

[THE TOWN IMPROVEMENT ACT, 1922.]

[Received the assent of the Governor of the Punjab on the 26th September, 1922, and that of the Governor General on the 29th October, 1922, and was first published in the Punjab Gazette of the 17th November, 1922.]

An Act for the Improvement of Certain Areas.

“WHEREAS it is expedient to make provision for the improvement and expansion of town in the Province of ‘Sind’;

Preamble.

It is hereby enacted as follows:—]

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the “TOWN Improvement Act, 1922.] Title, extent and commencement.

1. For Statement of Objects and Reasons, see *Punjab Gazette*, 1921, Part I-A, pages 162, 164, for Report of the Select Committee, see *ibid*, 1922, Part V, pages 53—110; for Proceedings in Council, see *Punjab Legislative Council Debates*, Vol.-II, pages 109—12, 432-34; Vol-IV, pages 41, 249—57 and 271-74. This act has been rep. in its application to the Hyderabad Division by Sind Act XIII of 1976 s. 72.
2. See *Punjab Gazette*, 1922, Part I, pages 966-93.
3. Subs. for the original preamble by W. P. Ordinance XVIII of 1962, s. 2.
4. Subs. for the “West Pakistan” by Sind A. O., 1975.
5. The word “Punjab” omitted by W.P. Ord. XVIII of 1962, s. 3(i).

¶ (2) It extends to the whole of the Province of [Sind].

¶ (3) This section and section 66 shall come into force at once. The Provincial Government may by notification propose to apply the rest of the Act to the whole or to any part of a municipality and to any locality adjacent thereto on such date as may be specified in such notification, and the Act shall apply accordingly after the lapse of three months; unless within that period the Provincial Government directs by a notification that the Act shall not so apply.]

Definitions.

2. In this Act unless there is something repugnant in the subject or context—

- (1) words and expressions not defined in this Act have the same meaning as in the [Municipal Administration Ordinance, 1960];
- (2) "land" includes land as defined in clause (a) of section 3 of the Land Acquisition Act, 1894;
- (3) "street alignment" means lines forming the boundaries of a street dividing the same from lands adjoining on either side;
- (4) "building line" means a line (in rear of the street alignment) having the same meaning as in the [Municipal Administration Ordinance, 1960] on a projected street may lawfully extend;
- (5) "tribunal" means a tribunal constituted under section 60;

1. The original sub-section (2) was first subs. by W.P. Act XXXVII of 1958, s.2 and then by W.P. Ordinance XVIII of 1962, s.3 (ii) to read as above.

2. Subs. by Sind A.O., 1975.

3. Subs. for the original sub-section (3) as amended by the A.O. 1937, by Punjab Act XXXIV of 1950, s.2.

4. Subs. for the words "Punjab Municipal Act, 1911 as from time to time amended hereinafter called the Municipal Act" by W.P. Ordinance XVIII of 1962, s.4 (i). Now see the Sind Local Government Ordinance, 1979.

- (6) "Municipal Committee" means the committee established in accordance with the provisions of the "[Municipal Administration Ordinance, 1960], for the municipality to which or to any part of which or to any locality adjacent to which the provisions of this Act have been applied under sub-section (3) of section 1;
- (7) "local area" means the area to which this Act has been applied and the area within which a trust has been created for the purposes of carrying out the provisions of the Act;
- (8) all references to anything done, required, authorised 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—
- (a) by any provision of this Act, or
- (b) by any rule or scheme made under the provisions of this Act, or
- (c) under any provision of the "[Municipal Administration Ordinance, 1960] which the trust has by virtue of this Act power to enforce;
- (9) "prescribed" means prescribed by rules made by the "[Provincial Government] under this Act;
- (10) "notification" means a notification published in the "[Official Gazette].

CHAPTER II.

CONSTITUTION OF TRUSTS.

3. The duty of carrying out the provisions of this Act in any local area shall, subject to the conditions and limitations hereinafter contained, be vested in a board to be called "The (name of town)

Creation and
incorpora-
tion of trust.

1. Subs. for the words, "Municipal Act" by West Pakistan Ordinance XVIII of 1962, s. 4 (ii).
Now see the Sind Local Government Ordinance, 1979.

2. Subs. for the words "Local Government" by the A.O., 1937.

3. Subs. *ibid* for the words "Punjab Gazette".

4. Subs. for the original Chapter II (sections 3 to 11), as amended by Punjab Act VIII of 1936 A.O. 1937, Punjab Act I of 1951, W.P. Ordinance XXX of 1958, by the W.P. Ordinance XVII of 1962, s.5.

Improvement Trust" hereinafter referred to as "the trust", and every such board shall be a body corporate and have perpetual succession and a common seal, and shall by the name sue and be sued.

Constitution
of trust.

4. The trust shall consist of a chairman and other trustees to be appointed by the Provincial Government.

Removal
of trustees.

5. The Provincial Government may, at any time, remove the chairman or any other trustee and appoint another chairman or trustee, as the case may be, in this place.

Resignation
of trustees.

6. (1) The chairman or any trustee may at any time resign his office:

Provided that his resignation shall not take effect until accepted by the Provincial Government.

(2) Where the office of the chairman falls vacant, either by the resignation of the incumbent or due to any other cause, the Provincial Government may appoint one of the trustees to act as the chairman till such time as the chairman is appointed.

Remuneration
of chairman
and other
trustees.

7. The chairman and the other trustees shall receive such salary, remuneration or allowances as may be sanctioned by the Provincial Government.]

CHAPTER III.

PROCEEDINGS OF THE TRUST AND COMMITTEE

Meetings of
trust.

12. (1) (a) The trust shall ordinarily meet for the transaction of business at least once in every month at such time as it may fix, provided that the chairman may, whenever he thinks fit, and shall, upon the written request of [any trustee,] call a special meeting.

1. Subs. for the words "not less than two trustees" by W. P. Ordinance XVIII of 1962, s. 61.

'[(b) The quorum necessary for the transaction of business at an ordinary or special meeting shall be the chairman and at least one other trustee, and where the business to be transacted is the formation of any scheme under Chapter IV, the quorum shall be the chairman and [half of the number of other trustees, a fraction being counted as one.]

(c) At every meeting the chairman, if he be present, or in his absence such one of the trustees present as may be chosen by the meeting, shall preside.

(d) All question which come before any meeting shall be decided by a majority of the votes of the trustees present; the president of the meeting in case of an equality of votes having a second or casting vote.

(e) Minutes of the names of the trustees present and of the proceedings at each meeting shall be drawn up and recorded in a book to be kept for the purpose, shall be signed by the person presiding at the meeting or at the next ensuing meeting, and shall at all reasonable times and without charge be open to inspection by any trustee.

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

'[13. (1) The trust, may, and if so desired by the Provincial Government, shall associate with itself, in such manner, for such period and for such purposes as may be prescribed by rules made under section 74, any persons whose assistance or advice it may desire in carrying out any of the provisions of this Act, or any persons nominated by the Provincial Government in this behalf, and persons so associated shall be known as associate members.]

(2) An associate member shall have the right to take part in the discussions of the trust, but shall not have a right to vote at a meeting of the trust and shall not be deemed to be a trustee].

1. Subs. for the "original clause (b)" by West Pakistan Ordinance XVIII of 1962, s. 6(b).

2. Subs. for the words "all the other trustees" by West Pakistan Ordinance IV of 1964, s. 2.

3. Subs. *ibid.*, s. 7, for the original section 13.

Constitution
and
functions of
committees

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

- (i) trustees;
- (ii) persons associated with the trust under section 13;
- (iii) other persons whose services, assistance or advice the trust may desire as members of such committees:

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

(2) The trust may—

- (a) refer to such committees, for inquiry and report, any matter relating to any of the purposes of this Act, and
- (b) delegate to such committees by resolution and subject to any rules made under section 74, 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 committees.

(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.

(6) Any person associated with the trust under section 13 or appointed a member of a committee of the trust under clause (iii) of sub-section (1) shall be entitled to receive such remuneration either by way of monthly salary or by way of fees or partly in one of these ways and partly in the other as the [Provincial Government] may prescribe

1. Subs. for the words "Local Government" by the A. O., 1937.

15. (1) Committees appointed under section 14 may meet Meetings of committees. and adjourn as they think proper; but the chairman of the trust may, whenever he deems fit, call a special meeting of any such committee, and shall do so upon the written request of not less than two members thereof.

(2) The chairman may attend any meeting of a committee appointed under section 14 whether he is a member of such committee or not, and shall preside at every such meeting at which he is present; if he be absent, any trustee present and being a member of such committee as may be chosen by the meeting, shall preside: provided in this case that if only one trustee is present, he shall preside.

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

(4) No business shall be transacted at any meeting of such committee when less than 2 members or, when the committee consists of more than eight members, when less than one-fourth of such members are present.

16. (1) A trustee who—

- (i) has, directly or indirectly, by himself or by any partner, employer, or employee, any such share or interest as is described in the proviso to section 10, in respect of any matter, or Trustees and associated members of trust or committee not to take part in proceedings in which they are personally interested.
- (ii) has acted professionally, in 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 appointed under this Act relating to such matter.

(2) If any trustee, or any person associated with the trust under section 13 or any other member of a committee appointed under this Act, has, directly or indirectly, any beneficial interest in any land situated in an area comprised in any improvement scheme

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

Power of trust to fix number and salaries of permanent servants and appointment of temporary servants in cases of emergency.

17. (1) Subject to such rules as the "[Provincial Government]" time employ such servants as it may deem necessary and proper may make under clause (iii) of section 73 the trust may from time to time assist in carrying out the purposes of this Act, and may assign to such servants such pay as it may deem fit.

(2) The Provincial Government may from time to time specify the posts under the trust, which shall be filled by persons belonging to the 'Local Councils Service constituted under Article 44 of the Basic Democracies Order, 1959 (P. O. 18 of 1959), hereinafter referred to as the Order, and in relation to the said posts and the persons appointed thereto, the provisions of Chapter VIII of Part II of the Order and any rules framed in pursuance thereof shall mutatis mutandis apply and as if any reference in the said provisions and the rules to—

- (a) a local council, were a reference to the trust;
- (b) the Controlling Authority, were a reference to the Provincial Government; and
- (c) the Order, were a reference to this Act.]

18. [Power of appointment, etc.] Omitted by W. P. Ordinance XVIII of 1962, S. 8.

Control by chairman.

19. The chairman shall exercise supervision and control over the acts and proceedings of all officers and servants of the trust; and, subject to the foregoing sections, shall dispose of all questions relating to the service of the said officers and servants and their pay, privileges and allowances.

Delegation of certain chairman's functions.

20. (1) The chairman may, by general or special order in writing, delegate to any officer of the trust any of the chairman's powers, duties or functions under this Act or any rule made thereunder except those conferred or imposed upon or vested in him by sections 12, 15, 21, 46 and 96 respectively.

1. Section 17 has been renumbered as sub-section (1) of that section by W. P. Act 4 of 1968, s. 2.

2. Subs. for the words "Local Government" by the A. O., 1937.

3. New sub-section (2) added by W. P. Act 4 of 1968, s. 2.

4. Now the Sind Councils Unifed Grades Constituted under Section 78 of Sind Ord. XII of 1979

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

Supply of information to Government.

21. (1) The chairman shall forward to the [Provincial 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 (c) of sub-section (1) of section 12. Supply of information and document to the Government.

(2) If the [Provincial 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 [Provincial Government] may require the chairman to furnish it with—

(i) any return, statement, estimate, statistics or other information regarding any matter under the control of the trust, or

(ii) a report on any such matter, or

(iii) a copy of any document in the charge of the chairman.

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

[21-A. If in the opinion of Government, anything done or intended to be done by or on behalf of the Trust is not in conformity with law, or is in any way against public interest, Government may by order— Control over the activities of improvement trust-

(a) quash the proceedings;

(b) suspend the execution of any resolution passed or order made by the Trust;

(c) prohibit the doing of anything proposed to be done; or

(d) required the Trust to take such action as may be specified.]

CHAPTER IV.

SCHEMES UNDER THE ACT.

22. (1) Whenever it appears to the trust that—

(a) any buildings which are used or are intended or likely to be used as dwelling places within its local area are unfit for human habitation, or

Matters to be provided for by general improvement scheme or rebuilding scheme.

1. Subs. for the words "Local Government" by the A. O., 1937.

2. Ins. by the W. P. Ord. XXVI of 1965.

(b) danger is caused or likely to be caused to the health of the inhabitants of such local area or part thereof by reason of—

- (i) the congested condition of streets or buildings or groups of buildings in such local area or part, or
- (ii) the want of light, air, ventilation or proper conveniences in such local area, or part, or
- (iii) any other sanitary defects in such local area or part, the trust may pass a resolution to the effect that such local area or part is in an insanitary locality and that "a general improvement scheme" ought to be framed in respect of such locality and may then proceed to frame such a scheme.

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

Street
schemes and
deferred
street
schemes,

23. (1) Whenever it appears to the trust that for the purpose of—

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

within its local area or part thereof it is expedient to lay out new streets, thoroughfares and open spaces, or alter existing streets, the trust may pass a resolution to that effect, and shall then proceed to frame "a street scheme" which shall prescribe improved alignments for streets, thoroughfares and open spaces for such local area or part as the trust may deem fit.

(2) Whenever it appears to such trust that for any of the purposes mentioned in sub-section (1) within its local areas or part thereof it is expedient to provide for the ultimate widening of any existing street by altering the existing alignments 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 forthwith proceed to frame a "deferred street scheme" prescribing an alignment on each side of such street.

24. (1) The trust may, for the purpose of development of any locality within the municipal limits contained in its local area, prepare "a development scheme", and Development and expansion schemes.

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

(3) "A development scheme" or "an expansion scheme" may provide for the lay-out of the locality to be developed, the purposes for which particular portions of such locality are to be utilised, the prescribed street alignment and the building line on each side of the streets proposed in such locality, the drainage of insanitary localities and such other details as may appear desirable.

25. If the trust is of opinion that it is expedient and for the public advantage to provide housing accommodation for any class of the inhabitants within its local area such trust may frame "a housing accommodation scheme" for the purpose aforesaid: Housing accommodation scheme.

Provided that if the '[Provincial Government] are satisfied that within the trust area it is necessary to provide housing accommodation for industrial labour, the '[Provincial Government] may by order require the trust to frame a scheme under this section and to do all things necessary under the Act for executing the scheme so made; and if the trust fail within such time as may be prescribed to frame a scheme to the satisfaction of the '[Provincial Government] and to execute it, the '[Provincial Government] may either by order require the municipal committee to frame and execute a scheme, or themselves frame a scheme and take such steps as are necessary to execute it. All expenses incurred by the '[Provincial Government] or by the municipal committee in the exercise of the powers conferred upon them by this section shall, in the first instance, be paid out of provincial revenues, but the amount so spent shall be recoverable from the trust as if it were a '[debt due to the Provincial Government], and the '[Provincial Government] may attach the rents and other income of the trust. The provisions of section 72 shall also apply to all moneys so paid.

Rehousing
Scheme.

26. Whenever the trust deems it necessary that accommodation should be provided for persons who are displaced by the execution of any scheme under this Act, or are likely to be displaced by the execution of any scheme, which it is intended to submit to the '[Provincial Government] for sanction under this Act it may frame "a rehousing scheme" for the construction, maintenance and management of such and so many dwellings and shops as ought, in the opinion of the trust, to be provided for such persons.

Rehousing
of displaced
resident
house-
owners.

27. Any resident house-owner who is likely to be displaced by the execution of any scheme under this Act, may apply to the trust to be re-housed, and no such scheme shall be put into execution until a re-housing scheme as provided for in section 26 for the re-housing of such resident house owners as may apply under this section has been completed.

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

1. Subs. for the words "Local Government" by the A. O., 1937.

2. Subs. *ibid.* for the words "Debt due to Government".

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

Combination of schemes and matters which may be provided for in scheme.

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

- (i) the acquisition under the Land Acquisition Act, 1894, as modified by this Act, or the abandonment of such acquisition under sections 56 and 57 of this Act, of any land or any interest in land necessary for or affected by the execution of the scheme, or adjoining any street thoroughfare open space to be improved or formed under the scheme;
- (ii) the acquisition by purchase, lease, exchange or otherwise of such land or interest in land;
- (iii) the retention, letting on hire, lease, sale, exchange or disposal otherwise of any land vested in or acquired by the trust;
- (iv) the demolition of buildings or portions of buildings that are unfit for the purpose for which they are intended and that obstruct light or air or project beyond the building line;
- (v) the relaying out of any land comprised in the scheme and the redistribution of sites belonging to owners of property comprised in the scheme;
- (vi) the laying out and alteration of streets;
- (vii) the provision of open spaces in the interests of the residents of any locality comprised in the scheme or any adjoining locality and the enlargement or alteration of existing open spaces;
- (viii) the raising, lowering or reclamation of any land vested in or to be acquired by the trust for the purposes of the scheme and the reclamation or reservation of land for the production of fruit, vegetables, fuel, fodder and the like for the residents of the local area;
- (ix) the draining, water-supply and lighting of streets altered or constructed;

- (x) the provision of a system of drains and sewers for the improvement of ill-drained and insanitary localities;
- (xi) the doing of all acts intended to promote the health of residents of the area comprised in the scheme, including the conservation and preservation from injury or pollution of rivers and other sources and means of water supply;
- (xii) the demolition of existing buildings and the erection and re-erection of buildings by the trust or by the owners or by the trust in default of the owners;
- (xiii) the advance to the owners of land comprised within the scheme upon such terms and conditions as to interest and sinking fund and otherwise as may be prescribed under the scheme of the whole or part or the capital requisite for the erection of buildings in accordance with the scheme;
- (xiv) the provision of facilities for communication;
- (xv) all other matters which the '[Provincial Government]' may deem necessary to promote the general efficiency of a scheme or to improve the locality comprised in such scheme.

Effect of
prescribing
a street
alignment on
powers of
municipal
committees.

29. Notwithstanding anything contained in the 'Municipal Administration Ordinance, 1960 when any street alignment has been prescribed by the trust in any scheme under this Act with the sanction of the '[Provincial Government]' the municipal committee shall not have power to prescribe a regular line for the street within the limits of the scheme, and any such line previously prescribed by the committee within such limits shall cease to be the regular line or line of frontage of the street.

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

30. (1) Should any building or part of a building project beyond the regular line of a street, either existing or determined on for the future, or beyond the front of the building on either side thereof, the trust may, whenever such building or part has been

1. Subs. for the words "Local Government" by the A. O., 1937.

2. Subs. for the words "Municipal Act" by W. P. Ordinance XVIII of 1962, s. 9. Now See the Sind Local Govt. Ordinance 1979.

either entirely or in greater part taken down or burnt down or has fallen down, by written notice, require such building or part when being rebuilt to be set back to or towards the said regular line or the front of the adjacent building; and the portion of the land added to the street by such setting back or removal shall become part of the street and shall vest in the trust.

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

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

(4) If the additional land, which will be included in the premises of any person required or allowed to set forward a building, or part thereof, belongs to the trust, the requisition or permission of the trust to set forward the building shall be sufficient conveyance to the said owner of the said land, and the terms and conditions of the conveyance shall be set forth in the said requisition or permission.

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

Prohibition
of building
beyond a
street
alignment.

(2) In the locality comprised in a development scheme or an expansion scheme, if any person desires to erect, re-erect, add to or alter any building on his land so as to make the same project beyond a street alignment or a building line duly prescribed by the trust, he shall apply to the trust for permission to do so, and if the trust refuses to grant permission to such person according to his application, and 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 or loss sustained by him in consequence of such refusal.

Acquisition
of property
affected by
deferred
street
scheme.

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

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

Official
representation.

33. (1) A scheme under this Act may be framed upon an official representation by the municipal committee or otherwise.

(2) An official representation referred to in sub-section (1) may be made by the municipal committee—

(a) on its own motion, or

(b) on a written complaint by the medical officer of health, or

[(c) in respect of any area comprised in a Union within the jurisdiction of a municipality, on a written request signed by twenty-five or more inhabitants of such Union].

(3) If the municipal committee decides not to make an official representation on any complaint made to it under clause (b) or clause (c) of sub-section (2), it shall cause a copy of such complaint to be sent to the trust, with a statement of the reasons for its decision.

1. Subs. by the words "Local Government" by the A. O., 1937.

2. Subs. for the original clause (c) by W. P. Ordinance XVIII of 1962, s. 19.

34. (1) The trust shall consider every official representation made under section 33, and if satisfied as to the truth thereof and as to the sufficiency of its own resources, shall decide whether a scheme under this Act, to carry such representation into effect should be framed forthwith or not, and shall forthwith intimate its decision to the municipal committee.

Consideration of official representation.

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

(3) If the trust fails, for a period of twelve months after the receipt of any official representation made under section 33, to intimate its decision thereon to the municipal committee, or if the trust intimates to the municipal committee its decision that it is not necessary or expedient to frame a scheme of a type other than that recommended by the municipal committee, the municipal committee may, if it deems fit, refer the matter to the '[Provincial Government].

(4) The '[Provincial Government] shall consider every reference made to it under sub-section (3) and

(a) If it deems that the trust ought to have passed a decision within the period mentioned in sub-section (3) shall direct the trust to pass a decision within such further period as the '[Provincial Government] may deem reasonable, or

(b) if it deems that it is expedient that a scheme should forthwith be framed, shall direct the trust to proceed forthwith to frame a scheme. Such a direction may prescribe the type of scheme to be framed.

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

1. Subs. for the words "Local Government" by the A.O. 1937.

Matters to be considered when framing improvement schemes.

35. When framing a scheme under this Act in respect of any locality, regard shall be held to—

- (a) the nature and the condition of adjoining localities and of the town as a whole;
- (b) the direction in which the town appears likely to expand; and
- (c) the claims of any other part of the local area likely to require a scheme under this Act.

Preparation, publication and transmission of notice as to improvement schemes, and supply of documents to applicants.

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

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

(2) The trust shall—

- (a) notwithstanding anything contained in section 78 cause the said notice to be published weekly for three consecutive weeks in the Official Gazette and in a newspaper or newspapers with a statement of the period within which objections will be received, and
- (b) send a copy of the notice to the [Chairman] of the municipal committee, and to the medical officer of health.

(3) The Chairman shall cause copies of all documents referred to in clause (iii) of sub-section (1) to be delivered to any applicant on payment of such fees as may be prescribed by rule under section 74.

37. The [Chairman] of any municipal committee and the medical officer of health to whom a copy of a notice has been sent under clause (b) of sub-section (2) of section 36 shall within a period of sixty days from the receipt of the said copy, forward to the trust any representation which the municipal committee or the said medical officer of health may deem fit to make with regard to the scheme.

Transmission to trust of representation by committee as to improvement scheme.

38. (1) During the thirty days next following the first day on which any notice is published under section 36 in respect of any scheme under this Act the trust shall serve a notice on—

Notice of proposed acquisition of land.

(i) every person whom the trust has reason to believe after due enquiry to be the owner of any immoveable property which it is proposed to acquire in executing the scheme,

(ii) the occupier (who need not be named) of such premises as the trust proposes to acquire in executing the scheme.

(2) Such notice shall—

(a) State that the trust proposes to acquire such property for the purposes of carrying out a scheme under this Act, and

(b) require such person, if he objects to such acquisition, to state his reasons in writing within a period of sixty days from the service of the notice.

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

39. The [Chairman] of the municipal committee shall furnish the chairman at his request and on payment of such fees as may be prescribed by rule made under section 73 with a copy of such information relating to a locality regarding which a notice has been published under section 36 as is available in the municipal records.

Furnishing of information available in municipal records.

1. Subs. for the word "president" by the W. P. Ordinance XVIII of 1962, s. 11.

Abandonment of scheme, or application to Provincial Government for sanction if.

40. (1) After the expiry of the periods respectively prescribed under clause (a) sub-section (2) of section 36, by section 37 and by clause (b) of sub-section (2) of section 38, in respect of any scheme under this Act, the trust shall consider any objection, or representation received thereunder, and after hearing all persons or their representatives making any such objection, or representation, who may desire to be heard, the trust may either abandon the scheme or apply to the '[Provincial Government]' for sanction to the scheme with such modifications (if any) as the trust may deem necessary.

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

- (i) complete plans and details of the scheme and an estimate of the cost of executing it;
- (ii) a statement of the reasons for modifications (if any) made in the scheme as originally framed;
- (iii) a statement of objections (if any) received under section 36;
- (iv) the representation (if any) received under section 37;
- (v) a list of the names of all persons (if any) who have objected under clause (b) of sub-section (2) of section 38, to the proposed acquisition of their property and a statement of the reasons given for such objection; and
- (vi) a statement of the arrangements made or proposed by the trust for the re-housing of persons who are likely to be displaced by the execution of the scheme and for whose re-housing provision is required.

(3) When any application has been submitted to the '[Provincial 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 newspaper or newspapers.

1. Subs. for the words "Local Government" by the A. O., 1937.

41. (1) [Provincial Government] may sanction, either with or without modification, or may refuse to sanction, or may return for reconsideration, any scheme submitted to it under section 40. Power to sanction, reject or return scheme.

(2) If a scheme returned for reconsideration under sub-section (1) is modified by the trust, it shall be republished in accordance with section 36—

(a) in every case in which the modification affects the boundaries of the locality comprised in the scheme, or involves the acquisition of any land not previously proposed to be acquired; and

(b) in every other case, unless the modification is, in the opinion of the [Provincial Government] not of sufficient importance to require republication.

42. (1) The [Provincial Government] shall notify the sanction of every scheme under this Act, and the trust shall forthwith proceed to execute such scheme, provided that it is not a deferred street scheme, development scheme, or expansion scheme and provided further that the requirement of section 27 have been fulfilled. Notification of sanction of scheme.

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

43. A scheme under this Act may be altered by the trust at any time between its sanction [by the Provincial Government] and its execution; Alteration of scheme after sanction.

Provided as follows:—

(a) if any alteration is estimated to increase the estimated net cost of executing a scheme by more than Rs. 50,000 or twenty per cent of such cost such alteration shall not be made without the previous sanction of the [Provincial Government].

1. Subs. for the words "Local Government" by the A.O., 1937.

2. Subs. ibid. for the words by "Local Government".

- (b) if any alteration involves the acquisition, otherwise than by agreement of any land the acquisition of which has not been sanctioned by the '[Provincial 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.

Inclusion of different localities in combined scheme.

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

CHAPTER V.

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

Transfer to trust of building or land vested in municipal committee for purposes of scheme.

45. (1) Whenever any building, or any street or other land, or any part thereof which is vested in the municipal committee is required for executing any scheme under this Act the trust shall give notice accordingly to the '[Chairman]' of the municipal committee, and such building, street, land or part shall thereupon vest in the trust, subject to the payment to the municipal committee of such sum as may be required to compensate it for actual loss resulting from the transfer of any building 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 '[Provincial Government]' whose decision shall be final.

Transfer of private street to trust for purposes of scheme.

46. (1) Whenever any street, or part thereof, which is not vested in the municipal committee is required for executing any scheme under this Act the trust shall cause to be affixed, in a conspicuous place in or near such street, or part, a notice signed by the chairman,

- (a) stating the purpose for which the street or part is required, and

1. Subs. for the words "Local Government" by the A. O., 1937.

2. Subs. for the words "president" by W. P. Ordinance, XVIII of 1962, s. 11.

- (b) declaring that the trust will, or on after a date to be specified in the notice, such date being not less than thirty days after the date of the notice, take over charge of such street, or part, from the owner or owners thereof;

and shall simultaneously send a copy of such notice to the owner or owners of such street, or part, or to the duly accredited agent of such owner or owners.

(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, or part, from the owner or owners thereof and the same shall thereupon vest in the trust.

(3) When the trust alters or closes any street or part thereof which has vested in it under sub-section (2), it shall pay such sum as may be required to compensate the previous owner or owners for actual loss resulting to him from such alteration or closure.

(4) If the alteration or closing of any such street, or part, causes special damage or substantial inconvenience to owners of property adjacent thereto, or to residents in the neighbourhood, the trust—

- (i) shall forthwith provide some other reasonable, means of access for the use of persons who were entitled as of right to use such street or part, as a means of access to any property or place, and
- (ii) if the provision of such means of access does not sufficiently compensate any such owner or resident for such damage or inconvenience, shall also pay him reasonable compensation in money.

47. (1) When any building or any street or other land or any part thereof, has vested in the trust under section 45 or section 46, no municipal 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 municipal committee, 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 [Provincial Government], whose decision shall be final.

Provision of drain or water work to replace another situated on land vested in the trust under section 45 or section 46.

1. Subs for the words, "Local Government", by the A.O., 1937.

Power of
trust to
make and
deal with
public street.

48. (1) The trust may—

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

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

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

1. Subs. for the words "Local Government" by the A. O., 1937.

[49. (1) The provisions of sections 42, 43, 44, 45, 52, 53, 54, 55, 56, 57, 58, 59, 60, 63, 68, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 92, 93, 94, 95, 96, 97, 98, 99, 115, 116, 117, 118, 119, 122, 124, 126, and 127 of the Municipal Administration Ordinance, 1960, shall *mutatis mutandis*, and so far as may be consistent with the tenor of this Act, apply to all localities in respect of which a scheme under this Act is in force, and for the period during which such scheme remains in force; and all references in the said sections to a municipal committee or to the chairman of a municipal committee or to any officer or servant of a municipal committee shall be construed as referring to the trust which in respect of any such localities may alone exercise and perform all or any of the powers and functions which under any of the said sections might have been exercised or performed by the municipal committee or by the chairman or any officer or servant of the municipal committee:

Powers under the Municipal Administration Ordinance, 1960, vested in the trust.

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

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

(a) generally for carrying out the purposes of this Act, and

(b) in particular and without prejudice to the generality of the aforesaid powers, regarding any of the matters referred to in the Fifth Schedule to the Municipal Administration Ordinance, 1960.]

[50 (1). The trust shall not take any action under section 52, 53, 54 or 55 of the Municipal Administration Ordinance, 1960, without having previously consulted the municipal committee and obtained its consent:

1. Subs. for the original section 49 by W. P. Ordinance XVIII of 1962, s. 12.

2. Subs. *ibid.*, s. 13, for the original section 50 as amended by the A. O., 1937.

Provided that if the municipal committee does not give consent, the matter in dispute shall be referred to the Provincial Government or to such officer as the Provincial Government may appoint in that behalf, whose decision shall be final.

(2) If the municipal committee deems it necessary that action should be taken within the trust area under section 52, 53, 54 or 55 of the Municipal Administration Ordinance, 1960, it shall make an application to the trust requesting that such action be taken, and the trust shall thereupon comply with the application, or give its reasons in writing for rejecting it:

Provided that if the application be rejected by the trust, the matter shall forthwith be referred to the Provincial Government or to such officers as the Provincial Government may appoint in that behalf, whose decision shall be final.]

Power of the
trust to
facilitate of
movement
population.

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

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

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

(ii) make such payments as it may deem fit from the said funds, by way of subsidy to persons undertaking to provide, maintain and work any means of 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, (a), and no means of locomotion shall be constructed maintained or worked under clause (b), without the previous sanction of the [Provincial Government].

52. 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

power to
make surveys
or contribute
towards their
cost.

- (b) contribute towards the cost of any such survey made by any other local authority.

53. (1) The chairman or any person authorised by him or by the trust in writing may, with or without assistants or workmen, enter into or upon any land in order—

Power of
entry.

- (i) to make any inspection, survey, measurement, valuation or inquiry,
- (ii) to take levels,
- (iii) to dig or bore into sub-soil,
- (iv) to set out boundaries and intended lines of work,
- (v) to mark such levels, boundaries and lines by marks and cutting trenches, or
- (vi) to do any other thing,

whenever it is necessary to do so for any of the purposes of this Act or any rule made or scheme sanctioned hereunder or any scheme which the trust intends to frame hereunder :

1 Subs. for the words "Local Government " by the A. O., 1937.

Provided as follows:—

- (a) Except when it is otherwise specially provided by a rule no such entry shall be made between sunset and sunrise.
 - (b) Except when it is otherwise specially provided by a rule no building which is used as a human dwelling shall be so entered unless with the consent of the occupier or if there be no occupier, the owner thereof, without giving the said occupier or owner, as the case may be, at least twenty-four hours' previous notice in writing of the intention to make such entry.
 - (c) Even when any premises may otherwise be entered without notice, reasonable warning and facility to withdraw shall be given to any female not appearing in public according to the customs of the country.
 - (d) Due regard shall always be paid so far as the exigencies of the occasion permit to the social and religious usages of the occupants of the premises entered.
- (2) Whenever any person enters into or upon any land in pursuance of sub-section (1), he shall at the time of such entry pay or tender payment for all necessary damage to be done as aforesaid; and, in case of dispute as to the sufficiency of the amount so paid or tendered he shall at once refer the dispute to the trust, whose decision shall be final.
- (3) It shall be lawful for any person authorized under sub-section (1) to make an entry for the purpose of inspection or search to open or cause to be opened a door, gate or other barrier—
- (a) if he considers the opening thereof necessary for the purpose of such entry, inspection or search, and

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

54. (1) If any question or dispute arises—

Reference of
disputes to
tribunal.

- (a) between the trust and the previous owner of any street or part thereof which has vested in the trust under section 46 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 as of right, to use as a means of access any street or part thereof, which has vested in the trust under the said section—
- (i) as to whether the alteration or closing of such street or part causes special damage or substantial inconvenience to owners of property adjacent thereto or to residents in the neighbourhood, or
- (ii) as to whether the other means of access provided or proposed to be provided under sub-section (4) of the said section are reasonably sufficient, or
- (iii) as to the sufficiency of any compensation paid or proposed to be paid under the said sub-section (4), 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 30, 31 or 102,

the matter shall be determined by the tribunal, hereinafter, defined 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) The provisions of sections 5, 6 and 12 of the Limitation Act shall be applicable in determining whether any claim shall be entertained.

(3) If a reference to the tribunal be not made within the period prescribed by sub-section (1), the decision of the trust shall be final.

(4) 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 59 of this Act, were applicable to the case.

55. (1) Whenever the municipal committee is satisfied—

- (a) that any street laid out or altered by the trust has been duly levelled, paved, metalled, flagged, channelled, sewered and drained in the manner provided in the plans sanctioned by the [Provincial Government] under this Act, and
- (b) that such lamps, lamp-posts, and other apparatus as the municipal committee deem necessary for the lighting of such street and as ought to be provided by the trust have been so provided and
- (c) that water and other sanitary conveniences ordinarily provided in a municipality have been duly provided in such street,

the municipal committee after obtaining the assent of the trust, or failing such assent, the assent of the [Provincial Government] under sub-section (3), shall by notice affixed in some conspicuous position in

1. Subs. for the words "Local Government" by the A. O., 1937.

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

1 of 1894

such street declare the street to be a public street, and the street shall thereupon vest in and shall thenceforth be maintained, kept in repair lighted and cleaned by the municipal committee.

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

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

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

CHAPTER VI.

ACQUISITION, TRIBUNALS AND APPLICATION OF ACT TO OTHER AUTHORITIES.

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

Abandonment of acquisition in consideration of special payment.

1. Subs. for the words "Local Government" by the A. O., 1937.

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

- (a) reaches it before the time fixed by the Collector, under section 9 of the Land Acquisition Act, 1894, for making claims in reference to the land, and
- (b) is made by any person, who either owns the land, is mortgagee thereof, or holds a lease thereof, with an unexpired period of seven years.

(3) The trust may admit any such application presented by any other person having an interest in the land.

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

(5) Within the said period of three months, or, with the permission of the trust, at any time before the Collector has taken possession of the land under section 16 of the Land Acquisition Act, 1894, the person from whom the trust has agreed to accept the sum so fixed may, if the trust is satisfied that the security offered by him is sufficient, execute an agreement with the trust either—

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

Provided that the trust may, at any time before the Collector has taken possession of the land under section 16 of the Land Acquisition Act, 1894, accept immediate payment of the said sum instead of an agreement as aforesaid.

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

(7) Every payment due from any person under any agreement executed under sub-section (5) shall be a charge on the interest of that person.

(8) If any instalment of interest payable under an agreement executed in pursuance of clause (ii) of sub-section (5) be not paid on the due date, the sum fixed by the trust under sub-section (4) shall be payable on the date, in addition to the said instalment.

(9) At any time after an agreement has been executed in pursuance of clause (ii) of sub-section (5), any person may pay in full the charge created thereby, with interest, at the agreed rate, up to the date of such payment.

(10) When an agreement in respect of any land has been executed by any person in pursuance of sub-section (5), no suit with respect to such agreement be brought against the trust by any other person (except an heir, executor or administrator of the person first aforesaid) claiming to have an interest in the land.

(11) When an agreement in respect of any land has been executed by any person in pursuance of sub-section (5), and any sum payable in pursuance of that sub-section is not duly paid, the same 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 by ¹[section 38 of 'the Municipal Administration Ordinance, 1960] 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 the publication of such notice, sell the interest of the said person or successor in such land by public auction, and may deduct the said money and the expenses of the sale from the proceeds of the sale, and shall pay the balance (if any) to the defaulter.

1. Subs. for the word's "section 222 of the Municipal Act" by W. P. Ordinance XVIII of 1962, s. 14.

2. Now see the Sind Local Government Ordinance, 1979.

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

57. If any land in respect of which an agreement has been executed, or a payment has been accepted, in pursuance of sub-section (5), of section 56, 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.

Tribunal to-
be constitu-
ted.

58. A tribunal shall be constituted as provided in section 60, 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.

Modification
of the Land
Acquisition
Act, 1894.

59. For the purpose of acquiring land under the Land Acquisition Act, 1894, for the trust— 1 of
1894

(a) the tribunal shall (except for the purposes of section 54 of the said Act) be deemed to be the Court, and the president of the tribunal shall be deemed to be the Judge, under the said Act;

(b) the said Act shall be subject to the further modifications indicated in the Schedule to this Act;

(c) the president of the tribunal shall have power to summon and enforce the attendance of witnesses, and to compel the production of documents, by the same means and (so far as may be) in the same manner as is provided in the case of a Civil Court under the Code of Civil Procedure, 1908; and V of
1908

(d) the award of a tribunal shall be deemed to be the award of the Court under the Land Acquisition Act, 1894, and shall be final. 1 of
1894

Constitution
of tribunal.

60. (1) The tribunal shall consist of a president and two assessors.

(2) The president of the tribunal shall be either—

(a) a member of the Judicial Branch of the 'Civil Service of Pakistan or the 'Provincial Civil Service' of not less than ten years' standing in such service who has for at

1. Subs. for the words "Indian or" by Punjab Act XV of 1955, s. 2, Sch. I, Part II.

2. Subs. for the words "Punjab Civil Service" by W.P. Ordinance XVIII of 1962, s. 15(f)

least three years served as District Judge or for at least five years held judicial office not inferior to that of a Senior [Civil Judge] [or Senior Subordinate Judge or First Class Subordinate Judge] ¶—].

(b) a barrister, advocate or pleader of not less than ten years' standing who has practised as an advocate or pleader in the [High Court] ¶, or].

¶(c) a retired member of the Judicial Branch of the Pakistan or Provincial Civil Service.]

(3) The president of the Tribunal and one of the assessors shall be appointed by the [Provincial Government] and the other assessor shall be appointed by the municipal committee or, in default of appointment by the municipal committee within two months of their being required by the [Provincial Government] to make such appointment, by the [Provincial 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 [Provincial Government] under section 10.

(4) The term of office of each member of the tribunal shall be two years, but any member shall, subject to the proviso to subsection (3), be eligible for re-appointment at the end of that term ¶:]

1. Subs. for the words "Subordinate Judge" by Punjab Act II of 1952, s. 2.

2. Ins. by the W. P. Ordinance XVIII of 1962, s. 15 (f).

3. The word "or" omitted by W. P. Act XXIX of 1958, s. 2(a)(f).

4. Subs. for words "High Court of Judicature at Lahore" by W. P. Ordinance XVIII of 1962, s. 15(f) and Subsequently amended by the Sind A. O., 1964 to read as above, and word or.

5. The comma and the word "or" has been subs. for the full stop by W. P. Act XXIX of 1958, s. 2 (a) (ii)

6. Added, *ibid.*

7. Subs. for the words "Local Government" by the A. O., 1937.

8. A colon has been subs. for the full stop by W. P. Act, XXIX of 1958, s. 2(b).

"[Provided that the Provincial Government may fix a shorter term of office].

(5) The "[Provincial Government] may remove any member of the tribunal who would if he were a trustee be liable to removal by the "[Provincial Government] under section 10.

"(5-A) if in the opinion of the Provincial Government the continued existence of the Tribunal becomes unnecessary, or it is expedient that the Tribunal shall cease to exist, the Provincial Government may, by notification, declare that the Tribunal shall be dissolved from such date as may be specified in this behalf in such notification and from the date so specified the Tribunal shall be deemed to be dissolved.]

(6) When any person ceases for any reason to be a member of the tribunal, or when any member is temporarily absent in consequence of illness or any unavoidable cause, the authority which appointed him shall forthwith appoint a fit person to be a member in his place. Where the authority so appointing was the municipal committee and the municipal committee fails to make a fresh appointment within two months of being required to do so by the "[Provincial Government], the appointment may be made by the "[Provincial Government.]

Remuneration of members of tribunal.

61. Each member of the tribunal shall receive such remuneration, either by way of monthly salary or by way of fees, or partly in one of those ways and partly in the other, as the "[Provincial Government] may prescribe.

Officers and servants of tribunals.

62. (I) 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 who in his opinion should be maintained for carrying on the business of the tribunal.

1. Added by W. P. Act XXIX of 1958.

2. Subs. for the words "Local Government" by the A. O., 1937.

3. Ins. by W. P. Act XXIX of 1958, s. 2 (c)

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

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

(3) Subject to any directions contained in any statement prepared under sub-section (1), and to rules made under section 73, the power of appointing, promoting and granting leave to clerks, officers and servants of the tribunal, and the power of reducing, suspending or dismissing them, shall vest in the president of the tribunal.

63. The remuneration prescribed under section 61 for members of the tribunal and the salaries, leave allowances and acting allowances prescribed under this Act for clerks, officers and servants of the tribunal shall be paid by the trust to the president of the tribunal for distribution.

Mode of
payment.

64. (1) The '[Provincial Government]' may from time to time make rules, not repugnant to the Code of Civil Procedure, 1908, for the conduct of business by tribunals established under this Act.

Powers to
make rules
for tribunals

(2) All such rules shall be published by notification.

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

Award of
tribunal
how to be
determined.

- (a) if there is any disagreement as to the measurement of land, or to the amount of compensation or costs to be allowed, the opinion of the majority of the members of the tribunal shall prevail;

- (b) notwithstanding anything contained in the foregoing clause, the decision on all questions of law and title and procedure shall rest solely with the president of the tribunal, and such questions may be tried and decided by the president in the absence of assessors unless the president considers their presence necessary.

1. Subs. for the words "Local Government" by the A. O., 1937.

(2) Every award of the tribunal, and every order made by the tribunal for the payment of money, shall be enforced by a Court of Small Causes, or if there be no such Court, by the Senior '[Civil Judge] '[or Senior Subordinate Judge or First Class Subordinate Judge] within the local limits of whose jurisdiction it was made as if it were a decree of that Court.

Application
of Act to
acquisition
by other
Local
authorities.

66. (1) Whenever a municipal committee or other local authority acquires land for the purposes of—

- (i) laying out new public streets in any locality whether previously built upon or not; or
- (ii) constructing new buildings and laying out of compounds attached thereto, abutting on such new public streets in any locality, whether previously built upon or not; or
- (iii) reclaiming unhealthy or insanitary localities—
 - (a) the modifications of the Land Acquisition Act contained in the Schedule of this Act shall so far as they are applicable, apply to every such acquisition;
 - (b) the '[Provincial Government] may constitute a tribunal in accordance with section 60 and the provisions of section 57 to 66 and of section 73 so far as they relate to the tribunal, shall thereupon apply to such acquisition.

(2) If the '[Provincial Government] does not constitute a tribunal in accordance with clause (b) of sub-section (1), all references to the tribunal in the Schedule shall be construed as referring to the Court.

1. Subs. for the words "Sub 'udge" by Punjab Act II of 1952, s.2 and Punjab Act VX of 1955, s. 2, Sch. I, Part II.

2. Ins. by W. P. Ord. XVIII of 1962, s. 16.

3. Subs. for the words "Local Government" by the A. O., 1937.

³[(3) Whenever the Provincial Government acquires land for the purposes of the setting up of a satellite town, whether within or beyond the local limits of a municipal committee, or other local authority or Trust, or for any other purpose which in the opinion of the Provincial Government is connected with the setting up of the satellite town concerned, the provisions of sub-sections (1) and (2) shall, as far as, possible, apply to such acquisition.

Explanation.—For the purposes of this sub-section a 'satellite town' means new town to be set up in the vicinity of one already existing and includes such town the construction of which has been undertaken by a Co-operative House Building Society registered under any law relating to Co-operative Societies for the time being in force in the Province or in any part thereof.

CHAPTER VII.

FINANCE

X of 1914. 67. A Trust under this Act shall be deemed to be a local authority under the Local Authorities Loans Act, 1914, for the purpose of borrowing money under that Act, and the making and execution of any scheme under this Act, shall be deemed to be a work which such local authority is legally authorized to carry out. Power of trust to borrow money.

68. (1) The municipal committee shall pay to the trust so long as the trust is concerned with the improvement of a locality within the limits of the municipality an amount per annum equal to two percent of the gross annual income of such committee. Contribution by municipal Committee.

(2) In case of dispute as to what is the gross annual income of a committee, the matter shall be referred to the "[Provincial Government], whose decision shall be final.

1. Added by Punjab Act II of 1953, s.2.

2. Subs. for the words "Punjab Co-operative Societies Act, 1912" by W.P. Ordinance XVIII of 1962, S-17.

3. Subs. for the words "Local Government" by the A.G., 1937.

Custody and investment of trust funds.

69. (1) In places where there is a Government treasury or sub-treasury, or a bank to which the Government treasury business has been made over, all moneys at the credit of the trust shall be kept in such treasury, sub-treasury or bank.

(2) In places where there is no such treasury or sub-treasury or bank, such moneys may be kept with a banker or person acting as a banker, who has given such security for the safe custody and repayment on demand of the sum so kept as the '[Provincial Government] may in each case deem sufficient.

(3) Provided that nothing in the foregoing provisions of this section shall be deemed to preclude a trust from, with the previous sanction of the '[Provincial Government] investing any such moneys which are not required for immediate expenditure in any of the securities described in section 20 of the '[Trusts] Act, 1882, or placing them in fixed deposit with a bank approved by the '[Provincial Government].

II of 1882

Procedure if the trust fails to make any payment in respect of loans of the trust.

70. If any money borrowed under section 67 or any interest or costs due in respect thereof is or are not repaid according to the conditions of the loan, the '[Provincial Government] shall itself make such payment and may attach the rents and other income of the trust; and thereupon the provisions of section 5 of the Local Authorities Loans Act, 1914, shall, with all necessary modifications be deemed to apply.

X of 1914

Procedure if chairman of Board fails to make any payment due to Accountant-General.

71. The '[Provincial Government] may further impose or increase a tax on the annual value of buildings or lands or of both described in [item I of the Third Schedule to the Municipal Administration Ordinance, 1960] to such extent as may be necessary for the purpose of recovering a payment made under section 70.

Payment by Provincial Government to be a charge on the property of the trust.

72. All moneys paid by the '[Provincial Government] shall constitute a charge upon the property of the trust.

1. Subs' for the words "Local Government" by the A.O., 1937.

2. Subs. for the words "Indian Trusts" by Punjab Act XV of 1955, s. 2, Sch. I.

3. Subs. for the words "section 61 (B) (a) of the Municipal Act" by W.P. Ordinance XVIII of 1962, s. 18. The figures, brackets and letter "61 (B) (a)" were earlier subs. for the figures, brackets and letter "61 (I) (a)" by Punjab Act XV of 1955, s. 2, Sch. I, Part II. Now See the Sind Local Govt. Ordinance, 1979.

CHAPTER VIII.

RULES.

73. (1) In addition to the power conferred by section 64, the [Provincial Government] may make rules consistent with this Act and applicable to all trusts or any trust—

Power of
Provincial
Government,
to make rule

- (i) as to the authority on which money may be paid from the trust funds;
- (ii) for fixing the fees payable for copies of or extracts from the municipal records furnished to the chairman under section 39;
- *[(iii) as to the employment, payment, suspension and removal of officers and servants of the trust, the conduct of such officers and servants, and the admissibility and payment of pension to them;]
- (iv) as to the intermediate office or offices (if any) through which correspondence between the trust and the [Provincial Government] or [servants of the [State]] shall pass;
- (v) as to the accounts to be kept by the trust, as to the manner in which such accounts shall be audited and published, and as to the powers of auditors in respect of disallowance and surcharge;
- (vi) as to the authority by whom, the conditions subject to which and the mode in which contracts may be entered into and executed on behalf of the trust;
- (vii) as to the preparation of estimates of income and expenditure of the trust and as to the authority by whom and the conditions subject to which such estimates may be sanctioned;

1. Subs. for the words "Local Government" by the A. O., 1937.

2. Subs. by W. P. Act 4 of 1963. & 3. for Original cl. (iii).

3. Subs. for the words "Officers of the Government" by A. O. 1937.

4. Subs. for the word "Crown" by W. P. Ordinance XVIII of 1962, S. 19.

- (viii) as to the returns, statements, and reports to be submitted by trusts;
- (ix) to prescribe and define the mutual relations to be observed between the trust and other local authorities in any matter in which they are jointly interested;
- (x) 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;
- (xi) for establishing and maintaining a provident or annuity fund, for compelling all or any of the officers in the service of the trust or of the tribunal (other than any 'servant of the '[State] in respect of whom a contribution is paid under section 94) 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 '[State] employed as officer or servant of the tribunal shall not be entitled to leave or leave allowances otherwise than as may be prescribed 'by the conditions of his service under the '[State];

- (xii) for determining conditions under which the officers and servants of the trust or of the tribunal, or any of them, shall on retirement receive gratuities or compassionate allowances; and the amount of such gratuities and compassionate allowances;

1. Subs. for the words "Servant of the Government" by the A.O., 1937.

2. Subs. for the word "Crown " by W.P. Ordinance XVIII of 1962, s.19.

3. Subs. for the words "Government servants" by A.O., 1937.

4. Subs. *ibid*, for the words "in any general or special order of the Government."

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

- (xiii) generally for the guidance of trust and public officers in all matters connected with the carrying out of the provisions of this Act;
- (xiv) for regulating the grant of subsidies to trusts by the '[Provincial Government]', the conditions under which they may be earned or forfeited and the arrangements for their repayment.

(2) All acts authorized or enjoined under this Act shall be held to be authorized or enjoined subject to such rules.

74. Every trust may from time to time with the previous sanction of the '[Provincial Government]' make rules consistent with this Act and with any rules made under this Act by the '[Provincial Government]'—

Powers of the trust to make rules.

- (i) for fixing the amount of security to be furnished by any officer and servant of the trust from whom it may be deemed expedient to require security;
- (ii) for associating members with the trust under section 13;
- (iii) for appointing persons (other than trustees and persons associated with the trust under section 13) to be members of committee under section 14;
- (iv) for regulating the delegation of powers or duties of the trust to committees or to the chairman;
- (v) for the guidance of persons employed by it under this Act;
- (vi) for fixing the fees payable for copies of documents delivered under sub-section (3) of section 36 or under section 75;
- (vii) for the management, use and regulation of dwellings constructed under any scheme under this Act;
- (viii) generally for carrying out the purposes of this Act.

1. Subs. for the words "Local Government" by the A. O., 1937.

Printing and
Sides of
copies of
rules.

75. (1) The chairman shall cause all rules made under section 73 or section 74 and for the time being in force to be printed and shall cause printed copies thereof to be delivered to any applicant on payment of such fees as may be fixed.

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

Power of
Provincial
Government
to cancel rules
made under
section 74.

76. The [Provincial Government] may, after previous publication of its intention, cancel any rule made by the trust which it has sanctioned, and thereupon the rule shall cease to have effect.

CHAPTER IX.

PROCEDURE AND PENALTIES.

Stamping
Signature on
copies of
bills.

77. (1) Every notice or bill issued under this Act shall be signed by the chairman, or by any other trustee or any officer or servant of the trust specially or generally authorised by the trust, or so authorised by the chairman under sub-section (1) of section 20, and every notice or bill shall be deemed to be properly signed if it bears the facsimile of the signature of the chairman or such trustee, officer or servant stamped or printed thereon.

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

Method of
giving public
notice.

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

Service of
notice.

79. (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 giving or tendering the registered notice or bill, or sending it by registered post, to the person to whom it is addressed, or

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

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

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

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

80. Where under this Act or a notice issued thereunder the public or any person is required to do or to refrain from doing anything, a person who fails to comply with such requisition shall, if such failure is not a offence punishable under any other section, be liable on conviction by 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 last conviction during which the offender is proved to have persisted in the breach:

Disobedience
to Act or to
notice

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

81. If a notice has been given under this Act to a person requiring him to execute a work in respect of any property, moveable or immovable, public or private, or to provide or do or refrain from doing anything within a time specified in the notice, and if such person fails to comply with such notice, then the trust may after giving six hours' notice cause such work to be executed or such thing to be provided or done, and may recover all expenses incurred by it on such account from the said person in the manner provided by [section 38 of the Municipal Administration Ordinance, 1960].

Power of
trust to
execute
works
on failure to
comply with
notice

1. Subs., for the words "section 222 of the Municipal Act", by W. P. Ordinance XVII of 1960, S. 14. Now see the Sind Local Government Ordinance, 1979.

Liability of occupier to pay in default of owner.

82. (1) If the person to whom the notice mentioned in section 81 has been given is not the owner of the property in respect of which it is given, the trust may (whether any action or other proceedings has been brought or taken against such owner or not) require the person (if any) who occupies such property or a part thereof under such owner, to pay to the trust instead of to the owner the rent payable by him in respect of such property, as it falls due, up to the amount recoverable from the owner under section 81; and any such payment made by the occupier to the trust shall, in the absence of any contract between the owner and the occupier to the contrary, be deemed to have been made to the owner of the property.

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

(3) All money recoverable by the trust under this section shall be recoverable in the manner provided by [Section 38 of the Municipal Administration Ordinance, 1960]

Right of occupier to execute works in default of owners.

83. Whenever defaults is made by the owner of a building or land in the execution of a work required under this Act to be executed by him the occupier of such building or land may, with the approval of the trust, cause such work to be executed and the expense thereof shall, in the absence of any contract to the contrary, be paid to him by the owner. or the amount may be deducted out of the rent from time to time becoming due from him to such owner.

Procedure upon opposition to execution by occupier.

84. (1) If, after receiving information of the intention of the owner of any building or land 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 by order in writing require the occupier to give the owner reasonable facility for executing such works, with respect to such building or land, as may be necessary for compliance with the notice, and may also, if he deems fit, order the occupiers to pay to the owner the costs relating to such application or order.

1. Subs. for the words "section 722 of the Municipal Act" by W.P. Ordinance XVIII of 1962, s. 14. Now see the Sind Local Government Ordinance, 1979.

(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 the execution of such works.

85. 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 owners by deduction from the rent payable by him or otherwise the reasonable cost of such work.

Recovery of cost of work by the occupier.

86. The expenses incurred by the trust in effecting any removal under [section 83 of the Municipal Administration Ordinance, 1960,] as applied by section 49 of this Act, or, in the event of a written notice under [section 79 of that Ordinance] not being complied with, under section 81 of this Act, shall be recoverable by sale of the materials removed, and if the proceeds of such sale do not suffice, the balance shall be recoverable from the owner of the said materials in the manner provided by [section 38 of the Municipal Administration Ordinance, 1960].

Recovery of expenses of removal by trust.

1. Subs. for the words "section 173 of the Municipal Act" by W.P. Ordinance XVIII of 1962 s. 20 (i). Now see the Local Government Ordinance, 1979.

2. Subs., *ibid*, s.20(ii), for the words "section 116 of that Act". Now see the Sind Local Government Ordinance, 1979.

3. Subs. *ibid*, s. 20 (iii) for the words "section 222 of the Municipal Act." Now see the Sind Local Government Ordinance, 1979.

Relief to
agents and
trustees.

87. (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 for the discharge of which money is required he shall not be bound to discharge the obligations unless he has, or but for his own improper act or default might have had, in his hands funds belonging to the owner sufficient for the purpose.

Right.

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

Application
of section 38
of the Municipal
Administration
Ordinance.

88. Whenever in this Act or in any sections of the Municipal Act made applicable by section 49 of this Act, it is provided that any sum shall be recoverable in the manner provided by [section 38 of the Municipal Administration Ordinance, 1960] then in applying the provisions of that section all references to the municipal committee shall be construed as referring to the trust.

89. If any person, without lawful authority—

Penalty for
removing
fence, etc.,
in street.

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

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

¹ Subs. for the words "section 212 of the Municipal Act" by W. P. Ordinance XVIII of 1962, s. 14. New sec the Sing Local Govt. Ordinance, 1979.

90. If any person without the permission of the trust erects, re-erects, adds to or alters any buildings so as to make the same project beyond a street alignment or building line by the trust or erects re-erects, adds to or alters any buildings in contravention of sections 30 or 31 the chairman of the trust may, by a written notice,—

Power to prevent or demolish building in contravention of sections 30 and 31.

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

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

91. 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 any thing which he is empowered or required to do under this Act, or

Penalty for obstructing contractor or removing mark.

(b) removes any mark set up for the purpose of indicating any level or direction necessary to the execution of works authorized under this Act,

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

92. [Fines and damages to be paid to the trust.] *Omitted by the A.O., 1937.*

CHAPTER X.

SUPPLEMENTAL PROVISIONS.

93. 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 [Pakistan] Penal Code.

Trustees, etc. deemed public servants.

1. Subs. for the word "Pakistan" by Punjab Act XV of 1955, s. 2, (C). I. Part-II.

Contributions by Trust towards allowances and pensions of servants of the State.

94. The trust shall be liable to pay such contributions for the leave allowances and pension of any [servant of the [State]] employed as chairman or as an officer or servant of the trust, or as a member or officer or servant of the tribunal as may be [required by the conditions of his service under the '[State] to be paid by him or on his behalf].

Legal Proceedings.

Authority for prosecutions.

95. Unless otherwise expressly provided, no court shall take cognisance of any offence punishable under this Act, except on the complaint of or upon information received from the trust or some persons authorized by the trust by general or special order in this behalf.

Powers of chairman as to institution, etc., of legal proceedings and obtaining legal advice.

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

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

Indemnity to trust, etc.

97. No suit shall be maintainable 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 of any officer or servant of the trust in respect of anything lawfully and in good faith and with due care and attention done under this Act.

Subs. for the words "Government servant" by A. O., 1937.

Subs. for the word "Crown" by W. P. Ordinance XVIII of 1962, s. 19.

3. Subs. for the words "prescribed in any general, special orders of the Government" by the A. O., 1937.

98. (1) No suit shall be instituted against the trust or any trustee, or any person associated with the trust under section 13 or any member of a committee appointed under section 14 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 an act purporting to be done under this Act, until the expiration of two months next after notice in writing has been, in the case of a trust, left at its office, and in any other case delivered to or left at the office or place of abode of the person to be sued, explicitly stating the cause of action, the nature of the relief sought, the amount of compensation claimed and the name and place of abode of the intending plaintiff, and the plaint shall contain a statement that such notice has been so delivered or left.

Notice of
suit against
trusts, etc.

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

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

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

Evidence.

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

Mode of
proof of
trust reco-
rded.

Restriction
on the
summoning
of trust
servants to
produce
documents.

100. 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 the preceding section by a certified copy, or to appear as a witness to prove the matters and transactions recorded therein unless by order of the court made for special cause.

Validation.

Validation
of acts and
proceedings.

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

- (a) the existence of any vacancy in, or any defect in the constitution of the trust or any committee, or
- (b) any person having ceased to be trustee, of
- (c) any trustee or any person associated with the trust under section 13 or any other member of a committee appointed under this Act, having voted or taken any part in any proceeding in contravention of section 16, or
- (d) the failure to serve a notice on any person, where no substantial injustice has resulted from such failure, or
- (e) any omission, defect or irregularity not affecting the merits of the case.

(2) Every meeting of the trust, the minutes of the proceedings of which have been duly signed as prescribed in clause (e), sub-section (1), of section 12, shall be taken to have been duly convened and to be free from all defects and irregularities.

Compensation

General
power of
trust of pay
compensation.

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

Dissolution of Trust.

103. (1) When all schemes sanctioned under this Act have been executed or have been so far executed as to render the continued existence of the trust, in the opinion of the [Provincial Government], unnecessary, or when in the opinion of the [Provincial Government] it is expedient that the trust shall cease to exist, the [Provincial 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.

*Ultimate
dissolution
of trust, and
transfer of
its assets and
liabilities
of the
Committee.*

(2) From the said date—

- (a) all properties, funds and dues which are vested in or realisable by the trust and the chairman respectively shall vest in and be realisable by the municipal committees; and
- (b) all liabilities which are enforceable against the trust shall be enforceable only against the municipal committee; 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 and the chairman under this Act shall be discharged by the municipal committee and the president of the municipal committee, respectively, and
- (d) the municipal committee shall keep separate accounts of all moneys respectively received and expended by it under this Act, until all loans raised hereunder have been repaid, and until all other liabilities referred to in clause (b) have been duly met.

1. Subs. for the words "Local Government" by the A. O., 1937.

THE SCHEDULE.

(Referred to in section 59)

Further Modifications in the Land Acquisition Act, 1894 hereinafter called "The Said Act".

Amendment
of section 3.

1. After clause (e) of section 3 of the said Act the following shall be deemed to be inserted, namely:—

"(ee) the expression, "local authority" includes a trust constituted under the ' * * Town Improvement Act, 1922".

Notification
under section 4 and
declaration
under section 6 to be
replaced by
notification under sections 36 and 42 of this Act.

2. (1) The first publication of notice of any improvement scheme under section 36 of this Act shall be substituted for and have the same effect as publication in the [Official Gazette] and in the locality of a notification under sub-section (1) of section 4 of the said Act, except where a declaration under section 4 or section 6 of the said Act has previously been made and is still in force.

(2) Subject to the provisions of clauses 10 and 11 of this Schedule, the issue of a notice under sub-section (1) of section 32 in the case of land acquired under that sub-section, and in any other case the publication of a notification under section 42 shall be substituted for and have the same effect as a declaration by the [Provincial Government] under section 6 of the said Act, unless a declaration under the last mentioned section has previously been made and is still in force.

Amendment
of section II.

3. The fullstop at the end of clause 11 of the said Act shall be deemed to be changed to a semi-colon, and the following shall be deemed to be added, namely:—

"and

- (iv) the costs which, in his opinion, should be allowed to any person who is found to be entitled to compensation, and who is not entitled to receive the additional sum of fifteen per centum mentioned in sub-section (2) of section 23, as having been actually and reasonably incurred by such person in preparing his claim and putting his case before the Collector.

1. The word "Punjab" omitted by W. P. Ordinance XVIII of 1962, s. 21.

2. Subs. for the word "Gazette" by the A. O., 1937.

3. Subs. *ibid.*, for the words "Local Government".

the Collector may disallow, wholly or in part, costs incurred by any person if he considers that the claim made by such person for compensation is extravagant.

4. In section 15 of the said Act, for the word and figures "and 24" the figures, word and letter "24 and 24-A" preceded by a comma, shall be deemed to be substituted. Amendment of section 15.

5. (1) In sub-section (3) of section 17 of the said Act, after the figures "24" the words, figures and letter "or section 24-A" shall be deemed to be inserted. Amendment of section 17.

(2) To the said section 17 the following shall be deemed to be added, namely:—

"(4) Sub-sections (1) and (3) shall apply also to any area certified to be unhealthy by any Magistrate of the first class.

(5) Before granting any such certificate, the Magistrate shall cause notice to be served as promptly as may be on the persons referred to in sub-section (3) of section 9, and shall hear without any avoidable delay any objections which may be urged by them.

(6) When proceedings have been taken under this section for the acquisition of any land, and any person sustains damage in consequence of being suddenly dispossessed of such land, compensation shall be paid to such person for such dispossession".

6. After section 17 of the said Act the following shall be deemed to be inserted, namely:— Transfer of land to trust.

"17-A. In every case referred to in section 16 or section 17, the Collector shall, upon payment of the cost of acquisition, make over charge of the land to the trust; and the land shall thereupon vest in the trust subject to the liability of the trust to pay any further cost which may be incurred on account of its acquisition".

7. The fullstop at the end of sub-section (1) of section 18 of the said Act shall be deemed to be changed to a comma and the words "or the amount of the costs allowed" shall be deemed to be added. Amendment of section 18.

Amendment of section 19. 8. After the words "amount of compensation," in clause (c) of section 19 of the said Act, the words "and of costs (if any)" shall be deemed to be inserted.

Amendment of Section 20. 9. After the words "amount of the compensation," in clause (e) of section 20 of said Act, the words "or costs" shall be deemed to be inserted.

Amendment of Section 23. 10. (1) In clause first and clause sixthly of sub-section (1) of section 23 of the said Act, for the words "publication of the declaration relating thereto under section 6" and the words "publication of the declaration under section 6" shall be deemed to be substituted—

(a) if the land is being acquired under sub-section (3) of section 32 of this Act the words "issue of the notice under sub-section (3) of section 32 of the * * Town Improvement Act, 1922," and

(b) in any other case the words "first publication of the notification under section 36 of the * * Town Improvement Act, 1922."

(2) The fullstop at the end of sub-section (2) of section 23 of the said Act shall be deemed to be changed to a colon and the following proviso shall be deemed to be added:—

"Provided that this sub-section shall not apply to any land acquired under the * * Town Improvement Act, 1922".

(3) At the end of section 23 of the said Act, the following shall be deemed to be added, namely:—

"(3) For the purposes of clause first of sub-section (1) of this section—

(a) the market-value of the land shall be the market-value according to the use to which the land was put at the date with reference to which the market-value is to be determined under that clause;

(b) If it be shown that before such date, the owner of the land had in good faith taken active steps and incurred expenditure to secure a more profitable use of the same, further compensation based on his actual loss may be paid to him;

1. The word "Punjab" omitted by W. P. Ordinance XVIII of 1962, s. 21.

- (c) if any person without the permission of the trust required by sub-section (1) of section 31 of the " * Town Improvement Act, 1922, has erected, re-erected, added to or altered any building or wall so as to make the same project beyond a street alignment or building line duly prescribed by the trust then any increase in the market-value resulting from such erection, re-erection, addition or alteration shall be disregarded;
- (d) if the market-value has been increased by means of any improvement made by the owner or his predecessor-in-interest within two years before the aforesaid date, such increase shall be disregarded unless it be proved that the improvement so made was made in good faith and not in contemplation of proceedings for the acquisition of the land being taken under the " * Town Improvement Act, 1922;
- (e) if the market-value is specially high in consequence of the land being put to a use which is unlawful or contrary to public policy that use shall be disregarded, and the market-value shall be deemed to be the market-value of the land if put to ordinary use; and
- (f) when the owner of the land or building has after the passing of the " * Town Improvement Act, 1922, and within two years preceding the date with reference to which the market-value is to be determined, made a return under any enactment in force of the rent of the land or building, the rent of the land or building shall not in any case be deemed to be greater than the rent shown in the latest return so made, save as the Court may otherwise direct, and the market-value may be determined on the basis of such rent;

Provided that where any addition to, or improvement of, the land or building has been made after the date of such latest return and previous to the date with reference to which the market-value is to be determined the Court may take into consideration any increase in the letting-value of the land due to such addition or improvement."

1. The word "Punjab" omitted by W. P. Ordinance XVIII of 1962, s. 21.

Amendment
of section 24.

11. For clause seventhly of section 24 of the said Act, the following shall be deemed to be substituted, namely:—

"*Seventhly*, any outlay on additions or improvements to land acquired, which was incurred after the date with reference to which the market-value is to be determined, under such additions or improvements were necessary for the maintenance of any building in a proper state of repair."

Further
provision for
determining
compensa-
tion.

12. After section 24 of the said Act the following shall be deemed to be inserted, namely:—

"24-A. In determining the amount of compensation to be awarded for any land acquired for the trust under this Act, the tribunal shall also have regard to the following provisions, namely:—

- (a) When any interest in any land acquired under this Act, has been acquired after the date with reference to which the market-value is to be determined no separate estimate, of the value of such interest shall be made so as to increase the amount of compensation to be paid for such land.
- (b) If, in the opinion of the tribunal, any building is in a defective state, from a sanitary point of view, or is not in a reasonably good state of repair, the amount of compensation for such building shall not exceed the sum which the tribunal considers the building would be worth if it were put into a sanitary condition or into a reasonably good state of repair, as the case may be, minus the estimated cost of putting it into such condition or state.
- (c) If, in the opinion of the tribunal any building which is used or is intended or is likely to be used for human habitation, is not reasonably capable of being made fit for human habitation, the amount of compensation for such building shall not exceed the value of the materials of the building, minus the cost of demolishing the building.

13. (1) After the words "the compensation" in Sub-section (1) of section 31 of the said Act, and after the words "the amount of compensation" in sub-section (2) of that section, the words "and cost (if any)" shall be deemed to be inserted. Amendment of section 31.

(2) After the words "any compensation" in the concluding proviso to sub-section (2) of section 31 of the said Act, the words "or cost" shall be deemed to be inserted. Insertion of section 48-A.

14. After section 48 of the said Act, the following shall be deemed to be inserted, namely— Compensation to be awarded when land not acquired within one year.

"48-A. (1) If within a period of one year's from the date of the publication of the declaration under section 6 in respect of any land, the Collector has not made an award under section 11 with respect to such land, the owner of the land shall, unless he has been to a material extent responsible for the delay, be entitled to receive compensation for the damage suffered by him in consequence of the delay."

"(2) The provisions of Part III of this Act shall apply, so far as may be, to the determination of the compensation payable under this section".

15. After sub-section (1) of section 49 of the said Act, the following shall be deemed to be inserted, namely:— Amendment of section 49.

"*Explanation.*—For the purposes of this sub-section land which is held with and attached to a house and is reasonably required for the enjoyment and use of the house shall be deemed to be part of the house".