Banglore Development Authority Act, 1976

Chapter 3 - Development Schemes

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(1) The Authority may,--

(a) draw up detailed schemes (hereinafter referred to as development scheme) for the development of the Bangalore Metropolitan Area; and

(b) with the previous approval of the Government, undertake from time to time any works for the development of the Bangalore Metropolitan Area and incur expenditure therefor and also for the framing and execution of development schemes.

(2) The Authority may also from time to time make and take up any new or additional development schemes,--

(i) on its own initiative, if satisfied of the sufficiency of its resources, or

(ii) on the recommendation of the local authority if the local authority places at the disposal of the Authority the necessary funds for framing and carrying out any scheme; or

(iii) otherwise.

(3) Notwithstanding anything in this Act or in any other law for the time being in force, the Government may, whenever it deems necessary require the Authority to take up any development scheme or work and execute it subject to such terms and conditions as may be specified by the Government.

Section 16 - Particulars to be provided for in a development scheme

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Every development scheme under section 15,--

(1) shall, within the limits of the area comprised in the scheme, provide for,--

(a) the acquisition of any land which, in the opinion of the Authority, will be necessary for or affected by the execution of the scheme;

(b) laying and re-laying out all or any land including the construction and reconstruction of buildings and formation and alteration of streets;

(c) drainage, water supply and electricity;

1 [(d) the reservation of not less than fifteen percent of the total area of the layout for public parks and playgrounds and an additional area of not less than ten percent of the total area of the layout for civic amenities.]

(2) may, within the limits aforesaid, provide for,--

(a) raising any land which the Authority may consider expedient to raise to facilitate better drainage;

(b) forming open spaces for the better ventilation of the area comprised in the scheme or any adjoining area;

(c) the sanitary arrangements required;

2 [(d) x x x]

(3) may, within and without the limits aforesaid provide for the construction of houses.

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1. Inserted by Act 17 of 1984 w.e.f. 21.4.1984.

2. Omitted by Act 17 of 1984 w.e.f. 21.4.1984.

Section 17 - Procedure on completion of scheme

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(1) When a development scheme has been prepared, the Authority shall draw up a notification stating the fact of a scheme having been made and the limits of the area comprised therein, and naming a place where particulars of the scheme, a map of the area comprised therein, a statement specifying the land which is proposed to be acquired and of the land in regard to which a betterment tax may be levied may be seen at all reasonable hours.

(2) A copy of the said notification shall be sent to the Corporation which shall, within thirty days from the date of receipt thereof, forward to the Authority for transmission to the Government as hereinafter provided, any representation which the Corporation may think fit to make with regard to the scheme.

(3) The Authority shall also cause a copy of the said notification to be published in 1 [x x x] the official Gazette and affixed in some conspicuous part of its own office, the Deputy Commissioner's Office, the office of the Corporation and in such other places as the Authority may consider necessary.

(4) If no representation is received from the Corporation within the time specified in sub-section (2), the concurrence of the Corporation to the scheme shall be deemed to have been given.

(5) During the thirty days next following the day on which such notification is published in the official Gazette the Authority shall serve a notice on every person whose name appears in the assessment list of the local authority or in the land revenue register as being primarily liable to pay the property tax or land revenue assessment on any building or land which is proposed to be acquired in executing the scheme or in regard to which the Authority proposes to recover betterment tax requiring such person to show cause within thirty days from the date of the receipt of the notice why such acquisition of the building or land and the recovery of betterment tax should not be made.

(6) The notice shall be signed by or by the order of the 2 [Commissioner] and shall be served,-

(a) by personal delivery or if such person is absent or cannot be found, on his agent, or if no agent can be found, then by leaving the same on the land or the building; or

(b) by leaving the same at the usual or last known place of abode or business of such person; or

(c) by registered post addressed to the usual or last known place of abode or business of such person.

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1. Omitted by Act 17 of 1994 w.e.f. 31.3.1994.

2. Substituted by Act 34 of 1986 w.e.f. 6.6.1986.

Section 18 - Sanction of scheme

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(1) After publication of the scheme and service of notices as provided in section 17 and after consideration of representations, if any, received in respect thereof, the Authority shall submit the scheme, making such modifications therein as it may think fit, to the Government for sanction, furnishing,-

(a) a description with full particulars of the scheme including the reasons for any modifications inserted therein ;

(b) complete plans and estimates of the cost of executing the scheme;

(c) a statement specifying the land proposed to be acquired ;

(d) any representation received under sub-section (2) of section 17;

(e) a schedule showing the rateable value, as entered in the municipal assessment book on the date of the publication of a notification relating to the land under the section 17 or the land assessment of all land specified in the statement under clause(c) ; and

(f) such other particulars, if any, as may be prescribed.

(2) Where any development scheme provides for the construction of houses, the Authority shall also submit to the Government plans and estimates for the construction of the houses.

(3) After considering the proposal submitted to it the Government may, by order, give sanction to the scheme.

Section 19 - Upon sanction, declaration to be published giving particulars of land to be acquired

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(1) Upon sanction of the scheme, the Government shall publish in the official Gazette a declaration stating the fact of such sanction and that the land proposed to be acquired by the Authority for the purposes of the scheme is required for a public purpose.

(2) The declaration shall state the limits within which the land proposed to be acquired is situate, the purpose for which it is needed, its approximate area and the place where a plan of the land may be inspected.

(3) The said declaration shall be conclusive evidence that the land is needed for a public purpose and the Authority shall, upon the publication of the said declaration, proceed to execute the scheme.

(4) If at any time it appears to the Authority that an improvement can be made in any part of the scheme, the Authority may alter the scheme for the said purpose and shall subject to the provisions of sub-sections (5) and (6), forthwith proceed to execute the scheme as altered.

(5) If the estimated cost of executing the scheme as altered exceeds, by a greater sum than five per cent the estimated cost of executing the scheme as sanctioned, the Authority shall not, without the previous sanction of the Government, proceed to execute the scheme as altered.

(6) If the scheme as altered involves the acquisition otherwise than by agreement, of any land other than that specified in the schedule referred to in clause (e) of sub-section (1) of section 18, the provisions of sections 17 and 18 and of sub-section (1) of this section shall apply to the part of the scheme so altered in the same manner as if such altered part were the scheme.

Section 20 - Levy of betterment tax

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(1) Where as a consequence of execution of any development scheme, the market value of any land in the area comprised in the scheme which is not required for the execution thereof has in the opinion of the Authority, increased or will increase the authority shall be entitled to levy on the owner of the land or any person having an interest therein a betterment tax in respect of the increase in value of the land resulting from the execution of such scheme.

(2) Such increase in value shall be the amount by which the value of the land, on the completion of the execution of the scheme, estimated as if the land were clear of buildings, exceeds the value of the land prior to the execution of the scheme estimated in like manner, and the betterment tax shall be one-third of such increase in value.

Section 21 - Assessment of betterment tax by the Authority

(1) When it appears to the Authority that a development scheme is sufficiently advanced to enable the amount of the betterment tax to be determined, the Authority shall, by a resolution passed in this behalf declare that for the purpose of determining such tax, the execution of the scheme shall be deemed to have been completed and shall thereupon give notice in writing to every person on whom a notice in respect of land to be assessed had been served under sub-section (5) of section 17 or to the successor in interest of such person, as the case may be, that the Authority proposes to assess the amount of the betterment tax payable in respect of such land under section 20.

(2) The Authority shall then assess the amount of betterment tax payable by each person concerned after giving such person an opportunity of being heard and such person shall, within three months from the date of receipt of notice in writing of such assessment inform the Authority in writing whether or not he accepts the assessment.

(3) When the assessment proposed by the Authority is accepted by the person concerned within the period specified in sub-section (2), such assessment shall be final.

(4) If the person concerned does not accept the assessment made by the Authority or fails to give the Authority the information required under sub-section (2) within the period specified therein the Authority shall make a reference to the District Court for determining the betterment tax payable by such person.

Section 22 - Manner of payment of betterment tax

The betterment tax determined under section 21 shall be paid within such time and in such number of installments not exceeding ten as may be specified by the Authority together with interest at such rates as may be prescribed.

Section 23 - Recovery of betterment tax

Where any person liable to pay betterment tax fails to pay the same within the time specified by the Authority or makes default in payment of two consecutive instalments or any three installments, the Authority shall be entitled to recover the whole of the amount due together with interest from the said person or his successor-in-interest in such land in the manner provided by the[1][Karnataka Municipal Corporations Act, 1976], for the recovery of taxes and if the said money is not so recovered, the[2] [Commissioner] may, after giving public notice of his intention to do so and not less than one month after the publication of such notice, sell the land or the interest of the said person or his successor-in-interest in such land by public auction and may deduct the said money and the expenses of the sale from the proceeds of the sale, and shall pay the balance (if any) to the defaulter.

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1. Substituted by Act 34 of 1986 w.e.f. 7.10.1986.

2. Substituted by Act 18 of 1981 w.e.f. 30.12.1980.

Section 24 - Payment etc. no bar to future acquisition

Acceptance of liability to betterment tax under sub-section (3) of section 21, or payment of the said tax after determination under section 22 shall not debar subsequent acquisition of the land concerned, if such acquisition is necessary for purposes of this Act.

Section 25 - Power of Authority to take up works for further development

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(1) Notwith-standing anything contained in any other provision of this Act, the Authority may, with the previous sanction of the Government, take up such works as the Authority considers necessary or desirable for the further development of any area within the Bangalore Metropolitan Area :

Provided that the Corporation shall be consulted if such area lies within the limits of the City of Bangalore.

(2) The expenditure incurred or proposed to be incurred or such portion thereof as may be determined by the Authority and approved by the Government in carrying out such works may recovered by a pro-rata levy on the owners of properties benefitted by such works as may be determined by the Authority. The said sum may be recovered as any other sum due to the Authority under the provisions of this Act.

Section 26 - Crediting betterment tax collected to the funds of the Corporation in certain cases

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Where the increase in value of any land is due to the execution of a development scheme made on the recommendation of the Corporation and for which the Corporation has placed at the disposal of the Authority the necessary funds for framing and carrying out such schemes, the betterment tax collected by the Authority from the owners of such land shall be credited by the Authority to the Municipal Fund of the Corporation.

Section 27 - Authority to execute the scheme within five years

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Where within a period of five years from the date of the publication in the official Gazette of the declaration under sub-section (1) of section 19, the Authority fails to execute the scheme substantially, the scheme shall lapse and the provisions of section 36 shall become inoperative.

Section 28 - Land vested in Corporation and required by the Authority for formation of street to be vested temporarily in the Authority

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Whenever under any development scheme the whole or any partof an existing public street or other land vested in the Corporation isincluded in the site of any part of a street to be formed, altered, widened,raised, re-arranged or re-constructed by the Authority, the Authority shallgive notice to the Corporation that the wholeor a part, as the case may be, of such existing street or other land (hereinaftercalled the "part required") is required by it as part of a street to be dealtwith as aforesaid, and the part required shall thereupon, subject to theprovisions of sub-section (1) of section 30, be vested in the Authority:

Provided that noting in thissection shall be deemed to affect the rights or powers of the Corporation underthe 1 [Karnataka Municipal Corporations Act, 1976]1 in or over any Corporationdrain or water work.

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1. Substituted by Act 34 of 1986w.e.f. 7.10.1986.

Section 28A - Duty to maintain streets etc.

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1 [28A. Duty to maintain streets etc.

It shall be incumbent on the Authority to make reasonable and adequate provision by any means or measures which it is lawfully competent to use or take, for the following matters, namely:-

(a) the maintenance, keeping in repair, lighting and cleansing of the streets formed by the Authority till such streets are vested in the Corporation; and

(b) the drainage, sanitary arrangement and water supply in respect of the streets formed by the Authority.

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1. Sections 28A, 28B and 28C inserted by Act 6 of 1993 w.e.f. 20.12.1975.

Section 28B - Levy of tax on lands and buildings

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(1) Notwithstanding anything contained in this Act, the Authority may levy a tax on lands or buildings or on both, situated within its jurisdiction (hereinafter referred to as the property tax) at the same rates at which such tax is levied by the Corporation within its jurisdiction.

(2) The Provisions of the Karnataka Municipal Corporations Act, 1976 (Karnataka Act 14 of 1977) shall mutatis mutandis apply to the assessment and collection of property tax.

1[Explanation:- For the purpose of this section "property tax" means a tax simpliciter requiring no service at all and not in the nature of fee requiring service.]

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1 . Inserted by Act 19 of 2002 w.e.f. 20.12.1975.

Section 28C - Authority is deemed to be a Local Authority for levy of cesses under certain Acts

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Notwithstanding anything contained in any law for the time being force the Authority shall be deemed to be a local authority for the purpose of levy and collection of,-

(i) education cess under sections 16.17 and 17A of the Karnataka Compulsory Primary Education Act, 1961 (Karnataka Act 9 of 1961);

(ii) health cess under sections 3,4 and 4A of the Karnataka Health Cess Act, 1962 (Karnataka Act 28 of 1962);

(iii) library cess under section 30 of the Karnataka Public Libraries Act, 1965 (Karnataka Act 10 of 1965) ; and

(iv) beggary cess under section 31 of the Karnataka Prohibition of Beggary Act, 1975 (Karnataka Act 27 of 1975).]1

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1 . Sections 28A, 28B and 28C inserted by Act 6 of 1993 w.e.f. 20.12.1975.

Section 29 - Authority and Commissioner to exercise powers and functions under Karnataka Act 14 of 1977

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29. Authority and1[Commissioner] to exercise powers and functions under2[Karnataka Act 14 of 1977]

(1) In any area or part thereof to which this Act applies, the Government may, by notification, declare that from such date and for such period as may be specified therein and subject to such restrictions and modifications, if any as may be specified in the notification,-

(i) the powers and functions of the Corporation3[(including the power to levy, assess and collect property tax)] or a standing committee thereof under the2[Karnataka Municipal Corporations Act 1976] shall be exercised and discharged by the Authority ; and

(ii) the powers and functions of the Commissioner of the Corporation under the said Act shall be exercised and discharged by the1[Commissioner]:

Provided that the Corporation shall be consulted before making such declaration if such area or part thereof lies within the limits of the City of Bangalore.

(2) On the making of a declaration under sub-section (1), notwithstanding anything contained in any other law for the time being in force, the Corporation, any standing committee thereof or the Commissioner of the Corporation, shall not be competent to exercise or discharge the powers or functions conferred or imposed on the Authority or the1[Commissioner], as the case may be, by such declaration.

(3) The Authority or the1[Commissioner] may delegate any of the functions exercisable by it or him under sub-section (1) to any officer or servant of the Authority.

(4) The exercise or discharge of any of the powers or functions delegated under sub-section (3) shall be subject to such limitations, conditions and control as may be laid down by the Authority or the1 [Commissioner], as the case may be,

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1. Substituted by Act 18 of 1981 w.e.f. 30.12.1980.

2 . Substituted by Act 34 of 1986 w.e.f. 7.10.1986.

Section 30 - Streets on completion to vest in and be maintained by Corporation

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(1) The Government after consulting the Corporation and on being satisfied that any street formed by the Authority has been duly levelled, paved, metalled, flagged, channelled, drained and sewered in the manner provided for in the plans of any scheme sanctioned by the Government and that such lamps, lamp posts and other apparatus as are in its opinion necessary for the lighting thereof and should be provided by the Authority have been so provided, shall declare such street to be a public street, and such street shall thereupon vest or revest, as the case may be, in the Corporation and the Corporation shall thereafter maintain, keep in repair, light and cleanse such street.

(2) Any open space including such parks and play grounds as may be notified by the Government reserved for ventilation in any part of the area under the jurisdiction of the Authority as part of any development scheme sanctioned by the Government shall be transferred on completion to the Corporation for maintenance at the expense of the Corporation and shall thereupon vest in the corporation.

(3) Any dispute which arises between the Authority and the Corporation in respect of any of the provisions of this section shall be determined by the Government, whose decision shall be final.

Section 31 - Authority not to sell or otherwise dispose of sites in certain cases

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The Authority shall not sell or otherwise dispose of any sites for the purpose of constructing buildings thereon for the accommodation of persons until all the improvements specified in section 30 have been substantially provided for in the estimates.

Section 32 - Forming of new extensions or layouts or making new private streets

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(1) Notwithstanding anything to thecontrary in any law for the time being in force, no person shall form or attemptto form any extension or layout for the purpose of constructing buildingsthereon without the express sanction in writing of the Authority and except inaccordance with such conditions as the Authority may specify:

Provided that where any suchextension or layout lies within the local limits of the Corporation, theAuthority shall not sanction the formation of such extension or layout withoutthe concurrence of the Corporation :

Provided further that where theCorporation and the Authority do not agree on the formation of or theconditions relating to the extension or layout, the matter shall be referred tothe Government, whose decision thereon shall be final.

(2) Any person intending to forman extension or layout or to make a new private street, shall send to the 1 [Commissioner] a written application with plans and sections showing thefollowing particulars:-

(a) the laying out of the sitesof the area upon streets, lands or open spaces ;

(b) the intended level,direction and width of the street ;

(c) the street alignment and thebuilding line and the proposed sites abutting the streets;

(d) the arrangement to be madefor levelling, paving, metalling, flagging, channelling, sewering, draining,conserving and lighting the streets and for adequate drinking water supply.

(3) The provisions of this Actand any rules or bye-laws made under it as to the level and width of streetsand the height of buildings abutting thereon shall apply also in the case ofstreets referred to in sub-section (2) and all the particulars referred to inthat sub-section shall be subject to the approval of the Authority.

(4) Within six months after thereceipt of any application under sub-section (2), the Authority shall eithersanction the forming of the extension or layout or making of street on suchconditions as it may think fit or disallow it or ask for further informationwith respect to it.

(5) The Authority may requirethe applicant to deposit, before sanctioning the application, the sumsnecessary for meeting the expenditure for making roads, side-drains, culverts,underground drainage and water supply and lighting and the charges for suchother purposes as such applicant may be called upon by the Authority, providedthe applicant also agrees to transfer the ownership of the roads, drains, watersupply mains and open spaces laid out by him to the Authority permanentlywithout claiming any compensation therefor.

2 [(5A) Notwithstanding anythingcontained in this Act, the Authority may require the applicant to depositbefore sanctioning the application such further sums in addition to the sumsreferred to in the sub-section (5) to meet such portion of the expenditure asthe Authority may determine towards the execution of any scheme or work foraugmenting water supply, electricity, roads, transportation and such otheramenities within the Bangalore Metropolitan area.]

(6) Such sanction may berefused,-

(i) if the proposed street wouldconflict with any arrangements which have been made or which in the opinion ofthe Authority is likely to be made for carrying out any general scheme ofstreet improvement or other schemes of development or expansion by the Authority; or

(ii) if the proposed street doesnot conform to the provisions of the Act, rules and bye-laws referred to insub-section (3), or

(iii) if the proposed street isnot designed so as to connect at one end with a street which is already open ;or

1 [(iii-a) if the proposedextension or lay out is on the land which is proposed to be acquired for thepurpose of the development scheme under this Act, and in respect of which anotification under sub-section (3) of section 17 is already published; or]

(iv) if the layout in theopinion of the Authority cannot be fitted with any existing or proposedexpansion or development schemes of the Authority.

(7) No person shall form alayout or make any new private street without the sanction of or otherwise thanin conformity with the conditions imposed by the Authority. If the Authorityrequires further information from the applicant no steps shall be taken by himto form the layout or make the street until orders have been passed by theAuthority after the receipt of such information:

Provided that the passing ofsuch orders shall not, in any case, be delayed for more than six months afterthe Authority has received all the information which it considers necessary toenable it to deal finally with the said application.

(8) If the Authority does notrefuse sanction within six months from the date of the application undersub-section (2) or from the date of receipt of all information asked for undersub-section (7), such sanction shall be deemed to have been granted and theapplicant may proceed to form the extension or layout or to make the street,but not so as to contravene any of the provisions of this Act and the rules orbye-laws made under it.

(9) Any person who forms orattempts to form any extension or layout in contravention of the provisions ofsub-section (1) or makes any street without or otherwise than in conformitywith the orders of the Authority under this section, shall be liable, onconviction, to a fine which may extend to ten thousand rupees.

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1. Substituted by Act 18 of 1981w.e.f. 30.12.1980 .

2. Inserted by Act 17 of 1994w.e.f. 26.6.1987 .

Section 33 - Alteration or demolition of extension, layout or street

(1) If any person forms an extension or layout ormakes any street referred to in section 32 or puts up any building without orotherwise than in conformity with the orders of the Authority under the saidsub-section the [1] [Commissioner] may, whether or not the offender be prosecutedunder this Act by notice,-

(a) require the offender to showcause, by a written statement signed by him and sent to the [1] [Commissioner] onor before such day as may be specified in the notice, why such extension,layout or street should not be altered to the satisfaction of the [1] [Commissioner] or if such alteration be deemed impracticable by the[1] [Commissioner], why such extension layout or street should not be demolished; or

(b) require the offenders toappear before the [1] [Commissioner] either personally or by a duly authorisedagent on such day and at such time and place as may be specified in the noticeand show cause as aforesaid.

(2) If any person on whom suchnotice is served fails to show cause to the satisfaction of the [1] [Commissioner] why such extension, layout or street should not be so alteredor demolished, the [1] [Commissioner] may pass an order directing the alterationor demolition of such extension, layout or street.

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1. Substituted by Act 18 of 1981w.e.f. 30.12.1980.

Section 33A - Prohibition of unauthorised occupation of land

[1][33A. Prohibition of unauthorised occupation of land

(1) Any person who unauthorisedly enters upon and uses or occupies any land belonging to the Authority to the use or occupation of which he is not entitled or has ceased to be entitled, shall on conviction, be punished with imprisonment for a term which may extend to three years and which fine which may extend to five thousand rupees.

(2) Any person who having unauthorisedly occupied whether before or after the commencement of the Karnataka Municipal Corporations and certain other Laws (Amendment) Act, 1984, any land belonging to the Authority to the use or occupation of which he is not entitled or has ceased to be entitled, fails to vacate such land in pursuance of an order under sub-section (1) of section 5 of the Karnataka Public Premises (Eviction of Unauthorised Occupants) Act, 1974 (Karnataka Act 32 of 1974) shall, on conviction, be punished with imprisonment for a term which may extend to three years and with fine which may extend to five thousand rupees and with a further fine which may extend to fifty rupees per acre of land or part thereof for every day on which the occupation continues after the date of the first conviction for such offence.

(3) Whoever intentionally aids or abets the commission by any other person of an offence punishable under sub-section (1) or sub-section (2) shall, on conviction, be punishable with the same punishment provided for such offence under the said sub-sections.]

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1. Inserted by Act 34 of 1984 w.e.f. 26.6.1984.

Section 34 - Power of Authority to order work to be carried out or to carry it out itself in default

(1) The Authority may,-

(a) if any person who applies for permission under section 32 and is permitted expressly by it to carry out himself the works relating to the forming of the extension or layout or the making of a street, does not so carry it out ;or

(b) if any private street or part thereof is not levelled, paved, metalled, flagged, channelled, sewered, drained, conserved or lighted to the satisfaction of the Authority by notice, require the person forming the extension or layout or the owners of such street or part and the owners of buildings and lands fronting or abutting on such street or part, including in cases where the owners of the land and of the building thereon are different, the owners both of the land and of the building, to carry out any work which, in its opinion, may be necessary and within such time as may be specified in such notice.

(2) If any such work is not carried out within the time specified in the notice under sub-section (1), the Authority may, if it thinks fit execute itself or cause it to be executed and the expenses incurred shall be paid by the persons or owners referred to in sub-section (1) in such proportions as may be determined by the Authority. Such expenses may be recovered from the persons concerned as if they were arrears of land revenue.