

**THE
ASSAM
TOWN AND COUNTRY
PLANNING
ACTS & RULES**

2nd Edition

2010

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**THE
ASSAM TOWN AND COUNTRY
PLANNING ACT, 1959**

(ASSAM ACT NO. 11 OF 1960)

AS PASSED BY THE ASSEMBLY

(Received the assent of the President on the 6th February, 1960)

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STATEMENT OF OBJECTS AND REASONS

Since the last War, the pressure of population in the urban areas has increased tremendously and along with this increase urban development in Assam has been marked by a haphazard and unrestricted growth. The Municipal Boards and Town Committees have in general been quite unable to exercise any substantial degree of control in respect of such expansion and development. The result has naturally been that the towns have been expanding in an entirely unplanned manner. For lack of proper sanitary arrangements, inadequacy of roads and open space and for existence of sub-standard houses and overcrowding many problems have arisen which demand immediate attention.

It has, therefore, become necessary to enact a separate legislation to deal with these problems and to provide for the development of certain areas and towns on sound planning principles with the general object of securing proper sanitary conditions, to conserve and promote the public health, safety and general welfare of the people living in such areas and towns.

[Published in the Assam Gazette, Part - V. dated 4th March, 1959] Page 40 - 41.

STATEMENT OF OBJECTS AND REASONS**AMENDING ACT - THE ASSAM ACT NO. XXVI OF 1966**

Section 43(2) of "The Assam Town and Country Planning Act, 1959" lays down that the person/persons appointed as Appellate Authority shall have the qualification of a District Judge. As no person having the qualification of District Judge is available for the purpose, it is proposed to make alternative provision also for appointing a person having the qualification to become a member of the Assam Board of Revenue constituted under the Assam Board of Revenue Act, 1962 an Appellate Authority. [Published in the Assam *Gazette* Extraordinary, dated 31st August, 1966] page - 313.

STATEMENT OF OBJECTS AND REASONS**AMENDING ACT - THE ASSAM ACT NO. VIII OF 1985**

As the State Government of Assam have decided to establish its permanent capital in the newly created Pragjyotishpur District and as the Assam Town and Country Planning Act, 1959 does not provide the scope of implementing any Master Plan or Development Scheme of an area required for the Capital and other ancillary purposes within the scheme by the Government directly so some amendments of the said Act are considered necessary. Hence the Bill.

As the amendment was considered urgent it was done by promulgating the Assam Town & Country Planning (Amendment) Ordinance, 1985. The present bill is therefore in replacement of the said Ordinance. [Published in the Assam *Gazette* Extraordinary, dated 11th March, 1985] page - 123.

STATEMENT OF OBJECTS AND REASONS**AMENDING ACT - THE ASSAM ACT NO. XVIII OF 1987**

As the Advisory Council felt very strongly that the Commissioner, Planning and Development, Commissioner and Special Secretary, Transport and the Secretary, Department of environment should be included as member of the Council and requested the Government to take appropriate action to amend the Assam Town and Country Planning Act accordingly, so some amendments of the said Act are considered necessary. Hence the Bill.

[Published in the Assam *Gazette* Extraordinary, dated 5th October, 1987] page - 687.

STATEMENT OF OBJECTS AND REASONS

AMENDING ACT - THE ASSAM ACT NO. XXIII OF 1994

The basic objective of the Assam Town & Country Planning (Amendment) Bill, 1994 is to implement the Master Plans & Zoning Regulations of the different Towns of the State.

Section 10 (1) of the Assam Town and Country Planning Act and as per Rule 3 (i) of the Assam Town & Country Planning (*Publication of Master Plan and Regulation Rules*), Master Plan Reports and Zoning Regulations require to be printed by the Government Press and Published in the Official *Gazette*. Inordinate delay is caused in the printing and publishing of the Master Plan Reports and Zoning Regulations by the Government Press on account of its heavy engagement as well as the voluminous nature of Master Plans. To cite an example, the oldest case is the Dhubri Master Plan which was submitted on 2nd January, 1986 to Government Press and is yet to be printed. It is felt that this delay in the printing has defeated the very purpose of updating Master Plan which needs to be revised and printed every few years.

It is, therefore, felt expedient to introduce the Assam Town & Country Planning (Amendment) Bill, 1994 in the ensuing Budget Session of the Assembly for amendment of the relevant section in order to circumvent the delay in printing and publishing at the Government Press.

Publication will however be made locally so that objections can be preferred by the public copies of the plans can also be purchased by the General public. [Published in the Assam *Gazette* Extra-ordinary (No. 28), dated 19th March, 1994.]

LIST OF AMENDING ACTS, THE PROVISIONS OF WHICH HAVE BEEN INCORPORATED IN ITS DUE PLACES AND THEREFORE NOT PRINTED SEPARATELY

- The Assam Act No. XXIII of 1994
- The Assam Act No. XVIII of 1987
- The Assam Act No. VIII of 1985
- The Assam Act No. XXVI of 1966
- The Assam Act No. XXVI of 1964
- The Assam Act No. XXVIII of 1963
- The Assam Act No. XXXI of 1962

THE ASSAM TOWN AND COUNTRY PLANNING ACT, 1959

(ASSAM ACT NO. II OF 1959)¹

AN
ACT

To Provide for the development of the Towns and Country sides of the State of Assam

Preamble— WHEREAS it is expedient to provide for the development of the towns and the country sides of the State of Assam on sound planning principles with the object of securing proper sanitary conditions, to conserve and promote the public health, safety and general welfare of the people living therein;

It is hereby enacted in the Tenth Year of the Republic of India as follows—

CHAPTER – I Preliminary

1. Short title, extent and commencement — (1) This Act may be called *the Assam Town and Country Planning Act, 1959*.

(2) It shall extend to the whole of Assam excluding the Autonomous Districts :

Provided that if any District Council desires that all or any of the provisions of this Act should apply to the Autonomous District concerned, a notification may be issued to that effect and this Act shall then extend to that Autonomous District subject to such exceptions or modifications as may be specified in the notification.

2. Definitions— In this Act, unless there is anything repugnant in the subject or context—

'Authority' shall mean the Local or Regional Authority appointed by the State Government for the purpose of administering the Act. Unless otherwise specified by the State Government, the Authority in the case of Municipalities shall be taken to mean the Municipal Board for the area constituted under the Assam Municipal Act, 1956 (*Assam Act XV of 1957*) ["or the Development Authority constituted under Section 8 of this Act"]².

1. [Published in Assam Gazette, dated 17th February, 1960].

2. Added in sub-section (2) of Section 2 by Assam Act No. VIII of 1985, S. 2(a), (with effect from 19.1.1985) [Published in the Assam Gazette Extraordinary, dated 5th May, 1985] pp - 186 - 191.

(2) "Advisory Council" means the Town and Country Planning Advisory Council constituted under Section 3 of this Act.

(3) "Betterment Fee" means the fee prescribed in respect of an increase in the value of land resulting from the execution of a Development Scheme.

(4) "Building" means any construction for whatsoever purpose and of whatever materials constructed and every part thereof, whether used as human habitation or not and includes plinth walls, chimney, drainage works, fixed platforms, verandah, balcony, cornice or projection, or part of a building or anything affixed thereto or any walls, earth bank, fence or other construction enclosing or delimiting or intended to enclose or delimit any and or space.

(5) "Building Industrial" means a building, which is wholly or predominantly used as a warehouse, factory distillery, iron foundry and all other buildings put to or be put to any use permitted in the zone by an authorised scheme applicable thereto.

(6) "Director" means Director of Town and Country Planning or any other officer appointed by the State Government.

(7) "Development" means the carrying out of building, engineering, mining or other operations in, on, or over the land, or making of any material change in the use of any buildings or of land :

Provided that the following operations or uses of land shall not be deemed for the purposes of this Act to mean development of the land, that is to say—

- (a) the carrying out of works for the maintenance, improvement or other alteration of any building, being works which affect only the interior of the building or which do not materially affect the use and the external appearance of the building;
- (b) the carrying out by a local authority of any works required for the maintenance or improvement of road, being works carried out on land within the boundaries of the road;
- (c) the carrying out by any local authority any works for the purposes of inspecting, repairing or renewing any sewers, main pipes, cables or other apparatus, including the breaking open of any street or other land for that purpose;
- (d) the use of any building or other land within the curtilage of a dwelling house for any purpose incidental to the enjoyment of the dwelling house as much.

(8) "Factory" means a place to which the provisions of the Indian Factories Act of 1934 or any amendment thereof shall apply.

(9) "Industrial Concern" means a commercial body, *e.g.*, a factory, workshop and a mill, or any concern of similar nature where materials are manufactured, repaired, altered or processed.

(10) "Master Plan" means a plan defined under Section 9 and shall comprise of item (a) to (t) of Section 11.

(11) "Occupier" includes any person paying or liable to pay the rent or any portion of the rent of the land or building in respect of which the work is due or compensation or premium on account of the occupation of such land and building and also a rent free tenant.

(12) "Open space" means any land whether enclosed or not, on which not more than one twentieth part is covered with buildings and whole of the remainder has been laid out as a public garden or used for purposes of recreation or lies waste and unoccupied.

(13) "Prescribed" means prescribed by rules made under this Act.

(14) "Reconstituted plot" means a plot which is in any way altered by the making of a Development Scheme.

(15) "Road" means and includes any highway, street, lane, pathway, alley, passage way, carriage way, footway, square, bridge, whether private or public, whether thoroughfare or not, whether existing or proposed in any scheme and includes all bunds, channels ditches, drains, culverts, side walks and traffic islands.

(16) "Scheme" means a development scheme and includes a plan together with the descriptive matter if any relating to such a scheme.

[(17) "Administrator" means an officer appointed by the State Government as such under proviso to sub-section (1) of Section 8A of this Act to perform the functions and exercise the powers of the Development Authority as provided under Section 8A of this Act.

(18) "Estate Officer" means a person appointed by the State Government as such to perform the functions of the Estate Officer.

(19) "Transferee" means a person including a firm or other body of individuals, whether incorporated or not to whom a site or building is transferred in any manner whatsoever and includes his successors and assigns."}]¹

1. Added as new sub-sections "(17)", "(18)" and "(19)" in Section 2, by the Assam Act No. VIII of 1985.S.2(b), (with effect from 19.1.1985).

CHAPTER – II

Constitution of the Advisory Council

3. Constitution of the Town and Country Planning Advisory Council—

(1) The State Government may constitute, by a notification in the official *Gazette*, the Council consisting of the following members to advise the Government on matters referred to it —

- (i) Minister-in-charge of Town and Country Planning Chairman.
- (ii) Director of the Town and Country Planning
Department Secretary.
- (iii) Secretary, Town and Country Planning Department Member.
- ["(iv) Secretary, P.W.D. Member.
- (v) Secretary, Flood Control Member.
- (vi) Secretary, Health and Family
Welfare Department.]¹ Member.]¹
- (vii) Secretary, Local Self-Government or his nominee Member.
- (viii) Secretary, Finance Department or his nominee Member.
- (ix) Secretary, Revenue Department or his nominee Member.
- (x) Six other non-official members half of whom shall
be elected by the Assembly and the rest shall be
nominated by the State Government Member.
- (xi) Such number of representatives of Local Authorities falling within
the area as may be covered by the Master Plan not exceeding two
as may be co-opted by the Council by notification, published in
the official *Gazette*.
- ["(xii) Commissioner, planning and Development;
- (xiii) Commissioner, and Special Secretary, Transport;
- (xiv) Secretary Department Environment."]²

1. Substituted clauses "(iv)", "(v)" and "(vi)" in sub-section(1) of Section 3, by the Assam Act No. VIII of 1985. S. 3. (w.e.f. 19.1.1985) [Published in the Assam *Gazette* Extraordinary, dated 3rd May, 1985].

Note – Before Substitution of clauses (iv), (v) and (vi) originally read as follows —

- "(iv) Chief Engineer, Public Works Department (R. and B.) or his nominee Member.
- (v) Chief Engineer, Public Works Department (Flood Control) or his nominee Member.
- (vi) Public Health Engineer or his nominee Member.

2. Inserted new clauses "(xii)", "(xiii)" and "(xiv)", by the Assam Act No. XVIII of 1987. S. 2. (w.e.f. 23.10.1987) [Published in the Assam *Gazette* Extraordinary, dated 23rd October, 1987.]

(2) Five of the members attending any meeting of the Council shall form the quorum for the purpose of transacting the business of that meeting of the Council.

(3) All members of the Council including the co-opted members shall have one vote each and the Chairman shall have a casting vote in case of equality of division, in addition to his own vote.

(4) Nothing done by the Council in its meeting shall be held to be invalid because of any vacancy in the seats of the nominated or elected members or the absence of any of the members for any reason whatsoever.

(5) The Chairman shall preside over the meetings of the Advisory Council and in his absence the members present shall elect one among themselves to be the president for that particular meeting.

4. Regulation of non-official members — Any non-official member may at any time resign his office, provided that his resignation shall not take effect until accepted by the State Government.

5. Term of office — The term of office of any non-official member shall ordinarily be three years :

Provided that in case of the members representing the Legislature or Local Authorities, their terms of office shall terminate as soon as they cease to be members of such Legislature or Local Authority as the case may be.

6. Commencement of the term of office of non-official members —

(1) The term of office of non-official members shall commence on such date as may be notified in this behalf by the State Government.

(2) A person ceasing to be member by reason of the expiry of his term of office as described in Section 5, shall be eligible for renomination or election.

7. Removal of non-official members — The State Government may remove from the Council any member who —

- (a) refuses to act, or becomes incapable of acting or absents himself from three consecutive meetings of the Council and is unable to explain such absence to the satisfaction of the Council; or
- (b) has so flagrantly abused in any manner his position as a member of the Council as to render his continuance detrimental to the Public interest :

Provided that when the State Government proposes to take action under the foregoing provisions of this Section, an opportunity of explanation shall

be given to the member concerned and when such action is taken, the reasons thereof shall be placed or recorded.

8. Filling of casual vacancies — (1) When the place of a member nominated by the State Government becomes vacant by his resignation, removal or death, the State Government shall appoint a person to fill the vacancy.

(2) When the place of a member elected or co-opted becomes vacant, he shall be elected or co-opted by the Legislature or the Council as the case may be.

(3) The term of office of a member nominated or elected or co-opted, as the case may be, under sub-section (1) and (2) shall be the remainder of the term of office of the member on whose place he has been nominated or elected or co-opted.

[CHAPTER – II-A

Constitution of the Development Authority

8A. Constitution of the Authority — (1) The State Government may, by notification in the Official *Gazette*, constitute for the purposes of this Act, an Authority to be called "The Development Authority" (hereinafter referred to as the Authority) with jurisdiction over such area as may be specified in the said notification :

[“Provided that if the State Government is of opinion that in the exigencies of public service it is necessary to do so it may, instead of constituting the Authority, appoint an Administrator to exercise all the powers of the Development Authority under this Act.

The Administrator so appointed shall be deemed to be the Development Authority constituted under this Act and shall hold office during the pleasure of the Government.”]²

(2) The Authority shall be a body corporate having perpetual succession and a common seal with power to acquire, hold and dispose of properties both movable and immovable and to enter into any agreement, and shall by the said name *sue* and be *sued*.

8B. Composition of the Authority — (1) The Authority shall consist of the following members, namely —

(a) A Chairman to be appointed by the State Government;

1. Inserted as New Chapter IIA by the Assam Act No. XXXI of 1962, S.2 (w.e.f. 19-12- 1962), published in the Assam Gazette Extraordinary No. (101), dated 26th November 1962.
2. Added the “proviso” after sub-section (1) of Section 8A, by the Assam Act No. VIII of 1985. Section 4 (with effect from 19-1-1985).

- (b) Engineer-in-chief of the Authority to be appointed by the State Government;
 - (c) Town Planning Officer of the Authority to be appointed by the State Government ["who shall be the Member-Secretary of the Authority;"]¹
 - (d) Finance Officer to be appointed by the State Government;
 - (e) Deputy Commissioner or Subdivisional Officer, as the case may be;
 - (f) Chairman or Chairmen of the local authority or authorities covered by the Master plan;
 - (g) One member representing Commerce and Industry (*Private Sector*) to be nominated by the State Government;
 - (h) One member representing the Railways, to be nominated by the State Government;
 - (i) One member representing Industry (*Public Sector*) to be nominated by the State Government;
 - (j) One person each from the local authorities covered by the Master plan to be elected by the members at a meeting from amongst them.
 - ["(k) Director, Town and Country Planning Department of his nominee;
 - (l) Chief Engineer. P.W.D. (*Roads and Buildings*) or his nominee;
 - (m) Chief Public Health Engineer or his nominee;
 - (n) Local Member or Members of the Assam Legislative Assembly covered by the Master Plan Area."]²
- (2) *Notification of Members* – The name of the members elected and appointed shall be published in the *Official Gazette*.
- (3) *Disqualification for election or appointment as member* – A Person shall be disqualified for appointment, nomination or election as a member, if he, —
- (a) has been convicted of any offence involving moral turpitude;
 - (b) is an applicant to be adjudicated as a bankrupt or insolvent or is an uncertificated bankrupt or undischarged insolvent;
 - (c) holds any office of profit under the Authority except those mentioned in clauses (a), (b), (c) and (d) of sub-section (1);
 - (d) has, directly or indirectly, by himself or by any partner, any share or interest, in any contract or employment with, by, or on behalf of, the Authority; or

1. Added in clause (c) in sub-section (1) of Section "8B" by the Assam Act No. VIII of 1985, Section 5 (a).
 2. Inserted clauses "(k)", "(L)", "(m)" and "(n)" in sub-section (1) of Section 8B, by the Assam Act No. VIII of 1985. Section 5 (b). (with effect from 19.1.1985) [Published in the Assam Gazette Extraordinary, dated 3rd May, 1985] pp – 286 – 291

e (e) is a Director, or a Secretary, Manager or other salaried Officer of
any incorporated company which has any share or interest in any
e contract or employment, with, by, or on behalf of the Authority.

e (4) *Removal of members* – The State Government may remove from the
Authority any member including the Chairman who, –

;(a) refuses to act or becomes incapable of acting or absents himself
d from three consecutive meetings of the Authority and is unable to
explain such absence to the satisfaction of the Authority;

;) (b) has so flagrantly abused in any manner his position as a member of
the Authority as to render his continuance detrimental to the public
interest :

e Provided that when the State Government proposes to take any action
under any of the above provisions, an opportunity shall be given to the member
d concerned to show cause why action as proposed should not be taken against
him.

r (c) ceases to be a member of the local Authority from which he was
l. elected.

;) (5) A member removed under clauses (a) and (b) of sub-section (4) shall
not be eligible for re-appointed or re-election, as the case may be.

CASE-LAW

y *Section 8-B(2)* — The publication of notification in official Gazette is not a condition
precedent for validity of appointment of member of Development Authority. It is a procedural
d aspect and non compliance will not result in invalidation of the appointment [*Prodip Nandy*
v. State of Assam, 1997(2) GLJ 295 : 1998(4) GLT 83].

ll *Section 8-B(4)* of the Act provides the grounds and the manner in which a member of
the Board including Chairman may be removed by the State Govt. In the case between
Surajit Das v. State of Assam and others, (2007) 3 GLR 653 : 2006 (3) GLJ 152) the Hon'ble
n Gauhati High Court found the service of notice upon the petitioner defective and as a result
the writ petition was allowed. In the case observed that the law is well settled. That, in order
e to be effective, an order passed by the State or its functionaries must be communicate to the
person who would be effected by that order and until the order is so communicated the said
order is only provisional in character and cannot be acted upon.

e *Section 8-B(4)* — In a case where the Development Authority was reconstituted
during subsistence of intended of the petitioner without any notice. It is was held that the
lf notification of reconstitution is in effect a removal order and the same could not have been
issued without issuing notice to the petitioner and hence the notification was quashed.
— [*Prodip Nandy v. State of Assam* 1998(4) GLT 83].

;) **8C. Term of office and conditions of service of the Chairman and**
y. **members of the Authority** — (1) The term of office and conditions of service

of the Chairman and members of the Authority shall be such as may be prescribed and they shall be entitled to receive such salaries and allowances as may be fixed by the State Government.

(2) The Chairman or any member may resign his membership of the Authority by giving notice in writing to the State Government on the resignation being accepted by the State Government, he shall cease to be a member of the Authority.

(3) Any vacancy created by resignation or removal shall be filled by fresh appointment or nomination by the State Government, or by election, as the case may be.

8D. Functions and powers of the Authority — Subject to the provisions of this Act, rules and directions of the State Government, the functions of the Authority shall be to promote and secure the development of the area according to the Master Plan and for that purpose it may carry out or cause to be carried out surveys of the area and to prepare report or reports of such surveys, and to perform any other function which is supplemental, incidental or consequential to any of the functions aforesaid or which may be prescribed.

8E. Meeting of the Authority — (1) Each Authority shall meet once in a month at such time and place and shall subject to the provisions of subsections (2) and (3) observe such procedure in regard to the transaction of business at its meeting, as may be prescribed by bye-laws to be framed under Section 74 of this Act.

(2) The Chairman, or in his absence any member chosen by the members from amongst themselves, shall preside at a particular meeting of the Authority.

(3) All questions of the meeting of the Authority shall be decided by a majority of the votes of the members present and voting and in the case of an equality of votes, the person presiding shall have a second or casting vote.

(4) Nothing done by the Authority in its meeting shall be held to be invalid because of any vacancy in the seats of the appointed, nominated or elected members or the absence of any of the members for any reason whatsoever.

(5) Minutes shall be kept of the names of the members present and of the proceedings at each meeting in a book to be kept for this purpose, which shall be signed at the next ensuing meeting by the person presiding at such meeting, and shall be open to inspection by any member during office hours.

[8EE. Powers of Chairman — The Chairman shall, for the transaction

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of the business connected with this Act, or for the purpose of making any order authorised thereby, exercise all the powers vested by this Act in the Authority:

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Provided that the Chairman shall not act in opposition to, or in contravention of any order of the authority at a meeting, or exercise any power, which is directed to be exercised by the Authority at a meeting."]¹

8F. **Temporary associations of persons with the Authority for particular purposes** — (1) The Authority may associate with itself in such manner and for such purposes as may be prescribed by rules any person whose assistance or advice it may desire in performing any of its functions under this Act.

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(2) Any person associated with it by the Authority under sub-section (1) for any purpose shall have a right to take part in the discussions of the Authority relevant to that purpose but shall not have a right to vote at a meeting and shall not be a member for any other purpose.

8G. **Staff of the Authority** — (1) Subject to such control and restrictions as may be prescribed by rules, the Authority may appoint such number of officers and employees as may be necessary for the efficient performance of its functions and may determine their designations and grades.

(2) The officers and employees of the Authority shall be entitled to receive such salaries and allowances, if any, as may be fixed by the Authority and shall be governed by such terms and conditions of service as may be determined by rules and regulations made in this behalf."]

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["8H **"Delegation of powers by Authority** — The Authority may delegate all or any of its powers under this Act to any Officer, subject to such conditions, if any, as may be specified by the Authority."]²

CHAPTER – III

Master Plan

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9. **Preparation of Master Plan** — A Master Plan hereinafter referred to as "Plan" in this Act for the developmant of any area within the State which the State Government may consider necessary, shall be drawn up by the Director in consultation with the local authority/authorities concerned and submitted to the State Government for examination and approval.

1. Inserted as new Section "8EE" by the Assam Act No. XXVI of 1964, [Published in the Assam Gazette Extraordinary, dated 3rd December, 1964]

2. Inserted as new Section "8H" by the Assam Act No VIII of 1985 S.6 (with effect from 19.1.1985)

10. Publication of the Master Plan — ["(1) On receiving the plan and the Zoning Regulation from the Director, the State Government shall have them, as soon as may be, published in the manner prescribed giving wide and sufficient publicity in the locality inviting public opinion and objection, if any, to be submitted within a period of not more than two months from the date of such publication."]¹

(2) After considering all objections, suggestions and representations that may have been received, and after getting the advice of the Council, the State Government shall have the plan finally prepared by the Director ["and adopt the same."]²

["(3) Copy of the plan and the Zoning Regulation shall be supplied to the public on payment of such fees as may be prescribed."]³

CASE-LAW

Section 10 — Whether the State Government can be deemed to have abdicated its jurisdiction by reference of an objection to the Advisory Committee with regard to Revised Master Plan instead of considering the same by itself. Held, as there was no appellate authority constituted as per the Act to review such matters the State Government cannot be held unreasonable or to have acted de hors the law [*Assam Ispat Ltd. v. State of Assam* (1988) 1GLR (NOC) 14.]

In a PIL alleging irrational flurry of construction on the bank of Brahmaputra river within the city limits of Guwahati, direction was issued to strictly adhere to statutory provisions and necessary permit construction in the river banks in conformity with the modified final Master Plan and Zoning Regulation for Guwahati. [*Nagarik Committee v. State of Assam* 1997(2) GLT 288.]

11. Contents of Master Plan and Zoning Regulations — The Master Plan to be prepared as defined under Section 9, may include —

- (a) A general land-use plan for residential, commercial, industrial, recreational and public and semi-public purposes;
- (b) Zoning Plan;
- (c) Transportation plan including roads, railways, canals, etc.;

1. Substituted sub-Section (1) of Section 10, by the Assam Act No. XVIII of 1994. Section 2 (i) (with effect from 6. 5. 1994) [Published in The Assam Gazette Extraordinary, dated 6th May, 1994].

Note — Before Substitution sub-section (1) of Section 10, originally read as follows —

"(i) On receiving the Plan and the ["Zoning"]* Regulation from the Director, the State Government shall have them, as soon as may be, published in the official Gazette, in some local newspaper and in the locality in the manner prescribed and deemed to be required for wide and sufficient publicity in the locality inviting public opinion and objection, if any, to be submitted within a period not more than two months."

2. Added the words "and adopt the same" in sub-section (2) of Section 10, by the Assam Act No. XXXI of 1962. Section 3. (With effect from 19.12.1962).

3. Inserted sub-section "(3)" in Section 10, by the Assam Act No. XVIII of 1994. S.2(ii) (with effect from 6.5.1994.)

* Inserted the words "zoning" in sub-section (1) of Section 10, by the Assam Act No. XXXI of 1962 S.3. (with effect from 19.12.1962.)

- (d) Public utilities plan;
- (e) A report giving relevant data and information in respect of proposals in the Plan and any other things which the State Government may deem necessary.

["12. **Implementation of the plan** — After adoption of the Plan and Zoning Regulation they shall be sent by the State Government for implementation to the Authority constituted under Section 8A."]¹

13. Restrictions of use of land and buildings thereon after publication — (1) The Plan as adopted by the State Government shall be published as prescribed in Section 10; and after such publication no person shall use any land, sub-divide any land ["by transfer, by way of gift, sale, partition or any other manner the whole or any part of the land"]² or set up any new structure on any land covered by the or change the existing structure of any building or use of any building or land within the area except with the permission of the Authority on a written application submitted for that purpose ["and on payment of such fees as may be prescribed by bye-laws framed by the Authority in this behalf."]³

(2) Each such application shall be accompanied by a plan drawn to scale showing the actual dimension of the panel of the land and the building to be built upon it, the site and the position of the building to be erected and in case of alteration in the use or structure of the building or land, the nature and extent of such alteration.

(3) The Authority may also call for such other information as it may deem necessary to examine the application.

(4) The Authority shall not refuse the permission except on the ground of contravention of proposals contained in the Plan or the Regulations and unless the permission has been refused within a period of one month from the receipt of the application or such other information as may be called for by the Authority under sub-section(3), it shall be presumed that the permission has been given.

["13A. Prohibition of registration in certain cases — Where any

1. Substituted Section 12, by the Assam Act No. XXXI of 1962. Section 4.(with effect from 19.12.1962).

Note - Before substitution Section 12 originally read as follows —

"12. **Constitution of the Authority for Implementation of the Plan** - After the adoption of the Plan and the Regulations, they shall be sent for implementation to the Authority as may be declared or constituted by the State Government in this behalf."

2. Inserted in sub-section (1) of Section 13, by the Assam Act No. VIII of 1985. S. 7(a). (w.e.f. 19.1.1985.)

3. Added in sub-section (1) of Section 13, by *Ibid* S.7(b).

deed or document required to be registered under the Indian Registration Act, 1908 (*Act No. XVI of 1908*), purports to subdivide any land covered by the Plan, no registering officer shall register any such document unless the party presenting the deed or document for registration produces a No Objection Certificate from the Authority to the effect that the Authority has no objection to the registration of such deed or document."]¹

14. Power of the State Government to modify the Plan and the ["Zoning"]² Regulation— The State Government may review the Plan and may modify the Plan and the ["Zoning"]² Regulations, from time to time, in such manner and in such procedure as followed for the preparation and approval of the original plan and the Regulations.

CASE-LAW

In a PIL alleging irrational flurry of construction on the bank of Brahmaputra river within the city limits of Guwahati, direction was issued to strictly adhere to statutory provisions and necessary permit construction in the river banks in conformity with the modified final Master Plan and Zoning Regulation for Guwahati. [*Nagarik Committee v. State of Assam* 1997(2) GLT 288.]

CHAPTER – IV Development Scheme

³["15. Preparation of development Scheme— (1) After the commencement of this Act, the Authority may, by notification in the *Official Gazette*, declare any area to be a scheme area and shall thereafter prepare a scheme. Where no Authority has been constituted, the State Government may, by notification in the *Official Gazette*, declare any area to be a scheme area and the Director shall thereafter prepare a scheme.

1. Inserted as new Section "13A" by the Assam Act No. XVIII of 1963 [Published in the *Assam Gazette* Extraordinary, dated 17th July, 1963]
2. Inserted the word "Zoning" in Section 14, by the Assam Act No. XXXI of 1962.S.5 (with effect for 19.12.1962)
3. Substituted Section "15" by *Ibid*.

Note – Before substitution of Section 15, originally read as follows —

- "15. Preparation of the Development Scheme—** (1) After the commencement of this Act, the State Government after consultation with the Authority, if any, may by notification in the *Official Gazette* declare any area to be a scheme area for the purpose of this Act.
- (2) After the Master Plan has been approved by the State Government the Authority shall define the area which it considers necessary for development. The Director shall prepare a scheme and submit it to the State Government with all information necessary for consideration and approval of the scheme.
 - (3) While preparing the scheme the Director shall issue a notice inviting the names of all the demands of any interest on any land or building within the area under the scheme to be submitted within a period not more than one month and submit the same to the Authority along with the scheme and the report.
 - (4) Save as provided in this Act, the Authority shall not undertake or carry out any development of land in any area which is not a scheme area.
 - (5) After the commencement of this Act, no development of land shall be undertaken or carried out in the scheme area by any person or body of persons except in the manner prescribed, under Section 13 of this Act."

(2) Notwithstanding anything contained in sub-section (1), the State Government may, after making such enquiry as they may deem necessary by notification in the *Official Gazette*, direct any local authority to prepare, publish and submit for their sanction before an appointed date a scheme under this section for an area specified in such notification.

(3) While preparing the scheme, the Authority, the Director or the local authority, as the case may be, shall issue a inviting the names of all the claimants of any interest on any land or building within the area under the scheme to be submitted within a period not more than one month.

(4) Save as provided in this Act, the Authority, Director or local authority shall undertake or carry out any development of land in any area which is not a scheme area.

(5) After the commencement of this Act, no development of land shall be undertake or carried out in the scheme area by any person or body of persons except in the manner prescribed under Section 13 of this Act."]

1["16. Publication of the Development Scheme — (1) The Authority, the Director or the local authority, as the case may be, shall have the scheme and the report and the names of all claimants published in the manner prescribed under sub-section (1) of Section 10 and have a copy of them served on all persons who preferred claims under sub-section (3) of Section 15, inviting objections to be filed within a period not more than two months.

(2) After the expiry of the aforesaid period, the Authority, the Director or the local authority, as the case may be, shall examine the scheme in the light of such objection, giving sufficient opportunity for hearing to all such interested persons who have filed objections and demanded a hearing in the manner prescribed, and shall approve or refuse to approve or approve with such modifications as it may deem necessary, for the implementation of the scheme

1. Substituted Section 16, by the Assam Act, No. XXXI of 1962.S.7. (with effect from 19.12.1962).

Note - Before Substitution of Section 16 originally read as follows —

- "16. Publication of the Development Scheme —** (1) The Authority shall have the scheme and the report and the names of all the claimants published in the manner prescribed in sub-section (1) of Section 10 and have a copy of them served on all persons who preferred claims under sub-section(3) of Section 15, inviting objections to be filed within a period not more than two months.
- (2) After the period for submitting opinion and objection of the public or of any interested persons has expired, the Authority shall examine the scheme in the light of such opinion and objection giving sufficient opportunity for hearing to all such interested persons who have filed objections and demanded hearing in the manner prescribed and shall approve or refuse to approve or approve with such modifications, as it may deem necessary, for the implementation of the scheme and for imposing for that purpose reasorable restrictions in the use of land and buildings within the area.
- (3) After the Authority has adopted the scheme, it shall be forwarded to the State Government for sanction and shall into force as soon as the sanction has been recorded by the State Government after taking into account the financial implications of the scheme."

scheme and for imposing for that purpose reasonable restrictions in the use of land and building within the area.

(3) After the Authority, the Director or the local authority, as the case may be, has adopted the scheme, it shall be forwarded to the State Government for its approval and sanction, if so required under any rule prescribed, otherwise the scheme will come into force from the date the scheme is adopted."]

¹[**17. Implementation of the Development Scheme** — ["No person shall within any area where a scheme has come into force]² erect or proceed with any building or working or remove or alter or make additions or make any substantial repair to a building or a part of it, a compound wall or any drainage work or remove any earth or change the use of any land or building except on permission of the authority on application submitted for the purpose. Unless the permission has been refused within one month from the date of receipt of the application it shall be presumed that the permission has been given."]

18. Scope of the Development Scheme — (1) A scheme may be made in accordance with the provisions of the Act in respect of any land which is —

- (a) in the course of development,
- (b) likely to be used for building purposes, or
- (c) already built upon.

Explanation — The expression, "Land likely to be used for building purposes" shall include any land likely to be used as, or for the purpose of providing open spaces, roads, streets, parks, pleasure or recreational grounds, parking spaces, or for the purpose of executing any work upon or under the land incidental to a scheme, whether in the nature of a building work or not.

- (2) Such scheme may make provisions for any of the following matters—
- (a) the laying out or re-laying out of land, either vacant or already built upon;
 - (b) the filling up or reclamation of low-lying swamp or unhealthy areas or levelling up of land;

1. Deleted sub-section (1) of Section 17, and sub-section (2) of Section 17 re-numbered as Section 17, by the Assam Act No. XXXI of 1962.S.8(1). (with effect from 19.12.1962)

Note — Deleted sub-section (1) of Section 17, originally read as follows —

"(1)The scheme shall come into force from the date as may be fixed by the Government in sanctioning the scheme and shall be implemented by such authority as may be authorised by the State Government in that behalf."

2. Substituted for the words: "No person shall within the area for which the Government has sanctioned a Development Scheme" by the Assam Act No. XXXI of 1962.S.8(2). (with effect from 19.12.1962)[Published in the Assam Gazette Extraordinary (No. 101), dated 26th November, 1962].

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- (c) lay out of new streets or roads, construction, diversion, extension, alteration, improvement and stopping up of streets, roads and communications;
 - (d) the construction, alteration and removal of buildings, bridges and other structures;
 - (e) the allotment or reservation of land for roads, open spaces, gardens, recreation grounds, schools, markets, industrial and commercial activities, green belts and dairies, transport facilities and public purposes of all kinds;
 - (f) drainage inclusive of sewerage, surface or sub-soil drainage and sewage disposal;
 - (g) lighting;
 - (h) water supply;
 - (i) the preservation of objects of historical importance or natural beauty and of buildings actually used for religious purpose;
 - (j) the imposition of conditions and restrictions in regard to the open space to be maintained about buildings, the percentage of building area for a plot, the number, height and character of buildings allowed in specified areas, the purposes to which buildings or specified areas may or may not be appropriate, the subdivision of plots, the discontinuance of objectionable use of land in any area in reasonable periods, parking space and loading and unloading space for any building and the sizes of projections and advertisement signs;
 - (k) the suspension, so far as may be necessary for the proper carrying out of the scheme, of any rule, bye-law, regulation, notification or order made or issued under any Act of the State Legislature or any of the Acts which the State Legislature is competent to amend;
 - (l) such other matter not inconsistent with the objects of this Act.
- (3) The draft scheme shall contain the following particulars —
- (a) the area, ownership and tenure of each original plot;
 - (b) the land allotted or reserved under clause (c) of sub-section (2) of Section 18 with a general indication of the uses to which such land is to be put and the terms and conditions subject to which such land is to be put to such cases;
 - (c) the extent to which it is proposed to alter the boundaries of original plots;
 - (d) an estimate of the net cost of the scheme;

- (e) a full description of all details of the scheme under such clause of sub-section (2) of Section 18, as may be applicable;
- (f) the laying out or re-laying out of land either vacant or already built upon;
- (g) the filling up or reclamation of low-lying swamp or unhealthy areas or levelling up of land; and
- (h) any other prescribed particulars.

(4) In the scheme the size and shape of every reconstituted plot shall be determined, so far as may be, to render it suitable for building purposes and where the plot is already built upon, to ensure that the building, as far as possible, complies with the provisions of the scheme as regards open spaces.

(5) In order to render original plots more suitable for building purposes the scheme may contain proposals —

- (a) to form a reconstituted plot by the alteration of the boundaries of an original plot;
- (b) to provide with the consent of the owners that two or more original plots each of which is held in one ownership in severality or in joint ownership, shall hereafter, with or without alteration of boundaries be held in ownership in common as a reconstituted plot.

(6) The scheme shall include all such provisions as the Authority may think necessary for carrying out the objects of the Act including the following matters —

- (a) the laying out or re-laying out of land, either vacant or already built upon;
- (b) the filling up or reclamation of low-lying swamp or unhealthy areas or levelling up of land;
- (c) lay out of new streets of roads, construction, diversion, extension, alteration, improvement and stopping up of streets, roads and communications;
- (d) the construction, alteration and removal of buildings, bridges and other structures;
- (e) the allotment or reservation of land for roads, open spaces, gardens, recreation grounds, schools, markets, industrial and commercial activities, green belts and dairies, transport facilities and public purposes of all other kinds;
- (f) drainage inclusive of sewerage, surface or sub-soil drainage and

- (g) lighting;
- (h) water supply;
- (i) the preservation of objects of historical importance or natural beauty and of buildings actually used for religious purposes.

19. Amendments and alterations of the Development Scheme—(1) If after the final scheme has come into force, the Authority considers that the scheme is defective on account of an error or irregularity or for any other reason, it shall refer to the State Government to modify or withdraw the scheme and to publish the modified or withdrawn scheme in the manner prescribed in sub-section (1) of Section 10.

(2) The modification of the scheme shall state every amendment proposed to be made in the scheme and if any such amendment relates to matter specified in any or all of the clauses (a) to (l) of sub-section (2) of Section 18, the modification shall also contain such other particulars as may be found necessary by the Authority.

(3) The variation shall be open to inspection by the public at the office of the Local Body or Bodies as prescribed, covering the area during office hours.

(4) Within one month of the date of publication of the modification, any person affected thereby may communicate in writing his objection to the Authority.

(5) After receiving the objection under sub-section (4) above, the Authority may, after making such enquiry as it may think fit, approve the proposed modification with or without any further modification thereof.

(6) Such modification shall take effect as if it were incorporated in the scheme from the date of its modification.

(7) The Authority shall thereafter submit the modified scheme to the State Government for sanction. The modified scheme shall be published after sanction as prescribed in sub-section (1) of Section 10.

20. Power to revoke the Development Scheme—(1) Notwithstanding anything contained in Section 19, a scheme may at any time be modified or revoked by a subsequent scheme made, published and sanctioned in accordance with this Act.

(2) The State Government, at its own initiative or the application of the Authority may at any time, by a notification in the official *Gazette* revoke a scheme, if it is satisfied that under the special circumstances of the case the scheme shall be so revoked :

Provided that where revocation or modification is ordered by Government after people have partially or wholly implemented a scheme, compensation should be paid for the necessary alterations in the manner prescribed.

21. Power of the Authority to impose restrictions — For the purpose of the Master Plan, the Land-use and Zoning Regulation and the Scheme, the Authority may impose reasonable restrictions on the use of the land and building including the regulating of the open spaces to be maintained around the building or buildings, the percentage of the plot area to be covered by building or buildings, the number of building or buildings on each plot, height and character of building or buildings allowed in specified areas, the purpose for which building or buildings of the specified areas may or may not be used, the subdivision of plots, parking space and loading and unloading space for any building and the sizes of projections and such other matters not inconsistent with the objects of this Act.

CHAPTER – V

Streets and Land Subdivisions

22. Width of public streets — (1) The authority shall, from time to time, with the sanction of the State Government specify the minimum width for different classes of public streets according to the nature of the traffic likely to be carried there, the localities in which they are situated the heights up to which buildings abutting thereon may be erected and other similar considerations.

(2) The width of a new public street shall not be less than that prescribed in sub-section (1) or that shown on the Master Plan for the class to which it belongs in areas for which a Master Plan has been prepared.

23. Power to prescribe Streets lines — The Authority may prescribe a line on one or both sides of any public street, provided a public notice of the proposal has been issued by the Authority in the prescribed manner. No person shall construct or reconstruct any portion of any building on land within the prescribed new street line.

24. Setting back buildings to the prescribed street line — (1) If any building or any part of a building abutting on a public street is within such line of the street, the Authority may require such building to be set back to the prescribed line, whenever it is proposed —

- (a) to re-build such building or to take down such building,
- (b) to remove, reconstruct or make any addition to or structural

alteration in any portion of such building which is within the regular line of the street.

(2) When any building or any part thereof within the prescribed line of the street falls down or is burnt down or is taken down, under the provisions of this Act or otherwise, the Authority may at once take possession of the portion of land within the prescribed line of the street previously occupied by the said building and if necessary, clear the same.

(3) Land acquired under the foregoing sub-sections shall, henceforward be deemed to be part of the public street.

25. Acquisition of land within the line of street — If any private land whether open or enclosed, lies within the prescribed line of a public street and is not occupied by a building, or if a platform, verandah, steps, compound wall, hedge, or fence or other structure, is within the line of such street the Authority may, after giving the owner of the land or building a notice of the intention to do so, take possession of the said land with its enclosing wall, hedge or fence, if any, or of the said platform, verandah, steps, or such other structure as aforesaid or of the portion of the said platform, verandah, steps, or other such structure as aforesaid which is within the prescribed line of the street.

26. Acquisition of the remaining part of building and land after their portions within a prescribed line of the street are acquired — If a building or land is partly within the prescribed line of a public street and if the Authority is satisfied that the land remaining after the exclusion of the portion within the said line will not be suitable or fit for construction of independent building, the Authority shall acquire the remaining portion of the land if so desired by the owner.

27. Subdivision of private land — (1) Every person intends to subdivide any plot of land within the Master Plan Area shall give notice in writing to the Authority of his said intention and such notice shall be accompanied by the plans and statements in triplicate.

(2) All plans for sub-division of land shall be in accordance the standards prescribed by the State Government.

28. Plans accompanying notice — A layout plan draw to a suitable scale and containing the following information shall accompany the notice given under Section 27 --

- (a) the location of the land;
- (b) the boundaries of the proposed land shown on the map, and sufficient description to define the same;
- (c) name and address of the owner of the land;
- (d) location, name and present widths of the adjacent roads and lanes;
- (e) the major physical characteristics of the land proposed to be subdivided, including topography, the approximate location and width of any water course and location of any areas subject to inundation or flood;
- (f) the complete layout of the proposed subdivision showing the location and widths of all the proposed streets, dimensions and uses of all the plots;
- (g) the locations of all drains, sewers and other utilities;
- (h) building lines permissible;
- (i) scale and north line;
- (j) keyplan.

29. Sanction with or without modification or refusal — (1) The Authority may either grant or refuse the approval to the plans or may approve them with such modifications as it may deem fit and thereupon shall communicate its decision to the person giving the notice within three months from the date of the notice.

(2) No person shall be allowed to construct a building on any plot of land, the subdivision of which has not been previously approved by the Authority.

30. Layout not according to Plan — should the Authority determine at any stage that the layout or the construction is not proceeding according to the sanctioned plan or is in violation of any provisions of this Act, it shall serve a notice on the applicant requiring him to stay further execution until correction has been effected in accordance with the approved plan.

[30A. Power to stop development — (1) Where any development in any area has been commenced in contravention of the Master Plan or Development Scheme or without the permission, approval or sanction referred to in Section 29 or in contravention of any conditions subject to which such permission approval or sanction has been granted the Authority may, in addition

to any prosecution that may be instituted under this Act, make an order requiring the development to be discontinued on and from the date of the service of the order and such order shall be complied with accordingly.

(2) Where such development is not discontinued in compliance with the order sub-section (1) the Authority may require any Police Officer not below the rank of Sub-Inspector of Police to remove the person by whom the development has been commenced including all his assistants and workmen from the place of development within such time as may be specified in the requisition and such Police Officer shall comply with the requisition accordingly.

(3) After the requisition under sub-section (2) has been complied with, the Authority may depute by a written order a Police Officer or an officer or an employee or the Authority to keep a watch on the place to ensure that the development is not continued.

(4) The provisions of this Section shall be in addition to and not in derogation of, any other provisions relating to stoppage of building operations contained in any other law for the time being in force.

30B. Power of demolition of building — (1) Where any development has been commenced or is being carried on or has been completed in contravention of the Master Plan or Development Scheme or without the permission, approval or sanction referred to in Section 29 of this Act or in contravention of any conditions subject to which such permission, approval or sanction has been granted, the Authority may, in addition to any prosecution that may be instituted under this Act make an order directing that such development shall be removed by demolition filling or otherwise by the owner, occupier, manager or by any person at whose instance the development has been commenced or is being carried out or has been completed within such period not being less than five days and more than thirty days from the date on which a copy of the order of removal with brief statement of the reasons thereof has been delivered to the owner, occupier and manager or the person at whose instance the development has been commenced or is being carried out or has been completed as may be specified in the order and on his failure to comply with the order, the Authority may remove or cause to be removed the development and the expenses of such removal shall be recovered from the owner occupier, manager or any person at whose instance the development was commenced or was being carried out or was completed as arrears of land revenue provided that no such order shall be made unless the owner occupier

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manager or the person concerned has been given a reasonable opportunity to show cause why the order shall not be made.

(2) The provisions of this Section shall be in addition to and not in derogation of any other provision relating to demolition of buildings contained in any other law for the time being in force.

(3) No compensation shall be claimed by any person any damage which he may sustain in consequence of the removal of any development under this Section or the discontinuance of the development under Section 30A of this Act."]¹

CASE-LAW

Section 30B (as inserted by Assam Act VIII with effect 19.1.1985) is not retrospective in nature as it gives power to the Authority to demolish buildings already constructed prior to the insertion of the Section. [*Assam Ispat Ltd. v. State of Assam* (1988) 1GLR (NOC) 14 : 1988(1) GLJ 8 : 1988 GHC 1].

31. Penalty for violation — The Authority will have power to impose fine not exceeding Rs. 250 on any person, firm or corporation who violates, disobeys, refuses to comply with, or who resists the enforcement of any of the provisions of this Act. Continuation of the violation shall constitute a separate offence for which a fine of Rs. 50 per day may be imposed for the days after the first conviction. An appeal shall lie to the Appellate Authority constituted under this Act.

CASE-LAW

Section 31 — The State Government was directed to appoint Appellate Authority as contemplated by Section 43 of the Act to hear all appeals arising out of the provisions of the act. [*Assam Ispat Ltd. v. State of Assam* (1988) 1GLR (NOC) 14 : 1988(1) GLJ 8 : 1988 GHC 1].

CHAPTER – VI Acquisition of Land

32. Power of State Government to acquire land — Where on the representation of the Authority it appears to the State Government that in order to enable it to execute the scheme it is necessary that land within, adjoining or surrounded by any such area should be acquired, the State Government may in consultation with the Council acquire the land by publishing in the *Official Gazette* a notice to the effect that the State Government has decided to acquire the land in pursuance of this Section.

1. Added as new Sections "30A" and "30B" by the Assam Act No. VIII of 1985. Section 8. (with effect from 19.1.1985.) [Published in the Assam *Gazette* Extraordinary, dated 3rd May, 1985] pp – 286 – 291.

33. Proceeding for acquisition of land — (1) The provisions of the Land Acquisition Act, 1894 (*Central Act No. 1 of 1894*) shall be applicable for acquisition of land under this Act and the compensation shall be computed under the provisions of the same Act.

(2) In computing compensation for land acquired, the value will be the market value as prevailed on the 1st of January, 1957.

(3) The owner of the lands will also be entitled to the reasonable cost of development, if any, made during the period.

(4) Twenty-five percent increase in value on the date of acquisition of the land.

34. Disposing of land — Subject to the rules made under this Act,¹[**], the Authority may retain, lease, exchange or otherwise, transfer any land acquired by it under this Act :

Provided that in case of lease or transfer the owner will get first priority, if due to acquisition he becomes landless.

35. Provision of private negotiation before compulsory acquisition — (1) The Authority may, in the first instance, make reasonable efforts to purchase any land by private negotiation.

(2) In case of failure to purchase the land by private negotiation within a specified time, the said land shall be compulsorily acquired.

(3) Nothing in this section shall however, debar the State Government or a local authority from compulsorily acquiring any land without prior private negotiation.

36. Payment to owner by adjustment — All payments due to be made to any person by the Authority, under this Act, shall so far as possible, be made by an adjustment in respect of the plot concerned or of any other plot in which he has an interest and failing such adjustment shall be paid in cash or in such other way as may be agreed upon by the parties.

CHAPTER – VII

Compensation and betterment

37. Right to compensation — Any person whose property is injuriously affected in value by the making of a scheme shall, if he makes a claim for the purpose within a period of three months after the date of publication

¹ Deleted the words "and with the previous sanctions of the State Government" by the Assam Act No. XXXI of 1962. Section 9. (with effect from 19.12.1962.)

of a notification sanctioning the scheme under Section 16, be entitled to obtain compensation in respect thereof from the Authority.

38. No right to compensation— A person shall not be entitled to obtain compensation under the foregoing section on account of any building erected on or contract made or other thing done with respect to any land within the area included in a scheme after the date of the notification of the scheme under Section 15 :

Provided that this provision shall not apply to any building erected, contract made or other thing done in accordance with the permission granted under Sections 3 and 17 of this Act.

39. Power of Government to exclude compensation in certain cases—

(1) No compensation shall be payable in respect of any property which may be injuriously affected by putting into operation of any provision of the scheme which—

- (a) prescribes the space about buildings; or
- (b) limits the number of buildings; or
- (c) regulates the size, height, design or external appearance of buildings; or
- (d) prohibits or restricts building operations permanently or temporarily on the ground that erection of buildings thereon will be likely to be injurious to the health of the occupants or the neighbours or likely to cause excessive expenditure of public money in making provision for roads, sewers, water supply or other public services; or
- (e) prohibits or restricts the use of land or a building for a purpose which may involve danger or injury to public hygiene or the health of the occupants or their neighbours or for a purpose which is against the public policy or public moral; or
- (f) in the interests of safety, regulates the height and position of proposed walls, and building, fences or hedges near the corners or bends of roads; or
- (g) in the case of the erection of any building intended to be used for purpose of business or industry, requires the provision of parking the vehicles.

(2) No compensation shall be payable for refusal of permission to

make any alteration in any building which is not in conformity with the use specified in the Plan or in the scheme.

40. Right of owner to require Authority to acquire or purchase land—

(1) The owner of any land which is to be acquired for purposes of a scheme may, at any time, after the sanction of the scheme by the Government, by a written notice to the Authority in the prescribed manner, call upon it to acquire or purchase the land in so far as the land is to be acquired by the State Government or the Authority.

(2) If within six months of the service of the notice under sub-section (1) the land is not purchased or acquisition proceedings are not started, the scheme, in so far as that land is concerned, shall be deemed to have been withdrawn and all notices and orders in that connection shall lapse.

41. Levy of betterment fee — (1) Every property which has increased in value due to its inclusion within an area under a plan or a scheme or due to the execution of such schemes shall be charged with a betterment fee :

Provided that no such fee shall be levied on such public land or building as are used for charitable, religious and educational purposes or for places of non-professional entertainment and recreation.

(2) The betterment fee shall be an amount equal to twenty percent in case of residential holdings so long the original owners use for their residences and equal to fifty percent in case of non-residential areas and will be realised in five equal instalments.

Explanation— The increase in value for the purpose of this Section shall be the increase in the market prices in between the date on which a notification under sub-section (1) of Section 15 has been issued and the date on which the execution of the scheme has been substantially completed.

42. Appeal— (1) Any person aggrieved by the decision of the Authority with respect to matters of compensation and betterment fee, may appeal to the Appellate Authority within thirty days of the award.

(2) If the owner of any property objects to the amount of betterment fee determined by the Authority on any ground he shall also state the amount which, he contends would be correct and may within thirty days of the date on which the determination of his objection or appeal becomes final by written notice, require the authority to acquire the property together with any building or other works that may exist thereon.

(3) The authority shall thereupon acquire the property.

CHAPTER – VIII**Appeals and the Appellate Authority**

43. Appointment of Appellate Authority — (1) Save as otherwise provided, the State Government shall appoint an Appellate Authority to hear all appeals arising out of the provisions of this Act. The decision of Appellate Authority shall be final.

(2) The person or persons appointed by the State Government as Appellate Authority shall have the qualification of a District Judge [“or of becoming a member of the Assam Board of Revenue constituted under The Assam Board of Revenue Act, 1962 (*Assam Act No. XXI of 1962*)”]¹. The appointment shall be on such terms and conditions as the State Government may decide.

44. Duties of the Appellate Authority — (1) The duties and powers of the Appellate Authority shall be as follows —

- (a) to hear and decide appeals against the orders of the Authority;
- (b) to decide and hear appeals in respect of such other matters and exercise such other powers as may be entrusted to and conferred upon it by the State Government in accordance with the provisions of this Act.

(2) All appeals to the Appellate Authority shall be filed within a month from the date of the order appealed against. The time required for taking out copies of the order shall be excluded. The Appellate Authority may, however, in its discretion condone such delay in filing appeal for sufficient reasons.

45. Procedure of working of the Appellate Authority — (1) The Appellate Authority shall conduct its proceedings in the prescribed manner after giving the opposite party or any one interested in the order appealed against an opportunity of being heard.

(2) The Appellate Authority may, at any time, call for any extract from any proceeding of the State Government or Authority and call for any return or statement or report concerning or connected with any matter with which the authority has been authorised to deal.

(3) The Appellate Authority shall have all the powers of a Civil Court for the purposes of taking evidence on oath and of enforcing the attendance of witnesses including the parties interested or any of them and compelling the production of documents and material objection if considered necessary.

1. Added after the words ‘District Judge’ in sub-section (2) of Section 43 by the Assam Act No. XXVI of 1966.

(4) The Appellate Authority in its discretion may make any orders regarding the costs to be paid by any of the parties to the proceedings and the Appellate Authority shall have full powers to determine by whom or out of what property and to what extent such costs are to be paid and the authority shall be bound to execute the orders of the Appellate Authority in accordance with the directions, if any, contained in the order and such costs or amounts awarded by the Appellate Authority shall be realised as arrears of land revenue.

46. Right to appear by recognised agent — Every party to any proceeding before the Appellate Authority shall be entitled to appear either in person or by his recognised agent.

47. Protection of action taken under this Act — (1) 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 in pursuance of this Act or any order made thereunder.

(2) Save as otherwise expressly provided in this Act, no suit or other legal proceeding shall lie against the State Government for any damage caused or likely to be caused by anything in good faith done or intended to be done in pursuance of this Act or any order made thereunder.

CHAPTER – IX

Finance

48. Development Fund — The receipt of Authority under this Act shall form a separate development fund and all expenditure under this Act, or any development scheme thereunder, shall be defrayed out of such fund. No portion of the fund shall, except with the sanction of Government, be expended for purposes not provided by this Act.

49. Powers to borrow — Authority as defined in this Act shall be deemed to be a local authority as defined in the Local Authorities Loans Act, 1914 (*Central Act IX of 1914*) for the purpose of borrowing money under that Act, and the making and execution of a plan and scheme shall be deemed to be a work which such local authority is legally authorised to carry out.

50. Grants, advances and loans — The Government may make such grants, advances and loans to the Authority as the Government may deem necessary for the performance of functions of the Authority under this Act issued all grants.

[50A. Levy of fees — (1) For the purpose of providing and maintaining any amenity, the Development Authority may levy such fees as it may

consider necessary which shall be in addition to any fee for the time being leviable under this Act or any other law in force, in respect of any site or building on the transferee or occupier thereof.

(2) Where any transferee or occupier makes any default in the payment of any fee levied under sub-section (1) the Authority may direct that in addition to the amount of the arrears, a sum not exceeding that amount shall be recovered from the transferee or occupier, as the case may be, by way of penalty.

(3) In case of any default in payment of an amount payable under this Act the outstanding amount in default together with any sum, if any directed to be paid by way of penalty under sub-section (2) may be recovered from the transferee or occupier as the case may be, in the same manner as arrear of land revenue.

50B. Resumption of site or building— In case of non-payment of consideration money or any instalment thereof on account of the transfer of any site or building or any rent due in respect of the lease of any such site or building or in case of the breach of any other conditions of such transfer or breach of any rules made under the Act, the Authority may if it thinks fit, resume the site or building so transferred and may further forfeit the whole or any part of the money, if any, paid in respect thereof.

50C. Audit of account of the Authority— The accounts of the Authority shall be subject to audit annually by the Accountant General Assam. The accounts of the Authority along with the Audit Report shall be placed before the State Legislature."]¹

CHAPTER – X Legal Proceedings

51. Penalty for breach of the provisions of the Master Plan or Scheme--- (1) When a Master Plan or a scheme has been sanctioned under this Act any person who commits or knowingly permits a breach of any specified provisions of the Master Plan or of the scheme or who neglects or fails to comply with any such provisions shall be punishable under this Section.

(2) In case of any such breach or default the Authority shall send to any such person a notice calling on him to discontinue the breach or cause it to be discontinued or to comply with such provisions of the Master Plan or the Scheme within a time to be specified in the notice.

1. Inserted as new Sections "50A", "50B" and "50C" by the Assam Act No. VIII of 1985. Sec. 9 (w.e.f. 9.1.1985), [Published in the Assam Gazette Extraordinary, dated 5th May 1985] pp – 286 – 291.

(3) If after such time any such person under sub-section (1) continues to neglects or causes a breach of any specified provision, such persons shall be prosecuted and on conviction by a Magistrate be punishable by any or all of the following—

- (i) with fine which may extend to Rs. 500 with or without simple imprisonment not exceeding a period of 2 months;
- (ii) if the breach, neglect or failure continues after such conviction with fine which may extend to Rs. 30 for every day during which the breach, neglect or failure continues after such conviction.

52. Power to execute works on failure to comply with notice — If a notice has been given under this Act to a person requiring him to execute a work in respect of any property, movable or immovable, or to provide or do or refrain from doing anything within a time specified in the notice and if such person fails to comply with such notice, then the authority may cause such work to be executed or such thing to be provided or done, and may recover all expenses incurred by it on such account from the said person as an arrear of land revenue.

53. Right of occupier to execute works in default of owner — When default is made by the owner of a building or land in the execution of any work required under this Act, to be executed by him, the occupier of such building or land may, with the prior approval of the Authority cause such works to be executed, and the expenses thereof shall, in the absence of any contract to the contrary, be paid to him by the owner, or the amount may be deducted out of the rent from time to time becoming due him to such owner.

54. Procedure upon opposition to execution by occupier — (1) If after receiving information of the intention of the owner of any building or land to take any action in respect thereof in compliance with a notice issued under this Act, the occupier refuses to allow such owner to take action, the owner, may apply to a District Magistrate or Sub-divisional Officer as the case may be.

(2) The District Magistrate or Sub-divisional Officer upon proof of such refusal may make an order in writing requiring the occupier to allow the owner to execute all such works, with respect to such building or land, as may be necessary for compliance with the notice, and may also, if he thinks fit, order the occupier to pay to the owner the costs relating to such application or order.

(3) If after the expiry of eight days from the date of the Magistrate's order, the occupier continues to allow the owner to execute such work, the

occupier shall be liable, upon conviction, to a fine which may extend to Rs. 30 for every day during which he has so continued to refuse.

(4) Every owner, during the continuance of such refusal shall be discharged from any liability on account of such breach of default.

55. Recovery of cost of work by the occupier — When the occupier of a building or land in compliance with a notice issued under this Act, executed a work for which the owner of such building or land is responsible, either in pursuance of the contract of tenancy or by law, he shall, in the absence of any contract to the contrary, be entitled to recover from the owner by deduction from the rent payable by him or otherwise the reasonable cost of such work.

56. Penalty for obstructing contractor or removing mark — if any person —

- (a) obstructs or consults any person with whom the authority has entered into a contract for the performance or execution by such person of his duty or of anything which he is empowered or required to do under this Act; or
- (b) removes any mark set up for the purpose of indicating any level or direction necessary to the execution of works authorised under this Act, shall be punishable with fine which may extend to Rs. 500 or with or without simple imprisonment for a term which may extend to two months.

57. Officers under the Act to be public servants — Every officer and servants of authority and every other officer employed by the State Government for the purposes of this Act, shall be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code (*Central Act No. 45 of 1860*).

58. Authority for prosecution — Unless otherwise expressly provided, no court shall take cognizance of any offence punishable under this Act, except on the complaint of, or upon information received from, the Authority or some person authorised by the Authority by orders in this behalf.

59. Power of Authority to institute proceedings, etc., and so take legal advice — The Authority shall subject to rules framed under this Act have powers to—

- (a) institute, defend or withdraw from legal proceedings under this Act;
- (b) compound any offence against this Act, before the matter is referred to the court;
- (c) admit compromise, or withdraw any claim made under this Act; and

- (d) obtain such legal advice and assistance as it may from time to time think necessary or expedient to obtain for any of the purposes, referred to in this foregoing clauses of this section for securing the lawful exercise or discharge of any power or duty vested in or imposed upon the Authority or any officer or security of the Authority.

¹["59A. Power to recover dues as an arrear of land revenue — Any sum recoverable by the Authority under this Act, if not paid on demand, shall be recoverable an arrear of land revenue."]

60. Bar to suits and prosecutions in certain cases — (1) No suit, prosecution or other proceeding shall lie against an Authority or any officer or servant thereof or any person acting under their direction or any Government Officer or servant employed for the purposes of this Act for anything which is in good faith done in pursuance of this Act, or any rules made thereunder.

(2) No suit, prosecution or other proceedings shall lie against any officer or servant of the authority or any Government Officer or servant employed for the purposes of this Act for anything done under this Act —

- (a) unless the previous sanction of the State Government has been obtained; and
- (b) until the expiration of two months after notice in writing has been given to the person to be *sued*, clearly stating the cause of action, and the nature of relief sought, *etc.*

61. Punishment for malicious abuse of powers — Any officer or servant of the Authority or of the Government who willfully or negligently abuses any power conferred on him by or under this Act, shall be punishable with imprisonment which may extend to six months or with fine which may extend to Rs. 500 or with both :

Provided that no prosecution shall be instituted under this Section—

- (a) unless the previous sanction of the State Government has been obtained;
- (b) until the expiry of two month's notice in writing has been given to the person concerned clearly stating the cause of action and the nature of relief sought, *etc.*

62. Registration of documents, plans or maps in connection with scheme— (1) Nothing in the Indian Registration Act, 1908 (*Central Act No. XVI*

¹ Inserted as new Section "59A" by the Assam Act No, XXXI of 1962. S.10. (with effect from 19.12.1962).

of 1908) shall be deemed to require the registration of any document, plan or map prepared, made or sanctioned in connection with a scheme which has come into force.

(2) All such documents, plans and maps relating to the sanctioned scheme shall, for the purposes of Sections 48 and 49 of the Indian Registration Act, 1908 (*Central Act XVI of 1908*) be deemed to have been and to be registered in accordance with the provisions of that Act :

Provided that documents, plans and maps relating to the scheme shall be accessible to the public, free of charge in the manner prescribed.

63. Orders under the Act not to be questioned in any Court — No order made in exercise of any power conferred by or under this Act shall be called in question in any court except as provided in this Act.

64. Effect of orders inconsistent with other enactments — Any order made under this Act, shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or any instrument having effect by virtue of any enactment other than this Act.

CHAPTER - XI

Miscellaneous Provisions

65. Service of notice — Every notice issued under this Act, shall be served as prescribed by rules.

66. Method of giving public notice — Subject to the provisions of this Act, every public notice required under this Act shall be deemed to have been given if it is published in some local newspaper (if any) or a paper of general circulation in the area and posted upon a notice board to be exhibited for public information at the building in which the meetings of the Local Authority are ordinarily held or by publishing it in official *Gazette*.

67. Formal defects in assessments and demands — No assessment list or other list, notice or other such document specifying, or purporting to specify with reference to any charge, or fee, any person's property, thing or circumstances shall be invalid only by reason of a clerical or technical mistake in the name, residence, place of business or occupation of the person or in the description of property, thing or circumstances and it shall be sufficient if the person, property, thing or circumstances is described sufficiently for the purpose of identification, and it shall not be necessary to name the owner or occupier of any property liable in respect of the charge.

68. Power and duties of police in respect of offences and assistance to Authorities— Every Police Officer, *Mauzadar* or Officer of the Local Authority shall give immediate information to the Authority of an offence coming to his knowledge which has been committed under this Act, or against any rule, made under this Act and shall be bound to assist all members, officers and servants of the Authority in the exercise of their lawful authority.

69. Decision of disputes between Authorities — Should a dispute arise between the Authority and any other Local Authority on any matter in which they are jointly interested, such dispute shall be referred to the State Government, whose decision shall be final.

70. Powers to enter into land for inspection, etc. — For the purpose of making or execution of any scheme, the Authority or persons appointed by the State Government, their subordinates and contractors may enter into or upon any land, in order—

- (a) to make any inspection, survey, measure valuation or enquiry;
- (b) to take levels;
- (c) to dig or bore into the sub-soil;
- (d) to set out boundaries and intended lines of work;
- (e) to mark levels, boundaries and lines by marks and cutting trenches; or
- (f) to do any other thing, whenever it is necessary to do so, for any of the purposes of this Act or any rule made or scheme sanctioned hereunder or any scheme which the authority intends to frame hereunder :

Provided as follows —

- (a) except when it is otherwise specially provided by a rule no such entry shall be made between sunset and sunrise;
- (b) except when it is otherwise specially provided by the rules, no building which is used as a human dwelling shall be so entered unless with the consent of the occupier thereof, without giving, the said occupier at least 24 hours previous notice in writing of the intention to make such entry;
- (c) due regard shall always be had, so far as may be compatible with the exigencies of the purpose for which the entry is made, to the social and religious usages of the occupants of the premises entered.

71. Mode of proof of the records of the Authority — A copy of receipt, application, plan, notice, order, entry in a register or other document

in the possession of the Authority shall, if duly certified by the lawful keeper thereof or other person authorised by the Authority in this behalf be received as *prima facie* evidence of the entry or document and shall be admitted as evidence of the matters and transactions therein recorded in every case where, and to the same extent as, the original entry or document would, if produced, have been admissible to prove such matters.

72. Power of Authority to make agreements— The Authority shall be competent to make any agreement with any person in respect of any matter, which is to be provided for in a scheme and, unless it is otherwise expressly provided therein, such agreement shall take effect on and after the day on which the scheme comes into force.

73. Powers of the State Government to make rules— ["(1) The State Government may, after previous publication in the official *Gazette*, make rules for carrying out the purposes of this Act."]¹

(2) In particular and without prejudice to the generality of the foregoing powers, the State Government [*]² shall have power to make rules in respect of the following matters —

- (i) the manner of publication of the notification regarding scheme, their modifications, variations, revocations, submission and sanction by the State Government;
- (ii) powers that may be delegated to any Authority established under this Act or to any Officer;
- (iii) procedure to be adopted for securing co-operation of various Government Departments, the owners or other persons or bodies interest in scheme;
- (iv) all matters pertaining to land acquisition including procedure and making of awards, compensation and the possession of land by Authority in ordinary and emergent cases;
- (v) calculation, assessment and payment of compensation in respect of property which is injuriously affected within the meaning assigned to it in Section 37 of this Act;
- (vi) calculation, assessment and collection of betterment contribution;

1. Substituted sub-section (1) of Sect. 73, by the Assam Act No. XXXI of 1962. S. 11 (1), (w.e.f. 19.12.1962).

Note – Before substitution of sub-section (1) of Section 73, originally read as follows—

" (1) The State Government shall have power to make specific rules in respect of the following matters".

2. Deleted the words "in consultation with the council" by *Ibid.* Section 11 (2).

- (vii) procedure of filing, hearing and deciding objections and appeals under the Act and all matters connected therewith;
- (viii) the delegation of powers to and the duties that shall be discharged by the Director and the matters on which and the manner in which he shall be consulted;
- (ix) matters other than those referred to in foregoing clauses which are expressly or by implication requires or allowed by this Act to be prescribed by rules;
- (x) creation and administration of fund for the purpose of implementing the provisions of this Act.

["(3) All rules made under this section shall be laid for not less than fourteen days before the Assam Legislative Assembly as soon as possible, after they are made and shall be subject to such modification as the Legislative Assembly may make during the session in which they are so laid or the session immediately following."]¹

74. Power of the Authority to make bye-laws — (1) The Authority shall have power to make bye-laws in respect of the matters enumerated under this section and not inconsistent with the rules made by the State Government—

- (i) land sub-division and lay out of public street;
- (ii) width for different classes of public streets according to the nature of traffic to be carried thereon;
- (iii) street lanes and setting back of buildings from the regular line of the street;
- (iv) zoning regulations prescribing the type of description of building which may or may not be, and the purpose for which a building may or may not be created, in any prescribed area or areas,
- (v) regulation and display of advertisement in the interest amenity, aesthetic, or public safety;
- (vi) regulations in any manner not specifically provided for in this Act, the erection of any enclosure, wall, fence, tent or other structure on any land within the limits of the authority;

["(vii) time and place and transaction of business of the meetings of the Authority."]²

(2) The Power to make bye-law under this Act shall be subject to the condition of previous publication.

1. Inserted sub-section (3) in Section 73, by the Assam Act No. XXXI of 1962. S. 11(3), (w.e.f. 19.12.1962).
 2. Inserted as new clause (vii) in sub-section (1) of Section 74, by the Assam Act No. XXXI of 1962 Section 12 (w.e.f. 19-12-1962)[Published in the Assam Gazette Extraordinary (No. 101).

(3) No such bye law shall come into force until it is approved by the State Government.

(4) The State Government may cancel their confirmation of any such bye-law and thereupon the bye-law shall cease to have effects.

CASE-LAW

Section 74 – When shops, etc. were found to have been constructed without sanction and approval which was required to be obtained under the Rules and the validity of the Rules was not under challenge, the petitioner was allowed to make application within 20 days to the concerned authority for according permission to make constructions and the authorities directed to take action thereon in accordance with law. [*Tinsukia Development corporation Ltd. v. Tinsukia Development Authority* (1987) 1GLR 203 : 1988 GHC483.

[75. "Supersession of the Authority— If, at any time the State Government is satisfied that the Authority constituted under Section 8B of this Act is not competent to perform or persistently makes default in the performances of the duties imposed on it by or under this Act or any other law or exceeds or abuses its powers it may by notification stating reasons declare the Authority to be superseded and on such supersession, the proviso to sub-section (1) of Section 8A of this Act shall apply."]¹

1. Inserted as new Section "75" by the Assam Act No. VIII of 1985, S.10. (with effect from 19.1.1985), [Published in the Assam Gazette Extraordinary, dated 3rd May, 1985.] pp - 286 - 291.

**THE
ASSAM TOWN AND COUNTRY
PLANNING (PUBLICATION OF MASTER
PLAN AND THE ZONING REGULATION)
RULES, 1962¹**

Dated the 10th January, 1962

No. TCP 182/61/1— *In exercise of the powers conferred by sub-sections (1) and (2) of Section 73 of the Assam Town and Country Planning Act, 1959 (Assam Act II of 1960), and in consultation with the Advisory Council, the Governor of Assam is pleased to make the following rules, namely—*

1. (1) These rules may be called the *the Assam Town and Country Planning (Publication of Master Plan and the Zoning Regulation) Rules, 1962.*

(2) They shall come into force with immediate effect.²

2. **In these rules —**

(1) "Act" means the Assam Town and Country Planning Act, 1959 (*Assam Act II of 1960*);

(2) All words and expressions not defined in these rules shall have meanings respectively assigned to them by the Act.

RULES UNDER SECTION – 10

Publication of the Master Plan and the Zoning Regulations

³[3. (1) On receiving the Plan and Zoning Regulation from the Director,

1. Published in the *Assam Gazette*, Part - IIA, dated 17th January, 1962, pp - 317-318 .

2. With effect from 17.1.1962.

3. Substituted Rule "3" *vide* Notification No. TCP. 43/84/284, dated the 21st September, 1995 (with effect from 25.9.1995) [Published in the *Assam Gazette* Extraordinary, dated 25th September, 1995].

Note – Before substitution of Rule "3" originally read as follows —

3. (1) The draft Master Plan and the Zoning Regulations shall be published in the form appended to these rules –

(a) in the official Gazette;

(b) in one or more local newspapers which have circulation throughout the district in which such area is situated; and

(c) shall be displayed on the Notice Board of the office of the Town Planner, Assam, the Deputy Commissioner of the District concerned, the Sub-Deputy Collector of the Circle concerned, the Development Authority and of every Local Authority within the jurisdiction of which the area proposed to be included in the Master Plan or any portion thereof is situated.

(2) A copy of the draft Master Plan and the Zoning Regulations shall also be available for inspection by the public in the offices of the Town Planner, Assam, the Deputy Commissioner of the District concerned, the Sub-Deputy Collector of the Circle concerned, the Development Authority and the Local Authority concerned."

it shall be displayed on the Notice Board of the office of the Director, Town and Country Planning, the concerned Deputy Commissioner of the District of the Sub-Deputy Collector of the Circle, the Development Authority and the Urban Local Body for inspection of the public.

(2) The State Government shall publish a Notification in the official *Gazette* in the form appended to these Rules that the draft Master Plan and Zoning Regulation is made available to the public for inspection in the places mentioned in the form and objection or opinion has been invited within 2 (two) months from the date of its making available to the public."]

4. Such notification shall be accompanied by the Plan prepared under Section 11 of the Act.

5. After expiry of the period of two months, the Director of Town and Country Planning, Assam shall forward such objections and opinions as may be received from the public, to the State Government with his views. The State Government shall take such objections and opinions into consideration and direct that such objections and opinions be placed before the Advisory Council. The Secretary of the Advisory Council shall, then place before the Council all materials along with the terms of reference made by the State Government, if any.

6. (1) The draft Master Plan with such modifications as may be suggested by the Advisory Council shall be submitted to the State Government, which shall, after taking into consideration the advice of the Advisory Council and objections and opinions received, give such direction to the Director to finalise the Master Plan.

["(2)(a) The Final Master Plan and the Zoning Regulation shall be made available for inspection by the public of the Director, the concerned Deputy Commissioner of the District, the Sub-Deputy Collector of the Circle, the Development Authority and the Urban Local Body;

(b) The Final Master Plan and Zoning Regulation shall be made available by the Director to the public on payment of fee of Rs. 170.00 per copy."]¹

1. Substituted sub-section "(2)" of Section 6, *vide* Notification No. TCP. 43/84/284, dated the 21st September, 1995 (with effect From 25.9.1995) [Published in the Assam *Gazette*, part-IIA, dated 25th September, 1995].

Note - Before substitution of sub-rule "(2)" of Rule 6, originally read as follows —

(2) The Master Plan and the Zoning Regulations prepared by the Director and as directed by the State Government shall be published in Form B appended to these rules in a manner prescribed under Rule 3(1)."

FORM A

[See Rule 3(1)]

NOTICE FOR PUBLICATION OF THE MASTER PLAN AND THE REGULATION

1. It is notified that the draft Master Plan and the Regulation, prepared under Section 9 of the Act for the Area described in the schedule below, is hereby published.

2. Any person or persons affected by the draft Master Plan and the Regulation may submit their objections or opinions in writing to the Director of Town and Country Planning within Two months from the date of publication.

3. The draft Master Plan and the Regulation together with all relevant papers and maps may be inspected free of cost during office hours at the offices of the ["Director Town and Country Planning"]¹ Assam, the Deputy Commissioner of the District concerned, the Development Authority and the Local Authority concerned. Copies of the Master Plan and the Regulation are available at the office of the ["Director Town and Country Planning"]¹ [****]² Assam on payment.

FORM B

NOTICE FOR PUBLICATION OF THE MASTER PLAN AND THE ZONING REGULATION

1. It is notified that the final Master Plan and the Zoning Regulation, prepared by the Director of Town and Country Planning, Government of Assam and adopted by the State Government under Section 10(2) of the Assam Town and Country Planning Act, 1959, read with Section 3(2) of the Assam Town and Country Planning (Amendment) Act, 1962 for the area described in the schedule below, is hereby published.

2. The final Master Plan and the Zoning Regulation together with all relevant papers and maps may be inspected free of cost during the office hours at the offices of the ["Director Town and Country Planning"]¹ Assam, the Deputy Commissioner of the District concerned, the Development Authority and the Local Authorities concerned. Copies of the final Master Plan and the Zoning Regulation are available at the offices of the ["Director Town and Country Planning"]¹ [****]² Assam, Gauhati for sale.

1. Substituted for the words "Town Planner" by Notification No. TCP. 43/84/284, dated the 21st September, 1995 (with effect From 25.9.1995) [Published in the Assam Gazette, part-IIA, dated 25th September, 1995].

2. Omitted the words "and ex-officio Director of Town and Country Planning" by *Ibid*.

**THE
ASSAM TOWN AND COUNTRY
PLANNING SERVICE ORDER, 1990¹**

Dated the 16th April, 1990

No TCP. 31/88/32— Pending finalisation of the Service Rules to be framed under the proviso to Article 309 of the Constitution of India, the Governor of Assam is pleased to make the following orders regulating the recruitment and the conditions of service of the persons appointed to the Assam Town and Country Planning Service.

ARRANGEMENTS OF ORDERS :

1. Title and Commencement	Director/ Asstt. Engineer/ Town Planning
2. Definition	Asstt./ Research Officer
3. Class, Cadre, Branch and Status	11. Selection Board
4. Strength of the Service	12. Reservation
5. Method of Recruitment	13. Relaxation
6. Direct Recruitment	14. Interpretation
7. Promotion as Assistant Director, Town Planning Assistant, Assistant Engineer and Research Officer	15. Seniority
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9. General Procedure of promotion	17. Character
10. Special procedure for promotion as Asstt.	18. Other Condition of Service
	SCHEDULE – I
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1. Title and Commencement— (1) These orders shall be called the *Assam Town & Country Planning Service Orders 1990*.

(2) They shall take effect from the date² of this Notification.

2. Definition— In these Orders, unless it is repugnant to the context—

- (a) “Appointing Authority” means the Governor of Assam;
- (b) “Commission” means the Assam Public Service Commission;
- (c) “Constitution” means the Constitution of India;
- (d) “Government” means the Government of Assam;
- (e) “Governor” means the Governor of Assam;
- (f) “Member” means a member of the Assam Town & Country Planning Service;
- (g) “Board” means the Selection Board constituted under para 11;
- (h) “Select list” means the list as referred to in para 6(2)(d) and the lists finally approved by the Appointing Authority under para 9(5) and by the Commission under para 10(2);

1. Published in the Assam *Gazette* No. 45, Part IIA, dated 7th November, 1990, pp-853-865.

2. With effect from 16.4.1990.

- (i) "Service" means the Assam Town and Country Planning Service; and
- (j) "Year" means a calendar year.

3. Class, Cadre, Branch and Status— (1) The Service shall consist of the following classes and cadres—

- (a) Class – I (Senior Grade) it shall include the cadre of;
 - (i) Director
 - (ii) Joint Director
 - [(iii) Superintending Engineer]¹
- (b) Class – I – it shall include the cadre of;
 - (i) Deputy Director
 - (ii) Executive Engineer
 - (iii) Senior Research Officer
 - (iv) Asstt. Director
 - (v) Town Planning Assistant
 - (vi) Assistant Engineer
 - (vii) Research Officer

4. Strength of the Service — (1) The strength of each cadre and class of the Service shall be such as may be determined by the Governor from time to time:

Provided that the Governor may hold in abeyance any post as and when considered necessary.

(2) The strength of each cadre and Class of the service on the date of commencement of these orders shall be as shown in Schedule-I.

5. Method of Recruitment— (i) Posts in the cadre of Director, Joint Director, [Superintending Engineer],¹ Deputy Director, Executive Engineer and Senior Research Officer shall be filled up by promotion in accordance with the provision of paras 8 and 9;

- (ii) Recruitment to the cadres of Assistant Director, Town Planning Assistant, Assistant Engineer and Research Officer of Class-I service shall be made —

[(a) Recruitment to the Cadre of Assistant Director shall be made by direct recruitment only in accordance with provision of Principal order, para-6;

- (b) Post of Assistant Engineer and Research Officer shall be filled up by direct recruitment as well as by promotion;

1. Inserted the words *vide* Notification No. TCP. 131/97/42, dated 2nd July, 1988 (w.e.f. 2-7-1988).

- (c) Post of Assistant Research Officer shall be filled up by promotion from the post of Research Assistant and by direct recruitment;
- (b) Post of Town Planning Assistant shall be filled up by promotion only from Planning Assistant, Draftsman, Grade-I and Planning Draftsment, Grade]¹.

6. Direct Recruitment— (1) Subject to the provisions of order 7(3) direct recruitment to the cadres of Assistant Director, [Deleted]², Assistant Engineer and Research Officer shall be made by the Governor on the basis of selection made by the Commission in accordance with the procedure here-in-after provided.

(2) (a) Before the end of each year the Government makes an assessment regarding the likely number of vacancies to be filled by direct recruitment during the next year and shall intimate the same to Commission together with the details about reservation for candidates belonging to scheduled castes, scheduled tribes or any other category as laid down by Government, as provided under order 12 and about carry forward of such reservation;

- (b) The Government shall simultaneously request the Commission to recommend a list of candidates for direct recruitment in order of preference;
- (c) The commission shall make the selection in accordance with the scheme of selection prescribed by the Government. The Commission may hold such test or interview and undertake scrutiny of published articles or thesis of the candidate if any, and the Certificates and other documents as may be considered necessary;
- (d) The Commission shall furnish Government with a list of candidates recommended by it in order of preference, found suitable for direct recruitment. The number of candidates in such a list may be approximately double the number of vacancies;
- (e) The Commission shall simultaneously publish the list in the Assam *Gazette* and such other place the Commission may consider proper.

(3) The list mentioned in clauses (d) and (e) of sub-para (2) of this order shall remain valid for 12 calendar months from the date of recommendation.

1. Substituted in sub-para (ii) of Para 5, *vide* Notification No. TCP. 131/97/42, dated 2nd July, 1988 (w.e.f. 2-7-1988).

Before substitution read as follows—

- (a) to the extent of 50% by direct recruitment on the basis of selection made in accordance with order 6, and
- (b) to the extent of 50% by promotion in accordance with order 7.

2. Deleted the words "Town Planning Assistant" by *ibid*.

(4) In the event of the Commission being unable to recommend sufficient number of candidates to fill up the vacancies in a year, it shall, in consultation with the Appointing Authority, repeat the procedure as mentioned hereinbefore under sub-para (2) of this para for recommending a subsequent list in the year :

Provided that the Appointing Authority shall not make appointment of any candidate from the subsequent select list until all the candidates of the earlier list of the same year, eligible for appointment, have been offered appointment.

7. Promotion as [Assistant Research Officer]¹, Town Planning Assistant, Assistant Engineer and Research Officer- (1) The Appointing Authority shall publish in the Government *Gazette* annually the number of vacancies in the respective cadres of Assistant Director, Town Planning Assistant, Assistant Engineer and Research Officer which have occurred or are likely to occur in the year.

NOTE

Sub-para (2) of Rule 7, substituted *vide* Notification No. TCP. 131/97/42, dated 2nd July, 1988 (w.e.f. 2-7-1988) by the following.

- (a) For filling up the post of Assistant Engineer, 67% of total post of Assistant Engineer shall be filled up by direct recruitment and rest 33% shall be filled up by promotion from Junior Engineer, Sub-Engineer, Overseer and Computer ;
- (b) For filling up of the post of Research officer, 50% of total post of Research Officer shall be filled up by direct recruitment and rest 50% shall be filled up by promotion from Assistant Research Officer;
- (c) For filling up the post of Town Planning Assistant, 50% of total post of Town Planning Assistant shall be filled up by promotion from planning Assistant and rest 50% of total post shall be filled up by promotion from Draftsman Grade- I and Planning Draftman Grade- I ;
- (d) 50% of total post of Assistant Research Officer shall be filled up by direct recruitment and rest 50% shall be filled up by the promotion from Research Assistant.]²

1. Substituted for the words "Assistant Director" in sub-para (1) of Rule 7, *vide* Notification No. TCP. 131/97/42, dated 2nd July, 1988 (w.e.f. 2-7-1988).

2. Substituted sub-para (2) of Rule 7, *vide* Notification No. TCP. 131/97/42, dated 2nd July, 1988 (w.e.f. 2-7-1988), read as follows—

(2) The vacancies of Town Planning Assistant, Assistant Engineer and Research Officer which are to be filled by promotion from amongst planning Assistant, Overseer, Computer, Junior Engineer, Sub-Engineer, Draftsman Grade-I, Planning Draftsman Grade-I and Research Assistant shall be so fixed that the promoted Assistant Directors, Assistant Engineers, Town planning Assistants and Research Officers do not exceed 50% of the total corresponding cadre strength of permanent and temporary Assistant Directors, Town planning Assistant, Assistant Engineers and Research Officers.

(3) A member of the Assam Subordinate Town and Country planning Service shall be eligible for promotion as Town Planning Assistant, Assistant Engineer or [Assistant Research Officer]¹ subject to the condition that he has rendered minimum 5 years of services as Planning Asstt., Overseer, Subordinate Engineer, Junior Engineer, Computer, Draftsman Grade-I, Planning Draftsman Grade-I, Research Assistant on the first January of the year of promotion :

Provided that notwithstanding anything contained hereinbefore in these rules subject to suitability a Planning Assistant, Overseer, Subordinate Engineer, Junior Engineer, Computer, Draftsman Grade-I, Planning Draftsman Grade-I, Research Assistant of the Assam Town & Country Planning Subordinate service on his acquiring the academic qualifications as prescribed for a direct recruitment to the cadre of Town Planning Assistant or Assistant Engineer or [Assistant Research officer]¹ shall be promoted as Town planning Assistant, Assistant Engineer or [Assistant Research officer]¹, in consultation with the Commission as provided in Para 10 against the next available vacancy in the cadre and such promotion shall be treated as direct recruitment to the cadre of Town planning Assistant or Assistant Engineer or [Assistant Research officer]¹ for the purpose of these paras.

8. Promotion — (1) Promotion to the cadre of Director, Joint Director, [Superintending Engineer]² Deputy Director, Executive Engineer and Senior Research Officer shall be regulated in the manner indicated below —

- (a) From the post of Assistant Director and [***]³ to that of Deputy Director. Provided that Asstt. Engineers, [Town Planning Assistant]⁴ and Research Officers would also be eligible for promotion to the post of Deputy Director, provided they possess any post-graduate Degree or Diploma in Town & Country planning from any recognised Institutions or have other equivalent qualifications;
- (b) Assistant Engineer to Executive Engineer;
- (c) From the Research Officer to Senior Research Officer;
- (d) From Deputy Director, Executive Engineer and senior Research Officer to Joint Director;
- (e) From Joint Director to Director;

1. Substituted for the words "Research Officer" in Rule 7, vide Notification No. TCP. 131/97/42, dated 2nd July, 1988 (w.e.f. 2-7-1988).

2. Inserted the words by *Ibid*.

3. Deleted the words "Town Planning Assistant" by *Ibid*.

4. Inserted the words by *Ibid*.

- (f) From Executive Engineer to Superintending Engineer;
 (c) From Assistant Research Officer to Research Officer].¹

(2) All vacancies in the cadres of Deputy Director, Executive Engineer and Senior Research Officer in the class – I service shall be filled up by promotion on seniority cum-merit basis.

[For promotion to the Cadre of Executive Engineer from Assistant Engineer, 50% of total number of vacancies occurring in a calendar year shall be filled by promotion from the Assistant Engineer having degree in Civil Engineering and rest 50% shall be filled up by promotion from promotee Assistant Engineer and Town Planning Assistants having diploma in Civil Engineering.]²

(3) All vacancies in the cadres of Director, [Superintending Engineer]² and Joint Director shall be filled up by promotion on the basis of merit only.

(4) Subject to suitability as may be decided by the Selection Board and by the Appointing Authority as set forth in para 9 a member shall be eligible for promotion to the corresponding higher cadre in the manner here in after provided he has rendered continuous service as Assistant Director, [Assistant Research Officer]³, Assistant Engineer and Research Officer for a period of 5 (five) years and has the requisite qualifications.

(5) For promotion to the cadre of Joint Director an Officer shall be eligible.

- (a) if he has rendered minimum of 5 (five) years continuous service in the cadre of Deputy Director on 1st January of the year of promotion;
 (b) or if he has rendered minimum of 5 (five) years of continuous service in the cadre of Executive Engineer or Senior Research Officer, and has a post-graduate Degree or Diploma in Town & Country Planning from a recognised Institute on 1st January of the year of promotion :

[***]⁴

(6) For promotion to the post of Director, an Officer shall be required to have served continuously in the cadre of Joint Director for 2 (two) years :

1. Added clauses in Rule 8, *vide* Notification No. TCP. 131/97/42, dated 2nd July, 1988 (w.e.f. 2-7-1988).

2. Added in sub-rule (2) of Rule 8, *by Ibid.*

3. Substituted in sub-rule (4) of Rule 8, for the words "Town Planning Assistant" *by Ibid.*

4. Deleted provision in sub-rule (5) of Rule 8, *by Ibid.*

Before deleted provision read as follows--

Provided that in the event of the Selection Board being unable to recommend any suitable person in the chain for filling up the post of the Joint Director, the Appointing Authority may fill up the post on deputation basis.

Provided further that in the event the Selection Board is unable to recommend any suitable person in the chain for filling up the post of the Director, the Appointing Authority may fill up the post on deputation basis from any other service.

[(7) For promotion to the cadre of Superintending Engineer, an Executive Engineer shall be required to serve continuously in the cadre of Executive Engineer for 5 (five) years and has the degree in Civil Engineering or its equivalent.]¹

CASE-LAW

Clause 8 (5) – Additional qualification require for promotion *See* 1996 (1) GLJ 26.

9. General Procedure of promotion — (1) Before the end of each year the Government shall makes an assessment of the likely number of vacancies to be filled up by promotion in the ensuing year in each cadre.

(2) The Appointing Authority shall then furnish to the Board the following documents and information with regard to the officers in order of seniority equal to 4 times the number of vacancies ---

- (a) information about the number of vacancies;
- (b) list of officers in order of Seniority, eligible for promotion (separate lists for promotion to different cadres shall be furnished) indicating the cadre to which the promotion is to be considered;
- (c) character rolls and personal files of the officers listed;
- (d) details about reservation in case of promotion to class I and class II of the Service and about carry forward of vacancies as provided under sub-para (3) of para 7; and
- (e) any other documents and information as may be considered necessary by the Appointing Authority or required by the Board.

(3) The Appointing Authority shall simultaneously request the Selection Board to recommend within one month a list of officers, found suitable for promotion in order of preference, in respect of promotion to each of the cadres in which recruitment is to be made by promotion.

(4) The Selection Board, after examination of the documents and information furnished by the Appointing Authority shall recommend to the Appointing Authority a select list of officers about double the probable number of vacancies in order of preference found suitable for promotion. In case the Board does not consider an officer suitable for promotion according to seniority, it shall record the reasons thereof in writing and forward to the Appointing

1. Added in Rule 8, vide Notification No. TCP. 131/97/42, dated 2nd July, 1988 (w.e.f. 2-7-1988).

Authority together with the select list.

(5) The Appointing Authority shall consider the select list prepared by the Board, along with character rolls and personal files of the employees and approve the list unless it considers any change necessary. If the Appointing Authority considers it necessary to make any change in the list received from the Board, he shall inform the Board of the changes, proposed and after taking into account the comments if any of the Board, may approve the list finally with such modifications if any, as may in his opinion, be just and proper :

Provided that the select list shall be forwarded by the Appointing Authority to the Commission in cases covered by order 10 (i) before approving the list finally.

(6) The inclusion of a candidate's name in a select list shall confer no right to promotion unless the Appointing Authority is satisfied after such enquiry as may be considered necessary that a candidate is suitable for promotion.

(7) The select lists shall remain valid for 12 months from the date of approval by the Commission or by the Appointing Authority, as the case may be.

(8) The promotions shall be in accordance with the list as finally approved by the Commission.

10. Special procedure for promotion as [Assistant Research Officer]^{1/} Asstt. Engineer/ Town Planning Asstt./ Research Officer — (1) On receipt of the select lists for the post of Asstt. Director/ Asstt. Engineer/ Town Planning Asstt./ Research Officer from the Selection Board, the Appointing Authority shall forward it to the Commission together with the information and documents as referred to the sub-para (2) of order 9 with a request to approve the list.

(2) The Commission shall consider the select list recommended by the Selection Board, together with the information and documents and such other document and information as may be required by the Commission and obtained from the Appointing Authority. The Commission shall finally approve the list with such modifications as it considers just and proper.

(3) The select list as finally approved by the Commission shall be accepted by the Appointing Authority and published in the *Assam Gazette* within 15 days from the date of receipt.

11. Selection Board — The Selection Boards as referred to in orders 7, 8 and 9 shall consist of the following ----

(1) The Selection Board for promotion to the post of Director.

(i) Chief Secretary Chairman.

(ii) Secretary to the Government Members/ Secretary

1. Substituted for "Asstt. Director" vide Notification No. TCP. 131/97/42, dated 2nd July, 1988 (w.e.f. 2-7-1988).

of Assam, Town and Country
Planning Department.

(iii) One Secretary nominated by Member,
the Chief Secretary.

(2) The Selection Board for promotion to the posts of Joint Director, [Superintending Engineer]¹, Deputy Director, Executive Engineer, Senior Research Officer, Research Officer, Assistant Engineer and Town Planning Assistant, [Assistant Research Officer]¹ and others.

(i) Commissioner/ Secretary to the Government of Assam,
Town and Country Planning Department Chairman.

(ii) Commissioner/ Secretary to the
Government of Assam, Personnel
Department or his nominee not below
the rank of Deputy Secretary Member.

(iii) Director of Town and Country Planning Member.

(iv) Deputy Secretary to the Government of Assam,
Town and Country Planning Department Member.

12. Reservation — In all cases of appointment by direct recruitment or by promotion to the service, there shall be reservation in favour of candidates belonging to the members of the Scheduled Castes, Scheduled Tribes (both Plains and Hills) in accordance with the provision of the Assam Scheduled Castes and Scheduled Tribes (Reservation of vacancies in service and posts) Act, 1978 and the rules made thereunder. There shall also be reservation in favour of other categories of candidates as may be determined by the Government from time to time.

13. Relaxation — Where the Government is satisfied, that the operation of any of these orders causes undue hardship in any particular case, it may, dispense with or relax the recruitment of that order to such extent and subject to such conditions as it may consider necessary for dealing with the case in a just and equitable manner provided that the case of any person shall not be dealt with in any manner less favourable to him than that provided in any of these order.

14. Interpretation — If any question arises relating to the interpretation of these orders the decision of the Government shall be final.

15. Seniority — (1) The Seniority of a member in a cadres appointed by direct recruitment or by promotion shall be determined according to the order of preference in the respective list finally approved by the Appointing Authority under sub-para (b) of para 9 and approved by the Commission under

1. Added *vide* Notification No. TCP. 131/97/42, dated 2nd July, 1988 (w.e.f. 2-7-1988).

sub-para (4) of para 10 and sub-para (1)(d) of para 6, if he joins the appointment within 15 days from the date of receipt of the order or within the extended period which shall not in all exceed three months.

(2) If a member fails to join the appointment within the initial 15 days of receipt of the order or within extended period as per order. But joins later, his seniority shall be determined in accordance with the date of joining.

(3) A member appointed by promotion against a vacancy occurring in a year shall be senior to a member appointed by direct recruitment in that year.

QUALIFICATION FOR DIRECT RECRUITMENT

16. (1) *Age* : A candidate shall not be less than 21 years and more than 30 years of age on the First January of the year of Advertisement with relaxation in case of candidates belonging to special categories like Scheduled castes, Scheduled Tribes or any other categories laid down by Government in accordance with the General orders of the Government in force.

(2) *Academic qualification* : The Academic qualifications of a candidate for direct recruitment shall be as prescribed by the Government from time to time. The qualification and experience prescribed as on the date of these orders coming into force are given in Schedule-II.

(3) *Physical Fitness* : A candidate for direct recruitment shall be —

- (a) of sound health, both mentally and physically and free from organic defect or bodily infirmity likely to interfere with the efficient performance of his duties ; and
- (b) required to undergo medical examination before appointment to the service.

17. **Character** — A candidate for direct recruitment shall produce to the Commission Certificates of good character from —

- (a) the Principal Academic Officer of the University or College in which he studied last; and
- (b) two respectable persons, who are well acquainted with (but not related to) the candidate.

18. **Other Condition of Service** — (1) Except as provided in these orders all matters relating to pay and allowances, leave, pension, discipline and other condition of service shall be regulated by the general order of the Government for the time being in force.

(2) The conditions of service of the members, in respect of matters, for which no provisions has been made in these orders, shall be the same, as are, for the time being, applicable to other officers of the Government, of the corresponding status and having similar functions.

[Schedule- I

List of post equivalent to and included in the cadre of the servless.

Sl. No.	Name of cadre	Name of post equivalent to and including in the cadre	Remarks
1	2	3	4
1.	Director		
2.	Joint Director	1) Superintending Engineer	
3.	Deputy Director	1) Executive Engineer 2) Senior Research Officer	
4.	Research Officer		
5.	Assistant Director	1) Assistant Engineer 2) Town Planning Assistant	
6.	Assistant Research Officer.		

Schedule- II

Strength of each cadre of service and the time scale of pay.

Categories of post	Time scale of pay Rs.	No. of post		
		Permanent	Temporary	Total
1	2	3	4	5
1. Director	3825-125-4450- 5200-175-5900/p. m.	1	-	1
2. Joint Director	3275-100-3575-125-4200		1	1
3. Superintending Engineer.	EB - 125-4450-150-5050/ p.m.		1	1
4. Deputy Director		9	9	18
5. Executive Engineer	2975-100-3575-125-3825-- EB- 125-4450-150-4750/ -p.m.	4	-	4
6. Senior Research		-	1	1
7. Assistant Director	1835-50-2035-60-2395	14	6	20
8. Assistant Engineer	80-2555-EB-80-2075--	11	5	16
9. Town Planning Assistant.	100-3575-125-4325/- p.m.	2	3	5
10. Research Officer	2275-60-2395-80-2875 EB-100-3575-125-1450/- p.m.	4	-	4
11. Assistant Research Officer	1705-50-2035-60-2395 80-2475-EB-80-2075-100-3575-125-1200/ p.m.	-	13	13

Schedule- III

Academic qualification prescribed for direct recruitment to the cadres of Assistant Director, Town Planning Assistant, Assistant Engineer, Assistant Research Officer and Research Officer.

1. A candidate for direct recruitment to the cadre of Assistant Director must possess :
Post Graduate Degree or Diploma in Town and Country Planning (City or Regional Planning) from any recognised Institutions or equivalent qualifications.
2. A candidate for direct recruitment to the cadre of Assistant Engineers must possess :
Bachelor's Degree in Engineering (Civil) or its equivalent qualifications from recognised Institutions.
3. A candidate for direct recruitment to the cadre of Assistant Research Officer and Research Officer must possess.
Master Degree in Economics or Statistics or Commerce from recognised Institutions.]¹

1. Substituted Schedule - I and Schedule - II, by Notification No. TCP. 131/97/42, dated 2nd July, 1988 (w.e.f. 2-7-1988).

Before substitution Schedule - I and Schedule - II, read as follows—

SCHEDULE -I**STRENGTH OF EACH CADRE OF SERVICE AND THE TIME SCALE OF PAY**

SI. No.	Category of post	Scale of pay	No. of posts		
			Permanent	Temporary	Total
(1)	(2)	(3)	(4)	(5)	(6)
1.	Director	Rs.2,000 - 75-2,300-EB-75-2,500/-P.M	1	-	1
2.	Joint Director	Rs. 1,675-60-1,975-EB-65-2,300/-P.M.	-	1	1
3.	Deputy Director	Rs. 1,500-60-1,800-EB-60-1,980-65-2,175/-P.M.	6	9	15
4.	Executive Engineer	Rs. 1,500-60-1,800-EB-60-1,980-65-2,175/-P.M.	4	-	4
5.	Senior Research Officer	Rs. 1,500-60-1,800-EB-60-1,980-65-2,175/-P.M.	-	1	1
6.	Assistant Director	Rs. 975-40-1,975-EB-40-1,275-EB-45-1,500-50-1,250/-with hour starting Basics salary at Rs. 925/-P.M.	11	11	22

SCHEDULE - I

STRENGTH OF EACH CADER OF SERVICE AND THE TIME SCALE OF PAY

SI. No.	Category of post	Scale of pay	No. of posts		
			Permanent	Temporary	Total
(1)	(2)	(3)	(4)	(5)	(6)
7.	Research Officer	Rs.1,125-50-1,375-EB-60-1,975/-P.M	4	-	4
8.	Assistant Engineer	Rs. 575-40-1,875-EB-40-1,275- EB-45-1,500-50-1,850/-P.M.	11	3	74
9.	Town Planning Assistant	do	2	3	5.

SCHEDULE - II

Academic qualifications prescribed for direct recruitment to the Columns of Assistant Director, Town Planning Assistant, Assistant Engineer and Research Officer.

1. A candidate for direct recruitment of the cadre of Assistant Director must possess :
Post Graduate Degree or Diploma in Town and Country Planning (City or Regional Planning) from any recognised Institution or equivalent qualifications.
2. A candidate for direct recruitment to the cadre of Town Planning Assistant must possess :
Bechelor's Degree in Engineering (Civil) or its equivalent qualification from recognised Institutions.
or
Bechelor's Degree in Architecture or its equivalent qualification from recognised Institutions.
3. A candidate for direct recruitment to the cadre of Assistant Engineers must possess.
Bechelor's Degree in Engineering (Civil) or its equivalent qualifications from recognised Institutions.
4. A candidate for direct recruitment to the cadre of Research officer must possess.
Master Degree in Economics or Statistics or Commerce from any recognised Institutions.

**THE
ASSAM TOWN AND COUNTRY PLANNING
(CONSTITUTION OF AUTHORITY)
RULES, 1961¹**

[Dated the 28th February, 1961]

No. TCP. 38/61/18 — *In exercise of the powers conferred by clauses (ii) and (ix) of sub-section (2) of Section 73 of the Assam Town and Country Planning Act, 1959 (Assam Act II of 1960) and in consultation with the Council, the Governor of Assam is pleased to make the following rules for the consultation and functioning of the Authority that may be declared or constituted under Section 12 of the said Act.*

NOTE

This Rules superseded *vide* Notification No. TCP. 2/63/3, dated the 31st August 1963, by the Assam Town And Country Planning (Management of Authority) Rules, 1963.

1. These rules shall be called the “*Assam Town and Country Planning (Constitution of Authority), Rules, 1961*”. They shall come into force on such date as the State Government may, by notification in the official *Gazette*, appoint.

2. In these rules, unless there is anything repugnant in the subject or context—

- (1) “Chairman” means the Chairman of the Authority;
- (2) “Municipality” means the Municipality constituted under the Assam Municipal Act, 1956 within the area concerned;
- (3) “Land” has the same meaning as in clause (a) of Section 3 of the Land Acquisition Act, 1894 (*Central Act I of 1894*);
- (4) “Prescribed” means prescribed by rules made under *the Assam Town and Country Planning Act, 1959*;
- (5) “Secretary to the Authority” means the person for the time being appointed as such by the Authority;

1. [Published in the Assam *Gazette*, Extraordinary (No. 12) dated 28th February, 1961].pp-131-141.

- (6) "Appellate Authority" has the same meaning as in Section 43 of *the Assam Town and Country Planning Act, 1959*;
- (7) "Member" means a member of the Authority;
- (8) All words and expressions not defined in these rules shall have the meaning respectively assigned to them by the Assam Town and Country Planning Act, 1959 or Assam Municipal Act, 1956.

3. Constitution of the Authority— The Authority shall consist of the following members, namely —

- (a) A Chairman appointed by the State Government;
- (b) The Deputy Commissioner of the District— *ex-officio*;
- (c) The Chairman of the Local Municipality or his nominee— *ex-officio*;
- (d) Director of Town Planning or his nominee— *ex-officio*;
- (e) Public Health Engineer or his nominee— *ex-officio*;
- (f) Director of Health Service Assam, or his nominee— *ex-officio*;
- (g) Three persons appointed by the State Government to represent areas lying outside Municipality, but falling within the Master Plan or the area as may be covered by the Master Plan;
- (h) Two persons to be elected by the commissioners of the local Municipality at a meeting from amongst them within a period of thirty days from the date on which the commissioners are required to so elect :

Provided that if the commissioners of the Municipality fail to elect any member whom they are entitled to elect under clause (h) within the time specified therein, the State Government shall, by notification, appoint a Municipal commissioner to be a member.

4. Notification of members — The names of the members elected and appointed shall be published in the official *Gazette*.

5. Disqualification for election or appointment as members — A person shall be disqualified for election or appointment as a member, if he—

- (a) has been convicted of any offence involving moral turpitude;
- (b) is an applicant to be adjudicated a bankrupt or insolvent or is an uncertificated bankrupt or undischarged insolvent;
- (c) holds any office of profit under the Authority;

- (d) has, directly or indirectly, by himself or by any partner, any share or interest, in any contract or employment with, by, or on behalf of, the Authority; or
- (e) is a Director, or a Secretary, Manager or other salaried officer of any incorporated company which has any share or interest in any contract or employment with, by, or on behalf of the Authority.

6. Removal of non-official members — The State Government may remove from the Authority any members who —

- (a) refuses to act or becomes incapable of acting or absents himself from three consecutive meetings of the Authority and is unable to explain such absence to the satisfaction of the Authority;
- (b) has so flagrantly abused in any manner his position as a member of the Authority as to render his continuance detrimental to the public interest :

Provided that when the State Government proposes to take action under the foregoing provisions of this rule an opportunity of explanation shall be given to the member concerned and when such action is taken, reasons thereof shall be placed or recorded;

- (c) if he was elected as being a commissioner of the Municipality and if he ceases to be a member of such a Municipality;
- (d) a member removed under clauses (a) and (b) shall not be eligible for re-appointment or re- election until the State Government declares him to be eligible.

7. Chairman to be a whole-time officer — The Chairman may be a whole-time officer of the Authority, and where the Chairman is a whole-time officer, he shall not hold any other salaried office.

8. Remuneration of the Chairman — Where the Chairman is a whole-time officer of the Authority, he shall be paid such salary and allowances as may be fixed by the State Government.

9. Leave of absence to the Chairman — (1) The State Government may grant leave of absence to the Chairman for such period as it thinks fit.

(2) The allowances, if any, to be paid to the Chairman where such Chairman is a whole-time officer of the Authority while absent on leave shall be paid such amount, not exceeding his salary, as may be fixed by the State Government :

Provided that, if the Chairman is a servant of the State Government, the amount of the allowance shall be such as he may be entitled to under the conditions of his service under the State Government relating to transfer to foreign service.

10. Appointment, etc. of acting Chairman — (1) When the Chairman is granted leave of absence, the State Government may appoint a person to act as Chairman.

(2) Where any person so appointed is a whole-time officer of the Authority, he —

(a) shall be paid such salary and allowances as may be fixed by the State Government; and

(b) shall exercise the powers conferred, and perform the duties imposed, by or under these rules on the Chairman, and shall be subject to the same liabilities, restrictions and conditions as the Chairman where such Chairman is a whole-time officer of the Authority.

11. Leave of absence to other members — The Authority may permit any member, other than Chairman or an *ex-officio* member, to absent himself from meetings of the Authority for any period not exceeding such limit (which shall not be more than four consecutive months) as may be prescribed by the State Government.

12. Filling of casual vacancies in certain cases — If any member, other than *ex-officio* member, is permitted by the Authority to absent himself from its meetings or if any such member dies, or resigns his office, or is removed from office, the vacancy shall be filled up within two months by a fresh appointment or election, as the case may be.

13. Terms of office of Chairman and other members — (1) The term of office of the first members including the Chairman and the *ex-officio* members, shall commence on such day as may be appointed by the State Government.

(2) The term of office of members including the Chairman but not including the *ex-officio* members shall be as follows —

(a) the Chairman—such periods as may be fixed by the State Government, not being less than three years commencing, in the case of the first Chairman on the day appointed under sub-rule (1) and in the case of any subsequent Chairman on the date on which his appointment is notified;

- (b) a member appointed or elected in pursuance of Rule 12 in the place of a member who has been permitted to absent himself from meetings of the Authority – the periods of the absence of the latter member;
 - (c) other members – three years commencing in the case of the first members on the day appointed under sub-rule (1) and in the case of subsequent members, on the date on which their election or appointment, as the case may be, is notified.
- (3) A member shall, if not disqualified for any of the reasons mentioned in Rules 5 and 6, be eligible for re-appointment or re-election at the end of his term of office.

14. Staff of the Authority — (1) The State Government may appoint two suitable persons as the Secretary and the Chief Accounts Officer of the Authority who shall exercise such powers and perform such duties as may be prescribed by the State Government or delegated to them by the Authority or the Chairman.

(2) Subject to such control and restrictions as may be prescribed, the Authority may appoint such number of other officers and employees (including experts for technical work) as may be necessary for the efficient performance of its functions and may determine their designations and grades, subject to prior approval of the State Government.

(3) The Secretary, Chief Accounts Officer and other officers and employees of the Authority shall be entitled to receive from the funds of the Authority such salaries and such allowances, if any, and shall be governed by such conditions of service as may be determined by the Authority in this behalf, with prior approval of the State Government.

CONDUCT OF BUSINESS

15. Meeting of Authority — (1) The Authority shall meet, and shall, from time to time, make such arrangements with respect to the place, day, hour, notice, management and adjournment of its meetings as it may think fit, subject to the following provisions, namely —

- (a) an ordinary meeting shall be held at least once in every month;
- (b) the Chairman may, whenever he thinks fit, and shall, upon the written request of not less than two other members, call a meeting;
- (c) the Chairman shall attend every meeting of the Authority unless

absent on leave or prevented by sickness or other reasonable cause;

- (d) no business shall be transacted at any meeting of the Authority unless there be present at that meeting at least five members :

Provided that if the time appointed for a meeting or within half an hour thereafter, a quorum is not present, the meeting shall stand adjourned to some future day to be appointed by the Chairman or in his absence by the member chosen by the meeting to preside and three days' notice of such adjourned meeting shall be given. The members present at such adjourned meeting shall form a quorum, whatever their number may be;

- (e) every meeting shall be presided over by the Chairman and in his absence by a member chosen by the members present to preside for the occasion;
- (f) every matter coming before the Authority shall be decided by a majority of votes of the members present and voting at a meeting, and in all cases of equality of votes, the person presiding shall have and exercise a second or casting vote;
- (g) if a division be demanded on any question at a meeting the names of the members voting, and the nature of their votes, shall be recorded by the person presiding;
- (h) minutes of the proceedings at each meeting (together with the names of the members present) shall be recorded in a book to be provided for the purpose, and such minutes shall be read at the next meeting and signed by the person presiding at such meeting and the minutes book shall be open to inspection by any member during office hours.

(2) No member shall be entitled to object to the minutes of any meeting unless he was present at the meeting to which they relate.

16. Power of Authority to co-opt members for particular purposes—

(1) The Authority may associate with itself, in such manner and for such period as may be prescribed, any person whose assistance or advice it may desire in carrying out its duties.

(2) The person so associated shall not be a member of the Authority and shall have no right to vote at any meeting thereof, but he may take part in

the discussions of the Authority relating to the purpose or purposes for which he was associated with the Authority.

17. Constitution and functions of Committee — (1) The Authority may, from time to time, with a view to give effect to the purposes of these rules, appoint one or more Committees consisting of such persons of following classes as it may think fit, namely —

- (i) Members of Authority;
- (ii) Persons associated with the Authority under Rule 16;
- (iii) Other persons whose assistance or advice the Authority may desire as members of such committees :

Provided that no committee shall consist of less than three and more than seven persons.

(2) The Authority may —

- (a) refer to such Committee, for inquiry and report any matter relating to any of the purposes of these rules; and
- (b) delegate to such Committee, by specific resolution and subject to any rules made in this behalf, any of the powers or duties of the Authority relating to the subject-matter for which the Committee has been appointed.

(3) The Authority may, at any time, for reasons to be recorded in writing, dissolve, or subject to the provision of sub-rule (1), alter the constitution of any such committee.

(4) Every committee shall carry out any instruction given to it by the Authority and every final decision of such committee shall, subject to any rule to the contrary, be laid before the Authority for confirmation.

18. Meeting of committee — (1) A committee appointed under Rule 17 may meet and adjourn as it thinks proper, but the Chairman may whenever he thinks fit, and shall, upon the written request of not less than two members thereof, call a special meeting of such committee.

(2) Every meeting of a committee shall be presided over by the Chairman if he is a member of the committee, and if he is not a member or is absent from the meeting, the members present shall elect a person from amongst themselves to preside.

(3) No business shall be transacted at any meeting of the committee unless there be present at least one half of the number of the members constituting the committee.

(4) Every matter at a meeting of a committee shall be decided by a majority of votes of the members present and voting, the person presiding having second or casting vote in all cases of equality of votes.

19. Members (other than Chairman), and associated members of Authority or committee not to receive any fee for attendance at meetings –

(1) Subject to sub-rule (3), no member (other than the Chairman), and no person associated with the Authority under Rule 16 shall be paid from the funds of the Authority any fee or other remuneration for attending any meeting of the Authority or of a committee appointed under Rule 18.

(2) Subject to sub-rule (3), no person appointed as a member of a committee under clause (iii) of sub-rule (1) of Rule 17, shall received or be paid from meeting of such committee.

(3) All members or any person associated with the Authority under Rule 16 or any person appointed as a member of a committee under clause (iii) of sub-rule (1) of Rule 17 may, subject to the prescribed conditions and restrictions for undertaking any journey in connection with any of the affairs of the Authority or of any committee, as the case may be, be paid travelling and other allowances for attending any meeting of such Authority or committee at such rates as may be fixed by the Authority with the approval of the State Government.

20. Members and associated members of Authority or committee not to take part in proceedings in which they are personally interested–

If any member or any person associated with the Authority under Rule 16, or any other member of a committee appointed under Rule 17, has directly or indirectly, any beneficial interest in any land situated in any area comprised in any improvement scheme to be taken up under these rules or in an area in which it is proposed to acquire land for any of the purposes of these rules —

- (i) he shall, before taking part in any proceeding at a meeting of the Authority or any committee relating to such area, inform the person presiding at the meeting of the nature of such interest;
- (ii) he shall not vote at any meeting of the Authority or the said committee upon any resolution or question relating to such land; and
- (iii) he shall not, if so directed by the person presiding, take any part in any proceeding at a meeting of the Authority or the said committee relating to such area.

21. Power to make and perform contracts — The Authority may enter into and perform all such contracts as it may consider necessary or expedient for carrying out any of the purposes of these rules.

22. Execution of contracts and approval of estimates — (1) Every contracts shall be made on behalf of the Authority by the Chairman :

Provided that —

(a) a contract involving an expenditure exceeding three thousand rupees but not exceeding one lakh rupees shall not be made by the Chairman without the previous sanction of the Authority; and

(b) a contract involving an expenditure exceeding one lakh rupees shall not be made by the Chairman without the previous sanction of the Authority and the State Government.

(2) Every estimate for the expenditure of any sum for carrying out any of the purposes of these rules shall be subject to the approval of the Authority or Authorities empowered under sub-rule (1) to make, or as the case may be, to sanction the making of, a contract involving the expenditure of a like sum.

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

23. Further provisions as to execution of contracts — (1) Every contract made by the Chairman on behalf of the Authority shall be entered into in such manner and form as would bind the Chairman if such contract were made on his own behalf, except that a common seal of the Authority shall be used, where necessary; and every such contract may, in the like manner and form, be varied or discharged.

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

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

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

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

24. Tenders — (1) At least fifteen days before entering into any contract for the execution of any work or the supply of any materials or good which involves an expenditure exceeding three thousand rupees, the Chairman shall give notice by advertisement in at least two local newspapers inviting tenders for such contract.

(2) In every such case the Chairman shall place before the Authority the specifications, conditions and estimates and all the tenders received specifying the particular tender, if any, which he proposes to accept.

(3) In every case in which the acceptance of a tender would involve an expenditure exceeding the limit prescribed under clause (a) of the proviso to sub-rule (1) of Rule 22 the Authority shall submit to the State Government the specifications, conditions and estimates, and all the tenders received, specifying the particular tender, if any, the acceptance of which it proposes to sanction.

(4) Neither the Authority nor the State Government shall be bound to sanction the acceptance of any tender which has been made; but the Authority within the pecuniary limits of its powers as laid down in clause (a) of the proviso to sub-rule (1) of Rule 22 and the State Government in the cases referred to in clause (b) of the said proviso, may sanction the acceptance of any such tender which appears to it or them, upon a consideration of all the circumstances, to be the most advantageous, or may direct the rejection of all the tenders received.

25. Security for the performance of contract — The Chairman shall take such security for the due performance of every contract as may be prescribed by the Authority with the approval of the State Government.

26. Supply of documents and informations to the State Government — (1) The Chairman shall forward to the State Government and to the Commissioner of Divisions copies of the minutes of the proceedings of each meeting of the Authority, within ten days from the date on which the minutes are signed as required by clause (h) of sub-rule (1) of Rule 15.

(2) The Chairman shall, if so directed by the State Government, forward to it a copy of all papers which were laid before the Authority for consideration at any meeting.

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

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

- (b) a report of any such matter; or
- (c) a copy of any document in the charge of the Chairman.

OFFICERS AND SERVANTS

27. Statement of strength and remuneration of staff — (1) The Authority shall from time to time prepare and shall maintain a statement showing —

- (a) the number, designation and grades of the officers and servants (other than employees who are paid on daily basis or whose pay is charged to temporary work) whom it considers necessary and proper to employ for the purposes of the rules;
- (b) the amount and nature of the salary, fees and allowances to be paid to each such officer and servant.

(2) Any posts, the monthly salary or the maximum monthly salary of which exceeds three hundred rupees are subject to the previous sanction of the State Government.

28. Authority to make service rules — The Authority shall, with the previous sanction of the State Government, make rules —

- (a) fixing the amount and nature of the security to be furnished by any officer or servant of the Authority from whom it may be deemed expedient to require security;
- (b) for regulating the grant of leave of absence, leave allowances and acting allowances to the officer and servants of the Authority:

Provided that a servant of the Government employed as an officer or servant of the Authority shall not be entitled to leave or leave allowances otherwise than as may be laid down in the conditions of his service under the Government relating to transfer to foreign service;

- (c) for establishing and maintaining a provident fund or annuity fund, for compelling all or any of the officers or servants of the Authority;
- (d) for determining the conditions under which the officer and servants of the Authority or any of them shall on retirement receive gratuities or compassionate allowances and the amount of such gratuities and compassionate allowances :

Provided that it shall be at the discretion of the Authority to determine whether all such officers and servants or any of them and, if so, which of them, shall become entitled on retirement to any such gratuities or compassionate allowances as aforesaid.

29. The power of appointing and promoting officers and servants of the Authority and reducing, suspending or dismissing them for misconduct, and dispensing with their services for any reason other than misconduct, shall be vested with —

- (a) in the case of officers and servants whose monthly salary does not exceed two hundred rupees – the Chairman;
- (b) in the case of officers and servants whose monthly salary exceeds two hundred rupees but does not exceed one hundred rupees – the Authority after consultation with the Assam Public Service Commission;
- (c) in the case of officers and servants whose monthly salary exceeds one hundred rupees – the Authority after consultation with the Public Service Commission and with the previous sanction of the State Government :

Provided that any officer or servant of the State Government or a local body whose services have been lent to the Authority shall not be punished except by an Authority which would have been competent to do so, if his services had not been so lent and the Chairman or the Authority, as the case may be, shall be entitled only to make a recommendation in that behalf to such Authority.

30. Control by Chairman — The Chairman shall exercise supervision and control over the acts and proceedings of all officers and servants of the Authority and, subject to the foregoing rules, shall dispose of all questions relating to the service of the said officers and servants, and their salaries, allowances and privileges.

31. Delegation of certain functions of Chairman — (1) The Chairman may, by general or special order in writing, delegate to any officer of the Authority any of the Chairman's powers, duties or functions under these rules except those conferred or imposed upon or vested in him by Rules 15, 18, 22 and 29.

(2) The exercise of discharge by any officer of any powers, duties or functions delegated to him under sub-rule (1) shall be subject to such

restrictions, conditions and limitations as may be laid down by the Chairman, and shall also be subject to his control and revision.

32. Appeal — (1) An appeal shall lie from an order of punishment other than an order of censure or fine to the authority next higher to the authority that passed by order, and in the case of original orders passed by the Authority to the Appellate Authority as may be appointed under the provisions of the Assam Town and Country Planning Act, 1959 :

Provided that, if the Appellate Authority enhances the punishment, an appeal shall lie to the next higher authority against such order :

Provided also that in all cases the order of State Government shall be final.

(2) For the purpose of this rule, an order of suspension only shall not be deemed to be an order of punishment.

33. Power to set aside resolution or order of the Authority — The State Government may set aside any resolution of the Authority or any order of the Chairman of the Authority if in the opinion of the State Government the resolution or order is in excess of the power conferred by law.

**THE
ASSAM TOWN AND COUNTRY PLANNING
(MANAGEMENT OF AUTHORITY) RULES, 1963¹**

Dated the 31st August, 1963

No. TCP. 2/63/3. --- *In exercise of the powers conferred by Section 73 of the Assam Town and Country Planning Act, 1959, (Assam Act II of 1960) and in supersession of the Assam Town and Country Planning (Constitution of Authority) Rules, 1961, the Governor of Assam in consultation with the Advisory Council is pleased to make the following rules for the functioning and management of the authority that may be declared or constituted under Section 8A(1) and 8B(1) of the Assam Town and Country Planning (Amendment) Act, 1962, (Assam Act XXXII of 1962) namely--*

1. These rules shall be called *the Assam Town and Country Planning (Management of Authority), Rules, 1963.*

2. They shall come into force at once.

3. **Definitions** — In these rules, unless there is anything repugnant in the subject or context —

²[(1) "Municipality" means the Municipality constituted under *the Assam Municipal Act, 1956* within the area concerned;

(2) "Land" has the same meaning as in clause (a) of Section 3 of *the Land Acquisition Act, 1894 (Central Act I of 1894)*;

(3) "Secretary to the Authority" mean the person for the time being appointed as such by the Authority;

(4) "Member" means a member of the Authority;

(5) All words and expressions not defined in these rules shall have the meanings respectively assigned to them by *the Assam Town and Country Planning Act, 1959 or Assam Municipal Act, 1956.*]

1. Published in the *Assam Gazette*, Part II-A, dated 11th September, 1963, pp-2412-2418.

2.. Deleted clauses (1), (4), and (6) in Rule 3 and thereafter existing clause (1)-(8) re-numbered as clause (1)-(5), *vide* Notification No. TCP. 84/67, dated 25th March, 1969, [Published in the *Assam Gazette*, dated 1st October, 1969].

Note: Before deletion clauses (1), (4), and (6) read as follows :-

(1) "Chairman" means the Chairman of the Authority;

(4) "Prescribed" means prescribed by rules made under the *Assam Town And Country Planning Act, 1959.*

(6) "Appellate Authority" has the same meaning as in Section 43 of the *Assam Town And Country Planning Act, 1959.*

4. The Chairman — The Chairman of the Authority to be appointed by Government under Section 8-B (1) (a) of the Act, may be a whole-time officer of the Authority and shall not hold any other salaried officer.

5. Remuneration of the Chairman — The Chairman shall be paid such salary and allowances as may be fixed by the State Government.

6. Leave of absence to the Chairman — [(1) The State Government may grant leave of absence for such period as admissible under Fundamental Rules and Subsidiary Rules.]¹

(2) The allowances, if any, to be paid to the Chairman where such Chairman is a whole-time officer of the Authority while absent on leave shall be such amount, not exceeding his salary, as may be fixed by the State Government:

Provided that, if the Chairman is a servant of the State Government, the amount of the allowances shall be such as he may be entitled to under the conditions of his service under the State Government relating to transfer to foreign service.

7. Appointment etc., of acting Chairman — (1) When the Chairman is granted leave of absence, the State Government may appoint may a person to act as Chairman.

(2) Where any person so appointed is a whole-time officer of the Authority, he —

(a) shall be paid such salary and allowances as may be fixed by the State Government; and

(b) shall exercise the powers conferred and perform the duties imposed, by or under these rules on the Chairman, and shall be subject to the same liabilities, restrictions and conditions as the Chairman, where such Chairman is a whole-time officer of the Authority.

8. Terms and conditions of office of the Chairman and other members — (1) The term of office of the first members including the Chairman and the *ex-officio* members shall commence on such day as may be appointed by the State Government.

[(2) The term of office of the Chairman and non-official members, excluding *ex-officio* members shall be as follows—

1. Substituted sub- rule (1) in Rule 6, published in the Assam *Gazette vide* Notification No. TCP. 84/67, dated 25th March, 1969. [Published in the Assam Gazette, dated 1st October, 1969].

- (a) *The Chairman* – Not exceeding 5 years, from the date of his appointment by the State Government;
- (b) *Non- official Members* – Not exceeding 5 years, from the date of their appointment by the State Government.]¹

9. Leave of absence to other members— The Authority may permit any member other than Chairman or an *ex-officio* member, to absent himself from meetings of the Authority for any period not exceeding four consecutive months at any one time within a year.

10. Power of the Authority to co-opt members for particular purpose — [(1) The Authority may associate with itself any person as co-opted member for a period of three years whose assistance or advice it may consider necessary in carrying out its duties and functions as may be decided by the Authority in its meeting by passing a resolution for such co-option.]²

(2) The person so associated shall not be deemed to be a member of the Authority and shall have no right to vote at any meeting thereof, but he may take part in the discussions of the Authority relating to the purpose or purposes for which he was associated with the Authority.

Draft rule

[“10 A. Meeting of Authority— (1) The Authority shall meet, and shall from time to time make such arrangements with respect to the place, day, hour, notice, management and adjournment of its meetings as it may think fit, subject to the following provisions, namely —

- (a) an ordinary meeting shall be held at least once in every month;
- (b) the Chairman may whenever he thinks fit, and shall, upon the written request of not less than two other members, call a meeting;
- (c) the Chairman shall attend every meeting of the Authority unless he is absent on leave or prevented by sickness or other reasonable cause;
- (d) no business shall be transacted at any meeting of the Authority unless there be present at that meeting at least five members :

1. Substituted sub- rule (1) in Rule 10, Published in the Assam *Gazette vide* Notification No. TCP. 84/67, dated 25th March, 1969, [Published in the Assam *Gazette*, dated 1st October, 1969].

2. Substituted sub- rule (2) in Rule 8, published in the Assam *Gazette vide* Notification No. UDD(T).238/2004/11, dated 28th Feb., 2006, [w.e.f. 4-3-2006].

Before substitution read as—

- (a) *The Chairman* – such period as may be fixed by the State Government, not being less than three years commencing, in the case of the first Chairman, on the day appointed under sub-rule (1) and in the case of any subsequent Chairman on the date on which his appointment is notified;
- (b) *members* – three years commencing in case of the first members on the day appointed under sub-rule (1) and in the case of subsequent members, on the date on which their election or appointment, as the case may be, is notified.

Provided that if at the time appointed for a meeting or within half an hour thereafter, a quorum is not present, the meeting shall stand adjourned to some future day to be appointed by the Chairman or in his absence by the member chosen by the meeting to preside and three days notice of such adjourned meeting shall be given. The members present at such adjourned meeting shall form a quorum;

- (e) every meeting shall be presided over by the Chairman and in his absence by a member chosen by the members present to preside for the occasion;
- (f) every matter coming before the Authority shall be decided by a majority of votes of the members present and voting and in cases of equality of votes, the person presiding shall have and exercise a second or casting vote;
- (g) if a division be demanded on any question at a meeting the names of the members voting and the nature of their votes, shall be recorded by the person presiding;
- (h) minutes of the proceedings at each meeting (together with the names of the members present) shall be recorded in a book to be provided for the purpose, and such minutes shall be read at the next meeting and signed by the person presiding at such meeting and the minutes book shall be open to inspection by any member during Office hours.

(2) No member shall be entitled to object to the minutes of any meeting unless he was present at the meeting to which they relate.”¹

11. Constitution and functions of Committees — (1) The Authority may, from time to time, with a view to give effect to the purposes of these rules and other rules under the Act, appoint one or more committees consisting of such of the following classes as it may think fit, namely —

- (i) Members of Authority;
- (ii) Persons associated with the Authority;
- (iii) Other persons whose assistance or advice the Authority may desire as members of such Committees :

Provided that no Committee shall consist of less than three and more than seven persons.

1. Inserted as new Draft rule “10 A” vide Notification No. TCP. 112/88/117, dated the 21st March, 1990 (with effect from 17-10-1990). [Published in the Assam Gazette, Part IIA, dated 17th October, 1990].

(2) The Authority may —

- (a) refer to such Committee, for inquiry and report, any matter relating to any of the purposes of these rules, and other rules under the Act;
- (b) delegate to such Committee, by specific resolution and subject to any rules made in this behalf, any of the powers or duties of the Authority relating to the subject-matter for which the Committee has been appointed.

(3) The Authority may, at any time, for reasons to be recorded in writing, dissolve, or subject to the provisions of sub-rule (1), after the constitution of any such Committee.

(4) Every Committee shall carry out any instruction given to it by the Authority and every final decision of such Committee shall, subject to any rule to the contrary, be laid before the Authority for such confirmation.

12. Meeting of Committees — (1) A Committee appointed under Rule 11 may meet and adjourn as it thinks proper; but the Chairman may, whenever he thinks fit, and shall, upon the written request of not less than two members thereof, call a special meeting of such Committee.

(2) Every meeting of a Committee shall be presided over by the Chairman if he is a member of the Committee, and if he is not a member or is absent from the meeting, the members present shall elect a person from amongst themselves to preside.

(3) No business shall be transacted at any meeting of the Committee unless there be present at least one-half of the number of the members constitution the Committee.

(4) Every matter at a meeting of a Committee shall be decided by a majority of the votes of the members present and voting, the person presiding having a second or casting vote in all cases of equality of votes.

13. Members (other than Chairman) and associated members of Authority or Committee not to receive any fee for attendance at meetings —

(1) Subject to sub-rule (3), no member (other than the Chairman), and no person associated with the authority under Rule 10 shall be paid from the funds of the Authority any fee or other remuneration for attending any meeting of the Authority or of a Committee appointed under Rule 12.

(2) Subject to sub-rule (3), no person appointed as a member of Committee under clause (iii) of sub-rule (1) of Rule 11, shall receive or be

paid from the funds of the Authority any fee or other remuneration for attending any meeting of such Committee.

(3) All members or any person associated with the Authority under Rule 10 or any person appointed as a member of a Committee under clause (iii) of sub-rule (1) of Rule 11 may, subject to the prescribed conditions and restrictions for undertaking any journey in connection with any of the affairs of the Authority or of any Committee, as the case may be, be paid travelling and other allowances for attending any meeting of such Authority or Committee at such rates as may be fixed by the Authority with the approval of the State Government.

14. Members and associated members of Authority or Committee not to take part in proceedings in which they are personally interested—

If any member or any person associated with the Authority under Rule 10 or any other member of a Committee appointed under Rule 11, has directly or indirectly, any beneficial interest in any land situated in any area comprised in any improvement scheme to be taken up under these rules or in any area in which it is proposed to acquire land for any of the purposes of these rules—

- (i) he shall, before taking part in any proceeding at a meeting of the Authority or any Committee relating to such area, inform the person presiding at the meeting of the nature of such interest;
- (ii) he shall not vote at any meeting of the Authority or the said Committee upon any resolution or question relating to such land; and
- (iii) he shall not, if so directed by the person presiding, take any part in any proceeding at a meeting of the Authority or the said Committee relating to such area.

15. Supply of documents and information to the State Government— (1) The Chairman shall forward to the State Government and to the Commissioner of Division concerned copies of the minutes of the proceedings of each meeting of the Authority within ten days from the date on which the minutes are signed.

(2) The Chairman shall, if so directed by the State Government, forward to it a copy of all papers which were laid before the authority for consideration at any meeting.

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

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

- (b) a report on any such matter; or
- (c) a copy of any document in the charge of the Chairman.

CHAPTER – II

Officers and servants of the Authority

[16. Appointment of a Secretary — The State Government may appoint one suitable person as the Secretary of the Authority who shall exercise the following powers and perform such duties as mentioned below and in addition to other functions as may be delegated to him by the Chairman —

- (1) To deal with all establishment matters relating to appointment, discipline, service records and supervision of the work of General Branch;
- (2) To do the Secretariat works in connection with the meeting of the Development Authority;
- (3) To keep in his safe custody the common seal of the Authority and all valuable documents, confidential papers and property, books of the Authority including deeds, securities, agreements, *etc.*, excepting all books of accounts and cash in hand.]¹

17. Power of appointment and promotion of officers and staff of the Authority — The power of appointing and promoting officers and servants of the Authority and reducing suspending or dismissing them for misconduct and dispensing with their services for any reason other than misconduct, shall be vested with —

- (a) in the case of officers and servants whose monthly salary does not exceed two hundred rupees—the Chairman;
- (b) in the case of officers and servants whose monthly salary exceeds two hundred rupees but does not exceed five hundred rupees—the Chairman with the approval of the Authority;
- (c) in the case of officers and servants whose monthly salary exceeds five hundred rupees—the Authority with the previous sanction of the State Government :

Provided that any officer or servant of the State Government or a local body whose services have been lent to the Authority shall not be punished except by an Authority which would have been competent to do so, if his services had not been so lent and the Chairman or the Authority, as the case

1. Substituted Rule 16, Published in the Assam *Gazette* vide Notification No. TCP. 84/67, dated 25th March, 1969, [Published in the Assam *Gazette*, dated 1st October, 1969].

may be, shall be entitled only to make a recommendation in that behalf to such Authority.

18. Control, etc., by the Chairman over the staff of the Authority –

The Chairman shall exercise supervision and control over the acts and proceedings of all officers and servants of the Authority and subject to the foregoing rules, shall dispose of all questions relating to the service of the said officers and servants, and their salaries, allowances and privileges.

19. Service rules, etc., of officers and other staff — The Authority shall, with the previous sanction of the State Government, make rules—

- (a) fixing the amount nature of the security to be furnished by any officer or servant of the Authority from it may be deemed expedient to require security;
- (b) for regulating the grant of leave of absence, leave allowances and acting allowances to the officers and servants of the Authority:

Provided that a servant of the Government employed as an officer or servant of the Authority shall not be entitled to leave or leave allowances otherwise than as may be laid down in the conditions of his service under the Government relating to transfer to foreign service;

- (c) for establishing and maintaining a provident fund for compelling all or any of the officers or servants of the Authority in order to tender financial benefit to them in their old ages;
- (d) for determining the conditions under which the officers and servants of the authority or any of them shall on retirements receive gratuities or compassionate allowances and the amount of such gratuities and compassionate allowances :

Provided that it shall be at the discretion of the Authority to determine whether all such officers and servants or any of them and if so, which of them shall become entitled on retirement to any such gratuities or compassionate allowances as aforesaid.

20. Delegation of certain functions of the Chairman — (1) The Chairman may, by general or special order in writing, delegate to any officer of the Authority any of the Chairman's powers, duties or functions under these rules except those conferred or imposed upon or vested in him by Rules 13 and 17.

- (2) The exercise or discharge by any officer of any powers, duties or

functions delegated to him under sub-rule (1) shall be subject to such retrictions, conditions and limitations as may be laid down by the Chairman, and shall also be subject to his control and revision.

21. Appeals against the orders of the Chairman — (1) An appeal shall lie from an order of punishment other than an order of censure or fine to the Authority next higher to the Authority that passed the order, and in the case of original orders passed by the Authority to the Appellate Authority as may be appointed under the provisions of *the Assam Town and Country Planning Act, 1959* :

Provided that, if the Appellate Authority enhances the punishment, an appeal shall lie to the next higher authority against such order :

Provided also that in all cases the order of State Government shall be final.

(2) For the purpose of this rule, an order of suspension only not be deemed to be an order of punishment.

(3) The State Government may set aside any resolution of the Authority or any order of the Chairman of the Authority if in the opinion of the State Government the resolution or order is in excess of the power conferred by law.

22. Statement of strength and remuneration of staff — (1) The Authority shall from time to time prepare and shall maintain a statement showing —

(a) the number, designation and grades of the officers and servants (other than employees who are paid on daily basis or whose pay is charged to temporary work) whom it considers necessary and proper to employ;

(b) the amount and nature of the salary, fees and allowances to be paid to each such officer and servant.

(2) Any posts, the monthly or the maximum monthly salary of which exceeds three hundred rupees are subject to the previous sanction of the State Government.

23. Savings — Notwithstanding the supersession of *the Assam Town and Country Planning (Constitution of Authority) Rules, 1961*, anything done or any action taken in exercise of any power conferred by or under the said rules shall be deemed to have been done or taken in exercise of the powers conferred by or under these rules, as if these rules were in force on the day on which such thing was done or action taken.

THE ASSAM TOWN AND COUNTRY PLANNING (FINANCIAL) RULES, 1963¹

Notification No. TCP.38/61/17.— In exercise of the powers conferred by Section 73 of *the Assam Town and Country Planning Act, 1959* (Assam Act I of 1960), the Governor of Assam in consultation with the Advisory council is pleased to make the following Rules for the financial administering and function of the Authority that may be declared or constituted under Section 8A (1) and 8B (1), of *the Assam Town and Country Planning (Amendment) Act, 1962* (Assam Act No. XXXII of 1962) namely :—

1. These rules shall be called *the Assam Town and Country Planning (Financial), Rules, 1963*.

2. They shall come into force at once.

3. **Definitions** — In these rules, unless there is anything repugnant in the subject or context —

- (1) “Chairman” means the Chairman of the Authority;
- (2) “Municipality” means the municipality constituted under *the Assam Municipal Act, 1956* withing the area concerned;
- (3) “Land” has the same meaning as in clause (a) of Section 3 of the Land Acquisition Act, 1894 (Central Act I of 1894);
- (4) “Prescribed” means prescribed by rules made under *the Assam Town and Country Planning Act, 1959* (as amended);
- (5) “Secretary to the Aythority” means the person for the time being appointed as such by the Government;
- (6) “Appellate Authority” has the same meaning as in Section 43 of *the Assam Town and Country Planning Act, 1959*;
- (7) “member” means a member of the Authority;
- (8) All words and expressions not defined in these rules shall have the meanings respectively assigned to them by *the Assam Town and Country Planning Act, 1959* (as amended) or Assam Municipal Act, 1959;

1. [Published in the Assam Gazette, Part-IIA, dated 11th September, 1963]. pp-2412-2437.

functions delegated to him under sub-rule (1) shall be subject to such restrictions, conditions and limitations as may be laid down by the Chairman, and shall also be subject to his control and revision.

21. Appeals against the orders of the Chairman — (1) An appeal shall lie from an order of punishment other than an order of censure or fine to the Authority next higher to the Authority that passed the order, and in the case of original orders passed by the Authority to the Appellate Authority as may be appointed under the provisions of *the Assam Town and Country Planning Act, 1959* :

Provided that, if the Appellate Authority enhances the punishment, an appeal shall lie to the next higher authority against such order :

Provided also that in all cases the order of State Government shall be final.

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- (5) “Secretary to the Aythority” means the person for the time being appointed as such by the Government;
- (6) “Appellate Authority” has the same meaning as in Section 43 of *the Assam Town and Country Planning Act, 1959*;
- (7) “member” means a member of the Authority;
- (8) All words and expressions not defined in these rules shall have the meanings respectively assigned to them by *the Assam Town and Country Planning Act, 1959* (as amended) or Assam Municipal Act, 1959;

1. [Published in the Assam Gazette, Part-IIA, dated 11th September, 1963]. pp-2412-2437.

(9) "Cost of management" means—

- (a) the salary and house rent and conveyance allowances (if any) of the Chairman or acting Chairman, and any other allowances and any contributions payable to or in respect of the Chairman or acting Chairman;
 - (b) the salaries, fees and allowances of and the contributions paid in respect of officers and servants of the Authority;
 - (c) the remuneration of the employees of the Authority except employees who are paid by the day of whose pay is charged to temporary works;
 - (d) all payments made on account of the Appellate Authority; and
 - (e) all contingent expenditure incurred by the Authority or the Appellate Authority.
- (10) "Contingent expenditure" means the expenses incurred for carrying on office work, and includes the rent for office buildings, the provision of furniture and equipments therefor and charges for printing, postage and stationery.

FINANCIAL RULES OF THE AUTHORITY

4. Form, signature, exchange, transfer and effect of debentures—

(1) Whenever money is borrowed by the Authority on debentures, the debentures shall be in such form as the Authority, with the previous sanction of the State Government, may from time to time, determine.

(2) All debentures shall be signed by the Chairman and Finance Officer of the Authority.

(3) The holder of any debenture in any form prescribed under sub-rule (1) may obtain in exchange upon such terms as the Authority may from time to time determine, a debenture in any other form so prescribed.

(4) Every debenture issued by the Authority shall be transferable by endorsement, unless some other mode of transfer be prescribed therein.

(5) The right to use in respect of moneys secured by debenture issued by the Authority shall vest in the respective holders of the debentures for the time being, without any preference by reason of some such debentures being prior in date to others.

5. Receipt by joint holders for interest or dividend— Where two or more persons are joint holders of any debentures or security issued under these rules, any one of such persons may give an effectual receipt for any interest or dividend payable in respect of such debenture or security unless notice to the contrary has been given to the Authority by any other of such persons.

6. Priority of payment for interest and repayment of loans — All payments due from the Authority for interest on, or the payment of loans, shall be made in priority to all other payments due from the Authority.

7. Investment of sinking fund — (1) All moneys paid into any sinking fund which may be created under the provisions of the Act shall, as soon as possible, be invested under the orders of the Authority in —

- (a) government securities; or
- (b) securities guaranteed by the Central or any State Government;
or
- (c) in any other securities that may be approved by the Government.

(2) All dividends and other sums received in respect of any such investment shall, as soon as possible after receipt, be paid into the appropriate sinking fund and invested in the manner prescribed by sub-rule (1).

8. Annual statements by Chairman — The Chairman shall, at the end of every financial year, place before the Authority a statement showing —

- (a) the amount which has been invested during the year under Rule 7;
- (b) the date of the last investment made previous to the placing of the statement;
- (c) the aggregate amount of the security held by them;
- (d) the aggregate amount which has, up to the date of the statement, been applied towards repaying loans; and
- (e) the aggregate amount already paid into each sinking fund.

9. Estimate of income and expenditure to be laid annually before the Authority — (1) The Chairman shall, at a special meeting to be held in the month of December in each year, lay before the Authority an estimate of the income and expenditure of the Authority for the next financial year.

(2) Every such estimate shall make provision for the due fulfillment of all the liabilities of the Authority and for the efficient administration of the Authority.

(3) Every such estimate shall differentiate capital and revenue fund, and shall be prepared in such form and shall contain such details, as the State Government or the Authority may from time to time direct.

(4) Every such estimate shall be completed and a copy thereof sent, by post or otherwise, to each member at least ten clear days before the date of the meeting at which the estimate is to be laid before the Authority.

10. Sanction of Authority to estimate — The Authority shall consider every estimate so laid before it and shall sanction the estimate, either without alteration or with such alteration as it may think fit.

11. Approval of State Government to Annual Budget estimate —

(1) Every such annual estimate, as sanctioned by the Authority shall be submitted to the State Government not later than 15th February. The State Government may at any time within one month after receipt of the same —

(a) approve the estimate; or

(b) disallow the estimate or any portion thereof and return the estimate to the authority for modification.

(2) If any estimate is so returned to the Authority, it shall forthwith proceed to modify it, and shall resubmit the estimate, as modified, to the State Government for such order as it deems fit and the order of the State Government thereon shall be final.

12. Transmission of copies of estimate to Municipal Boards — Every such estimate shall, when approved by the State Government, be printed and copies thereof shall be sent by the Authority to the Municipal Boards affected by such estimate.

13. Special provision as to the first estimate after the constitution of the Authority — (1) A special meeting of the Authority shall be held as soon as may be expedient after the day appointed under sub-section (1) of Section 8-E of the Assam Town and Country Planning (Amendment) Act, 1962 and the Chairman shall at such special meeting lay before the Authority an estimate of the income and expenditure of the Authority for the portion of the financial year which on the said day had not expired.

(2) The provisions of sub-rules (2) and (3) of Rule 9 and of Rules 10 to 12 shall apply to the said estimate.

14. Supplementary Budget estimate — (1) The Authority may at any time during the year for which any estimate has been sanctioned, cause a Supplementary Budget estimate to be prepared and laid before them at a special meeting.

(2) The provisions of sub-rule (3) of Rule 9 and Rules 10 to 12 shall apply to every supplementary estimate.

15. Re-appropriation — (1) Re-appropriation within the total sanctioned amount on capital or revenue account separately may be made without the approval of the State Government :

Provided that fund will not be appropriated to a new service not contemplated in the budget estimates.

(2) "Schemes of new expenditures" means and includes —

- (a) schemes of new expenditure on a new service; and
- (b) schemes involving additional expenditure on an existing service exceeding Rs. 5,000.

16. Adherence to estimate and maintenance of balance — (1) No sum shall be expended by or on behalf of the Authority unless the expenditure of the same is covered by a current budget grant or can be met by re-appropriation or can be met from provisions made by supplementary estimate.

(2) The balance shall not be reduced below such limit as may be fixed in this behalf by the Authority with the approval of the State Government from time to time.

(3) The following items shall be exempted from the provisions of sub-rules (1) and (2) namely —

- (a) repayment of moneys belonging to contractors or other persons and held in deposit, and or moneys collected by, or credited to the Authority by mistake;
- (b) payment due under a decree or order of a Court passed against the Authority or against any office bearer of the Authority in the discharge of his official duties or under an award of the Appellate Authority;
- (c) sums payable under a compromise of any suit or other legal proceeding (this kind of expenditure should be met only with the provision in the budget).

(4) Whenever any sum exceeding five thousand rupees is expended under item (c) of sub-rule (3), the Chairman shall forthwith report the circumstances to the State Government, and shall at the same time explain how the Authority proposes to cover the expenditure.

17. Estimate for works — The Engineer-in-Chief, before undertaking any work shall prepare a detailed estimate for each work or portion of each work. Such estimate shall be prepared within the framework of the annual provisions made in the annual budget and the provisions of the Act under Development Scheme.

18. Financial concurrence — All estimates prepared by the Engineer-in-Chief will require concurrence of the Finance Officer and final sanction to such estimate for works will be accorded by the appropriate authority only when financial concurrence has been obtained.

19. Estimate is to be prepared before hand — No work of any kind shall be started or any expenditure incurred on it before the sanction of the estimate by the appropriate authority or before the funds required for it have been provided by valid appropriation or in the regular budget, as the case may be :

Provided that in the following cases the Chairman may incur expenditure prior to the preparation of detailed estimate —

- (a) works urgently necessary to safeguard life of property or to repair damage which the Authority is obliged to do; provided the cost does not exceed Rs. 1,000 in either case;
- (b) works for which the Authority is liable for meeting the immediate needs of traffic which is considered by the Chairman so urgent that they must be started before the earliest day by which an estimate may be prepared and where the expenditure involved will not exceed rupees one thousand for a particular work :

Provided further that in all cases proper estimate will have to be prepared on the earliest day possible and in all cases within the financial year.

A register will be maintained recording all details of such works and the Chairman will state under his signature the reasons for treating the work as urgent and of the funds from which the expenses will be met.

20. Power of sanction — Every estimate or contract for the expenditure on works of any sum for carrying out any of the purposes of the rules shall be subject to the approval of the authority or authorities empowered as under —

- (1) a contract involving an expenditure not exceeding Rupees fifty thousand only shall be made by the Chairman without the previous sanction of the Authority;

- (2) a contract involving an expenditure exceeding Rupees fifty thousand only but not exceeding Rupees five lakhs shall not be made by the Chairman without the previous sanction of the Authority; and
- (3) a contract involving an expenditure exceeding Rupees five lakhs shall not be made by the Chairman without the previous sanction of the Authority and also the State Government.

All contracts shall be made on behalf of the Authority by the Chairman.

21. Schedule of rates — To facilitate the preparation of estimates a schedule of rates for each kind of work shall be maintained. This schedule shall be revised and brought up-to-date from time to time according to necessity. The Authority shall approve of the rates in the schedule.

22. List of approved contractors — A list of approved contractors whose financial standing and working capability have already been put to test and found satisfactory will be maintained in the office of the Chairman. The Authority shall approve of the list of approved contractors.

23. Open tender — Subject to the limitation of Rule 24, the tenders shall be open and shall be given wide publicity.

24. Limited tender — In regard to work contracts based on scheduled rates the individual value of each of which is estimated not to exceed rupees three thousand, the Chairman may, at his discretion decide not to call for tenders or to call for limited tender from approved contractors after recording the reasons for doing so.

25. Lowest tender shall ordinarily be accepted — Where is it undesirable to accept the lowest tender, the reasons shall be clearly recorded in writing and made available for the purpose of audit.

26. Earnest money and security deposit — Earnest money and security deposit shall be taken before and after a tender has been accepted respectively. The earnest money shall be in cash and the security deposit may be in any type of approved security. The amount of earnest money or security deposit must not be more than 2 percent of the estimated cost of the work.

27. Payment to contractors — Total payment to any contractor for works still running shall not exceed at any time 90 percent of the value of the work done as determined and certified by the Engineer-in-Chief.

28. Completion report — On the close of a particular work a

completion report will be given by the Engineer-in-Chief in Form No.1 as appended to these rules.

29. Receipt of moneys and deposit in bank — All moneys payable to the Authority shall be received by the Chairman, and shall forthwith be paid into such bank as may be approved by the State Government in this behalf to the credit of the account of the Authority.

30. Investment of surplus moneys — (1) Surplus moneys at the credit of the said account may, from time to time, be —

- (a) deposited at interest in the bank aforesaid or in any other bank approved by the State Government in this behalf ; or
- (b) invested in any of the securities or debentures as may be approved by the State Government.

(2) All such deposits and investments shall be made by the Chairman on behalf of and with the sanction of, the Authority; and with the like sanction, the Chairman may at any time withdraw any deposits so made or disposed of any securities, and re-deposits or re-invest the money so withdraw or the proceeds of the disposal of such securities.

(3) The Authority on the advice of the Chairman, may direct at any time for the sale of any securities held under the investment of the funds of the Authority.

31. General principles of checking expenditure — (a) *Accounts control* — For every payment it is to be seen whether the claims for payment preferred —

- (i) are correct and payable by the Authority;
- (ii) are covered by sanction of competent Authority;
- (iii) can be made from the funds allotted for the purpose;
- (iv) are correctly allocated to proper account;
- (v) do not violate any of the canons of financial propriety;
- (vi) are free from errors and omissions.

(b) *Financial control* — There should be financial control on all expenditure with a view to see that the expenditures incurred or covered by budget provisions and to bring to the notice of the Chairman all the instances in which expenditure is likely to exceed or has exceeded the funds allotted specifically. It is also to be seen that the sanctioning authority while sanctioning the incurrence of the expenditure has not exceeded his power of sanction.

32. Payment by cheque — (1) No amount shall be drawn from the Bank except by cheque.

(2) Payment of any sum due by the Authority exceeding rupees fifty in amount shall as far as possible be made by means of a cheque, and not in any other way.

33. Signature in case of orders under Rule 18 and cheque — All orders for making any deposit, investment, withdrawal or disposal under Rule 30 and cheques referred to in Rule 32 must be signed —

- (a) by the Chairman and Financial Officer of the Authority; or
- (b) in the event of the illness or occasional absence on leave of the Chairman or the Financial Officer, by the Financial Officer or the Chairman, as the case may be, and by a member other than the Chairman approved by the Authority.

34. Duty of Chairman and others before signing cheques — Before the Chairman or any other member or the Financial Officer to the Authority signs a cheque under Rule 33 he must satisfy himself that the sum for which such cheque is drawn either is required for purposes of work specially sanctioned by the Authority or is an item for payment specified in sub-rule (3) of Rule 16.

35. Keeping of capital account and revenue account — (1) The Authority shall keep a capital account and a revenue account, and prepare a Balance sheet at the end of each financial year.

(2) The capital account shall show separately all expenditure incurred by the Authority on each improvement scheme.

36. Credits to capital account — There shall be credited to the capital account —

- (a) all sums (except interest) received by way of special payments or betterment fees under the Assam Town and Country Planning Act, 1959;
- (b) all moneys received on account of loan taken by the Authority in pursuance of these rules;
- (c) the proceeds of the sale any land vested in the Authority which is purchased out of any such loan;
- (d) when land is purchased out of an advance from the revenue account, the portion of the proceeds of the sale for such land which remains after crediting to the revenue account of such advance;

- (e) the proceeds of the sale of any moveable property (including securities for money invested from the capital account) belonging to the Authority;
- (f) all sums received from any Government, in aid of the capital account;
- (g) all premia received by the Authority in connection with leases for any term exceeding 40 years; and
- (h) all sums (if any), which the State Government directs, to be credited to the capital account.

37. Application of capital account — The moneys credited to the capital account shall be held by the Authority in trust, and shall be applied to—

- (a) meeting all costs of framing and executing improvement schemes and re-housing schemes;
- (b) meeting the cost of acquiring land for carrying out any of the purposes of these rules;
- (c) meeting of the cost of constructing buildings required for carrying out any of the purposes of these rules;
- (d) all repayment of loans borrowed in pursuance of these rules;
- (e) making or contributing towards the cost of making surveys;
- (f) meeting such proportion of the cost of management as the Authority may, with the sanction of the State Government, permit in this behalf; and
- (g) temporarily making good the deficit (if any) in the revenue account at the end of any financial year.

38. Credits to revenue account — There shall be credited to the revenue account —

- (a) all interest received on the betterment fee of any land;
- (b) all proceeds received by the Authority of taxes imposed under these rules;
- (c) all annually recurring sums received from the State Government in aid of the funds of the Authority;
- (d) all premia received by the Authority in connection with leases for any term not exceeding forty years;

(e) all rents of land vested in the Authority.

39. Application of revenue accounts — (1) The moneys credited to the revenue accounts shall be held by the Authority in trust, and shall be applied to —

- (a) meeting all charges for interest and sinking fund due on account of any loan taken in pursuance of these rules and all other charges incurred in connection with such loans;
- (b) paying all sums due from the Authority in respect of rates and taxes imposed under the Assam Municipal Act, 1956 upon land vested in the Authority;
- (c) paying the cost (if any) of maintaining a separate establishment for the collection of the rents and other proceeds of land vested in the Authority;
- (d) paying all sums which the State Government may direct to be paid to any auditor under rule;
- (e) paying the cost of management, excluding such portions thereof as may be debited to the capital account under sub-rule (f) of Rule 37; and
- (f) paying all other sums, due from the Authority other than those which are required by Rule 37 to be disbursed from the capital account.

(2) *Advances from revenue account to capital account* — (a) Notwithstanding anything contained in Rule 35, the Authority may advance any sum standing at the credit of the revenue account for the purpose of meeting capital expenditure.

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

(3) *Advances from capital account to revenue account* — (a) Any deficit in the revenue account at the end of any financial year may be made good by an advance from the capital account.

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

40. Books of accounts — The Authority shall keep at its office books of account regarding sums of money received and expended, sales and purchases and the assets and liabilities of the Authority.

41. Register of Works — A register of works shall be maintained and transactions relating to all works shall be entered in it.

42. Measurement Book — All works done or materials supplied whether by contract or the authority shall be measured and recorded in the measurement book. There should be no undue delay in taking or recording measurements. The date of measurement shall invariably be entered and the measurement attested by the officer-in-charge of taking measurement. The Measurement Book should be in Form No. 2 appended to these rules.

43. Muster Roll — When work is done by daily labourers, the basis of account will be the Muster Roll, which should be kept separately for each work and for each gang of labourers in Form No. 3 appended to these rules. It should be written up daily before the labourers commence work.

44. Register of Stores, Furnitures, etc. — Separate registers shall be maintained of stock of consumable articles, of furniture, of instruments and appliances, of saleable forms, in Form No. 4 appended to these rules.

45. Other Registers — In addition to the books and register mentioned under Rule 17 to 20, the following registers and accounts shall invariably be maintained in proper form with all necessary informations and descriptions—

- (a) Register of Investments;
- (b) Register of Loans and Debentures;
- (c) Lease Register;
- (d) Register of Buildings and Structures;
- (e) Sinking Fund Account.

46. Establishment — (1) Separate pay bills for *Gazetted* officers and *non-Gazetted* shall be made by the establishment clerk in the prescribed pay sheet on the 25th day in every month for submission to the accounts section on the day following for enternal check.

(2) The pay bill thus checked will be signed by the Accounts Officer or the Chairman before payment can be made.

(3) All pay bills prepared by the establishment clerk and submitted to the accounts section shall be accompanied by the absentee statement, statement of all deductions and increments and other papers that may be required for full check of the pay bill.

47. Advance to staff — The Chairman may, under proper acknowledgement, allow—

- (1) advance Travelling Allowance in the case of transfer up to the amount as admissible to Government servants under the rules framed by the State Government; and
- (2) festival advance in the case of non-*Gazetted* staff up to the limit as admissible to State Government servants under the rules framed by the State Government only once in a calendar year.

48. Travelling and other specific allowances — Travelling allowance and Dearness Allowance of officers and staff of the Authority shall be paid according to the rates to be fixed by the Authority with the approval of the Government.

49. Internal audit — The Chairman shall arrange for proper internal audit of the accounts by a competent person with required qualifications to be appointed by the Authority. His remuneration should also be determined by the Authority.

50. Abstract of monthly account — The Chairman shall cause to be prepared for each month an abstract of the monthly account, get that checked and certified by the internal audit, and place it before the Board of the Authority at the first meeting held after the account is ready and checked.

51. Irrecoverable items and write off cases — All charges which are found to be irrecoverable and which are proposed to be written off shall be reported to the Authority by the Chairman and Authority's sanction obtained to write them off; provided that the Chairman shall have power to write off losses up to rupees two hundred and in all cases where the value to be written off exceeds rupees one thousand, order of the Authority shall be obtained. A register of written off cases shall be maintained.

52. Custody of valuable papers and cash in hand — All valuable documents, securities, deeds, agreements, cheque books *etc.*, and the cash in hand shall be kept in the safe custody of the Chairman or any officer authorised by him.

53. Annual audit of accounts — The accounts of the Authority shall, once in every financial year, be examined and audited by such auditor as the State Government may appoint in this behalf.

54. Power of auditor — The auditor so appointed may —

- (a) by written summons, require the production before him of any document which he may consider necessary for proper conduct of the audit;

- (b) by written summons, require any person having the custody or control of, or being accountable for, any such document to appear in person before him; and
- (c) require any person so appearing before him as to make and sign a declaration with respect to any such document to answer any question, or to prepare and submit any statement.

55. Remuneration of auditor — The Authority shall pay to the said auditor such remuneration as the State Government may direct.

56. Report and information to be furnished by auditor to the Authority — The auditor shall —

- (a) report to the Authority and to the State Government any material impropriety or irregularity which he may observe in the expenditure or in the recovery of moneys due to the Authority, or in the accounts;
- (b) furnish to the authority such information as it may from time to time require concerning the progress of his audit;
- (c) report to the Chairman any loss or waste of money or other property owned by or vested in the Authority caused by neglect or misconduct, with the names of persons directly or indirectly responsible for such loss or waste; and
- (d) submit to the Chairman a final statement of the audit and a duplicate copy thereof to the State Government within a period of three months from the end of the financial year, or within such other period as the State Government may allow in that behalf.

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

58. Auditor's report to be sent to each member and considered by the Authority — The Chairman shall cause the report mentioned in Rule 56 to be printed and shall forward a printed copy thereof to each member, and shall bring such report before the Authority for consideration at their next meeting.

59. Staff Provident Fund — (a) The Authority shall constitute for the benefit of its whole-time paid members and of its officers and other employees,

in such manner and subject to such conditions as may be determined by the Authority (with the approval of the State Government), such pension and/or provident fund as it may deem fit.

- (b) When such pension and/or provident fund will be constituted, the balances that may be to the credit of the fund shall be invested in such securities as provided under sub-rule (1) of Rule 7 of these rules.

60. Power of State Government — The State Government may modify these rules at any time. Their decision regarding interpretation of any rule shall be final.

FORM - 1**Completion statement or report of works and repairs**

Item No.	Name of estimate	Sanction		Amount of estimates	Expended	Excess	Percentage* of excess	Remarks
		Authority	No.					

Dated

Reporting Officer or Officer in-charge

*In cases in which the Completion Statement is utilised instead of a revised estimate sufficient detail must be given if the excess is more than 5 percent.

FORM - 2
Measurement Book
Particulars

Details of actual measurement

Particulars of works or scheme	No.	L	B	D	Contents or Area

Description No.	Names grouped according to classes Address Father's name	Rate	Amount	Deduction	Balance	Dated initials and remarks of paying officer made at the time of payment
		Rs. a. p.	Rs. a. p.	Rs. a. p.	Rs. a. p.	

Signature.....

Rank or Designation of the Officer

PART II

Register of arrears of wages due to work people

Month and period to which one arrear relates	Serial No. as per nominal Muster Roll	Names	Father's name	Amount due	Amount paid
1	2	3	4	5	6
Arrears of previous Muster Rolls				Rs. a. p.	Rs. a. p.
Total					
Carried over					

Dated initials and remarks of paying officer	Serial No. as per nominal Muster Roll	Names	Father's name	Amount due
7	8	9	10	11
Brought forward				
Arrears as per this Muster Roll				
Total				
Grand total				

Deduct—Amount paid out of arrears of previous Muster Rolls.

Balance arrears carried to next nominal Muster Roll.

Note. When wages are not claimed within three months a report of this fact should be made to the Divisional Officers.

PART III

***Details of the measurement of work done by the labourer employed as per this nominal Muster Roll in cases in which the work is susceptible of measurement**

<u>Description of work</u> Each distinct item of work, grouped by sanctioned sub-heads where necessary	Quantity	Deduct as shown on the last Muster Roll	**Balance
1	2	3	4

 Measurement taken on

Signature

Measurement Book No.

Dated the

Rank

*If the work is not susceptible of measurement a remark to this effect should be recorded.

**If desired, rates may be struck where possible and shown in red ink just below the quantities in this column.

FORM - 4
Yearly Register of Stock
The Register

Class	Item No.	Names of articles	Receipts	Issues
1	2			
	3	Names of articles		
	4	Balance brought over		
	5	October		
	6	November		
	7	December		
	8	January		
	9	February		
	10	March		
	11	April		
	12	May		
	13	June		
	14	July		
	15	August		
	16	September		
	17	Total receipts and balances		
	18	October		
	19	November		
	20	December		
	21	January		
	22	February		
	23	March		
	24	April		
	25	May		

FORM - 4 (Concl'd.)

Issues	Value at current issue rates	Value at future issue rates
June		
26		
27		
July		
28		
29		
August		
September		
30		
Total issues		
Closing balance carried forward		
31		
32		
Rates		
33		
Amount		
34		
Rates		
35		
Amount		
36		
Market rates		
37		
Remarks		

Rs. a. p. Rs. a. p. Rs. a. p. Rs. a. p. Rs. a. p.

NOTIFICATIONS**THE 9TH JUNE, 2002**

No. AR.17/2002/33.— The Governor of Assam is pleased to order that the Municipal Administration Department and the Town and Country Planning Department be merged and hence forth designated as the "Urban Development Department."

All correspondence will now be made in the name of the Urban Development Department, instead of the Municipal Administration Department, on the Town & Country Planning Department.

This will come into force with immediate effect.

PREM SARAN,

Secretary to the Govt. of Assam,
Administrative Reforms & Training Department.

NOTIFICATION

GOVERNMENT OF ASSAM
ORDERS BY THE GOVERNOR
URBAN DEVELOPMENT (T & C.P.) DEPARTMENT

The 15th February, 2006

No. UDD(T) 168/95/Pt. 1/43 : In supersession of this Deptt's Notification No. TCP. 168/95/95 Dt. 4/3/2003 and in exercise of the powers conferred under Section 8B(I) of the Assam Town & Country Planning Act, 1959 (*Assam Act, II of 1960*) as amended, the Governor of Assam is pleased to reconstitute the Nazira-Simaluguri Development Authority for the areas specified under the said Development Authority with the following members until further orders.

- | | | | |
|----|--|----|----------|
| 1. | Sri Haren Rajkonwar, Nazira | -- | Chairman |
| 2. | Engineer-in-chief of the Authority
(to be appointed by State Govt.) | -- | Member |
| 3. | Finance Officer (to be appointed by the
State Govt.) | | |
| 4. | Sub-Divisional Officer (Civil), Nazira | -- | Member |
| 5. | Chairman or Chairmen of the local Authority
covered by the Jurisdiction of the Development
Authority. (Chairman, Nazira MB & Chairman
Simaluguri TC). | -- | Member |

NOTIFICATION

GOVERNMENT OF ASSAM
ORDERS BY THE GOVERNOR
URBAN DEVELOPMENT DEPARTMENT

The 30th December, 2003

No. UDD(T). 285/03/33- The Government of Assam is pleased to constitute a Committee for scrutinizing the tenders, approval of the rate and selection of the tenders in respect of IDSMT, NSDP, 10% Pool Fund/Non-Lapsable Pool Fund and any other major works under the Chairmanship of Commissioner and Secretary, Urban Development Department and also with the following members :

- | | |
|--|------------------------|
| 1. Commissioner and Secretary, Urban Development Department. | Chairman |
| 2. Joint Secretary, Urban Development Department (Dealing with the subject). | Member |
| 3. Financial Advisor, Urban Development Department. | Member |
| 4. Director, Town and Country Planning. | Member |
| 5. Superintending Engineer, Directorate of T & C P. | Member |
| 6. Under Secretary, Urban Development Department. | Member |
| 7. Executive Engineer, Directorate of T & C P. | Member |
| 8. Deputy Secretary, Urban Development Department. | Member-
-Secretary. |

The Committee shall examine all the tenders of the works under the above mentioned subjects for the works amounting to Rs. 4.00 Lakhs and above and given approval for issue of work order respect of the tender which are accepted by the Committee. The District Level Officers will invite tenders and sent to State Level Committee for approval through the Director, Town and Country Planning after proper examining the tenders alongwith comparative statement.

The Director. T&CP will be authorized to examine all other tenders and issue work orders below Rs. 4.00 Lakhs after properly scrutinizing the papers through the F.A.O. and the S.E. of the Directorate and after observing existing financial rules.

C. K. SHARMA,
Commissioner & Secretary to the Govt. of Assam
Urban Development Department.

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NOTIFICATION

GOVERNMENT OF ASSAM
ORDERS BY THE GOVERNOR
URBAN DEVELOPMENT (T & C.P.) DEPARTMENT

The 2nd January, 2006

No. UDD(T) 256/05/122.- In modification of the notification *vide* No. UDD(I). 265/05/90, dated 26th September, 2005 and in pursuance of the guideline of Urban Infrastructure Development Scheme for Small and Medium Towns (UIDSSMT) 2005, the Governor of Assam is pleased to notify the Directorate Town & Country Planning as designated Nodel Agency for Implementation of UIDSSMT in the State of Assam. The Nodel Agency will be responsible for the following with respect to UIDSSMT :

1. Inviting Project proposal from ULBs/Implementing Agencies.
2. Techno-Economic appraisal of the project either through in house expertise or outside agencies through out sourcing.
3. Management of fund receipt from Central and State Government.
4. Disbursement of funds as per the financing petteen given in the guidelines.
5. Furnishing of Utilization of certificates within twelve months of the closer of financial year and quarterly physical and financial progress reports to the Ministry of Urban Development.
6. Maintenance of the Audited Accounts of funds released to ULBs and implementing agencies.
7. The State Level Nodel Agency will forward the appraised projects to Ministry of Urban Development, Govt. of India, Planning Commission and TCPO at least 15 days before the meeting of State Level Sanctioning Committee for enabling their representatives to offer their comments /views on the projects in the meeting.
8. The Chief of the Nodel Agency in consultation with the Urban Development Department shall arrange meeting at the beginning of the each year to be chaired by the Departmental Minister to prioritize the ULBs and kind of project for coverage in the ULBs as per the left need of the Government.

B. DUTTA,
Commissioner & Secretary to the Govt. of Assam
Urban Development Department.

=THE END=