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PART III—Acts of the West Bengal Legislature.

GOVERNMENT OF WEST BENGAL
LAW DEPARTMENT
Legislative
NOTIFICATION

No. 390-L.—31st March, 2017.—The following Act of the West Bengal Legislature, having been assented to by the Governor, is hereby published for general information:—

West Bengal Act XV of 2017

**THE WEST BENGAL TOWN AND COUNTRY (PLANNING
AND DEVELOPMENT) (AMENDMENT) ACT, 2017.**

[*Passed by the West Bengal Legislature.*]

[Assent of the Governor was first published in the *Kolkata Gazette, Extraordinary*, of the 31st March, 2017.]

An Act to amend the West Bengal Town and Country (Planning and Development) Act, 1979.

WHEREAS it is expedient to amend the West Bengal Town and Country (Planning and Development) Act, 1979, for the purpose and in the manner hereinafter appearing;

West Ben. Act
XIII of 1979.

It is hereby enacted in the Sixty-eighth Year of the Republic of India, by the Legislature of West Bengal, as follows:—

Short title and
commencement.

1. (1) This Act may be called the West Bengal Town and Country (Planning and Development) (Amendment) Act, 2017.

(2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

*The West Bengal Town and Country (Planning and Development)
(Amendment) Act, 2017.*

(Sections 2-6.)

Amendment of section 2 of West Ben. Act XIII of 1979.

2. In section 2 of the West Bengal Town and Country (Planning and Development) Act, 1979 (hereinafter referred to as the principal Act),—

(1) after clause (2), the following clause shall be inserted:—

‘(2a) “betterment fee” means the fee mentioned in section 106B in respect of an increase in value of land resulting from the execution of an improvement scheme;’;

(2) after clause (8), the following clause shall be inserted:—

‘(9) “improvement scheme” means an improvement scheme explained in section 106B, but does not include a projected public street or a projected public park;’.

Amendment of section 11.

3. For sub-section (3) of section 11 of the principal Act, the following sub-section shall be substituted:—

“(3) Every Planning Authority or Development Authority constituted under sub-section (1), shall consist of a Chairman and Vice-Chairman and not less than seven other members to be appointed by the State Government.”.

Amendment of section 13.

4. After sub-clause (k) of clause (ii) of sub-section (1) of section 13 of the principal Act, the following sub-clause shall be inserted:—

“(ka) to determine, levy and collect taxes, fees and charges;”.

Amendment of section 27.

5. In section 27 of the principal Act, for the words and figures “The Kolkata Improvement Act, 1911, the Howrah Improvement Act, 1956 and the Kolkata Metropolitan Water and Sanitation Authority Act, 1966”, the words and figures “The Howrah Improvement Act, 1956” shall be substituted.

Ben. Act V of 1911.
West Ben. Act XIV of 1956.
West Ben. Act XIII of 1966.

Insertion of new section after section 27.

6. After section 27 of the principal Act, the following section shall be inserted:—

*Protection of certain rights, interest etc. of the erstwhile Kolkata Improvement Trust and Kolkata Metropolitan Water and Sanitation Authority.

27A. (1) Immediately with the repealing of the Kolkata Improvement Act, 1911,—

- (a) all Trustees of the Board of Kolkata Improvement Trust and all members or other persons constituting committees thereunder shall be deemed to have vacated their respective offices;
- (b) all properties, funds and dues vested in or realisable by the said Board and the Chairman thereof, respectively, shall vest in and be realisable by the Kolkata Metropolitan Development Authority as described under Chapter IV (hereinafter referred to as the Development Authority);
- (c) all contracts and liabilities already enforced by or against the said Board, shall be enforceable by or against the Development Authority;
- (d) all the powers and duties under the provisions of this or any other Act or any rule, regulation, bye-law, order or notification made thereunder, exercised or performed by the said Board, committee or the Chairman, as the case may be, shall be exercised or performed by the Development Authority;
- (e) all legal proceedings instituted by or against the Board may be continued or enforced by or against the Development Authority;
- (f) all officers and other employees of the Board continuing in office immediately before the date of the repealing of the Kolkata Improvement Act, 1911, shall be deemed to be employed by the Development Authority on such terms and conditions not being less advantageous than what they were entitled to immediately before the said date; and
- (g) on and from the commencement of these amendments, the Kolkata Improvement Trust shall mean and include the Kolkata Metropolitan Development Authority and wherever the words “Kolkata Improvement Trust” occur, it shall mean Kolkata Metropolitan Development Authority.

*The West Bengal Town and Country (Planning and Development)
(Amendment) Act, 2017.*

(Section 7.)

(2) Immediately with the repealing of the Kolkata Metropolitan Water and Sanitation Authority Act, 1966,—

West Ben. Act
XIII of 1966.

- (a) all Directors and members of the Kolkata Metropolitan Water and Sanitation Authority and all members and other persons constituting committees thereunder, shall be deemed to have vacated their respective offices;
- (b) all properties, funds and dues vested in or realisable by the said Authority, shall vest in and be realisable by the Development Authority as described under Chapter IV (hereinafter referred to as the Metropolitan Authority);
- (c) all contracts and liabilities enforced by or against the said authority shall be enforceable by or against the Development Authority;
- (d) all the powers and duties under the provisions of this or any other Act, or any rule, regulation, bye-law, order or notification made thereunder, exercised or performed by the said Authority, or committee thereunder, shall be exercised or performed by the Development Authority;
- (e) all legal proceedings instituted by or against the said Authority may be continued or enforced by or against the Development Authority;
- (f) all officers and other employees of the Authority continuing in office immediately before the date of the repealing of the Kolkata Metropolitan Water and Sanitation Authority Act, 1966, shall be deemed to be employed by the Development Authority on such terms and conditions not being less advantageous than what they were entitled to immediately before the said date; and
- (g) on and from the commencement of these amendments, the Kolkata Metropolitan Water and Sanitation Authority shall mean and include Kolkata Metropolitan Development Authority and wherever the words Kolkata Metropolitan Water and Sanitation Authority occur, it shall mean Kolkata Metropolitan Development Authority.

Insertion of new
section after
section 106A.

7. After section 106A of the principal Act, the following section shall be inserted:—

106B. (1) When by making of any improvement scheme, any land in the area betterment fee comprised in the scheme within ward No. 1 (one) to ward No. 100 (hundred) as mentioned in Schedule I to the Kolkata Municipal Corporation Act, 1980, which is not required for the execution thereof, will, in the opinion of the Development Authority, be increased in value, the Development Authority, in framing the scheme, may, in lieu of providing for the acquisition of such land, declare that a betterment fee shall be payable by the owner of the land or any person having an interest therein in respect of such increase in value of the land resulting from the execution of the scheme.

West Ben. Act
LIX of 1980.

(2) Such betterment fee shall be an amount equal to one-half of the increase in value of the land resulting from the execution of the scheme, and shall be calculated upon the amount by which the value of the land on the completion of the execution of the scheme estimated as if the land were clear of the buildings exceeds the value of the land prior to the execution of the scheme estimated in like manner.

- (3) (a) When it appears to the Development Authority that an improvement scheme is sufficiently advanced to enable the amount of the betterment fee to be determined, the Development Authority shall, by a resolution passed in this behalf, declare that for the purpose of determining such fee the execution of the scheme shall be deemed to have been completed and shall thereupon give notice in writing to every person whose name appears in the municipal assessment-book as being preliminary liable to pay the owner's share of the consolidated rate, or the rate on the annual value of holdings, as the case may be in respect of any land which the Development Authority propose to recover a betterment fee on whom a notice in respect of the land to be assessed has been served.

*The West Bengal Town and Country (Planning and Development)
(Amendment) Act, 2017.*

(Sections 8-9.)

- (b) The Development Authority shall then assess the amount of betterment fee payable by each person concerned after giving such person an opportunity to be heard and such person shall, within three months from the date of receipt of notice in writing of such assessment from the Development Authority, inform the Development Authority by a declaration in writing whether he or she accepts or dissents from the assessment.
- (c) When the assessment proposed by the Development Authority is accepted by the person concerned within the period specified in sub-clause (b), such assessment shall be final.
- (d) If the person concerned dissents from the assessment made by the Development Authority or fails to give the Development Authority the information required by sub-clause (b) within the period specified therein, the matter shall be determined by the Development Authority:

Explanation.— For the purpose of this section, the expression “improvement scheme” means an improvement scheme which may be of one of the following types or a combination of any two or more of such types or any of the special features thereof, that is to say,—

- (a) a general improvement scheme,
- (b) a street scheme,
- (c) a housing accommodation scheme,
- (d) a re-housing scheme.

Amendment of
section 135.

8. After sub-section (2) of section 135 of the principal Act, the following sub-section shall be inserted:—

- “(3) (a) The State Government may, for better co-ordination and speedier execution of development work and maintenance thereof, by an order published in the *Official Gazette* and mentioning therein the reason for the order, supersede any order, notification, memorandum, circular etc. of the Development Authority as may be specified in the order, notification, memorandum or circular, as the case may be,
- (b) The State Government may make such incidental or consequential orders as may appear to it to be necessary for giving effect to the order made under clause (a).”

Amendment of
section 142.

9. In section 142 of the principal Act,—

- (1) after sub-section (2), the following sub-section shall be inserted:—

“(2A) The Kolkata Improvement Act, 1911 and the Kolkata Metropolitan Water and Sanitation Authority Act, 1966, shall stand repealed with effect from the date on which the State Government may, by notification in the *Official Gazette*, appoint.”;

- (2) in sub-section (3), for the words, figures and brackets “referred to in sub-sections (1) and (2)”, the words, figures, letter and brackets “referred to in sub-sections (1), (2) and (2A)” shall be substituted;

- (3) after sub-section (3), the following sub-sections shall be inserted:—

“(4) Notwithstanding anything contained in this Act, any proceeding pending in any Tribunal constituted under the Kolkata Improvement Act, 1911, may be continued as if the Kolkata Improvement Act, 1911, has not been repealed.

(5) Notwithstanding anything contained in this Act, the on-going scheme with regard to Fringe Area Water Supply in *panchayat* areas carried on in accordance with the provisions of clause (a) of sub-section (1) of section 8 of the Kolkata Metropolitan Water and Sanitation Authority Act, 1966, may be continued as if the Kolkata Metropolitan Water and Sanitation Authority Act, 1966, has not been repealed.”

Ben. Act V of
1911.
West Ben. Act
XIII of 1966.

*The West Bengal Town and Country (Planning and Development)
(Amendment) Act, 2017.*

(Section 10.)

Amendment of
Second Schedule.

10. In the Second Schedule of the principal Act,—

(1) paragraph A under the heading “Amendments to the Kolkata Improvement Act, 1911 (Ben. Act V of 1911)” and the entries relating thereto, shall be omitted.

(2) paragraph C under the heading “Amendment to the Kolkata Metropolitan Water and Sanitation Authority Act, 1966 (West Ben. Act XIII of 1966)” and the entries relating thereto, shall be omitted.

By order of the Governor,

MADHUMATI MITRA,
*Secy. to the Govt. of West Bengal,
Law Department.*