

THE HARYANA TOWN IMPROVEMENT ACT, 2008

(Haryana Act No. 36 of 2008)

Table of contents

SECTIONS:

1. Short title, extent and application.
2. Definitions.
3. Creation and incorporation of trust.
4. Constitution of trust.
5. Term of office of chairman.
6. Term of office of other trustees.
7. Resignation of trustee.
8. Filling of casual vacancies.
9. Remuneration of chairman and trustee.
10. Removal of trustee.
11. Disabilities of trustee removed under section 10.
12. Defect or irregularity not to vitiate proceedings.
13. Meetings of trust.
14. Temporary association of members with trust for particular purpose.
15. Constitution and functions of committees.
16. Meetings of committees.
17. Trustee and associated member of trust or committee not to take part in proceedings.
18. Constitution of trust services.
19. Power of trust to fix number and salaries of its official.
20. Power of appointment.
21. Control by chairman.
22. Delegation of certain chairman's functions.
23. Delegation of powers by State Government.
24. Supply of information and documents to State Government.

25. General powers of State Government.
26. Matters to be provided for by general improvement schemes or re-building schemes.
27. Street schemes.
28. Development and expansion scheme.
29. Re-housing scheme.
30. Re-housing of displaced resident house-owners.
31. Combination of schemes.
32. General schemes on committee land.
33. Effect of specifying a street alignment on powers of committee.
34. Power of trust to set back or forward buildings adjacent to street alignment.
35. Prohibition of building beyond a street alignment.
36. Acquisition of property affected by deferred scheme.
37. Official representation.
38. Consideration of official representation.
39. Matters to be considered when framing improvement scheme.
40. Preparation, publication and transmission of notice.
41. Transmission to trust of representation by committee.
42. Notice of proposed acquisition of land.
43. Furnishing of information available in committee records.
44. Abandonment of scheme or application to State Government to sanction it.
45. Power to sanction, reject or return scheme.
46. Notification of sanction of scheme.
47. Alteration of scheme after sanction.
48. Dropping of or changing the purpose of the sanctioned scheme.
49. Inclusion of different localities in combined schemes.
50. Time limit for execution of schemes.
51. Transfer of building or land vested in committee.

52. Provision of drain or water works.
53. Power to make and deal with public street.
54. Powers under Municipal Act vested in trust.
55. Limitation of powers of trust under section 54.
56. Powers to levy betterment contribution.
57. Principles for calculating betterment contribution.
58. Assessment and collection of betterment contribution.
59. Option of objecting owner to require trust to acquire his property.
60. Power of trust to facilitate movement of population.
61. Power to make surveys or contribute towards their cost.
62. Power of entry.
63. Reference of disputes to civil courts.
64. Vesting in committee of streets laid out or altered and open spaces provided by trust under a scheme.
65. Control by Deputy Commissioner.
66. Power to suspend any resolution or order.
67. Power to provide for performance of duties in case of default.
68. Action of Deputy Commissioner to be immediately reported.
69. Submitting explanation.
70. Acquisition of land.
71. Abandonment of acquisition.
72. Agreement or payment under section 71 not a bar to acquisition under a fresh declaration.
73. Power to borrow money.
74. Contribution by committee.
75. Custody and investment of trust funds.
76. Procedure to recover payment if trust fails to repay.
77. Power of State Government to make rules.
78. Power to make regulations.

79. Printing and sale of copies of rules.
80. Power of State Government to cancel regulations.
81. Stamping signature on notices or bills.
82. Method of giving public notice.
83. Service of notice.
84. Disobediance to Act or to notice.
85. Power to execute works on failure to comply with notice.
86. Liability of occupier to pay in default of owner.
87. Right of occupier to execute works in default of owner.
88. Procedure upon opposition to execution by occupier.
89. Recovery of cost of work by occupier.
90. Recovery of expenses of removal.
91. Relief to agents and trustees.
92. Penalty for removing fence in street.
93. Power to prevent or demolish building in contravention of sections 34 and 35.
94. Penalty of obstructing contractor or removing mark.
95. Trustees, etc. deemed public servants.
96. Contributions by trust towards leave allowances.
97. Authority for prosecutions.
98. Powers of chairman as to institute legal proceedings.
99. Indemnity.
100. Notice of suit.
101. Mode of proof of trust records.
102. Restriction on the summoning of trust officials.
103. Validation of acts and proceedings.
104. General power of trust to pay compensation.
105. Dissolution of trust.
106. Repeal and savings.
107. Validation.

¹THE HARYANA TOWN IMPROVEMENT ACT, 2008

(Haryana Act No. 36 of 2008)

[Received the assent of the Governor of Haryana on the 25th September, 2008, and first published for general information in the Haryana Government Gazette (Extraordinary), Legislative Supplement Part I of the 10th October, 2008]

1	2	3	4
Year	No.	Short Title	Whether repealed or otherwise affected by legislation
2008	36	The Haryana Town Improvement Act, 2008	Amended by Haryana Act 14 of 2013 ² .

AN

ACT

to make provisions for the improvement and expansion of the towns and to incorporate new concepts of planning and redevelopment and to make provisions for better planning, regulating development and use of land to improve certain areas of these towns and for matters connected therewith or incidental thereto.

Be it enacted by the Legislature of the State of Haryana in the Fifty-ninth Year of the Republic of India as follows :—

CHAPTER I**PRELIMINARY**

1. (1) This Act may be called the Haryana Town Improvement Act, 2008. Short title, extent and application.

(2) It extends to the whole of the State of Haryana.

(3) It shall apply to municipal areas and also to any other area, which the State Government may, by notification, specify.

2. (1) In this Act, unless there is something repugnant in the subject or context,— Definitions.

(i) “Collector” means the Deputy Commissioner of the district concerned;

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1. For Statement of Objects and Reasons, see Haryana Government Gazette (Extra.), dated the 31st August, 2008, Page 3909.
2. For Statement of Objects and Reasons, see Haryana Government Gazette (Extra.), dated the 8th September, 2013, Page 4129.

- (ii) “Deputy Commissioner” means the Deputy Commissioner of the district concerned;
- (iii) “Director” means the Director, Urban Local Bodies Department, Haryana;
- (iv) “District Town Planner” means the District Town Planner, Town and Country Planning Department, Haryana;
- (v) “land” includes land as defined in clause (a) of section 3 of the Land Acquisition Act, 1894 (Act 1 of 1894);
- (vi) “Land Acquisition Act” means the Land Acquisition Act, 1894 (Act 1 of 1894);
- (vii) “Local Area” means the area to which this Act has been applied and the area within which trust has been created for the purposes of carrying out the provisions of this Act;
- (viii) “local authority” includes a trust constituted under this Act;
- (ix) “notification” means a notification published in the Official Gazette;
- (x) “plan” means the plan prepared under the Punjab Scheduled Roads and Controlled Areas Restriction of Unregulated Development Act, 1963 (Punjab Act 41 of 1963) or the Haryana Municipal Act, 1973 (Haryana Act 24 of 1973);
- (xi) “prescribed” means prescribed by the rules made under this Act;
- (xii) “State Government” means the Government of the State of Haryana in the Administrative Department;
- (xiii) “street alignment” means lines forming the boundaries of a street dividing the same from lands adjoining on either side.

(2) Words and expressions used in this Act but not defined shall have the meanings respectively assigned to them in the Haryana Municipal Act, 1973 (Act 24 of 1973), hereinafter called the Municipal Act.

(3) All references to anything done, required, authorized, permitted, forbidden or punishable, or to any power vested, under this Act, shall

include anything done, required, authorized, permitted, forbidden or punishable or any power vested—

- (a) by any provision of this Act; or
- (b) by any rule or scheme made under the provisions of this Act; or
- (c) under any provision of the Municipal Act, which the trust has by virtue of this Act power to enforce.

CHAPTER II

CONSTITUTION OF TRUSTS

3. The duty of carrying out the provisions of this Act in any local area shall, subject to the conditions and limitations hereinafter contained, be vested in the Board to be called “The (name of town) Improvement Trust” hereinafter referred to as “the trust”, and every such board shall be a body corporate and have perpetual succession and a common seal, and shall by the said name sue and be sued.

Creation and incorporation of trust.

4. The trust shall consist of nine trustees to be appointed by the State Government, by notification, namely :—

Constitution of trust.

- (a) a chairman;
- (b) two elected members of the municipality; and
- (c) six other persons, three of whom shall be a District Town Planner, Executive Engineers of Public Works Department (Buildings and Roads) and Public Health Department of the State Government.

5. The chairman shall hold office during the pleasure of the State Government provided that his term of office shall not exceed three years, but when the trust ceases to exist, the term of office shall be deemed to expire on the date of the dissolution of the trust. He shall be eligible for reappointment.

Term of office of chairman.

6. The term of office of other trustees shall be as under :—

Term of office of other trustees.

- (a) the trustee appointed under clause (b) of section 4 shall hold office for a period of three years or until he ceases to be a member of the committee;
- (b) the non-official trustee appointed under clause (c) of section 4 shall hold office during the pleasure of the State Government; provided that the term of office shall not

exceed three years, but when the trust ceases to exist the term of office shall be deemed to expire on the date of the dissolution of the trust;

- (c) during the period of dissolution of a committee under section 254 of the Municipal Act, the two seats allotted to the committee on the trust under clause (b) of section 4 shall be filled by the State Government by appointing any two persons by notification. The term of office of every trustee so appointed shall be three years or until the trust is dissolved, whichever period is less or he ceases to be a member of the committee; provided that if the committee is reconstituted two members of the committee shall be appointed in accordance with the provisions of section 4, and on their appointment the two trustees appointed earlier by the State Government, under this section shall cease to be members of the trust.

Resignation of trustee.

- 7.** (1) Any trustee may at any time resign his office :

Provided that such resignation shall not take effect until accepted by the trust.

(2) The term of office of the appointed and elected trustees shall commence on such date as may be notified in this behalf by the State Government.

(3) A person ceasing to be a trustee by reason of the expiry of his term of office shall, if otherwise, qualified, be eligible for reappointment.

Filling of casual vacancies.

8. (1) When the place of a trustee appointed by the State Government, becomes vacant by his resignation, removal or death, the State Government shall appoint a person to fill the vacancy.

(2) Every person appointed to fill a casual vacancy under this section shall hold his place for the time for and subject to the conditions upon which it was tenable by the person in whose place he has been so appointed, and no longer, but he may, if otherwise qualified, be re-appointed :

Provided that no person appointed under sub-section (2) shall continue to be a trustee after he ceases to be a member of the committee.

Remuneration of chairman and trustee.

9. The chairman and each trustee shall receive such salary or remuneration as may be sanctioned by the State Government.

- 10.** The State Government may, by notification, remove any trustee,— Removal of trustee.
- (a) if he refuses to act, or becomes, in the opinion of the State Government, incapable of acting or has been declared an insolvent, or has been convicted of any such offence or subjected by a competent court to any such order as implies, in the opinion of the State Government, a defect of character which unfits him to be a trustee; or
 - (b) if he has been declared by notification to be disqualified for employment in, or has been dismissed from the public service and the reason for the disqualification or dismissal is such as implies, in the opinion of the State Government, a defect of character which unfits him to be a trustee; or
 - (c) if he has absented himself for more than three consecutive months from the meetings of the trust, or of any committee of which he is a member, and is unable to explain such absence to the satisfaction of the State Government; or
 - (d) if in the opinion of the State Government, he has flagrantly abused his position as a trustee; or
 - (e) if he has knowingly acquired or continued to hold without the permission in writing of the State Government, directly or indirectly or by a partner, any share or interest in any contract or employment with, by or on behalf of the trust; or
 - (f) if he has knowingly acted as a trustee in a matter other than a matter referred to in clause (iv) or clause (v) of the following proviso in which he or a partner had, directly or indirectly, a personal interest, or in which he was professionally interested on behalf of a client, principal or other person; or
 - (g) if he has acted in contravention of section 17; or
 - (h) being a legal practitioner, if he acts or appears on behalf of any other person in any criminal proceeding instituted by or on behalf of the trust; or
 - (i) in the case of a salaried Government officer, if his continuance in office is, in the opinion of the State Government, unnecessary or undesirable :

Provided that a person shall not be deemed for the purpose of clause (e) to acquire, or continue to have, share or interest in a contract or employment by reason only of his—

- (i) having a share or interest in any lease, sale or purchase of land or building, or in any agreement for the same, provided that such share or interest was acquired before he became a trustee; or
- (ii) having a share in a joint stock company which shall contract with, or be employed by or on behalf of the trust; or
- (iii) having a share or interest in a newspaper in which an advertisement relating to the affairs of the trust is inserted; or
- (iv) holding a debenture or otherwise being interested in a loan raised by or on behalf of the trust; or
- (v) being retained by the trust as a legal practitioner; or
- (vi) having a share or interest in the occasional sale of an article in which he regularly trades to the trust, to a value not exceeding, in any one year, such amount as the trust, with the sanction of the State Government, may fix in this behalf.

Disabilities of trustee removed under section 10.

11. A trustee removed under clauses (a), (b), (d), (e), (f) and (g) of section 10 shall not be eligible for re-appointment :

Provided that if a trustee has been removed by reason of his having been declared an insolvent, or disqualified under sub-clause (c) of section 10, he shall be eligible for re-appointment when he shall have obtained his discharge or undertake to participate in all the meetings of the trust.

Defect or irregularity not to vitiate proceedings.

12. No act done or proceeding taken by a trust or a committee thereof appointed under this Act shall be questioned on account of any defect in the constitution of the trust or any vacancy in membership or any defect in the appointment of the chairman or trustee or any defect or irregularity of such act or proceedings not affecting the merits of the case.

CHAPTER III

PROCEEDINGS OF THE TRUST AND COMMITTEE

- 13.**(1) (a) The trust shall ordinarily meet for the transaction of business at least once in every month at such time as it may fix : Meetings of trust.

Provided that the chairman may, whenever he thinks fit, and shall, upon the written request of not less than three trustees, call a special meeting.

- (b) The quorum necessary for the transaction of business at an ordinary or special meeting shall not be less than four.
- (c) At every meeting, the chairman, if he be present, or in his absence, such one of the trustees present, as may be chosen by the meeting, shall preside.
- (d) All questions which come before any meeting shall be decided by a majority of the votes of the trustees present, the chairman of the meeting in the case of an equality of votes having a second or casting vote.
- (e) Proceedings of the meeting along with the names of the trustees present at each meeting, shall be drawn up and recorded in a book to be kept for the purpose, shall be signed by the person presiding at the meeting or at the next ensuing meeting, and shall at all reasonable times and without charge be open to inspection by any trustee.

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

14.(1) The trust may associate with itself any person whose assistance or advice it may desire in carrying out any of the provisions of this Act in such manner and for such period as may be laid down in the regulations. Temporary association of members with trust for particular purpose.

(2) A person associated with itself by the trust under sub-section (1) for any purpose shall have a right to take part in the discussions of the trust related to that purpose, but shall not have a right to vote at meeting of the trust, and shall not be deemed to be a trustee.

15.(1) The trust may, from time to time, appoint committees of the trust consisting of such persons of any of the following classes as it may deem fit, namely :— Constitution and functions of committees.

- (i) trustees;

- (ii) persons associated with the trust under section 14;
- (iii) other persons whose services, assistance or advice the trust may desire as members of such committees :

Provided that no such committee shall consist of less than three persons, and that at least one trustee shall be a member thereof.

(2)The trust may—

- (a) refer to such committees, for enquiry and report, any matter relating to any of the purposes of this Act; and
- (b) delegate to such committees by resolution and subject to any rules, any of the powers or duties of the trust.

(3) The trust may, at any time, dissolve, or subject to the provisions of sub-section (1), alter the constitution of any such committee.

(4) Every such committee shall conform to any instructions which are given to it from time to time by the trust.

(5)All proceedings of any such committee shall be subject to confirmation by the trust.

(6) Any person associated with the trust under section 14 or appointed a member of a committee of the trust under clause (iii) of sub-section (1), shall be entitled to receive such remuneration either by way of monthly salary or by way of fees or partly in one of these ways and partly in the other, as the State Government may specify.

Meetings of committees.

16.(1) Committees appointed under section 15 may meet and adjourn as they think proper; but the chairman of the trust may, whenever he deems fit, call a special meeting of any such committee, and shall do so upon the written request of not less than two members thereof.

(2) The chairman may attend any meeting of a committee appointed under section 15 whether he is a member of such committee or not, and shall preside at every such meeting at which he is present, if he be absent, any trustee present and being a member of such committee, as may be chosen in the meeting, shall preside :

Provided that in case only one trustee is present, he shall preside.

(3) All questions which come before any meeting of such committee shall be decided by a majority of the votes of the members present, the person presiding in case of an equality of votes shall have a second or casting vote.

(4) No business shall be transacted at any meeting of such committee when less than two members or, in case the committee consists of more than eight members, when less than one-third of such members are present.

17.(1) A trustee who—

- (i) has, directly or indirectly, by himself or by his partner, employer or employee, any such share or interest as is described in the proviso to section 10, in respect of any matter; or
- (ii) has acted professionally, in relation to any matter, on behalf of any person having therein any such share or interest as aforesaid,

Trustee and associated member of trust or committee not to take part in proceedings.

shall not vote or take any other part in any proceedings of the trust or any committee appointed under this Act relating to such matter.

(2) If any trustee, or any person associated with the trust under section 14 or any other member of a committee appointed under this Act, has, directly or indirectly, any beneficial interest in any land situated in an area comprised in any improvement scheme framed under this Act, or any area in which it is proposed to acquire land for any of the purposes of this Act,—

- (i) he shall, before taking part in any proceeding at a meeting of the trust or any committee appointed under this Act relating to such area, inform the person presiding at the meeting of the nature of such interest;
- (ii) he shall not vote at any meeting of the trust or any such committee upon any resolution or question relating to such land; and
- (iii) he shall not take part in any proceeding at a meeting of the trust or any such committee relating to such area if the person presiding at the meeting considers it inexpedient that he should do so.

18.(1) The State Government may constitute trust services at State level and trust level for employment in connection with the affairs of the trust, in such manner, as may be prescribed.

Constitution of trust services.

(2) The establishment charges and the salary, allowances, provident fund, pension and gratuity of persons recruited to the trust services constituted under sub-section (1) and appointed in a trust, shall be payable from the funds of the trust.

Power of trust to fix number and salaries of its official.

19. Subject to the provisions of this Act and the rules made thereunder and with the prior approval of the State Government, the trust may from time to time employ such officials, as it may deem necessary and proper to assist in carrying out the purposes of this Act, and may assign to such officials such pay, as may be prescribed.

Power of appointment.

20. The power of appointing, promoting and granting leave to officers and officials of the trust, and reducing, suspending or dismissing them for misconduct and dispensing with their services shall be such, as may be prescribed.

Control by chairman.

21. Subject to the provisions of this Act and the rules made thereunder, the chairman shall exercise supervision and control over the acts and proceedings of all the members of the trust services and other employees of the trust.

Delegation of certain chairman's functions.

22. (1) The chairman may, by general or special order in writing, delegate to any officer of the trust any of the chairman's powers, duties or functions under this Act or any rule made thereunder except those conferred or imposed upon or vested in him by sections 24 and 98 respectively.

(2) The exercise or discharge of any powers, duties or functions delegated to any officer under sub-section (1) shall be subject to such conditions and limitations, if any, as may be specified in the said order.

Delegation of powers by State Government.

23. (1) The State Government may, by notification, delegate all or any of its powers under this Act, except the power to make rules.

(2) The State Government may, by notification, delegate to any officer not below the rank of an Assistant Commissioner all or any of the powers conferred under this Act on the Deputy Commissioner.

(3) Every delegation of power under sub-section (1) or sub-section (2) may be subject to such restrictions and conditions as may be specified.

Supply of information and documents to State Government.

24. (1) The chairman shall forward to the State Government, a copy of the minutes of the proceedings of each meeting of the trust, within ten days from the date on which the minutes of the proceedings of such meeting were signed as specified in clause (e) of sub-section (1) of section 13.

(2) If the State Government so directs, the chairman shall forward to it a copy of all papers which were laid before the trust for consideration at any meeting.

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

- (i) any return, statement, estimate, statistics or other information regarding any matter under the control of the trust; or
- (ii) a report on any such matter; or
- (iii) a copy of any document in the charge of the chairman.

(4) The chairman shall comply with every such requisition without unreasonable delay.

25. In all matters connected with this Act, the State Government may issue directions to the trust for generally carrying out the purposes thereof and in particular for—

General powers of State Government.

- (a) observance of land uses and other restrictions laid down by the State Government;
- (b) ensuring uniformity of rules and bye-laws; and
- (c) framing schemes for particular areas within the jurisdiction of the trust.

CHAPTER IV

SCHEMES

26. (1) Whenever, it appears to the trust that insanitary conditions prevail in a locality, the trust may frame a scheme for general improvement of such insanitary locality. In the event of failure of the trust to discharge its responsibility at any stage and if the Director so feels that it is expedient to proceed to take action in the public interest, he shall require the trust to accomplish its responsibilities to meet the objectives of the scheme.

Matters to be provided for by general improvement schemes or re-building schemes.

(2) Whenever, the trust declares any local area or part thereof to be an insanitary locality under sub-section (1), and is of opinion that having regard to the comparative value of the buildings in such local area or part thereof, and the sites on which they are erected, it is undesirable to frame a general improvement scheme and the most satisfactory method of dealing with the local area or any part thereof is a rebuilding scheme, it may proceed to frame such a scheme which may provide for the reservation of streets and the widening of existing streets; the relaying out of the sites of the local area or part thereof upon the streets so reserved or widened; the demolition of existing buildings and their appurtenances upon such sites; and the erection of buildings in accordance with the scheme.

27. Whenever it appears to the trust that for the purpose of—

Street schemes.

- (i) providing building sites; or

- (ii) remedying defective ventilation; or
- (iii) creating new or improving existing means of communication and facilities for traffic; or
- (iv) affording better facilities for conservancy,

within its local area or part thereof, it is expedient to proceed to take action in public interest, the Director shall require the trust to accomplish its responsibility to meet the objectives of the scheme.

Development and expansion scheme.

28. (1) The trust may, for the purpose of development of any locality within the municipal limits or contained in its local area, prepare a development scheme.

(2) The trust may, if it is of opinion that it is expedient and for the public advantage to promote and control the development of and to provide for the expansion of a committee in any locality adjacent thereto, within the local area of the trust, prepare an expansion scheme.

(3) A development scheme or an expansion scheme may provide for the layout of the locality to be developed, the purposes for which particular portions of such locality are to be utilized, the street alignment and the building line on each side of the streets proposed in such locality, the disposal of sewerage and storm water of insanitary localities and such other details as may appear desirable.

Re-housing scheme.

29. Whenever the trust deems it necessary that accommodation should be provided for persons who are displaced by the execution of any scheme under this Act, or are likely to be displaced by the execution of any scheme, which it intends to submit to the State Government for sanction under this Act, it may frame a re-housing scheme for the construction, maintenance and management of such scheme and as many dwellings and shops as ought in the opinion of the trust, to be provided for such persons.

Re-housing of displaced resident house-owners.

30. Any resident house-owner who is likely to be displaced by the execution of any scheme under this Act, may apply to the trust to be re-housed, and no such scheme shall be put into execution until a re-housing scheme as provided for in section 29 for the re-housing of such resident house-owners as may apply under this section, has been completed.

Explanation.—The demolition of a portion of a dwelling which renders the remaining portion uninhabitable, shall be deemed to be a displacement of the person or persons residing in the said dwelling.

Combination of schemes.

31. (1) A scheme under this Act may combine one or more types of schemes or any special features thereof.

(2) A scheme under this Act may provide for all or any of the following matters—

- (i) the acquisition under the Land Acquisition Act, or the abandonment of such acquisition under sections 70 and 71 respectively of this Act or any land or any interest in land necessary for or affected by the execution of the scheme, or adjoining any street, thoroughfare, open space to be improved or formed under the scheme;
- (ii) the acquisition by purchase, lease, exchange or otherwise of such land or interest in land;
- (iii) the retention, letting on hire, lease, sale, exchange or disposal otherwise of any land vested in or acquired by the trust;
- (iv) the laying out and alteration of streets;
- (v) the provision of open spaces in the interests of the residents of any locality comprised in the scheme or any adjoining locality and the enlargement or alteration of existing open spaces;
- (vi) the draining, water-supply and lighting of street altered or constructed;
- (vii) the provision of system of drains and sewers for the improvement of ill-drained and insanitary localities;
- (viii) for doing of all acts intended to promote the health of the residents of the area comprised in the scheme, including the conservation and preservation from injury or pollution of other sources and means of water-supply;
- (ix) the demolition of existing buildings and the erection and re-erection of buildings by the trust or by the owners or by the trust in default of the owners;
- (x) the provisions of facilities for communication;
- (xi) all other matters which the trust may deem necessary to promote the general efficiency of a scheme or to improve the locality comprised in such scheme.

32. The trust on receipt of request from the committee, shall prepare the scheme on committee land and shall share the sale proceeds with committee as per mutually agreed terms and conditions.

General schemes on committee land.

Effect of specifying a street alignment on powers of committee.

33. Notwithstanding anything contained in the Municipal Act, whenever any street alignment has been specified by the trust in any scheme under this Act with the sanction of the State Government, the committee shall not have power to specify a building line for the street within the limits of the scheme, and any such line previously specified by the Committee within such limits shall cease to be the building line or line of frontage of the street.

Power of trust to set back or forward buildings adjacent to street alignment.

34. (1) Should any building or part of a building project beyond the regular line of a street, either existing or determined on for the future, or beyond the front of the building on either side thereof, the trust may whenever such building or part thereof has been either entirely or subsequently taken down or burnt down or has fallen down, by written notice, require such building or part thereof when being rebuilt to be set back to or towards the said building line or the front of the adjacent buildings; and the portion of the land added to the street by such setting back or removal shall become part of the street and shall vest in the trust.

(2) The trust may on such terms as it may deem fit require or allow any building to be set forward for the improvement of the line of the street.

(3) When any building is set back or forward in pursuance of a requisition made under the preceding clause, the trust, shall forthwith make full compensation to the owner of the building for any damage or loss that he may sustain.

(4) If the additional land which is not a part of street and green space and is to be included in the premises of any person required or allowed to set forward, a building, or part thereof, belongs to the trust, the requisition or permission of the trust to set forward the buildings shall be sufficient conveyance to the said owner of the said land, and the terms and conditions of the conveyance shall be set forth in the said requisition or permission.

Prohibition of building beyond a street alignment.

35. (1) In the locality comprised in a scheme under this Act, no person shall, except with the written permission of the trust, erect, re-erect, add to or alter any building so as to make the same project beyond a street alignment or building line duly specified by the trust.

(2) In the locality comprised in a development scheme, or an expansion scheme, if any person desires to erect, re-erect, add to or alter any building on his land so as to make the same project beyond a street alignment or a building line duly specified by the trust, he shall apply to the trust for permission to do so along with such fee and charges as may be fixed by the State Government from time to time.

36.(1) In the locality comprised in a deferred street scheme the owner of any property affected by a street alignment duly specified by the trust may, at any time after the scheme has been sanctioned by the State Government, give the trust notice requiring it to acquire such property before the expiration of six months from the date of such notice, and the trust shall acquire such property accordingly.

Acquisition of property affected by deferred scheme.

(2) In the locality comprised in a deferred street scheme, before proceeding to acquire any property affected by a street alignment duly specified by the trust other than property regarding which it has received a notice under preceding sub-section, the trust shall give six months notice to the owner of its intention to acquire the property.

37.(1) A scheme under this Act may be framed upon an official representation by the committee or of its own in consultation with Deputy Commissioner.

Official representation.

(2) An official representation referred to in sub-section (1) may be made by the committee on its own motion.

38.(1) The trust shall consider every official representation made under section 37 and if satisfied as to the truth thereof and as to the sufficiency of its own resources, shall decide whether a scheme under this Act to carry such representation into effect should be framed forthwith or not, and shall forthwith intimate its decision to the committee.

Consideration of official representation.

(2) If the trust decides that it is not necessary or expedient to frame a scheme under this Act forthwith, it shall inform the committee of the reasons for its decision.

(3) If the trust fails, for a period of twelve months after the receipt of any official representation made under section 37, to intimate its decision thereon to the committee that it is not necessary or expedient to frame a scheme of a type other than that recommended by the committee, the committee may, if it deems fit, refer the matter to the State Government.

(4) The State Government shall consider every reference made to it under sub-section (3) and —

- (a) if it deems that the trust ought to have passed a decision within the period mentioned in sub-section (3), shall direct the trust to pass a decision within such further period as it may deem reasonable; or
- (b) if it deems that it is expedient that a scheme should forthwith be framed, shall direct the trust to proceed forthwith to frame a scheme. Such a direction may specify the type of scheme to be framed.

(5) The trust shall comply with every direction given by the State Government under sub-section (4).

Matters to be considered when framing improvement scheme.

39.(1) When framing a scheme under this Act in respect of any locality, regard shall be given to—

- (a) the nature and the condition of adjoining localities and of the town as a whole;
- (b) the direction in which the town appears likely to expand;
- (c) the claims of any other part of the local area likely to require a scheme under this Act;
- (d) any direction, time to time issued by the State Government in this regard for the development and betterment of the locality.

(2) The trust shall prepare the scheme having regard to the land use specified in the plan of the town and in consultation with District Town Planner and submit the scheme in such manner along with documents, fee and charges as may be prescribed.

Preparation, publication and transmission of notice.

40.(1) When a scheme under this Act has been framed, the trust shall prepare and publish a notice stating—

- (i) the fact that the scheme has been framed;
- (ii) the boundaries of the scheme; and
- (iii) the place at which details of the scheme including a statement of the land proposed to be acquired and a general map of the locality comprised in the scheme, may be inspected at reasonable hours.

(2) The trust shall—

- (a) notwithstanding anything contained in section 82, cause the said notice to be published in the Official Gazette and in at least one regional and one national newspaper with a statement that objections shall be received within a period of thirty days; and
- (b) send a copy of notice to the committee.

(3) The Chairman shall cause copies of all documents referred to in clause (iii) of sub-section (1) to be delivered to any applicant on payment of such fees, as may be prescribed.

Transmission to trust of representation by committee.

41.The committee to whom a copy of a notice has been sent under clause (b) of sub-section (2) of section 40 shall, within a period of thirty

days, from the receipt of the said copy, forward to the trust any representation which the committee may deem fit to make with regard to the scheme.

42. (1) After the expiry of thirty days from the date of publication in Official Gazette of the notice under section 40 in respect of any scheme under this Act, the trust shall serve a notice on—

Notice of proposed acquisition of land.

- (i) every person whom the trust has reason to believe after due enquiry, to be the owner of any immovable property which is proposed to be acquired in executing the scheme;
 - (ii) the occupier (who need not be named) of such premises as the trust proposes to acquire in executing the scheme.
- (2) Such notice shall—

- (a) state that the trust proposes to acquire such property for the purposes of carrying out a scheme under this Act; and
- (b) require such person, if the objects to such acquisition, to state his reasons in writing within a period of thirty days from the service of the notice.

(3) Every such notice shall be signed by, or by the order of, the chairman.

43. The committee shall furnish the chairman at his request and on payment of such fees as may be prescribed with a copy of such information relating to a locality regarding which a notice has been published under section 40 as is available in the committee records.

Furnishing of information available in committee records.

44. The trust shall after the expiry of the previous notice period specified under clause (a) of sub-section (2) of section 40, by section 41 and by clause (b) of sub-section (2) of section 42, respectively in respect of any scheme under this Act, consider any objection, or representation received thereunder, and hear all persons or their representatives making any such objections or representations, who may desire to be heard, and shall send its recommendations to the State Government either for abandonment of the scheme or for sanctioning the scheme with such modification, if any, as the trust may deem necessary for final approval of the State Government, along with such fees and documents, as may be prescribed.

Abandonment of scheme or application to State Government to sanction it.

Power to sanction, reject or return scheme.

45. (1) The State Government may sanction, either with or without modification, or may refuse to sanction, or may return for reconsideration, any scheme submitted to it under section 44.

(2) If a scheme returned for reconsideration under sub-section (1) is modified by the trust, it shall be re-published in accordance with section 40—

- (a) in every case in which the modification affects the boundaries of the locality comprised in the scheme, or involves the acquisition of any land not previously proposed to be acquired; and
- (b) in every other case, unless the modification is in the opinion of the State Government not of sufficient importance to require republication.

Notification of sanction of scheme.

46. (1) The State Government shall notify the sanction of every scheme under this Act, and the trust shall forthwith proceed to execute such scheme, provided that it is not a deferred street scheme, development scheme or expansion scheme and provided further that the requirements of section 31 have been fulfilled.

(2) A notification under sub-section (1) in respect of any scheme shall be conclusive evidence that the scheme has been duly framed and sanctioned :

Provided that no notification in respect of sanction of a scheme shall be issued after the expiry of the three years from the date of publication of notice relating to that scheme under section 40.

Alteration of scheme after sanction.

47. The trust, with the prior approval of the State Government, may make minor alteration/adjustment in the scheme necessitated during the execution due to bonafide technical errors in surveys and not affecting the original character of the scheme. A scheme under this Act may be altered by the trust at any time between its sanction by the State Government and its execution with prior approval of the State Government :

Provided as follows —

- (a) if any alteration is estimated to increase the estimated net cost of executing a scheme by twenty per cent of such cost, such alteration shall not be made without the prior approval of the State Government;
- (b) if any alteration involves the acquisition, otherwise than by agreement of any land, the acquisition of which has not been sanctioned by the State Government, the

procedure laid down in the foregoing sections of this chapter shall, so far as applicable, be followed as if the alteration were a separate scheme.

48. Whenever the State Government is satisfied that the scheme already sanctioned by it should be dropped or its purpose changed in the public interest, it may, *suo motu* or on the representation made to it by the trust in this behalf, drop such scheme or change its purpose by an order in writing.

Dropping of or changing the purpose of the sanctioned scheme.

49. Any number of localities in respect of which the trust has framed or has proposed to frame schemes under this Act may, at any time, be included in one combined scheme.

Inclusion of different localities in combined schemes.

50. Any scheme in respect of which a notification has been published under section 46, shall be executed by the trust within a period of five years from the date of such notification:

Time limit for execution of schemes.

Provided that the State Government may, if it is satisfied that it is beyond the control of the trust to execute the scheme within the said period, extend the same as it may deem fit.

CHAPTER V

POWERS AND DUTIES OF THE TRUST WHERE A SCHEME HAS BEEN SANCTIONED

51. Whenever any building, or any street or other land, or any part thereof which is vested in the committee is required for executing any scheme under this Act, the trust shall give notice accordingly to the president of the committee, and such building, street, land or part thereof shall thereupon vest in the trust, subject to the payment to the committee of such sum as may be required to compensate it for actual loss resulting from the transfer of any building to the trust or to share the sale proceeds with committee as mentioned in section 32.

Transfer of building or land vested in committee.

52. (1) When any building or any street or other land, or any part thereof, has vested in the trust under section 51, no committee drain or water work therein shall vest in the trust until another drain or water work (as the case may be) if required, has been provided by the trust to the satisfaction of the committee, in place of the former drain or water work.

Provision of drain or water works.

(2) If any question or dispute arises as to whether another drain or water work is required, or as to the sufficiency of any drain or water work provided by the trust under sub-section (1), the matter shall be referred to the State Government, whose decision shall be final.

Power to
make and deal
with public
street.

53. (1) The trust may—

- (a) lay out and make a new public street and construct drains and other works subsidiary to the same;
- (b) widen, lengthen, extend, enlarge, raise the level of or otherwise improve any existing public street, if vested in the trust;
- (c) turn, divert, discontinue or close any public street so vested;
- (d) provide within its discretion building sites of such dimensions as it deems fit, to abut on or adjoin any public street made, widened, lengthened, extended, enlarged, improved, or the level of which has been raised by the trust under clauses (a), (b) and (c) or by the State Government; and
- (e) subject to the provisions of any rule prescribing the conditions on which property vested in the trust may be transferred, lease, sell or otherwise dispose of, any land used by the trust for a public street and no longer required therefor, and in doing so impose any condition as to the removal of any building existing thereon, as to the description of any new building to be erected thereon, as to the period within which such new building shall be completed and as to any other matter that it deems fit.

(2) Whenever the trust discontinues the public use of, or permanently closes, any street vested in it, or any part thereof, it shall pay reasonable compensation to every person who had an easement or right of way or light and air over, upon or from such street or part, and who by such discontinuance or closure has suffered special damage.

(3) In determining the compensation payable to any person under sub-section (2), the trust shall make allowance for any benefit accruing to him from the construction, provision or improvement of any other street at or about the same time that the public street or part thereof, on account of which the compensation is paid, is discontinued or closed.

Power under
Municipal Act
vested in trust.

54. (1) The provisions of sections 108 ,109, 110, 111, 112, 113, 114, 119, 120, 121, 122, 123, 124, 125, 126, 127, 132 , 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 157, 158, 159, 160, 161, 162, 165, 166, 167, 168, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 186, 187, 188, 189, 190, 191, 192, 193, 194, 201, 203, 204, 205, 206,

207, 208, 209, 210, 214, 216, 217, 223, 224, 227, 228, 233, 234, 240, 241 and 242 of the Municipal Act, shall, so far as may be consistent with the tenor of this Act, apply to all localities in respect of which a scheme has been framed and notice published in the Official Gazette under section 40, and for the period commencing from the date of publication of the said notice and ending with the date on which the scheme is executed and all reference in the said sections to the committee or to the president or to any officer of the committee, shall be construed as referring to the trust which, in respect of any such localities, may alone exercise and perform all or any of the powers and functions which under any of the said chapters and sections might have been exercised and performed by the committee or by the president or any officer of the committee :

Provided that the trust may delegate to the chairman, or to any officer of the trust, all or any of the powers conferred by this section.

(2) The trust may make bye-laws for any locality outside the limits of the committee comprised in a scheme under this Act--

- (a) generally for carrying out the purposes of this Act; and
- (b) in particular and without prejudice to the generality of the aforesaid powers, regarding any of the matters referred to in sections 200, 201 and 205 of the Municipal Act.

55. (1) The trust shall not take any action under sections 108, 109, 110, 111, 112, 113, 114, 138, 139, 140, 141 and 142 of the Municipal Act without having previously consulted the committee and obtaining its consent: Limitation of powers of trust under section 54.

Provided that if the said committee does not give consent within a period of thirty days from the date the matter is referred to it, the matter in dispute shall forthwith be referred to the State Government, whose decision shall be final.

(2) If the committee deems it necessary that action should be taken within the trust area under sections 108, 109, 110, 111, 112, 113, 114, 138, 139, 140, 141 and 142 of the Municipal Act, it shall make an application to the trust requiring that such action be taken, and the trust shall thereupon comply with the application or give its reasons in writing for rejecting it:

Provided that if the application is rejected, the matter shall forthwith be referred to the State Government, whose decision shall be final.

Power to levy
betterment
contribution.

56. Whereby the making of any scheme, the value of any property has increased or is likely to increase, the trust shall be entitled to recover from the owner of such property an annual betterment contribution for such terms of years and on such uniform percentage of the increase in value but not exceeding ten percent of the recoverable amount, as may be prescribed:

Provided that the aggregate amount of the contribution so recovered shall not exceed fifty percent of the maximum increase in value during the aforesaid terms of years as ascertained under this Act.

Principles for
calculating
betterment
contribution.

57. The betterment contribution in respect of each property shall be according to the following principles :—

- (a) its market value on the date of the publication of the notification sanctioning the scheme shall be estimated without reference to the improvement and developments contemplated in the scheme;
- (b) for each financial year, succeeding the year in which the scheme takes effect, its market value on the first day of April of that year shall be ascertained by the chairman;
- (c) if, in any financial year, the market value estimated under clause (b) does not exceed that estimated under clause (a), no betterment contribution shall be levied for that year;
- (d) if, in any financial year, the estimated market value under clause (b) exceeds that estimated under clause (a), the trust shall levy a betterment contribution on the difference according to the percentage fixed in the scheme:

Provided that in estimating the market value of land under clause (a) or under clause (b), the value of buildings or other works erected or in the course of erection on such land shall not be taken into consideration;

- (e) if, in the last three successive financial years, the estimated market value, under clause (b) does not exceed or exceed on the normal average rate in comparison with other similar property situated in the vicinity of the property but beyond the betterment effect of the scheme that estimated under clause (a), no betterment contribution shall be levied for that year and henceforth.

Assessment
and collection
of betterment
contribution.

58. (1) The betterment contribution due on any property shall, subject to the prior claim thereon of the State Government, be a first

charge on it and shall be paid by its owner in half-yearly installments of one-half of the amount fixed for the year.

- (2) (a) The State Government may, make rules for the assessment and collection of the betterment contribution and, subject to such rules and the provisions of sections 87, 95, 99, 100, 100-A and 101 of the Municipal Act, with such adaptations as are necessary to render these provisions consistent with those of this Act, it shall be assessed and collected in the same manner as if it were a tax imposed by a committee in respect of immovable property.
- (b) The lands and buildings exempted from committee or State taxation shall also be exempted from any betterment contribution.

59. (1) If the owner of any property, separately registered in the assessment books of the trust and assessed to a betterment contribution in any particular year, objects to the amount of such contribution on the ground that the market value estimated under clause (b) of section 57 is excessive, he shall state the market value which he contends to be correct and may, within a period of thirty days of the date on which the determination of his objection or appeal becomes final, by written notice, require the trust to acquire the property togetherwith any buildings or other works that may exist thereon.

Option of objecting owner to require trust to acquire his property.

(2) If the owner of the property opt for acquisition of his property under sub-section (1), the trust shall refer the matter to the State Government and after going through the facts of the case and making such enquiry as it deems necessary, the State Government shall pass appropriate order.

(3) The trust shall either acquire the property or accept the market value determined and passed by the State Government.

(4) In case the property is acquired, the compensation payable thereof shall be determined by the prescribed authority under this Act:

Provided that compensation payable for the property, apart from the buildings or other works thereon shall not exceed the market value stated by the owner under sub-section (1).

60. In order to facilitate the movement of the population in and around any local area to which this Act is applied, the trust may from time to time—

Power of trust to facilitate movement of population.

- (a) subject to any conditions it may deem fit to impose—

- (i) guarantee the payment, from the funds at its disposal, of such sums as it may deem fit, by way of interest on capital expended on the construction, maintenance of roads / streets and its furniture and any other development work which the State Government deems fit; or
- (ii) make such payments as it may deem fit from the said funds by way of subsidy to persons undertaking to provide, maintain and work any means of roads/streets and its furniture and any other development work; or
- (b) either singly or in combination with any other person construct, maintain work of roads/streets and its furniture and any other development work, under the provisions of any law applicable thereto; or
- (c) construct or widen, strengthen or otherwise improve bridges:

Provided that no guarantee or subsidy shall be made under clause (a), no roads/streets and its furniture and any other development work shall be constructed, maintained or worked under clause (b), without the previous sanction of the State Government.

Power to make surveys or contribute towards their cost.

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

Power of entry.

- 62.** (1) The chairman or any person authorized by him or by the trust in writing may, with or without assistants or workmen, enter into or upon any land in order—
- (i) to make any inspection, survey, measurement, valuation or enquiry;
 - (ii) to take levels;
 - (iii) to dig or bore into sub-soil;
 - (iv) to set out boundaries and intended lines of work;
 - (v) to mark such levels, boundaries and lines by marks and cutting trenches; or

(vi) to do any other thing,

whenever it is necessary to do so for any of the purposes of this Act or any rules made or scheme sanctioned hereunder or any scheme which the trust 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 a rule, no building which is used as a human dwelling shall be so entered, unless with the consent of the occupier or if there be no occupier, the owner thereof, without giving the said occupier or owner, as the case may be, at least twenty-four hours previous notice in writing of the intention to make such entry;
- (c) due regard shall always be paid so far as the exigencies of the occasion permit to the social and religious usages of the occupants of the premises entered and unnecessary inconvenience, avoidable damages, discourtesies to the occupier should be avoided in all circumstances.

(2) Whenever any person enters into or upon any land in pursuance of sub-section (1), he shall at the time of such entry pay or tender payment for all necessary damage to be done as aforesaid; and, in case of dispute as to the sufficiency of the amount so paid or tendered, he shall at once refer the dispute to the trust, whose decision shall be final.

(3) It shall be lawful for any person authorized under sub-section (1) to make an entry for the purpose of inspection or search to open or cause to be opened a door, gate or other barrier—

- (a) if he considers the opening thereof is necessary for the purpose of such entry, inspection or search; and
- (b) if the occupier or owner, as the case may be, is absent, or being present, refuses to open such door, gate or barrier.

63. (1) If any question or dispute arises between the trust and any person as to the sufficiency of any compensation paid or proposed to be paid to him under sections 34 or 104, the matter shall be determined by

Reference of disputes to civil courts.

the civil court, if approached by the claimant within a period of three months from the date on which he was informed of the decision of the trust fixing the amount of compensation to be paid to him or of the rejection of his claim to compensation by the trust:

Provided that the civil court shall not entertain the application of any claimant who has not applied to the trust for compensation within three months of the date on which his claim to compensation accrued.

(2) The provisions of sections 5, 6 and 12 of the Limitation Act, 1963 (Act 36 of 1963), shall be applicable in determining whether any claim shall be entertained.

(3) If a reference to the civil court be not made within the period specified in sub-section (1), the decision of the trust shall be final.

Vesting in committee of streets laid out or altered and open spaces provided by trust under a scheme.

64. (1) Whenever the committee is satisfied—

- (a) that any street laid out or altered by the trust has been duly levelled, paved, metalled, flagged, channelled, sewerred and drained in the manner provided in the plans sanctioned by the State Government under this Act;
- (b) that such lamps, lamp-posts, and other apparatus as the committee deem necessary for the lighting of such street and as ought to be provided by the trust have been so provided;
- (c) that water and other sanitary conveniences ordinarily provided in a committee have been duly provided in such street, the committee after obtaining the assent of the trust, or failing such assent, the assent of the State Government under sub-section (3), shall by notice, affixed in some conspicuous place in such street, declare the street to be a public street and the street shall thereupon vest in, and shall thenceforth be maintained, kept in repair, lighted and cleansed by the committee.

(2) When any open space for purposes of ventilation or recreation has been provided by the trust in executing any scheme under this Act, it shall, on completion, be transferred to the committee by resolution of the trust and shall thereupon vest in and shall thenceforth be maintained, kept in repair, lighted and cleansed by the committee:

Provided that the committee may require the trust before any such open space is so transferred, to enclose, level, turf, drain and lay out such space and provide footpaths therein and, if necessary, to provide lamps and other apparatus for lighting it.

(3) If any difference of opinion arises between the trust and the committee in respect of any matter referred to in the foregoing provisions of this section, the matter shall be referred to the State Government, whose decision shall be final.

CHAPTER VI

CONTROL BY DEPUTY COMMISSIONER

65. (1) The Deputy Commissioner or any officer not below the rank of an Assistant Commissioner authorized in writing by him or any person empowered by the State Government in this behalf, by a general or special order, may—

Control by
Deputy
Commissioner.

- (a) enter on, inspect and survey, or cause to be entered on, inspected and surveyed, any immovable property occupied by any trust, or any work in progress under its direction;
- (b) by order in writing addressed to the chairman, call for and inspect or cause to be inspected any book or document in the possession or under the control of any trust and the member or official of the trust in possession of such book or document shall immediately place such book or document at the disposal of the chairman, who shall immediately comply with such order. He shall also bring the matter to the notice of the trust at its meeting next following;
- (c) by order in writing addressed to the chairman require any such trust to furnish within a specified period such statements, accounts, reports and copies of documents relating to proceedings or duties of the trust as he may think fit to call for;
- (d) inquire generally into the affairs of a trust with a view to ascertaining whether a trust is being satisfactorily administered, and for the purpose of such inquiry make use of any property of the trust and of the powers mentioned in clauses (a), (b), and (c), and the members, officers and official of the trust shall render

such assistance in the inquiry, as may be deemed necessary.

Explanation.— Any person so empowered shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860 (Act 45 of 1860).

(2) The Deputy Commissioner or the person empowered by the State Government under sub-section (1) may record in writing for the consideration of any such trust any observations that he may think proper in regard to the proceedings or duties of the trust.

(3) Every trust shall submit such periodical reports to the Deputy Commissioner or other authority as the State Government may direct.

Power to suspend any resolution or order.

66. The Deputy Commissioner may, by order in writing, duly supported with reasons, suspend the execution of any resolution or order of a trust or prohibit the doing of any act which is about to be done or is being done in pursuance of or under the provisions of this Act, or in pursuance of any sanction or permission granted by the trust in the exercise of its powers under this Act, if, in his opinion the resolution, order or act is in excess of the powers conferred by law or contrary to the interests of the public or likely to cause waste or damage of trust funds or property, or the execution of the resolution or order, or the doing of the act, is likely to lead to a breach of the peace, to encourage lawlessness or to cause injury or annoyance to the public or to any class or body of persons.

Power to provide for performance of duties in case of default.

67. (1) When the Deputy Commissioner, after due enquiry, is satisfied that a trust has made default in performing any duty imposed upon it by this Act, or by any order or rule made under this Act, he may, by an order in writing, duly supported with reasons, fix a period for the performance of the duty; and, should it not be performed within the period so fixed, he may appoint some person to perform it, and may direct that the expense thereof shall be paid, within such time as he may fix, by the trust.

(2) Should the expense be not so paid, the Deputy Commissioner may make an order directing the person having the custody of the balance of the trust fund to pay the expense, or so much thereof, as may from time to time be possible, from that balance in priority to all other charges against the same.

Action of Deputy Commissioner to be immediately reported.

68. When the Deputy Commissioner makes any order under section 66 or section 67, he shall forthwith forward to the State Government a copy thereof, with a statement of reasons for making it and a copy to the

trust for sending such explanation, if any, as the trust may wish to offer, for the consideration of the State Government which may confirm, modify or rescind the order.

69. On receipt of order of the Deputy Commissioner made under section 67 or section 68, the trust may send explanation, if any, as it may wish to offer to the State Government with a copy thereof to the Deputy Commissioner. Submitting explanation.

CHAPTER VII

ACQUISITION, CIVIL COURT AND APPLICATION OF ACT TO OTHER AUTHORITIES

70. (1) When any land is required for the purposes of this Act, the State Government may, on the request of the trust requiring it, proceed to acquire it under the provisions of the Land Acquisition Act, and on payment by the trust of compensation awarded under that Act and of all other charges incurred by the State Government on account of the acquisition, the land shall vest in the trust. Acquisition of land.

(2) The trust shall be deemed to be a local authority for the purposes of the Land Acquisition Act.

71. (1) Whenever in any locality comprised in any scheme under this Act, the State Government has sanctioned the acquisition of land which is subsequently discovered to be unnecessary for the execution of the scheme, the owner of such land or any person having an interest therein, may make an application to the trust requesting that the acquisition of such land be abandoned in consideration of the payment by him of a sum to be fixed by the trust in that behalf. Abandonment of acquisition.

(2) The trust shall admit every such application if it —

- (a) reaches it before the time fixed by the Collector, under section 9 of the Land Acquisition Act, for making claims in reference to the land; and
- (b) is made by any person, who either owns the land, is mortgagee thereof, or holds a lease thereof, with an unexpired period of seven years and by any other person having an interest in the land.

(3) On the admission by the trust of any such application, it shall forthwith inform the Collector, and the Collector shall thereupon stay for a period of three months all further proceedings for the acquisition of the land, and the trust shall proceed to fix the sum in consideration of which the acquisition of the land may be abandoned.

(4) Within the said period of three months or with the permission of the trust, at any time before the Collector has taken possession of the land under section 16 of the Land Acquisition Act, the person from whom the trust has agreed to accept the sum so fixed may, if the trust is satisfied that the security offered by him is sufficient, execute an agreement with the trust either—

- (i) to pay the said sum three years after the date of the agreement; or
- (ii) to leave the said sum outstanding as a charge on his interest in the land, subject to the payment of interest at a rate to be agreed upon by such person and the trust until the said sum has been paid in full and to make the first annual payment of such interest four years after the date of the agreement :

Provided that the trust may, at any time before the Collector has taken possession of the land under section 16 of the Land Acquisition Act, accept immediate payment of the said sum instead of an agreement as aforesaid.

(5) When any agreement has been executed in pursuance of sub-section (4) or when any payment has been accepted in pursuance of the proviso to that sub-section in respect of any land, proceedings for the acquisition of the land shall be deemed to have been abandoned.

(6) Every payment due from any person under any agreement executed under sub-section (4), shall be a charge on the interest of that person.

(7) If any instalment of interest payable under an agreement executed in pursuance of clause (ii) of sub-section (4) be not paid on the due date, the sum fixed by the trust under sub-section (3) shall be payable on that date, in addition to the said instalment.

(8) At any time after an agreement has been executed in pursuance of clause (ii) of sub-section (4), any person may pay in full the charge created thereby, with interest, at the agreed rate, up to the date of such payment.

(9) When an agreement in respect of any land has been executed by any person in pursuance of sub-section (4), no suit with respect to such agreement shall be brought against the trust by any other person (except an heir, executor or administrator of the person first aforesaid) claiming to have an interest in the land.

(10) When an agreement in respect of any land has been executed by any person in pursuance of sub-section (4), and any sum payable in pursuance of that sub-section is not duly paid, the same shall be recoverable by the trust (togetherwith interest up to the date of realization at the agreed rate), from the said person or his successor having interest in such land as arrears of land revenue.

72. If any land in respect of which an agreement has been executed, or a payment has been accepted, in pursuance of sub-section (4) of section 71, be subsequently required for any of the purposes of this Act, the agreement or payment shall not be deemed to prevent the acquisition of the land in pursuance of a fresh declaration published under section 6 of the Land Acquisition Act.

Agreement or payment under section 71 not a bar to acquisition under a fresh declaration.

CHAPTER VIII

FINANCE

73. A trust under this Act shall be deemed to be a local authority under the Local Authorities Loans Act, 1914 (Act 9 of 1914), for the purpose of borrowing money under that Act, and the making and execution of any scheme under this Act shall be deemed to be a work which such local authority is legally authorized to carry out.

Power to borrow money.

74. (1) The committee shall, for a period of five years from the date of constitution of the trust, constituted before or after the commencement of this Act, concerned with the improvement of a locality within the limits of the committee, pay to it an amount per annum equal to two per cent of the gross annual income of such committee.

Contribution by committee.

(2) In case of dispute as to what is the gross annual income of a municipality, the matter shall be referred to the State Government, whose decision shall be final.

75. In places where there is a nationalised/co-operative bank to which the Government treasury business has been made over, all moneys at the credit of the trust shall be kept in such bank :

Custody and investment of trust funds.

Provided that nothing shall be deemed to preclude a trust from, with the previous sanction of the State Government, investing any such moneys in fixed deposits which are not required for immediate expenditure.

76. (1) If any money borrowed under section 73 or any interest or costs due in respect thereof is or are not repaid according to the conditions of the loan, the State Government shall itself make such payment and may attach the rents and other income of the trust.

Procedure to recover payment if trust fails to repay.

(2) All moneys paid by the State Government shall constitute a charge upon the property of the trust.

CHAPTER IX

RULES

Power of State
Government
to make rules.

77. (1) The State Government may make rules consistent with the provisions of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for—

- (i) fixing the fees payable for copies of or extracts from the committee records furnished to the chairman under section 43;
- (ii) as to the service, employment, payment, suspension, removal and leave etc. of the officers and officials of the trust under sections 18, 19 and 20;
- (iii) as to the intermediate office or offices (if any), through which correspondence between the trust and the State Government or official of the Government shall pass;
- (iv) as to the accounts to be kept by the trust, as to the manner in which such accounts shall be audited and published, and as to the powers of auditors in respect of his allowance and surcharge;
- (v) as to the authority by whom, the conditions subject to which and the mode in which contracts may be entered into and executed on behalf of the trust;
- (vi) as to the preparation of estimates of income and expenditure of the trust and as to the authority by whom and the conditions subject to which such estimates may be sanctioned;
- (vii) as to the returns, statements, and reports to be submitted by trust;
- (viii) as to specify and define the mutual relations to be observed between the trust and other local authorities in any matter in which they are jointly interested;
- (ix) regulating the grant of leave of absence, leave allowances and acting allowances to the officers and officials of the trust;

- (x) establishing and maintaining a provident or annuity fund, for compelling all or any of the officers in the service of the trust other than any official of the Government in respect of whom a contribution is paid under section 96 to contribute to such fund at such rates and subject to such conditions and for supplementing such contributions out of the funds of the trust:

Provided that an employee of the State Government employed as an officer or official of the trust shall not be entitled to leave or leave allowances otherwise than as he may be entitled by the conditions of his service under the State Government;

- (xi) determining conditions under which the officers and official of the trust 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 trust to determine whether all such officers and officials or any of them, shall become entitled on retirement to any such gratuities or compassionate allowances as aforesaid;

- (xii) regulating the grant of subsidies to trusts by the State Government, the conditions under which they may be earned or forfeited and the arrangements for their repayment;
- (xiii) as to the manner of submitting the scheme along with documents and fee under section 39;
- (xiv) fixing the fee payable for copies of document under section 40;
- (xv) the assessment and collection of the betterment contribution under section 58;
- (xvi) composition of offences;
- (xvii) any other matter which has to be or may be prescribed.

(3) Every rule made under this Act shall be laid, as soon as may be, after it is made, before the House of the State Legislature, while it is in session.

78. Every trust may from time to time with the previous sanction of the State Government make regulations consistent with this Act and with Power to make regulations.

the rules made thereunder for—

- (i) fixing the amount of security to be furnished by any officer and officials of the trust;
- (ii) associating members with the trust under section 14;
- (iii) appointing persons (other than trustees and persons associated with the trust under section 14) to be members of committee under section 15;
- (iv) regulating the delegation of powers or duties of the trust to committees or to the chairman;
- (v) the guidance of persons employed by it under this Act;
- (vi) generally for carrying out the purposes of this Act.

Printing and
sale of copies
of rules.

79. (1) The chairman shall cause all rules made under section 77 and regulation, made under section 78 and for the time being in force, to be printed and shall cause printed copies thereof to be delivered to any applicant on payment of such price as may be fixed.

(2) Notice of the fact of copies of rules being obtainable at the said price and of the place where and the person from whom the same are obtainable shall be given by the chairman by advertisement in a newspaper.

Power of State
Government
to cancel
regulations.

80. The State Government may, after previous publication of its intention to do so, cancel any regulation made by the trust which it has sanctioned, and thereupon the regulation shall cease to have effect.

CHAPTER X

PROCEDURE AND PENALTIES

Stamping
signature on
notices or
bills.

81. (1) Every notice or bill issued under this Act shall be signed by the chairman, or by any other trustee or any officer, or official of the trust, specially or generally authorized by the trust, or so authorised by the chairman under sub-section (1) of section 22.

(2) No notice issued by the trust under this Act or any rule or bye-law made thereunder shall be invalid for defect of form.

Method of
giving public
notice.

82. Subject to the provisions of this Act, every public notice required under this Act shall be deemed to have been duly given if it is published in some local newspaper and pasted upon a notice board to be exhibited for public information at the building in which the meetings of the trust are ordinarily held.

83. (1) Every notice other than a public notice, and every bill, issued under this Act, shall, unless it is under this Act otherwise expressly provided, be served or presented—

Service of notice.

- (a) by giving or tendering the registered notice or bill, or sending it by registered post, to the person to whom it is addressed; or
- (b) if such person cannot be found, then by leaving the notice or bill at his last known place of abode, if within municipal limits, or by giving or tendering it to some adult male member or servant of his family, ordinarily residing with him, or by causing it to be affixed on some conspicuous part of the building or land (if any), to which it relates.

(2) When a notice is required or permitted under this Act to be served upon an owner or occupier, as the case may be, of a building or land, it shall not be necessary to name the owner or occupier therein, and the service thereof, in case not otherwise specially provided for in this Act, shall be effected either —

- (a) by giving or tendering the notice, or sending it by post, to the owner or occupier, or if there be more owners or occupiers than one, to any one of them; or
- (b) if such owner or occupier cannot be found, then by giving or tendering the notice to an adult male member or servant of his family ordinarily residing with him or by causing the notice to be affixed on some conspicuous part of the building or land to which it relates.

(3) Whenever the person on whom a notice or bill is to be served is a minor, service upon his guardian or upon an adult male member or servant of his family ordinarily residing with him shall be deemed to be service upon the minor.

84. Where under this Act or a notice issued thereunder, the public or any person is required to do or to refrain from doing anything, a person who fails to comply with such requisition shall, if such failure is not an offence punishable under any other section, be liable on conviction to a fine of five thousand rupees for very such failure, and, in the case of a continuing breach, to a further fine which may extend to five hundred

Disobedience to Act or to notice.

rupees for every day after the date of the last conviction during which the offender is proved to have persisted in the breach:

Provided that when the notice fixes a time within which a certain act is to be done and no time is specified in this Act, it shall rest with the competent court to determine whether the time so fixed was a reasonable time within the meaning of this Act.

Power to execute works on failure to comply with notice.

85. 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, public or private, 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 trust may after giving six hours notice 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 arrears of land revenue.

Liability of occupier to pay in default of owner.

86. (1) If the person to whom the notice mentioned in section 85 has been given is not the owner of the property in respect of which it is given, the trust may (whether any action or other proceedings has been brought or taken against such owner or not) require the person (if any), who occupies such property or a part thereof under such owner, to pay to the trust instead of to the owner, the rent payable by him in respect of such property, as it falls due, up to the amount recoverable from the owner under section 85; and any such payment made by the occupier to the trust shall, in the absence of any contract between the owner and the occupier to the contrary, be deemed to have been made to the owner of the property.

(2) For the purpose of deciding whether action should be taken under sub-section (1), the trust may require an occupier of property to furnish information as to the sum payable by him as rent on account of such property and as to the name and address of the person to whom it is payable, and if the occupier refuses to furnish such information, he shall be liable for the whole of the expenses as if he were the owner.

(3) All money recoverable by the trust under this section shall be recoverable as the arrear of land revenue.

Right of occupier to execute works in default of owner.

87. Whenever default is made by the owner of a building or land in the execution of a work required under this Act to be executed by him, the occupier of such building or land may, with the approval of the trust, cause such work to be executed and the expense 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 from him to such owner.

88. (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 such action, the owner may apply to the competent court.

Procedure upon opposition to execution by occupier.

(2) The court upon proof of such refusal may, by order in writing, require the occupier to give the owner reasonable facility for executing such works, with respect to such building or land, as may be necessary for compliance with the notice, and may also, if it deems fit, order the occupier to pay to the owner the costs relating to such application or order.

(3) If, after the expiration of eight days from the date of court's order, the occupier continues to refuse to allow the owner to execute such work, the occupier shall be liable upon conviction, to a fine which may extend to one hundred rupees 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 penalties to which he might otherwise have become liable by reason of his default in the execution of such work.

89. When the occupier of a building or land has, 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.

Recovery of cost of work by occupier.

90. The expenses incurred by the trust in effecting any removal under section 182 of the Municipal Act, or, in the event of a written notice under section 140 of that Act not being complied with under section 85 of this Act, shall be recoverable by sale of the materials removed, and if the proceeds of such sale do not suffice, the balance shall be recoverable from the owner of the said materials as arrears of land revenue.

Recovery of expenses of removal.

91. (1) When a person, by reason of his receiving, or being entitled to receive, the rent of immovable property as trustee or agent of a person or society would, under this Act, be bound to discharge an obligation imposed by this Act on the owner of the property for the discharge of which money is required, he shall not be bound to discharge the obligations unless he has, or but for his own improper act or default might have had, in his hands funds belonging to the owner sufficient for the purpose.

Relief to agents and trustees.

(2) When an agent or trustee has claimed and established his right to relief under this section, the trust may give him notice to apply to the discharge of such obligation as aforesaid the first moneys which come to his hands on behalf or for the use of the owner, and should he fail to comply with such notice, he shall be deemed to be personally liable to discharge such obligation.

Penalty for removing fence in street.

92. If any person, without lawful authority—

- (a) removes any fence, or any timber used for propping or supporting any buildings, wall or other thing, or extinguishes any light set up at any place where the surface of a street or other ground has been opened or broken up by the trust for the purpose of carrying out any work; or
- (b) infringes any order given, or removes any bar, chain or post fixed by the trust for the purpose of closing any street to traffic,

he shall be punishable with fine which may extend to five hundred rupees.

Power to prevent or demolish building in contravention of sections 34 and 35.

93. If any person, without the permission of the trust erects, re-erects, adds to or alters any buildings so as to make the same project beyond a street alignment or building line specified by the trust or erects, re-erects, adds to or alters any building in contravention of sections 34 or 35, the chairman may, by a written notice,—

- (a) direct that the building, alteration or addition be stopped; and
- (b) require such building, alteration or addition to be altered or demolished as he may deem necessary.

Penalty of obstructing contractor or removing mark.

94. If any person—

- (a) obstructs, molests any person with whom the trust has entered into a contract in 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 authorized under this Act,

shall be punishable with fine which may extend to two thousand rupees or with imprisonment for a term which may extend to two months.

CHAPTER XI

SUPPLEMENTAL PROVISIONS

95. Every trustee, and every officer and official of the trust, shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860 (Act 45 of 1860).

Trustees, etc. deemed public servants.

96. The trust shall be liable to pay such contributions for the leave allowances, gratuity and pension of any official of the State Government employed as chairman or as an officer or official of the trust, as may be required by the conditions of his service under the State Government to be paid by him or on his behalf.

Contributions by trust towards leave allowances.

97. 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 trust or some person authorised by the trust by general or special order in this behalf.

Authority for prosecutions.

98. The chairman may, subject to the control of the trust—

- (i) institute, defend or withdraw from legal proceedings under this Act;
- (ii) compound any offence as may be prescribed;
- (iii) admit, compromise or withdraw any claim made under this Act; and
- (iv) obtain such legal advice and assistance as he may from time to time deem it necessary or expedient to obtain, or as may be desired by the trust to be obtained, for any of the purposes referred to in the foregoing clause of this section, or for securing the lawful exercise or discharge of any power or duty vested in or imposed upon the trust or any officer or official of the trust.

Powers of chairman as to institute legal proceedings.

99. No suit or other legal proceedings shall lie against the trust, or any trustee, or any officer or official of the trust, or any person acting under the direction of the trust or of the chairman or of any officer or official of the trust for anything which is in good faith done or intended to be done in pursuance of any of the provisions of this Act or rules or regulations made thereunder.

Indemnity.

100. (1) No suit shall be instituted against the trust or any trustee, or any person associated with the trust under section 14 or any member of a committee appointed under section 15 or any officer or officials of the trust, or any person acting under the direction of the trust or of the chairman

Notice of suit.

or of any officer or officials of the trust, in respect of an act purporting to be done under this Act, until the expiration of two months next after notice in writing has been, in the case of a trust, left at its office, and in any other case delivered to or left at the office or place of abode of the person to be sued, explicitly stating the cause of action, the nature of the relief sought, the amount of compensation claimed and the name and place of abode of the intending plaintiff, and the plaint shall contain a statement that such notice has been so delivered or left.

(2) If the trust or other person referred to in sub-section (1), before the action is commenced, have tendered sufficient amounts to the plaintiff, the plaintiff shall not recover any sum in excess of the amount so tendered and shall also pay all costs incurred by the defendant after such tender.

(3) No action such as is described in sub-section (1), shall, unless it is an action for the recovery of immovable property or for a declaration of the title thereto, be commenced otherwise than within a period of six months next after the accrual of the cause of action :

Provided that nothing in sub-section (1) shall be construed to apply to a suit wherein the only relief claimed is an injunction of which the object would be defeated by the giving of the notice or the postponement of the commencement of the suit or proceedings.

Mode of proof
of trust
records.

101. A copy of any receipt, application, plan, notice, order, entry in a register or other documents in the possession of the trust shall, if duly certified by the legal keeper thereof, or other person authorized by the trust in this behalf, be received as *prima facie* evidence of the existence of the entry or document and shall be admitted as evidence of the matters and transactions therein recorded in every case where, and to the same extent, as the original entry or document would, if produced, have been admissible to prove such matters.

Restriction
on the
summoning of
trust officials.

102. No trustee or officer or official of the trust shall in any legal proceeding to which the trust is not a party be required to produce any register or document, the contents of which can be proved under the preceding section by a certified copy, or to appear as a witness to prove the matters and transactions, recorded therein unless by order of the court made for special cause.

Validation of
acts and
proceedings.

103. (1) No act done or proceeding taken under this Act shall be questioned on the ground merely of—

- (a) the existence of any vacancy in, or any defect in the constitution of the trust or any committee; or

- (b) any person having ceased to be a trustee; or
- (c) any trustee or any person associated with the trust under section 14 or any other member of a committee appointed under this Act, having voted or taken any part in any proceeding in contravention of section 17; or
- (d) the failure to serve a notice on any person, where no substantial injustice has resulted from such failure; or
- (e) any omission, defect or irregularity not affecting the merits of the case.

(2) Every meeting of the trust, the minutes of the proceedings of which have been duly signed as specified in clause (e) of sub-section (1) of section 13, shall be taken to have been duly convened and to be free from all defects and irregularities.

104. In any case not otherwise expressly provided for in this Act, the trust may pay reasonable compensation to any person who sustains damage by reason of the exercise of any of the powers vested under this Act in the trust or the chairman or any officer or official of the trust.

General power of trust to pay compensation.

105. (1) If, in the opinion of the State Government a trust persistently makes default or is negligent in the performance of duties imposed on it by or under this Act or the rules made thereunder, or when all schemes sanctioned under this Act have been executed or have so far been executed as to render the continued existence of the trust unnecessary, or when it is expedient that the trust should cease to exist, the State Government may, by notification, dissolve the trust :

Dissolution of trust.

Provided that before issuing a notification under this sub-section, the State Government shall give a reasonable opportunity to the trust for showing cause against the proposed dissolution and shall consider the explanation and objections, if any, of the trust.

(2) Upon the publication of a notification under sub-section (1), dissolving a trust, the following consequences shall ensue :—

- (a) all trustees including the chairman of the trust shall, as from the date of such publication, be deemed to have ceased to be trustees of the trust;
- (b) all properties, funds and dues which are vested in or realizable by the trust and the chairman, shall vest in the State Government and be realizable through such

authority, as the State Government may, by notification, specify; and the State Government shall bear all the legal liabilities of the trust subsisting at the date of its dissolution;

- (c) for the purpose of completing the execution of any scheme, sanctioned under this Act which has not been fully executed by the trust, and of realizing properties, funds and dues referred to in clause (b), the functions of the trust and the chairman under this Act shall be discharged by such authority as the State Government may, by notification, specify; and
- (d) the authority referred to in clause (b) shall keep separate accounts of all moneys respectively received and expended by it under this Act, until all loans raised thereunder have been repaid and until all other liabilities referred to in clause (b) have been duly met:

¹[Provided that where a trust has been dissolved under sub-section (1) within the territorial jurisdiction of a municipality and the properties, funds and dues have vested in the Government, it may transfer the property, funds and dues of the dissolved trust to the municipality which shall also bear all the legal liabilities of the trust subsisting at the date of its dissolution and further the employees of such trusts whose properties, funds and dues have been transferred to the municipality, after dissolution, shall be transferred to other trusts on any post carrying same scale of pay.]

(3) All properties, funds and dues, which had vested in the authority and had become realizable by the authority on the dissolution of the trust and all liabilities which were enforceable against the authority before the commencement of this Act, shall re-vest in the State Government and be realizable and enforceable through such authority as the State Government may, by notification, specify and such authority shall discharge the function of completion of the sanctioned schemes.

(4) After all functions referred to in clause (c) of sub-section (2) or sub-section (3) have been duly discharged —

- (a) the properties, funds and dues vested in or realizable by the State Government through such authority as the

1. Inserted by Haryana Act 14 of 2013.

State Government may, by notification, specify under clause (b) of sub-section (2) or sub-section (3), shall stand transferred to, vested in, and be realisable by the authority;

- (b) all liabilities enforceable against the State Government under clause (b) of sub-section (2) or sub-section (3) or incurred by it shall be enforceable against the committee.

(5) Notwithstanding anything contained in this Act, the State Government may, in accordance with the provisions of section 4, reconstitute a trust within a period of six months within any local area in which a trust was dissolved under sub-section (1) of section 105 and upon such reconstitution all the provisions of this Act shall apply to the reconstituted trust as if it were a trust created and constituted under sections 3 and 4.

- (6) From the date of reconstitution of the trust —
 - (a) any scheme the execution of which under clause (c) of sub-section (2) or sub-section (3) to be completed by the authority referred to in the said sub-sections shall, if such execution has not been completed before the date of reconstitution of the trust, stand transferred from such authority to the reconstituted trust and such trust shall take all steps for the completion of such scheme;
 - (b) all properties, funds and dues in respect of any such scheme, which under clause (b) of sub-section (2) or sub-section (3) were vested in the State Government or made realizable by the authority referred to in the said sub-sections, shall revest in and be realizable by the trust and the chairman, as the case may be;
 - (c) all liabilities in respect of any such scheme which were enforceable against the State Government shall be enforceable only against the reconstituted trust;
 - (d) the authority referred to in sub-sections (2) and (3) of this section, shall render to the reconstituted trust in respect of any such scheme, complete accounts of all moneys referred to in clause (d) of sub-section (2) of this section and if anything is found to be payable it shall be paid by the authority to the reconstituted trust; and

- (e) the authority referred to in sub-section (2) or sub-section (3) of this section, may by order transfer such employees as are, in its opinion, required for the execution of any such scheme or for due discharge of obligation by the reconstituted trust.

Repeal and savings.

106. (1) The Punjab Town Improvement Act, 1922 (Act 4 of 1922), in its application to the State of Haryana, is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken or any proceeding instituted under the Act so repealed and the rules made thereunder, shall be deemed to have been done or taken or instituted under this Act.

(3) All references in any enactments to any of the provisions of the Act so repealed shall be construed as reference to the provisions of this Act.

(4) The Punjab Town Improvement Rules framed under the Punjab Town Improvement Act, 1922 (Act 4 of 1922), as applicable to the State of Haryana, not inconsistent with the provisions of this Act, shall be deemed to have been framed under this Act till new rules are framed under this Act.

Validation.

¹[**107.** Notwithstanding anything contained in sub-section (1) of section 105 of the Haryana Town Improvement Act, 2008, the authorities specified to realize all properties, funds and dues, to enforce liabilities and to complete sanctioned schemes of the dissolved Improvement Trust as mentioned in the Schedule of the Haryana Government, Urban Local Bodies Department, Notification No. 1/76/2009-1CII, dated the 11th June, 2010 in exercise of the powers conferred by clause (c) of sub-sections (2) and (3) of section 105 of the Haryana Town Improvement Act, 2008, shall be deemed to have been validly specified notwithstanding notification under sub-section (1) of section 105 having not been issued, and the trusts shall be deemed to have been validly dissolved under sub-section (1) of section 105 and in accordance with the provisions of the said Act and accordingly all acts, proceedings or things done or actions taken or which may be done or taken by the said authorities and by the State Government for the whole of the State of Haryana shall, for all purposes, be deemed to be, and to have always been done and taken in accordance with law and shall not be called in question before any court of law on this ground.]

1. Added by Haryana Act 14 of 2013.