

WEST BENGAL HOUSING BOARD ACT, 1972

32 of 1972

[13th October, 1972]

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WEST BENGAL HOUSING BOARD ACT, 1972

32 of 1972

[13th October, 1972]

An Act to provide for the constitution of a Housing Board for West Bengal and for matters connected therewith or incidental thereto. WHEREAS it is expedient to provide for the constitution of a

Housing Board for West Bengal and for matters connected therewith or incidental thereto; It is hereby enacted as follows:

CHAPTER 1

Preliminary

1. Short title and commencement :-

(1) This Act may be called the West Bengal Housing Board Act, 1972.

(2) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

2. Definitions :-

In this Act, unless there is anything repugnant in the subject or context,

(1) "Board" means the West Bengal Housing Board constituted under section 3;

1(1A) "Board of Directors" has the same meaning as in clause (6) of section 2 of the Companies Act, 1956;

(2) "Board premises" means any premises belonging to or vested in the Board or taken on lease by the Board or entrusted to the Board for management and use for the purpose of this Act;

(3) "Building materials" means such commodities or articles as are specified by the State Government by notification in the Official Gazette to be building materials for the purposes of this Act;

(4) "by-laws" means by-laws made by the Board under section 44;

(5) "Chairman" means the Chairman of the Board;

2(5A) "company" means a company as defined in section 3 of the Companies Act, 1956;

(6) "Corporation" means the Municipal Corporation of Calcutta or the Municipal Corporation of Howrah or Chandernagore;

2(6A) "director" has the same meaning as in clause (13) of section 2 of the Companies Act, 1956;

2(6B) "existing joint sector company" means a joint sector company which is carrying on business on the date of coming into force of the West Bengal Housing Board (Amendment) Act, 1993;

(7) "Housing Commissioner" means the Housing Commissioner appointed under section 12;

(8) "housing scheme" means a housing scheme made under this Act ⁵[,and includes any housing scheme entrusted to the Board by the State Government under sub-section (2) of section 17];

2 (8A) "joint sector company", means a company in relation to which fifty per cent of directors of the Board of Directors is nominated by the State Government;

(9) "land" includes benefits to arise out of land and things attached to the earth or permanently fastened to anything attached to the earth;

(10) "Land Acquisition Act" means the Land Acquisition Act, 1894 or the West Bengal Land (Requisition and Acquisition) Act, 1948;

(11) "member" means the chairman [, the Vice-Chairman] or any other member of the Board;

(12) "municipality" means a municipality (including a notified area) constituted under the Bengal Municipal Act, 1932;

(12A) "new joint sector company" means a joint sector company formed and registered on or after the date of coming into force of the West Bengal Housing Board (Amendment) Act, 1993;

(13) "premises" means any land or building or part of a building and includes,

(i) gardens, grounds and out-houses, if any, appertaining to such building or part of a building, and

(ii) any fittings affixed to such building or part of a building for the more beneficial enjoyment thereof;

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

(15) "regulations" means regulations made by the Board under section 43;

(16) "year" means the year commencing on the 1st day of April and ending on the 31st day of March.

1. Clause (1A) ins. by W.B. Act 14 of 1993

2. Clauses (5A), (6A), (6B), (8A) and (12A) ins. by W.B. Act 14 of 1993.

5. Words, figures and brackets ins. by W.B. Act 28 of 1989 w.e.f. 30.6.1989.

CHAPTER 2

Establishment of the Board

3. Constitution of the Board :-

(1) The State Government shall, by notification in the Official Gazette, constitute for the purposes of this Act a Board by the name of the West Bengal Housing Board.

(2) The Board shall be a body corporate having perpetual succession and a common seal and may sue and be sued in its corporate name and shall be competent to acquire and hold property both movable and immovable, enter into contract and do all things necessary for the purposes of this Act.

(3) For the purposes of this Act and the Land Acquisition Act the Board shall be deemed to be a local authority.

4. Application of West Bengal Act 12 of 1956 :-

For the removal of doubts, it is hereby declared that the West Bengal Premises Tenancy Act, 1956

(a) shall not apply to any land or building belonging to or vested in the Board;

(b) shall not apply as against the Board to any tenancies or other like relationship created by the Board in respect of such land or building;

(c) but shall apply to any land or building let out in favour of the Board.

5. Members of the Board and their resignation or removal :-

(1) The Board shall consist of a Chairman who shall be the Minister-in-charge of the Housing Department of the State Government and a Vice-Chairman to be appointed by the State Government and the following other members, that is to say,

(a) ¹(i) Secretary, in-charge of Town and Country Planning Branch of the Development and Planning Department, ex officio,

¹(ii) Secretary, Finance Department, ex officio,

(iii) Secretary, Housing Department, ex-officio,

(iv) Housing Commissioner, ex officio; and

(b) five other persons appointed by the State Government;

Provided that the State Government may appoint a whole-time Government servant to act as the Vice-Chairman of the Board in addition to his own duties.

(2) The names of the Vice-Chairman and other members appointed under sub-section (1) shall be published in the Official Gazette.

(3) A member of the Board may at any time resign his office by writing under his hand addressed to the State Government:

Provided that the resignation shall not take effect until it is accepted.

(4) The State Government may, by notification in the Official Gazette, remove from office the Vice-Chairman or any other member **3 * * * *******

1. Clauses (1) and (ii) first subs. by W.B. Act 35 of 1973. Thereafter the present clauses (I) and (11) subs by W.B. Act 61 of 1978. Previous clauses (1) and (11) were as under: "(1) Commissioner. Development and Planning (Town and Country Planning) Department, ex-officio. (II) Financial Commissioner and Secretary, Department of Finance, ex-officio".

3. The words, figure, letters and brackets "who (a) Is, or has become, subject to any of the disqualifications mentioned in section 6; or (b) in the opinion of the State Government, has been guilty of any misconduct or neglect or has so abused his position as to render his continuance as member detrimental to the Interests of the Board or of the general public or Is otherwise unfit to continue as member: Provided that no person shall be so removed from office unless he has been given an opportunity to show cause against such removal." om. by W.B. Act 40 of 1976.

6. Disqualification for appointment as a member of the Board :-

A person shall be disqualified for being appointed for continuing as the Vice-Chairman or a member of the Board, if he

(a) is of unsound mind,

(b) is an uncertificated bankrupt or an undischarged insolvent,

(c) has directly or indirectly by himself or by any partner, any share or interest in any contract or employment, as the case may be, with, by or on behalf of, the Board, or

(d) is a Director, Secretary, Manager or other salaried officer of any incorporated company which has any share or interest in any contract or employment, as the case may be, with, by or on behalf of, the Board, or

(e) has been or is convicted of any offence involving moral turpitude:

Provided that a person shall not be disqualified under clause (c) or clause (d) or be deemed to have any share or interest in any incorporated company which has any share or interest in any contract or employment, as the case may be, with, by or on behalf of, the Board, by reason only of his being a shareholder of such company if such person discloses to the State Government the nature and extent of the shares held by him.

7. Term of office and conditions of service of Vice-Chairman and other members :-

(1) The Vice-Chairman and every other member not being an ex-officio member shall hold office for a period of three years from the date of his appointment as Vice-Chairman or, as the case may be, other member:

Provided that the State Government may extend the said period by a further period not exceeding one year:

Provided further that after the expiry of the period of his appointment a person shall, unless disqualified, be eligible for re-appointment as Vice-Chairman or other member.

(2) Every member shall receive such allowances as may be prescribed.

(3) The Vice-Chairman may hold office in an honorary capacity or on payment of remuneration. Such remuneration and all other terms and conditions of service shall be such as may be prescribed.

(4) The allowances to the members and the remuneration, if any, to the Vice-Chairman shall be paid from the fund of the Board.

8. Cessation of membership :-

If a member,

(a) tenders his resignation in writing to the State Government, or

(b) is absent without the permission of the Board from all the

meetings of the Board for a period of three successive months, he shall cease to be a member.

9. Filling of vacancies :-

Any vacancy of a member shall be filled as early as practicable:

Provided that during any such vacancy the other members may act, as if no vacancy had occurred.

10. Proceedings presumed to be good and valid :-

No disqualification or defect in the appointment of any person acting as Vice-Chairman or other member shall be deemed to violate any act or proceeding of the Board, if such act or proceeding is otherwise in accordance with the provisions of this Act.

11. Temporary absence of members :-

If any member including the Vice-Chairman is by infirmity or otherwise rendered temporarily incapable of carrying out his duties or is absent on leave or otherwise, not involving the vacation, of his appointment, the State Government may appoint another person to officiate for him and carry out his functions under this Act or any rule or regulation made thereunder.

12. Officers and other staff :-

(1) The Board shall have a Housing Commissioner, who shall be the Chief Executive ¹ * * * * * and such other officers and employees as the Board may consider necessary for the efficient performance of its functions.

(2) The appointment of the Housing Commissioner shall be made by the State Government and the appointment of other officers and employees of the Board shall be made by the Board:

Provided that the Board shall not appoint any officer in a scale of pay the maximum of which exceeds two thousand rupees a month, without obtaining the previous sanction of the State Government.

1. Words "and one or more Assistant Housing Commissioners," om. by W.B. Act 35 of 1980.

12A. Powers and duties of the Housing Commissioner and other officers :-

1

(1) The Housing Commissioner and other officers shall perform such duties as may be assigned to them by the Board.

(2) The Board may, from time to time, by order delegate, under such restriction, if any, as it may think fit to impose, any of its powers conferred on it by this Act, to the Housing Commissioner and to other officers of the Board specified in the order.

1. Sec. 12A ins. by W.B. Act 35 of 1973.

13. Employment of staff of the State Government :-

(1) The Board shall take over and employ such staff of the State Government in the Housing and other Departments as the State Government may make available and every person so taken over and employed shall be subject to the provisions of this Act and the regulations made thereunder:

Provided that during the period of such employment all matters relating to the pay, allowances, leave, retirement, pensions, provident fund and all other terms and conditions of service of the members of the said staff shall be regulated by the "West Bengal Service Rules or such other rules on the subject as may from time to time be made by the State Government.

(2) All permanent Government servants taken over and employed by the Board under sub-section (1) shall have a lien on their posts in the service of the State Government and the period on their service under the Board shall, on their reversion to the service of the State Government, be counted for their promotion, increments, pension and other matters relating to their service.

14. Meetings of Board :-

The Board shall meet and shall from time to time make such arrangements with respect to the day, time, notice and adjournment of its meetings as it thinks fit, subject to the following conditions, namely

(a) an ordinary meeting shall be held at least once every month,

(b) the Chairman may, whenever he thinks fit, call a special meeting,

(c) the quorum for every meeting shall be five:

1 Provided that when a meeting has been adjourned to another date for want of quorum, no quorum shall be necessary in the case of the adjourned meeting,

(d) every meeting shall be presided over by the Chairman and, in

his absence, by the Vice-Chairman and in the absence of both Chairm an and Vice-Chairman by any mern'ber chosen by the members present,

(e) all questions at any meeting shall be decided by a majority of the members present and in case of equality of votes, the person presiding shall have and exercise a second or casting vote,

(f) the minutes of the proceedings of each meeting shall be recorded in a book to be provided for the purpose.

1. Proviso ins. by W.B. Act 35 of 1973.

15. Execution of contract :-

(1) Every contract made by the Board shall be entered into in such manner and in such form as may be prescribed and be signed by the Chairman on behalf of the Board:

Provided that

(a) no contract involving an expenditure of ¹[rupees one crore] or more shall be made without the previous sanction of the State Government,

(b) any contract involving an expenditure up to ² [rupees fifty thousand] may, in case of urgency, be made by the Chairman without the previous sanction of the Board but shall be referred to the Board at the earliest opportunity.,

(2) Sub-section (1) shall apply to every variation of abandonment of a contract as well as to an original contract.

1. Words subs, for the words "rupees fifty lakhs" by W.B. Act 40 of 1976.

2. Words subs, for the words "rupees twenty thousand" by W.B. Act 40 of 1976.

15A. Exercise of the powers of the Board by the Chairman :-

¹ Without prejudice to the provisions of clause (b) of the proviso to sub-section(1) of section 15, the State Government may, by a notification published in the Official Gazette, direct that the Chairman may exercise all or any of the powers exercisable by the Board under this Act as may be specified in the notification:

Provided that when power under this section has been exercised, the Chairman shall make a report to the Board at its next meeting indicating the circumstances under which such power has been

exercised.

1. Sec. ISA Ins. by W.B. Act 35 of 1973.

16. Delegation of Boards power to sign contracts :-

Subject to any rule which the State Government may make in this behalf, the Board may by order direct that the power to sign a contract shall be exercisable also by the Housing Commissioner or any other officer specified by it in the order.

CHAPTER 3

Housing schemes

17. Powers and duties of Board to undertake housing schemes :-

(1) Subject to the provisions of this Act the Board may, from time to time, incur expenditure and undertake works for the framing and execution of such housing schemes as it may consider necessary and such housing schemes may include housing schemes in relation to lands and buildings vested in or in the possession of the State Government.

(2) The State Government may, on such terms and conditions as it may think fit to impose, entrust to the Board the framing and execution of any housing scheme ¹[, whether provided for by this Act or not,] and the Board shall thereupon undertake the framing and execution of such scheme.

(3) The Board may, on such terms and conditions as may be agreed upon and with the previous approval of the State Government, take over for execution any housing scheme, on behalf of a local authority or co-operative society, or on behalf of an employer, for building houses mainly for the residence of the employees of such local authority, co-operative society or employer, as the case may be ² [or for the residence of the members of such co-operative society].

1. Words Ins. by W.B. Act 28 of 1989 w.e.f. 30.6.1989.

2. Words ins. by W.B. Act 35 of 1973.

18. Matters to be provided for by housing schemes :-

Notwithstanding anything contained in any other law for the time being in force, a housing scheme may provide for all or any of the following matters, namely:

(a) the acquisition by purchase, exchange or otherwise of any

property necessary for the scheme;

(b) the construction and reconstruction of buildings;

(c) the sale, letting out or exchange of any property included in the scheme;

(d) roads, drainage, water-supply, lighting, ¹[schools, hospitals, dispensaries, market places,] parks, playgrounds and open spaces within a housing scheme;

(e) the reclamation or reservation of lands for markets, gardens, schools, dispensaries, hospitals and other amenities in a housing scheme;

(f) the letting out, management and use, of the Board premises;

(g) accommodation for any class of inhabitants;

(h) the advancing of money for the purpose of the scheme;

(i) the collection of such information and statistics as may be necessary for successful implementation of the scheme;

2 (ia) development of any urban or rural area for successful implementation of housing schemes and for purposes ancillary or incidental thereto;

(j) any other matter for which, in the opinion of the Board or the State Government, it is expedient to make provision with a view to providing housing accommodation and to improving or developing of any area included in a housing scheme.

1. Words ins. by W.B. Act 35 of 1973.

2. Clause (ia) ins. by W.B. Act 35 of 1973.

19. Submission of budget to Board :-

(1) The Chairman shall, at a special meeting ¹ [to be held within the fifteenth day of the month of February in each year], lay before the Board, a budget of the Board for the next year.

(2) Every such budget shall be prepared in such form as may be prescribed and shall make provision for

(i) the housing schemes which the Board proposes to execute whether in part or in whole during the next year.

(ii) the due fulfilment of all the liabilities of the Board, and

(iii) the efficient administration of this Act, and shall contain a statement showing the estimated receipts and expenditure on capital and revenue accounts for the next year, and such other particulars as may be prescribed.

1. Words subs, for the words "to be held in the month of February in each year" by W.B. Act 35 of 1973.

20. Boards sanction to budget :-

The Board shall consider the budget laid before it and sanction it with or without modifications.

21. Submission of budget to State Government for approval :-

(1) Every budget sanctioned by the Board shall be submitted to the State Government for approval. ¹ [Within such time as may be prescribed,] the State Government may approve the budget as sanctioned by the Board or return it to the Board for making such modifications therein as the State Government may deem fit.

(2) Where a budget is returned to the Board by the State Government for making any modifications therein, the Board shall forthwith make such modifications and submit the budget as so modified to the State Government, which may then approve the same

1. Words subs, for the words "At any time after the receipt of the budget," by W.B. Act 35 of 1973.

22. Supplementary budget :-

The Chairman may, at any time during the year for which a budget has been approved by the State Government, lay before the Board a supplementary budget and the provisions of sections 19, 20 and 21 shall apply to such supplementary budget.

23. Publication and execution of housing scheme :-

After the budget is approved by the State Government, the Board shall cause the housing schemes, in respect of which provision is made in the budget, to be published in the Official Gazette in such manner as may be prescribed and proceed to execute such schemes.

24. Variation of housing schemes :-

The Board may at any time vary any housing schemes or any part thereof included in the budget approved by the State Government:

Provided that no such variation shall be made except with the approval of the State Government if it involves an expenditure in excess of 10 per cent of the amount as included in the budget approved by the State Government for the execution of any housing scheme.

25. Transfer of open space to local authorities :-

(1) When any open space for the purpose of ventilation or recreation has been provided by the Board in executing any housing scheme, the Board may, at its option by resolution, transfer such open space to the local authority concerned on completion of the scheme and thereupon such open space shall vest in and be maintained at the expense of the local authority:

Provided that local authority may require the Board before any such" open space is so transferred to enclose, level turf, drain and lay-out such space and provide foot-paths therein, and if necessary, to provide lamps and other apparatus for lighting it.

(2) If any difference of opinion arises between the Board and the local authority concerned in respect of any matter referred to in sub-section (1) the matter shall be referred to the State Government whose decision thereon shall be final.

26. Other duties of the Board :-

1(1) The Board shall take necessary measures to maintain, allot, lease, sell or otherwise use the Board premises in such manner as it may decide and shall collect rent, price, compensation and damages in respect thereof.

(2) The Board may,

(i) provide technical advice to the State Government and scrutinize projects under housing schemes when required by the State Government to do so;

(ii) undertake research on various problems connected with housing in general and find out in particular the economical methods of constructing houses suited to local conditions;

(iii) undertake comprehensive surveys on problems of housing;

(iv) do all things for

(a) unification, simplification and standardisation of building

materials;

(b) encouraging pre-fabrication and mass production of house components;

(c) organising or undertaking the production of building materials for residential or non-residential houses;

(d) securing a steady and sufficient supply of workmen trained in the work of construction of buildings ²[and for the manufacture of building materials].

(3) Subject to such rules as may be made in this behalf the Board may, from time to time, ³* * * * * appoint one or more committees, or invest any local or other authority for the purpose of discharging such duties or performing such functions as it may delegate to them and any such Committee or local or other authority may discharge such duties or perform such functions ⁴ [accordingly].

1. Sub-sec. (1) subs, by W.B. Act 40 of 1976. Original sub-sec; (1) was as under: "(1) It shall be the duty of the Board to take necessary measures to maintain, allot, lease and otherwise the Board premises and to collect rent, compensation and damages In respect thereof."

2. Words ins. by W.B. Act 40 of 1976.

3. Words "and for any particular area," om. by W.B. Act 35 of 1973.

4. Word subs, for the words "with due regard to the circumstances and requirements of that particular area" by W.B. Act 35 of 1973.

27. Power to exempt schemes from provisions of this Act :-

The State Government may, by general or special order published in the Official Gazette, exempt any housing scheme undertaken by the Board from all or any of the provisions of this Act subject to such conditions, if any, as it may impose or may direct that any such provision shall apply to such scheme with such modifications as may be specified in the order.

27A. Power to entrust existing, or new, joint sector company with housing scheme :-

¹ Notwithstanding anything contained in this Act, the Board may, if it considers it necessary so to do in the public interest and is satisfied that an existing, or new, joint sector company is willing to comply, or has complied, with such terms and conditions as the State Government may think fit to impose, entrust, with the

previous approval of the State Government, any existing, or new, joint sector company with any housing scheme for execution, and different existing, or new, joint sector companies may be so entrusted with different housing schemes for execution.

1. Sec. 27A ins. by W. B. Act 14 of 1993.

CHAPTER 4

Acquisition and disposal of land

28. Power to acquire :-

1

(1) Where any land is needed for the purpose of a housing scheme or for performing any other duties or functions of the Board, the Board may enter into an agreement with any person for the acquisition by purchase, lease or exchange, of his rights and interests in such land either wholly or in part, on payment of an amount proportionate to the loss or deprivation caused to the enjoyment of the land.

(2) The Board may also take steps for the compulsory acquisition of any land or any interest therein required for the execution of a housing scheme or for performing any other duties or functions of the Board and such acquisition of any land or any interest therein shall be deemed to be acquisition for a public purpose within the meaning of the Land Acquisition Act.

1. Sec. 28 subs, by W.B. Act 40 of 1976. Original Sec. 28 was as under: "28. Power to purchase or lease by agreement. (1) Where land is needed for the purpose of housing scheme the Board may enter into an agreement with any person for the acquisition by purchase, lease or exchange, of his rights and interests in such land either wholly or in part only, on payment of compensation proportionate to the loss or deprivation caused to the enjoyment of the land. (2) The Board may also take steps for the compulsory acquisition of any land or any interest therein required for the execution of a housing scheme in the manner provided in the Land Acquisition Act, and the acquisition of any land or any interest therein for the purposes of this Act shall be deemed to be acquisition for a public purpose within the meaning of the Land Acquisition Act."

CHAPTER 5

Finance, accounts and audit

29. Transfer of assets to the Board :-

(1) Such assets and liabilities of the State Government which the

State Government may decide to transfer to the Board on such terms and conditions as may be prescribed shall, with effect from the date of notification made by the State Government in this behalf, stand vested in and transferred to, the Board.

(2) All debts and expenditure incurred, all contracts entered into and all matters and things engaged to be done by, with or for the State Government in respect of the assets and liabilities transferred under sub-section (1) before and up to the date of transfer shall be deemed to have been incurred, entered into or engaged to be done with or for the Board and all suits and other legal proceedings instituted or which may be instituted by or against the State Government in respect of such assets shall be continued or instituted by or against the Board, as the case may be.

30. Boards fund :-

(1) The Board shall have a fund to be called the Housing Board Fund.

(2) The Board may accept grants, subventions, donations and gifts from the Central or the State Government, or a local authority or any individual or body, whether incorporated or not, for all or any of the purposes of this Act.

(3) The State Government shall every year make a grant to the Board of the amount required to meet the administrative expenses of the Board for a period of three years from the date of the constitution of the Board.

(4) All moneys received by or on behalf of the Board, all proceeds of sale of land or any other property, all rents, betterment charges and all interests, profits and other moneys securing to the Board shall be deposited in the fund of the Board.

(5) Except as otherwise directed by the State Government, all moneys and receipts specified in the foregoing provisions and forming part of the fund of the Board shall be deposited in the Reserve Bank of India or in any branch of the State Bank of India or invested in such securities as may be approved by the State Government.

(6) The bank account or any cash or security of the Board shall be operated or handled by such officers as may be authorised by the Board.

31. Application of the fund :-

All property, fund and all other assets vested in the Board shall be held and applied by it, subject to the provisions and for the purposes of this Act.

32. Expenditure in case of urgency :-

(1) Where in the opinion of the Board, circumstances of extreme urgency have arisen it shall be lawful for the Board to make in any year,

(a) recurring expenditure not exceeding fifty thousand rupees, and

(b) non-recurring expenditure not exceeding two lakhs of rupees.

(2) Where any sum is expended under circumstances of extreme urgency as provided in sub-section (1), a report thereof indicating the source from which it is proposed to meet the expenditure shall be made by the Board as soon as practicable, to the State Government.

33. Subventions and loan to the Board :-

(1) The State Government may from time to time make subventions to the Board for the purposes of this Act on such terms and conditions as the State Government may determine.

(2) The State Government may from time to time advance loans to the Board on such terms and conditions not inconsistent with the provisions of this Act as the State Government may determine.

34. Power of Board to borrow :-

(1) The Board may from time to time, with the previous sanction of the State Government and subject to the provisions of this Act and to such conditions as may be prescribed in this behalf, borrow any sum required for the purposes of this Act.

(2) The rules made by the State Government for the purposes of this section may empower the Board to borrow by the issue of debentures and to make arrangements with bankers.

(3) All debentures issued by the Board shall be in such form as the Board, with the sanction of the State Government, may from time to time determine.

(4) Every debenture shall be signed by the Chairman and one other member of the Board.

(5) Loans borrowed and debentures issued under this section may be guaranteed by the State Government as to the repayment of principal and the payment of interest at such rate as may be fixed by the State Government.

34A. Debts incurred from the State Government, banks, etc., to have priority :-

Notwithstanding anything contained in any other law for the time being in force, every debt arising out of any loan obtained by the Board from the State Government and banks and other financial institutions for carrying out the purposes of this Act

(a) shall have priority over all other debts, whether secured or unsecured, incurred by the Board, and

(b) shall be a preferential debt within the meaning of section 530 of the Companies Act, 1956, and such debts shall rank equally amongst themselves and be paid in full out of the assets of the Board unless such assets are insufficient to meet them in which case they shall abate in equal proportions.

35. Accounts and audit :-

(1) The Board shall cause to be maintained proper books of accounts and such other books as the rules may require and shall prepare in accordance with the rules an annual statement of accounts.

(2) The Board shall cause its account to be audited annually by an auditor to be appointed by the State Government. The auditor so appointed shall have the right to demand the production of books, accounts, vouchers, documents and other papers, and to inspect any of the offices of the Board.

(3) As soon as the accounts of the Board have been audited, the Board shall send a copy thereof together with a copy of the report of the auditor thereon to the State Government, and shall cause the accounts to be published in the prescribed manner and place copies thereof on sale at a reasonable price.

(4) The Board shall comply with such directions as the State Government may, after perusal of the report of the auditor, think fit to issue.

36. Concurrent and special audits of accounts :-

(1) Notwithstanding anything contained in section 35, the State Government may order that there shall be a concurrent audit of the accounts of the Board by such person as it thinks fit. The State Government may also direct a special audit to be made by such person as it thinks fit of the accounts of the Board relating to any particular transaction or a class or series of transactions or to a particular period.

(2) When an order is made under sub-section (1), the Board shall present or cause to be presented for audit such accounts and shall furnish to the person appointed under sub-section (1) such information as the said person may require for the purpose of audit and remedy or cause to be remedied the defects pointed out by such person, unless they are condoned by the State Government.

36A. Recovery of dues of Board :-

¹ Any sum due to the Board from any individual, firm, company, or association, or body of individuals, whether incorporated or not, shall be recoverable as an arrear of land revenue in the manner provided in the Bengal Public Demands Recovery Act, 1913.

1. Sec. 36A ins. by W.B. Act 14 of 1993.

CHAPTER 6

Miscellaneous

37. Report to State Government :-

The Board shall, before such date and in such form and at such interval as may be prescribed, submit to the State Government a report on such matters as may be prescribed and the State Government shall cause such report to be published in the Official Gazette.

38. Other statements and returns :-

The Board shall also submit to the State Government such statistics, returns, particulars, statements, documents or papers in regard to any proposed or existing scheme or relating to any matter or proceedings connected with the working of the Board at such times and in such form and manner as may be prescribed or as the State Government may from time to time direct.

39. Power of entry :-

The Chairman or any person either generally or specially authorised by the Chairman in this behalf may, with or without assistance of workmen, enter into or upon any land, in order

- (a) to make any inspection, survey, measurement, valuation or inquiry;
- (b) to take levels;
- (c) to dig or bore into the sub-soil;
- (d) to set boundaries and intended lines of work;
- (e) to do any other things; when it is necessary to do so for nay of the purposes of this Act or any rules made or scheme sanctioned thereunder:

Provided that

- (i) no such entry shall be made between sunset and sunrise;
- (ii) no dwelling house and no public building which is used as a dwelling place, shall be so entered, unless with the consent of the occupier thereof, and without giving the said occupier at least twenty-four hours' previous written notice of the intention to make such entry;
- (iii) sufficient notice shall in every instance be given to enable the female inmates of any apartment to remove themselves to some part of the premises where their privacy will not be disturbed;
- (iv) due regard shall always be had, so far as may be compatible with the exigencies of the purpose for which the entry is made, to the social and religious usages of the occupants of the premises entered.

40. Notice of suit against Board :-

No person shall commence any suit against the Board or against any officer or employee of the Board or any person acting under the orders of the Board, for anything done or purporting to have been done in pursuance of this Act, without giving to the Board, officer or employee or person two months' previous notice in writing of the intended suit and of the cause thereof, nor after six months from the date of the act complained of.

41. Valuation of assets and liabilities of the Board :-

The Board shall at the end of every five years have a valuation of its assets and liabilities made by a valuer appointed with the approval of the State Government: Provided that it shall be open to the State Government to direct a valuation to be made at any time it may consider necessary.

42. Power to make rules :-

(1) The State Government may, by notification in the Official Gazette and subject to the condition of previous publication, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power such rules may provide for all or any of the following purposes, namely:

(a) the allowances of members and remuneration and conditions of service of the Vice-Chairman under section 7;

(b) the manner and form in which contracts shall be entered into under sub-section (1) of section 15;

(c) the form of the annual budget to be laid before the Board under section 19 and the other particulars to be contained therein;

1 (cl) the time within which the State Government may approve or return the budget to the Board under sub-section (1) of section 21;

(d) the manner of publication of housing schemes included in the budget under section 23;

(e) the terms and conditions on which assets of the State Government may be transferred to the Board under section 29;

(f) the conditions subject to which the Board may borrow any sum under section 34;

(g) the manner of preparation, maintenance and publication of accounts under section 35;

(h) the date before which, the form in which, the interval at which and the matters on which reports shall be submitted under section 37;

(i) the time at which and the form and manner in which statistics, returns, particulars, statements, documents and papers shall be submitted under section 38;

(j) the manner in which the Board shall be superseded and reconstituted under section 52;

(k) any other matter which is to be or may be prescribed under this Act.

1. Clause (cl) Ins. by W.B. Act 35 of 1973.

43. Regulations :-

(1) The Board may time to time, with the previous sanction of the State Government, make regulations consistent with this Act and with any rules made under this Act.

(2) Such regulations may provide for

(a) the management and use of buildings constructed under any housing scheme;

(b) the principles to be followed in allotment of tenements and premises;

(c) regulating its procedure and the disposal of its business;

1 (c) the conditions of service of the employees of the Board other than those taken over and employed under sub-section (1) of section 13.

(3) If it appears to the State Government that it is necessary or desirable for carrying out the purposes of this Act to make any regulation in respect of matters specified in sub-section (2) or to amend any regulation made under that sub-section, it may call upon the Board or make such regulation or amendment within such times as it may specify. If the Board fails to make such regulation or amendment within the time specified, the State Government may itself make such regulation or amendment and the regulation or the amendment so made shall be deemed to have been made by the Board under sub-section (1).

1. Clause (d) ins. by W.B. Act 40 of 1976.

44. Power to make by-laws :-

(1) The Board may, with the previous sanction of the State Government, make by-laws, not inconsistent with this Act and rules which may be necessary or expedient for the purpose of carrying out its duties and functions under this Act.

(2) A by-law made under this section may provide that a contravention thereof shall be an offence.

(3) All by-laws made under this section shall be published in the Official Gazette.

45. Penalty for contravention of by-laws :-

Whoever contravenes a by-law made under section 44 shall, on

conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

46. Penalty for obstructing, etc :-

If any person

(a) obstructs, or molests any person with whom the Board has entered into a contract, in the performance or execution of his duty or of anything which he is empowered or required to do under this Act, or

(b) removes any mark set up for the purpose of indicating any level or direction necessary to the execution of works authorised under this Act, he shall, on conviction, be punished with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.

47. . Authority for prosecution :-

Unless otherwise expressly provided no Court shall take cognizance of any offence punishable under this Act except on the complaint of, or upon information received from, the Board or some person authorised by the Board by general or special order in this behalf.

48. Members, officers and employees of- the Board to be public servants :-

All members, officers and employees of the Board shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code.

49. Protection of action taken under this Act :-

No suit, prosecution or other legal proceedings shall lie against any person for anything which in is good faith done or purported to be done under this Act.

50. Power of State Government to give direction to Board :-

The State Government may give the Board such directions as in its opinion are necessary or expedient for carrying out the purposes of this Act. It shall be the duty of the Board to comply with such directions.

51. Power to order inquiries :-

(1) The State Government with a view to satisfying itself that the powers and duties of the Board are being exercised and performed

properly, may, at any time, appoint any person or persons to make inquiries into all or any of the activities of the Board in such manner as may be prescribed and to report to the State Government the result of such inquiries.

(2) The Board shall give to the person, or persons so appointed all facilities for the proper conduct of the inquiries and shall produce before the person or persons any document, account or information in the possession of the Board, which such person or persons demand for the purposes of the inquiries.

52. Default in performance of duty :-

(1) If the State Government is satisfied that the Board has made default in performing any duty imposed on it by or under this Act, it may fix a period for the performance of that duty.

(2) If in the opinion of the State Government the Board fails or neglects to perform such duty within the period so fixed for its performance, it shall be lawful for the State Government, to supersede and reconstitute the Board in the manner as may be prescribed.

(3) After the supersession of the Board and until it is reconstituted the powers, duties and functions of the Board under this Act shall be carried on by the State Government or by such officer or officers as the State Government may appoint for this purpose.

53. Dissolution of the Board :-

(1) The State Government may, by notification in the Official Gazette, declare that, with effect from such date as may be specified in the notification, the Board shall be dissolved.

(2) With effect from the date specified in the notification under sub-section (1)

(a) all properties, funds and dues which are vested in or realizable by the Board shall vest in and be realizable by the State Government;

(b) all liabilities enforceable against the Board shall be enforceable against the State Government to the extent of the properties, funds and dues vested in and realized by the State Government.

(3) Nothing in this section shall affect the liability of the State Government in respect of loans or debentures guaranteed under

sub-section (5) of section 34.