority such report or records or both, as may be necessary, which those authorities shall forward to the State Government as soon as possible but not later than thirty days from the date of their requisition.(3) On receiving such records or reports, the State Government may,-(a) if it is satisfied that the conditions specified in sub- section (1) are fulfilled, and that the order or decision for permission was not duly made on the ground that the applicant did not comply with any of the provisions of this Act or the rules made thereunder, confirm the notice or direct that the permission be ; granted without conditions or subject to such conditions as will make the land capable of reasonably beneficial use;(b); in any other case, refuse to conform the notice but in that case; the applicant shall be given a reasonable opportunity of being heard.(4) If within a period of one year from the date on which the notice is served, the State Government does not pass any final order

thereon, the notice shall be deemed to have been confirmed at the expiration of that period.(5) Upon confirmation of the notice, the State Government shall, within a period of one year of such confirmation, proceed to acquire the land or that part of any land regarding which the notice has been confirmed, in accordance with the provisions of this Act.

35. Deletion of reservation of designated land from draft or final development plan.

(1)The appropriate authority, if it is satisfied that the land is not or is no longer required for the public purpose for which it is designated or reserved or allocated in the draft development plan of zoning plan, or the final development plan or zoning plan may request-(a)the Director to sanction the deletion of such designation or reservation or allocation from Use draft development plan or zoning plan; or(b)the State Government to sanction the deletion of such designation or reservation or allocation from the final development plan or zoning plan(2)On receipt of such request from the appropriate authority, the Director or, as the case may be, the State Government may make an order sanctioning the deletion of such designation or reservation or allocation from the relevant plans :Provided that, the Director or, as the case may be, the. State Government may, before making any order, make such enquiry as he it may consider necessary and satisfy himself/itself that such reservation or designation or allocation is no longer necessary in the public interest.(3)Upon an order under sub-section (2) being made, the land shall be deemed to be released from such designation, reservation or, as the case may be, allocation and shall become available to the owner for the purpose of development as otherwise permissible in the case of adjacent land under the relevant plan.

36. Penalty for unauthorised development or for use otherwise than in conformity with development plan.

- Any person who, whether at his own instance or at the instance of any other person, commences, undertake or carries out any development or changes use of any land,-(a)without permission required under this Act;(b)in contravention of the permission granted or any condition subject to which such permission has been granted;(c)after the permission for development has been duly revoked; or(d)in contravention of any permission which has been duly modified, shall, without prejudice to any action that may be taken under Section 37, be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees or with both, and in the case of a continuing offence with further fine which may extend to two hundred rupees for every day during which the offence continues after conviction for the first commission of the offence.

37. Power to require removal of unauthorised development.

(1)Where any development has been carried out as indicated in Section 36 the Director may, within five years of such development, serve on the owner a notice requiring him, within such period being not less than one month and not exceeding three months as may be specified therein from the date of the service of the notice,-(a)in cases specified in clause (a) or (c) of Section 36 to restore the land

to its condition existing before the said development took place;(b)in cases specified in clause (b) or (d) of Section 36 to secure compliance with the conditions or with the permission as modified :Provided that where the notice requires the discontinuance of any use of land, notice shall be served on the occupier also.(2)In particular, such notice may, for purpose of sub-section (1), require,-(a)the demolition or alteration of any building or works;(b)the carrying out on land of any building or other operations; or(c)the discontinuance of any use of land.(3)Any person aggrieved by such notice may, within fifteen days of the receipt of the notice and in the manner prescribed, apply to the Director for permission for retention on the land of any building or works or for the continuance of any use of the land to which the notice relates and till the time the application is disposed of, the notice shall stand withdrawn.(4)The foregoing provisions of this chapter shall so far as may be applicable apply to an application made under sub-section (3).(5)If the permission applied for is granted, the notice shall stand withdrawn; but if the permission applied for is not granted, the notice shall stand; or if such permission is granted for the retention only of some buildings, or works, or for the continuance of use of only a part of the land, the notice shall stand withdrawn as respect such buildings or works or such part of the land, but shall stand as respects other buildings or works or other parts of the land, as the case may be; and thereupon the owner shall be required to take steps specified in the notice under sub-section (1) as respects such other buildings, works or part of the land.(6)If within the period specified in the notice or within the same period after the disposal of the application the notice or so much of it as stands is not complied with, the Director may,-(a)prosecute the owner for not complying with the notice and whether the notice requires the discontinuance of any use of land, any other person also who uses the land or causes or permits the land to be used in contravention of the notice; and(b)where the notice required the demolition or any alteration of any building or works or carrying out of any building or other operations itself cause the restorations of the land to its condition before the development took place and secure compliance with the condition of the permission or with the permission as modified by taking such steps as the Director may consider necessary, including demolition or alteration of any building or works or carrying out of any building or other operations, and recover the amount of any expenses incurred by him in this behalf from the owner as arrears of land revenue.(7)Any person prosecuted under clause (a) of sub-section (6) shall, on conviction, be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees or with both, and in the case of a continuing offence with further fine which may extend to two hundred and fifty rupees for every day during which the offence continues after conviction for the first commission of the offence.

Chapter VII

Town and Country Development Authority

38. Establishment of Town and Country Development Authority.

(1)The State Government may, by notification, establish a Town and Country Development Authority by such name and for such area as may be specified in the notification.(2)The duty of implementing the proposal in the development plan, preparing one or more town development schemes and acquisition and development of land for the purpose of expansion or improvement of

the area specified in the notification under sub-section (1) shall, subject to the provision of this Act vest in the Town and Country Development Authority established for the said area.[Provided that, the duty imposed on the Town and Country Development Authority shall, till that authority is established for any area under sub-section (1), be performed by the local authority having jurisdiction over such area as if it were a Town and Country' Development Authority established under this Act.(3)On the establishment of the Town and Country Development Authority for the area to which the proviso to sub-section (2) applies, the following consequences shall ensue in relation to that area, namely :-(i)all assets and liabilities acquired and incurred by the local authority in the discharge of the duty under the proviso to sub-section (2) shall belong to and be demand to be the assets and liabilities of the Town and Country Development Authority established in place of such local authority;(ii)all records and papers belonging to the local authority referred to in clause (i) shall vest in and be transferred to the Town and Country Development Authority established in its place.]

39. Incorporation of Town and Country Development Authority.

- Every Town and Country Development Authority shall be a body corporate by the name specified in the notification under Section 38, and shall have perpetual succession and a common seal, with power to acquire and hold property, both moveable and immovable and subject to the provisions of this Act or any rules made thereunder, to transfer any property held by it, to contract and to do all other things necessary for the purposes of this Act and may sue and be sued in its corporate name.

40. [Constitution of Town and Country Development Authority. [Substituted by M.P. Act No. 4 of 1983 (w.e.f. 19-11-1982).]

- Every Town and Country Development Authority shall consist of the following, namely, -(a) a Chairman to be appointed by the State Government; (b) the Collector of the district or his nominee; (c) [four members] to be appointed by the State Government to represent respectively - (i) Town and Country Planning Department, Madhya Pradesh; (ii) Forest Department, Madhya Pradesh; (iii) Public Health Engineering Department, Madhya Pradesh; (iv) [Public Works Department, Madhya Pradesh; [Inserted by M.P. Act No/26 of 1999.]] (v) Madhya Pradesh Electricity Board; (d) the Administrator, Commissioner or Chief Municipal Officer of the Municipal Corporation or Municipal Council of the area, as the case may be; (e) one other officer of the State Government to be appointed by the State Government; (f) a person who is art expert in the field of town planning or architecture to be appointed by the State Government; (g) [Five non official member to be appointed by the State Government out of whom at least two shall be women] [Substituted by M.P. Act No. 26 of 1999.]; (h) [Chief Executive Officer shall be the Member Secretary] [Inserted by M.P. Act No. 26 of 1999.]: Provided that the State Government may, if it considers it necessary so to do, appoint [one or more Vice-Chairman] [Substituted by M.P. Act No. 8 of 1996 (w.e.f. 17-4-1996).]: Provided further that the State Government may, if it considers it necessary so to do, constitute a single member Town and Country Development Authority. [Inserted by M.P. Act No. 12 of 1975 (w.e.f. 4-6-1975).]

41. Term of office of [Chairman, Vice-Chairman] [Substituted by M.P. Act No. 4 of 1983 (w.e.f. 19-11-1982).] and other members.

- The names of the [Chairman, Vice-Chairman] [Substituted by M.P. Act No. 4 of 1983 (w.e.f. 19-11-1982).] and the members shall be notified in the Gazette.(2)The term of office of the [Chairman, Vice-Chairman] [Substituted by M.P. Act No. 4 of 1983 (w.e.f. 19-11-1982).] and other members shall be such as may be prescribed.(3)The person ceasing to be a [Chairman, Vice-Chairman] [Substituted by M.P. Act No. 4 of 1983 (w.e.f. 19-11-1982).] or member by reason of the expiry of his term of office shall, if otherwise qualified be eligible for re-appointment.

42. Resignation of members and filling of casual vacancies.

(1)Every person becoming a member under [clauses (d), (1) and (g)] [Substituted by M.P. Act No. 4 of 1983 (w.e.f. 19-11-1982).] of Section 40 may at any time resign his office by writing under his hand addressed to the Chairman, and upon receipt of resignation by the Chairman, the office of the member shall become vacant.(2)If the State Government considers that the continuance in office of any member is not in the public interest, the State Government may make an order terminating his appointment and thereupon he shall cease to be member of the Town and Country Development Authority, notwithstanding that the term for which he was appointed has not expired.(3)In the event of a vacancy occurring in the office of the [Chairman, Vice-Chairman] [Substituted by M.P. Act No. 4 of 1983 (w.e.f. 19-11-1982).] or any member, the vacancy shall be filled by the State Government in accordance with the provisions of Section 40 and the person so appointed shall hold office for the remainder of the term of his predecessor.

43. Remuneration of [Chairman, Vice-Chairman] [Substituted by M.P. Act No. 4 of 1983 (w.e.f. 19-11-1982).].

(1)No member other than the [Chairman, Vice-Chairman] [Substituted by M.P. Act No. 4 of 1983 (w.e.f. 19-11-1982).] shall receive any annulements except such allowances as may be prescribed.(2)The [Chairman, Vice-Chairman] [Substituted by M.P. Act No. 4 of 1983 (w.e.f. 19-11-1982).] shall receive such salary and allowances and shall be subject to such terms and conditions of service as may be prescribed.

44. [Leave of absence and appointment of acting Chairman and Vice-Chairman. [Substituted by M.P. Act No. 4 of 1983 (w.e.f. 19-11-1982).]

(1)The State Government may, grant leave of absence to the Chairman or the Vice-Chairman, subject to such terms and conditions as may be prescribed.(2)[Whenever the Chairman is granted leave of absence, the Vice-Chairman nominated by the Chairman and where the Chairman and the Vice-Chairman are granted leave, any other member appointed by the State Government shall act as Chairman.] [Substituted by M.P. Act No. 8 of 1996 (w.e.f. 17-4-1996).]

45. Meeting of Town and Country Development Authority.

(1)The meetings of the Town and Country Development Authority shall be held at such time and at such place as may be laid down by regulations :Provided that until regulations are made in this behalf such meeting shall be convened by the Chairman.(2)The quorum of meeting shall, unless otherwise provided by regulations be one third of the total number of members of the Town and Country Development Authority.(3)The Town and Country Development Authority shall make regulations to provide for the conduct of its business.

46. [Chief Executive Officer. [Substituted by M.P. Act No. 11 of 1991 (w.e.f. 16-7-1991).]

(1)Every Town and Country Development Authority shall have a Chief Executive Officer who shall act as the Secretary of the Authority.](2)The Chief Executive Officer shall be appointed by the State Government from amongst the members of the Development Authority Service belonging to the State cadre from amongst the members of the State Technical/Administrative Services if necessary.

47. [Other officers and servants. [Substituted by M.P. Act No. 11 of 1991 (w.e.f. 16-7-1991).]

- Every Town and Country Development Authority may have such other officers and servants as may be necessary and proper for the efficient discharge of its duties. Appointments to the post of officers and servants, included in the State cadre mentioned in Section 76-B of the Development Authority Services shall be made by the State Government and appointments to the posts of officers and servants included in the local cadre in the said services shall be made by the concerned Town and Country Development Authority :Provided that no post shall be created in any authority save with the prior sanction of the State Government.]

48. [Conditions of service of Chief Executive Officer and other officers and servants. [Substituted by M.P. Act No. 11 of 1991 (w.e.f. 16-7-1991).]

- The Chief Executive Officer appointed under Section 46 and other officers and servants appointed under Section 47 shall work under the superintendence and control of the authority subject to the provisions of the Act and the Rules.]

49. Town Development Schemes.

- A town development scheme may make provision for any of the following matters,-(i)acquisition, development and sale or leasing of land for the purpose of town expansion;(ii)acquisition, relaying out of, rebuilding, or relocating areas which have been badly laid out or which has developed or degenerated into a slum;(iii)acquisition and development of land for public purposes such as housing development, development of shopping centres, cultural centres, administrative centres;(iv)acquisition and development of areas for commercial and industrial

purposes;(v)undertaking of such building or construction work as may be necessary to provide housing, shopping, commercial or other facilities;(vi)acquisition of land and its development for the purpose of laying out or remodeling of road and street patterns;(vii)acquisition and development of land for playgrounds, parks, recreation centres and stadia;(viii)reconstruction of plots for the purpose of buildings, roads, drains, sewage lines and other similar amenities;(xi)any other work of a nature such as would bring about environmental improvements which may be taken up by the authority with the prior approval of the State Government.

50. Preparation of Town Development Schemes.

(1)The Town and Country Development Authority may, at any time, declare its intention to prepare a town development scheme.(2)Not later than thirty days from the date of such declaration of intention to make a scheme, the Town and Country Development Authority shall publish the declaration in the Gazette and in such other manner as may be prescribed.(3)Not later than two years from the date of publication of the declaration under sub-section (2) the Town and Country Development Authority shall prepare a town development scheme in draft form and publish it in such form and manner as may be prescribed together with a notice inviting objections and suggestions from any person with respect to the said draft development scheme before such date as may be specified therein, such date being not earlier than thirty days from the date of publication of such notice.(4)The Town and Country Development Authority shall consider all the objections and suggestions as may be received within the period specified in the notice under sub-section (3) and shall, after giving a reasonable opportunity to such persons affected thereby as are desirous of being heard, or after considering the report of the committee constituted under sub-section (5) approve the draft scheme as published or make such modifications therein as it may deem fit:[Provided that the final publication of such draft scheme shall be notified not later than one year from the date of publication of the draft scheme failing which the draft scheme shall be deemed to have lapsed.] [Inserted by M.P. Act No. 21 of 2004 (w.e.f. 24-12-2004).](5)Where the town development scheme relates to reconstitution of plots, the Town and Country Development Authority shall, notwithstanding anything contained in sub-section (4), constitute a committee consisting of the Chief Executive Officer of the said authority and two other members of whom one shall be representative of the Madhya Pradesh Housing Board and the other shall be an officer of the Public Works Department not below the rank of an Executive Engineer nominated by the Chief Engineer, Public Works Department for the purpose of hearing objections and suggestions received under sub-section (3).(6)The committee constituted under sub-section (5) shall consider the objections and suggestions and give hearing to such persons as are desirous of being heard and shall submit its report to the Town and Country Development Authority within such time as it may fix along with proposals to,-(i)define and demarcate the areas allotted to or reserved for public purpose;(ii)demarcate the reconstituted plots;(iii)evaluate the value of the original and the reconstituted plots;(iv)determine whether the areas reserved for public purpose are wholly or partially beneficial to the residents within the area of the scheme;(v)estimate and apportion the compensation to or contribution from the beneficiaries of the scheme on account of the reconstitution of the plot and reservation of portions for public purpose;(vi)evaluate the increment in value of each reconstituted plot and assess the development contribution leviable on the plot holder :Provided that the contribution shall not exceed half the accrued increment in

value;(vii)evaluate the reduction in value of any reconstituted plot and assess the compensation payable therefor.(7)Immediately after the town development scheme is approved under sub-section (4) with or without modifications the Town and Country Development Authority shall publish in the Gazette and in such other manner as may be prescribed a final town development scheme and specify the date on which it shall come into operation.

51. Revision.

- The Director may, at any time, but not later than two years from the date of publication of the final town development scheme, under Section 50 on his own motion or on an application filed within thirty days of such publication of the final scheme by any person aggrieved by the final scheme, call for and examine the record of any scheme for the purpose of satisfying himself as to the correctness of the order passed by the Town and Country Development Authority, or as to the regularity of any proceedings of such authority and when, calling such record direct that the execution of the scheme be suspended. The Director may, after examining the record, pass such order as he thinks fit and his order shall be final :Provided that no order shall be passed unless the person affected thereby and the Town and Country Development Authority have been given a reasonable opportunity of being heard.

52. Powers of State Government to give directions.

(1)The State Government may, if it considers it necessary in public interest so to do, give directions to the Town and Country' Development Authority,-(a)to frame a town development scheme;(b)to modify a town development scheme during execution;(c)to revoke a town development scheme, for reasons to be specified in such direction :Provided that no direction to modify or revoke a town development scheme shall be given unless the Town and Country Development Authority is given an opportunity to present its case.(2)The directions given by the State Government under this section shall be binding on the Town and Country Development Authority.

53. Restrictions on land use and land development.

- As from the date of publication of the declaration to prepare a town development scheme, 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, save in accordance with the development authorised by the Director in accordance with the provisions of this Act prior to the publication of such declaration.

54. [Lapse of scheme. [Substituted by M.P. Act No. 8 of 1996 (w.e.f. 17-4-1996).]

- If the Town and Country Development Authority fails to commence implementation of the town development scheme within a period of two years or complete its implementation within a period of five years from the date of notification of the final scheme under Section 50, it shall, on expiration of the said period of two years or five years, as the case may be, lapse :Provided that, if a dispute

between the authority and parties, if any, aggrieved by such scheme, is brought before a Court or Tribunal of competent jurisdiction, for consideration, the period for which such dispute pending before such Court or Tribunal shall not be reckoned for determination of the lapse of the scheme.]

55. Town development scheme, public purpose.

- Land needed for the purpose of town development scheme shall be deemed to be a land needed for a public purpose within the meaning of the Land Acquisition Act, 1894 (No. 1 of 1894).

56. Acquisition of land for Town and Country Development Authority.

- The Town and Country Development Authority may at any time after the date of publication of the final town development scheme under Section 50 but not later than three years therefrom, proceed to acquire by agreement the land required for the implementation of the scheme and, on its failure so to acquire, the State Government may, at the request of the Town and Country Development Authority, proceed to acquire such land under the provisions of the Land Acquisition Act, 1894 (No. 1 of 1894) and on the payment of compensation awarded under that Act and any other charges incurred by the State Government in connection with the acquisition, the land shall vest in the Town and Country Development Authority subject to such terms and conditions as may be prescribed.

57. Development.

(1)The Town and Country Development Authority shall take necessary steps to develop the land vested in it under Section 56 in accordance with the provisions of the town development scheme :Provided that if the State Government or the Director has, after such enquiry as may be necessary, reason to believe that the Town and Country Development Authority is not taking adequate steps to develop the land or has deviated from the final scheme, it/he may give such directions to that authority as may be considered necessary in the circumstances.(2)The directions given under this section shall be binding on the Town and Country Development Authority and that authority shall give effect to them forthwith.

58. Disposal of land, buildings and other development works.

- Subject to such rules as may be made by the State Government in this behalf, the Town and Country Development Authority shall, by regulation, determine the procedure for the disposal of developed lands, houses, buildings and other structures.

59. Development charges.

(1)Where as a result of the implementation of town development scheme, there is, in the opinion of the Town and Country Development Authority, as appreciation in the market values of lands adjacent to and affected by a scheme the Town and Country Development Authority may, in lieu of providing for the acquisition of such land, levy development charges on owners of such land.(2)The

development charges shall be an amount equal to not less than one-fourth and not more than one-third of the difference between the value of the land on the date of publication of the intention to prepare the town development scheme and the date of completion of the scheme.

60. Mode of levy.

(1) On completion of the town development scheme, the Town and Country Development Authority, shall, by a notice in such form and published in such manner as may be prescribed, declare the fact of such completion and of its intention to levy development charges in the area covered by the scheme, calling upon owners of land liable to pay development charges to submit objection, if any, within such period which shall not be less than thirty days from the date of publication of the notice, and to such authority as may be specified in the notice. (2) The authority specified in the notice shall after giving the objectors an opportunity to be heard, forward the report to the Town and Country Development Authority. (3) On receipt of the report under sub-section (2) the Town and Country Development Authority shall pass such orders thereon as it may consider fit. (4) The Town and Country Development Authority shall, not later than three months after the publication of a notice declaring its intention to levy development charges, issue a notice in the prescribed form, assessing the charges due from every person affected by the levy of the charges. (5) Where the assessment is accepted it shall be final. If however, the assessment is not accepted, the person aggrieved may, within thirty days of the publication of notice, file an application in writing before the Revenue Officer not below the rank of a Sub-Divisional Officer as may be authorised by the State Government in this behalf. (6) The Revenue Officer may, after giving the applicant and the Town and Country Development Authority an opportunity to be heard, pass such orders on the application as he may deem fit under the circumstances and order so passed shall be final. (7) On final determination of the assessment the Town and Country Development Authority shall cause a notice to be served on each assessee, asking him to pay the development charges within a period of sixty days from the date of receipt of the notice by him. (8) Any payment made after the expiration of the period specified in the notice under sub-section (7) shall carry simple interest at 5 per centum per annum as from the date of the receipt of the notice by the assessee. (9) The Town and Country Development Authority may, on an application made to it in that behalf, permit assessee to make payment of development charges in annual instalments not exceeding five, and fix a date by which each instalment shall be payable. (10) Where permission is granted to make payment in instalments the amount of development charges shall carry a simple interest at seven per centum per annum as from the date of the receipt of notice under sub-section (7) and the interest due shall be payable along with each instalment.

61. Fund of Town and Country Development Authority.

- The Town and Country Development Authority shall have its own fund and all receipts of that authority shall be credited thereto and all payments by that authority shall be made therefrom.

61A. [Annual contribution to Town and Country Development Authority from the State Government and local authority. [Inserted by M.P. Act No. 12 of 1975 (w.e.f. 4-6-1975).]

(1) Every Town and Country Development Authority shall be entitled to receive grant in aid from the State Government and the local authority at the rate specified in sub-section (2). (2) The grant-in-aid shall be calculated as under :- Rs. 2000 for every 10,000 units of population up to the first 50,000; and Rs. 2000 for every 20,000 units of population above 50,000 : Provided that half or more unit shall be reckoned as a full unit for the purposes of calculating the amount of annual contribution. (3) If the Local Authority makes default in the payment of any sum under this section, the State Government may, by order, direct the person having the custody of the balance of the fund of a Local Authority to make such payment either in whole or in such parts as is possible from such balance. Provided that no order shall be made by the State Government directing payment of any sum until an opportunity has been given to the Local Authority to show cause as to why such order should not be made, unless the State Government considers that the Local Authority has already stated, or had already ample opportunity of stating its case.]

62. Annual budget.

(1) The Chief Executive Officer shall cause to be prepared not later than the 10th March every year a statement of annual income and expenditure, giving the estimates and actuals of the past year and the estimates of the next financial year. (2) The annual statement (hereinafter called the "budget") so prepared shall be placed by the Chief Executive Officer, with the prior approval of the Chairman, before the Town and Country Development Authority. (3) The Town and Country Development Authority shall consider the estimate so submitted to it and sanction the same either unaltered, or subject to such alterations as it may think fit. (4) A copy of the budget as sanctioned under sub-section (3) shall be submitted to the State Government and the Director. (5) The State Government may direct the Town and Country Development Authority to make such modification in the budget as may be deemed necessary. (6) The Town and Country Development Authority shall, within thirty days of the date of receipt of such directions either accept the modification or make further submission to the State Government. (7) The State Government, after considering the submissions of the Town and Country Development Authority, shall pass such orders thereon as may be deemed fit and from the Date of such orders, the budget shall be deemed to be in force, with modifications ordered by the Government.

63. Power to borrow money.

- Subject to such terms and conditions as may be prescribed the Town and Country Development Authority may, with the prior sanction of the State Government, issue debentures or borrow money from Government or the open market for all or any of the purposes of this Act.

63A. [Recovery of arrears as arrears of land revenue. [Inserted by M.P. Act No. 12 of 1975 (w.e.f. 4-6-1975).]

- Any sum due to the Town and Country Development Authority under this Act shall be recoverable in the same manner as arrears of land revenue.]

Chapter VIII

Special Areas

64. Constitution of special areas.

(1) If any area, town or township, is designated as a special area in the regional plan, or if the State Government is otherwise satisfied that it is expedient in the public interest that any area, town or township should be developed as a special area. It may, by notification, designate the area as a special area, which shall be known by such name as may be specified therein. (2) Such notification shall define the limits of special area. (3) The State Government may, by notification, - (a) alter the limits of the special area so as to include therein or exclude therefrom such area as may be specified in the notification; (b) declare that the special area shall cease to be so. (4) [x x x] [Omitted by M.P. Act No. 14 of 1994.]

65. [Special Area Development Authority. [Substituted by M.P. Act No. 8 of 1996 (w.e.f. 17-4-1996).]

(1) Every special area shall have a Special Area Development Authority consisting of, - (a) a Chairman; (b) one or more Vice-Chairman; and (c) [such number of members as the State Government may determine from time to time out of whom at least two shall be women to be appointed by the State Government.] (2) The names of the Chairman, Vice-Chairman and other members shall be notified in the Gazette. (3) The term of office of Chairman, Vice-Chairman and other members shall be such as may be prescribed. (4) The salaries and allowances payable to, and other terms and conditions of service of the Chairman and Vice-Chairman shall be such as may be prescribed. (5) The members shall not be entitled to any salary but shall receive such allowances as may be prescribed.]

66. Incorporation of Special Area Development Authority.

- Every Special Area Development Authority shall be a body corporate with perpetual succession and a common seal and shall have power to acquire, hold and dispose of property, both movable and immovable and to contract and sue and be sued by the name specified in the notification under sub-section (1) of Section 64.

67. [Staff. [Substituted by M.P. Act No. 11 of 1991 (w.e.f. 16-7-1991).]

- Every Special Area Development Authority shall have such officers and servant as may be necessary and proper for the efficient discharge to its duties, appointments to the posts of officers and servants included in the State cadre of the relevant cadre of the Development Authority Service shall be made by the State Government and to those posts of officers and servants included in the local cadre of the said services shall be made by the concerned Town and Country Development Authority in accordance with the provisions of Chapter IX-A and rules made thereunder :Provided that no posts shall be created in any authority save with the prior sanction of the State Government.]

68. Functions.

- The functions of the Special Area Development Authority shall be, -(i)to prepare, if required to do so, inc development plan for the special area;(ii)to implement; the development plan after its approval by the State Government;(iii)for the purpose of implementation of the plan, to acquire, hold, develop, manage and dispose of land and other property.(iv)[x x x] [Omitted by M.P. Act No. 14 of 1994.](v)to otherwise perform all such functions with regard to the special area as the State Government may, from time to time, direct ;Provided that functions specified in clauses (v) and (vi) shall not be performed unless so required by the State Government.

69. Powers.

- The Special Area Development Authority shall, -(a)for the purpose of acquisition of land, exercise the powers and follow the procedure which a Town and Country Development Authority have or follows under this Act;(b)for the purpose of planning, exercise the powers which the Director has under this Act;(c)[X X x] [Omitted by M.P. Act No. 14 of 1994.]

70. Fund of Special Area Development Authority.

(1)Every Special Area Development Authority shall have its own fund and all receipt of that authority shall be credited thereto and all payments of that authority shall be made therefrom.(2)The Special Area Development Authority may for all or any of the purposes of this Act, -(a)accept grants from the State Government or a local authority;(b)raise loans, subject to such terms and conditions as may be prescribed.

71. Annual estimates.

(1)The Chairman shall lay, not later than 10th of March every year, before the Special Area Development Authority an estimate of the income and of the expenditure of that authority for the year commencing on the first day of April next ensuing in such detail and form as that authority may from time to time direct.(2)Such estimate shall make provision for the due fulfilment of all liabilities of the Special Area Development Authority and for the efficient implementation of this Act and shall be complete and a copy thereof shall be sent to each member that authority at least ten clear days

prior to the meeting before which the estimate is to be laid.(3)The Special Area Development Authority shall consider the estimate so submitted and shall sanction the same either unaltered or subject to such alterations as it may think fit.(4)The estimates so sanctioned shall be submitted to the State Government who may approve the same with or without modifications.(5)If the State Government approves the estimates with modifications, the Special Area Development Authority shall proceed to amend the same and the estimates so modified and amended shall be in force during the year.

Chapter IX

Control

72. State Government's power of supervision and control.

- The State Government shall have power of superintendence and control over the acts and proceedings of the officers appointed under Section 3 and the authorities constituted under this Act.

73. Power of State Government to give directions.

(1)In the discharge of their duties the officers appointed under Section 3 and the authorities constituted under this Act shall be bound by such directions on matters of policy as may be given to them by the State Government.(2)If any dispute arises between the State Government and any authority, as to whether a question is or is not a question of policy, the decision of the State Government shall be final.

74. Power of Government to review plans etc., for ensuring conformity.

- Notwithstanding anything contained in any other enactment for the time being in force, the State Government may, with a view to ascertaining that no repugnancy exists or arises with the provisions of this Act or the rules made thereunder, review the town improvement schemes, building plans or any permission for construction sanctioned or given by any authority under development plans, sanctioned under any enactment for the time being in force and may revoke, vary, or modify any scheme, plan, permission or sanction in order to bring such scheme, plan, permission or sanction in conformity with the provisions of this Act :Provided that no order under this section shall be made without giving a reasonable opportunity of being heard to the persons affected thereby.

75. Delegation of powers.

(1)The State Government may, by notification, delegate to any officer or authority subordinate to it all or any powers conferred on it by or under this Act other than the power to make rules.(2)Subject to such restrictions as may be imposed by the State Government by a general or special order, the Director may, by an order in writing, delegate to any officer subordinate to him all or any powers exercisable by him under this Act or the rules made thereunder, other than the power to hear appeal

and revision.

76. Dissolution of authorities.

(1) Whenever in the opinion of the State Government the continued existence of any authority constituted under this Act is unnecessary or undesirable, the State Government may, by notification, declare, that such authority shall be dissolved from such date as may be specified therein and the authority shall stand dissolved accordingly. (2) [As from the said date, - (a) all assets and liabilities of the authority shall stand vested in the Municipality in that area and such Municipality shall have all powers necessary to take possession of, recover and deal with such assets and discharge such liabilities; Provided that in cases where the area of such authority falls in different Municipalities the assets and liabilities of the authority shall be distributed among the Municipalities in such manner as the State Government may, by order, determine. (b) any proceeding pending to which the authority was a party shall be continued as if the Municipality was a party thereof in lieu of the authority. Explanation. - For the purposes of this sub-section "Municipality" means a Municipal Corporation constituted under Section 7 of the Madhya Pradesh Municipal Corporation Act, 1956 (No. 23 of 1956) or a Municipal Council or Nagar Panchayat constituted under Section 5 of the Madhya Pradesh Municipalities Act, 1961 (No. 37 of 1961) as the case may be.] [Substituted by M.P. Ad No. 4 of 1995.] [Chapter IX-A] [Inserted by M.P. Act No. 4 of 1983 (w.e.f. 19-11-1982).] Development Authorities Services

76A. Definition.

- In this Chapter, "Development Authorities" means, - (i) Town and Country Development Authority; (ii) Special Area Development Authority; and (iii) Improvement Trust constituted under Section 4 of the Madhya Pradesh Town improvement Trust Act, 1960 (No. 14 of 1961).

76B. Constitution of Development Authorities Service etc.

(1) With effect from such date as the State Government may, by notification, appoint in this behalf, there shall be constituted the Development Authorities Service for the purpose of providing officers and servants to all Development Authorities in the State. The Development Authorities Service shall consist of, - (a) cadre of Development Administrative Officers; (b) cadre of Development Engineers; (c) cadre of Development Planning Officers; (d) [such other cadres to be determined by the functions entrusted to the officers included in the cadre for carrying out the purposes of this Act, as the State Government may by notification specify. Each cadre shall consist of- [Substituted by M.P. Act No. 11 of 1991 (w.e.f. 16-7-1991).] (i) the State cadre; (ii) the local cadre. Each State cadre and each local cadre shall have such grades and such number of posts with such designations as the State Government may, from time to time, by notification, specify. Appointments to posts in the grades included in the State cadre shall be made by the State Government and the posts in the grades included in the local cadre shall be made by the Development Authority concerned]. (2) The State Government shall make rules for regulating the recruitment and the conditions of service of persons appointed to the Development Authorities Service, and such rules may provide for exercise of the powers by such authorities including the Development Authorities as may be specified

therein.[(2-A) The salary, allowances, gratuity, annuity, pension and other payments required to be made to the persons appointed to any post in the Development Authorities Service in accordance with the conditions of their service shall be a charge on the fund of Development Authority concerned ;Provided that in the event, of transfer of a person from one Development Authority to another, the Development Authority concerned shall be liable to contribute towards aforesaid payments in such proportion as the State Government may prescribe.(2-B) A person appointed to a post in a grade in a cadre of the Development Authority Service shall be transferable from one Development Authority to another Development Authority to the same posts in the same grade in the same cadre or on promotion to a higher post in the same grade or a higher cadre.(2-C) The State Government may transfer any person appointed to a post in the Development Authority service either in the State cadre or local cadre from one Development Authority to another Development Authority; and it shall not be necessary for the State Government to consult either the Development Authority or the officer or servant concerned before passing the order of transfer.(2-D) Where the officer or servant transferred under sub-section (2-C) belongs to local cadre, he shall, -(i) have his lien on the post held i.e. in the parent Development Authority; (ii) not be put to disadvantageous position in respect of allowances which he would have been entitled had he continued in the parent Development Authority; (iii) be entitled to deputation allowance at such rate as the State Government may, by general order, determine. (iv) be governed by such other terms and conditions including disciplinary control as the State Government may, by general or special order, determine.](3) The power to make rules conferred by sub-section (2) shall include power to give retrospective effect from a date not earlier than- the date appointed under sub-section (1) to the rules or any of them but no retrospective effect shall be given to any rule so as to prejudicially affect the interests of any person to whom such rules may be applicable.(4) All rules made under this section shall be laid on the table of the Legislative Assembly.(5) The person holding the post of Chief Executive Officer or the persons holding the posts of other officers, and servants specified under sub-section (1) on the date appointed under the said sub-section (1), if confirmed, in the said posts before the 19th November, 1982 shall be permanently absorbed and included in the Development Authorities Service. The remaining persons holding the aforesaid posts on the said date may, if found suitable after following such procedure as may be prescribed, be absorbed in the service either provisionally or finally. If any person is not absorbed finally in the service, his services shall be liable to be terminated at any time on payment of one month's salary last drawn by him.(6) Where any person referred to in the aforesaid sub-section is finally absorbed in the service as provided therein, the conditions of service applicable to him immediately before his absorption, shall not be changed to his disadvantage by making them less favourable to him, except that he shall be liable to transfer from one Development Authority to another.

76BB. [Enquiry by the State Government. [Inserted by M.P. Act No. 11 of 1991 (w.e.f. 16-7-1991).]

- The State Government on its own motion, authorise a person by order in writing to hold an enquiry into the Constitution, working and financial conditions of a Development Authority.(2) The person authorised under sub-section (1) shall, for the purpose of an enquiry under this section, have the following powers, namely, -(a) he shall at all times have free access to the books, accounts and documents belonging to the Development Authority and may summon any person in possession and

responsible for the custody of such books, accounts and documents to produce the same;(b)he may summon any person who he has reason to believe has knowledge of any of the affairs of the Development Authority to appear before him and may examine such person on oath.(3)The person authorised under sub-section (1) shall submit his report in indicating his findings to the State Government within the time specified in the order under sub-section (1).

76BBB. Surcharge.

- If in the course of audit, inquiry or inspection, it is found that any person who is or was entrusted with the organisation or management of the Development Authority, which shall include the Chairman and such other officers and servants of such authority, is responsible for an act of omission or commission causing pecuniary loss to the Development Authority, the State Government may after due enquiry order such person to make good such of the loss, as the State Government may consider just and equitable :Provided that no order under this section shall be made unless the person concerned is given a reasonable opportunity of being heard in the matter :Provided further that in addition to recovery in such cases the State Government may also initiate such other action against such person or persons as it may deem fit.Explanation. - For the purpose of this section the appointment made by the Chairman or any officer or servant of the Development Authority in contravention of the provisions of this Act or rules made thereunder shall be deemed to be pecuniary loss.] [Inserted by M.P. Act No. 11 of 1991 (w.e.f. 16-7-1991).]

76C. Partial repeal of Act No. 14 of 1961.

- As from the date appointed under sub-section (1) of Section 76B, the Madhya Pradesh Town Improvement Trusts Act, 1960 (No. 14 of 1961), shall to the extent it contains provision relating to matters for which provision is contained in this chapter and in respect of officers and servants covered thereby stand repealed.]

Chapter X

Miscellaneous

77. Right of entry.

(1)Without prejudice to any other provisions of this Act, the Director or any authority established under this Act may enter into or upon, or cause to be entered into or upon any land or building for the purpose of the preparation of plan or scheme under this Act for,-(a)making any measurement or survey or taking levels of such land or building;(b)setting out and marking boundaries and intended lines of development;(c)marking such levels, boundaries and lines by placing marks and cutting trenches;(d)examining works under construction and ascertaining the course of sewers and drains;(e)ascertaining whether any land is being or has been developed in contravention of any provision of this Act or the rules or the regulations made thereunder :Provided that-(i)in the case of any building used as a dwelling house, or upon any enclosed part of garden attached to such a building, no such entry shall be made except between the hours of sunrise and sunset or without

giving its occupier at least 24 hours notice in writing of the intention to enter;(ii)sufficient opportunity shall in every instance be given to enable women (if any) to withdraw from such land or building;(iii)due regard shall always be had so far may be compatible with the exigencies of the purpose for which the entry is made, to the social and religious usages of the occupants of the land or building entered.(2)Any person who obstructs the entry of an officer empowered or duly authorised under this section to enter into or upon any land or building or molests such officer, after such entry shall, on conviction, be punished with simple imprisonment for a term which may extend to three months, or with a fine which may extend to five hundred rupees or with both.

78. Jurisdiction of Courts.

- No Court inferior to that of Magistrate of the first class shall try an offence punishable under this Act.

79. Cognizance of offences.

- No Court shall take cognizance of any offence under this Act except on a complaint in writing made over the signature of an officer duly authorised by the Director or a Town and Country Development Authority or a Special Area Development Authority, as the case may be.

80. Members and officers to be public servants.

- Every member and every officer of an authority established under this Act shall be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code, 1860 (No. 45 of 1860).

81. Suit and other proceedings.

- No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Act or any rules made thereunder.

82. Vacancy not to invalidate proceedings.

- No act of a Town and Country Development Authority or a Special Area Development Authority or any of its committed shall be invalid merely by reason of,-(a)any vacancy in, or defect in the Constitution thereof; or(b)any defect in the appointment of a person acting as a Chairman or member thereof; or(c)any irregularity in the procedure thereof not affecting the merits of the case.

83. Members to continue till successor enters upon office.

- A Chairman or a member of a Town and Country Development Authority or a Special Area Development Authority shall notwithstanding the expiration of his term, continue to hold office till his successor enters upon office.

84. Interpretation of Regional Plan, etc.

(1) If any question arises regarding the interpretation of any regional plan, the matter shall be referred to the Director who shall pass such order thereon as he may deem fit. (2) Any person aggrieved by the decision of the Director may prefer an appeal to the State Government within such time and in such manner as may be prescribed. (3) The decision of the State Government and subject to the decision of the State Government, the decision of the Director shall be final.

Chapter XI

Rules and Regulations

85. Powers to make rules.

(1) The State Government may, after previous publication, make rules for carrying out the purposes of this Act. [Provided that the condition of previous publication shall not apply in respect of rules made under clause (xvii-a) of sub-section (2).] [Inserted by M.P. Act No. 4 of 1983 (w.e.f. 19-11-1982).] (2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for, - (i) other categories of officers which may be appointed under Section 3 (1)(e); (ii) the form and manner of publication of notice inviting objections and suggestions under Section 8 (1); (iii) the manner of publication of the regional plan under Section 9 (2); (iv) the manner of publication of an existing land use map under Section 15 (1) for inviting objections and suggestions; (v) the manner of publication of the draft development plan under Section 18 (1); (vi) the manner of publication of public notice under Section 19 (4); (vii) the documents and plans which shall accompany the information under Section 27 (1); (viii) (a) the form of application under Section 29 (1), the particulars which such application shall contain and the documents which shall accompany such application; (b) the fee which shall be accompanied with the application under Section 29 (2); (ix) (a) the form in which permission shall be granted under Section 30 (3); (b) the manner of communication of order under Section 30 (4); (x) [the authority, to which and the manner in which appeal shall be made and the fee which shall be payable on memorandum of appeal under sub-section (1) of Section 31;] [Substituted by M.P. Act No. 4 of 1983 (w.e.f. 19-11-1982).] (xi) the time within which, the manner in which and the documents together with which a notice shall be served under Section 34 (i); (xii) the manner in which an application shall be made under Section 37 (3); [(xii-a) the term of office of the Chairman, Vice-Chairman and other members under sub-section (2) of Section 41; [Inserted by M.P. Act No. 4 of 1983 (w.e.f. 19-11-1982).] (xii-aa) the term and conditions subject to which leave of absence may be granted to the Chairman and the Vice-Chairman under subsection (1) of Section 44;] (xiii) (a) the manner of publication of declaration under Section 50 (2); (b) the form in which and the manner in which the town development scheme in draft form shall be published under Section 50 (3); (c) the manner in which the final town development scheme shall be published under Section 50 (7); (xiv) the terms and conditions subject to which the land shall vest in the Town and Country Development Authority under Section 56; (xv) (a) the form in which and the manner in which a notice shall be published under Section 60 (1); (b) the, form in which a notice shall be issued under Section 60 (4); (xvi) the terms and conditions subject to which the Town and Country Development Authority may issue

debentures or borrow money under Section 63;[(xvi-a) the term of office of Chairman, Vice-Chairman and other members under sub-section (2) of Section 65;] [Inserted by M.P. Act No, 4 of 1983 (w.e.f. 19-11-1982).](xvii)the terms and conditions subject to which loans may be raised under Section 70 (2);[(xvii-a) recruitment and conditions of service of persons appointed to Development Authorities Service under sub-section (2) of Section 76-B;] [Inserted by M.P. Act No. 4 of 1983 (w.e.f. 19-11-1982).](xviii)any other matter for which rules may be made.(3)All rules made under this Act shall be laid on the table of the Legislative Assembly.

86. Regulations.

(1)A Town and Country Development Authority or Special Area Development Authority, as the case may be, may, subject to the provisions of this Act and the rules made thereunder, make regulations generally to carry out the purposes of this Act.(2)In particular and without prejudice to the generality on the foregoing power, such regulations may provide for,-(a)the summoning and holding of meetings, the time and place where such meetings shall to be held; the conduct of business thereat;(b)procedure for disposal of developed lands, houses, buildings and other structures under Section 58;(c)the management of property and the maintenance and audit of accounts;(d)the mode of appointment of committees, summoning and holding of meetings, and the conduct of business of such committees;(e)such other matters as may be necessary for the exercise of the powers and performance of duties and functions by the Town and Country Development Authority or the Special Area Development Authority as the case may be, under this Act.

Chapter XII

Repeal

87. Repeal, Savings and construction of references.

- [(1) As from the date of,-] [Renumbered by M.P. Act No. 31 of 1979.](a)the coming into force of the provisions of Chapter II the reference to Chief Town Planner in any enactment for the time being in force, shall be construed as a reference to the Director;(b)the Constitution of a planning area, the following consequences shall ensue, namely-(i)the Madhya Pradesh Town Planning Act, 1948 (No. 17 of 1948), shall stand repealed in such area;(ii)any land use map, draft development plan or development plan prepared under the said Act, shall be deemed to have been prepared under this Act and all papers relating thereto shall stand transferred to the Director;(c)the establishment of the Town and Country Development Authority for any area the following consequences shall ensue in relation to that, area, namely-(i)the Madhya Pradesh Town Improvement Trust Act, 1960 (No. 14 of 1961), shall stand repealed in its application to the said area.(ii)the Town Improvement Trust functioning within the jurisdiction of the Town and Country' Development Authority so established shall stand dissolved and any Town Improvement Scheme prepared under the said Act, shall in so far as it is not inconsistent with the provisions of this Act be deemed to have been prepared under this Act,(iii)all assets and liabilities of the Town Improvement Trusts shall belong to and be deemed to be the assets and liabilities of the Town and Country' Development Authority established in place of such Town Improvement Trust under Section 38;[(iii-a) all grants and contributions payable to

the Town Improvement Trust shall continue to be payable to the Town and Country' Development Authority established in place of such Town Improvement Trust under Section 38; [Inserted by M.P. Act No. 12 of 1975 (w.e.f. 4-6-1975).](iv)all employees belonging to or under the control of the Town Improvement Trust referred to in sub-clause (ii) immediately before the date aforesaid shall be deemed to be the employees of the Town and Country Development Authority established for such area under Section 38; Provided that the terms and conditions of service of such employees shall be the same until altered by the Town and Country Development Authority with the previous sanction of the State Government : Provided further that no sanction under the foregoing proviso shall be accorded by the State Government until the person affected thereby is given a reasonable opportunity of being heard; (v) all records and papers belonging to the Town Improvement Trusts referred to in sub-clause (ii) shall vest in and be transferred to the Town and Country Development Authority established in its place under Section 38.](2)[Notwithstanding the repeal of the Madhya Pradesh Town Improvement Trusts Act, 1960 (No. 14 of 1961) (hereinafter referred to as the repealed Act), under sub-clause (i) of clause (c) of sub-section (1),-(a)all cases relating to compensation in respect of acquisition and vesting of land in the Town Improvement Trust under Section 71 of the repealed Act and pending before the Town Improvement Trust or the Tribunal or the Court of the District Judge or the High Court immediately before the date of such repeal shall be dealt with and disposed of by-(i)the Town and Country Development Authority established in place of such Town Improvement Trust under Section 38;(ii)the Tribunal to be constituted under Section 73 of the repealed Act after the commencement of the Madhya Pradesh Nagar Tatha Gram Nivesh (Sanshodhan) Adhiniyam, 1979;(iii)the Court of the District Judge;(iv)the High Court;as the case may be, in accordance with the provisions of the repealed Act, as if this Act had not been passed;(b)the Town and Country Development Authority, the Tribunal, the Court of the District Judge or the High Court, as the case may be, may proceed to deal with and disposed of the same from the stage at which such cases were left over at the time of repeal.]

88. Repeal.

- The Madhya Pradesh Nagar Tatha Gram Nivesh Adhyadesh, 1973 (No. 2 of 1973) is hereby repealed.[Inserted by M.P. Act No. 31 of 1979.]