

THE BOMBAY TOWN PLANNING ACT, 1915.

Town Planning and Valuation Department,
Children Hospital Building,
Rasa a M. S. Mithakhali,
Ellis Bridge, Ahmedabad-6.



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Government of Bombay
Legal Department

Bombay Act No. I of 1915
The Bombay Town Planning Act, 1915

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(As modified up to the 1st July 1947)

Town Planning and Valuation Department,
Children Hospital Building,
Rasa'a Marg, Mithakhali,
Ellis Bridge, Ahmedabad-6.

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51

THE BOMBAY TOWN PLANNING ACT, 1915.

CONTENTS.

CHAPTER I.

PRELIMINARY.

SECTIONS.

1. Short title and extent.
2. Interpretation clause.
3. Contents of planning scheme.
4. Disputed ownership.
5. Right of entry.
6. Powers of local authority to borrow money and to make and execute a town planning scheme.
7. Notified areas.

CHAPTER II.

DECLARATION OF INTENTION TO MAKE A SCHEME, AND PREPARATION OF DRAFT SCHEME.

8. Land in respect of which a town-planning scheme may be made.
9. Powers of a local authority to resolve on a declaration of intention to make a scheme and of the Provincial Government to sanction such declaration.
10. Preparation and publication of draft scheme.
Lapsing of sanction.
11. Contents of draft scheme.
12. Reconstituted plots.
13. Objections to the draft scheme to be considered.
14. Power of the Provincial Government to sanction a draft scheme.
15. Restrictions after declaration.
- 15AA. Power to Provincial Government to suspend rule, by law, Act, etc.
- 15A. Town-planning schemes in built up areas.

CONTENTS.

CHAPTER III.

FINANCES.

1. Costs of the scheme.
2. Calculation of increment.
3. Contribution towards the cost of the scheme.
Owner primarily liable for contribution.
10. Certain amount to be added to or deducted from the contribution leviable from a person.
20. Transfer of right from original to reconstituted plot, or extinction of such right.
21. Compensation in respect of property or right injuriously affected by scheme.
22. Exclusion or limitation of compensation in certain cases.
23. Provision for case in which amount payable to owner exceeds amount due from him.
24. Provision for case in which value of developed plot is less than amount payable by owner.
25. Payment by adjustment of account.
26. Payment of net amount due to local authority.
27. Power of local authority to make agreements.
28. Recovery of arrears.

CHAPTER IV.

THE ARBITRATOR AND THE TRIBUNAL OF ARBITRATION.

29. Appointment of arbitrator.
30. Duties of the arbitrator.
31. Certain decisions of the arbitrator shall be final.
32. Arbitrator shall make proposals in certain matters.
33. Constitution of the Tribunal of Arbitration.
- 33A. Arbitrator to assist Tribunal in advisory capacity and his remuneration.
34. Place where the Tribunal may sit.

SECTIONS.

- 35. Right to appear by recognised agent.
- 36. Decision of questions of law and procedure and other questions.
- 37. Powers of the Tribunal to decide matters finally.
- 38. Tribunal not a Court.
- 39. Remuneration of arbitrator and Assessor and payment of incidental expenses of Tribunal.
- 40. Final scheme.
- 40A. Withdrawal of a scheme.
- 41. Effect of final scheme.
- 42. Power of local authority to evict summarily.
- 43. Power to enforce scheme.
- 44. Power to compel attendance of witnesses.

CHAPTER V.

MISCELLANEOUS.

- 45. Joint town-planning schemes.
- 45A. Vesting of property and rights of a local authority ceasing to exist or ceasing to have jurisdiction.
- 45B. Power to vary a scheme on the ground of error, irregularity or informality.
- 46. Power to vary or revoke a town-planning scheme.
- 47. Compensation when final scheme is varied or revoked.
- 47A. Apportionment of costs of scheme withdrawn, not sanctioned or revoked.
- 48. Provincial Government may itself or through any person exercise power or perform duty conferred or imposed on a local authority.
- 49. Bar of legal proceedings.
- 50. Registration of document, plan or map in connection with a final scheme is not required.
- 51. Land needed for purpose of town-planning scheme may be compulsorily acquired.
- 51A. Special provision in case of a municipality which is superseded or dissolved.
- 52. Rules.

BOMBAY ACT No. 1 OF 1915¹

[6th March, 1915]

Repealed in part and amended by Bom. Act 2 of 1919.

Amended, by Bom. Act 13 of 1920.

“ “ “ “ 16 of 1920.

Adapted and modified by the Adaptation of Indian Laws Order in Council.

Amended by Bom. Act 21 of 1938.

“ “ “ “ 14 of 1946.

“ “ “ “ 23 of 1947 read with section 2 of Bom. 4 of 1942.

An Act to provide for the making and execution of town-planning schemes.

WHEREAS it is expedient that the development of certain areas should be regulated with the general object of securing proper sanitary conditions, amenity and convenience to the persons living in such areas and in neighbouring areas;

AND WHEREAS the previous sanction of the Governor General required by section 5 of the ²Indian Councils Act, 1892, has been obtained for the passing of this Act; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Bombay Town ^{Short title} Planning Act, 1915. _{and extent.}

³[(2) It shall extend to the whole of the Province of Bombay except the City of Bombay.

¹ For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1913, Part VII, page 845; for Report of Select Committee, see *ibid.*, 1914, Part VII, page 510; and for Proceedings in Council, see *ibid.*, 1914, Part VII, page 78; *ibid.*, 1915, page 11.

² See now the Government of India Act, 1935.

³ These sub-sections were substituted for the original sub-section (2) by Bom. 21 of 1938, s. 2.

(3) The Provincial Government may, on a written application of the Municipal Corporation of the City of Bombay, extend by notification in the Official Gazette, this Act to the City of Bombay or any part thereof, from such date as may be appointed in this behalf:

Provided that such application has been made after it has been assented to by more than half the total number of the councillors of the Corporation.]

Interpretation-clause.

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

(a) "local authority" means a Municipality or, where there is no Municipality, a committee appointed for a notified area under the provisions of Chapter XIV of the Bombay District Municipal Act, 1901, as modified by this Act;

(b) "prescribed" means prescribed by rules made under this Act;

(c) "owner" includes an owner in severalty, in common or joint; and includes also an occupant as defined in clause (16) of section 3 of the Bombay Land Revenue Code, 1879;

(d) "plot" means a continuous portion of land held in one ownership; * *

(e) "reconstituted plot" means a plot which is in any way altered by the making of a town-planning scheme.² * *

Explanation.—"Altered" includes alteration of ownership.

(f) "scheme" includes a plan relating to a town-planning scheme.

Contents of planning scheme.

3. A town-planning scheme may make provision for any of the following matters:—

(a) the construction, diversion, alteration and stopping up of streets, roads and communications;

(b) the construction, alteration, and removal of buildings, bridges and other structures;

¹ The words "other than land used, allotted or reserved for any public or municipal purpose" were deleted by Bom. 21 of 1938, s. 3 (a).

² The words "otherwise than by the severance of land used, allotted or reserved for any public or municipal purpose" were deleted, *ibid.*, s. 3 (b).

- (c) the plotting out of land as building sites whether such land is intended to be used for building purposes in the immediate future or not;
- (d) the allotment or reservation of land for roads, open spaces, gardens, recreation grounds, schools, markets and public purposes of all kinds;
- (e) drainage inclusive of sewerage and of surface drainage and sewage disposal;
- (f) lighting;
- (g) water supply;
- (h) the preservation of objects of historical interest or natural beauty and of buildings actually used for religious purposes or regarded by the public with special religious veneration;
- (i) the imposition of conditions and restrictions in regard to the open space to be maintained about buildings, the number, height and character of buildings allowed in specified areas and the purposes to which buildings or specified areas may or may not be appropriated;
- (j) the suspension so far as may be necessary for the proper carrying out of the scheme, of any rule having the force of law, bye-law, Act, or other provision * * * which is in force in the area included in the scheme:

²[Provided that it shall not be lawful to suspend in any such area any Act of Parliament or, ³[any Indian law relating to any of the matters enumerated in List I in the Seventh Schedule to the Government of India Act, 1935].]

(k) such other matter not inconsistent with the objects of this Act as may be prescribed.

4. (1) Where there is a disputed claim as to the ownership of any piece of land included in an area in respect of

Disputed ownership.

¹ The words "under whatever authority made" were repealed by section 3 and Schedule II of the Bombay Repealing and Amending Act, 1919 (Bom. 2 of 1919).

² This proviso was added by section 2 and Schedule I, Part II, *ibid.*

³ These words were substituted for the words "without the sanction of the Governor General, any Act of the Governor General in Council" by the Adaptation of Indian Laws Order in Council.

which [the local authority has declared, under section 9, its intention to make a town planning scheme] 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 local authority or the Arbitrator at any time prior to the date on which the Arbitrator draws up the final scheme under clause 10 of section 30] by such officer as the [Provincial Government] in the City of Bombay or the Commissioner elsewhere may appoint for the purpose of deciding who shall be deemed to be the owner for the purposes of this Act.

(2) Such decision shall not be subject to appeal but it shall not operate as a bar to a regular suit.

(3) Such decision 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 local authority either by the Civil Court or by some person affected by such decree.

Right of entry.

5 For the purpose of the preparation, making, or execution of any town planning scheme any person authorized by the local authority or any public servant or person duly appointed or authorized under this Act may, after giving such notice as may be prescribed to the owner, occupier or other person interested in any land, enter upon, survey and mark out such land and so all acts necessary for such purpose.

Powers of local authority to borrow money and to make and execute a town planning scheme.

6. (1) A local authority as defined in this Act shall be deemed to be a local authority as defined in the Local Authorities Loans Act, 1914, for the purpose of borrowing money under that Act, and the making and execution of a town planning scheme shall be deemed to be a work which such local authority is legally authorized to carry out.

(2) Any expenses incurred by a local authority under this Act or any town planning scheme made thereunder may be defrayed out of its funds.

* These words and figures were substituted for the words "any of the provisions of this Act are to be applied" by Bom. 21 of 1938, s. 4 (1).

* These words and figures were added, *ibid.*, s. 4 (2).

* The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

* Central Acts.

7. Notwithstanding anything contained in sub-section (3) of section 187 of the Bombay District Municipal Act, 1901, the [Provincial Government] may declare any specified area, for which it is proposed to make a town-planning scheme, to be a notified area.

Not. III of 1901.

Notified areas.

CHAPTER II.

DECLARATION OF INTENTION TO MAKE A SCHEME, AND PREPARATION OF DRAFT SCHEME.

8. (1) A town-planning scheme may be made in accordance with the provisions of this Act in respect of any land which is in course of development or is likely to be used for building purposes.

Land in respect of which a town-planning scheme may be made

(2) Where it appears to the [Provincial Government] that a piece of land already built upon, or a piece of land not likely to be used for building purposes is so situated with respect to any land which is in course of development or likely to be used for building purposes that it ought to be included in any town-planning scheme intended to be made with respect to the last-mentioned land, the [Provincial Government] may sanction the making of a scheme including such piece of land as aforesaid, and providing for the demolition or alteration of any buildings thereon so far as may be necessary for carrying the scheme into effect.

(3) The expression "land likely to be used for building purposes" shall include any land likely to be used as, or for the purpose of providing, open spaces, roads, streets, parks, pleasure or recreation grounds, or for the purpose of executing any work upon or under the land incidental to a town-planning scheme, whether in the nature of a building work or not, and the decision of the [Provincial Government] as to whether land is likely to be used for building purposes or not shall be final.

9. (1) The local authority having jurisdiction over any such land as is referred to in section 8 may by resolution declare its intention to make a town-planning scheme in respect of the whole or any part of such land and of any land which is in the vicinity of such land, but which is not included in any other municipal or notified area, provided that for the making of such scheme the sanction of the [Provincial Government] shall be necessary.

Powers of a local authority to resolve on a declaration of intention to make a scheme and of the Provincial Government to sanction such declaration.

* The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

(2) Within twenty-one days from the date of such declaration (hereinafter referred to as a declaration of intention to make a scheme), the local authority shall despatch a copy thereof for publication in the ¹[Official Gazette] and shall publish it in the prescribed manner and shall apply to the ²[Provincial Government] for sanction for the making of such scheme.

(3) With its application for such sanction the local authority shall send to the ²[Provincial Government] a plan showing the area which it proposes to include in the town-planning scheme and the surrounding lands.

(4) A copy of such plan shall be open to the inspection of the public at all reasonable hours at the head office of the local authority.

(5) If within one month from the date of such publication in the ¹[Official Gazette] any person likely to be affected by such scheme communicates in writing to the ²[Provincial Government] any objection or suggestion relating to such scheme the ²[Provincial Government] shall consider such objection or suggestion.

(6) After receiving such application and after making such inquiry as ³[it] may think fit, the ²[Provincial Government] may, by notification in the ¹[Official Gazette], either sanction the making of such scheme with or without modifications and subject to such conditions as ³[it] may think fit to impose, or ³[it] may by a similar notification refuse to give sanction.

Preparation
and
publication
of draft
scheme.

10. (1) Within twelve months from the date of the notification sanctioning the making of a town-planning scheme the local authority shall in consultation with the owners prepare, and publish in the prescribed manner, a draft scheme for the area in respect of which sanction has been given:

⁴[Provided that on application made by the local authority in that behalf, the Provincial Government may

¹ The words "Official Gazette" were substituted for the words "Bombay Government Gazette", by the Adaptation of Indian Laws Order in Council.

² The words "Provincial Government" were substituted for the words "Governor in Council" *ibid.*

³ The word "it" was substituted for the word "he", *ibid.*

⁴ This proviso was added by Bom. 14 of 1946, s. 2 (i).

from time to time, by notification in the *Official Gazette* extend the said period of twelve months, but the aggregate period of such extensions shall not exceed twelve months.]

(2) If such publication is not made by the local authority within [the period specified in sub-section (1), or where the said period is extended under the proviso thereto, such extended period], the ²[Provincial Government] in the City of Bombay or the Commissioner elsewhere may in consultation with the owners prepare, and publish in the prescribed manner, a draft scheme for the area in respect of which sanction has been given within a further period of nine months.

(3) If such publication is not made by the ²[Provincial Government] or the Commissioner, as the case may be, within the further period specified in sub-section (2), the sanction of the ²[Provincial Government] for the making of such town-planning scheme shall lapse, and until a period of three years has elapsed from the date of such sanction it shall not be competent to the local authority to apply for fresh sanction for the making of any town-planning scheme for the same area or for any part of it.

11. The draft scheme shall contain the following particulars:—

- (a) the area, ownership and tenure of each original plot;
- (b) the land allotted or reserved under clause (d) of section 3 with a general indication of the uses to which such land is to be put ³[and the terms and conditions subject to which such land is to be put to such uses];
- (c) the extent to which it is proposed to alter the boundaries of original plots;
- (d) an estimate of the net cost of the scheme to be borne by the local authority;
- (e) a full description of all details of the scheme under such clauses of section 3 as may be applicable; and
- (f) any other prescribed particulars.

¹ These words, figures and brackets were substituted for the words "twelve months from the date of such notification" by Item 14 of 1946, s. 2 (ii).

² The words "Provincial Government" were substituted for the words "Governor in Council", by the Adaptation of Indian Laws Order in Council.

³ These words were added by Item 21 of 1938, s. 5.

Reconstituted plots.

12. (1) In the draft scheme the size and shape of every reconstituted plot shall be so determined as to render it, so far as may be, suitable for building purposes.

(2) In order to render original plots more suitable for building purposes the draft scheme may contain proposals—

(a) to form a reconstituted plot by the alteration of the boundaries of an original plot,

(b) to provide with the consent of the owners that two or more original plots each of which is held in ownership in severalty or in joint ownership shall hereafter, with or without alteration of boundaries, be held in ownership in common as a reconstituted plot,

(c) to allot a plot to any owner dispossessed of land in furtherance of the scheme, and

(d) to transfer the ownership of a plot from one person to another.

Objection to the draft scheme to be considered.

13. If within one month from the date of publication of the draft scheme any person affected by such scheme communicates in writing to the local authority any objection relating to such scheme the local authority shall consider such objection and may, at any time before submitting the draft scheme to the ¹[Provincial Government] as hereinafter provided, modify such scheme as it thinks fit.

Power of the Provincial Government to sanction a draft scheme.

14. (1) The local authority shall ²[within the period prescribed] submit the draft scheme with any modifications which it may have made therein together with the objections which may have been communicated to it to the ¹[Provincial Government] and shall at the same time apply for ³[its] sanction.

(2) After receiving such application and after making such inquiry as ⁴[it] may think fit, the ¹[Provincial Government] may ⁵[within the period prescribed] by notification in the ⁶[Official Gazette] either sanction such scheme with or without modifications and subject to such conditions as ⁴[it] may think fit to impose, or ⁷* * * refuse to give sanction.

(3) If the ¹[Provincial Government] sanctions such scheme, ⁴[it] shall in such notification state at what place and time the draft scheme shall be open to the inspection of the public.

¹ The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

² These words were substituted for the word "then" by Bom. 21 of 1938, s. 6 (a).

³ The word "its" was substituted for the word "his" by the Adaptation of Indian Laws Order in Council.

⁴ The word "it" was substituted for the word "he", *ibid.*

⁵ These words were inserted by Bom. 21 of 1938, s. 6 (b) (i).

⁶ The words "Official Gazette" were substituted for the words "Bombay Government Gazette" by the Adaptation of Indian Laws Order in Council.

⁷ The words "it may by a similar notification" were omitted by Bom. 21 of 1938, s. 6 (b) (ii).

15. (1) When a local authority has published a declaration of intention to make a scheme—

Restrictions after declaration.

(a) no person shall within the area included in the scheme erect or proceed with any building or work¹ [or remove, pull down or alter any building or part of a building or remove any earth, stone or material] unless such person has applied for and obtained the necessary permission which shall be contained in a commencement certificate granted by the local authority in the form prescribed;

(b) the local authority on receipt of such application shall at once furnish the applicant with a written acknowledgment of its receipt, and after enquiry may either grant or refuse such certificate or grant it subject to such conditions² [as the local authority may, with the previous approval of the Provincial Government, think fit to impose],³ [provided that if an Arbitrator has been appointed under section 29 the local authority shall not grant such certificate without obtaining the previous concurrence of such Arbitrator, unless such Arbitrator fails to communicate his decision in the matter to the local authority within two months from the date of the despatch of the application to him by the local authority. If] the local authority communicates no decision to the applicant within three months from the date of such acknowledgment he shall be deemed to have been granted such certificate;

⁴ [(c) if any person contravenes the provisions contained in clause (a) or clause (b),—

(i) the local authority may direct such person by notice in writing to stop any work in progress, and after making enquiry in the prescribed manner, remove, pull down or alter any building or other work in the area included in the scheme,⁵ [in respect of which such contravention is made] and

(ii) such person shall, on being convicted for such contravention, be liable to fine which may extend to Rs. 1,000 and in the case of a continuing contravention of the aforesaid provisions, he shall be liable to an

¹ These words were inserted by Bom. 13 of 1920, s. 2 (a).
² These words were substituted for the words "as may be consistent with the scheme" by Bom. 14 of 1940, s. 3 (a) (i).
³ These words were substituted for the words "scheme: but if" by Bom. 21 of 1938, s. 7 (i) (a).
⁴ This clause was substituted for the original clause (c), *ibid.*, s. 7 (i) (b).
⁵ These words were substituted for the words "which is such as to contravene the scheme" by Bom. 14 of 1940, s. 3 (a) (ii).

additional fine which may extend to Rs. 10 for each day during which such contravention continues after conviction for the first such contravention;]

(d) any expenses incurred by the local authority under clause (c) shall be a sum due to the local authority under this Act from the person in default;

¹[(e) any diminution in the value of an original plot occasioned by any contravention of clause (a) or clause (b) shall, notwithstanding anything contained in section 16, 17 or 19 be taken into account in fixing the market value of such plot.]

(2) No person shall be entitled to compensation in respect of any damage, loss or injury resulting from any action taken by the local authority under the provisions of this section or of section 43, except in respect of a building or work begun or a contract entered into before the date on which the local authority published a declaration of intention to make a scheme, and only in so far as such building or work has proceeded at the time of the publication of the declaration of intention to make a scheme:

²[Provided that such claim to compensation in the excepted cases shall be subject to the conditions of any agreement entered into between such person and the local authority.]

(3) The restrictions imposed by this section shall cease to operate in the event of the ³[Provincial Government] refusing to sanction the making of a town-planning scheme, or in the event of the sanction of the ³[Provincial Government] for the making of such scheme lapsing, or in the event of the ³[Provincial Government] refusing to sanction the draft scheme ⁴[or the final scheme, or in the event of the withdrawal of the scheme under section 40A.]

⁵[15AA. (1) When a local authority has published a declaration of intention to make a scheme, the Provincial Government may, by order published in the *Official Gazette*, suspend, to such extent only as may be necessary for the proper carrying out of the scheme any rule having the force of law, by-law, Act, or other provision which is in force in

Power to Provincial Government to suspend rule, by-law, Act, etc.

¹ This clause was added by Bom. 13 of 1920, s. 2 (b).

² This proviso was added by Bom. 14 of 1946, s. 3 (b).

³ The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

⁴ These words, figures and letter were added by Bom. 21 of 1938, s. 7 (ii).

⁵ Section 15AA was inserted by Bom. 14 of 1946, s. 4.

the area proposed to be included in the scheme and which the Provincial Legislature or the Provincial Government, or a local authority within the Province is competent to amend.

(2) Any order issued under sub-section (1) shall cease to operate in the event of the Provincial Government refusing to sanction the making of the town planning scheme, or in the event of the sanction of the Provincial Government for the making of such scheme lapsing, or in the event of the Provincial Government refusing to sanction the draft scheme or the final scheme, or in the event of the withdrawal of the scheme under section 40A, or in the event of the coming into force of the final scheme.]

[15A. (1) Whenever a local authority proposes to undertake the reclamation of a locality which is unhealthy or the laying out of a street or the construction of a park or of pleasure or recreation ground in virtue of the powers conferred upon it by any law for the time being in force in any area within its limits which is already built upon and the Provincial Government is of opinion that such reclamation, laying out or construction will specially benefit the owners of buildings and lands within such area, the Provincial Government may, by notification in the *Official Gazette*, apply to such area the provisions of Chapters III and IV with such modifications and adaptations as the Provincial Government may deem fit:

Town planning schemes in built up areas.

Provided that in calculating the amount of the increment under section 17 or in estimating the market value of a plot under section 19, the amount of such increment or such market value shall be calculated or estimated as at the date of the resolution of the local authority proposing the scheme under this section.

(2) The Provincial Government shall, before issuing a notification under sub-section (1), give the owners or occupiers of buildings and lands in the area affected, an opportunity of showing cause why such notification should not be issued.]

CHAPTER III.

FINANCE.

16. (1) The costs of a town-planning scheme shall include—

Costs of the scheme

(a) all sums payable by the local authority under the provisions of this Act which are not specifically excluded from the costs of the scheme;

¹ New section 15A was inserted by Act. 24 of 1938 S. A.

(b) all sums spent or estimated to be spent by the local authority in the making and in the execution of the scheme;

1 (bb) all sums payable as compensation for land allotted or reserved for any public or municipal purpose which is solely beneficial to the owners or residents within the area of the scheme;

(bc) such portion of the sums, payable as compensation for land allotted or reserved for any public or municipal purpose which is beneficial partly to the owners or residents within the area of the scheme and partly to the general public, as is attributable to the benefit accruing to the owners or residents within the area of the scheme for such allotment or reservation];

(c) all legal expenses of the local authority incurred in the making and in the execution of the scheme; and

(d) any amount by which the total of the values of the original plots exceeds the total of the values of the plots included in the final scheme, each of such plots being estimated at its market value at the date of the declaration of intention to make a scheme with all the buildings and works thereon at that date and without reference to improvements contemplated in the scheme other than improvements due to the alteration of its boundaries.

(2) If in any case the total of the values of the plots included in the final scheme exceeds the total of the values of the original plots, each of such plots being estimated in the manner provided in clause (d) 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).

17. ²[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 a 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:]

¹ These clauses were inserted by Bom. 21 of 1938, s. 9.

² This paragraph was substituted by Bom. 13 of 1920, s. 3.

Provided that in estimating such values the value of buildings or other works created or in the course of creation on such plot shall not be taken into consideration.

18. (1) The costs of the scheme shall be met wholly or in part by a contribution to be levied by the local 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 Tribunal of Arbitration: or Contribution towards the costs of the scheme.

Provided that—

(i) no such contribution shall exceed half the increment estimated by the Tribunal of Arbitration to accrue in respect of such plot;

(ii) where a plot is subject to a mortgage with possession or to a lease, the Tribunal of Arbitration 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 reserved for a public or municipal purpose which is solely for the benefit of owners or residents within the area of the scheme; and

(iv) the contribution levied on a plot used, allotted or reserved for a public or municipal purpose which is beneficial partly to the owners 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 reservation.]

(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. Owner primarily liable for contribution.

19. The amount by which the total value of the plots included in 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 added to, as the case may be, the contributions leviable from such person, each of such plots being estimated at its market value Certain amount to be added to or deducted from the contribution leviable from a person.

¹ The word "and" was omitted by Bom. 21 of 1918, s. 10. (i).

² These provisions were inserted, *ibid.*, s. 10. (ii).

at the date of the declaration of intention to make a scheme and without reference to improvements contemplated in the scheme other than improvements due to the alteration of its boundaries.

Transfer of right from original to reconstituted plot, or extinction of such right.

20. Any right in an original plot which in the opinion of the arbitrator is capable of being transferred wholly or in part, without prejudice to the making of a town-planning scheme, to a reconstituted plot shall be so transferred and any right in an original plot which in the opinion of the arbitrator 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 reconstituted plot without the consent of all the parties to such lease.

Compensation in respect of property or right injuriously affected by scheme.

21. The owner of any property or right which is injuriously affected by the making of a town-planning scheme shall, if he makes a claim before the arbitrator within the prescribed time be entitled to obtain compensation in respect thereof from the local authority or from any person benefited or partly from the local authority and partly from such person, as the Tribunal of Arbitration may in each case determine :

Provided that the value of such property or right shall be held to be its market value at the date of the declaration of intention to make a scheme without reference to improvements contemplated in the scheme.

Exclusion or limitation or compensation in certain cases.

22. (1) Where property or a private right of any sort is alleged to be injuriously affected by reason of any provisions contained in a town-planning scheme, no compensation shall be paid in respect thereof if or in so far as the provisions are such as would have been enforceable without compensation under any rule having the force of law, by-law or Act in force at the time.

(2) Property or a private right of any sort shall not be deemed to be injuriously affected by reason of any provisions inserted in a town-planning scheme, which, with a view to securing the amenity of the area included in such scheme or any part thereof, impose any conditions and restrictions in regard to any of the matters specified in clause (i) of section 3.

Provision for case in which amount payable to owner exceeds amount due from him.

23. If the owner of an original plot is not provided with a plot in the final scheme, or if the contribution to be levied from him under section 18 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 local authority in cash, or in such other way as may be agreed upon by the parties.

24. (1) If from any cause the total amount which would be due to the local 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 arbitrator shall, at the request of the local authority, direct the owner of such plot to make payment to the local authority of the amount of such excess.

Provision for case in which value of developed plot is less than amount payable by owner.

(2) If such owner fails to make such payment within the prescribed period, the arbitrator shall, if the local 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 local authority of the value of such plot estimated at its market value at the date of the declaration of intention to make a scheme and without reference to improvements contemplated in the scheme; and thereupon the plot included in the final scheme shall vest absolutely in the local authority, free from all encumbrances but subject to the provisions of this Act.

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

25. All payments due to be made to any person by the local authority under this Act shall, as far as possible, be made by an adjustment in such person's account with the local 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 way as may be agreed upon by the parties.

Payment by adjustment of account.

26. (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 one sum or such instalments including charges for interest as shall be fixed by the local authority with the sanction of the [Provincial Government] in the City of Bombay or the Commissioner elsewhere.

Payment of net amount due to local authority.

The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws, Order in Council.

(2) Where more than one plot included in the final scheme is in 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 increment which is estimated to accrue in respect of each plot unless the owner and the local authority agree to a different method of distribution.

Power of
local
authority
to make
agreements.

27. (1) A local authority shall be competent to make any agreement with any person in respect of any matter which is to be provided for in a town-planning scheme, subject to the power of the [Provincial 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 town-planning scheme comes into force.

(2) Such agreement shall not in any way affect the duties of the arbitrator or of the Tribunal of Arbitration as described in Chapter IV 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 arbitrator or by the Tribunal of Arbitration :

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

Recovery
of arrears.

28. Any sum due to the local authority under this Act which is not paid on the day when it becomes due shall be recovered by the Collector, according to law and under the rules for the time being in force for the recovery of arrears of land-revenue, on application being made to him by the local authority.

CHAPTER IV.

THE ARBITRATOR AND THE TRIBUNAL OF ARBITRATION.

Appoint-
ment of
arbitrator.

29. After a draft scheme has been sanctioned the [Provincial Government] shall appoint an arbitrator

*The words "Provincial Government" were substituted for the words "Governor in Council" by the Adoption of Indian Laws Order in Council.

with sufficient establishment whose duties shall be as hereinafter provided.

30. In accordance with the prescribed procedure the arbitrator shall—

Duties
of the
arbitrator.

(1) after notice given by him in the prescribed manner define and ¹* * * demarcate the areas allotted to, or reserved for, the ²[public or municipal purposes], and the reconstituted plots;

(2) after notice given by him in the prescribed manner determine, in a case in which a reconstituted plot is to be allotted to persons in ownership in common, the shares of such persons;

(3) 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 final scheme, in accordance with the provisions contained in clause (d) of sub-section (1) of section 16;

³[(3A) determine whether the areas used, allotted or reserved for public or municipal purposes are beneficial wholly or partly to the owners or residents within the area of the scheme;

(3B) estimate the portion of the sums payable as compensation for each plot used, allotted or reserved for a public or municipal purpose 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;

(3C) calculate the contribution to be levied on each plot used, allotted or reserved for a public or municipal purpose which is beneficial partly to the owners or residents within the area of the scheme and partly to the general public in accordance with the provisions contained in proviso (iv) to section 18;

(3D) 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;]

(4) estimate the increment to accrue in respect of each plot included in the final scheme, in accordance with the provisions contained in section 17;

¹The words "where it is in his opinion necessary" were omitted by Bom. 21 of 1938, s. 11 (a) (i).

²These words were substituted for the words "local authority", *ibid.*, s. 11 (a) (ii).

³These clauses were inserted, *ibid.*, s. 11(b).

(5) calculate the proportion in which the increment of the plots included in the final scheme shall be liable to contribution to the costs of the scheme, in accordance with the provisions contained in section 18;

(6) calculate the contribution to be levied on each plot included in the final scheme;

(7) determine the amount to be deducted from or added to, as the case may be, the contributions leviable from a person, in accordance with the provisions contained in section 19;

(8) provide for the total or partial transfer of any right in an original plot to a reconstituted plot or provide for the extinction of any right in a original plot, in accordance with the provisions contained in section 20;

(9) estimate in reference to claims made before him, after notice given by him in the prescribed manner, the compensation to be paid to the owner of any property or right injuriously affected by the making of a town-planning scheme, in accordance with the provisions contained in section 21 and subject to the provisions contained in section 22;

(10) draw up in the prescribed form the final scheme in accordance with the draft scheme:

provided that -

(i) he may make variations from the draft scheme;

(ii) any variation estimated by him to involve an increase of ten per centum in the costs of the scheme as described in section 16² shall require the sanction of the ¹[Provincial Government].

Provided further that he shall make no substantial variation without the consent of the local authority and without hearing any objections that may be raised by the owners concerned; and that in the case of any substantial variation made by him the owners concerned shall have the right of appeal to the ¹[Provincial Government].

Certain
decisions
of the
arbitrator
shall be final.

31. Except in matters arising out of clauses ²[(3A), (3B), (3C)], (4), (5), (6) and (9) of section 30, and subject to the provisos contained in clause (10)

¹The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

² These figures, letters and brackets were inserted by Bom. 21 of 1938, ss. 12 and 13 (i).

of section 30, every decision of the arbitrator shall be final and conclusive and binding on all persons.

32. In matters arising out of clauses ¹[(3A), (3B), (3C),] (4), (5), (6) and (9) of section 30, the arbitrator shall ²[determine] estimate or calculate what is required by such clauses to be ³[determined] estimated or calculated and shall forthwith make proposals on all such matters to the President of the Tribunal of Arbitration for the decision of such Tribunal.

Arbitrator shall make proposals in certain matters.

33. (1) The Tribunal of Arbitration shall consist of a President and two Assessors.

Constitution of the Tribunal of Arbitration.

(2) The President shall, in the City of Bombay, be a person who holds or has held office as a Judge of the High Court of Judicature, to be appointed by the Chief Justice, in the district of Karachi, be such Additional Judicial Commissioner as may be appointed by the Judicial Commissioner, and elsewhere the District Judge.

⁴[(3) The Assessors shall be appointed by the President and shall be such persons as in his opinion are impartial.]

* * *

(5) The President and the Assessor shall be appointed members of the Tribunal of Arbitration for such period as may be required by such Tribunal to decide in connection with a particular town-planning scheme all matters arising out of clauses ¹[(3A), (3B), (3C),] (4), (5), (6) and (9) of section 30.

(6) The ⁵[Provincial Government] may, if ⁶[it] thinks fit, remove for inability or misconduct or any other good and sufficient reason ⁷[an Assessor] appointed under sub-section (3) ⁸*

(7) If any member of the Tribunal of Arbitration is removed or dies or refuses or neglects to act or becomes incapable of acting, the authority who appointed such member shall appoint forthwith a fit person to take the place of such member.

⁹[(33A) (1) The Arbitrator shall be present at the proceedings before the Tribunal of Arbitration. He shall

assist the Arbitrator to assist Tribunal in advisory capacity and his remuneration.

¹ These figures, letters and brackets were inserted, by Bom. 21 of 1938, ss. 12 and 13 (i).

² This word was inserted, *ibid*, s. 13 (ii).

³ Sub-section (3) was substituted for the original sub-section, *ibid*, s. 14 (a).

⁴ Sub-section (4) was omitted, *ibid* s. 14 (b).

⁵ The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

⁶ The word "it" was substituted for the word "he", *ibid*.

⁷ These words were substituted for the words "the Assessor" by Bom. 21 of 1938, s. 14 (d) (i).

⁸ The words "or the Arbitrator" were omitted, *ibid*, s. 14 (d) (ii).

⁹ This section was inserted, *ibid*, s. 15.

not be required to give evidence in such proceedings, but the President may require him to assist the Tribunal in an advisory capacity.

(2) When the Arbitrator is required under sub-section (1) to assist the Tribunal he shall, save where he is a salaried officer of Government, be entitled to such fees as Government may from time to time determine.]

Place where the Tribunal may sit.

34. The Tribunal of Arbitration may sit either at the Headquarters of the President or at any other place, within the local limits of his jurisdiction, which he may consider convenient for the decision of any matter before such Tribunal.

Right to appear by recognised agent.

35. Every party to any proceeding before the Tribunal of Arbitration shall be entitled to appear either in person or by his recognised agent.

Decision of questions of law and procedure and other questions.

36. All questions of law and procedure shall be decided by the President. All other questions shall be decided by the President and the two Assessors or by the majority of them.

Powers of the Tribunal to decide matters finally.

37. (1) After making such enquiry as the President may think fit the Tribunal of Arbitration may accept, modify, vary, or reject the proposals of the arbitrator and shall decide all matters arising out of clauses ¹[(3A), (3B), (3C),] (4), (5), (6) and (9) of section 30.

(2) Every decision of the Tribunal of Arbitration shall be final and conclusive and binding on all persons.

Tribunal not a Court.

38. Nothing contained in this Act shall be deemed to constitute the Tribunal of Arbitration to be a Court.

Remuneration of arbitrator and Assessor and payment of incidental expenses of Tribunal.

39. (1) ²* * * the President of the Tribunal of Arbitration, and the ³[Assessors] shall, save where they are salaried ⁴[servants of the Crown], be entitled to such remuneration, either by way of monthly salary or by way of fees or partly in one way and partly in the other, as the ⁵[Provincial Government] may from time to time determine.

(2) The salary of ⁶[* * *] a President of the Tribunal of Arbitration or an Assessor who is a salaried ⁷[servant of the Crown], and any remuneration payable under sub-section (1) ⁸[and fees payable to an Arbitrator under sub-section (2) of section 33A] and all expenses incidental to the working of the Tribunal of Arbitration shall, unless the

¹ These figures, letters and brackets were inserted, by Bom. 21 of 1938, s. 16.

² The words "The arbitrator" were omitted; *ibid.*, s. 17 (i) (a).

³ This word was substituted for the word "Assessor", *ibid.*, s. 17 (i) (b).

⁴ The words "servants of the Crown" were substituted for the words "officers of Government" by the Adaptation of Indian Laws Order in Council.

⁵ The words "Provincial Government" were substituted for the words "Governor in Council", *ibid.*

⁶ The words "an arbitrator" were omitted, by Bom. 21 of 1938, s. 17 (ii) (a).

⁷ These words were substituted for the words "officer of Government" by the Adaptation of Indian Laws Order in Council.

⁸ These words, brackets, figures and letter were inserted by Bom. 21 of 1938, s. 17 (ii) (b).

¹[Provincial Government] otherwise determines, be defrayed out of the funds of the local authority and shall be added to the costs of the scheme.

40. (1) After the Tribunal of Arbitration has decided all matters arising out of clauses ²[(3A), (3B), (3C),] ³(4), (5), ^{Final scheme.} (6) and (9) of section 30, the arbitrator shall forward the final scheme through the local authority to the ⁴[Provincial Government]. ⁵[On receipt of the final scheme, the Provincial Government may, by notification in the *Official Gazette*, sanction the scheme or refuse to give such sanction, provided that in sanctioning the scheme the Provincial Government may make such modifications as may in its opinion be necessary for the purposes of correcting an error, irregularity or informality.]

(2) ⁴[If Government sanctions such scheme, it shall be stated in such notification] where the final scheme is open to the inspection of the public and the price at which copies may be obtained, and a date not earlier than one month after the publication of such notification shall be fixed as the date on which all liabilities created by the scheme shall take effect and the final scheme shall come into force :

⁵[Provided that the Provincial Government may from time to time postpone such date by such period not exceeding three months at a time as it thinks fit.]

(3) On and after the date fixed in such notification a town planning scheme shall have effect as if it were enacted in this Act.

⁶[40A. If at any time a representation is made to the Arbitrator by the local authority and a majority of the owners or the residents in the area that the scheme should be withdrawn, the Arbitrator 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 Provincial Government. After making such enquiry as it may think fit, the Provincial Government may, if the scheme has not already come into force, by notification in the *Official Gazette*, direct that the scheme shall be withdrawn and upon such withdrawal no further proceedings shall be taken in regard to such scheme.] ^{Withdrawal of a scheme.}

¹ The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

² These figures, letters and brackets were inserted by Bom. 21 of 1938, s. 18 (i) (e).

³ These words were substituted for the original words, *ibid*, s. 18 (i) (b).

⁴ These words were substituted for the words "In such notification, it shall be stated", *ibid*, s. 18 (ii) (a).

⁵ This proviso was inserted, *ibid*, s. 18 (ii) (b).

⁶ This section was inserted, *ibid*, s. 19.

Effect of
final scheme

41. On the day on which the final scheme comes into force—

(a) all lands required by the local authority shall, unless it is otherwise determined in such scheme, vest absolutely in the local authority free from all encumbrances;

(b) all rights in original plots which have been reconstituted shall determine and the reconstituted plots shall become subject to the rights settled by the arbitrator.

Power of
local
authority
to evict
summarily,

42. On and after the day on which the final scheme comes into force any person continuing to occupy any land which he is not entitled to occupy under the final scheme may, in accordance with the prescribed procedure, be summarily evicted by the local authority.

Power to
enforce
scheme.

43. (1) On and after the day on which the final scheme comes into force the local authority may after giving the prescribed notice and in accordance with the provisions of the scheme—

(a) remove, pull down, or alter any building or other work in the area included in the scheme which is such as to contravene the scheme or in the erection or carrying out of which any provision of the scheme has not been complied with;

(b) execute any work which it is the duty of any person to execute under the scheme in any case where it appears to the local authority that delay in the execution of the work would prejudice the efficient operation of the scheme.

(2) Any expenses incurred by a local authority under this section may be recovered from the persons in default in the manner hereinbefore provided for the recovery of sums due to the local authority under the provisions of this Act.

(3) If any question arises as to whether any building or work contravenes a town-planning scheme, or whether any provision of a town-planning scheme is not complied with in the erection or carrying out of any such building or work, that question shall be referred to the ¹[Provincial Government] in the City of Bombay or the Commissioner elsewhere, and ²[its or his] decision shall be final and conclusive and binding on all persons.

Power to
compel
attend-
ance of
witnesses.

44. For the purposes of this Act an officer appointed under sub-section (1) of section 4, an arbitrator or a Tribunal of Arbitration may summon and enforce the attendance of witnesses including the parties interested or any of them and compel them to give evidence and compel the production of documents by the same means and, as far as possible, in the same manner as is provided in the case of a Civil Court by the Code of Civil Procedure, 1908.

V of
1908

¹ The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

² The words "its or his" were substituted for the word "his", *ibid.*

CHAPTER V.

MISCELLANEOUS.

45. (1) When two or more local authorities are of opinion that the interests of contiguous areas within their respective jurisdictions can best be served by the making of a joint town-planning scheme, and the ¹[Provincial Government] agrees with such opinion, a joint Town Planning Board shall be constituted. Joint town-planning schemes.

(2) Such Board shall consist of representatives of each of the several local authorities and of persons nominated by the ¹[Provincial Government] in such proportion as may be prescribed.

(3) The representatives of the several local authorities shall be elected in the prescribed manner on dates appointed by the ¹[Provincial Government] in the City of Bombay and by the Commissioner elsewhere.

(4) Such Board, when duly constituted, shall make a declaration of intention to make a joint town-planning scheme in respect of the contiguous areas in the manner provided in section 9 and thereafter the procedure shall follow all the provisions of this Act and such Board shall have all the powers and be liable to all the duties of a local authority under the provisions of this Act.

(5) The draft joint town-planning scheme shall specify the parts of the scheme to be executed by the several local authorities in the several contiguous areas and the several parts of the scheme shall, when notified in the final scheme have effect in the several contiguous areas as if they are separate schemes :

Provided that any part of a joint town-planning scheme may be executed jointly by two or more local authorities.

²[45A. When any local authority ceases to exist or ceases to have jurisdiction over any area included in a town-planning scheme the property and rights vested in such local authority under this Act shall, subject to all charges and liabilities affecting the same, vest in such other local authority or authorities as the ¹[Provincial Government] may, with the consent of such authority or authorities, by notification in the ³[Official Gazette] direct; and such local authority or each one of such local authorities shall have all the powers under this Act in respect of such scheme or such part of a scheme as comes within its jurisdiction which the local authority ceasing to exist or ceasing to have jurisdiction had.] Vesting of property and rights of a local authority ceasing to exist or ceasing to have jurisdiction.

¹The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

²Section 45A was inserted by Bom. 16 of 1920, s. 2.

³The words "Official Gazette" were substituted for the words "Bombay Government Gazette" by the Adaptation of Indian Laws Order in Council.

Power to vary a scheme on the ground of error, irregularity or informality.

45B. (1) If after the final scheme has come into force, the local authority considers that the scheme is defective on account of an error, irregularity or informality, the local authority may apply in writing to the Provincial Government for the variation of the scheme.

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

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

(4) The draft variation shall be open to the inspection of the public at the office of the local authority during office hours.

(5) Within one month of the date of publication of the draft variation, any person affected thereby may communicate in writing any objection to such variation to the Provincial Government through the Collector and Commissioner.

(6) After receiving the objections under sub-section (5), the Provincial Government may, after consulting the local authority and after making such enquiry as it may think fit, by notification in the *Official Gazette*

(a) appoint an Arbitrator and then upon the provisions contained in Chapter IV shall, in so far as may be, apply to such draft variation, as if it were a draft scheme sanctioned by the Provincial Government, or

(b) make the variation with or without modifications, or

(c) refuse to make the variation.

(7) From the date of the notification making the variation, the variation shall take effect as if it were incorporated in the scheme.

Power to vary or revoke a town planning scheme.

46. (1) Notwithstanding anything contained in section 45B] a town planning scheme may at any time be varied or revoked by a subsequent scheme prepared, published and sanctioned in accordance with this Act.

(2) The Provincial Government] on the application of the local authority or of any person appearing to him to be interested, may at any time, by notification in the *Official Gazette*], revoke a town planning scheme if [it] thinks fit.

¹ This section as inserted by Bom. 21 of 1928, s. 20.

² These words, figures and letter were given in Bom. 21 of 1928, s. 20.

³ The words "Provincial Government" were substituted for the words "Government Council" by the Adaptation of Indian Laws Act, 1937.

⁴ The word "it" was substituted for the words "him" and "the" in *ibid.*

⁵ The words "Official Gazette" were substituted for the words "the *Provincial Government Gazette*", *ibid.*

under the special circumstances of the case the scheme should be so revoked.

47. If at any time after the day on which the final scheme has come into force such scheme is varied or revoked, any person who has incurred expenditure for the purpose of complying with such scheme shall be entitled to receive compensation from the local authority, in so far as any such expenditure is rendered abortive by reason of the variation or revocation of such scheme.

47A. In the event of a town-planning scheme being withdrawn or sanction to a draft scheme or a final scheme being refused by the Provincial Government or a final scheme being revoked, the Provincial Government may direct that the costs of the scheme shall be borne by the local authority or be paid to the local authority by the owners concerned, in such proportion as the Provincial Government may in each case determine.

48. If in the opinion of the Provincial Government any local authority is not competent to exercise or perform, or neglects or fails to exercise or perform, any power conferred or duty imposed upon it under any of the provisions of this Act, the Provincial Government, or any person or persons appointed in this behalf by the Provincial Government, may exercise such power or perform such duty.

49. No suit or other legal proceedings shall be maintained in respect of the exercise of any discretion conferred by this Act or against any public servant or person duly appointed or authorised under this Act in respect of anything in good faith done or purporting to be done under the provisions thereof or the rules made thereunder.

XVI of 1908. 50. (1) Nothing in the Indian Registration Act, 1908, shall be deemed to require the registration of any document, plan or map prepared, made or sanctioned in connection with a final scheme which has come into force and which has not been revoked.

(2) All such documents, plans and maps shall, for the purposes of sections 48 and 49 of the Indian Registration Act, 1908, be deemed to have been and to be registered in accordance with the provisions of that Act.

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

¹ This section was inserted by Bom. 21 of 1938, s. 22.
² The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

Land needed
or purpose
of town-
planning
scheme may
be compul-
sarily
acquired.
Special
provision
in case of
a munici-
pality which
is superseded
or dissolved.

51. Land needed for the purpose of a town planning scheme shall be deemed to be land needed for a public purpose, within the meaning of the Land Acquisition Act, 1894.

I of
1894

[51A. Where a municipality is superseded under sub-section (1) of section 179 of the Bombay District Municipal Act, 1901, or dissolved or superseded under sub-section (1) of section 219 of the Bombay Municipal Boroughs Act, 1925,

Bom.
III of
1901.
Bom.
XVIII
of
1925.

(a) the person or persons appointed under clause (b) of sub-section (3) of the said section 179 of the Bombay District Municipal Act, 1901, or under clause (b) of sub-section (2) of the said section 219 of the Bombay Municipal Boroughs Act, 1925, as the case may be, shall be deemed to be a municipality within the meaning of section 2 (a) of this Act, and may exercise all the powers and perform all the duties of a local authority under this Act during the period of supersession or dissolution of such municipality;

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III of
1901.

Bom.
III

1925

(b) in the event of a person or persons appointed as aforesaid exercising the powers and performing the duties of a local authority under this Act, any property which may under the provisions of this Act vest in the local authority exercising such powers and performing such duties, shall, during the period of supersession or dissolution of the municipality, vest in His Majesty; and, such property shall, at the end of the said period, vest in such municipality as the Provincial Government may, by notification in the Official Gazette, direct.]

Rules.

52. (1) The [Provincial Government] may make rules consistent with the provisions of this Act to provide for all matters not specifically enacted therein.

(2) In particular and without prejudice to the generality of the foregoing power such rules shall be made to determine the following matters:-

(a) the procedure to be followed by the officer appointed to hold an enquiry for the purpose of deciding a disputed claim as to ownership under section 4;

(b) the notice to be given under section 5;

(c) the manner of publication of a declaration of intention to make a scheme under sub-section (2) of section 9;

(d) the manner of publication of a draft scheme under section 10;

(e) the further particulars to be prescribed for inclusion in the draft scheme under clause (f) of section 11;

¹This section was inserted by Bom. 23 of 1947, s. 2 read with Bom. 4 of 1942, s. 2.

²The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

¹[(e)] the period within which a local authority shall submit a draft scheme under sub-section (1) and the period within which Government may sanction or refuse to give sanction to it under sub-section (2) of section 14;

(f) the form of the commencement certificate to be granted by a local authority under clause (a) of sub-section (1) of section 15 and the conditions, if any, to be included therein;

(g) the procedure to be followed by a local authority in making an enquiry under clause (c) of sub-section (1) of section 15;

(h) the time to be allowed for making a claim to compensation under section 21;

(i) the period within which payment is to be made to the local authority under section 24;

(j) the procedure to be prescribed under section 30 and the notices to be given under sub-sections (1), (2) and (9) of that section;

(k) the form in which the arbitrator is to draw up the final scheme under sub-section (1C) of section 30;

(l) the way in which the ²[Provincial Government] is to publish a notification relating to the final scheme under sub-section (1) of section 40;

(m) the procedure to be followed by the local authority in summarily evicting a person under section 42;

(n) the notice to be given by the local authority before it takes action under section 43;

(o) the proportion of elected and nominated persons on a Joint Planning Board under sub-section (2) of section 45;

(p) the manner of election of representatives of the several local authorities under sub-section (3) of section 45;

³[(pp)] the manner of publication of a draft variation under sub-sections (2) and (3), and the particulars a draft variation shall contain under sub-section (f) of section 45B;

(q) the manner in which documents, plans and maps shall be made accessible to the public under the proviso to section 50;

¹ This clause was inserted by Bom. 21 of 1938, s. 23 (e) (i).

² The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

³ This clause was inserted by Bom. 21 of 1938, s. 23 (a) (ii).

(r) the procedure to be adopted for securing co-operation on the part of the local authority with the owners or persons interested in land proposed to be included in a town-planning scheme at every stage of the proceedings by means of conferences and such other means as may be expedient;

(s) the procedure to be followed by an arbitrator appointed under this Act;

(t) the procedure to be followed by a Tribunal of Arbitration under this Act;

(u) the procedure to be followed generally in carrying out the provisions and objects of this Act;

(v) the extent to which the proceedings of local authorities under this Act shall be regulated by any municipal or local law applicable to such authorities.

[¹(2A) A rule made under this section may provide that a contravention of any of the provisions of this Act or of the final scheme published under section 40 or of the rules which are specified in such rule shall be punishable with fine which may extend to Rs. 1,000 and, in the case of a continuing contravention with an additional fine which may extend to Rs. 10 for every day during which such contravention continues after conviction for the first such contravention.]

(3) The power to make rules under this Act shall be subject to the condition of previous publication.

¹ This sub-section was inserted by Bom. 21 of 1938, s. 23 (b).

R U L E S

905

THE BOMBAY TOWN PLANNING ACT, 1915
(BOM. I OF 1915).

G. N., G. D., No. 3772, dated 29th May 1916.

Amended by G. N., G. D., No. 4566, dated 4th July 1916.
Amended by G. N., G. D., No. 740, dated 28th January 1919.
Amended by G. N., G. D., No. 2844, dated 30th June 1924.
Amended by G. N., G. D., No. 2844, dated 2nd February 1925.
Amended by G. N., G. D., No. 6271, dated 8th July 1925.
Amended by G. N., G. D., No. 2844, dated 8th October 1928.
Amended by G. N., G. D., No. 2844, dated 26th July 1930.
Amended by G. N., G. D., No. 6271, dated 27th November 1935.
Amended by G. N., G. D., No. 2119/33, dated 25th April 1938.
Amended by G. N., G. D., No. 3157/33, dated 2nd April 1941.
Amended by G. N., G. D., No. 3157/33, dated 31st October 1946.

In exercise of the powers conferred by section 52 of the Bombay Town Planning Act, 1915 (Bom. I of 1915), the Governor in Council is pleased to make the following rules, namely:—

1. In these rules unless there is anything repugnant in the subject or context,—
 - (a) words or expressions which are defined in the Bombay Town Planning Act, 1915, shall have the same meaning as in that Act, and
 - (b) "Section", "sub-section", and "clause" shall mean, respectively, a section, sub-section, or clause of that Act.
2. (1) The officer holding an enquiry into disputed ownership under section 4 shall, as such enquiry proceeds, record a minute of the proceedings in his own hand embracing the material averments made by the parties interested, the material parts of the evidence, the decision, and the reasons for the same.
(2) Such enquiry shall be in public and seven days' notice of the enquiry shall be given to the parties to the dispute.
3. Previous to entry under section 5 into any building or upon any enclosed court or garden attached to a dwelling house twenty-four hours' notice in writing shall be given to the owner or occupier thereof, unless the owner or occupier has given his consent to such entry.
4. Local authority's declaration of intention to make a scheme shall include a statement that if within one month from the date of publication in the *Bombay Government Gazette* any person likely to be affected by such scheme communicates in writing to the Government of Bombay any objection or suggestion relating to such scheme the Government of Bombay will consider such objection or suggestion.
5. A local authority in addition to publishing a declaration of intention to prepare a town planning scheme in the *Bombay Government Gazette*, shall further publish the declaration by means of an advertisement in one or more newspapers published in the regional language and circulating within the jurisdiction of the local authority, and by posting copies of the advertisement in prominent places in or near the area proposed to be included in the scheme and at the office of the local authority. The

advertisement shall contain the local authority's resolution making such declaration and shall intimate that the plan of the area proposed to be included in the scheme is open for public inspection at the head office of the local authority during office hours.

6. (1) The local authority shall call one or more meetings of persons known to have rights in land or buildings in the area included in a proposed draft scheme and of other persons known to be affected by the scheme, provided that tenants whose leases expire within a year of the date of the local authority's declaration of intention to make a scheme need not be called. Due notice of such meeting shall be given in the area subject to the jurisdiction of the local authority and shall be sent by post to all persons believed to have an interest in the lands included in the scheme, when their addresses are known to the local authority, and also to any Government Department, or public body concerned. Such meetings shall be held as soon as may be convenient after the Government of Bombay has sanctioned the making of the scheme, and unless there is good reason to the contrary on the land included in the draft scheme.

(2) At such meetings the proposed draft scheme shall be generally described and explained, and a minute of each meeting shall be kept.

(3) Where the number of persons likely to be affected by the scheme is large, the local authority should where possible promote the formation of one or more committees of representatives of such persons. In some cases it may be found advisable to appoint a member of the local authority to be chairman of each committee. Use should be made of such committees for the purpose of explaining the scheme to landowners, and for the purpose of discussion and consultation during the course of the preparation of a draft scheme under section 10.

(4) Before the final adoption of a draft scheme, all objections shall be carefully considered, and the proposed scheme shall, with due regard to the interests of the public, be modified so as to meet as far as is possible the wishes of persons interested.

(5) The publication of a draft scheme under section 10 of the Act shall be by means of an advertisement in the *Bombay Government Gazette*, and in one or more newspapers published in the regional language and circulating within the jurisdiction of the local authority, and by posting copies of the advertisement in prominent places in or near the area comprised in the scheme and at the office of the local authority. The advertisement shall state the fact of a draft scheme having been prepared and the limits of the area comprised in the scheme and shall intimate that a copy of the scheme is open for public inspection at the head office of the local authority during office hours. It shall also recite section 13 of the Act. The date of publication referred to in section 13 means the date on which the *Bombay Government Gazette* containing the advertisement is published.

7. A draft scheme shall contain in addition to the particulars specified in clauses (a) to (e) of section 11 the following particulars, namely :—

(i) A map on a scale not smaller than one inch to the mile showing the area included in the scheme and the country within at least 2 miles of that area on every side. Such map shall show in particular all existing roads and lands proposed to be reserved or allotted for roads in the scheme and all existing and proposed means of communication of every kind.

(ii) A plan on a scale not smaller than 200 feet to the inch showing the original plots with identification numbers and all existing buildings.

(iii) A plan on a scale not smaller than 200 feet to the inch showing both the original plots and the manner in which it is proposed to alter the boundaries of original plots.

(iv) A plan on a scale not smaller than 200 feet to the inch showing the boundaries of plots as it is proposed that they will appear after the final scheme is executed such plots being numbered serially. This plan shall illustrate as far as possible, by means of colours, letters, and explanatory notes, or in some other convenient manner, all such provisions of the scheme as may properly be illustrated in a plan. It shall also show such levels or contours as may be necessary for a proper understanding of the scheme.

(v) A re-distribution and valuation statement in Form A showing the estimated amounts to be paid to or by each of the owners included in the scheme.

(vi) A copy of the estimates of all works contemplated in the scheme and a statement of the dates on which it is anticipated that the respective works will be completed. The approximation of dates must be correct to within six months and the local authority shall be bound by these dates in the case of owners whose contributions are affected thereby.

(vii) A statement in Form B explaining the finance of the scheme as estimated.

8. (1) The period within which a local authority shall submit a draft scheme to the State Government under sub-section (1) of section 14 shall be four months from the date of its publication under sub-section (1) or sub-section (2) of section 10, as the case may be :

Provided that the State Government may, if it thinks fit, extend such period by a further period not exceeding three months, on the application in writing of the local authority in that behalf.

(2) The local authority shall submit along with the draft scheme—

(i) copies of the minutes of meetings held under rule 6 and particulars regarding any representative committee appointed under that rule ;

(ii) particulars of the steps taken to consult owners in the preparation of the draft scheme ; and

(iii) particulars of the manner in which the draft scheme has been published under rule 6.

(3) The draft scheme and the papers referred to in sub-rule (2) shall be submitted in duplicate.

(4) The period within which the State Government may sanction or refuse to give sanction to a draft scheme under sub-section (2) of section 14 shall be twelve months from the date of its submission to the State Government under sub-section (1) of section 14.

9. A commencement certificate under clause (a) of sub-section (1) of section 15 shall be in Form C.

10. (1) A local authority, for the purpose of the enquiry referred to in clause (c) of sub-section (1) of section 15, shall serve a notice upon such person calling upon him to show cause why he should not be directed to remove, pull down or alter

any building or other work in the area included in a scheme in respect of which the provisions of clause (a) or clause (b) of sub-section (1) of the said section 15 have been contravened and fixing a date not earlier than seven days from the date of service of the notice, for the hearing of the case.

(2) The local authority, if it considers it expedient to do so, may appoint a committee of not less than 3 of its members to hear such cases.

(3) Any representation which may be made by the person served with the notice in person or by recognized agent on the day appointed or which may be received in writing by such day, shall be duly considered. A minute shall be kept of the proceedings by the presiding officer and the reasons for the decision shall be stated. The decision shall be signed by the persons passing it.

11. In the City of Bombay when an arbitrator has been appointed, the authority authorized by section 33 (2) to appoint the president of the tribunal of arbitration shall be forthwith requested to make such appointment and to communicate the name of the person appointed to the State Government.

12. The appointment of an arbitrator for a town planning scheme or of a president of a tribunal of arbitration shall be notified in the *Bombay Government Gazette*, and shall be communicated to the local authority concerned. The local authority shall, immediately on receiving from the State Government information of the appointment, post up at the office of the local authority and in some prominent place within the area of the jurisdiction of the local authority a copy of the Government Notification appointing the arbitrator or the President, and shall give in the copy their addresses.

13. The local authority shall render all reasonable assistance to the arbitrator and shall allow him to examine freely all papers, documents, and plans connected with the scheme.

14. *Procedure of the arbitrator—*

(1) Before commencing the preparation of the final scheme the arbitrator shall give notice of the date on which he will commence his duties and shall state therein the time, as provided in rule 15 within which the owner of any property or right is injuriously affected by the making of town planning scheme shall be entitled under section 21 to make a claim before him. Such notice shall be advertised in one or more newspapers published in the regional language and circulating within the jurisdiction of the local authority and shall be posted in prominent places at or near the area comprised in the scheme and at the arbitrator's office.

(2) After the date fixed in the abovementioned notice the arbitrator shall continue to carry on his duties as far as possible on all ordinary working days and during ordinary working hours.

(3) Special notice of at least twenty-four hours shall be served upon the persons interested in each plot or particular comprised in the scheme, before the arbitrator proceeds to deal in detail with the portion of the scheme relating thereto. The notice shall also be posted at the arbitrator's office. Such notice shall be given in the cases mentioned in sub-section (1), (2) and (9) of section 30 and in any other cases where any persons have not been sufficiently informed that any matter affecting them is to be considered.

(4) The arbitrator shall give all persons affected by any particular of the scheme sufficient opportunity of stating their views and shall not pass any decision till he has duly considered their representations, if any.

(5) The proceedings shall not be conducted with the formalities of judicial proceedings, but whenever there are conflicting claims or any difference of opinion with regard to any portion of the scheme the arbitrator shall record a brief minute in his own hand setting out the points at issue and the necessary particulars, and shall pass a clear decision with the reasons therefor. All such minutes shall be appended to the scheme.

(6) The arbitrator shall record and enter in the scheme every decision passed by him under sub-sections (1), (2), (3), (7) and (8) of section 30. The calculations and estimates required by sub-sections (3A), (3B), (3C), (3D), (4), (5), (6) and (9) of section 30 shall be fully set out and clearly recorded.

(7) The final scheme drawn up by the arbitrator shall contain the particulars specified in rule 7.

(8) The component parts of the scheme shall be so arranged that they may be readily referred to in connection with the map and plans.

14-A. The Head of the Town Planning and Valuation Department in respect of all town planning schemes in the State of Bombay may, in accordance with the final scheme drawn up by the arbitrator under section 30 and rule 14, issue a certificate in Form D specifying the area and boundaries of a reconstituted plot, the nature of the tenure of, and of the owner's title to such a plot and the name of the person to whom the plot has been allotted under the final scheme.

15. The time within which the owner of any property or right which is injuriously affected by the making of a town planning scheme shall be entitled under section 21 to make a claim before an arbitrator shall be three months from the date fixed in the notice given by the Arbitrator under sub-rule (1) of rule 14 for the commencement of his duties.

16. The period to be prescribed under sub-section (2) of section 24 shall be one month from the date on which the owner is directed by the arbitrator under sub-section (1) of section 24 to make payment.

17. The president of the tribunal shall, within one month of the date on which he receives from the arbitrator the proposals referred in section 32, appoint an impartial person as assessor under section 33, and shall report the name of the person appointed to the State Government. The fact that the tribunal has been constituted and the person constituting it shall be notified in the *Bombay Government Gazette*, communicated to the local authority concerned, and notified by the local authority in the manner prescribed in rule 12.

18. *Procedure of the Tribunal of Arbitration—*

(1) No business shall be transacted by the tribunal unless all the members are present.

(2) Where any member of the tribunal ceases to act under sub-section (7) of section 33, the tribunal shall proceed with any business in hand as soon as a new member is appointed and it shall not be necessary to transact any business *de novo* by reason of such change in the constitution of the tribunal.

(3) The tribunal shall record their reasons in writing in any case where the proposals of the arbitrator under clauses (3-A), (3-B), (3-C), (3-D), (4), (5), (6) and (9) of section 30 are modified, varied or rejected by them.

(4) Before each part of a scheme is taken into consideration the tribunal shall give such notice as they deem sufficient to the parties interested in such part.

(5) The tribunal shall meet and adjourn as they think proper with due regard to the despatch of business.

19. The publication by the Government of Bombay under section 40 of a notification relating to the final scheme forwarded by the arbitrator shall be by means of an advertisement in one or more newspapers published in the regional language and circulating within the jurisdiction of the local authority concerned, and by posting copies of the advertisement in or near the area included in the scheme and at the office of the local authority.

20. When a scheme is sanctioned by the Government of Bombay under sub-section (1) of section 40, the arbitrator shall without delay forward a copy of the scheme to the Superintendent of Land Records in order that the survey records may be corrected.

21. (1) The local authority shall proceed as follows against any persons liable to be summarily evicted under section 42. The local authority shall in the first instance serve a notice upon such person requiring him within such time as may appear reasonable after receipt of the said notice to vacate the land, and, if such person fails to comply with the notice, the local authority shall depute an officer or servant to remove him.

(2) If such person resists or obstructs the officer, or, after eviction, re-occupies the land, the local authority shall prosecute him under section 188 of the Indian Penal Code.

22. A local authority before removing, pulling down, or altering any building or other work under clause (a) of sub-section (1) of section 43 shall give not less than seven days' notice of its intention to do so to the owner or occupier, if any, of such building or other work.

23. A local authority before executing any work under clause (b) of sub-section (1) of section 43 shall give not less than seven days' notice of its intention to do so to the person whose duty it is to execute the work.

23A. (1) Any local authority making an application for the variation of a scheme under sub-section (1) of section 45B shall state in such application all the particulars in respect of the variation to be made.

(2) If such variation affects any of the items in Form A (Redistribution and Valuation Statement) or Form B (Finance Statement), prepared in connection with the scheme an extract from Form A and a revised Statement in Form B, together with a plan showing the change or changes proposed to be made, shall be sent along with the application made under sub-rule (1).

(3) The application and the papers referred to in sub-rule (2) shall be sent to the State Government in duplicate.

(4) The publication of the draft variation under sub-section (2) of section 45B shall be made by means of a notification published in the *Bombay Government Gazette* and in two newspapers circulating within the jurisdiction of the local authority.

Such notification shall also state that any person affected by the draft variation may communicate in writing any objection to such variation to the State Government through the Collector and the Commissioner and that the draft variation shall be open to the inspection of the public at the office of the local authority during office hours. The State Government shall also supply the local authority with such number of copies of the notification, not exceeding 15, as the local authority may require and such copies shall be affixed by the local authority in prominent places within the area affected by the scheme and more particularly within the area affected by the draft variation.

(5) When a variation is made under sub-section (3) of section 45B, the Arbitrator, and where no Arbitrator is appointed, the Collector concerned, shall as soon as may be forward a copy of such variation to the Superintendent of Land Records who shall correct the Survey Records affected by the variation.

24. (1) Documents, plans and maps relating to a sanctioned scheme made by a local authority shall be open for public inspection at the head office of the local authority at any time during the office hours of the local authority for a period of six months from the date of the *Bombay Government Gazette* in which the sanction was published.

(2) All final town planning schemes, shall, on the expiry of the period mentioned in sub-rule (1), be lodged with the Town Planning and Valuation Department of the Consulting Surveyor to Government.

25. All notices required to be served upon any person under these rules shall unless otherwise provided be served as nearly as may be in the manner laid down in the Code of Civil Procedure, 1908, for the service of a summons on a defendant.

26. The proceedings of local authorities under the Bombay Town Planning Act, 1915, shall be regulated by the municipal or local law applicable to such authorities so far as may be consistent with the provisions of that Act and these rules.

27. Any person who contravenes any of the provisions of the Act or of a final scheme published under section 40 shall, on conviction, be punishable with fine which may extend to Rs. 1,000 and in the case of a continuing contravention with an additional fine which may extend to Rs. 10 for every day during which such contravention continues after conviction for the first such contravention.

FORM A.

(Rules 7 and 14)

TOWN PLANNING SCHEME

No.

Redistribution and Valuation Statement.

ORIGINAL PLOT.						FINAL PLOT.					
Value in Rupees.						Value in Rupees.					
Actual No.	Name of owner.	Tenure.	Number.	Area in square yards.*	Without reference to value of structures.	Undeveloped.					
						Inclusive of structures.	Number.	Area in square yards.	Without reference to value of structures.	Inclusive of structures.	
1	2	3	4	5	6a	6b	7	8	9a	9b	

Developed.

Without reference to value of structures.	Inclusive of structures.	Demand from (+) or by (-) owner under section 19. Column 9b minus column 6b.	Increment (section 17). Column 10a minus column 9a.	Contribution (section 18) per cent. of column 12.	Addition to (+) or deduction from (-) contribution to be made under other sections.	Net Demand from (+) or by (-) owner, being the addition of columns 11, 13, 14.	Remarks.
10a	10b	11	12	13	14	15	16
Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	—

Total ..

*Instead of a square yard a guntha or other suitable unit may be taken as the unit of area.

FORM B.

(Rule 7).

Finance of Town Planning Scheme
of the

(Name of local authority).

No.

Date

Rs.

Expenses under section 3 (a), (b), (e), (f) and (g)

Other expenses*—

Expenses shown in the redistribution and valuation statement (total of Col. 11 of Form A)
Cost of publication under section 9(2) and under section 10(1) (Rules 5 and 6)
Compensation under section 15 (2)
Legal expenses under section 16(c)
Compensation under section 21
Cost of demarcation, salaries of arbitrator and Tribunal of Arbitration and their staff and other expenses under section 39 (2)

(a) Total

Total of increments (Col. 12 of Form A) Rs.

Proportion of increment to be contributed by each holder (section 18) %

(b) Total of the contributions under section 18, Rs.

Net cost of scheme to local authority [(a)—(b)] Rs.

*In detail (sections or authority to be quoted).

NOTE.—The sign (—) before an item of expense indicates that the amount is payable to the local authority.

Particulars should be inserted showing how the net cost of the scheme to the local authority is proposed to be met.

FORM C.

(Rule 9).

COMMENCEMENT CERTIFICATE.

Permission is hereby granted, under section 15 of the Bombay Town Planning Act, 1915 (Bombay I of 1915),

to

to

on the following conditions, viz.,

*Name of person.

FORM D.

BOMBAY TOWN PLANNING ACT, 1915.

Certificate of Tenure and Title.

Town Planning Scheme † No. ---
 [Sanctioned under Government Notification, Department, No. dated
 the 19 , and published at page of Bombay Government
 Gazette, dated]

A. G. or Sq. Yds.

Final Plot No. Area
 Reputed owner Mr.
 Present occupant holding the land on years lease
 since Date Mr. §

Sketch of Final Plot No.
 (Here enter the sketch).

Tenure.—Ordinary Rayatwari or Inam or any other as the case may be with reference to original plots. (If there are different tenures for different portions of the whole plot these will be shown separately on the plan being divided by a thick chain line).

Title.—(Here describe the nature of the owner's title as found by the Arbitrator or Special Officer appointed under section 4 of the said Act).

Rights.—(If the owner of the plot has any special rights transferred to his final plot from the original plot or any new rights given to him under the scheme these may be entered here).

Disabilities.—(Rights of any other owner or person over this plot such as mortgage or easement, etc., may be entered here).

Note.—(1) The above plot shall be held subject to all the restrictions and regulations specified in the above Town Planning Scheme as finally sanctioned and published by Government under Notification No. , dated , and as regards assessment subject to the provisions of the Bombay Land Revenue Code, 1879, and of the rules and orders from time to time issued thereunder.

(2) No buildings or excavations or any other alterations shall be carried out in the above plot except with special written permission of the local authority having jurisdiction over the area at the time and in accordance with the provisions of the said Scheme.

(3) The holder of this certificate may apply to the Collector to have the amount and nature of the assessment and the period of guarantee shown on the certificate. The Collector's endorsement shall declare that non-agricultural assessment is, except in the case of inam land, liable to revision should the land be appropriated to any non-agricultural use—section 48 of the Bombay Land Revenue Code, 1879.

(4) Any other special regulation in respect of the above plot.

This certificate is granted under rule 14A of the rules under the Bombay Town Planning Act, 1915, as a *prima facie* proof of the tenure and title of the owner above named and shall be valid unless declared otherwise by a decree from a Civil Court within the period of limitation from the date hereof, by and under the hand and seal of the Consulting Surveyor to Government

This day of One thousand nine A.D. Collector, Bombay Suburban District
 hundred and

Consulting Surveyor to Government

Collector, Bombay Suburban District.

† Enter name of place.

§ This should only be entered if the land is held on a building lease for a period of at least 30 years.