

# **THE MEGHALAYA SLUM AREAS (IMPROVEMENT AND CLEARANCE) ACT**

**(The Assam Slum Areas (Improvement and Clearance) Act, 1959 as adapted by Meghalaya vide the Meghalaya Adoption of Laws Order No. 3 of 1973).**

**An Act to provide for the improvement and clearance of Slum Areas in Towns and Country sides of the State of Meghalaya.**

**Preamble** - Whereas it is expedient to improve and/or clear the slum areas in the State of Meghalaya on sound planning principles with the object of securing proper sanitary condition, to conserve and promote the public health, safety and general welfare of the people.

It is hereby enacted in the twenty fourth year of the Republic of India as follows: -

## **CHAPTER I**

### **PRELIMINARY**

**1. Short title, extent and commencement: -**

- (1) This Act may be called the Meghalaya Slum Areas (Improvement and Clearance) Act.
- (2) It shall come into force in any area only on such date as the Government of Meghalaya may by notification specify and any such notification may specify the exception, restrictions, or modifications subject to which the Act shall apply in any such area.

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

- (1) "Authority" shall mean the local or regional Authority appointed by the State Government the purpose of administering the Act unless other-wise appointed by the State Government the Authority in case of Municipal are as shall be taken to mean the Municipal Board and Town Committee for the area constituted under the Assam Municipal Act, 1956 (Assam Act XV of 1957).
- (2) "Council" means the Meghalaya Slum Areas (Improvement and Clearance) Advisory Council constituted under Section 3 of the Act.
- (3) "Building" means any construction for whatsoever purpose and of whatsoever materials constructed and every part thereof whether used as

human habitation or not and includes plinth wall, chimney, drainage work, fixed platform, verandah, balcony, cornice or projection, or part of a building or anything affixed thereto or any wall, earth bank, fence or other construction enclosing or delimiting or intended to enclose or delimit any land or space.

- (4) “Director” means Director of Town and Country Planning or and other officer appointed by the State Government.
- (5) “Work of Improvement” includes in relation to any building in a Slum Area the execution of any one or more of the following works, namely: -
  - i) Necessary repair;
  - ii) Structural alteration;
  - iii) Provision of light point and water tap;
  - iv) Construction of drain, open or cover;
  - v) Provision of latrine;
  - vi) Provision of additional or improved fixture or fitting;
  - vii) Opening up or paving of courtyard;
  - viii) Removal of rubbish; and
  - ix) Any work including the demolition of any building or any part thereof which in the opinion of the authority is necessary for executing any of the work specified above.
- (6) “Occupier” includes on owner in occupation of or otherwise using his own land or building.
- (7) “Owner” includes any person who is receiving or is entitled to received the rent, compensation or premium of any building on land whether on his own account or on behalf of himself and others or as agent or trustees, or who would so receive the rent or be entitled to receive it if the building or land were let to a tenant.
- (8) “Open Space” means any land whether enclosed or not, on which not more than one-twentieth part is covered with buildings and the whole of the remainder has been laid out as a public garden or used for purposes of recreation or lies waste an unoccupied.
- (9) “Prescribed” means prescribed by rules made under this Act.
- (10) “Reconstituted Plot” means a plot which is in any way altered by the making of a scheme.
- (11) “Road” means and includes any highway, street lane, path way, alley, passageway, carriageway, foot way, square, bridge whether private or public, whether thorough-fare or not whether existing or proposed in any scheme and includes all bunds channels, ditches, drains, culverts, side walls and traffic islands.
- (12) “Slum Clearance” means the clearance of any slum area by the demolition and removal of building there-from.

## CHAPTER II

### CONSTITUTION OF THE COUNCIL

#### 1. Constitution of the Slum Areas (Improvement and Clearance) Council: -

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

(i)	Minister-in-charge of Town and Country Planning	Chairman
(ii)	Director of Town and Country Planning Department	Secretary
(iii)	Secretary, Town and Country Planning Department	Member
(iv)	Chief Engineer, Public Works Department(R & B) or his nominee	Member
(v)	Director of Housing	Member
(vi)	Public Health Engineer or his nominee	Member
(vii)	Secretary, Local self-Government or his nominee	Member
(viii)	Secretary, Finance Department or his nominee	Member
(ix)	Secretary, Revenue Department or his nominee	Member
(x)	Six members half of whom shall be elected by the State Legislative Assembly and half nominated by the State Government.	Member

(ii)Such members or representative of Local Authorities falling within the area not exceeding two as may be co-opted by the Council by notification, published in the official gazette.

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

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

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

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

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

**(6) Commencement of the term of office of Non-official members: -**

- (1) The term of office of Non-official members shall commence on such date as may be notified in the Official Gazette in this behalf by the State Government.
- (2) A person ceasing to be member by reason of the expiry of his term of office as described in Section 5 shall be eligible for re-nomination or re-election.

**(7) Removal of Non-Official members: -**

The State Government may remove from the Council any member who: -

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

Provided that when the State Government proposes to take action under a foregoing provision of the section, an opportunity of explanation shall be given to the member concerned and when such action is taken the reasons thereof shall be placed on the record.

**(8) Filling of Casual Vacancies: -**

- (1) When the place of a member becomes vacant for any reason, such vacancy shall be filled up in the manner it was ordinarily filled.
- (2) The term of office of a member nominated or elected or co-opted under Sub-section (1) shall be the remainder of the term of office of the member in whose place he has been nominated or elected or co-opted.

**(9) Constitution of the Authority: -**

- (1) The State Government may constitute by notification in the official gazette an Authority for the purpose of carrying out the purposes of this Act.
- (2) The State Government may frame rules in order to enable the Authority to carry out the functions and duties.

## CHAPTER III

### SLUM AREAS

#### 10. Declaration of Slum Areas: -

- (i) Where the State Government upon report from the authority or other information in its possession is satisfied in respect of any area that the building in that area;
  - a) are in any respect unfit for human habitation, or
  - b) are by reason of dilapidation, over crowding, faulty arrangement and design of such buildings, narrow-ness or faulty arrangement of streets, lack of ventilation, lack of sanitation facilities or any combination of some or all of these factors, are detrimental to safety, health or morals of the people of the area.

It may, by notification in the official Gazette, declare such area to be a slum area.

- (ii) In determining whether a building is unfit for human habitation for the purpose of this Act regard shall be had to its condition in respect of the following matter.
  - a) Repair
  - b) Stability
  - c) Freedom from damp
  - d) Natural light and air
  - e) Water supply
  - f) Drainage and sanitary conveniences
  - g) Facilities for storage, preparation and cooking of food and for the disposal for waste water.

and the building shall be deemed to be unfit as aforesaid if it is so defective that it is not reasonable suitable for occupation in that condition.

## CHAPTER IV

### SLUM IMPROVEMENT

#### 11. Power of authority to require improvement of buildings and/or land unfit for human habitation: -

- (1) When the Authority is satisfied that any building and/or land in the Slum Area is in any respect unfit for human habitation, it may, unless in its opinion the building and/or land is not capable at a reasonable expense of being rendered so fit, served upon the owner of the building and/or land a notice requiring him within such time not being less than thirty days as may be specified in the notice, to execute the works of improvement specified therein.

- (2) In addition to serving a notice under this Section on the owner, the authority may serve a copy of the notice on any other person having an interest in the building and/or land whether as lessee, mortgage or otherwise.

**12. Enforcement of notice requiring execution of works of improvement: -**

- (1) If a notice under Section 11 requiring the owner of the building and/or land to execute the works of improvement is not complied with, then the expiration of the period specified in the notice, the Authority may itself do the works required to be done by the notice.
- (2) All expenses incurred by the Authority under Sub-Section (1), may be recovered by the Authority from the owner of the building and/or land as arrear of land revenue.
- (3) If the owner of the building and/or land is different from the person who owns the land on which the building and/or land stands and the expenses incurred by the authority under this section are recoverable from both those persons then, such expenses shall be recovered from them in such proportion as may be determined by the authority or by an officer empowered by the authority in this behalf.

**13. Expenses of maintenance of works of improvement, etc., to be recoverable from the occupiers of buildings: -**

Where works of improvement have been executed in relation to any land or building in a Slum Area in pursuance of the provision of Section 11 and 12, the expenses incurred by the authority, in connection with the maintenance of such works of improvement or the enjoyment of amenities and convenience rendered possible by such works, shall be recoverable from occupier or occupiers of the land or buildings as arrear of land revenue.

**14. Power of authority to order demolition of building unfit for human habitation: -**

- (1) When the authority is satisfied that any building within a Slum Areas is unfit for human habitation and is not capable at a reasonable expenses of being rendered so fit, it shall serve 'upon the owner of the buildings, and upon any other person having an interest in the building, whether lessee, mortgagee or otherwise a notice to show cause, within such time as may be specified in the notice, as to why an order of demolition of the building should be made.
- (2) If any of the persons upon whom a notice has been served under sub-section (1) appears, in pursuance thereof, before the authority and gives an undertaking to the authority that such person shall, within a period specified by the authority execute such works of improvement in relation to the building as will in the opinion of the authority render the building fit for human habitation until the authority on being satisfied that it has been rendered fir for that purpose, the authority shall withdraw the order of demolition of the building.

- (3) If no such undertaking such as it is mentioned in sub-section (2) is given, or if in case where any such undertaking has been given, any work of improvement to which the undertaking relates is not carried out within the specified period or the building is at any time used in contravention of the terms of the undertaking, the authority may forth with make an order of demolition of the building requiring that the building shall be vacated within a period, to be specified in the order, not being less than thirty days from the date of receipt of the order and that it shall be demolished within six weeks after the expiration of the period.

**15. Procedure to be followed where demolition order has been made: -**

- (1) Where an order for demolition of a building under the proceeding section has been made, the owner of the building or any other person having an interest therein shall demolished that the building within the time specified in that behalf by the owner and if the building is not demolished within that time, the authority shall entered and demolish the building and sell the material thereof.
- (2) Any expenses incurred by the authority under sub-section (1) if any satisfied out of the proceeds of sale of materials of the building, shall be recoverable from the owner of the building or any other person having an interest therein as arrear of land revenue.

Provided that this sub-section shall not apply in a case when the owner himself is the occupier.

## **CHAPTER V**

### **SLUM CLEARANCE AND RE-DEVELOPMENT**

**16. Power to declare any slum area to be clearance area: -**

- (1) When the State Government upon a report from the authority or other information in its possession, is satisfied in respect of any slum area that the most satisfactory method of dealing with conditions in the area is the demolition of all buildings in the area, it shall be an order notified in the official Gazette declare the area to be a clearance area, that is to say an area to be declared of all buildings in accordance with the provision of this Act:

Provided that any building in the area which is not unfit for human habitation or dangerous or injurious to health may be excluded from the declaration if the authority so recommends.

- (2) The State Government shall forth with transmit to the authority a copy of declaration under this section.
- (3) After an area has been declared to be a clearance area, the State Government shall ask the authority to prepare a development scheme for that area and to submit the same to the State Government for its approval

within a period of six months for such declaration. The State government may refuse to approve or approve with such modification as it may deem necessary, for the implementation of the object of this chapter.

- (4) The State Government on approval of the development scheme shall publish in the official Gazette and it shall become operative from the date of such publication.

**17. Slum Clearance order: -**

- (1) As soon as may be, after the State Government has declared any Slum Area to be a Clearance Area, the Authority shall make a Slum Clearance order in relation to that area ordering the demolition of each of the building specified therein and requiring each such building to be vacated within such time as may be specified in the order.
- (2) When Slum Clearance order has become operative, the owners of the buildings to which order applies shall demolish the buildings before the expiration of six weeks from the date on which the buildings are required by the order to be vacated or before the expiry of such longer periods in the circumstances of the case the authority may deem reasonable.
- (3) If the buildings are not demolished before the expiry of the period mentioned in sub-section (2) the authority may enter and demolish the buildings and sell the materials thereof after expiry of the period of the order.
- (4) Any expenses incurred by the authority in demolishing any building, if not satisfied out of the proceeds of sale of materials thereof recoverable by the authority as arrears of land revenue.

Provided, however, the expenses not covered by the sale proceeds shall not be recoverable when the Owners to himself the occupier.

- (5) When a Slum Clearance order has become operative, no land which the order applies shall be re-developed except in accordance with the scheme approved by the State Government and except in accordance with the conditions contained in the scheme.

Provided that the owner who is aggrieved by a restriction of condition so imposed on the use of his land or by a subsequent refusal of the authority to cancel or modify any such restriction or condition, may appeal to the appellate authority whose decision shall be final.

- (6) No person shall commence or cause to be commenced any work in contravention of the scheme approved or a restriction or condition imposed under sub-section (5).

Provided if any work is commenced, the person concerned may be evicted and no fresh notice shall be necessary for demolition of such work or eviction of such person.



**18. Power of authority to re-development clearance area or any part thereof: -**

- (1) When the land has been cleared of building in accordance with a Slum Clearance order the authority may at any time, after the expiry of twelve months from the date on which the order become operative, acquire and re-develop any land which on the date of the making of the order has not been or is not in the process of being re-developed by the owner thereof in accordance with the scheme approved by the State Government and any restriction and conditions imposed under sub-section (5) of Section 17.
- (2) The Authority may also decide to acquire land within, adjoining or surrounding clearance area which in its opinion is necessary for the purpose of improvement and re-development of a clearance area.

**CHAPTER VI**

**ACQUISITION OF LAND FOR SLUM CLEARANCE SCHEME**

**19. Power of State Government to acquire land: -**

- (1) Where or any representation from the authority it appears to the State Government that, in order to enable the authority to execute any work of improvement in relation to any building in a Slum area or to re-develop and clearance area it is necessary that land within, adjoining or surrounded by any such area should be acquired, the State Government may acquire the land by Publishing in the official Gazette a notice to the effect that the State Government has decided to acquire the land in pursuance of this Section.

Provided that before publishing such notice the State Government may call upon the owner of, or any other person who, in the opinion of the State Government may be interested in such land to show cause why it should not be acquired, and after considering the cause, if any, shown by the owner or any other person interested in the land, the State Government may pass such order as it deem fit.

- (2) When a notice as aforesaid is published in the official Gazette, the land shall on and from the date on which the notice is so published, vest absolutely in the State Government free from all encumbrances.

**20. Land acquired by the State Government to be made available to the authority: -**

Where any land in a slum Area or Clearance Area has been acquired under this Act, the State Government shall make the land available to the Authority for the purpose of execution, any work of improvement or carrying out any order of demolition or for the purpose of re-development.

**21. Right to receive compensation: -**

Every person having any interest in any land acquired under this Act shall be entitled to receive from the State Government compensation as provided here after from this Act.

**22. Basis of determination of compensation: -**

- (1) The amount payable as compensation in respect of any land acquired under this Act shall be an amount equal to sixty times the net average monthly income actually derived from such land during the period of five consecutive years immediately proceeding the date of publication of the notice referred to in Section 16.
- (2) The net average monthly income referred to in sub-section.
  - (1) Shall be calculated on the following basis:
    - (i) The Authority shall first determine the gross rent actually derived by the owner of the land acquired including any building or such land during the period of five consecutive years referred to in sub-section (1).
    - (ii) For such determination the authority may hold any local inquiry and obtain, if necessary certified copies of extracts from the property tax assessment bars of the municipal or other local authority concerned showing the rental value of such land.
    - (iii) The net average monthly income referred to in sub-section (1) shall be sixty percent of the average monthly gross rent during the five consecutive years as determined by the authority under paragraph (i).
    - (iv) Forty percent of the gross rental referred to above shall not be taken into consideration in determining the net average monthly income but shall be deducted in lieu of the expenditure which the owner of the land would normally incur for payment of any property tax to the municipal or other local authority, for collection, charges, income tax or bad debts as well as for works of repair and maintenance of the building, if any, on the land.
    - (v) Where the land or any portion thereof has been unoccupied or the owner has not been in receipt of any rent for the occupation of the land during the whole or any part of the said period of five years, the gross rent shall be taken to be the income which the owner would in fact have derived if the land has been leased out for rent during the said period, and for this purpose the rent actually derived from the land during a period prior or subsequent to the period during which it remained vacant or from similar land in the vicinity shall be taken into account.
- (3) The Authority shall, after holding an enquiry in the prescribed manner, determine in accordance with the provisions of sub-section (2) the net average monthly income actually derived from the land and publish a notice in the official Gazette specifying the amount so determined and calling upon the owner of the land and every person interested therein to estimate to it before a date specified in the notice whether such owner or person agrees to the amount so determined and if he does not agree, what amount he claim to the net average monthly income actually derived from the land.
- (4) Any person who does not agree to they amount of the net average monthly

income determined by the authority under sub-section (3) and claims a sum in excess of that amount may prefer an appeal to the appellate authority within thirty days from the date specified in the notice referred to in that sub-section.

- (5) On appellate, the appellate authority shall, after hearing the appellant, determined the net average monthly income and his determination shall be final and shall not be question in any court of law.
- (6) Where there is any building on the land in respect of which the net average monthly income has been determined no separate compensation shall be paid in respect of such building:

Provided that the owner of the land and the owner of the building on such land are different the authority shall apportion the amount of compensation between the owner of the land and the owner of the building in such proportion as it considers reasonable:

Provided further that the compensation in respect of the building shall not in any case exceed fifty percent of the total amount of compensation which had been determined in accordance with the provision of this section.

**23. Apportionment of compensation: -**

- (1) Where several person claims to be interested in the amount of compensation determined under Section 22, the authority shall determine the person who in its opinion are entitled to receive compensation and the amount payable to each of them.
- (2) If any dispute arises as to apportionment of compensation or any part thereof, or as to the persons to whom the same or any part thereof is payable the authority may refer the dispute to the decision of the appellate authority and the appellate authority in deciding any such dispute shall follow as far as may be, the provisions of part III of the land acquisition Act 1894 (I of 1894).

**24. Payment of compensation or deposit of the same in Court: -**

- (1) After the amount of compensation has been determined, the authority shall on behalf of the State Government, tender payment of, and pay the compensation of the person entitle there to.
- (2) If the person entitled to compensation doe not consent to receive it, or if there be any dispute as to the little to receive compensation or as to the apportionment of it, the authority shall deposit the amount of the compensation in the court of the district judge and that the court shall deal with the amount as deposited in the manner laid down in Section 32 and 33 of the land acquisition Act, 1894 (I of 1894).

**25. Powers of Authority in relation to determination of compensation, etc: -**

- (1) The Authority may, for the purpose of determining the amount of compensation or appointment thereof, require by order, any person to furnish such information in his possession as may be specified in the order.
- (2) The Authority shall, while holding inquiry under Section 22 have all the powers of civil court while trying a suit under the code of civil procedure, 1908 (V of 1908) in respect of the following matter namely:
  - a) Summoning and enforcing the attendance of any person and examining him an oath.
  - b) Requiring the discovery and production of any document.
  - c) Reception of evidence of affidavits.
  - d) Requisitioning any public record from any court of office.
  - e) Issuing commissions for examination of witness.

**CHAPTER VII**

**APPEALS AND THE APPELLATE AUTHORITY**

**26. Appointment of Appellate Authority: -**

- (1) Save as otherwise provided, the State Government shall appoint an Appellate Authority to hear all appeals arising but of the provisions of this act, the decision of appellate authority shall be final.
- (2) The person or persons appointed by the State Government as Appellate Authority shall have the qualification of a District and Session Judge. The appointment shall be on such terms and conditions as the State Government may decide.

**27. Duties of the Appellate Authority: -**

- (1) The duties and powers of the Appellate Authority shall be as follows: -
  - a) To hear and decide appeals against the orders of the authority.
  - b) To decide and hear appeals in respects of such other matters and exercise such other powers as may be entrusted to and conferred upon it by the State Government in accordance with the provision of this Act.
- (3) All appeals to the Appellate Authority shall be filed within a month from the date of the order appealed against. The time required for taking out copies of the order shall be excluded. The Appellate Authority may however in its discretion condone any delay in filling appeal for sufficient reasons.

**28. Procedure of working of the Appellate Authority: -**

- (1) The Appellate Authority shall conduct its proceedings in the prescribed manner after giving the opposite party or any one interested in the order appealed against an opportunity of being heard.
- (2) The appellate Authority may at any time, call for any extract from any proceedings before the State Government or authority and call for any return or statement or report concerning or connected with any matter pending before it.
- (3) The Appellate shall have all the powers of a civil court for the purposes of taking evidence on oath and of enforcing the attendance of witness including the parties interested or any of them and compelling the production of document and materials objection if considered necessary.
- (4) The Appellate Authority in its discretion may make any orders regarding the costs to be paid by any of the parties to the proceedings and the Appellate Authority shall have full powers to determine by whom or out of what property and to what extent such costs are to be paid and the authority shall be bound to execute the orders of the Appellate Authority in accordance with the direction, if any contained in the order.

**29. Right to appear by recognized agent: -**

Every party to any proceedings before the Appellate Authority shall be entitled to appear either in person or by his recognized agent.

**30. Protection of action taken under this Act: -**

- (1) No suit, prosecution or other legal proceedings shall lie against any persons for anything which is in good faith done or intended to be done in pursuance of this Act or any order made there-under.
- (2) Save as otherwise expressly provided in this Act no suit or other legal proceeding shall be against the State Government for any damage caused or likely to be caused by anything in good faith done or intended to be done in pursuance of this Act or any order made there-under.

## **CHAPTER VIII**

### **FINANCE**

**31. Development of fund: -**

The receipt of Authority under this Act shall form a separate development fund and all expenditure under this act or any development scheme there-under, shall be defrayed out of such fund. No, portion of the fund shall except with the sanction of

Government, be expanded doe purpose not provided by this Act.

**32. Power to borrow: -**

Authority as defined in this Act, shall be deemed to be local authority as defined in the local authorities loans Act, 1914 (IX of 1914) for the purpose of borrowing money under that Act, and the making and execution of a plan and scheme shall be deemed to be work with such local authority is legally authorized to carry out.

**33. Grants advances and loans: -**

The Government may make such grants, advance and loan to the Authority as the Government may deem necessary for the performance of functions of the Authority under this Act issued all grants.

## CHAPTER IX

### LEGAL PROCEEDINGS

**34. Penalty for breach of the provisions of the scheme: -**

- (1) When an area has been declared to be slum area, or a scheme clearance area under this Act, any person who commits or knowingly permits a breach of any specified provision of the re-development or improvement scheme or who neglects or fails to comply with any such provisions shall be punishable under this Section.
- (2) In case of any such breach or default the Authority shall send to any such person a notice calling on him to discontinue the breach or caused it to be discontinued or to comply with such provision of the re-development or improvement schemes within a reasonable time to be specified in the notice.
- (3) If after such time any such person under such section
  - (i) continues to neglect or breach, such person shall on conviction, be punishable by any o all of the following: -
    - (l) with fine which may exceed to Rs. 500 with or without simple imprisonment not exceeding a period of two months;
    - (ii) If the breach, neglect or failure continues after such conviction, with fine which may extent to Rs. 30 for every day during which the breach, neglect or failure continues after such conviction.

**35. Power to execute work on failure to comply with notice: -**

If a notice has been given under this Act to a person requiring him to execute of a work in respect of any property, moveable or immoveable or to provide or do or refrain from doing anything within a time specified in the notice and if such person

fails to comply with such notice then the Authority may caused such work to be executed or such thing to be provided or none any may recover all expenses incurred by it on such account from the said person as an arrear of land revenue.

**36. Right of occupier to execute works in default of owner: -**

When default is made by the owner of a building or land in the execution of any work required under this Act to be executed by him the occupier of such building or land may with the prior approval of the Authority after serving notice to the owner cause such work to be executed.

**37. Recovery of cost of work by the occupier: -**

When the occupier of building or land in compliance with a notice issued under this Act, executed a work for which the owner of such building or land is responsible, either in pursuance of the contract or 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.

**38. Procedure upon opposition to execution by occupier: -**

- (1) If after receiving notice in writing 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 refused to allow such owner to take action, the owner may apply to a Magistrate of the first class for taking necessary action.
- (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, necessary 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 cost relating to such application or order.
- (3) If after the expiry of eight days from the date of the Magistrate's order, the occupier continues to refuse to allow the owner to execute such work, the occupier shall be liable, upon conviction, to a fine which may extent to Rs. 30 for every day during which he had so continued to refuse.
- (4) Every owner during the continuance of such refusal shall be discharged from any liability an account of such breach or default.

**39. Penalty for obstructing contractor or removing mark: -**

If any person-

- a) Obstruct or assaults any person with whom the authority has entered into a contract for the performance or execution by such person of his duty or of anything where he is empowered or required to do under this Act, or
- b) Removes any mark set for the purpose of indicating any level or direction necessary to the execution of works authorized under this Act shall be punishable with fine which may extent to Rs. 500.00 with or without simple

imprisonment for a term which may extent to two months.

**40. Officers under the Act to be public servants: -**

Every officers and servants of the Authority and every other officer employed by the State Government for the purposes of this Act shall be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code (XLV of 1860).

**41. Authority for prosecution: -**

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

**42. Power of Authority to institute proceedings, etc. and to take legal advice: -**

The Authority shall subject to rules framed under this Act have powers to: -

- a) Institute, refund or withdraw from legal proceedings under this Act,
- b) Compound any offence under this Act before the matter is referred to the court,
- c) Admit, compromise, or withdraw any claim made under this Act, and,
- d) Obtain such legal advice and assistance as it may from time to time think necessary or expedient to obtain for nay of the purposes, referred in the foregoing clauses of this Section for securing the lawful exercise or discharge of any power or duty vested in or imposed upon the authority or any officer or servant of the authority.

**43. Bar to suits and prosecution in the certain cases: -**

- (1) No Quit prosecution or other proceeding shall be against an authority or any officer or servant thereof or any person acting under their direction or any Government Officer or Servant employed for the purpose of this Act for anything done under this Act.
- (2) No suit, prosecution or other proceedings shall lie against any officer or servant of the authority or any Government officer or servant employed for the purpose of this Act for anything done under this Act,
  - a) Unless the previous sanction of the State Government has been obtained,
  - b) And until the expiry of two months after the notice in anything is been given to the person to be used, clearly stating the cause of action and the nature of relief sought, etc.

**44. Punishment or malicious abuse of powers: -**

The Authority or any officer or servant of the Authority or of the Government who



willfully or negligently abuses any power conferred on him by or under this Act, shall be punishable with imprisonment which may extend to two months or with fine which may extend Rs. 500 or with both.

Provided that the prosecution shall be instituted under this Section:

- a) Unless the previous sanction of the State Government has been obtained, and
- b) Until the expiry of two months notice in writing has been given to the person concerned clearly stating the cause of action and the nature of relief sought etc.

**45. Registration of documents, plans or maps in connection with a scheme: -**

- (1) Nothing in the Indian Registration Act, 1908 (XV of 1908) shall be deemed to require the registration of any document, plan or map prepared made or sanctioned in connection with a scheme which has come into force.
- (2) All such document, plan and maps relating to the sanctioned scheme shall, for the purposes of section 48 and 49 of the Indian Registration Act, 1908 be deemed to have been and to be registered in accordance with the provision of the Act,

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

**46. Order under the Act not to be questioned in any Court: -**

No order made in exercise of any power conferred by or under this Act shall be called in question in any court except as provided in this Act.

**47. Effect or order in consistent with other enactment: -**

Any order made under this Act shall have effect notwithstanding anything in consistent therewith contained in any enactment other than this Act or any instrument having effect by virtue of any enactment other than this Act.

## **CHAPTER X**

### **MISCELLANEOUS PROVISIONS**

**48. Service of notice: -**

Every notice issued under this Act shall be served as prescribed by rules.

**49. Method of giving public notice: -**

Subject to the provision of this Act, every public notice required under this Act shall be deemed to have been given if it is published in some local newspaper (if any) or a paper of general circulation in the area and posted upon a notice board to be exhibited for public information at the building in which the meeting of the

local authority are ordinarily held or by publishing it in official Gazette.

**50. Formal defect in assessment and demands: -**

No assessment list or other list, notice or other such documents specifying, or purporting to specify with reference to any charge, or fee, any person's property, thing or circumstances shall be invalid only by reason of a clerical or technical mistake in the name, residence, place of business or occupation of the person or in the description of property, thing or circumstances is described sufficiently for the purpose of identification, and it shall be necessary to name the owner or occupier of any property liable in respect of the charge.

**51. Power and duties of Police in respect of offences and assistance to authorities: -**

Every police officer, mauzadar or officer of the local authority shall give immediate information to the authority of an offence coming to his knowledge which has been committed under this Act or against any rule, made under this Act, and shall be bound to assist all members, officers and servants of the authority in the exercise of their lawful authority.

**52. Decision of disputes between authorities: -**

Should a dispute arise between one authority and any other authority on any matter in which they are jointly interested, such dispute shall be referred to the State Government, whose decision shall be final.

**53. Power to enter into land or inspection, etc: -**

For the purpose of making or execution of any improvement or redevelopment scheme, the authority or persons appointed by the State Government, their subordinates and contractors may, after giving notice, enter into or upon any land in order:

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

Provided as follows: -

- a) Except when it is otherwise specially provided by the rules, no such entry shall be made between sun set and sunrise.
- b) Except when it is otherwise specially provided by the rules 40 buildings which is used as a human dwelling shall be so entered, unless with the consent of the occupier thereof without giving the said occupier atleast 24 hours previous notice in writing of the intention to make such entry, and,

- c) Due regard shall always be had, so far as may be compatible with the exigencies of the purpose for which the entry is made, to the social and religious usages and custom of the occupants of the premises entered.

**54. Made of proof of the records of the authority: -**

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

### NOTES

**Adapted by Meghalaya:** - This Act has been adapted for its application in the State of Meghalaya by virtue of the Meghalaya adaptation of laws order (No. 4) of 1971, effective from the appointed day, i.e., the 2<sup>nd</sup> day of April, 1970, with the following amendments:

In Section1: The Sub-section (2) and (3) of the Assam Act, the following sub-section (2) was substituted.

“ (2) It shall come into force in any area on such date as the Government of Meghalaya may by notification specify and any such notification may specify the exceptions, restrictions, or modifications subjects to which the Act shall apply in any such Area.”

Such adaptation was also followed by virtue of the Meghalaya adaptation of laws order (No. 3) 1973 effective from the appointed day i.e., the 21<sup>st</sup> January, 1972.

GOVERNMENT OF MEGHALAYA  
URBAN DEVELOPMENT DEPARTMENT

**ORDERS BY THE GOVERNOR  
NOTIFICATION**

Dt. Shillong, the 3<sup>rd</sup> January, 1990.

No. UDM. 122/891- In exercise of the powers conferred under sub-section (2) of Section 1 of the Meghalaya Slum Areas (Improvement and Clearance) Act/Assam Slum Areas (Improvement and Clearance) Act, 1959 as adapted vide the Meghalaya Adaptation of laws Order No. 3 of 1973, the Governor of Meghalaya hereby directs that the Act aforesaid shall, with immediate effect, come into force in all areas of the State of Meghalaya.

Sd/- S.K. AGNIHOTRI  
Special Secretary to the Government of Meghalaya,  
Urban Development Department