

CHAPTER 353

LAND BETTERMENT CHARGES

Law
No. 28 of 1976.

A LAW TO PROVIDE FOR THE LEVY OF BETTERMENT CHARGES ON LANDS WITHIN AREAS WHERE THE VALUE OF LAND HAS INCREASED AS A RESULT OF THE CONSTRUCTION WITHIN THOSE AREAS OF CERTAIN DEVELOPMENT PROJECTS, FINANCED IN WHOLE OR IN PART BY THE STATE, AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[Not in operation on 31st December, 1980.]

Short title, and date of operation.

1. This Law may be cited as the Land Betterment Charges Law, and shall come into operation on such date (hereinafter referred to as the "appointed date") as the Minister may appoint by Order published in the Gazette*.

of a local authority, the Order declaring such area to be a betterment area shall be made with the concurrence of the Minister in charge of the subject of Local Government;

Land betterment charges to be levied on lands within certain areas.

2. Subject as hereinafter provided, a charge to be known as the land betterment charge shall be levied on—

Provided further that no Order made under the preceding provisions of this section shall have effect until it is approved by Parliament and published in the Gazette.

(a) every land situated within an area declared to be a betterment area by an Order made under section 3; and

(2) Every such Order shall specify the limits of the betterment area referred to in such Order, the name of the development project in relation to which such betterment area is declared, and the date from which land betterment charges shall be levied in such betterment area.

(b) every agricultural land situated within an area declared to be a benefited area by an Order made under section 17.

PART I—BETTERMENT AREAS

Power of Minister by Order to declare an area as a betterment area.

3. (1) Where the value of land in any area has appreciated or is likely to appreciate as a result of the construction or establishment of, or improvement effected to, a development project in such area, and where the expenditure incurred in such construction, establishment or improvement was provided in whole or in part by the State or by a public corporation, the Minister may by Order published in the Gazette, declare such area to be a "betterment area":

4. The Government Agent of every administrative district shall be the land betterment charges officer of that administrative district for the purpose of this Part of this Law, and accordingly every such Government Agent shall exercise the powers and perform the duties conferred or imposed on a land betterment charges officer under this Part of this Law in relation to each betterment area falling within his administrative district.

Government Agents to be land betterment charges officers.

Provided however that where any area to be declared a betterment area or part thereof falls within the administrative limits

5. (1) As soon as may be after the publication of an Order under section 3, the land betterment charges officer for the administrative district within which the betterment area specified in such Order is situated, shall prepare a statement of all the lands situated within such betterment area.

Land betterment charges officer to prepare a statement of lands within the betterment area.

* Not in operation on 31st December, 1980.

(2) Every statement prepared under subsection (1) shall contain the names of all the lands in the betterment area, the extents thereof, the names of the owners thereof, and where any such land is held in trust, the names of the trustees thereof, and where such trustees cannot be ascertained, the names of the persons entitled to the beneficial interest in such land, the amount of the land betterment charge payable in respect of each such land as calculated under section 7, and such other particulars as may be prescribed.

in respect of any such land, or to any of the particulars specified in such statement in respect of any such land.

(3) The land betterment charges officer shall at the same time serve a notice in the same terms as the notice referred to in subsection (2) by registered post to the owner of every land specified in such statement, and where any such land is held in trust, to the trustees thereof, and where such trustees cannot be ascertained, to the persons entitled to the beneficial interest in such land.

Land betterment charges officer in consultation with the Chief Valuer to prepare an assessment of the market value of the lands in a betterment area.

6. The land betterment charges officer shall, in consultation with the Chief Valuer, prepare in respect of every land contained in the statement prepared under section 5, an assessment of—

- (a) the market value of such land immediately prior to the construction or establishment of, or improvement to, the development project in relation to which the betterment area is declared; and
- (b) the market value of such land one year after such construction, establishment or improvement.

Computation of land betterment charges.

7. The land betterment charges officer shall fix a land betterment charge, in respect of every land specified in the statement prepared under section 5, calculated at fifty *per centum* of the increase in the market value of such land, as shown in the assessment prepared under section 6.

Copies of statement prepared under section 5 to be exhibited in certain public places.

8. (1) The land betterment charges officer shall cause copies of the statement prepared under section 5 to be exhibited in the office of the local authority, post office, office of the divisional Assistant Government Agent and in such other places within the betterment area as are in his opinion are resorted to by the public of the area.

(2) To every such copy there shall be attached a notice inviting the owners of, or other persons having an interest in, the lands specified in such statement to notify before such date as may be specified therein their objections, if any, to the inclusion of any such land in such statement or to the amount of the land betterment charge fixed

9. (1) Every objection made in response to any notice given under section 8 shall be in writing and shall be sent to the land betterment charges officer by registered post before the date specified in such notice. The person making such objections shall hereinafter in this section be referred to as "the objector".

Objections to be sent by registered post to land betterment charges officer.

(2) On receipt of any objection sent under subsection (1), the land betterment charges officer shall notify the objector of the date, time and place fixed for the inquiry into such objections:

Provided that the date fixed for such inquiry shall in no case be earlier than fourteen days from the date of the notice notifying the objector of the date fixed for such inquiry;

Provided further that where any objection sent under subsection (1) relates to any dispute as to the ownership of any land specified in the statement prepared under section 5, or as to the beneficial interest in such land, the land betterment charges officer shall refer such dispute to the District Court or Primary Court having jurisdiction over the place where such land is situated, according as the value of such land does or does not exceed one thousand five hundred rupees and the provisions of section 11, section 12, section 13 and section 14 of the Land Acquisition Act shall, *mutatis mutandis*, apply to every such reference.

(3) The land betterment charges officer shall, at any inquiry held under this section, grant the objector an opportunity of adducing evidence in support of his

objections, and he may, after considering the evidence so adduced, exclude the land in relation to which the objection has been taken, from the statement prepared under section 5, or vary or modify the land betterment charge fixed in respect of such land, or delete or vary any of the particulars specified in such statement in respect of such land.

(4) The decision of the land betterment charges officer under subsection (3) shall be communicated to the objector in writing.

Appeals to Minister.

10. (1) Any person aggrieved by the decision of the land betterment charges officer under subsection (3) of section 9, may within thirty days after the communication of such decision to him, make a written appeal from such decision to the Minister. Where no appeal is made from the decision of the land betterment charges officer within the time allowed therefor, such decision shall be final and conclusive and shall not be questioned in any court.

(2) The Minister may on any appeal made to him under this section, confirm or vary the decision from which the appeal was made, and the decision of the Minister on such appeal shall be final and conclusive and shall not be questioned in any court.

Land betterment charges officer to amend statement to give effect to decisions of the District Court, Primary Court and Court of Appeal.

11. The land betterment charges officer shall delete or vary any of the particulars specified in the statement prepared under section 5 to give effect to—

- (a) every decision of a District Court or Primary Court on a reference made to such District Court or Primary Court under section 9 (2);
- (b) every decision of the Court of Appeal acting in appeal from a decision of the District Court or Primary Court on a reference made to such District Court or Primary Court under section 9 (2); and
- (c) every decision of the Minister on an appeal made to the Minister under section 10.

Persons liable to pay the land betterment charge.

12. (1) The person whose name appears as the owner of, or as trustee of, or as the person having a beneficial interest in, any land specified in the statement prepared

under section 5, in the year in which such statement is first prepared, shall be liable to pay the land betterment charge fixed in respect of such land, or where the amount of such land betterment charge has been varied or modified under section 9 or section 10, the amount so varied or modified.

(2) The land betterment charge fixed in respect of any land shall be payable in such number of annual instalments not exceeding twenty as the land betterment charges officer may in his discretion determine.

13. Where there is a change of ownership of any land specified in the statement prepared under section 5, after the date on which such statement is first prepared, and the new owner of such land indicates to the land betterment charges officer in writing, his willingness to pay the balance instalments of the land betterment charge payable in respect of such land, the land betterment charges officer shall record the name of the new owner in the entry relating to such land in such statement, and the new owner shall thereafter be liable to pay the balance instalments of the land betterment charge payable in respect of such land.

Where there is a change of ownership of land, new owner may pay balance of land betterment charge payable in respect of such land.

14. (1) The land betterment charges officer shall by notice sent by registered post, inform every person liable to pay a land betterment charge under section 12, of the amount payable by such person as land betterment charge, and the number of instalments in which such amount is payable.

Persons liable to pay land betterment charge to be informed by notice.

(2) The land betterment charges officer shall at the end of each year, by notice sent by registered post to every person liable to pay a land betterment charge, demand the payment of the instalment payable by him in respect of that year,

(3) Every person who receives a notice under subsection (2) shall comply with such notice within one month of the receipt thereof.

15. Where any land in respect of which a land betterment charge is payable is subject to a change of ownership, the amounts paid as a land betterment charge on such land by the person disposing of the ownership of such land, shall be deductible from the amount assessed as the value of

The amount of land betterment charges paid to be taken into account in computation of capital gains tax.

such land at the time of such change of ownership, for the purposes of the computation of the capital gains tax payable by such person under the Inland Revenue Act, No. 4 of 1963, or the Inland Revenue Act (No. 28 of 1979).

PART II—BENEFITED AREAS

Government Agents to be land betterment charges officers.

16. The Government Agent of every administrative district shall be the land betterment charges officer of that administrative district for the purpose of this Part of this Law, and accordingly every such Government Agent shall exercise the powers and perform the duties conferred or imposed on a land betterment charges officer under this Part of this Law in relation to each benefited area falling within his administrative district.

Power of land betterment charges officer by order to declare an area to be a benefited area.

17. (1) Where the productivity of the agricultural lands in any area within an administrative district has improved or is likely to improve as the result of the construction of a development project in such area (whether such construction was before or after the appointed date), and where the expenditure incurred in such construction was provided in whole or in part by the State or by a public corporation, the land betterment charges officer for that administrative district may by Order published in the Gazette declare such area to be a " benefited area ".

(2) Every such Order shall specify the limits of the benefited area referred to in that Order and the name of the development project in relation to which such benefited area is declared.

Land betterment charges officer to prepare a register of lands within benefited area.

18. (1) As soon as may be after the publication of an Order under section 17, the land betterment charges officer shall prepare a register of all the agricultural lands situated in the benefited area specified in such Order.

(2) Every register prepared under subsection (1), shall contain the names of all the agricultural lands in the benefited area, the extent thereof, and where any such land is cultivated by the owner thereof, the name of such owner, and, where any such land has been alienated by a permit issued under

the Land Development Ordinance, the name of the permit-holder, and, where any such land is cultivated by a tenant, the name of such tenant, and such other particulars as may be prescribed.

(3) The land betterment charges officer shall classify the lands contained in such register, having regard to the following matters:—

- (a) the capital expenditure incurred in the development project situated in the benefited area and its rate of depreciation;
- (b) the operation, repair and maintenance expenditure on such development project;
- (c) the average availability of water to the land which is the subject of classification, whether for a single cropping, double cropping or more intensive cropping;
- (d) assurance and regularity of irrigation to such land;
- (e) the extent to which such land has benefited;
- (f) the likely increase in the agricultural production of such land as a result of such development project; and
- (g) such other matters as may be prescribed.

19. (1) In respect of the agricultural lands in any benefited area land betterment charges shall be levied on such one or more of the following bases as the Minister may direct:—

Minister to give directions as to how betterment charges are to be computed.

- (a) on the basis of a fixed amount per year per acre of land;
- (b) on the basis of a minimum charge for a fixed quantity of water supplied annually to any such land, and an additional charge for water supplied in excess of such fixed quantity;
- (c) on the basis of the total quantity of water supplied annually to any such land.

(2) For the purposes of paragraph (b) of subsection (1) where several lands are supplied by one irrigation outlet, land betterment charges may be fixed on the basis of a minimum charge for a fixed quantity of water supplied from such outlet, such charges to be divided equally between the lands so supplied, and an additional charge for water supplied in excess of such fixed quantity, such additional charge to be divided *pro rata* between the lands so supplied on the basis of the quantity of water actually supplied in excess of such fixed quantity to each such land.

Computation of annual land betterment charge.

20. The land betterment charges officer shall every year, having regard to any directions issued under section 19, fix a land betterment charge in respect of every land contained in the register prepared under section 18, and he may vary or modify the amount of such land betterment charge if according to the classification prepared under subsection (2) of section 18, such variation or modification is, in his opinion, necessary.

Persons liable to pay land betterment charges under this Part.

21. The land betterment charge fixed in respect of any year, in respect of any land under section 20, shall be payable, where such land is cultivated by the owner thereof, by such owner, where such land has been alienated by a permit issued under the Land Development Ordinance, by the permit-holder, and where such land is cultivated by a tenant, by such tenant, in such number of instalments as the land betterment charges officer in his discretion may determine.

Persons liable to pay land betterment charge under this Part to be informed by notice.

22. (1) The land betterment charges officer shall by notice sent by registered post inform every person liable to pay a land betterment charge under section 21, of the amount payable by such person as land betterment charge, and the number of instalments, if any, such amount is payable in, and demand the payment of the same.

(2) Every notice sent under subsection (1) shall also contain the name of the land in respect of which the land betterment charge is payable, the extent thereof, the year in respect of which such land betterment charge is payable, the name of the person liable to pay such land betterment charge, and the capacity in which he is liable to do so, whether as owner, permit-holder or tenant, the name of the development project in relation to which the benefited area in which

such land is situated has been declared, and the date or dates before which the amount of such land betterment charge or an instalment thereof shall be payable.

(3) Where any person liable to pay a land betterment charge fails to pay the amount of such land betterment charge or where payment in instalments has been allowed, an instalment thereof, on the date specified in a notice sent under subsection (1) for the payment of such amount or such instalment, as the case may be, such person shall be liable to a surcharge of ten *per centum* of such amount or the amount of such instalment, as the case may be.

23. Where the agricultural crops in a benefited area have failed in any year due to adverse weather conditions, the outbreak of pest, disease or like causes, the Minister may by Order published in the Gazette exempt every person liable to pay a land betterment charge in respect of any land within such benefited area, from the payment of the land betterment charge fixed in respect of such land under this Part of this Law for that year.

Power of Minister to exempt persons liable to pay land betterment charges from the payment of the same in certain cases.

24. (1) Where the agricultural crops in any land within a benefited area have been adversely affected in any year, due to any defects in the irrigation works or distributory system supplying such land, the person liable to pay a land betterment charge in respect of such land for that year may appeal to the land betterment charges officer that he be exempted from the payment of such land betterment charge.

Power of land betterment charges officer to exempt in individual cases.

(2) The decision of the land betterment charges officer on any such appeal shall be final and conclusive.

PART III— GENERAL

25. (1) A land betterment charges officer or any person authorized by him may enter and inspect any land within the betterment area or benefited area, for the purposes of obtaining any such information regarding such land as is necessary for the preparation of the statement made under section 5, or the register maintained under section 18, and he may order the owner or person in possession of such land to furnish him with any such information.

Powers of entry and inspection.

(2) Any person who prevents or obstructs a land betterment charges officer or a person authorized by him in carrying out such entry or inspection as is referred to in subsection (1), or who refuses to furnish any such information as is referred to in that subsection when ordered to do so, shall be guilty of an offence and shall, on conviction after trial by a Magistrate, be liable to a fine not exceeding one hundred rupees.

Land betterment charges in respect of land to be levied only under the provisions of either Part I or Part II.

26. (1) Where a land betterment charge is levied in respect of a land under the provisions of Part I of this Law, no land betterment charge shall be levied in respect of such land under the provisions of Part II of this Law, and where a land betterment charge is levied in respect of a land under the provisions of Part II of this Law, no land betterment charge shall be levied in respect of such land under the provisions of Part I of this Law.

(2) Where a land falls within the limits of more than one betterment area or more than one benefited area, only one land betterment charge shall be levied in respect of such land under the provisions of either Part I or Part II of this Law.

Land betterment charges to be paid in addition to other rates and taxes.

27. Where a land betterment charge is payable in respect of any land under the provisions of Part I or Part II of this Law, such land betterment charge shall be payable in addition to any other rates or taxes payable in respect of such land under the provisions of any other law.

Recovery of land betterment charges by seizure and sale.

28. (1) Where any person in receipt of a notice under section 14 (1), section 14 (2) or section 22 (1) fails to pay the amount of land betterment charge a demand for which is made in such notice, within the time allowed for the payment of the same, the land betterment charges officer may issue a certificate to the Primary Court having jurisdiction over the place where the land in respect of which such land betterment charge is payable is situated, containing particulars of the amount due as land betterment charge, and the surcharges, if any, on such amount, and the name of the person liable to pay the same, and the Court shall thereupon direct a writ of execution to issue to the Fiscal authorizing and requiring him to seize and sell all and any of the

property, movable and immovable of such person, or such part thereof as he may deem necessary for the recovery of such amount, and the amount of the surcharges, if any, on such amount, and the provisions of the Civil Procedure Code relating to the seizure and sale of property shall, *mutatis mutandis*, apply to such seizure and sale.

(2) Notwithstanding anything to the contrary in any other law as to the limitations of the monetary jurisdiction of a Primary Court, any such Court shall be competent to recover any amount specified in any certificate issued under the provisions of subsection (1).

29. (1) The Minister may from time to time make regulations for the purpose of carrying out and giving effect to the principles and provisions of this Law. Regulations.

(2) In particular and without prejudice to the generality of the powers conferred by subsection (1), the Minister may make regulations in respect of all or any of the following matters:—

- (a) the form and manner in which the instruments and registers referred to in this Law are to be maintained; and
- (b) for all matters as are required by this Law to be prescribed.

(3) Every regulation made by the Minister shall be published in the Gazette and shall come into operation on the date of such publication or on such later date as may be specified in the regulation.

(4) Every regulation made by the Minister shall, as soon as convenient after its publication in the Gazette, be brought before Parliament for approval. Any regulation which is not so approved, shall be deemed to be rescinded from the date of disapproval, but without prejudice to anything previously done thereunder.

(5) Notification of the date on which any regulation is deemed to be rescinded shall be published in the Gazette.

Interpretation.

30. In this Law, unless the context otherwise requires:—

" agricultural land " means any land used for the production of any agricultural or horticultural produce;

" land betterment charges officer" in relation to any land means the land betterment charges officer appointed or designated, as the case may be, in relation to the betterment area or the benefited area within which such land is situated;

" Chief Valuer " includes any Senior Assistant Valuer or Assistant Valuer of the Government Valuation Department;

" development project " in relation to—

(a) the provisions of Part I of this Law includes an industrial project, a road project, a salt-water exclusion project, a water supply project and an electrical generating and transmission project; and

(b) the provisions of Part II of this Law includes an irrigation scheme, a drainage scheme and a flood protection scheme;

"local authority" includes a Municipal Council, Urban Council, Town Council or Village Council;

" market value" with reference to any land and any date, means the price which in the opinion of the person making the assessment, that land would have fetched on that date in the open market;

" prescribed" means prescribed by regulation made under this Law;

"public corporation" means any corporation, board or other body established under any written law with capital wholly or partly provided by the Government by way of grant, loan or other form;

" year " means a calendar year.