

LAW (LEGISLATIVE DRAFTING) DEPARTMENT

(GROUP-II)

NOTIFICATION

Jaipur, June 29, 2018

No. F. 2(26) Vidhi/2/2016 .-In pursuance of Clause (3) of Article 348 of the Constitution of India, the Governor is pleased to authorise the publication in the Rajasthan Gazette of the following translation in the English language of Rajasthan Bhoomi Pooling Scheme Adhiniyam, 2016 (2018 Ka Adhiniyam Sankhyank 14) :-

(Authorised English Translation)

THE RAJASTHAN LAND POOLING SCHEMES ACT, 2016

(Act No. 14 of 2018)

[Received the assent of the president on the 14th day of June, 2018]

An

Act

to provide for implementation of Urban Development Schemes and Projects through land pooling system and matters connected therewith or incidental thereto.

Be it enacted by the Rajasthan State Legislature in the Sixty-seventh Year of the Republic of India, as follows:-

CHAPTER 1

Preliminary

1. Short title, extent and commencement.- (1) This Act may be called the Rajasthan Land Pooling Schemes Act, 2016.

(2) It shall extend to the whole of the State of Rajasthan.

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

2. Definitions.- (1) In this Act, unless the context otherwise requires,-

- (i) "appropriate authority" means any Local Authority or any other agency as may be notified as such by the State Government;
- (ii) "Board of Appeal" means the Board of Appeal constituted under section 56;
- (iii) "Chief Town Planner" means the Chief Town Planner, Rajasthan of State Town Planning Department;
- (iv) "final plot" means a plot reconstituted from an original plot and allotted in a land pooling scheme as a final plot;
- (v) "Land Pooling Officer" means a Land Pooling Officer appointed under section 21 of this Act;
- (vi) "land pooling scheme" means a scheme prepared under the provisions of this Act;
- (vii) "local authority" means a Municipality constituted under the Rajasthan Municipalities Act, 2009 (Act No. 18 of 2009), an Urban Improvement Trust constituted under the Rajasthan Urban Improvement Act, 1959 (Act No. 35 of 1959), the Jaipur Development Authority constituted under the Jaipur Development Authority Act, 1982 (Act No. 25 of 1982), the Jodhpur Development Authority constituted under the Jodhpur Development Authority Act, 2009 (Act No. 2 of 2009), the Ajmer Development Authority constituted under the Ajmer Development Authority Act, 2013 (Act No. 39 of 2013) or any other Development Authority constituted under any law for the time being in force;
- (viii) "occupier" includes any person for the time being paying, or liable to pay, to the owner the rent or any portion of the rent of the land or the building in respect of which the word is used or for damages on account of the occupation of such land or building, and also includes a rent free tenant;
- (ix) "operational construction" means any construction whether temporary or permanent

which is necessary for the operation, maintenance, development or execution of any or all of the following public services, namely:-

- (a) railways;
- (b) National expressway and National or State highways;
- (c) National waterways;
- (d) major and minor ports;
- (e) airports;
- (f) posts and telegraphs, mobile towers, telephones, wireless, broadcasting and other like forms of communication;
- (g) regional grid and related structures for electricity; and
- (h) any other service which the State Government, in consultation with the Central Government, as and when required, may, if it is of the opinion that the operation, maintenance, development or execution of such service is essential to the life of the community, by notification, declare to be a public service for the purposes of this clause;

Explanation.-For the removal of doubts, it is hereby declared that the construction of new building, new structure or new installation or any extension thereof, as the case may be, used for residential, commercial, public and semi-public, industrial, warehousing purposes shall not be deemed to be an operational construction within the meaning of this clause;

- (x) "owner" includes the person for the time being receiving the rent or is entitled to receive rent, of any land or building or of any part of any land or building, whether on his own account or as an agent or trustee for any person or society or for any religious or charitable purpose or as a receiver or who would receive such rent if the land or the building or any part of the land or the building were let to a tenant;

- (xi) "plot" means a portion of land, in the land pooling scheme or in any other scheme, held in single or joint ownership;
- (xii) "preliminary scheme" means a preliminary scheme relating to a land pooling scheme prepared under this Act;
- (xiii) "prescribed" means prescribed by rules made under this Act;
- (xiv) "public purpose" includes any purpose which is useful to the public or any class or section of the public and the requirement of land reserved or designated in a plan, project or scheme or for any other purpose under this Act;
- (xv) "reconstituted plot" means a plot which is in any way altered by the making of a land pooling scheme;

Explanation.- For the purpose of this clause "altered" includes the alteration of ownership of a plot;

- (xvi) "scheme" means a land pooling scheme; and
- (xvii) "sub-division" means division of a parcel or piece of land into two or more parts.

(2) Words and expressions used in this Act, but not defined herein, shall have the same meanings as assigned to them in the Rajasthan Urban Improvement Act, 1959 (Rajasthan Act No. 35 of 1959), the Rajasthan Municipalities Act, 2009 (Rajasthan Act No. 18 of 2009), Jaipur Development Authority Act, 1982 (Act No. 25 of 1982), the Jodhpur Development Authority Act, 2009 (Act No. 2 of 2009) and Ajmer Development Authority Act, 2013 (Act No. 39 of 2013).

CHAPTER 2

Land Pooling Scheme

3. Preparation of Land Pooling Scheme.- Subject to the provisions of this Act or any other law for the time being in force, the appropriate authority may make one or more land pooling schemes for the area under its jurisdiction or any other area as may be notified by the State Government:

Provided that the State Government may in this behalf direct any appropriate authority by specific or general order to

make land pooling scheme for any area in the State:

Provided further that where any land pooling scheme is not made for any specific area adjacent to any land pooling scheme, the owners of the lands of such area may make a request to the appropriate authority to make a land pooling scheme for such area.

4. Power of appropriate authority to declare its intention to make scheme.- (1) Before making any land pooling scheme under the provisions of this Act in respect of any area, the appropriate authority in consultation with the Chief Town Planner may, by resolution, declare its intention to make such a scheme in respect of such area.

(2) Within twenty one days from the date of such declaration (hereinafter referred to as the declaration of intention to make a scheme), the appropriate authority shall publish it in the prescribed manner and shall submit a copy thereof along with a plan showing the area which it proposes to include in the land pooling scheme to the State Government.

(3) A copy of the plan submitted to the State Government under sub-section (2) shall be open to the inspection of the public during office hours at the office of the appropriate authority

5. Power of the State Government to require the appropriate authority to make scheme.- (1) Notwithstanding anything contained in this Act, the State Government may, in respect of any appropriate authority, after making such enquiry, as it deems necessary, direct that appropriate authority to make and submit for its sanction a draft scheme in respect of any area in regard to which a scheme may be made after a notice regarding its making has been duly published in the prescribed manner.

(2) If the appropriate authority fails to make the declaration of intention to make a scheme within sixty days from the date of direction made under sub-section (1), the State Government may, by notification in the *Official Gazette*, appoint an officer to make and submit the draft scheme for the area to the State Government after a notice regarding its making has been duly published as aforesaid and thereupon the provisions of this Act shall, as far as may be applicable, apply to the making of such a scheme.

6. Contents of land pooling scheme.- (1) The scheme may make provisions for any or all of the following matters, as the appropriate authority deems fit, namely:-

- (i) the laying out or relaying out of land, either vacant or already built upon;

- (ii) the filling up or reclamation of low-lying, swampy or unhealthy areas, or levelling up of land;
- (iii) layout of new streets or roads, construction, diversion, extension, alteration, improvement and closing up of streets and roads, and communications;
- (iv) the constructions, alteration and removal of buildings, bridges and other structures;
- (v) the allotment or earmarking of land for roads, open spaces, gardens, recreation grounds, schools, markets, industrial and commercial activities, green belts, dairies, transport facilities and public purposes of all kinds;
- (vi) drainage inclusive of sewerage, surface or sub-soil drainage and sewerage disposal;
- (vii) lighting;
- (viii) water supply;
- (ix) the preservation and protection of objects of historical or national interest or natural beauty, and of buildings actually used for religious purposes;
- (x) the earmarking of land for the purpose of providing affordable housing for such class of people as may be determined by the State Government;
- (xi) (a) the allocation of land from the total area covered under the scheme at least to the extent of –
 - (i) fifteen percent for parks, playgrounds, garden and open spaces and social infrastructure such as schools, dispensary, fire brigade, community facilities, and public utility;
 - (ii) fifteen percent for roads; and
 - (iii) fifteen percent for sale by appropriate authority for residential, commercial or industrial use depending on the nature of development including minimum 5% for Economically Weaker Sections and Lower Income Group housing:

Provided that the percentage of the allocation of land may be altered depending upon the nature of development and for the reasons to be recorded in writing;

- (b) the proceeds from the sale of land referred to in part (iii) of sub-clause (a) shall be used for the purpose of providing infrastructure facilities;
- (xii) the imposition of conditions and restrictions in regard to the open space to be maintained around buildings, the percentage of building area for a plot, the number, size, height and character of buildings allowed in specified areas, the subdivision of plots, the discontinuance of objectionable uses of land or buildings in any area in specified periods, parking spaces and loading and unloading spaces for any building and advertisement signs;
- (xiii) the suspension, so far as may be necessary, for proper carrying out of the scheme, of any rule, bye-law, regulation, notification or order made or issued under any Act of the State Legislature or any of the Acts which the State Legislature is competent to amend:
- Provided that any suspension under this clause shall cease to operate in the event of the State Government refusing to sanction the preliminary scheme or in the event of withdrawal of scheme, under section 28 or on the coming into force of the final scheme;
- (xiv) protection of the natural disaster or hazard prone areas;
- (xv) such other matters not inconsistent with the objects of this Act, as may be prescribed.

(2) A draft scheme shall contain the following particulars, so far as may be necessary, namely:-

- (i) the area, ownership and tenure of each original plot;
- (ii) the particulars of land allotted or earmarked under clause (v) of sub-section (1) with a general indication of the uses to which such land is to be put and the terms and conditions subject to which such land is to be put to such uses;
- (iii) the extent to which it is proposed to alter the boundaries of the original plots;

- (iv) an estimate of the total cost of the scheme and the net cost to be borne by the appropriate authority;
- (v) a full description of all the details of the scheme under sub-section (1) as may be applicable;
- (vi) the laying out or re-laying out of land either vacant or already built upon including areas of comprehensive development ;
- (vii) the filling up or reclamation of low-lying, swampy or unhealthy areas or levelling up of land; and
- (viii) any other particulars, as may be prescribed.

7. Preparation and publication of draft scheme.- (1) Not later than nine months from the date of declaration of intention, the appropriate authority shall, with the prior consent of the local authority in whose jurisdiction the land under the proposed scheme falls, make a draft scheme for the area in respect of which the declaration was made and publish the same in the *Official Gazette* along with the draft regulations in the manner as may be prescribed and shall also publish a public notice stating that the draft scheme in respect of such area has been made and at what place and time a copy thereof shall be available for inspection by public and shall also state that copies thereof or any extract there from certified to be correct, shall be available for sale to the public at a reasonable price:

Provided that the State Government may, on application made by the appropriate authority from time to time, by notification in the *Official Gazette*, extend the period specified in this sub-section by such period not exceeding three months as may be specified in the notification.

(2) The local authority shall give its consent under sub-section (1) within the one month and if such consent is not given within this period, the appropriate authority shall presume that the local authority has no objection to the provisions of the draft scheme:

Provided that where the local authority conveys its refusal to give consent to the draft scheme within the prescribed period or where there is a difference of opinion between the appropriate authority and the local authority with regard to the draft scheme, the matter shall be referred by the appropriate authority to the State

Government for decision and the decision of the State Government shall be final.

(3) If the appropriate authority fails to make a draft scheme and publish a notice regarding its making within the period specified in sub-section (1), the declaration shall lapse, but any such lapse of the declaration shall not debar the appropriate authority from making a fresh declaration at any time in respect of the same area.

(4) If the draft scheme is not made and published by the appropriate authority within the period specified in sub-section (1) or within the period extended under the proviso to that sub-section, an official appointed by the State Government may make and publish in the Official Gazette, a draft scheme for the area in respect of which the declaration of intension to make a scheme has been made within a period of nine months from the date of the expiry of the aforesaid period, or the extended period, as the case may be.

8. Objections to Draft Scheme to be considered.- If, within one month from the date of publication of a draft scheme, any person affected by such scheme communicates in writing to the appropriate authority any objections relating to such scheme, the appropriate authority shall consider such objections and may at any time before submitting the draft scheme to the State Government as hereinafter provided modify such scheme as it thinks fit.

9. Reconstitution of plots.- (1) In the draft scheme referred to in sub-section (2) of section 6, the size and shape of every plot shall be determined, so far as may be, to render it suitable for building purposes, and where a plot is already built upon, to ensure that the building, as far as possible complies with the provisions of the scheme as regards open spaces.

(2) For the purpose of sub-section (1), a draft scheme may contain proposals-

- (i) to form a final plot by the reconstitution of an original plot by alteration of its boundaries, if necessary;
- (ii) to form a final plot from an original plot by the transfer wholly or partly the adjoining lands;
- (iii) to provide, with the consent of the owners, that two or more original plots each of which is held

in ownership in severally or in joint ownership, shall hereafter, with or without alteration of boundaries, be held in ownership in common as a reconstituted plot;

- (iv) to allot a final plot to any owner dispossessed of land in furtherance of scheme; and
- (v) to transfer the ownership of an original plot from one person to another.

(3) Where under clause (xii) of sub-section (1) of section 6, purpose to which buildings or specified areas may not be appropriated or uses have been specified, the buildings shall cease to be used for a purpose other than the purposes specified in the scheme within such time as may be specified in the final scheme and the person affected by the provision shall be entitled to compensation from the Appropriate Authority in the manner and according to the method as may be prescribed:

Provided that in ascertaining such compensation the time within which the person affected was permitted to change the use shall be taken into consideration.

10. Power of State Government to sanction draft scheme.- (1) The appropriate authority shall, not later than three months from the date of publication of the draft scheme under section 7, submit the same with any modifications which it may have made therein together with a copy of objections received by it to the State Government for sanction.

The State Government may, within three months from the date of its receipt, by notification, sanction such scheme with or without modifications or subject to such conditions as it may think fit to impose or refuse to sanction it. However, the State Government may, if deem fit, by notification in the *Official Gazette*, return the scheme to the appropriate authority to carry out such modifications as may be directed, including the direction to include or exclude any land in question in the scheme. The appropriate authority shall comply with the directions of the State Government and shall, after following the procedure laid down in section 7, submit the scheme within the specified time limit to the State Government.

If the State Government sanctions such scheme, it shall in such notification state at what place and time the draft scheme be open for the inspection of the public and also state that copies of such scheme on application shall be available for sale.

11. Vesting of land in appropriate authority.- (1) Where a draft scheme has been sanctioned by the State Government under sub-section (2) of section 10, (hereinafter in this section, referred to as 'the sanctioned draft scheme'), all lands required by the appropriate authority for the purposes specified in clauses (iii), (vi), (vii) or (viii) of sub-section (1) of section 6 shall vest absolutely in the appropriate authority free from all encumbrances.

Nothing in sub-section (1) shall affect any right of the owner of the land vesting in the appropriate authority under that sub-section.

The provisions of sections 31 and 32 shall *mutatis mutandis* apply to the sanctioned draft scheme as if the sanctioned draft scheme were a preliminary scheme.

12. Power of State Government to suspend rules, bye-laws etc.- (1) Where the appropriate authority has published a declaration under section 4, the State Government may, on an application of the appropriate authority, by order published in the *Official Gazette*, suspend to such extent as may be necessary for the proper carrying out of the scheme, any rule, bye-law, regulation, notification or order made or issued under any law which the State Legislature is competent to make or amend.

Any order issued under sub-section (1) shall cease to operate in the event of the State Government refusing to sanction the scheme or in the event of the withdrawal of the scheme under section 28 or in the event of coming into force of the final scheme or in the event of the declaration lapsing under sub-section (3) of section 7.

13. Disputed ownership.- (1) Where there is a disputed claim as to the ownership of any piece of land included in an area in respect of which a declaration of intention to make a scheme has been made and any entry in the record of rights or mutation register relevant to such disputed claim is inaccurate or inconclusive, an enquiry may be held on an application being made by the appropriate authority or the Land Pooling Officer at any time prior to the date on which the Land Pooling Officer draws up the preliminary scheme under section 22 by such officer as the State Government may appoint for the purpose of deciding as to who shall be deemed to be owner for the purposes of this Act.

(2) The decision under sub-section (1) shall not be subject to appeal but it shall not operate as a bar to a regular suit in a civil court.

(3) The decision under sub-section (1) shall, in the event of a civil court passing a decree which is inconsistent therewith, be corrected, modified or rescinded in accordance with such decree as soon as practicable after such decree has been brought to the notice of the appropriate authority either by the civil court or by a person affected by such decree.

(4) Where a decree of civil court referred to in sub-section (3) is passed after final scheme has been sanctioned by the State Government, the final scheme shall be deemed to have been suitably modified by reason of such decree.

CHAPTER 3

Control of Development and Use of Land

14. Restrictions on development after publication of declaration of intention of land pooling scheme.- (1) On or after the date on which a declaration of intention of land pooling scheme is published in the *Official Gazette* under section 4 in respect to any area, no person shall carry out any development in any building or in or over any land, within the limits of the said area without the permission in writing of the appropriate authority and without obtaining certificate from it to the effect that development charge, scrutiny fees or any other fee leviable under this Act has been paid or that no such charge is leviable:

Provided that no such permission shall be necessary for the carrying out of -

- (a) any operational construction undertaken by the Central Government or a State Government;
- (b) any work for the purpose of inspecting, repairing or renewing any drains, sewers, mains, pipes, cables, telephone or other apparatus or the breaking open of any street or other land for such purpose.

(2) The restrictions imposed by this section shall cease to operate in the event of the State Government refusing to sanction the draft scheme or preliminary scheme or the final scheme or in the event of the withdrawal of the scheme under section 28.

(3) Any diminution in the value of an original plot occasioned by any contravention of the provisions of sub-section (1) of this section or any condition imposed under clause (ii) of sub-section (3) of section 15 shall, notwithstanding anything contained in this Act with regard to cost of scheme, calculation of increment and contribution towards cost of scheme be taken into account in fixing the market value of such plot.

(4) No person shall be entitled to compensation in respect of any damage, loss or injury resulting from any action taken by the appropriate authority under sub-section (1) of section 33 except in respect of a building or work begun or contract entered into before the date on which a declaration of intention to make a scheme is published under section 4 or the publication of the draft scheme under sub-section (1) of section 7:

Provided that where any person is entitled to any compensation in respect of any building or work under this sub-section, he shall be so entitled only in so far as such building or work has proceeded at the time of the declaration of intention or publication, as the case may be, and subject to the conditions of any agreement entered into between such person and the appropriate authority.

(5) On and after the date referred to in sub-section (1), the appropriate authority intending to carry out development of land, within the area included in the scheme, for its own purpose in exercise of its powers under any law for the time being in force shall carry out such development in conformity with the provisions of such scheme, and of the bye-laws and regulations relating to construction of buildings.

15. Application of permission for development.- (1) Any person, intending to carry out any development in any building or in or over any land after the publication of intention of land pooling scheme shall make an application in writing to the appropriate authority for permission for such development in such form and containing such particulars and accompanied by such documents as may be prescribed.

(2) Every application under sub-section (1) shall be accompanied by such fee as may be prescribed.

(3) On an application having been duly made under sub-section (1) and on payment of the development charge or betterment charges or any other charges, if any, as may be

assessed, the appropriate authority with the approval of the Land Pooling Officer appointed under section 21 may-

- (i) pass an order-
 - (a) granting permission unconditionally; or
 - (b) granting permission subject to such conditions as it may think necessary to impose; or
 - (c) refusing permission;
- (ii) without prejudice to the generality of clause (a) impose conditions-
 - (a) to the effect that the permission granted is only for a specified period and after the expiry of that period, the land shall be restored to its previous condition or the use of the land so permitted shall be discontinued; or
 - (b) for regulating the development or use of any land under control of the applicant or for the carrying out of works on any such land as may appear to the appropriate authority expedient.

(4) The appropriate authority in considering the application for permission shall ensure that it is in conformity with the provisions of the land pooling scheme prepared or under preparation under this Act and where the development or any modification is likely in the opinion of the appropriate authority to interfere with the operation of the land pooling scheme or to be prejudicial to planned development, or any plan of the local authority, the appropriate authority may refuse such permission.

(5) Where permission is granted subject to conditions or is refused, the grounds of imposing such conditions or such refusal shall be recorded in the order and such order shall be communicated to the applicant in the prescribed manner.

(6) If the appropriate authority does not communicate to grant or refuse permission to the applicant within sixty days from the date of receipt of his application or within sixty days from the date of reply from the applicant in respect of any requisition made by the appropriate authority, whichever is later, such permission shall be deemed to have been granted to the applicant on the date immediately following the date of expiry of the aforesaid period.

16. Power to revoke or modify permission to develop.-

(1) If it appears to the appropriate authority that it is necessary or expedient having regard to the land pooling scheme prepared or under preparation and to any other material consideration, that any

permission granted under this Act should be revoked or modified, it may, after giving a reasonable opportunity of being heard to the person in whose favour the permission has been granted, by an order revoke or modify the permission to such extent as appears it to be necessary.

(2) When permission is revoked or modified by an order made under sub-section (1), the owner may, within such time and in such manner, as may be prescribed, claim compensation for the expenditure incurred in carrying out any work in accordance with such permission and which has been rendered abortive by the revocation or modification of permission.

(3) Where a claim under sub-section (2) is received by the appropriate authority, it shall, after giving the owner reasonable opportunity of being heard, assess the amount of compensation and offer it to the owner.

(4) If the owner does not accept the compensation offered under sub-section (3), and gives notice, within such time as may be prescribed, of such refusal, the appropriate authority shall refer the matter for the adjudication to such authority as may be prescribed and the decision of the such authority shall be final and binding on the owner and the appropriate authority.

17. Penalty for unauthorized development or for use otherwise than in conformity with land pooling scheme.- Any person who, either by himself or at the instance of any other person, commences, undertakes or carries out development of, or changes the use of, any land -

- (i) in contravention of any land pooling scheme; or
- (ii) without paying development charge or betterment charge under section 15; or
- (iii) without the permission as required under section 15; or
- (iv) in contravention of any condition subject to which such permission has been granted; or
- (v) after the permission for development has been revoked under section 16; or
- (vi) in contravention of the permission which has been modified under section 16,

shall be punishable with imprisonment of either description for a term which may extend to three years or with fine which may extend to ten thousand rupees or with both, and in the case of continuing offence with a further fine which may extend to one

thousand rupees for every day during which such contravention continues after conviction for the first such contravention.

18. Power to require removal of unauthorized development or use.- (1) Where any development of land has been, or being, carried out in any manner or any building has been erected or re-erected or any excavation has been made or extended or any means of access has been laid out to a road in contravention of the provisions of this Act, the appropriate authority may serve on the owner a notice being not less than one month, as may be specified therein, requiring him after the service of the notice, to take such steps, as may be specified in the notice, namely:-

- (i) in cases specified in clauses (i), (iii) and (v) of section 17, to restore the land to its condition before the said development, erection, re-erection, excavation or laying out of any means of access to a road took place;
- (ii) in cases specified in clause (iv) and (vi) of section 17, to secure compliance with the conditions or with permission as modified;
- (iii) in cases specified in clause (ii) section 17, to pay the development charge or betterment charge and such penalty, if any, as may be prescribed:

Provided that in case the notice requires the discontinuance of the use of any land, the appropriate authority shall serve a notice on the occupier also.

(2) In particular, any such notice may, for the purposes of sub-section (1), require,-

- (i) the sealing, demolition or alteration of any building or works;
- (ii) the discontinuance of any use of land.

(3) Any person aggrieved by such notice may, within such period and in such manner, as may be prescribed,-

- (i) apply for permission under section 15 for the retention on the land of any building or works or for the continuance of any use of the land, to which the notice relates; or
- (ii) appeal to the State Government.

(4) (i) The notice shall be of no effect pending the final disposal or withdrawal of the application or the appeal.

- (ii) Where permission is granted on an application referred to in clause (i) of sub-section (3), the

notice shall not take effect and where such permission is granted for the retention only of some building or works or for the continuance of use of only a part of the land, such notice shall not take effect regarding such building or works or such part of the land, but shall have full effect regarding other buildings or works or other parts of the land.

(5) Where an appeal has been preferred under clause (ii) of sub-section (3), the State Government may, after affording a reasonable opportunity to the appellant and the appropriate authority of being heard, dismiss the appeal or accept the appeal by quashing or varying the notice as it may think fit and the decision of the State Government on the appeal shall be final and shall not be questioned in any court.

(6) If within the period specified in the notice or within such period after the disposal or withdrawal of the application for permission or the appeal under sub-section (3), as the case may be, the notice or so much of it as continues to have effect, or the notice with variations made in appeal, is not complied with, the appropriate authority may-

(i) prosecute the owner for not complying with the notice and in the case where the notice required the discontinuance of any use of land, prosecute any other person also who uses the land or causes or permits the land to be used in contravention of the notice; and

(ii) (a) in the case of a notice requiring the demolition or alteration of any building or other operations, itself cause the restoration of the land to the condition in which it was before the development, erection, re-erection, excavation or laying out any means of access to a road, as the case may be, took place and secure the compliance with the conditions of the permission or with the permission as modified, by taking such steps as the appropriate authority may consider necessary including demolition or alteration of any building or works or carrying out of any building or other operations; and

(b) recover the cost of any expenses incurred by it in this behalf from the owner as arrears of land revenue.

(7) Any person prosecuted under clause (i) of sub-section (6) shall be punishable with imprisonment of either description for a term which may extend to three years or with fine which may extend to ten thousand rupees or with both, and in the case of continuing offence, with fine which may extend to one thousand rupees for every day during which such contravention continues after conviction for the first such contravention.

19. Power to require to discontinue unauthorized development.- (1) Where any development of land has been carried out in any manner specified in clauses (i) to (vi) of section 17 or any building has been erected or re-erected or any excavation has been made or extended or any means of access has been laid to any road in contravention of the provisions of section 15, but has not been completed, the appropriate authority may serve on the owner and the person carrying out the development or the erection or re-erection of building or making or extending any excavation or laying out any means of access to a road, a notice requiring him to discontinue the same from the time of service of such notice.

(2) Where a notice has been served under sub-section (1), the person aggrieved by such notice may appeal to the State Government and the provisions of sub-sections (5) and (6) of section 18 shall apply with such modifications as may be necessary.

(3) Any person, who continues to carry out the development of land whether for himself or on behalf of the owner or any other person, after such notice has been served, shall be punishable with imprisonment of either description for term which may extend to three years or with fine which may extend to ten thousand rupees, and when the non-compliance is continuing one, with a further fine which may extend to one thousand rupees for every day after the date of notice during which the non-compliance has continued or continues.

(4) If a notice under sub-section (1) is not complied forthwith, the appropriate authority or any officer authorized by it in this behalf, as the case may be, may seal the property, and require a police officer to remove such person and other workmen from the land with his assistance and such police officer shall comply with such requisition.

(5) Where action has been taken by a police officer under sub-section (4), the appropriate authority or the officer referred to in that sub-section, shall take necessary steps to ensure that such development is not continued.

(6) Any expenses incurred by the appropriate authority under sub-section (4) and sub-section (5) shall be paid by the person at whose instance such development is being continued or to whom notice under sub-section (1) was given and shall be recoverable from such person as arrears of land revenue.

20. Recovery of expenses incurred.- Any expenses incurred by the appropriate authority under section 18 or section 19 shall be a sum due to the appropriate authority under this Act from the person in default or the owner of the land, building or land concerned.

CHAPTER 4

Final Schemes

21. Appointment of Land Pooling Officer.- (1) Within one month from the date on which the sanction of the State Government to a draft scheme is published in the Official Gazette, the State Government shall where necessary for the purposes of one or more schemes received by it for sanction, appoint any official of the State Government, possessing such qualifications, as may be prescribed, to be a Land Pooling Officer:

Provided that the State Government may, on the request made by appropriate authority appoint a Land Pooling Officer within one month from the date of declaration of intention of draft scheme under section 4.

The appropriate authority shall render all reasonable assistance to the Land Pooling Officer and shall allow it to examine all papers, documents and plan connected with the scheme.

The State Government may, if it thinks fit at any time, remove for incompetence or misconduct or replace for any good or sufficient reason a Land Pooling Officer appointed under sub-section (1) and shall forthwith appoint another official to take his place and any proceeding pending before the Land Pooling Officer immediately before the date of his removal or replacement shall be continued and disposed of by the new Land Pooling Officer appointed in his place:

Provided that no Land Pooling Officer shall be removed under this sub-section except after an inquiry in which he has been informed of the charges against him and a reasonable opportunity of being heard in respect of those charges has been given to him.

Subject to the provisions of sub-section (3), a Land Pooling Officer appointed under sub-section (1) for the purpose of any scheme shall cease to hold office with effect from the date on which the final scheme is sanctioned.

22. Duties of Land Pooling Officer.- Within a period of twelve months from the date of his appointment, the Land Pooling Officer shall, after following the prescribed procedure, split the land pooling scheme into a preliminary scheme and a final scheme:

Provided that the State Government may, by order in writing, extend the said period by such further period not exceeding nine months in aggregate and any such order extending the period may be made so as to have retrospective effect.

23. Contents of preliminary and final scheme.- (1) In a preliminary scheme, the Land Pooling Officer shall,-

- (i) after giving notice in the prescribed manner and in the prescribed form to the persons affected by the scheme, define and demarcate the areas allotted to, or earmarked for, any public purpose, or for a purpose of the appropriate authority and the final plots;
- (ii) after giving notice as aforesaid, determine in a case in which a final plot is to be allotted to persons in ownership in common, the shares of such persons;
- (iii) provide for the total or partial transfer of any right in an original plot to a final plot or provide for the transfer of any right in an original plot in accordance with provisions of section 45;
- (iv) determine the period within which the works provided in the scheme shall be completed by the appropriate authority.

(2) The Land Pooling Officer shall submit the preliminary scheme so prepared to the State Government for sanction.

(3) As soon as the State Government sanction the preliminary scheme, the Land Pooling Officer shall thereafter

prepare and submit to the State Government the final scheme in accordance with the provisions of sub-section (4).

(4) In the final scheme, the Land Pooling Officer shall, -

- (i) fix the difference between the total of the values of the original plots and the total of the values of the plots included in the scheme in accordance with the clause (vi) of sub-section (1) of section 41;
- (ii) determine whether the areas used, allotted or earmarked for a public purpose or purposes of the appropriate authority are beneficial wholly or partly to the owners or residents within the area of the scheme;
- (iii) estimate the portion of the sums payable as compensation on each plot used, allotted or earmarked for a public purpose or for the purpose of the appropriate authority which is beneficial partly to the owners or residents within the area of the scheme and partly to the general public, which shall be included in the costs of the scheme;
- (iv) calculate the contribution to be levied under sub-section (1) of section 43, on each plot used, allotted or earmarked for a public purpose or for the purpose of the appropriate authority which is beneficial partly to the owners or residents within the area of the scheme and partly to the general public;
- (v) determine the amount of exemption, if any, from the payment of contribution that may be granted in respect of plots exclusively occupied for religious or charitable purposes;
- (vi) estimate the increment to accrue in respect of each plot included in the scheme in accordance with the provisions of section 42;
- (vii) calculate the proportion of the contribution to be levied on each plot in the final scheme to the increment estimated to accrue in respect of such plot under sub-section (1) of section 43;
- (viii) calculate the contribution to be levied on each plot included in the final scheme;

- (ix) determine the amount to be deducted from, or added to, as the case may be, the contribution leviable from a person in accordance with the provisions of section 43;
- (x) estimate with reference to claims made before him, after notice has been given by him in the prescribed manner and in the prescribed form, the compensation to be paid to the owner of any property or right injuriously affected by the making of the land pooling scheme in accordance with the provisions of section 46.

(5) The Land Pooling Officer shall draw in the prescribed form the preliminary and the final scheme in accordance with the draft scheme:

Provided that the Land Pooling Officer may make modification in the draft scheme, but no such modification, if it is of a substantial nature, shall be made except with the previous sanction of the State Government, and except after hearing the appropriate authority and any owners who may raise objections.

Explanation.- (i) For the purpose of this proviso "modification of a substantial nature" means a modification which is estimated by the Land Pooling Officer to involve an increase of ten percent in the costs of the scheme as is described in section 41 or on account of the provisions of new works or the allotment of additional sites for public purposes included in the preliminary scheme drawn up by the Land Pooling Officer.

(ii) If there is any difference of opinion between the Land Pooling Officer and the appropriate authority as to whether a modification made by the Land Pooling Officer is of substantial nature or not, the matter shall be referred by the appropriate authority to the State Government whose decision shall be final.

24. Certain decisions of Land Pooling Officer to be final.- Except in matters arising out of clauses (iii), (iv), (vi), (vii), (viii) and (x) of sub-section (4) of section 23, every decision of the Land Pooling Officer shall be final and conclusive and binding on all parties including the appropriate authority.

25. Power of Land Pooling Officer to split up Draft Scheme into separate sections.- (1) After a Land Pooling Officer

has been appointed under section 21, the appropriate authority may apply to him to split up the draft scheme into different sections and to deal with each section separately as if such section were a separate draft scheme.

(2) On receipt of an application under sub-section (1), the Land Pooling Officer may, after making such inquiry as he thinks fit, split up the draft scheme into sections.

(3) The provisions of this Act and the rules made thereunder shall, so far as may be, apply to each of such sections as if it were a separate draft scheme.

26. Submission of preliminary scheme and final scheme to Government.- The Land Pooling Officer shall submit to the State Government for sanction the preliminary scheme also before the final scheme is submitted to the State Government under sub-section (2) of section 23, together with copy of his decision under section 24.

27. Power of Government to sanction or refuse to sanction the scheme and effect of sanction. (1) On receipt of the preliminary scheme or, as the case may be, the final scheme, the State Government may-

- (i) in the case of a preliminary scheme, within a period of two months from the date of its receipt, and
- (ii) in the case of a final scheme, within a period of three months from the date of its receipt,

by notification, sanction the preliminary scheme or the final scheme or refuse to give sanction, provided that in sanctioning any such scheme, the State Government may make such modifications, as may, in its opinion, be necessary for the purpose of correcting an error, irregularity or informality.

(2) Where the State Government sanctions the preliminary scheme or the final scheme, it shall state in the notification-

- (i) the place at which the scheme shall be kept open for inspection by the public, and
- (ii) a date (which shall not be earlier than one month after the date of the publication of the notification) in which all the liabilities created by the scheme shall come into force:

Provided that the State Government may, from time to time, extend such date, by

notification, by such period, not exceeding three months at a time, as it thinks fit.

(3) On and after the date fixed in such notification, the preliminary scheme or the final scheme, as the case may be, shall have effect as if it were enacted in this Act.

(4) The appropriate authority shall, after the preliminary scheme is sanctioned by the State Government under sub-section (2), complete the execution of such scheme within a period of two years from the date of the sanction of such scheme, failing which the State Government may take such actions against appropriate authority as it deems fit.

28. Withdrawal of scheme.- (1) If at any time before the preliminary scheme is forwarded by the Land Pooling Officer to the State Government, a representation is made to the Land Pooling Officer by the appropriate authority and a majority of the owners in the area, that the scheme should be withdrawn, the Land Pooling Officer shall, after inviting from all persons interested in the scheme objections to such representation, forward such representation together with the objections, if any, to the State Government.

(2) The State Government may, after making such inquiry, as it may deem fit, if it is of opinion that it is necessary or expedient so to do, by notification, direct that the scheme shall be withdrawn and upon such withdrawal no further proceedings shall be taken in regard to such scheme.

29. Effect of preliminary scheme.- On the day on which the preliminary scheme comes into force,-

- (i) all lands required by the appropriate authority shall, unless it is otherwise determined in such scheme, vest absolutely in the appropriate authority free from all encumbrances;
- (ii) all rights in the original plots which have been re-constituted into final plots shall determine and the final plots shall become subject to the rights settled by the Land Pooling Officer.

30. Manner of resolution of grievances after sanctioning schemes.- (1) In case where the final plot is allotted in joint ownership in the sanctioned preliminary or final scheme, then on

application by any of the joint owners, being made to the committee constituted under sub-section (2), the committee shall give a notice to all the concerned and after giving them an opportunity of being heard. It shall, with respect to such final plot define and decide the share of the joint holders and demarcate the area that may be allotted to each of them. The decision of the committee in this regard shall be deemed to be the part of the scheme sanctioned under section 27.

(2) The committee shall consist of the following members, namely,-

- (i) Secretary incharge of Urban - Chairperson;
Development and Housing
Department
- (ii) Chief Town Planner, - Member-
Rajasthan Secretary; and
- (iii) Executive Head of the - Member.
appropriate authority

Explanation.- For the purpose of this sub-section, "Secretary incharge" means the the Secretary incharge of the department and includes the Additional Chief Secretary or the Principal Secretary when he is incharge of the department.

31. Power of appropriate authority to evict summarily.-

On and after the date on which a preliminary scheme comes into force, any person continuing to occupy any land which he is not entitled to occupy under the preliminary scheme shall, in accordance with the prescribed procedure, be summarily evicted by the appropriate authority.

32. Power to enforce Scheme.- (1) On and after the date on which the preliminary scheme comes into force, the appropriate authority shall, after giving the prescribed notice and in accordance with the provisions of the scheme-

- (i) remove, pull down, or alter any building or other work in the area included in the scheme which is such as contravenes the scheme or in the erection or carrying out of which any provision of the scheme has not been complied with;
- (ii) execute any work which it is the duty of any person to execute under this scheme in any case where it

appears to the appropriate authority that delay in the execution of the work would prejudice the efficient operation of the scheme.

(2) Any expenses incurred by the appropriate authority under this section shall be recovered from the person in default or from the owner of the plot in the manner provided for the recovery of sums due to the appropriate authority under the provisions of this Act.

(3) If any question arises as to whether any building or work contravenes a land pooling scheme or whether any provision of a land pooling scheme is not complied with in the process of erection or carrying out of any such building or work, it shall be referred to the State Government and the decision of the State Government shall be final and binding on all persons.

(4) No persons shall be entitled to compensation in respect of any damage, loss or injury resulting from any action taken by the appropriate authority under the provisions of this section except in respect of the building or work begun before the date referred to in sub-section (1) and only in so far as such building or work has proceeded until that date:

Provided that any claim to compensation, which is not barred by this sub-section shall be subject to the condition of any agreement entered into between the claimant and the appropriate authority.

(5) The provisions of this section shall not apply to any operational construction undertaken by the Central Government or State Government.

33. Power to modify scheme on ground of error, irregularity or informality.- (1) If after the preliminary scheme or the final scheme has come into force, the appropriate authority considers that the scheme is defective on account of an error, irregularity or informality, the appropriate authority may apply in writing to the State Government for the modification of the scheme.

(2) If on receiving such application or otherwise, the State Government is satisfied that the modification required is not substantial, the State Government shall publish a draft of such modification in the prescribed manner.

(3) The draft modification published under sub-section (2) shall state every modification proposed to be made in the scheme and if any such modification relates to a matter specified in any of the clauses (i) to (viii) of sub-section (1) of section 6, the draft modification shall also contain such other particulars as may be prescribed.

(4) The draft modification shall be open to the inspection of the public at the head office of the appropriate authority during office hours.

(5) Within one month of the date of publication of the draft modification, any person affected thereby may communicate in writing his objections to such modification to the State Government through the appropriate authority.

(6) After receiving the objections under sub-section (5), the State Government may, after consulting the appropriate authority and after making such inquiry, as it may think fit, by notification -

- (i) appoint a Land Pooling Officer and thereupon the provisions of this Chapter shall, so far as may be, apply to such draft modification as if it were a draft scheme sanctioned by the State Government, or
- (ii) make the modification as such or with or without condition, or
- (iii) refuse to make the modification.

(7) From the date of the notification making the modification, with or without condition, such modification shall take effect as if it were incorporated in the scheme.

34. Modification of land pooling scheme for land allotted for public purpose.- If at any time after the final land pooling scheme comes into force, the appropriate authority is of the opinion that the purpose for which any land is allocated in such scheme under clause (xi) of sub-section (1) of section 6 requires to be changed to any other purpose specified in any of the clauses of the said sub-section, the appropriate authority may make such change after following the procedure relating to amendment of regulations, specified in section 36 as if such change were an amendment of regulations.

35. Modification in land pooling scheme by another Scheme.- Notwithstanding anything contained in section 34, a land pooling scheme may, at any time, be varied by a subsequent

scheme made, published and sanctioned in accordance with the provisions of this Act.

36. Amendment of Regulations.- (1) If at any time after the final land pooling scheme comes into force, the appropriate authority is of the opinion that the regulations relating to a land pooling scheme require to be amended, it may publish the requisite draft amendment in the prescribed manner and invite suggestions or objections thereto from any person.

(2) If within one month from the date of publication of the draft amendment, any person communicates in writing to the appropriate authority any suggestions or objections relating to such amendment, the appropriate authority shall consider such suggestions or objections and may, at any time before submitting the draft amendment to the State Government as hereinafter provided, modify such amendment as it thinks fit.

(3) The appropriate authority shall within a period of two months from the date of its publication, submit the draft amendment alongwith the suggestions or objections to the State Government and shall at the same time apply for its sanction.

(4) After receiving such application and after making such inquiry as it may think fit, the State Government may sanction the amendment submitted with or without modifications as it deems necessary or refuse to sanction the amendment.

(5) If the amendment is sanctioned by the State Government, the final land pooling scheme shall be deemed to have been varied in accordance with the amendment.

37. Compensation when scheme is modified.- If at any time after the date on which the scheme has come into force, such scheme is varied, any person who has incurred any expenditure for the purpose of complying with such scheme shall be entitled to be compensated by the appropriate authority for the expenditure, if such expenditure is rendered abortive by reason of the modification in such scheme.

38. Apportionment of costs of scheme withdrawn or not sanctioned.- In the event of a land pooling scheme being withdrawn or sanction to a preliminary scheme being refused by the State Government, the State Government may direct that the costs of the scheme shall be borne by the appropriate authority or

be paid to the appropriate authority by the owners concerned in such proportion as the State Government may in each case determine.

39. Right to appear through authorized representative.-

Every party to any proceedings before the Land Pooling Officer or the Board of Appeal shall be entitled to appear either in person or through authorized representative.

40. Powers of Civil Court in respect of certain matters.-

For the purpose of this Act, an officer appointed under sub-section (1) of section 13 or the Land Pooling Officer or the Board of Appeal shall have the same powers of a civil court while trying a suit under the Code of Civil Procedure, 1908 (Central Act No. 5 of 1908) in respect of the following matters, namely:-

- (i) summoning and enforcing the attendance of any person and examining him on oath;
- (ii) requiring the discovery and production of any document;
- (iii) receiving evidence on affidavits;
- (iv) issuing commissions for the examination of witnesses or documents.

41. Costs of scheme.- (1) The costs of a land pooling scheme shall include-

- (i) all sums payable by the appropriate authority under the provisions of this Act, which are not specifically excluded from the costs of the scheme;
- (ii) all sums spent or estimated to be spent by the appropriate authority in the making and execution of the scheme:

Provided that the estimates shall be with reference to the period during which the preliminary scheme is to be implemented after it is sanctioned under section 27;

- (iii) all sums payable as compensation for land earmarked or designated for any public purpose or for the purposes of the appropriate authority which is solely beneficial to the owners of land or residents within the area of the scheme;

- (iv) such portion of the sums payable as compensation for land earmarked or designated for any public purpose or for the purpose of the appropriate authority which is beneficial partly to the owners of land or residents within the area of the scheme from such earmark, or designation;
- (v) all legal expenses incurred by the appropriate authority in the making and in the execution of the scheme;
- (vi) any amount by which the total amount of the values of the original plots exceeds the total amount of the values of the plots included in the final scheme, each of such plots being estimated at the value prescribed under the rules at the date of the declaration of intention to make a scheme, with all the buildings and works thereon at the said date and without reference to improvements contemplated in the scheme other than improvements due to alteration of its boundaries;
- (vii) twenty per cent of the amount of the cost of infrastructure provided in the area adjacent to the area of the scheme as is necessary for the purpose of and incidental to the scheme.

(2) If in any case the total amount of the values of the plots included in the final scheme exceeds the total amount of the values of the original plots, each of such plots being estimated in the manner provided in clause (vi) of sub-section (1), then the amount of such excess shall be deducted in arriving at the costs of the scheme as defined in sub-section (1).

42. Calculation of increment.- For the purposes of this Act, the increments shall be deemed to be the amount by which, at the date of the declaration of intention to make a scheme, the market value of the plot included in the final scheme estimated on the assumption that the scheme has been completed, would exceed at the same date the market value of the same plot estimated without reference to improvements contemplated in the scheme:

Provided that in estimating such value, the value of buildings or other works erected or in the course of erection on such plot shall not be taken into consideration.

43. Contribution towards costs of scheme.- (1) The costs of the scheme shall be met wholly or in part by a contribution to be levied by the appropriate authority on each plot included in the final scheme calculated in proportion to the increment which is estimated to accrue in respect of such plot by the Land Pooling Officer:

Provided that-

- (i) (a) where the cost of the scheme does not exceed half the increment, the cost shall be met wholly by a contribution, and
- (b) where it exceeds half the increment, to the extent of half the increment it shall be met by a contribution and the excess shall be borne by the appropriate authority;
- (ii) where a plot is subject to a mortgage with possession or to a lease, the Land Pooling Officer shall determine in what proportion the mortgagee or lessee on the one hand and the mortgagor or lessor on the other hand shall pay such contribution;
- (iii) no such contribution shall be levied on a plot used, allotted or earmarked for a public purpose or for the purpose of the appropriate authority which is solely beneficial to the owners of land or residents within the area of the scheme; and
- (iv) the contribution levied on a plot used, allotted or earmarked for a public purpose or for the purpose of the appropriate authority which is beneficial partly to the owners of land or residents within the area of the scheme and partly to the general public shall be calculated in proportion to the benefit estimated to accrue to the general public from such use, allotment or earmark.

(2) The owner of each plot included in the final scheme shall be primarily liable for the payment of the contribution leviable in respect of such plot.

44. Certain amounts to be added to, or deducted from,

contribution leviable from person.- The amount by which the total value of the plots included in the final scheme with all the buildings and works thereon allotted to a person falls short of or exceeds the total value of the original plots with all the buildings and works thereon of such person shall be deducted from, or, as the case may be, added to, the contribution leviable from such person, each of such plots being estimated at its market value at the date of declaration of intention to make a scheme or the date of the notification issued by the State Government under sub-section (2) of section 5 and without reference to improvements contemplated in the scheme other than improvements due to the alteration of its boundaries.

45. Transfer of right from original to final plot or extinction of such right.- Any right in an original plot which in the opinion of the Land Pooling Officer is capable of being transferred wholly or in part, without prejudice to the making of a land pooling scheme, to a final plot shall be so transferred and any right in an original plot which in the opinion of the Land Pooling Officer is not capable of being so transferred shall be extinguished:

Provided that an agricultural lease shall not be transferred from an original plot to a final plot without the consent of all the parties to such lease.

46. Compensation in respect of property or right injuriously affected by scheme.- The owner of any property or right which is injuriously affected by the making of a land pooling scheme shall, if he makes a claim before the Land Pooling Officer within the prescribed time, be entitled to be compensated in respect thereof by the appropriate authority or by any person benefited or partly by the appropriate authority and partly by such person as the Land Pooling Officer may in each case determine:

Provided that the value of such property or rights shall be deemed to be its market value at the date of the declaration of intention to make a scheme or the date of the notification issued by the State Government under sub-section (2) of section 5 without reference to improvements contemplated in the scheme, as the case may be.

47. Exclusion of compensation in certain cases.- (1) No compensation shall be payable in respect of any property or private

right which is alleged to be injuriously affected by reason of any provisions contained in the land pooling scheme, if under any other law for the time being in force applicable to the area for which such scheme is made no compensation is payable for such injurious affection.

(2) Any property or private right shall not be deemed to be injuriously affected by reason of any provision inserted in a land pooling scheme which imposes any conditions and restrictions in regard to any of the matters specified in clause (xii) of sub-section (1) of section 6.

48. Provision for case in which amount payable to owner exceeds amount due from him.- If the owner of an original plot is not provided with a plot in the preliminary scheme or if the contribution to be levied from him under section 43 is less than the total amount to be deducted therefrom under any of the provisions of this Act, the net amount of his loss shall be payable to him by the appropriate authority in cash or in such other manner as may be agreed upon by the parties.

49. Provision for case in which value of developed plot is less than amount payable by owners.- (1) If from any cause the total amount which would be due to the appropriate authority under the provisions of this Act from the owner of a plot to be included in the final scheme exceeds the value of such plot estimated on the assumption that the scheme has been completed, the Land Pooling Officer shall at the request of the appropriate authority direct the owner of such plot to make payment to the appropriate authority of the amount of such excess.

(2) If such owner fails to make such payment within the prescribed period, the Land Pooling Officer shall, if the appropriate authority so requests, acquire the original plot of such defaulter and apportion the compensation among the owner and other persons interested in the plot on payment by the appropriate authority of the value of such plot estimated at its market value at the date of the declaration of intention to make a scheme or the date of a notification under sub-section (2) of section 5 and without reference to improvements contemplated in the scheme; and thereupon the plot included in the final scheme shall vest absolutely in the appropriate authority free from all encumbrances but subject to the provisions of this Act:

Provided that the payment made by the appropriate authority on account of the value of the original plot shall not be included in the costs of the scheme.

50. Payment by adjustment of account.- All payments due to be made to any person by the appropriate authority under this Act shall, as far as possible, be made by adjustment in such account with the appropriate authority in respect of the plot concerned or of any other plot in which he has an interest and failing such adjustment, shall be paid in cash or in such other manner as may be agreed upon by the parties.

51. Payment of net amount due to appropriate authority.- (1) The net amount payable under the provisions of this Act by the owner of a plot included in the final scheme may at the option of the contributor be paid in lump-sum or in annual instalments not exceeding ten.

(2) If the owner elects to pay the amount by instalments, interest at such rate as is arrived at by adding two percent to the bank rate published under section 49 of the Reserve Bank of India Act, 1934 (Central Act No.2 of 1934), from time to time, shall be charged per annum on the net amount payable.

(3) If the owner of a plot fails to exercise the option on or before the date specified in a notice issued to him in that behalf by the appropriate authority, he shall be deemed to have exercised the option of paying contribution in instalments and the interest on the contribution shall be calculated from the date specified in the notice, being the date before which he was required to exercise the option.

(4) Where two or more plots included in the final scheme are of the same ownership, the net amount payable by such owner under the provisions of this Act shall be distributed over his several plots in proportion to the increments which is estimated to accrue in respect of each plot unless the owner and the appropriate authority agree to a different method of distribution.

52. Power of appropriate authority to make agreement.-

(1) The appropriate authority shall be competent to make any agreement with any person in respect of any matter which is to be provided for in a land pooling scheme, subject to the power of the State Government to modify or disallow such agreement and unless it is otherwise expressly provided therein, such agreement

shall take effect on and after the day on which the land pooling scheme comes into force.

(2) Such agreement shall not in any way affect the duties of the Land Pooling Officer as described in Chapter 4 or the rights of third parties but it shall be binding on the parties to the agreement notwithstanding any decision that may be passed by the Land Pooling Officer:

Provided that if the agreement is modified by the State Government, either party shall have the option of avoiding it, if it so elects.

53. Execution of works in final scheme by appropriate authority.- (1) The appropriate authority shall complete all the works provided in a final scheme within the period specified in the final scheme by the Land Pooling Officer:

Provided that in exceptional circumstances on an application by the appropriate authority, the State Government may by an order in writing specifying those circumstances, grant to the appropriate authority in this behalf further extension of time as it may deem fit.

(2) If the appropriate authority fails to complete all the works within the specified period or within the period extended under sub-section (1), the State Government may, notwithstanding anything contained in sub-section (1), require the appropriate authority to complete the works within such further period as it may consider reasonable or appoint an officer to complete such works at the cost of the appropriate authority and recover the cost from the appropriate authority in the prescribed manner.

54. Powers of appropriate authority to borrow money for Development Plan or for making or executing a land pooling scheme.- (1) An appropriate authority may for the purpose of making or execution of a land pooling scheme borrow moneys and if the appropriate authority is a local authority the money shall be borrowed in accordance with the provisions of the Act under which the local authorities constituted or if such Act does not contain any provision for such borrowing, then in accordance with the approval of the State Government.

(2) Any expenses incurred by an appropriate authority or the State Government under this Act in connection with a land

pooling scheme and the salary, allowances and other expenses of the Land Pooling Officer as appointed under section 21, may be defrayed out of the funds of the appropriate authority.

CHAPTER 5

Appeal

55. Appeal.- (1) Any decision of the Land Pooling Officer under clause (iii), (iv), (vi), (vii), (viii) and (x) of sub-section (4) of section 23 shall forthwith be communicated to the party concerned including the appropriate authority and any party aggrieved by such decision may, within thirty days from the date of communication of the decision, prefer an appeal to the Board of Appeal.

(2) The provisions of sections 5, 12 and 14 of the Limitation Act, 1963 (Central Act No. 36 of 1963) shall apply to the appeals under this section.

56. Constitution of Board of Appeal.- (1) The State Government shall, from time to time by an order published in the *Official Gazette*, constitute a Board of Appeal for hearing and deciding appeals under section 55.

(2) The Board of Appeal shall consist of three members, one of whom shall be its President and two persons, possessing such qualifications and experience as may be prescribed, as assessor.

(3) The President of the Board of appeal shall be a person who is or has been a District Judge.

(4) The terms of appointment of the President of the Board of Appeal and conditions of service shall be such as may be prescribed.

(5) The Board of Appeal constituted under sub-section (1) shall stand dissolved as soon as a copy of its decision in appeal is sent to the Land Pooling Officer.

(6) The State Government may, if it thinks fit, remove for incompetence or misconduct or for any other good or sufficient reason any assessor appointed under sub-section (2).

57. Land Pooling Officer to assist Board of Appeal in advisory capacity.- (1) The Land Pooling Officer shall be present

at the proceedings before the Board of Appeal.

(2) The Land Pooling Officer shall not be required to give evidence in such proceedings but the President may require him to assist the Board of Appeal in an advisory capacity.

58. Place where Board of Appeal may sit.- The Board of Appeal may sit at such place or places as the State Government may specify from time to time in this behalf.

59. Decision on questions of law and other questions.- All questions of law and procedure shall be decided by the President and all other questions shall be decided by the President and the members by a majority.

60. Power of Board of Appeal to decide matters finally.-

(1) After making such inquiry as it may think fit, the Board of Appeal may either direct the Land Pooling Officer to reconsider its proposals, or accept, modify, vary or reject the proposals of the Land Pooling Officer.

(2) Every decision of the Board of Appeal shall be final and binding on all parties.

61. Board of Appeal not to be court.- Nothing contained in this Act shall be deemed to constitute the Board of Appeal to be a court.

62. Remuneration of assessors and payment of incidental expenses of Board of Appeal to be added to costs of scheme.-

(1) The assessors shall, save where they are salaried Government Officers, be entitled to such remuneration either by way of monthly salary or by way of fees or partly by way of salary and partly by way of fees, as the State Government may, from time to time, determine.

(2) The salary of, the President of the Board of Appeal or, an assessor, who is a salaried Government Officer and any remuneration payable under sub-section (1) and all expenses incidental to the working of the Board of Appeal shall, unless the State Government otherwise determines, be defrayed out of the funds of the appropriate authority and shall be added to the costs of the scheme.

63. Decision of Land Pooling Officer to be final in certain

matters and modification of Scheme in view of decision in appeal.- (1) Where no appeal has been presented under section 55 in respect of a matter arising out of clause (iii), clause (iv), clause (vi), clause (vii), clause (viii) or clause (x) of sub-section (4) of section 23, the decision of the Land Pooling Officer shall be final and binding on the parties

(2) The Board of Appeal shall send a copy of its decision in appeal to the Land Pooling Officer who shall, if necessary, make any modification in the scheme in accordance with such decision and shall forward the final scheme together with a copy of his decision under section 23 and a copy of the decision of the Board of Appeal in appeal to the State Government for the sanction of the final scheme.

CHAPTER 6

Supplemental and Miscellaneous Provisions

64. Power of Entry.- (1) The appropriate authority, the Land Pooling Officer or any person authorized by them in this behalf, may enter into or upon any land or building, or upon any enclosed part attached to such a building, with or without assistants or workmen for the purpose of -

- (i) making any inquiry, inspection, survey, measurement, valuation or taking levels of such land or buildings,
- (ii) dig or bore into the sub-soil,
- (iii) setting out boundaries and intended line of work,
- (iv) making such levels boundaries and lines by placing mark, or
- (v) doing any other thing necessary for efficient administration of this Act.

(2) Power of entry is strictly accompanied by the following conditions, namely:-

- (i) no such entry shall be made (unless with the consent of the occupier thereof), without giving such occupier at least 24 hours' notice in writing of the intention to enter;
- (ii) no such entry shall be made except between the hours of sunrise and sunset;
- (iii) sufficient opportunity is given in every instance to enable women to withdraw from land or building;

(iv) so far as compatible with the exigencies of the purpose for which the entry is made, due regard is given to the social and religious usages of the occupants of the land or building entered.

65. Service of notice or order.- (1) All notices and orders required under this Act or any rule made thereunder to be served upon any person shall be deemed to be duly served on condition that-

(i) where the document is to be served on a Government department, railway, local authority, statutory authority, company, corporation, society or other body, if the document is addressed to the head of the Government Department, General Manager of the Railway, Secretary or principal officer of the local authority, statutory authority, company, corporation, society or any other body at its principal branch, local or registered office, as the case may be, and is either-

- (a) sent by registered post to such office; or
- (b) delivered at such office;

(ii) where the person to be served is a partnership, if the document is addressed to the partnership at its principal place of business, identifying it by the name or style under which its business is carried on, and is either-

- (a) sent by registered post to such place of business; or
- (b) delivered at the said place of business;

(iii) in any other case, if the document is addressed to the person to be served and-

- (a) is given or tendered to him; or
- (b) if such person cannot be found, is affixed on some conspicuous part of his last known place of residence or business, or is given or tendered to some adult member of his family; or
- (c) is affixed on some conspicuous part of the land or building to which it relates; or
- (d) is sent by registered post to that person; or
- (e) published in newspaper in prescribed manner.

(2) Any document which is required or authorised to be served on the owner or occupier of any land or building may be addressed to the "the owner" or "the occupier", as the case may be, of that land or building (naming or describing that land or building) without any further name or description, and shall be deemed to be duly served under the condition where -

- (i) if the document so addressed is sent or delivered in accordance with sub-clause (a) of clause (iii) of sub-section (1); or
- (ii) if the document so addressed or a copy thereof so addressed is delivered to some person on the land or building.

(3) Where a document is served on a partnership in accordance with this section, the document shall be deemed to be served on each partner.

(4) For the purpose of enabling any documents to be served on the owner of any property, the appropriate authority or the Land Pooling Officer or any other authorised officer may by notice in writing require the occupier, if any, of the property to state the name and address of the owner thereof.

(5) Where the person on whom a document is to be served is a minor, then service upon his guardian or any adult member of his family shall be deemed to be service upon the minor.

66. Public notice.- Every public notice given under this Act or rules made thereunder shall be in writing under the signature of the officer of the appropriate authority who may be authorised in this behalf or Land Pooling Officer and shall be widely made known in the locality to be affected thereby by affixing copies thereof in conspicuous public places within the said locality, or by publishing the same by advertisement in one or more local newspapers and by such other means as the Appropriate Authority or Land Pooling Officer thinks fit.

67. Authentication of orders and documents.- All permissions, orders, decisions, notices and other documents shall be authenticated, by the signature of the Officer authorized by the appropriate authority or Land Pooling Officer in this behalf.

68. Reasonable Time.- Where any notice, order, or other

document issued under this Act or any rule made thereunder, requires action for which no time is fixed in this Act or any rule made thereunder, the notice, order or other document shall specify a reasonable time for doing the same.

69. Members and officers to be public servants.- Every member and every officer and other employee of the appropriate authority or the Land Pooling Officer shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860 (Central Act No. 45 of 1860).

70. Protection of action taken in good faith.- No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Act or any rule made thereunder.

71. Control by State Government.- The Land Pooling Officer and appropriate authority shall carry out such directions or instructions as may be issued from time to time by the State Government for the efficient implementation of this Act.

72. Effect of other laws.- Save as otherwise provided, the provisions of this Act and the rules made thereunder shall have overriding effect notwithstanding anything inconsistent therewith contained in any other Rajasthan laws.

73. Power to make rules.- (1) The State Government may, by notification in the *Official Gazette*, make rules to carry out the provisions of this Act.

(2) All rules made under this Act shall be laid, as soon as may be, after they are so made, before the House of the State Legislature, while it is in session, for a period not less than fourteen days which may be comprised in one session or in two successive sessions and, if before the expiry of the session in which they are so laid or of session immediately following the House of the State Legislature makes any modification in any such rules or resolves that any such rules should not be made, such rules shall, thereafter, have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done thereunder.

74. Power to make regulations.- (1) An appropriate authority may, with the previous approval of the State

Government, make regulations, consistent with this Act and the rules made thereunder, for all other matters for which provision is, in the opinion of the authority, necessary for the exercise of its powers and discharge of its functions and duties under this Act.

(2) No regulations made by an appropriate authority under sub-section (1) shall take effect unless it is published in the *Official Gazette*.

(3) The State Government may at anytime by notification in the *Official Gazette*, repeal wholly or in part or modify any regulation made by the appropriate authority provided that before taking any action under the sub-section the State Government shall communicate to the authority the ground on which it proposes to do so, fix a reasonable period for the appropriate authority to show cause against the proposal and consider the explanation and objections if any, of the appropriate authority.

(4) The repeal or modification of any regulation shall take effect from the date of publication of the notification under sub-section (3) in the *Official Gazette* and shall not affect anything done or omitted or suffered before such date.

महावीर प्रसाद शर्मा,

Principal Secretary to the Government.

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