

The Bihar Industrial Area Development Authority Act, 1974

To provide for planned Development of Industrial Areas and Promotion of Industries and Matters Appurtenant thereto. Be it enacted by the Legislature of the State of Bihar in the twenty-fifth year of the Republic of India as follows:

CHAPTER I

1. Short title extent and commencement

- (1) This Act may be called the Bihar Industrial Areas Development Authority Act, 1974.
- (2) It extends to the whole of the State of Bihar.

2. Definitions

In this Act unless the context otherwise requires-

- (a) “amenity” includes roads, water-supply, street lighting drainage, sewerage, school, housing, hospital, common effluent treatment plant, provision of common facility centre, solid waste management system¹ and recreation facilities and such other facility as the State Government may by notification in the Official Gazette, specify to be an amenity for the purposes of this Act;
- (b) “building” includes any structure or creation or part of structure or creation which is intended to be used for residential, industrial, commercial, or other purposes, whether in actual use or not;
- (c) “development” with its grammatical variations means the carrying out of building engineering or any other operations in, on over or under land or the making of any material change in any building or land including the provision of accommodation for carrying on industrial activities with or without accommodation for residential purposes or other activities and with all proper facilities for public works, recreation, amenity and other basic requirements for establishment of industries, and include re-development;
- (d) the word “industry” would have the same meaning as has been assigned to it under Section 2, clause (3) of the Bihar State Aid to Industries Act, 1956;
- (e) “development area” means any area declared to be a development area under section 4;

¹ Inserted by the BIADA (Amendment) Act, 2017.

- (f) “Industrial area” means an area for which an Authority is constituted under section 3;
- (g) “Regulation” means a regulation made under this Act by the Authority constituted under section 3;
- (h) “Rule” means a rule made under this Act by the State Government;
- (i) “Prescribed” means prescribed in the rules framed by the State Government under this Act.

Chapter 2

3.Industrial Areas Development Authority - Aims and Object

(1) The State Government may at any time after commencement of this Act constitute by notification, an Authority for any area or areas for development and promotion of industry

Explanation I – The State Government may set up one or more Authorities, or one Authority for one or more areas in the State under this Act such an Authority will be known as “(name of the area) Industrial Area Development Authority”.

(2) The Authority shall be a body corporate by the name aforesaid having perpetual succession and a common seal with powers to acquire, hold and dispose of properties, both movable and immovable, and to contract and do all things necessary for the purposes of this Act and shall by the said name sue and be sued

(3) (i) Any such Authority shall consist of a Chairman, a Managing Director and five other Directors who shall be appointed by the State Government and who shall hold their office on terms and conditions to be prescribed in this behalf, at the pleasure of the State Government.

(ii) The Chairman of the Authority shall be a Government servant not below the rank of a Secretary or² Commissioner or any other person who may be nominated by the Government.

(iii) The State Government may, if it is found to be expedient, appoint the same person as Chairman and Managing Director of the Authority.

² Inserted by the BIADA (Amendment) Act, 2017.

(4) The Managing Director shall be a whole time officer and the Chief Executive of the Authority and shall perform, among others, the following duties under, the general guidance of the Chairman -

- (a) He shall receive all the money on behalf of the Authority and issue receipt and maintain proper account for the same;
- (b) He shall draw money from the fund of the Authority for disbursement of salaries, allowances and meeting the expenses of the Authority;
- (c) He shall authenticate any order of the Authority;
- (d) He shall perform any order only that may be assigned to him by the Authority or the State Government from time to time.

(4a) The Authority may, by general or special order in writing delegate to any officer of the Authority subject to such conditions, if any, as may be specified in the order, such of its powers and functions under this Act as it may deem necessary.³

4. Declaration of area as Development Area

(1) The State Government may by a notification in the official gazette declare any area adjacent to an Industrial Area, a “development area” for the purposes of the Act after taking into consideration any objection that may be raised in the manner prescribed in the rules; Provided that no objections need be invited for any area already declared as controlled area under sub-section (1) of the Section 3 of the Bihar Restriction of Uses of Land Act, 1948.

(2) after an area has been notified as development area under Sub-section (1) of section 4 of this Act, no person or company or business house or anybody (including a department of the State Government) shall undertake or carry out any construction, modification or demolition of any structure or building within such development area without the prior approval of the Authority in accordance with the procedure laid down in the rules prescribed.

(3) Unless otherwise stipulated on the rules, the procedure regarding application for permission to build, excavate or lay out any means of access and grant and refusal of such permission shall be according to the provisions of the Bihar Restriction of Uses of Land Act, 1948 in this behalf.

4A Industrial Area. - (1) The Industrial Area may contain one or more of the following lands:

- (i) All lands acquired by the State Government and transferred to the Authority under Section 9 of the Act.⁴

³ Inserted by the BIADA (Amendment) Act, 2017.

⁴ Inserted by the BIADA (Amendment) Act, 2017.

- (ii) All lands acquired by the Authority on lease, rent, and purchase or acquired under any form of tenancy under Section 6 (10) and Section 9 of the Act.⁵
- (2) Notwithstanding anything contained in any other law, the Authority shall notify Development Control Regulation, related byelaws, master plan and such other matters with respect to industrial planning for such Industrial Area.⁶

5. Establishment

The Authority shall have its own establishment for which it shall frame regulations with prior approval of the State Government.

Chapter 3

6. General duties and powers of the Authority

- (1) Subject to the provisions of this Act, the Authority shall be responsible for the planned development of the Industrial Area (including preparation of the Master Plan of the area) and promotion of industries in the area and other amenities incidental thereto.
- (1a) The Authority shall be the implementation agency for industrial planning of industrial area as mentioned in Section 4A.⁷
- (2) The Authority shall be responsible for planning, development and maintenance of the Industrial Area and amenities thereto and allotment of land or factory shed or building or parts of buildings⁸, execution of lease, modification⁹ and cancellation of such allotment of lease, realization of fees rent charges and matters connected thereto.
 - (a) In case necessary effective steps are not taken within the fixed period to establish the Industry or all dues, rent, charges of the Authority have not been paid within time or unregistered product is manufactured or any construction contrary to the approved plan has been carried out or an activity injurious to industries has been engaged into¹⁰; the Authority shall in such condition cancel the allotted plot/shed and also forfeit the amount deposited in this connection. The Authority shall before cancelling the allotment allow one month time to the allottee to put up his case. The allottee on being dissatisfied with the order of the Authority may file an Appeal to the State Government within one month and the State Government shall, after due consideration dispose of within two months from the date of receipt of Appeal.¹¹

⁵ Inserted by the BIADA (Amendment) Act, 2017.

⁶ Inserted by the BIADA (Amendment) Act, 2017.

⁷ Inserted by the BIADA (Amendment) Act, 2017.

⁸ Inserted by the BIADA (Amendment) Act, 2017.

⁹ Inserted by the BIADA (Amendment) Act, 2017.

¹⁰ Inserted by the BIADA (Amendment) Act, 2017.

¹¹ Inserted by the BIADA (Amendment) Act, 1991.

(b) The Authority shall, after cancellation of allotment of the Plot/shed take possession of the said Plot.¹²

(c) The Authority shall regularly identify unutilized buildable area in each plot with regard to the building regulations. The Authority shall issue notices to the plot holders in the Industrial Area calling upon them to furnish details in a prescribed form. Upon the submission of the report if the Authority is satisfied that the plot holder has not utilized the maximum buildable area of his plot even after 3 years or any other period notified by the State Government, from the date of taking over the possession for the purpose for which the land was allotted, the unutilized portion shall be cancelled for accommodating another industry. The portion of the plot that is not being utilized by an allottee/ lessee be demarcated and taken over by the Authority for accommodating a new allottee/lessee.¹³

(d) Commencement of business on allotted plot or area: No person shall commence business until an Occupation Certificate is issued by the Authority after implementation of Detailed Project Report filed by the allottee, and in accordance with the Development Control Regulations of the Authority. The Authority shall permit any deviations in the Detailed Project Report, provided such deviations shall be intimated and approved by the Authority before any such deviation implementation has commenced on the plot.¹⁴

(3) The State Government may from time to time entrust the Authority with any other work that is connected with planned development or maintenance of the Industrial Area and its amenities and matters connected thereto.

(3a) Authority may formulate Allotment Policy, Transfer Policy, Exit Policy, Cancellation Policy or such other Policy for better management of Industrial Area.¹⁵

(4) (a) The Managing Director of the Authority shall have the powers of the Collector under section 2 (1) of the Bihar Public Land Encroachment Act, 1956, for purposes of removal of encroachment on road, houses, gullies, any land in the development areas and properties of the Authority.¹⁶

(b) Any person who encroaches upon road, houses, gullies, any land in the development areas and properties of the Authority or continues to possess or squat

¹² Inserted by the BIADA (Amendment) Act, 1991.

¹³ Inserted by the BIADA (Amendment) Act, 2017.

¹⁴ Inserted by the BIADA (Amendment) Act, 2017.

¹⁵ Inserted by the BIADA (Amendment) Act, 2017.

¹⁶ Inserted by the BIADA (Amendment) Act, 2017.

upon the cancelled plot or a portion of the plot shall be treated as encroacher and the Authority shall take necessary action in terms of this Act.¹⁷

(5) The State Government may, by notification in the Official Gazette, vest the Authority with powers under any other Act for planning development and maintenance of civic amenities like housing and schools and vacation of encroachment, etc. that are exercisable by any local authority or statutory body or State Agency under any law for the time in force in this regard.

(6) Where, in the opinion of the Authority, as a consequence of any development having been executed by the Authority in any development area, the value of any property in that area which has been benefited by the development has increased, the Authority may, with the prior approval of the State Government, levy upon the owners of the property or any person having interest therein a betterment charge in respect of the increase in value of the property resulting from the execution of the development.

Provided that no betterment charge shall be levied in respect of lands owned by the State or the Central Government.

(7) Such betterment charge shall be an amount, in respect of any property situated in a development area, equal to one-third of the amount by which the value of the property on the completion of the execution of the development scheme, estimated as if the property were clear of building exceeds the value of the property prior to such execution estimated in like manner.

(8) The Authority may in addition to the grants, loans advances or subsidies that may be received from the State Government also borrow from any source, with the prior approval of the State Government.

(9) The Authority may form an Industrial Area Management Committee for effectively managing the Industrial area.¹⁸

(10) The Authority shall have powers:-

- (a) to acquire and hold such property, both movable and immovable as the Authority may deem necessary for the performance of any of its activities;¹⁹
- (b) to purchase by agreement or take on lease or rent or under any form of tenancy any property as per prescribed rules, to erect such buildings and to

¹⁷ Inserted by the BIADA (Amendment) Act, 2017.

¹⁸ Inserted by the BIADA (Amendment) Act, 2017.

¹⁹ Inserted by the BIADA (Amendment) Act, 2017.

execute such other works as may be necessary for the purpose of carrying out its duties and functions;²⁰

7. Financial powers

- (1) The Authority shall have and maintain its own fund to which shall be credited:-
 - (a) All moneys received by the Authority from the State Government by way of grants, loans, advances or otherwise;
 - (b) All fees, rents charges, levy received by the Authority under this Act;
 - (c) All moneys received by the Authority from disposal of its movable and immovable assets;
 - (d) All moneys received by the Authority by way of loan from financial and other institutions and debentures floated for the execution of a scheme or schemes of the Authority duly approved by the State Government.
- (2) Unless the State Government otherwise directs, all moneys received by the Authority shall be credited to its fund which shall be kept with the State Bank of India and any Bank approved by the State Government or Government Securities.
- (3) Such accounts shall be operated upon by such officers of the Authority as may be authorised by it by regulations made in this behalf.²¹
- (4) The Authority shall have the power to spend such sums as it deems fit for the purposes authorised under this Act from out of the general fund of the Authority as the requirement may be.²²
- (5) Notwithstanding anything contained in sub-section (2) and (3) above, the Authority may keep on hand such sum as it thinks fit for its day to day transactions, subject to such limits and conditions as may be prescribed.²³

8. Budget:-

- (1) The Authority shall prepare a budget every year in respect of the financial year next ensuing, showing the estimated receipts and expenditures of the Authority and shall forward to the State Government such number of copies thereof as may be expedient for the purpose of this Act.

- (1a) The Authority shall be competent to make variations in the programme of work in the course of the year, provided that all such variations and re-

²⁰ Inserted by the BIADA (Amendment) Act, 2017.

²¹ Inserted by the BIADA (Amendment) Act, 2017.

²² Inserted by the BIADA (Amendment) Act, 2017.

²³ Inserted by the BIADA (Amendment) Act, 2017.

appropriations out of the sanctioned budget are brought to the notice of the State Government by a Supplementary Financial Statement.²⁴

(1b) The State Government shall, make available such grants, subventions, loans and advances to the Authority as it may deem necessary for the performance of the functions of the Authority under this Act; and all grants, subventions, loans and advances made shall be on such terms and conditions as the State Government may prescribe.²⁵

(2) The Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts including a balance sheet.

(3) The Account of the Authority shall be subject to audit annually by the Accountant General, Bihar, and any expenditure incurred by him in connection with such and it shall be payable by the Authority to the Accountant General, Bihar. The Accountant General shall have all the privileges and Authority in connection with audit of the accounts of the Authority as he is entitled to in connection with audit of the Government accounts.

(4) The accounts of the Authority as certified by the Accountant General, Bihar or any other person appointed by him in this behalf together with the audit report shall be forwarded every year to the State Government along with an annual report.

(5) The Authority shall submit to the State Government an annual report giving a true and full account of its activities, policies and programmes during the previous financial year and forward looking statements in the form prescribed in the Rules within 90 days after the end of each financial year.²⁶

Chapter 4

S.9. Miscellaneous Provisions

(1) The State Government may acquire any land required for the purpose of the Authority, which shall be deemed to be “public purpose” under the prevailing land acquisition laws.²⁷

²⁴ Inserted by the BIADA (Amendment) Act, 2017.

²⁵ Inserted by the BIADA (Amendment) Act, 2017.

²⁶ Inserted by the BIADA (Amendment) Act, 2017.

²⁷ Inserted by the BIADA (Amendment) Act, 2017.

(2) The State Government may by a deed of lease, transfer on terms and conditions as may be decided by the State Government to the Authority any developed or undeveloped land vested in the State of Bihar for the purpose of development or use in accordance with the provisions of the Act.

(3) If any land so placed at the disposal of the Authority under Sub-section (2) is required at any time by the State Government, the Authority shall restore it to the State Government.

S.10. Every Director and every officer and employee of the Authority shall be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code.

S.11. Any money due to the Authority on account of fees, rent or charges or the disposal of land, building or other properties, movable and immovable, or by way of rents and profits, may be recovered by the Authority as areas of land revenue under the Bihar Public Demands Recovery Act, 1914.

S.12. Punishment for encroachment, use of any land or building

(1) Any person who violates any order of the Authority in respect of removal of any structure, encroachment, uses any land or building in contravention of any regulation framed by the Authority in this behalf shall be punishable with fine of rupees five lakhs or 300% of all costs incurred by the Authority whichever is higher²⁸ or simple imprisonment for a term which may extend to six months or both and in case of a continuing offence with further fine which may extend to Rupees five thousand per day²⁹ after conviction..

(2) All fines realized in connection with prosecution under this Act shall be paid to the Authority.

(3) No Court below the rank of a Magistrate of the First Class shall try any offence under this Act.

S.13. Save as aforesaid the provisions of this Act and Rules and Regulations made there under shall have effect notwithstanding anything inconsistent therewith contained to any other law in force in the State.

S.14. The State Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act and in particular provide for -

(a) A removal of encroachments on lands belonging to the Authority;

²⁸ Inserted by the BIADA (Amendment) Act, 2017.

²⁹ Inserted by the BIADA (Amendment) Act, 2017.

- (b) Removal of unauthorized structures;
- (c) Demolition of buildings which may interfere with the planning or which may have been erected in contravention of the Regulations of the Authority;
- (c1) Purchase of land and/or building, take a property on lease or rent.³⁰
- (d) The submission of reports and returns by the Authority to the State Government on matters relating to the duties, power and responsibilities of the Authority;
- (e) The issue of directions by the State Government laying down broad principles for the fulfilment of aims and objects of the Act.

S.15. The Authority may, with the prior approval of the State Government, by a Resolution published in the Official Gazette, make Regulations to carry out the purposes of this Act.

S.16. No suit, prosecution or other legal proceeding shall lie against any person for any action which is in good faith done or intended to be done under this Act, or any rule or regulations made there under.

S.17. When the State Government is satisfied that the purpose for which the Authority was established under this Act has been substantially achieved so as to render the continuance of the Authority unnecessary, the Government may by notification in the Official Gazette, declare that the Authority shall be dissolved with effect from such date as may be specified in the notification and the Authority shall be deemed to be dissolved accordingly from the said date and all the properties, funds and dues realisable by the Authority along with its liabilities shall devolve upon the State Government.

18. Repeal and Savings-

- (1) The Bihar Industrial Area Development Authority Ordinance, 1974 (Bihar Ordinance no. 80. 1974) is hereby repealed.
- (2) Notwithstanding such repeal, anything done or any action taken in exercise of any power conferred by or under the said ordinance shall be deemed to have been taken in the exercise of the power conferred by or under the Act as if the Act were in force on the day of which such thing was done or action was taken in the exercise of powers conferred by or under the Act as if this Act here in force on the day of which such thing was done or action was taken.

³⁰ Inserted by the BIADA (Amendment) Act, 2017.