

Nagpur Improvement Trust Act, 1936

36 OF 1936

[25 December 1936]

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Nagpur Improvement Trust Act, 1936

36 OF 1936

[25 December 1936]

An Act to provide the improvement and expansion of the Town of Nagpur.

WHEREAS it is expedient to make provision for the improvement and expansion of the Town of Nagpur I n the manner hereinafter provided;

AND WHEREAS the previoussanction of the Governor-General, required by subsection (3) of section SO-A of the Government of India Act, and the previous sanction of the Governor, req uired by section 80-C of the said Act, have been obtained for the passing of

this Act;

It is hereby enacted as follows:-

CHAPTER 1 PRELIMINARY

1. Short title, extent and commencement :-

(1) This Act may be called the Nagpur ImprovrmeDt Trust Act, 1936.

(2) It extends to the area comprised within the limits of[the city]and to such other area outside those limites as thet [State] Government may, from time to time by notification, declare.

(3) It shall come into force on such date as the (State) Government may, by notification. appoint in this behalf.

2. Definitions :-

In this Act, unless there is anything repugnant in the subject or context,

(a) "betterment contribution" means the contribution prescribed by section 69 ;

(a-1) "building" means a house, hut, shed or other structure for whatever purpose and of whatever material constructed and every part there of, whether used as a human habitation or not, an includes well, latrine, drainage work, fixed platform,. Verandah, plinth, doorstep, compound wall, fencing and the like, and any work connected therewith.]

(b) " building line" means a line, in rear of the street. alignment,. up to which the main wall of a building abutting on a projected public street may lawfully extend;

(c) "Chairman" means the chairman of the Trust;

[(d) * * * * *]

(e) "Committee" means a committee constituted under sub-section (1) of section 18;

(f) "land" has the meaning assigned to it in clause (a) of section 3 of the Land Acquisition Act, 1894; .

[(g) * * * * *.]

(h) "regulation" means a regulation made under section 90 ;

(i) "rule" means a rule made under this Act;

(j) " street alignment" means a line dividing the land comprised in, and forming part of, a street from the adjoining land ;

(k) "Tribunal" means a tribunal constituted under section 62 ;

(l) the words and expressions not defined in this Act have the

meanings assigned to them in the [City of Nagpur Corporation Act, 1948].

(m) all references to anything done, required, authorized, permitted, forbidden or punishable, or to any power vested under this Act, shall include anything done, required, authorised. permitted, forbidden, or punishable or any power vested-

(i) by any provision of this Act; or

(ii) by any 1[rule, regulation or Scheme made] under the provision of t[City] Act; or

(iii) under any provisions of the §(City of Nagpur Corporation Act,1948] which the Trust has by virtue of this Act power to enforce.

CHAPTER 2 CONSTITUTION OF THE TRUST

3. Creation and incorporation of Trust :-

The duty of carrying out the provisions of this Act shall subject to the conditions and limitations hereinafter contained. be vested in a board to be called "The Nagpur Improvement Trust" hereinafter called "the Trust ". Such board shall be a body corporate and have perpetual succession and a common seal, and shall, by the said name sue or be sued.

4. Constitution of Trust :-

(1) The Trust shall consist of nine Trustees, namely :-

(a) a Chairman.

(b) the Chairman of the Standing Committee of the Corporation or, while the Corporation is under suspension, the Administrator of the City appointed under section 409 of the City of Nagpur Corporation Act 1948.

(c) the Chief Executive officer or, while the Corporation is under suspension, any officer of the Corporation nominated by the Administrator of the City;

(d) one councillor of the Corporation;

(e) four persons appointed under sub-section (2) of whom not less than two shall be non-officials residing within the limits of the area to which this Act applies;

(f) one member of *[Bombay] Legislative Assembly.] ;

(2) The Chairman and the [four] persons referred to in clause (e) of sub-section (1) shall be appointed by the t[State] Government by notification.

(3) Any person becoming of Trustee by virtue of clause (b) Or clause (c) of subsection (1) shall be an ex-officio Trustee].

(4) The Councillor referred to in clause (d) of sub-section (1) shall be elected by the Corporation].

(5) If the Corporation does not, within two months of the expiry of the term of a councillor elected under sub-section (4), elect a councillor to be a Trustee, the [State] Government may, by notification, appoint a councillor of the Corporation to be a Trustee, and any person So appointee shall be deemed to be Trustee as if he had been duly elected by the Corporation.

(6) Of the [four] persons referred to in clause (e) of sub-section (1) not more than [two] shall be servants of the [Government.]

(7) The member referred to in clause (f) of sub-section (1) shall be elected by [Bombay] Legislative Assembly from amongst its members ordinarily residing in Nagpur .]

Explanation.-For the purposes of this section the term servant of the [Government] means a whole time salaried servant of the Government.

4A. Special provisions relatini to constitution when committee is dissolved or superseded :-

xxx xxx xxx

5. Resilnation of trustee other than ex-officio trustee :-

Any Trustee, other than an ex-officio Trustee, may at any time resign his office provided that his resignation shall not take effect until accepted by the Trust.

6. Term of office of Chairman or ex-officio trustee :-

The term of office of Chairman or of any Trustee appointed under clause (e) of sub-section (1) of section 4 shall be five years, provided that the Chairman or Trustee may be removed from office by the State Government at any time before the completion of such term.]

7. Term of office of other trustees :-

(1) Every person becoming a Trustee under clause (b) or clause (c) of sub- section (1) of section 4 shall continue to hold office as such Trustee So long as he continues to hold office by virtue of which he becomes such Trustee.

(2) The term of office of every person becoming a Trustee by virtue of clause (d) of sub-section (1) of section 4, shall be five years or until he ceases to be a councilor of the Corporation, whichever period is less.

(3) The term of office of every person becoming a Trustee by virtue of clause (f) of sub-section (1) of section 4, shall be five years or until he ceases to be a member of -[Bombay] Legislative Assembly, whichever period is less.]

8. Commencement of term of office of first trustees :-

(1) The term of office of the first appointed and elected Trustees shall commence On such date as shall be notified in this behalf by the t[State] Government.

(2) A person ceasing to be a Trustee by reason of the expiry of his term of office shall, if otherwise qualified, be eligible for re-election or re-appointment.

9. Remuneration of Chairman :-

(1) No Trustee, other than the Chairman, shall receive any emoluments from the funds of the Trust.

(2) The Chairman shall receive such emoluments as may be sanctioned by the [State] Government from time to time and shall be subject to such terms and conditions of service as may be specified by the t[State] Government.

(3) While any person is holding the office of Chairman he shall not hold any other salaried office, and subject to any exception permitted by the [State) Government shall devote his whole time and attention to his duties under this Act.]

10. Removal of trustees :-

(1) The t[State] Government may remove from the Trust any Trustees other than an exofficio Trustee who-

(a) refuses to act, or becomes incapable of acting as a Trustee, or absents himself without the permission of the trust 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 Trust, or

(b) is an undercharged insolvent or has compounded with his creditors, or

(c) has been sentenced by a Criminal Court to Imprisonment for a

term exceeding six months or to transportation, or has been ordered to find security for good behavior under the Code of Criminal Procedure, such sentence or Order not having subsequently being reversed or remitted or the offender pardoned, or

(d) has 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 to the Trust or the Municipal Committee, or

(e) has acted as a trustee in a matter other than a matter referred to in clause

(iv) or clause (v) of the proviso to this sub-section in which he had either directly Or Indirectly, a person Interest, as a partner, employer. agent or counsel, or

(f) has acted in contravention of section 20, or

(g) being a legal practitioner, in any suit or other proceedings, acts or appears on behalf of any other person against the Trust, or acts or appears on behalf of any other person in any criminal proceedings instituted by or on behalf of the Trust :

provided that a person shall not be deemed for the purpose of this sub-section to acquire, or continue to have, any share or Interest in a contract or employment by reasons only of his-

(i) having a share or interest in any lease, sale or purchase of land or buildings, 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) 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 anyone year, such amount as the Trust, with the sanction of the - [State] Government, may fix in this behalf.

(2) The -[State] Government may remove from the Trust a trustee who in its opinion has so flagrantly abused in any manner his position as a Trustee as to render his continuance as a Trustee detrimental to the public interest.

(3) Wherever the -(State] Government proposes to take action under the foregoing provisions of this section, an opportunity of explanation shall be given to the Trustee concerned, and, when

such action is taken the reasons therefore shall be placed on record.

(4) A Trustee, who remains absent without the permission of the Trust for more than three consecutive months from the area to which this Act extends, shall be deemed to have resigned his office.

11. Disabilities of trustees removed under section 10 :-

(1) A Trustee removed under clause (a) or clause (c) of sub-section (1) of section 10, or under sub-section (2) of that section, shall not be eligible for election or appointment for a period of three years from the date of his removal.

(2) A Trustee removed under clause (b) of sub-section (1) of section 10 shall not be So eligible until he has obtained his discharge or has paid his creditors in full, as the Case may be.

(3) A Trustee removed under any other provisions of section 10 or deemed to have resigned under sub-section (4) of that section shall not be so eligible until he is declared" to be no longer in eligible by an order of the -[State] Government.

12. Filling .of casual vacancies :-

(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 I t e vacancy.

(2) When the place of a Trustee elected under clause (d) of sub-section (1) of section 4 becomes vacant by his resignation, removal or death, the vacancy shall be filled, within two months of the existence of such vacancy being notified to [the Corporation] by the Trust. in the manner provided by sub-setion (4) of the same section. provided that if [the Corporation] fails to elect a qualified person to fill the vacancy within the said period, the provisions of sub-section (5) of section 4 shall apply.

[(2-A) When the place of a Trustee elected under clause (f) .of sub-section (1) of section 4 becomes vacant by his resignation, removal or death, It shall be filled In the same manner in which the original appointment was made.]

(3) The term of office of a Trustee appointed or elected under this section shall be the remainder of the term of the office of the Trustee In whose place he has been elected or appointed:

Provided that no person elected or appointed under sub-section (2) shall continue to be a Trustee after he has ceased to be a member of .[the Corporation), but he may So continue notwithstanding that

the Trustee in whose place he Was elected or appointed has ceased to be a member of the said .[the Corporation].

13. Leave of absence or deputation of the Chairman :-

(1) The [State] Government may, after consultation with the Trust, grant leave of absence to the Chairman, or depute him to other duties for such period as it may think fit

(2) The allowance, if any, to be paid to the Chairman during his absence on leave or deputation shall be such amount, not exceeding his salary, as may be fixed by the [State] Government:

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

14. Appointment, etc., of actinl Chairman :-

(1) Whenever the Chairman is granted leave of absence or deputed to other duties, the [State] Government may appoint a person to act as Chairman in his pace.

(2) The salary, house rent and conveyance allowance, if any, of any person appointed to act as Chairman shall be fixed by the [State] Government, subject to the provisions of section 9.

(3) Any porson appointed to act as Chairman shall exercise the powers and perform the duties conferred and imposed by or under this Act on the Chairman, and shall be subject to the same liabilities, restrictions and conditions as the Chairman.

15. Leave of absence of Trustees other than ex-officio Trustee :-

The Trust may permit any Trustee, other than the Chairman or the ex-officio trustee, to absent himself from the meeting of the Trust for any period not exceeding six months.

CHAPTER 3 PROCEEDINGS OF THE TRUST AND COMMITTEES

16. Meetings of trust :-

(1) The Trust shall meet together and shall from time to time make such arrangements, not inconsistent with this Act, with respect to the place, day, hours notice, management and adjournment of such meetings, and generally with respect to the transaction of business,

as it may think fit, subject to the following provisions, namely :-

- (a) an ordinary meeting shall be held once at least in every month;
 - (b) the Chairman may, whenever he thinks fit, and shall, upon the written request of not less than Two Trustees, call a special meeting;
 - (c) no business shall be transacted at any meeting unless at least three Trustees are present;
 - (d) every meeting shall, if the Chairman be present, be presided over by him; if he is absent, by such one of the Trustees present as may be chosen by the meeting;
 - (e) all questions shall be decided by a majority of votes of the Trustees present and voting, the person presiding having a second or casting, vote in all cases of equality of votes;
 - (f) if a poll be demanded, the names of the Trustees voting, and the nature of their votes shall be recorded by the person presiding;
 - (g) minutes shall be kept of the names of the Trustees present and of the proceeding at each meeting in a book to be provided for this purpose, which shall be signed at the next meeting by the person presiding over that meeting. and shall be open to inspection by any Trustee during, office hours.
- (2) No person shall be entitled to object to the minutes of any meeting, unless he was present at the meeting to which they relate.

17. Temporary association of members with Trust for particular purposes :-

- (1) The Trust may associate with in such manner and for such period as may be prescribed by regulations, any persons whose assistance or advice it may desire in carrying out any of the provisions of this Act.
- (2) A person associated with the Trust under sub-section (1) for any purpose shall have a right to take part in the discussions of the Trust relative to that purpose, but shall not have a right to vote at a meeting of the Trust, and shall not be a member of the Trust for any other purpose.

18. Constitution and functions of committees :-

- (1) The Trust may from time to time appoint committees, consisting of such persons of any of the following classes as it may think fit, namely :
- (i) Trustees;

- (ii) persons associated with the Trust under section 17 ;
- (iii) other persons whose assistance or advice the Trust may desire as member of committees:

Provided that no committee shall consist of less than three persons, of whom at least one shall be a Trustee.

(2) The Trust may-

- (a) refer to such committees, for inquiry and report, any matter relating to any of purposes of this Act, and
- (b) delegate to such committees by specific resolution, and subject to any regulations, 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 from time to time given to it by the Trust.

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

19. Meetings of committees :-

(1) A committee appointed under section 18 .may meet and adjourn as it thinks proper; but the Chairman may, whenever he thinks fit, [and Shall, upon the written request of not less than two members there of, call a special meeting of such committee,]

(2) The Chairman may attend any meeting of a committee whether he is a member of such committee or not, and shall preside at ever) such meeting at which he is present; if he is absent, such one of the Trustee present as may be chosen by the meeting Shall preside,

(3) All questions at any meeting of a committee shall be decided by a majority of vOtes of the members present and voting. the person presiding having a second or casting vote in an cases of equality of votes,

(4) No business shall be transacted at any meeting of a committee when either less than two members of, or less than one-fourth of the members constituting the committee whichever is greater are present,

20. Trustees and associated members of Trust or Committees not to take part in proceeding in which they are personally interested :-

(1) A Trustee who-

(a) has, directly himself or Indirectly as partner, agent, employer or counsel any such share or interest as is described In sub-section (1) of section 10, in respect of any matter, or

(b) has acted professionally, 10 relation to any matter, on behalf of any person having therein any such share or interest as aforesaid, shall not vote or take any other part in any proceedings of the Trust or any committee relating to such matter,

(2) If any Trustee, or any person associated with the Trust under section 17, or any other member of a committee appointed under this Act, has, directly or indirectly, as partner, agent, employer or counsel any beneficial interest in any land Situated in an area comprise(! in any improvement scheme framed under this Act, or in 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 proceedings at a meeting of the Trust or any committee relating to such area, inform the person presiding at the meeting of the nature of such interest,

(ii) he shall not vote at any meeting of the Trust or any committee upon any resolution or question relating to such land.. and

(iii) he shall not take any other part in any proceeding at a meeting of the Trust or any committee relating to such area if the person residing at the meeting, Considers it inexpedient that he should do so Officers and Servants

21. Power or Trust to fix number and salaries. of its servant

:-

(1) Subject to such rules as the -[State] Government may make prescribing the conditions under which members of the staff appointed by the Trust to offices requiring professional skill may be appointed, suspended or dismissed, the Trust may from time to time fix the number and salaries of such permanent servants as it , may think necessary and proper to assist in carrying out the purposes of this Act: Provided that the Trust may, with the previous sanction of the -[State] Government, appoint a person possessing professional skill on a short term contract for a period not exceeding five years,

(2) The Chairman may in cases of emergency appoint such temporary servants as may in his opinion be required for the purposes of this Act, and may direct that the salaries or such temporary servants fixed as the emergency may require shall be paid from the Trust fund:

Provided that-

- (i) he shall not act under this sub-section in contravention of order of the Trust prohibiting the employment of temporary servants for any particular work, and
- (ii) every appointment made under this sub-section shall be reported at the . next following meeting of the Trust.

21A. State Governments control over the establishment of the Trust :-

(1) The Trust shall before the 31st March of each year prepare statement showing-

- (a) The number, designation and grades of the officers and servants (other than Employees who are paid by the day or week or whose pay is- charged to Any sanctioned work) whom it considers it necessary and proper to continue In employment or to employ for the purpose of this Act during The succeeding year.
- (b) The amount and nature of the Salary, fees and allowance to be paid to each such officer or servant, and
- (c) The contribution payable under section 110 in respect of each such O Or servant,

And submit the same to the. [State] Government.

(2) Within a period of three months from the date of receipt of the statement under sub-section (1). the .[State] Government may, if in its opinion, the number of person employed by the Trust as officer~ or servants, or whom the Trust may propose to. employ as such, or the remuneration proposed or fixed by the Trust to those person or any of them is excessive, direct the Trust to reduce such number of person. the remuneration. of any such person. as the case may be, and the Trust shall comply with such direction:

Provided that no such direction shall be given in respect of persons holding post the maximum monthly salary of which does not exceed five hundred rupees, nor shall any direction be given for the reduction in the number of person. specified in, or for the reduction of the remuneration of an employee continued on the terms pecified in a statement previous to the statement last submitted.]

22. Power of appointment, etc :-

Subject to the provisions of sect 21 and to any rules for the time being in) Force the power of appointing, promoting, and rerating leave to office and servant- of the trust, and reducing, suspending, or dismissing hem for misconduct, and Dispensing with their

services for any reason other than misconduct, shall be vested
(a) in the Case of officers and servants whose monthly salary does not ex one hundred and fifty rupees, in the Chairman, and
(b) in other cases, in the trust
Provided that any officer or servant in receipt of a monthly salary exceeding fifty rupees who is reduced, suspended, or dismissed by the Chairman may appeal to Trust, whose decision shall be final..

23. Control by Chairman :-

The Chairman shall exercise supervision and control over the acts and proceedings of all officers and servants of the Trust; and subject to the provision of section 8 21 and 22, shall dispose of all questions relating to the service of the laid officers and servants and their pay, privileges, or allowances.

24. Delegation of certain of Chairmans functions :-

(1) The Chairman may, by general or special order in writing, delegate to any Trustee or officer of the Trust any of the Chairmans powers, duties or functions under this Act or any rule [or regulation] made thereunder, except those conferred or imposed upon or vested in him by sections 16, 19, 25 and 49.

(2) The exercise or discharge by any such officer of any powers, duties or functions delegated to him under sub-section (1) shall be subject to such conditions and limita tions, if any, as may be prescribed in the said order, and also to control and revision by the Chairman.

24A. Inspection of examination of departments, etc., of Trust :-

(1) The [State] Government may depute any officer to make an inspection or examination of any department, office, service, work or thing under the control of the Trust or to make an enquiry into the conduct of an officer of the Trust and to report to the [State] Government the result of such inspection, examination or enquiry.

(2) Any officer so deputed shall have power to require the production of any record, correspondence or document in the possession or control of the Trust, and to inspect any work or service under the control of the Trust.

24B. Punishment of officer or servant of Trust :-

If on receipt of the report of enquiry under sub-section (7) of section 24-A, the [State] Government is of opinion that any officer or servant is guilty of misconduct, it may, after giving him an opportunity to be heard, direct that the Trust shall punish him and if in the opinion of the [State] Government he is unfit for his employment, the Trust shall dismiss him.

24C. Power of the [State] Government to direct proper Performance of duties :-

If the [State] Government is of opinion that any of the duties imposed on the Trust has not been performed or has been performed in an imperfect manner, the [State] Government may direct the Trust to make arrangements for the proper Performance of the duties or to take such measures as may be specified by the [State] Government.]

25. Supply of information and documents to Government :-

(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 prescribed in clause (g) of sub-section (1) of section 16.

(2) If the [State] Government so directs in any case, the Chairman shall forward to it a copy of all papers which were laid before the Trust for consideration at any meeting.

(3) The [State] Government may require the Chairman to furnish with-

(a) any return, Statement, estimate, statistics or other information regarding any matter under the control of the Trust, or

(b) a report on any such matter, or

(c) a copy of any document in the charge of the Chairman.

The Chairman shall comply with every such requisition without unreasonable delay.

CHAPTER 4 IMPROVEMENT SCHEM

26. Matters to be provided for by improvement schemes :-

An improvement scheme may provide for all or any of the following, matters namely:-

(a) the acquisition by purchase, exchange, or otherwise of any property necessary for or affected by the execution of the scheme;

- (b) the recovery of betterment contributions [-----]
- (c) the re-lay out of any land comprised in the scheme
- (d) the re-distribution of sites belonging to owners of property dwelling unfit for human habitation
- (e) the closure or demolition of dwelling or portions of dwelling unfit for human habitation;
- (f) the demolition of obstructive buildings or portions of building
- (g) the construction and re-construction of buildings ;
- (h) the sale, letting, or exchange of any property comprised in the scheme;
- (i) the construction and alteration of streets and back lanes
- (j) the draining, water-supply and lighting of streets so constructed or altered
- (k) the provision of parks, playing-fields and open spaces for the benefit of any area comprised in the scheme or any adjoining area, and the enlargement of existing parks, playing-fields, open spaces and approaches
- [(k-l) the provision of markets, motor vehicle stands, fire-brigade station, theaters, public urinals and latrines, petrol service stations and other public amenities or the sites therefore]
- (l) the sanitary arrangements required for the area comprised in the scheme" including the conservation and prevention of injury or contamination to rivers or other sources and means of water-supply;
- (m) the provision of accommodation for any class of the inhabitants
- (n) the advance of money for the purposes of the scheme;
- (o) the provision of facilities for communication;
- (p) the reclamation or reservation of land for market, gardens, a forestation , the provision of fuel and grass supply, and other needs of the population, and..
- (q) any other matter for which, in the opinion of the [State] Government, it is expedient to make provision with a view to the improvement of any area in question or the general efficiency of the scheme.

27. Types of improvement schemes :-

An improvement scheme shall be of one the following types or may combine. any two or more of such types, or of any special features thereof, that is to say.-

- (a) a general improvement scheme;
- (b) a re-building scheme;

- (c) a re-housing scheme;
- (d) a street scheme;
- (e) a deferred street scheme;
- (f) a development scheme;
- (g) a housing accommodation scheme [.....] ;
- [(h) a future expansion or improvement scheme] ;
- [(i) a drainage or drainage including sewage disposal scheme.]

28. General Improvement .schemes :-

Whenever it appears to the Trust-

- (a) that any buildings in any area which are used or are intended or likely to be used as dwelling places are unfit for human habitation, or
- (b) that danger to the health of the inhabitants of buildings in any area or in any neighboring buildings is caused by-
 - (i) the narrowness closeness, or bad arrangement and condition of streets or buildings or groups of buildings in such area, or
 - (ii) the want of light, air, ventilation or proper conveniences in such area, or
 - (iii) any other sanitary defects in such area,- the Trust may pass a resolution to the effect that such an area is an insanitary area, and that a general improvement scheme ought to be framed in respect of such area, and may then proceed to frame such a scheme.

29. Re-building scheme :-

(1) Whenever it appears to the Trust that any area is an insanitary area within the meaning of section 28 and that, regard being had to the comparative value of the buildings in such area and of the sites on which they are erected, the most satisfactory method of dealing with the area or any part thereof is a re-building scheme, it shall frame a scheme in accordance with the provisions of this section.

(2) A re-building scheme may provide for-

- (a) the reservation of streets, back lanes, and open spaces and the enlargement of existing streets back lanes, and open spaces to such an extent as may be necessary for the purposes of the scheme;
- (b) the re-laying out of the sites of the area upon such streets, back lanes, or open spaces so reserved or enlarged ;
- (c) the payment of Compensation in respect of any such reservation or enlargement, and the construction of the Streets, back lanes,

and open spaces so reserved or enlarged ;

(d) the demolition of the existing building and their appurtenances by the Owners, or by the Trust in default of the owners, and the erection of buildings in accordance with the scheme by the said owners or by the Trust in default of the owners upon the sites as defined under the scheme;

(e) the advance to the owners, Upon such terms and conditions as to interest and sinking fund and otherwise as may be prescribed under the scheme, of such sums as may be necessary to assist them to erect new buildings in accordance with the scheme;

(f) the acquisition by the Trust of any site or building comprised in the area included in the scheme.

30. Re-housing scheme :-

The Trust may frame schemes (herein called re-housing schemes) for the construction, maintenance and management of such and 10 many dwellings and shops as it may consider ought to be provided for persons who-

(a) are displaced by the execution of any impotent scheme sanctioned under this Act, or

(b) are likely to be displaced by the execution of any improvement schemes it is intended to frame, or to submit to the .[State] Government for sanction under this Act.

31. Street scheme :-

(1) Whenever the Trust is opinion that, for the purpose of-

(a) Providing building sites, or

(b) remedying defective ventilation or

(c) creating new or improving existing means of communications and facilities for traffic, or

(d) affording better facilities for [conservancy and drainage] it is exigent to layout new streets or alter existing streets (including bridges, causeways and culverts), the Trust may pass a resolution to that effect, and shall then proceed to frame a street scheme for such area as it may think fit.

(2) A street scheme may, within the limits of the area compressed scheme provide for-

(a) the acquisition of any land which will, in the opinion of the Trust, be necessary for its execution;

(h) the re-laying out of all or any of the lands so acquired, including the construction and re-construction of buildings by the

Trust or by any other person and the laying-out, construction and alteration of streets and thoroughfares;

- (c) the draining water-supply, and lighting of streets and thoroughfares so laid out, constructed or altered;
- (d) the raising lowering, or reclamation of any land vested in, or to be acquired by the Trust for the purposes of the scheme;
- (e) the formation of open spaces for the better ventilation of the area comprised in the scheme;
- (f) the acquisition of any land adjoining any street, thoroughfare, or open space to be formed under the scheme.

32. Deferred street scheme :-

(1) Whenever the Trust is of opinion that it is expedient for any of the purpose mentioned in section 31 to provide for the ultimate widening of any street by altering the existence alignments of such street to improved alignments to be prescribed by the Trust, but that it is not expedient immediately to acquire all or any of the properties lying within the proposed improved alignments, the Trust, if satisfied of the sufficiency of its resources, may pass a resolution to that effect, and shall forthwith proceed to make a scheme to be called a "deferred street scheme" prescribing an alignment on each site of such street.

(2) No person shall erect, add to or alter any building or wall so as to make the same project beyond the prescribed alignment of the street except with the written permission of the Trust.

(3) The deferred street scheme shall provide for-

(a) the acquisition of the whole or any part of any property lying within the prescribed street alignments.

(b) the re-laying out of all or any such property including the construction and re-construction of buildings by the Trust or by any other person and the formation and alteration of the street;

(c) the draining and lighting of the street so formed and altered.

(4) The owner of any property included in a deferred street scheme may at any time after the scheme has been sanctioned by the State Government, give the Trust notice requiring it to institute proceedings for the acquisition of such property before the expiration of six months from the date of such notice and though the Trust shall acquire such property accordingly.

(5) Before proceeding to acquire any property within the limits of the scheme other than property regarding which it has received a notice under sub-section (4) the Trust shall give six months notice

to the owner of its intention to acquire the property.

(6) Upon the scheme been sanctioned by the 8 [State] Governments and not with. Standing anything contained in .t[the City of Corporation Act, 1948) : [the Corporation or its Chief Executive Officer) shall not prescribe a regular line of the strict within the limits of the scheme and any such regular line previously prescribed within such limits shall cease to be the regular line of the strict.

33. Development scheme :-

(1) In regard to ally area to which this Act §[extend~] the Trust may, from Time to time, prepare a scheme of proposed public streets with plans showing the Direction of such streets, the street alignment and building line on each side of them, Their intended width and such other details as may appear desirable.

(2) When any such scheme has been notified under section 45 the street to which it Refers shall be deemed to be a projected public street.

(3) If any person desires to erect, re-erect, add to or alter any building or wall 10 as to make the same project beyond the street alignment or building line shown in Any plan so adopted, he shall apply to the Trust for permission to do so.

(4) If the Trust refuses to grant permission to any person to erect on his land any Building or wall to project as aforesaid, and if it does not proceed to acquire such land Within one year from the date of such refusal, it shall pay reasonable compensation to such person for any damage sustained by him in consequence of such refusal.

(5) When any building wall or part there of projecting beyond or adjacent to the Street alignment or building line shown In any plan adopted as aforesaid has fallen Down, or been burnt down or taken down the Chairman may, by written notice, Require or permit the same to be set back or forward, as the case may be, from or towards such street alignment or building line.

(6) When any building or wall is set back or forward i~ pursuance of a requisition Made under sub-section (5), the Trust shall forthwith make full compensation to the owner of the building or wall for any damage that he may sustain thereby.

(7) If the additional land which will be included in the premi.5e5: of any person Required or permitted under sub-section (5) to set forward a building, wall or part thereof belongs to the Trust the

requisition or permission of the Chairman to set Forward the building shall be a 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.

(8) If when the Chairman requires a building, wall or part thereof to be set forward, the owner thereof is dissatisfied with any: of the terms or conditions of the Conveyance the Chairman shall, upon the application of the said owner at any time Within fifteen days after the said terms and conditions are communicated to him, refer the case for the determination of the Tribunal whose decision shall be final.

(9) Upon any scheme under this section being sanctioned by the - [State] Government and notwithstanding anything contained in t{the City of Nagpur Corporation Act, 1948] the Corporation or its Chief Executive Officer] shall not prescribe a Regular line of the street within the limits of the scheme, and any such regular line Previously prescribed within such limit shall cease to be the regular line of the street.

34. Housing accommodation scheme :-

Whenever the Trust is of opinion that it is expedient and for the public advantage to provide housing accommodation for any class of the inhabitants of any area to which this Act § {extends]. It may frame a scheme (to be housing accommodation scheme ") for such purpose.

35. Future expansion of improvement scheme :-

(1) whenever the: Trust is of opinion that is expedient and for public 4 Advantage to control and provide for the future lire. Improvement or expansion) of the town o Nagpur, whenever within or without the limits of the city the Trust: May frame a scheme therefore.]

(2) Such scheme sllall show the method in which it is proposed to layout though 81M to be enveloped and the purposes for which particular areas are to be utilized.

(3) For the purposes of q[suc~1scheme] the provisions of clause (a) of sub-section. (e) of section 43 shall not be applicable, but the Trust shall furnish such details as the - [State] Government may consider necessary.

(4) After any such scheme has been notified under section 45, if any person if any person Desire to erect, re-erect. add to or alter

any building or wall within the area comprised the said scheme, he shall apply to the Trust for permission to do so.

(5) If the Trust refuses to grant permission to any person to erect, re-erect or alter any building or wall on his land in the area aforesaid, and if it does proceed to acquire such land within one year from the date of such refusal, it shall pay reasonable compensation to such person for any damage sustained by him in consequence of such refusal.

35A. Drainage or drainage including sewage disposal scheme :-

(1) Whenever the Trust is of opinion that it is expedient to provide for Drainage or drainage including sewage disposal for any area, the Trust may pass a Resolution to that effect, and shall then proceed to frame a drainage or drainage including sewage disposal scheme for such area.

(2) A drainage or drainage including sewage disposal scheme may provide for

(a) the acquisition of any land which will, in the opinion of the Trust, be necessary for its execution

(b) the draining or sewage of the land under the scheme;

(c) the laying out or re-laying out of all or any of the lands under the scheme including the construction and re-construction of buildings, aqueducts, Distributaries, effluent channels, treatment works, and overflow tank by the Trust or by any other persons, as the case may be ;

(d) the establishment and maintenance of a farm or factory for the disposal of the contents of drains or sewers or both

(e) the re-establishment of villages, the inhabitants of which are likely to be affected by the scheme.

(3) For the purposes of such scheme and to facilitate more speedy action at any stage, the [State] Government may permit such variations in the requirements of clause (0) of sub-section (2) of section 43 as it may think fit). Procedure to be followed in framing an improvement scheme:

36. Official representation :-

(1) An improvement scheme may be framed upon an official representation by [the Corporation or otherwise.]

(2) An official representation referred to in sub-section (1) may be made by [the Corporation] .

(a) on its own motion, or

(b) on a written complaint by the Chief Executive Officer or the Health Officer. or

(c) in respect of any area comprised in a [Corporation ward]. on a written complaint signed by twenty-five or more residents of such ward who are liable to pay [Property tax under the City of Nagpur Corporation Act, 1948.].

(3) if [the Corporation] decides not to make an official representation on any complaint made to it under clause (d) or clause (c) of sub-section (1) it shall cause a copy of such complaint to be sent to the Trust, with a statement of the reasons for its decision.

37. Consideration of official representation :-

(1) The Trust shall consider every official representation made under section 36 and, if satisfied as to the truth thereof and as to the sufficiency of its resources, shall decide whether an improvement scheme to carry such representation into effect should be framed for with or not and shall forthwith intimate its decision to the corporation

(2) if the trust decided that it is not necessary or expedient to frame such an improvement scheme for with it shall inform the corporation of the reasons for its decisions

(3) If the Trust fails, for a period of twelve months after the receipt of any official representation made under section 36, to intimate its decision to the corporation or if the Trust intimates to the Corporation its decision that it is not necessary or expedient to frame an improvement scheme forthwith or decides to frame a scheme of a type other than that recommended by (the Corporation), [the Corporation], may, if it thinks 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 considers that the Trust ought, in all the circumstances, to have passed a decision within the such further period as the [State] Government may think reasonable, or

(b) if it considers that it is in all the circumstances expedient that a scheme should forthwith be framed; shall direct the "Trust to proceed forthwith to frame a scheme. Such direction may prescribe the type of scheme to be framed.

(5) The Trust shall comply with every direction given by the -

[State] Government under sub-section (4);

38. Matters to be considered when framing, improvement schemes :-

When framing. An improvement scheme in respect of any area regard shall be had to

- (a) the nature and the conditions of neighboring area and of the town as a whole
- (b) the several directions in which the expansion of the town appears likely to take place; and
- (c) the likelihood of improvement schemes being required for other parts of the town.

39. Preparation. Publication and transmission of notice as to improvement schemes and supply of documents to applicants :-

(1) When any-improvement Scheme has been framed. the Trust shall prepare a notice. stating-

- (a) the fact that the scheme has been framed.
- (b) the boundaries of the area Comprised in the scheme. and
- (c) the place at which particulars of the scheme. a map of the area comprised in the scheme, and a statement of the land which it is proposed to acquire and the land in regard to which it is proposed to recover a betterment contribution. may be seen I at reasonable hours.

(2) The Trust shall-

- (a) cause the said notice to be published weekly for three consecutive weeks in the Official Gazette and in a local newspaper or newspapers. if any. with a statement of the period within which objections will be received. and
- (b) send a copy of the notice to the [C. E. O. of the Corporation].

(3) The Chairman shall-cause Copies or extracts of all documents referred to in clause (c) of sub-section (1) to be delivered to any applicant on payment of such fees as may be prescribed by regulation.

40. Transmission to Trust of representation by .(the Corporation]as to Improvement scheme :-

[The C. E. O. of the Corporation] On receiving a copy of notice sent to him under clause (b) of sub-section (2) of section 39 shall. With

in a period of sixty days from the receipt of the said copy forwarded to the Trust any representation which [the Corporation] may think fit to make with regard to the scheme

41. Notice of proposed acquisition of land :-

(1) During the thirty day next following the first day on which any notice is Published under section 39 in respect of any improvement scheme, the Trust shall serve a notice on-

- (a) every person whose name appears in the Municipal assessment list of land [Authorized Under section 133 of the City of Nagpur Corporation Act 1948. as owner of] any building or land which it is proposed to acquired in executing the (scheme or] in regard to which it proposes to recover a betterment contribution, and
- (b) the occupier (Who need not be named) of each premises entered in the municipal assessment list which the Trust proposes to acquire in executing the scheme.

(2) Such notice shall-

- (a) state that the Trust proposes to acquire such land or to recover such betterment contribution for the purpose of carrying out an improvement scheme. and .
 - (b) require Such person. if he presents from such acquisition or from the every of such betterment contribution. to state his reason in writing within a period of sixty days from service of the notice,
- (3) Every such notice shall be signed by, or by the order of the Chairman.

42. Furnishing of copies or extracts from the municipal assessments book :-

[The Chief Executive Officer of the Corporation] shall turnish the Chairman, at his request, with a copy of, or extracts from the 1[Municipal assessment list author II of ticated under section 133 of the City of Nagpur Corporation Act, 1948,) on payment of such fees as may be prescribed by rule made under section 1989.

43. Abandonment of improvement scheme, or application to State Government to sanction it :-

(1) After the expiration 01 the periods respectively prescribed under clause (a) or sub-section (2) or section 39, by section 404, and by clause (b) or sub-section (2) of section 41, in respect of any improvement scheme, the Trust shall consider any objection.

representation." or statement. or ,descent received thereunder. and after hearing all persons making any such objection, representation or dissent, who may desire to be heard, the Trust may either abandon the scheme or apply to the [State] Government for sanction to the scheme with such modifications, if any, as the Trust may consider necessary.

(2) Every application submitted under sub-section (1) shall be accompanied by-

(a) a description of. and full particulars relating to the scheme, and complete Plans and estimates of the Cost of executing the scheme ;

(b) a description of the street, square, park, open space or other land. or any part thereof, which is the §[Property of the [Government] and managed by the Central Government or the t[State] Government required for the scheme ;

(c) a statement or the reason for any modifications made in the scheme as Originally framed;

(d) a statement of objections, if any. Received under section 39 ;

(e) any-representation received under section 40 ; (1) a list of the names or all persons, if any, who have dissented, under clause (b) of sub-section (2) of section 41. from the proposed acquisition of their land or from the proposed recovery of a betterment contribution and a statement of the reasons given for such dissent; and .

(g) a statement of the arrangements made or proposed by the Trust for the rehousing of persons likely to be displaced by the execution of the scheme for whose rt-housing provision is required.

(3) Omitted.

(4) When any application has been submitted to the t[State] Government under Sub-section (1), the Trust shall cause notice of the fact to be published for two Consecutive weeks in the official Gazette and in a local newspaper or newspapers, if any:

Provided that the provisions of sub-section (2) of section 44 regarding republican tion under section 39 shall apply to modifications made by the Trust under-subsection (1).

44. Power to sanction, reject or return improvement schemes :-

(1) The t[State] Government may sanction, either with or without modification, or may refuse to sanction, or may return for reconsideration, any improvement! Scheme submitted to it under section 43. I

(2) If a scheme returned for reconsideration under sub-section (1) is modified I by the Trust, it shall be republished in accordance with section 39- I

(a) in every case in which the modification affects the boundaries of the area 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 t[State) Government, not of sufficient importance to require republication.

45. Notification of sanction of improvement scheme and order regarding vesting of property in Trust :-

(1) Whenever the t[State] Government sanctions an improvement scheme, it-

(a) shall announce the fact by notification and, except in the case of a deferred I street scheme, development scheme, or [future expansion or improvement scheme,] the Trust shall forthwith proceed to execute the same; ,

(b) may order that any street, square, park, open space or other land. or any part thereof, which is the §[,:property of the [Government] and managed by the Central Government or the [State] [Government.) shall, subject to such conditions as it may impose, vest in the Trust for the purpose of the scheme.

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

46. Alteration of improvement scheme after sanction :-

At any time after an improvement schc-me has been sanctioned by the [State) Government and before it has been [completed,] the Trust may alter it Provided as follows:-

(a) if any alteration is likely to increase the estimated net cost of execution a scheme by more than Rs. 50,(XX) or S per cent. of such Cost, such alteration shall not be made without the previous sanction of the [State] Government;

(b) if any alteration involves the acquisition. Otherwise than by agreement, of any land thc acquisition of which has not been sanctioned by the [State] Government the procedure prescribed in the foregoing sections of this Chapter shall, so far as applicable, be followed as If the alteration, were a separate scheme;

(c) if owing to changes made in the course of a scheme, any land

not previously liable under the scheme to the payment of a battement contribution Subsequent. becomes liable to such payment, the provisions of sections 39,41 and 43 shall, as far as they are applicable, be followed in any such case

46A. power of the State Government to sanction acquisition of land Consequent on refusal of permission under sections 33 (4) or 35 (5) :-

Notwithstanding anything contained in clause (b) of the proviso to section 46, the -[Commissioner] may, on application by the Trust, santion the acquisition of any land which is to acquired Consequent on the refusal of permission : under sub-section (4) of section 33 or sub-section (5) of section 35 ; and shall announce the fact by notification which shall be deemed to be a notification under section 45.]

47. Combination of improvement schemes :-

Any number of areas in respect of which improvement schemes have been. or are proposed to be framed, may at any time be included in one Combined scheme.

CHAPTER5 POWERS AND DUTIES OF THE TRUST 'WHERE A SCHEME HAS BEEN SANCTIONED

48. Transfer to Trust, for purposes of improvement scheme of building or land belonging to -[the Corporation :-

(1) whenever any building, street, square or other land. or any part thereof, which is vested in the :[Corporation] is required for executing any. Improvement scheme, the Trust shall give notice accordingly to the §[C. E. O. of the Corporation] : and such building, street, square, land or part shall thereupon vest in the Trust, I subject in the case of any permanent roofed building to the payment .to [The. Corporation] of such sum as may be required to compensate It for actual loss resulting from the transfer thereof to the Trust.

(2) If any question or dispute arises as to the sufficiency of the Compensation paid or proposed to be paid under sub-section (1) the matter shall be ~ referred to the : [State] Government whose decision shall be final.

49. Transfer of private street or square to Trust for purpose

of improvement scheme :-

" (1) Whenever any street, or square or a part thereof which is not vested in [the Corporation] is required for executing any Improvement~ scheme, the Trust shall cause to be affixed, in a conspicuous place in or near such a street, square or part, a notice signed by the Chairman-

(a) stating the purpose for which the street, or square or a part thereof is required.

(b) declaring that the Trust will, on or after a date to be specified in the notice, such date being not less than thirty days after the date of notice, take over charge of such street, square or part from the owner thereof; and shall simultaneously send a copy of such notice to the owner of such street, square or part.

(2) After considering and deciding all objections, if any, received in writing before the date so specified, the Trust may take over charge of such street, square or part from the owner thereof; and the same shall thereupon vest in the Trust.

(3) When the Trust alters or closes any street or square or part thereof which has vested in it under sub-section (2), it shall pay reasonable Compensation to the previous owner for the loss of his rights therein.

50. Provision of drains or water-work to replace another situated on land vested in Trust under section 45 or section 48 or section 49 :-

(1) When any building, or any street, square or other land, or any part thereof, has vested in the Trust under section 45 or section 48 or section 49, no [Corporation 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 Corporation] in place of the former drain or work.

(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. !

51. Power of Trust to turn or close public street or square vested in it :-

(1) The Trust may-

(a) turn, divert, discontinue the public use of, or permanently close, any public street vested in it, or any part thereof, or

(b) Discontinue the public use of, or permanently close any public square vested in it, or any part thereof.

(2) Whenever the Trust discontinues the public use of, or permanently closes any public street vested in it, or any part thereof, it shall pay reasonable Compensation to every person who was entitled, otherwise than as a mere licensee, to use such street or part as means of access and has suffered damage from such discontinuance or closing. .

(3) Whenever the Trust discontinues the public use of or permanently closes, any public square vested In It, or any part thereof it shall pay reasonable compensation to every person-

(a) who was entitled, otherwise than as a mere licensee, to use such square or part as means of access, or

(b) whose immoveable property was ventilated by such square: or part, and who has suffered damage-

(i) in case (0) from such discontinuance or closing, or

(ii) in case (b) from the use to which the Trust has put such square or part.

(4) In determining the compensation payable to any person under sub-section (2) or sub-section (3), the Trust shall make allowance for any benefit accruing to him from the construction~ provision or improvement of any other public street or square at or about the same time tnat the public street or square or Part thereof, On account of which tilc compensation is paid, is discontinued or closed.

(5) When any public street or square vested in the Trust, or any part Ihereof Permanently closed under sub-section (1), the Trust may scll or lease so much of the same as is no longer required.

52. Power under [the City of Nagpur Corporation Act, 1948] Vested in the Trust :-

(1) -[The provisions of sections 171,172,175 to 178,191,213 to 217, 219 to 221,229 to 232.273 to 279, 284 to 289,297,299,300,303,304,314,318 (2), 319.320, 328 ~o 330, 335 and clauses (21) and (22) of section 415] of the City of Nag1*fCorporatIon Act, 1948 shall, So far as may be Consistent with the tenor of this Act, apply to all area in respect of which an improvement scheme is in force; and for the period during which

such schemes remain in force all references in the said section to t[the Corporation] or to }[the Chief Executive Officer of the Corporation,) or to. any officer of [the Corporetion] shall be Construed as referring to the Trust, which in respect of any such areas, may alone exercise and perform all or any of the power and function" which under any of the said sections might have been exercised a performed [the the Chief Executive Officer of the Corporation]

Provided that the Trust may delegate to the Chairman or to any officer of the Trust . all or any of the powcrs conferred by this section.

(2) The Trust may make bylaws for any area comprised in an improvement Scheme which is outside the limits of [the City] :

(a) Generally for carrying out the purpose 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 @[section 415] of 1[the City ;; of Nagpur Corporation Act, 1948). The provisions of [sections 416 to 419) of 1[the City of Nagpur Corporation Act, 1948) shall, so far as may be consistent with the tenor of this Act, be applicable to all by laws made by the Trust under this sub-section and all references in the said sections to [the Corporation] shall be construed as referring to the Trust.

52A. Power to make and perform contracts :-

The Trust may enter into and perform all such contracts as it may consider necessary or expedient for carrying out any of the purposes of the Act.

52B. Execution of contracts and approval of estimates :-

(1) Every contract shall be made on behalf of the Trust by the Chairman: Provided, that,-

(a) a contract involving an expenditure exceeding one thousand rupees but not: exceed -g such limit as may be prescribed by the [State] Government shall no be made by the Chairman without the previous sanction of the. Trust; and

(b) a contract i volving an expenditure exceeding; the limit. Aforesaid shall not be made by the Chairman wIthout the prevIous sanction of the Trust and the t[Commissioner.] as in respect of which improvement scheme is in force; and for the period during which such schemes remain in force all references in the said section to t[the Corporation] or to }[the Chief Executive Officer of

the Corporation,) or to. any officer of [the Corporation] shall be Construed as referring to the Trust, which respect of any such areas, may alone exercise and perform all or any of the power and function" which under any of the said sections might have been exercised a. performed t[hy the Chief Executive Officer of the Corporation]

(2) Every estimate for the expenditure of any sum for carrying, out any of the purposes of this Act shall be subject to the approval of the authority or authorities "powered under subsection (1) to make,. or as the ,case may be, to sanction the making of. a contract Involving the expenditure or a like sum.

(3) No contract or estimate requiring the sanction of an authority or authorities specified in sub-section (1) as the case may be. shall be varied or abandoned except With like sanction:

Provided that the Chairman may sanction the variation where it does not involve an expenditure of more than ten per cent of the amount of the original contract or estimate.

52C. Tenders :-

(1) At last seven days before entering into any contract for the execution of any work or the supply of material or goods Which involves an expenditure exceeding. one thousand rupees the Chairman shall give notice inviter tenders for SA contracts and in a case in which such expenditure exceeds ten thousand rupees, notice shall be given by advertisement in local newspapers.

(2) In every such Case the Chairman shall place before the Trust the specification .conditions. and estimates and all the tenders received specifying the particular tender If any. Which he proposes to accept.

(3) In every Case in which the acceptance of a tender involves an expenditure exceeding the limits prescribed under clause (a) of the proviso to sub-section (I) of section 52-B the Trust shall submit to the -[State] Government with the speciflcation conditions and estimates, all the tenders received specifying the particular tender. if.. The acceptance of which it proposes to sanction.

(4) Neither the Trust nor the -[State] Government shall be bound to sanction ... acceptance of any tender which has been made; but the Trust, within the pecuniary limits of Its powers as laid down In clause (a) of the proviso to sub-section (1 section 52-B, and the - [State] Government in the cases referred to In clause (b) the said proviso, may sanction the reference of any of such tenders which

appears " to the Trust or the -[State] Government upon a consideration of all the circumstance to be the most advantageous or may direct the rejection of all the tenders receive .

52D. Security for the due performance of contracts :-

The Chairman shall take sufficient security for the due performance of every contract involving an expenditure exceeding one thousand rupees

Facilities for Movement of the Population.

53. Power of Trust for facilitating movement of population

:-

With a view to facilitating the movement of the population in and around Any area to which this Act is applied, the Trust may from time to time

(a) Subject to any conditions it may think fit to impose,-

(i) Guarantee the payment, from the funds at its disposal, of such sums as it may think fit, by way of interest on capital expended on the construction, maintenance or working of means of locomotion, or

(ii) Make such payments as it may think fit from the said funds, by way of subsidy to persons undertaking to provide, maintain, and work " means of locomotion, or ."

(b) either singly or in combination with any other persons construct, maintain, and work any means of locomotion, 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 (0), and no ,means of location shall be constructed, maintained, or worked under clause (b),without the sanction of the -[State] Government.

Surveys

54. power to make surveys or contribute towards their cost

:-

The Trust may,-

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

Power of Entry

55. Power of entry :-

(1) The Chairman may, with or without assistants or workmen, enter into upon any land, In order-

(a) to make any inspection, survey, measurement, valuation or inquiry,

(b) to take level

(c) to dig or bore into the sub-soil,

(d) to set out ;,boundaries and intended lines of work,

(e) to mark such levels, boundaries, and lines by marks and cutting tranche whenever it is necessary to do So for any of the purposes of this Act or any rule regulation made or scheme sanctioned her{under or any scheme which the Trust intends to frame hereunder :

Provided as follows:-

(I) except when it is otherwise specially provided by a rule [or regulation]no such entry shall be made between sunset and sunrise;

(ii) except when it is otherwise specially provided by a rule or regulation] -building which is used as a human dwelling shall be w entered, unless with the consent of the occupier thereof, without giving the said occupier. at least twenty-four hours previous written notice of the intention to make such entry;

(iii) Sufficient notice shall in every instance ~ given even when any premise. may otherwise be entered without notice, to enable the inmates of apartment appropriated to females to; remove some part of the primes where their privacy need not be disturbed,

(iv) due regard shall always be had, so far as may be compatible with the ex "genies of the purpose for which the entry .is made, to the social and religious usages of the occupants of the premises entered.

(2) Whenever the Chairman enters into or upon any land in pursuance of sub-section

(I). he shall pay or tender payment for all necessary damage to be done ; 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 he final.

(3) It shall be lawful for any person authorized under sub-section (1) to enter into or upon any land 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 necessary for the purpose of such entry, inspection or search, and

(b) if the owner or occupier is absent, or being present refuses to open such door, gate or barrier.

56. Settlement of disputes by Tribunal :-

(1) If any question or dispute arises- ~

(a) between the Trust and the previous owner of any street or square or part thereof which has vested in the Trust under section 49 and has been altered or closed by it, as to the sufficiency of the compensation paid or proposed to be paid under sub-section (3) of that section, or

(b) between the Trust and any person who was entitled otherwise than as mere licensee, to use as a means of access any street or part thereof which has vested in the Trust under section 49 as to whether the alteration or closing of such street, square or part, causes damage or substantial inconvenience to owners of property adjacent thereto or to residents in the neighborhood, or

(c) between the Trust and any person as to the sufficiency of any compensation paid or proposed to be paid to him under sections 29,33,35,51 or 119, the matter shall be determined by the Tribunal, if referred to it either by the Trust or by the claimant, within a period of three months from the date on which the said person 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, and the determination of the Tribunal shall be final:

Provided that the Tribunal 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) If a reference to the Tribunal be not made within the period prescribed by subsection (2), the decision of the Trust shall be final.

(3) For the purpose of determining any matter referred to it under sub section (1), the Tribunal shall have all the powers with regard to witnesses, documents, and costs which it would have if the Land Acquisition Act, 1894, as modified by section 61 of this Act, were applicable to the case.

57. Vesting in -[the Corporation] of streets laid out or altered and open spaces provided by Trust under an improvement scheme :-

(1) Whenever the Trust is satisfied-

(a) that any street laid out or altered by the Trust has been duly leveled, Paved, metalled, flagged, channeled, sewerred, and drained in the manner provided in the plans sanctioned by the t[State] Government under this Act, a d

(b) that such lamps, lamp-posts, and other apparatus as the Trust may consider necessary for the lighting g of such street have been so provided, and

(c) that water and other sanitary conveniences ordinarily provided - [in the city]have been duly provided in SUCI] street.

the Trust may call upon -[the Corporation] by a notice in writing, to take over the management of such street within a period specified in the notice, which shall not be less than one month and, On receiving such a notice -[the Corporation] shall. subject to the provisions of sub-section (3) by a written notice affixed in some conspicuous place in such street, declare the street to be a "public street; and the street shall thereupon vest in -[the Corporation) and shall thenceforth be maintained, kept in repair lighted, and cleansed by [the Corporation].

(2) When any open space for purposes of ventilation or recreation has been provided by the Trust in executing any improvement scheme. it shall, On completion, be transferred to [the Corporation) by resolution of the Trust and shall thereupon vest in, and be maintained at the expenses of -[the Corporation]. Provided that [the Corporation] may require the Trust, before any such open space is so transferred. to enclose, level, drain, and layout such space and provide footpaths therein,

(3) If any difference of opinion arises between the Trust and [the Corporation] in respect 01 any matter referred to in the foregoing provisions of this section, the matter shall be referred to the t [State) Government, whose decision shall be final.

(4) The t [State] Government may resume the management of any street or Open space t[.....] vested in the Trust under clause (b) of sub-section (i) of section 45.

CHAPTER 6 ACQUISITION AND DISPOSAL OF LAND

58. Power to purchase or lease land by agreement :-

The Trust may enter into an agreement with any person for the acquisition, by purchase, lease or exchange by the Trust from such person, of any land: l[within the area comprised in a sanctioned scheme]. Compulsory acquisition

59. Power to acquire land under the Land Acquisition Act, 1894 :-

The Trust may, with the previous sanction of the t[State] Government, acquire land under the provisions of the Land Acquisition Act, 1894, as modified under the by the provisions of this Act, for carrying out any of the purposes of this Act.

60. Tribunal to be constituted :-

A Tribunal s~11 be constituted" as provided in section 62. for the purpose of performing the functions of the Court In reference to the acquisition of land for the Trust, under the Land Acquisition Act. 1894.

61. Modification of the Land Acquisition Act, 1894 :-

For the purpose of acquiring land under the Land Acquisition Act, 1894, for J the Trust,-

- (a) the Tribunal shall except for the purposes of section --[54) of that Act, be deemed to be the Court, and the President of the Tribunal shall be deemed to be the Judge there under;
- (b) the Act shall be subject to the further modifications as indicated in the Schedule;
- (c) the President or the Tribunal may summon witnessc5 and enforce their attendance and may compel the production or documents by the same means, and so far as may be, In the same manner. as is provided in case of a Civil Court under the Code 01 Civil Procedure, 1908 ; and ,
- (d) the award of the Tribunal shall be deemed to be the award or the Court under the Land Acquisition Act, 1894, and shall be final.

62. Constitution of Tribunal :-

- (1) The Tribunal shall consist of a President and two assessors.
- (2) The President or the Tribunal shall be either-
 - (a) a member or the [.....) t[State] Civil Service, Judicial Branch or not less than ten years standing in such service, who has for at least three years served as District Judge or held judicial office not inferior to that of a Subordinate Judge of the first class; or
 - (b) a barrister, advocate or pleader of not less than ten years sta1dirg who has practiced as an advocate or pleader in the High

Court of Judicature at Nagpur.

t[(2-a) The assessors shall possess such qualifications as may be prescribed by rules made in this behalf by the t[State] Government.

(3) The President of the Tribunal and one or the assessors shall be appointed by the t[State] Government and the other assessor shall be appointed by t: [the corporation], or in default of appointment by tt[the corporation] within two months or its being asked by the t[State] Government to make such appointment, by the t[state] Government:

Provided that no person shall be eligible for appointment as a member of the Tribunal if he is a Trustee or would, if he were a Trustee, be liable to removal by the t[State] Government under section 10.

(4) The term of office of a member of the Tribunal shall be two years; but any member shall, subject to the proviso to sub-section (3), be eligible for re-appointment on the expiration of that term.

(5) The t[State] Government may, on the ground of incapacity or misbehavior or for any other good and sufficient reason, cancel the appointment of any person as a member of the Tribunal.

(6) When any person ceases to be a member of the Tribunal or when any member is temporarily absent owing to illness or any unavoidable cause, the authority which appointed him shall forthwith appoint a fit person to be member in his place. Where the authority so appointing was t t[the corporation] and t 1[the corporation] fails to make a fresh appointment within two months of being asked to do so by the t[State] Government, the appointment may be made by the t[State] Government.

63. Remuneration of members of Tribunal :-

The t[State] Government may prescribe by rules such remuneration, if any, as it may think fit, either by way of monthly salary or by way of fees, or partly in one of these ways and partly in the other, for the President and each member of the Tribunal.

64. Officers and servants of Tribunal :-

(1) The President of the Tribunal shall, from time to time, prepare a statement showing

(a) the number and grades of the clerks and other officers and servants whose services should be maintained for carrying on the business of the Tribunal,

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

(2) All statements prepared under sub-section (1) shall be subject to the sanction of the -[State] Government.

(3) Subject to any direction contained in any statement prepared under sub-section (1) and to rules made under section 89, the power of appointing, promoting and granting leave to officers and servants of the Tribunal, and the power of reducing suspending or dismissing them, shall vest in the President of the Tribunal.

65. Mode of payment :-

The remuneration, if any, prescribed under section 63 for members or tribunal, and the salaries, leave allowances and acting allowances prescribed under this Act, for officers and servants of the Tribunal, shall be paid by the Trust to the President of the Tribunal for distribution. ~

66. power to make rules for Tribunal :-

(1) The -[State] Government may make rules, not repugnant to the code. of Civil Procedure, 1908, for the conduct of business by Tribunals established under this Act.

(2) All such rules shall be subject to the condition of previous publication.

67. Award of Tribunal how to be determined :-

(1) For the purpose of determining the award to be made by the Tribunal under the Land Acquisition Act, 1894- .

(a) if there is any disagreement as to the measurement of land, or the amount the compensation or cost to be allowed, . The opinion of the majority of the. members of the Tribunal shall prevail; ,

(b) questions relating to the determination of the persons to whom compensation is payable, or the apportionment of compensation, may be tried and, decided in the absence of the assessors if the President of the Tribunal ~ considers their presence unnecessary; and, when So tried and decided. the decision of the President shall be deemed to be the decision of t Tribunal; and ."

(c) Notwithstanding anything contained in clauses (a) and (b) the decision of the President of the Tribunal on all questions of law and procedure shall final.

(2) Every award of the Tribunal, and every order made by the

Tribunal for the payment of money, shall be enforced by a competent Civil Court within the local limits of whose jurisdiction it was made as if it were a decree of that Court.

68. Abandonment of acquisition in consideration of special payment :-

(1) Wherever in any area comprised in any improvement scheme under the Act the Government has sanctioned the acquisition of land which is subsequently discovered to be unnecessary for the execution of the scheme, the owner of the land, or any person having an interest therein may make an application to the Trustee requesting that the acquisition of the land not required for the purpose of the scheme should be abandoned on his executing an agreement to observe conditions specified by the Trustee in respect of the development of the property and to pay a charge to be calculated in accordance with sub-section (2) of section 69 of the Act.]

(2) The Trustee shall admit every such application if it-

(a) reaches it before the time fixed by the Deputy Commissioner under section 9 of the Land Acquisition Act, 1894, for making claims in reference to the land, and

(b) is made by any person who has an interest in the land or holds a lease thereof, with an unexpired period of seven years.

(3) On the admission by the Trustee of any such application, it shall forthwith inform the Deputy Commissioner; and the Deputy Commissioner shall thereupon stay for a period of three months all further proceedings for the acquisition of the land, and the Trustee shall proceed to fix [the conditions on which] the acquisition of the land may be abandoned.

(4) When an agreement has been executed in pursuance of sub-section (1) in respect of any land the proceedings for the acquisition of the land shall be deemed to be abandoned.

(5) The provisions contained in sections 70, 71, 72, 73 and 74 relating to the assessment, interest, recovery and payment of betterment charge and civil suits shall apply mutatis mutandis to the assessment, interest, recovery and payment of abandonment charge and civil suits in respect thereof Betterment Contribution

69. Payment of betterment contribution :-

(1) When by the making, of any improvement scheme, any land in the area comprised in the scheme which is not required for the

execution thereof, will in the opinion of the Trust, be increase In value, the Trust in framing the Scheme, may in lieu of providing for the acquisition of such land, declare that a betterment contribution all be payable by the owner of the land or any person having an interest therein in respect of the increase in value of the land resulting from the execution of the scheme.

[(2) Such betterment contribution shall be an amount equal to one-half of the amount by which the value of the land on the date of resolution referred to in section 70, estimated as if the land were clear of buildings, exceeds the value of the land on or immediately before the date on which the scheme was first published under section 39.]

(3) No betterment contribution shall be Payable by §{the Government] in respect of any land which is the property of, the Government or is managed by the Central Government or the [State] Government or by a local authority or any public institution in respect of any land belonging to such authority or institution if and so long as, such land is used for a public, charitable or religious purpose.

70. Assessment of betterment contribution by Trust :-

(1) When it appears to that Trust the improvement scheme is sufficiently advanced to enable the amount of the betterment contribution to be determined, the Trust shall, by a resolution passed in this behalf declare that for the purpose of determining such contribution the execution of the scheme shall be deemed to have been completed and shall thereupon give notice in writing to every person on whom a notice in respects of the land to be assessed has been served under clause (a) of subsection (I) of section 41. that the Trust proposes to assess the amount of the betterment contribution payable in respect of such land under section 69.

[(1-A.) Notwithstanding anything contained in sub-section (1). where the execution of the scheme in a part of the area covered by the sanctioned scheme has, in accordance with the standard prescribed by rules made by the State Government in this behalf, reached such stage of completion that the amount of betterment contribution Can be determined and it appears to the Trust that a considerable time is likely to be required for the execution of works in the remaining part of the said areas and that it is expedient to determine and to recover the betterment contribution from t he

residents of the first mentioned part of the area. the Trust may, by a resolution passed in this behalf, declare that for the purpose of detent1ining such contribution the execution of the scheme shall be deemed to have been completed with respect to the first mentioned part of the area and forward the same for the approval of the State Government.

(1-B) The State Government shall, thereupon, Cause to be published in the prescribed manner the resolution together with a notice calling upon owners of lands liabl~ to pay the contribution to submit objection, if any. Within such period and to such authority as may be specified in the notice.

(1-C) The authority specified in the notice shall after giving the objectors an Opportunity to be heard shall forward a report to the State Government.

(1-D) If the State Government on receipt of such report gives its approval to the resolution, the Trust shall take action as on a resolution passed under sub-section (1).]

(2) The Trust shall then assess the amount of betterment contribution payable by each person concerned after giving such person an opportunity to be head and such person shall, Within three months from the date of receipt of notice In Writing of such assessment from the Trust, inform the Trust by declaration in writing whether he accepts or dissents from the assessment.

(3) When the assessment proposed by the. Trust is accepted by the person con. cerned within the period specified In sub-section (2) such assessment shall be final

(4) If t he person concerned dissents from the assessment made, by the Trust. Or fails to give the Trust the information requI~d by S\1bsectlo.n (2) within the period specified therein, the matter shall, be determined by the Tribunal appointed under section 60 in such manner as It thinks fit.

71. Trust to give notice to persons liable to payment of betterment contribution :-

t[When the amount of betterment contribution has been determined under section 70] the Trust shall by a notice In writing to be served on all persons such payment, fix a date by which such payment shall be ma~ and Interest [at the rate or six percent per annum] upon any amount outstanding shall be payable from that date: [Provided that where any other rate of interest has been specified in any agreement entered Into before the 1st day of

March 1949, such rate of interest shall prevail.]

72. Agreement to make payment of betterment contribution a charge on land :-

[(1) Any person liable to the payment of a betterment contribution may, at his option, instead of making a payment thereof, to the Trust execute an agreement with the Trust to make payment in not more than ten annual installments or to leave the said payment outstanding as a charge on his interest in the land, subject to the payment of interest at the rate of five per centum per annum until the said sum has been paid in full, the first annual payment of such interest to be made one year from the date referred to in section 71.]

(2) Every payment due from any person in respect of a betterment contribution and every charge referred to in sub-section (1) shall, notwithstanding anything contained in any other enactment and notwithstanding the existence of any mortgage or other charge whether legal or equitable created either before or after the commencement of this Act, be the first charge upon the interest of such person in such land.

1[(3) If any installment of interest payable under an agreement executed under sub-section (1) be not paid on the date on which it is due the whole of the outstanding sum fixed under section 70 shall be payable on that date, in addition to the said installment. .

(4) At any time after an agreement has been executed under Sub-section (1) a person may pay in full the charge created thereby, with interest, at the rate mentioned in sub-section (1) up to the date of payment.

(5) When an agreement in respect of any land has been executed by any person Pursuance of sub-section (1) no suit with respect to such agreement shall be brought against the Trust by any person other than such person's heir, executor or administrator claiming, to have an interest in the land.] Recovery of special payments and betterment contributions

73. Recovery of money payable in pursuance of sections 68, 70 and 72 :-

All money payable in respect of any land [.....] by any Person in respect of a betterment contribution under section 70, or by any person under 1ft. agreement executed in pursuance of sub-section (1) of section 72 shall be recoverable by the Trust (together with

interest, up to the date of realization, at the agreed rate from the said person or his successor in interest in such land, in the manner provided for by [Chapter XII of the City of Nagpur Corporation Act, 1948 and, if not so recovered, the Chairman may, after giving public notice of his intention to do so and not less than one month after publication of such notice sell the interest of the person or successor in such land by public auction and may deduct the money and the expenses of the same from the proceeds of the sale and pay the balance, if any, to the defaulter.

74. Trust to appoint persons for enforcement of processes for recovery of dues :-

The Trust may direct by what authority any power or duty under City of Nagpur Corporation Act, 1948] for the enforcement of any process for the recovery of taxes shall be exercised and performed when that process is employed under section 73

75. Agreement or payment not to bar acquisition under a fresh declaration :-

If any land, in respect of which an agreement has been executed or a payment has been accepted in pursuance of [sub-section (1)] of section 68, or in respect of which the payment of a betterment contribution has been accepted in pursuance of subsection (3) of section 70, or in respect of which an agreement for such payment has been executed under section 72 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, 1894.

Disposal of land

76. Power to dispose of land :-

Subject to any rules made by the [State] Government under this Act, the Trust may retain or may let on hire, lease, sell, exchange or otherwise, dispose of any land vested in or acquired by it under this Act.

CHAPTER 7 TAXATION

77. Duty on certain transfers of immovable property :-

(1) The duty imposed by the Indian Stamp Act, 1899, on instrument of sale, Gift and usufructuary mortgage, respectively, immovable property shall in the Case of instruments affecting Immovable property situated within the area to which this property. Act extends] and executed On or after the commencement of this Act. be increased by one-half per centum On the value of the property so situated. or in the case of an usufructuary mortgage on the amount secured by the instrument. as set forth in the instrument.

(2) For the purpose of this section. Section 27 of the Indian Stamp Act, 1899. shall be read as if it specifically required the particulars referred to therein to be set forth separately in respect of-

(a) Property situated in the area to which this Act extend], and

(b) Property situated outside the [said area]. Respectively. .

(3) For the purposes of this section, section 64 of the Indian Stamp Act, 1899 shall be read as if it referred to the Trust as well as to the Government. I

(4) §[.....].

78. Omitted by A. O. 1937 :-

xxx xxx xxx

79. Omitted by A. O. 1937 :-

xxx xxx xxx

Supplement provisions

80. Rules :-

(1) The [State] Government may make rules for carrying out the purpose of this Chapter. -

(2) [.....]].

(3) In making any rule the [State] Government may direct that a breach there of shall be punishable within fine which may extend to five hundred rupees. ;.

CHAPTER 8 FINANCE

81. Trust Fund :-

A Trust Fund shall be formed for the Trust and there shall be placed to the Credit thereof all sums received by or on behalf of the Trust under this Act or other wise.

82. Application of Trust. Fund :-

(1) subject to the provisions of this Act, the Trust Fund shall be applicant~ only to the payment of the charges and expenses incidental. to the several matters in This Act, and to any other purpose for which by or under this Act or under any other enactment for the time being in force powers are conferred or duties impose upon the Trust.

(2) The Trust may grant loans to its employees from the Trust Fund on such conditions and for such purposes as may be prescribed by regulations]

82A. Definition of cost of management :-

The expression "Cost of management" as used in the following section in this Chapter means-

(a) the salary, house-rent and conveyance allowance (if any) of the Chairman or acting Chairman, and any other allowance and contribution payable to or in respect of the Chairman or acting Chairman;

(b) the salaries, fees and allowances and the contributions paid under section 110; -~

(c) the remuneration of other employees of the Trust except employee who an paid by the day or week or whose pay is charged to any sanction work;

(d) all payments made under section 65 and 110 on account of the Tribunal, and.

(e) all office expenses incurred by the Trust or the Tribunal. I Explanation:-The expression "office expenses" manes ~expenses incurred ~ For carrying on office work, and Includes the rent of offices, and the provision" of furniture therefor, and charges for printing and stationery.

82B. keeping of capital account and revenue account :-

(1) Tbe Trust shall keep a capital account and a revenue account

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

82C. Credits to capital account :-

There shall be credited to the capital account-

(a) all sums (except interest) received by way of betterment

contribution Under This Act

- (b) All moneys received on account: loans taken by the Trust in pursuance of this Act;
- (c) the proceeds of the sale of any land vested in the Trust which was purchased out of any such loan;
- (d) where land was purchased out of an advance from the revenue account, the portion of the proceeds of the sale of such land which remains after crediting to the revenue account the amount of such advance;
- (e) the proceeds of the sale of any movable property (including securities for money invested from the capital account) belonging to the Trust ;
- (f) all lump sums received from any Government in aid of the capital account;
- (g) all premia received by the Trust in connection with leases for any term exceeding forty years and half the premia received in connection with other leases renewable at the option of the lessee;
- (h) all sums (if any) which the Government directs under sub-section (2) of section 82-F to be credited to the capital account; and;
- (i) all moneys resulting from the sale of securities by direction of the Government under section 82-G.

82D. Application of capital account :-

The moneys credited to the capital account shall be held by the Trust and shall be applied to-

- (a) meeting all costs of framing and executing improvement scheme ;
- (b) meeting the cost of acquiring land for carrying out any of the purposes of this Act;
- (c) meeting the cost of constructing buildings required for carrying out of the purposes of this Act ; .
- (d) The repayment of loans from money borrowed in pursuance of this Act
- (e) Making payments in pursuance of section 53, otherwise than for interest or for expenses of maintenance of working;
- (f) Making or contributing towards the cost of surveys in pursuance of section 54;
- (g) meeting such proportion of the cost of management as may be prescribed by the Trust; .
- (h) Temporarily making deficit (if any) in the revenue account at ~

end of any financial year.

82E. Credits to revenue account :-

There shall be credited to the revenue account-

- (a) all interest received in pursuance of section 71, 72 or 73 ;
- (b) all sums contributed by 8[the Corporation], under section 83 ;
- (c) all other annually recurring sums received from the t[State] Govern in aid of the funds of the Trust; , ,
- (d) all damages received by the Trust under section 108 ;
- (e) all premia received by the Trust in Connection with leases not liable t credited to capital account under clause (g) of section 82-C ;
- (f) all rents of land vested in the Trust; and
- (g) all other receipts by th~ Trust which are not required by SeCtion 82-C t credited to the capital account

82F. Application of revenue account :-

(1) The moneys credited to the revcnu8 account shall be held by the Trust 18) trust and shall be applied to-

- (a) meeting all charges for interest and sinking funds due on account of any loan taken In pursuance of this Act, and all other charges incurred in Connection with such loans;
- (b) paying all sums due from the Trust in respect of rates and taxes imposed under -[The City of Nagpur Corporation Act, 1948] upon land vested in the. Trust;
- (c) paying the cost (if any) of maintaining a separate establishment for the collection of the rents and other proceeds of land vested in the Trust;
- (d) paying the expenses for audit in accordance with section 15 of the central Provinces and Berar Local Fund Audit Act, 1933 ;
- (e) making payments in pursuance of section 53 for interest or for interest or maintains working
- (f) paying the cost of management, excluding such proportion thereof as may be debited to the capital account under clause (g) of section 82-D
- (g) paying all other sums due from the Trust other than those which required by section 82-0 to be disbursed from the capital account.

(2) The surplus (if any) remaining after making the payments referred to in sub- section (1) shall, subject to the maintenance of the closing balance that may be prescribed by rules under section

89, be invested in the manner prescribed in section 84-0 towards the service of any loans outstanding after the expiry of sixty years from the commencement of this Act, unless the [State Government] otherwise directs.

82G. Power to direct sale of securities in which any surplus of revenue account is invested :-

If, at any time after any surplus referred to in sub-section (2) of section 82-F has been invested, the [State] Government is satisfied that the investment is (not needed for the service of any loan referred to in that sub-section, it may direct the sale of the securities held under the investment.

82H. Advances from revenue account to capital account :-

(1) Notwithstanding anything contained in section 82-F, the Trust may. 81.-H. (1) Notwithstanding anything contained in section 82-F, the Trust may. Advance any sum standing at the credit of the revenue account for the purpose of making capital expenditure. :
(2) Every such advance shall be refunded to revenue account as soon as may be practicable. I

82I. Advance from capital account to revenue account :-

(1) Any deficit in the revenue account at the end of any financial year may be made good by an advance from the capital account
(2) Every such advance shall be refunded to the capital account in the following financial year

82J. Submission of abstracts of account to State Government :-

(1) At the end of each half of every financial year the Trust shall submit to the. [State] Government an abstract of the account of its receipts and expenditure for; each half-year.

82K. Submission of an abstract of the accounts to the - [Corporation] and State Government after receipt of auditors report :-

As soon as practicable after the receipt of the auditors report the trust shall shall prepare an abstract of the account to which it relate, and send a copy of the abstract to Corporation, and to the

8(State] Government.

83. Contribution from Municipal Fund :-

(1) [The Corporation] shall from the [The Corporation] fund to the Trust on the first day of each quarter on the so long as the Trust continues to exist, a sum equivalent to half per percent per quarter on the annual ratable valuation of House within t[the City] as It stood on the first day of the last preceding quarter.

(2) If in any financial year the sums due to the Trust under this section Aggregate less than .one lakh of rupees, t[the Corporation] shall pay to the Trust from t the Corporation] fund such further sum as may be required to make up the said sum of one lakh of rupees.

(3) The payments prescribed by sub-section (1) and (2) ahall be made in priority to all other payments due from t[the Corporation] except sums under preference firstly of Section 79 of the City of Nagpur Corporation Act, 1948.

(4) If the Corporation makes default in the payment of any sum under this section, the -[State] Government may make an order directing the person having the custody of the balance of the Corporation fund to make such payment either in whole or in such part as is possible from such balance

Provided that no order shall be made by the -[State] Government directing pay- ment of any sum until an opportunity has been given to t[the Corporation] to show cause why such order should not be made Unless the [State] Government considers that t[the Corporation] has already stated. Or had already ample opportunity of stating, its case.

84. Power of Trust to borrow money :-

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

84A. Power to issue debentures :-

(1) The Trust may with the previous sanction of the -(State) Government And on such terms as it may approve, raise loans in

The open market by the issue of debentures

(2) All debentures issued by the trust shall be in such form Trust with the previous sanction of the -[State] Government from time to time, determine.

(3) Every debenture shall be signed by the Chairman and by one other Trustee.

(4) All Coupons attached to debenture issue under that act shall bear the signature of the chairman and such a signature may be engraved lithographed or impressed by any mechanical process

(5) The rights and liabilities of the holder of a debenture shall be governed by the law for the time being in force.

84B. Short-term loans :-

Where, in pursuance of the programme of works, the Trust has reason to expect that its own immediate resources will not be sufficient to finance the expenditure therein, but that resources will eventually be realized sufficiently thereafter, it may apply to the * [State] Government for sanction to raise or grant short-term loan to cover the period of deficit and the -[State] Government, after considering the budgetary position of the Trust, its programme of works and probable resources, may sanction or grant such loans, as the case may be.

84C. Diversion of borrowed money to purposes other than those first approved :-

Whenever any sum of money has been borrowed by the Trust for the purpose of meeting particular expenditure or of repaying a loan, no portion thereof shall be applied to any other purpose without the previous sanction of the -[State] Government.

84D. Repayment of loans :-

Every loan taken by the Trust shall be repaid within the period approved by the - (State] Government and subject to the provisions of sub-section (2) of section (82-F, by such of the following method, as may be so approved, namely ;-

(a) from a sinking fund established under section 84-E, in respect of the loan, or

(b) by paying equal yearly or half yearly installment of principal and interest through out the said period, or

(c) if the Trust has, before borrowing money on debentures,

reserved by public notice a power to payoff the loan by periodical installments and to select by lot the particular debentures to be discharged at particular periods then, by paying such installments, at such periods, or

(d) from money borrowed for the purpose, or

(e) partly from the sinking fund established under section 84-E in respect of the loans, and partly from money borrowed for the purpose.

84E. Establishment and maintenance of sinking funds :-

(1) Whenever, the -[State] Government has approved the repayment of a E loan from a sinking fund, the Trust shall establish such a fund, and shall pay into n it every year, until the loan is repaid, a sum so calculated that, if regularly paid n throughout the. Period approved by the -[State] Government, it would, with accumulations In the way of Compound Interest, be sufficient after payment of all expense. to payoff the loan at the end of that period.

(2) The rate of interest on the basis of which the sum referred to in sub-section (1) shall be calculated shall be such as may be prescribed by the -[State] Government.

84F. Power to discontinue payments in to sinking fund :-

Notwithstanding anything contained in section 84-E if at any time the sum standing at the credit of the sinking fund established for the repayment of any loan, d is of such amount that, if allowed to accumulate at the rate of interest prescribed P under sub-section (2) of that section, it will be sufficient to repay the loan at the end } : of the period approved by the -[State] Government. then, with the permission, of the -[State] Government, further annual payments into such funds may be discontinued.

84G. Investment of iinking fund :-

(1) All moneys paid into any sinking fund shall, u soon as possible I be invested under the orders. of the Trust, in- (JN-G. (1) All moneys paid into any sinkina fund shall, u soon as possible be invested under the orders. of the Trust, in-

(a) Government securities, or

(b) Securities guaranteed by the Central or any -[State] Government, or

(c) Debentures issued by the Trust, in the joint names of the Secretary to the Government t[Bombay] in the Finance Department, and the Account- tant General of the t[Bombay] to be held by them as trustees for the pur pose of repaying from time to time the loans for which the linking fund is established.

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

(3) Any investment made under this section may, from time to time subject to the provisions of sub-section (1) be varied or transposed.

84H. Application of sinking funds :-

The two Trustees referred to in sub-section (1) of section 84-G, in whose names any sinking fund is invested may, from time to time apply the same, or any .part thereof, in or towards the discharge of the loan or any part of the loan for which such fund was established; and until such loan is wholly discharged, shall not apply the same for any other purpose.

84I. Annual statcmenta by Trustees :-

(1) The two trustees referred to in sub. section (1) of section 84-0 shall, at t It end of every financial year, transmit to the Chairman a statement showing-

(a) the amount which has been incised during the year under section 84-G.;

(b) the date of the last investment made previous to the transmission of the state government;

(c) the aggregate amount of the securities held by them;

(d) the aggregate amount which lias, up to the date of the statement been applied under section 84-H in or towards repaying loans; and

(e) the aggregate amount already paid into each sinking. Fund

(2) Every such statement shall be laid before the Trust, and published in the Gazette.

84J. Annual examination of sinking fundi :-

(1) The Accountant General, [Bombay] shall examine the said sinking 1 funds every year and ascertain whether the cash and the current value of the securities at the credit of such funds are

actually equal to the amount which would have accumulated had investments been regularly made and had the rate of interest as originally estimated been obtained therefrom.

(2) The Trusts shall forthwith pay into any sinking fund any amount which the Accountant General may certify to be the deficiency therein after examination as aforesaid, unless the [State] Government specially sanctions a gradual readjustment.

85. Custody and investment of Trust Fund :-

All moneys payable to the Trust shall be received by the Chairman and shall forthwith be paid into the Nagpur branch of the Imperial Bank of India or any other Bank approved by the [State] Government to an account which shall be styled "The Account of the Nagpur Improvement Trust."

Provided that nothing in this section shall be deemed to preclude the Trust from investing with the previous section of the [State] Government, any such moneys as are not required for immediate expenditure in any of the securities described in section 20 of the Indian Trusts Act, 1882, for placing them in fixed deposit with a Bank approved by the [State] Government.]

86. Procedure if Trust fails to make any payment in respect of loan of Trust :-

(1) If the Trust fails to repay a loan taken in pursuance of section 84-A or section 84-8] or from a lender other than the state government or any interest or consist due in respect of such loan, according to the conditions of the loan, the [State] Government shall forthwith pay from the municipal fund to the [State] Government shall make a such payment and the corporation shall forthwith pay from the municipal fund to the said account general as sum equivalent to the sum so paid by him

(2) xxx xxx xxx

(3) If the Trust fails to repay any loan, the [State] Government may attach the rents and other [assets] of the Trust; and thereupon the provisions of section 5 or the Local Authorities Loans Act, 1914, shall with all necessary modifications, be deemed to apply.

(4) If the municipal committee makes default in the payments or any sum required to be paid by it under sub-sections (1) or sub-section (2) the [State] Government may make an order directing the person having the custody of the balance of the municipal fund to make such payment either in whole or in such part as may be possible

from such balance : Provided that no order shall be, made by the [State] government directing payment of any sum until an opportunity has been given to ,(the Corporation] to show Cause why such order should not be made unless the [state] Government consider that t)[the Corporation! has already stated or had already ample opportunity of stating its case.

(5) Whether any amount paid by the Accountant. General under sub-section (1) is not repaid to him by [the Corporation] under the said sub-section or by the person having. the custody of the(balance or municipal fund under sub-section (4) or whenever [the Corporation] has made any payment to the AccountantGeneral under sub-section (1) or to the [state] Government under sub section (2) or whenever the person having the custody or [the Corporation] fund has made any payment to the Accountant-General or to the [State] government under sub- section (4) the (State) Government shall, so far as possible, reimburse the Account. ant-General or t)(the Corporation] or such person as the Case may be, out of the rents and (assets] attached under sub-section (3).

87. Procedure if [the Corporation] fails to make any payment under section 86 :-

If (the Corporation} fiats to make any payment as wired by section 86, the (State} Government may attach municipal funds; and thereupon the provion of section 5 of the Local Authorities Loans Act, 1914, shall. With ail necessary a modifications, be deemed to apply.

88. Payment under section 86 to be a charge on the property of Trus :-

All moneys paid by t) (the Corporation} under sub-section (1) or subsection (2) of that section, 86 and not reimb by the [State) Government under sub section. (5) of that section and all moneys payable under sub-section (1) or sub section (2) or section 86 and levied under section 87, shall constitute a Charge upon the(property of the Trust.

CHAPTER 9 RULES AND REGULATIONS

89. Power to make rules :-

(1) In addition to the power conferred by sections [62, 63], 66 and

80 the [State] Government may make rules consistent with this Act and applicable to the Trust

(a) as to the person on whose authority money may be paid from the Trust fund,

(b) for prescribing .the fees. payable for a copy of, extracts from, the municipal assessment list furnished to the Chairman under section 42,

(c) as to the condition On which (Jfficers .and servants of the Trust appointed to offices requiring professional skill may be appointed. suspended or dismissed,

(d) as to the intermediate office or offices, if any, through which Correspondence between the Trust and the (State Government or officers of that Government shall pass,

(e) as to the accounts to be kept by the trust. as to the manner in which such accounts shall bc audited and published, and as to the powers of auditors in respect of disallowance and surcharge,(e-1)

as to the conditions on which loans may be borrowed and debentures may be issued by the Trust],

(f) as to the person by whom, the conditions subject to which and the mode in which contracts may be entered Into and executed on behalf of the Trust

(g) as to the prop ration of estimates of income and expenditure of the Trust and as to the person by whom, and the conditions subject to which such Estimates may be sanctioned,

(h) as to the returns, statements and reports. to be submitted by the Trust,

(i) to prescribe an define the mutual. relations to be observed between the Trust and any other local authorities In any matter In which they are botlinterested or concerned,

(i) for regulating the grant of leave of absence, leave allowances and acting allowances to the officers and servants of the Trust and of the Tribunal

(k) for establishing and maintaining a provide or annuity fund, for compelling all or any of the officers in the service of the Trust or of the Tribuna I other than any servant of the [Government] in respect of whom contribution is paid under section 110, to contribute to such fund at such rates and subject to such conditions as may be prescribed by such rules and for supplementing such contributions out of the funds of the Trust :

Provided that a servant of the [Government] employed as officer or servant of the Trust or the Trib"Jnal shall be cntitled to ..[such leave or leave allowances as may be prescribed by the conditions of

his service under the Government relating to transfer to foreign service].

(1) for determining the conditions under which the officers and servants of the Trust or of the Tribunal shall, on retirement, receive gratuities or compassionate allowances and the amount of such gratuities and compassionate allowances:

Provided that the Trust Or Tribunal, as the Case may be, may determine The officers or servants who shall be entitled, on retirement, to such gratuities or compassionate allowances;

(m) generally for the guidance of the Trust and of public officers in all matter Connected with the carrying out of the provisions of this Act

(2) All rules made under this section shall be subject to the condition of previous publication.

90. Power to make regulations :-

The Trust may, from time to time, with the previous sanction of the [State) (Government make regulations consistent with this Act and with any rules made under this Act

(a) for fixing the amount of security to be furnished by any officer or servant of the Trust from whom it may be deemed expedient to require security;

(b) for associating members with the Trust under section 17

(c) for appointing persons other than Trustees and persons associated with the Trust under section 17 to be members of committees;

(d) for regulating the delegation of the powers or duties of the Trust to committees or to the Chairman;

(e) for the guidance of persons employed by it under this Act;

(f) for prescribing the fees payable for copies or extracts of documents delivered under sub-section (3) of section 39 or for copies of rules and regulations, printed under section 91 ;

(g) for the management, use and regulation of [buildings) constructed under any improvement scheme;

1[(g-l) for the management, use and regulation of street, markets, Parks gardens, open spaces and other public places within any area covered by an improvement scheme}

(h) for regulating the erection, [re-creation, alteration and use} of buildings in any area c.)covered by any improvement scheme under this Act, and In particular without prejudice to the generality of the foregoing power-

- (i) for the materials and methods of construction to be used for external and partition walls, roofs, floors, fire-places, chimneys, drains, latrines, privies, urinals and cesspools,
- (ii) the position of fire-places, chimneys, drains, latrines, privies, urinals and cess-pools,
- (iii) the free passage or way front of the building,
- (iv) the level and width of foundation, the levels of the lowest floor and the stability of the structure,
- (v) the height and slope of the roof above the uppermost floor upon which human beings are to live or cooking operations are to be carried on,
- (vi) the ventilation and the space to be left about the building to secure the free circulation of air and for the prevention of fire,
- (vii) the line of frontage where the building abuts on street,
- (viii) the number and height of the stories of which the building may consist, and
- (ix) the means to be provided for egress from the building in case of fire :

*[(h-1) for regulating the lay-out on any land in any area covered by an improvement scheme]

[(h-2) for prescribing the conditions under which and the purpose for which loans may be granted under sub-section (2) of section 82]

[(h-3) for protecting from injury or interference anything within the area of the Trust being the property of [Government] or the Trust, or under the control or management of the Trust]

(i) Generally for carrying out the purposes of this Act.

91. Printing and sale of copies of rules and regulations :-

The Chairman shall cause all rules and regulations 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 fee as may be prescribed by regulation made under clause (f) of section 90.

92. Power to cancel regulations :-

The [State] Government may, after previous publication of its intention, rescind any regulation made by the Trust which it has sanctioned, and thereupon the regulation shall cease to have effect.

CHAPTER 10 PROCEDURE AND PENALTIES

93. Signing signatures of notices of bills :-

Every notice or bill issued by the Trust under this Act or any rule or regulation made thereunder shall be In Writing and signed .by the Chairman and such notice or bill shall be deemed to be properly signed If It bears 8 facsimile of his signature].

94. Method of giving public notice :-

Subject to the provisions of this Act, every public notice required under this Act shall be deemed to have been given If it is published in some local newspaper, if any, and posted upon a notice board to be exhibit. for public Information at the building & in which the meeting of the Trust are ordinarily held.

95. Serving of notice :-

(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

(a) by living or tendering the notice or bill or sending it by post to the person to whom it is addressed, or

(b) if such person is not found, then by leaving the notice or bill at his last known place of abode, if within --[City limits], or by giving or tendering it to some adult male member or servant of his family, or by causing it to be fixed on some conspicuous part of the building.

(2) When a notice is required or permitted under this Act, to be served upon an owner or, occupier of a building. or land, it shall not be necessary to name the owner or occupier therein, and the service thereof, In cases not otherwise specially provided :or 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 no such owner or occupier is found, then by giving or tendering the notice to an adult male member or servant of his family, or by causing the notice to be fixed on some conspicuous part of the building or land to which the same relates.

96. Penalty for disobedience of Act or I notice :-

Where under this Act. or a notice issued there under the public .or any person is required ,to do or to refrain from doing ,any thing, a

person who fails to comply with such requisition shall be liable On conviction a Magistrate to a fine not exceeding five hundred rupees for every such failure and, In the Case of a continuing breach , to a further fine which may extend to five rupees for every day after the date of the first conviction during which the offender is proved to have persisted in the breach

97. Powers of Trust to execute works On failure to comply with notice :-

If a notice has been given under this Act, to a person requiring him to execute a work in respect of any property.. Movable or Immovable, 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 cause such work to be executed or such thing to be provide or done,. and may recover all (expenses incurred by it on such amount from the Said person In the manner provided I by 8(Chapter XII of the City of Nagpur Corporation Act, 1948).

98. Liability of occupier to pay in default of owner :-

(1) If the person to whom a notice has been served under section 97 is the owner of the property in respect of which it is served, 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 though amount. Recoverable from the Owner under section 97; 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 such payable by him as rent on ,amount such property and. as to the name and address of the person to whom If the payable ; and If the occupier refuses to furnish such information he shall be liable for the whole pf the expenses as if he were the owner.

(3) All money recoverable by the Trust under this section Shall be recoverable ill the manner provided by.[Chapter XII of the City of

Nagpur Corporation Act,1948],

99. Right of occupier to execute works in default of owner

:-

Whenever a default is made by the owner of a building or land in the execution of a work required to be executed by him under this Act, 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 made 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.

100. Procedure upon opposition to execution by occupier :-

(1) If, after receiving information of the intention of the Owner of any building or land to take any action in respect thereof in compliance with a notice issued under this Act, the occupier refuses to allow such owner to take such action the owner may apply to a Magistrate.

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

(3) If, after the expiration of eight days from the date of the Magistrate'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 twenty-five 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 executing such works.

101. Recovery of cost of work by the occupier :-

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.

102. Recovery of expenses of removal by Trust :-

The expenses incurred by the Trust in effecting any removal 8 [under sections 299, 300, 303 and 304] of t[the City of Nagpur Corporation Act, 1948] as applied by section 52 or; in the event of a written notice Under 8(section 289 of that Act not being complied with section 97 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 otthe said materials in the manner provided by [Chapter XII of the City of Nagpur Corporation Act, 1948.))

103. Relief to agent and trustees :-

(1) When a person, by reason of his receiving, or being entitled to receive the rent of immoveable 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 and or the discharge of which money is required, he shall not be bound to discharge the obligation 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.

(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 hand 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.

104. Application of [Chapter XII of the City of Nugpur Corporation Act, 19 :-

Whenever in this Act or in any section of [the~ City of Nagpur Corporation Act, 1948) made applicable by section 52 It is provided that any sum shall be recoverable in the manner provided by [Chapter XII of the City of Nagpur CorporationAct 1948) then in applying the provisions of that chapter [all rules made under that Chapter and byelaws made by the [Corporation] in respect thereof shall be applicable to the Trust; and all references to the [Corporation] shall be construed as referring to the Trust and all references to the municipal office -(Chief Executive Officer of the

Corporation] a municipal officer or the municipal fund shall be construed as referring to the office of the Trust, the Chairman of the Trust, an officer of the Trust to be nominated by the Chairman, and the Trust fund, respectively.]

105. Penalty for removing fence , etc., in street :-

If any person, without lawful authority,-

(a) Removes -my fence, or any timber used for propping or supporting any building or 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 fifty rupees.

106. Power to prevent or demolish buliding in contravention of sections 32, and 35 :-

(1) (f any person without the permission of the Trust erects, re-erect adds to or alters any building or wall so as to make the same project beyond the street alignment prescribed under section 32 or the 5street alignment or building line shown in any plan finally adopted by the Trust under section 33, or crests, re-rects, adds to or alters any building or wall in the area specified in sub-section (4) of section 35. the Chairman may, by a written notice,-

(a) direct that the building, alteration or addition be stepped and

(b) require such building, alteration or addition to be altered or demolished as he may deem necessary.

(2) If any person on whom a notice under sub-section (1) has been served neglects or refuses to carry out the order or requisition in the manner and within the period specified in the notice, the Chairman may have such alteration or demolition carried out and may recover the cost incurred thereon from the owner or the person on whom the notice was served in the manner provided by - (Chapter XII of the City of Nagpur Corporation Act, 1948.)

107. Penalty for obstructing contractor or removing mark :-

If any person,-

(a) Obstructs, or molests any person with whom the Trust has entered into a Contract, in. the performance or execution by. such

person of 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 the. Act, he shall be punishable with imprisonment for a term which may extend to two months. or with fine which may extend to two hundred rupees. Disposal Of[.] Damages

108. Damages to be paid to Trust :-

All [.] damages realized in connection with prosecutions under this Act shall be paid to the Trust.

CHAPTER 11 SUPPLEMENTAL PROVISIONS

109. Trustees, etc., deemed public servants :-

Every Trustee, and every officer and servant of the Trust and every member and officer and servant of the Tribunal, shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. Contribution towards leave allowances, passages and pension of servant of the [Government]

110. Contributions by Trust towards leave allowances, passages and pensions of servants or the Government :-

The Trust shall be liable to pay such contributions for the leave allowances Passage and pension of any servant of the - [Government] employed as Chairman or as an officer or servant of the Trust, or as member or officer or servant of the Tribunal, as may be [required by the conditions of his service under the - [Government] to be paid by him or on his behalf.]

Legal Proceedings

111. Authority for prosecution :-

Unless otherwise expressly provided. no court shall take Cognizance of any offence .punishable under this Act, except on tt.e complain of, or upon information received from the Trust or some person authorized by the Trust by general or serial order in this behalf.

112. Magistrates empowered to try offences :-

No Court inferior to that of a Magistrate of the second class shall try any Offence against this Act.

113. Powers of Chairman as to institution. etc., of legal proceedings and obtaining legal advice :-

The Chairman may, subject to the control of the Trust,-

(a) Institute, defend or withdraw from legal proceedings under this Act, or

(b) Compound any offence against this Act, or]

(c) Admit Compromise or withdraw any claim made under this Act,

and (d) Obtain the legal advice and assistance as he may from time to time think it necessary or expedient to obtain, or as he may be desired by the Trust to obtain, for any of the purposes referred to in the foregoing clauses of this section, or for securing the lawful exercise or discharge of any power or duty vested in or imposed upon the Trust or any officer or servant of the Trust.

114. Bar of suit or other legal proceeding :-

No. suit or other legal proceeding shall lie against the Trust or any trustee or any officer or servant of the Trust, or any person acting under the direction of the Trust or of the Chairman or any officer or servant of the Trust for any thing in good faith done or intended to be done under this Act. -

115. Notice of suit against Trust. etc :-

(1) No suit shall be instituted against the Trust or any Trustee or any person associated with the Trust under section 17 or any member of a Committee appointed under section 18 or any officer or servant of the Trust, or any person acting under the direction of the Trust or of the Chairman or of any officer or servant of the Trust, in respect of anything purporting to be done under this Act, until the expiration of two months next after notice in writing has been, in the case of the Trust, 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, 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) Every such suit shall be dismissed unless it is instituted within six months .the date of the accrual of the alleged cause of action.

(3) If the Trust or other person referred to sub-section (1) shall have tend sufficient amends to t.he plaintiff before the Institution

of such Suit, the plaintiff s not recover any sum In excess of the amount so tendered and shall also pay all incurred by the defendant after such tender.

Evidence

116. Mode of proof or Trust records :-

A copy of any receipt, application, plan, notice, order, entry in a register otter document 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 origin. I entry or document would, If produced, h been admissible to prove such matters.

117. Restriction on the summoning of Trust servants to produce documents :-

No trustee or officer or servant 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 section 116 by certified copy, or to appear as a witness to prove tile matters and transactions recorded therein, unless by order of the Court made for special cause. .

Validation

118. Validation of Acts and proceeding :-

(1) No act done or proceeding taken under this Act shall be questioned the ground nearly 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 17 or other member of a committee having voted or taken any Part in proceeding in contravention of section 20 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 duly signed as prescribed in clause (g) of sub-section (1) of section 16, shall be taken to have been duly convened and to be free from all defects and irregularity. Compensation

119. General Power of Trust to pay compensation :-

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

120. Compensation to be paid by offenders for damage caused by them :-

(1) If on account of any act or omission any person has been convicted of an offence under this Act and by reason of such act or omission damage has been caused to any property of the Trust compensation shall be paid by the said person or the said damage notwithstanding any punishment to which he may have been sentenced for such offence.

(2) In the event of a dispute the amount of compensation payable by a person under Sub-section (1) shall be determined by the Magistrate before whom he was convicted If the said offence.

(3) If the amount of any compensation due under this section be not paid, the same shall be recovered under a warrant from the said Magistrate, as if it were a fine inflicted by him On the person liable therefore.

Dissolution of Trust

121. Ultimate dissolution of Trust. And transfer of its assets and liabilities [the Corporation]. :-

(1) When all schemes sanctioned under this Act have been executed, or have been So far executed as to render the continuance of the Trust, in the opinion of the -[state] Government unnecessary, the [State] Government may by notification declare that the Trust shall be dissolved from such date as may be specified in this behalf In such notification and the Trust shall be deemed to be dissolved accordingly.

(2) From the said date-

(a) all properties, funds, and dues which are vested in or realizable by the Trust shall vest in and be realizable by t[the Corporation] :

Provided that the [State] Government may resume the management of any Street, square, park, open Space or other land, 1[] vested in the Trust under subsection (1) of section 45; and

(b) all liabilities which are enforceable against the Trust shall be enforceable only against t[the Corporation] ; and

(c) for the purpose of completing the execution of any scheme sanctioned under this Act, which has not been fully executed by the Trust, and of realizing properties, funds, and dues referred to in clause (a), the functions of the trust under this Act shall be discharged by t[the Corporation] respectively ; and [the Corporation] shall keep separate accounts of all moneys respectively received and expended by It under this Act, until all loans raised under have been repaid, and until all other liabilities referred to in case (b) have been duly met.

122. Inapplicability Central provinces Tenancy Act. 1920 to lands acquired THE Trust :-

The provisions of the Central Provinces Tenancy Act I of 1920, shall not apply to the land acquired or purchased by the Trust for its purposes.]