

PUNJAB VIDHAN SABHA SECRETARIAT

Notification

The 28th June, 2012

No. 11-PLA-2012/40.—The Punjab Common Infrastructure (Regulation and Maintenance) Bill, 2012 is hereby published for general information under the proviso to rule 121 of the Rules of Procedure and Conduct of Business in the Punjab Vidhan Sabha (Punjab Legislative Assembly):—

Bill No. 11-PLA-2012

THE PUNJAB COMMON INFRASTRUCTURE (REGULATION AND
MAINTENANCE) BILL, 2012

A

BILL

to provide regulation and maintenance of common infrastructure in the Industrial Area and for the matters connected therewith or incidental thereto.

BE it enacted by the Legislature of the State of Punjab in the Sixty-third Year of the Republic of India as follows :—

1. (1) This Act may be called the Punjab Common Infrastructure (Regulation and Maintenance) Act, 2012.

Short title,
commencement
and application.

(2) It shall come into force on such date and shall apply to such Industrial Area including the Industrial Area already transferred to the Department of Local Government as the State Government may, by notification in the Official Gazette, specify.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) 'Allottee' means the person to whom any plot, shed or any other unit is allotted by way of sale, lease or otherwise by the Developer in an Industrial Area, which expression in the case of lessee and further resale shall include the lessee or the purchaser, as the case may be, and shall also include occupier of such shed or plot ;

(b) 'common infrastructure' includes roads, parks, street lights, water supply and sewerage system, garbage treatment facilities, common research and development centres, stream, drainage, water sewerage treatment plant, common effluent treatment plant or any other such common facility, not being in exclusive possession of an Allottee, falling in an Industrial Area requiring maintenance ;

- (c) 'Competent Authority' means any person or authority appointed by the State Government by notification in the Official Gazette to exercise the powers and to perform all or any of the functions of the Competent Authority under this Act ;
- (d) 'Executive Committee' means the Executive Committee formed under section 4 ;
- (e) 'Developer' means a person or an organization, whether governmental or private or joint venture including Punjab Small Industries and Export Corporation and Punjab Information and Communication Technology Corporation, which constructs or creates Industrial Areas or constructs industrial plots, buildings etc. and provides common infrastructure like roads, sewerage, street lights etc. ;
- (f) 'Industrial Area' includes Industrial Parks, Apparel Parks, Export Promotion Parks, Textile Parks, Export Promotion Industrial Parks, Industrial Focal Points, Industrial Development Colonies, Industrial Growth Centers, or any other area for the purpose of industrial activities notified as such by the State Government ;
- (g) 'Municipality' means a Municipality as defined in clause (e) of Article 243 P of the Constitution of India ;
- (h) 'section' means a section of this Act ;
- (i) 'service charges' includes all sums lawfully assessed by the Special Purpose Vehicle against the Allottees for meeting the expenses of the management, maintenance, repair or replacement of the common infrastructure or for any purpose so specified by the Competent Authority and includes any other charge, which may be specified by the Competent Authority ;
- (j) 'Special Purpose Vehicle' means a body created under section 3 ; and
- (k) 'State Government' means the Government of the State of Punjab.

CHAPTER-II

SPECIAL PURPOSE VEHICLE, ITS POWERS AND FUNCTIONS

Special
Purpose
Vehicle.

3. (1) Notwithstanding anything contained in the Punjab Municipal Act, 1911 (Punjab Act No. 3 of 1911) and the Punjab Municipal Corporation Act, 1976 (Punjab Act No. 42 of 1976), the State Government may, by notification, create Special Purpose Vehicle comprising of all Allottees of the Industrial Area for the common infrastructure in relation to an Industrial Area.

PUNJAB GOVT GAZ. (EXTRA.), JUNE 28, 2012 1103
(ASAR 7, 1934 SAKA)

(2) The objectives of the Special Purpose Vehicle shall be as follows,—

(a) It shall provide efficient service to the Allottees at reasonable service charges ; and

(b) It shall work for the cause of good maintenance of common infrastructure.

(3) The Special Purpose Vehicle shall operate within its jurisdiction on 'no profit, no loss' basis.

4. (1) The Special Purpose Vehicle shall form an Executive Committee in accordance with its Bye-laws to exercise the powers and to perform the functions of the Executive Committee under this Act. Executive Committee.

(2) Besides members from the Allottees, the Executive Committee shall have representatives of the Developer, State Government and the Municipalities within whose limits the Industrial Area falls.

5. For the smooth discharge of its functions and duties under this Act, the Executive Committee shall have the right,— Powers of Executive Committee.

(a) of access to the property and common infrastructure of the Industrial Area ;

(b) to determine the common expenses for management, maintenance and upkeep of the common infrastructure of the Industrial Area including the service charges ;

(c) to get recovered through the Collector unpaid amounts of service charges as an arrears of land revenue ; and

(d) to disconnect the utility service such as water supply, sewerage or power supply in case an Allottee fails to deposit the service charges.

6. (1) Subject to the provisions of this Act, the Special Purpose Vehicle may make Bye-laws to provide for all or any of the following matters, namely :— Powers to make Bye-laws.

(a) the time and place of its meetings ;

(b) the manner in which notice of ordinary and special meeting and adjourned meetings of the Special Purpose Vehicle shall be given ;

(c) the quorum necessary for transaction of business at an ordinary meetings ;

- (d) the conduct of proceedings at meetings and adjournment of meetings ;
 - (e) the custody of the common seal and the purposes for which it shall be used ;
 - (f) the persons by whom receipts shall be granted on behalf of the Executive Committee for money of the service charges received under this Act ;
 - (g) the method and number of members of the Executive Committee from amongst the members of the Special Purpose Vehicle and the powers and functions of the Executive Committee ;
 - (h) the manner in which the President of the Executive Committee shall be elected and powers and functions of the President so elected. The manner in which other office bearers of the Executive Committee shall be appointed and for specifying their powers ;
 - (i) the fixation of rates of the service charges to be contributed by the Allottees based on the size of plot and other such specified parameters as may be approved by the Special Purpose Vehicle ;
 - (j) the maintenance and repairs of the common infrastructure and the manner for payment therefor ;
 - (k) the engagement and removal of persons employed for the maintenance and repairs of the common infrastructure ;
 - (l) the manner for the collection of the service charges and mode of its deposit in the Banks ;
 - (m) the preventive measures for the safety of property of an Industrial Area and the common infrastructure and the measures to save it from encroachment ; and
 - (n) any other matter as may be required to be or may be provided.
- (2) The Bye-laws framed under sub-section (1) may also provide for,—
- (a) the mode of audit of the accounts of the Special Purpose Vehicle ;
 - (b) the time at which and the manner in which the annual report of the Special Purpose Vehicle shall be submitted to the Executive Committee ;
 - (c) the manner in which the income and expenditure of the Special Purpose Vehicle shall be accounted for ;
 - (d) the presentation of budget before the Special Purpose Vehicle indicating total contribution from the Allottees, requirement of the funds for maintenance of the common infrastructure and sources of meeting the gap ; and

(e) the role of the Developer and the State Government in smooth functioning of the Special Purpose Vehicle.

7. (1) The affairs of the Special Purpose Vehicle and the management and maintenance of property in an Industrial Area and the common infrastructure shall be governed by the provisions of the Bye-laws made by the Special Purpose Vehicle.

Affairs of Special Purpose Vehicle to be regulated by Bye-laws.

(2) The Special Purpose Vehicle, at its first meeting, shall make its Bye-laws in accordance with the provisions of section 6 and no departure, variation, addition or omission therefrom shall be made except with the prior approval of the Competent Authority :

Provided that no such approval shall be granted by the Competent Authority, if such departure, variation, addition or omission shall have the effect of altering the basic structure of the provisions contained in section 6.

(3) No Bye-laws or amendment thereof shall be valid unless approved by the Competent Authority.

8. (1) The funds to be given to the Special Purpose Vehicle shall be out of the proceeds of the Municipalities. The percentage of funds to be given shall be decided by the State Government through an executive order. These funds shall be transferred by the concerned Municipalities to the 'Common Infrastructure Maintenance Fund' to be created and maintained in the Department of Local Government. The Department of Local Government shall in turn, transfer the money out of this Fund to the concerned Special Purpose Vehicle as per its requirements which shall be assessed and approved by a committee consisting of,—

Provision for Funds.

- (i) Chief Secretary, Punjab ; .. Chairman
- (ii) Principal Secretary to Government of Punjab, Department of Industries and Commerce ; .. Member
- (iii) Principal Secretary to Government of Punjab, Department of Local Government ; and .. Member
- (iv) Managing Director, Punjab Small Industries and Export Corporation. .. Secretary

The Commissioner or the Executive Officer, as the case may be, of the concerned Municipality shall be a special invitee.

(2) Each Special Purpose Vehicle shall maintain a Fund in which the amount transferred to it under sub-section (1) shall be kept and expenditure for maintenance of the common infrastructure shall be done by the Special Purpose Vehicle out of the said Fund. This Fund would also include grants or loans received from the Government of India or the State Government or from any other source.

CHAPTER-III

CONTROL AND SUPERVISION

Control and supervision.

9. (1) The control and overall supervision in respect of an Industrial Area shall lie in the Competent Authority.

(2) If in the opinion of the Competent Authority, the Executive Committee has failed to perform its functions under this Act or its functions are detrimental to the interests of the Allottees, the Competent Authority may give a notice to show cause to the Executive Committee as to why it should not be superseded.

(3) If in the opinion of the Competent Authority the reply to the show cause notice served to the Executive Committee under sub-section (2) is not satisfactory, it may supersede the Executive Committee and appoint an Administrator who shall be a Senior Officer of the State Government to perform duties and exercise powers of the Executive Committee under this Act :

Provided that a new Executive Committee shall be formed within a period of six months of its supersession :

Provided further that if the Executive Committee is not constituted within the stipulated period of six months, the Competent Authority may, for reasons to be recorded in writing, extend the supersession for another period of six months.

Powers and duties of Competent Authority.

10. The Competent Authority shall have the following powers and duties,—

- (a) to facilitate formation of the Special Purpose Vehicle ;
- (b) to facilitate the Special Purpose Vehicle in discharge of its functions ;

- (c) to resolve any dispute between the Special Purpose Vehicle and the Allottees on the question of the service charges, kind and quality of maintenance required or any other matters;
- (d) to periodically inspect the accounts and other records of the Special Purpose Vehicle to ensure that if it is working in accordance with law ;
- (e) to supervise the election of the office-bearers of the Executive Committee ; and
- (f) to supervise the levy and collection of the service charges in case the Special Purpose Vehicle fails to do so and also to specify and levy other charges required to facilitate the smooth maintenance and repairs.

CHAPTER-IV

EXEMPTION, LIABILITIES AND SERVICE CHARGES

11. All sums determined by the Executive Committee or specified by the Competent Authority as the service charges under the provisions of this Act shall be first charge on the property of the Allottee.

Service Charges and other sums.

12. (1) Upon the sale, bequest or transfer of an Industrial Area by an original Allottee to the purchaser, the guarantor or legatee or transferee, as the case may be, the latter shall be jointly and severally liable with the former for all unpaid dues out of the sums referred under section 11 against the former up-to the time of the sale, bequest or transfer, without prejudice to the right of the latter to recover from the former any amount therefor paid by the latter.

Liability on transfer.

(2) Any purchaser, guarantor, legatee or transferee referred to in subsection (1), shall be entitled to a statement from the Executive Committee setting forth the unpaid dues out of the sums referred under section 11 against the Allottee.

13. If upon a notice issued by the Executive Committee, the Allottee fails to pay the amount of the service charges, it shall be lawful for the Executive Committee to proceed for recovering the same as arrears of land revenue through the concerned Collector.

Recovery as arrears of land revenue.

14. The State Government may, by notification in the Official Gazette, notify an authority or appoint an officer of the Punjab Government not below the rank of Principal Secretary, as Appellate Authority with the powers to decide appeals against the orders of the Competent Authority.

Appellate Authority and appeals.

Revision.

15. The State Government may, *suo moto* or on an application from any party aggrieved by an order within 60 days of the date of communication of such order, call for the record of any case disposed of by the Competent Authority or the Appellate Authority for the purpose of satisfying itself as to the correctness, legality or propriety of any proceedings or of any order made therein and pass such order in relation thereto as it may deem fit :

Provided that no order adverse to any person shall be passed without giving him an opportunity to show cause against the proposed order :

Provided further that no revision application shall be entertained when an appeal has been or could have been filed against the order.

Bar of Jurisdiction.

16. No civil court shall have jurisdiction to entertain or decide any question relating to matters arising under this Act or Bye-laws made thereunder.

Act binding on all the Allottees.

17. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any agreement, undertaking or other instrument and all the Allottees, who in any manner use the common infrastructure or any part thereof to which this Act applies, shall be subject to the provisions of this Act and Bye-laws made thereunder.

Penalty for Breach.

18. If a Developer or an Allottee contravenes any provisions of this Act or commits a breach of any Bye-laws or does anything detrimental to the health and safety of the public, the Competent Authority may, issue either *suo moto* or on an application from the affected party, a notice to show cause why penalty should not be levied and if no sufficient cause is shown, levy penalty commensurate with the extent of actual and/or likely damage caused due to the violation of the provisions of this Act or Bye-laws.

Overriding Effect.

19. The provisions of this Act shall have overriding effect notwithstanding anything contained in the Punjab Municipal Act, 1911 (Punjab Act No. 3 of 1911), the Punjab Municipal Corporation Act, 1976 (Punjab Act No. 42 of 1976) and the Punjab Infrastructure (Development and Regulation) Act, 2002 (Punjab Act No. 8 of 2002) and the provisions of these Acts shall have no effect upon the matters to the extent provided under this Act.

De-notification.

20. If the State Government is of the considered opinion to do so, it may de-notify any Industrial Area notified under this Act and in such an

eventuality the Special Purpose Vehicle for that Industrial Area shall stand dissolved and the State Government may pass an order regarding the consequential matters as it may deem fit.

21. The State Government may give directions to suspend or annul any resolution passed by the Special Purpose Vehicle which is in contravention of its objectives and Bye-laws. Such directions shall be binding on the Special Purpose Vehicle.

Powers of direction.

22. If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by an order, not inconsistent with the provisions of this Act, remove the difficulty :

Powers to remove difficulties.

Provided that no such order shall be made after the expiry of a period of two years from the commencement of this Act.

