

## **GUJARAT RURAL HOUSING BOARD ACT, 1972**

**22 of 1972**

**[10th November, 1972]**

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## **GUJARAT RURAL HOUSING BOARD ACT, 1972**

**22 of 1972**

**[10th November, 1972]**

An Act to provide for the establishment of a Gujarat Rural Housing Board in the State of Gujarat. It is hereby enacted in the Twenty-third year of the Republic of India as follows:

### CHAPTER 1

#### Preliminary

#### **1. Short title, extent and commencement :-**

(1) This Act may be called the Gujarat Rural Housing Board Act, 1972.

(2) It extends to the whole of the State of Gujarat.

(3) 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 the context otherwise requires,

(1) "adjoining area" means such area as may be specified to be an adjoining area under Section 27 ;

(2) "agricultural labourer" means an agricultural labourer as defined in the Bombay Tenancy and Agricultural Lands Act, 1948 (Bom. LXVII of 1948);

(3) "Board" means the Gujarat Rural Housing Board constituted under Section 3 ;

(4) "Board premises" means any premises belonging to or vesting in the Board or taken on lease by the Board or entrusted to the Board under this Act for management and use for the purposes of this Act;

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

(6) "bye-laws" means bye-laws made under Section 70 ;

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

(8) "Competent authority" means any person, authorised by the State Government by notification in the Official Gazette to perform the functions of the competent authority under Chapter VI for such area as may be specified in the notification and shall be a person who is holding or has held an office which is not lower in rank than that of a Deputy Collector or the Rural Assistant Housing Commissioner under the Board;

(9) "housing scheme" means a housing scheme made under this Act;

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

(11) "land acquisition law" means the Land Acquisition Act, 1894 (I of 1894) as in force in the State of Gujarat;

(12) "member" means a member of the Board;

(13) "Panchayat" means a gram panchayat, nagar panchayat, taluka panchayat or, as the case may be, a district panchayat as constituted under the Gujarat Panchayat Act, 1961 (Guj. VI of 1962);

(14) "premises" means any land or building or part of a building

and includes

(i) gardens, grounds and outhouses, 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:

(15) "prescribed" means prescribed by rules;

(16) "programme" means the annual housing programme prepared by the Board under Section 29 ;

(17) "regulation" means regulation made under Section 69 ;

(18) "Rent Act" means the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947 Bom. LVII of 1947 as in force in the State of Gujarat;

(19) "rules" means rules made under Section 68 ;

(20) "rural area" means an area which for the time being is not within the limits of a city, municipal borough, cantonment or notified area constituted under any law for the time being in force;

(21) "Schedule Castes" means such castes, races or tribes or parts of or groups within, such castes, races or tribes as are deemed to be Scheduled Castes in relation to the State of Gujarat under article 341 of the Constitution of India;

(22) "Scheduled Tribes" means such tribes or tribal communities or parts of, or groups within, such tribes or tribal communities as are deemed to be Scheduled Tribes in relation to the State of Gujarat under article 342 of the Constitution of India;

(23) "Secretary" means the Secretary of the Board:

(24) "Tribunal" means the Tribunal constituted under Section 45 ;

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

## CHAPTER 2

### Establishment of the Board

### **3. In corporation :-**

(1) With effect from such date as the State Government may, by notification common seal and may sue and be sued in its corporate

name and shall be for the rural areas of the State a Board by the name of the Gujarat Rural 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 and to contract and do all things necessary for the purposes of this Act.

(3) For the purposes of this Act and the land acquisition law the Board shall be deemed to be a local authority.

Explanation: The purposes of this Act referred to in sub-section (3) include the management and use of lands and buildings belonging to or vesting in the Board under or for the purposes of this Act and the exercise of its rights over and with respect to such lands and buildings for the purposes of this Act.

#### **4. Non-Applicability of Rent Act :-**

The Rent Act

(a) notwithstanding anything contained therein shall not apply

(i) to any land or building belonging to or vesting in the Board under or for the purposes of this Act;

(ii) as against the Board to any tenancies or other like relationship created by the Board in respect of such land or building;

(b) shall apply to any land or building let to the Board.

#### **5. Constitution of the Board :-**

(1) The Board shall consist of the Chairman and ten other members appointed by the State Government : Provided that out of such ten other members, five members shall be persons belonging to Scheduled Castes, Scheduled Tribes or socially, economically and educationally <sup>1</sup> ["backward classes, two members shall be persons who possess technical knowledge and experience in the matter of construction of buildings, one member shall be an officer of the Government and one member shall be the Rural Housing Commissioner."]

(2) Any member of the Board may at any time resign his office by submitting his resignation to the State Government:

Provided that the resignation shall not take effect until it is

accepted.

1. Sub. by Guj. 9 of 1985 [11-1-1985].

**6. Grant of leave of absence to Chair man :-**

The State Government may from time to time grant to the Chairman such leave as may be admissible under the rules and any person whom the State Government appoints to act as the Chairman during such absence on leave shall while so acting, be deemed for all purposes of this Act to be the Chairman.

**7. Disqualification for appointment on Board :-**

(1) A person shall be disqualified for being appointed or continuing as the Chairman or member of the Board, if he

(a) holds any office or place of profit under the Board <sup>1</sup>[ x x x ].

(b) is of unsound mind,

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

(d) has directly or indirectly by himself or by any partner, any share or interest in any contract or employment with, by or on behalf of the Board, or

(e) is a director, secretary, manager or other salaried officer of any incorporated company which has any share or interest in any contract or employment with, by or on behalf of the Board.

<sup>2</sup> ["(1A) For the purpose of clause (a) of sub-section (1), a person shall not be deemed to hold office or place of profit under the Board by reason only that he is a Housing Commissioner."]

(2) A person shall not, however, be disqualified under clause (d) or (e) of sub-section (1) or be deemed to have any share or interest in any contract of employment within the meaning of these clauses by reason only

(3) A person shall not also be disqualified under clause (d) or (e) of sub-section (1) or be deemed to have any share or interest in any incorporated company which has any share or interest in any contract or employment with, by or on behalf of the Board by reason only of his being a shareholder of such company: Provided that such person discloses to the State Government the nature and extent of the shares held by him.

1. Words "or the State Govt." dt. by Guj. 9 of 1985.

2. Ins. by Guj. 9 of 1985.

**8. Term of office and conditions of service of members :-**

(1) Every member shall hold office for such period not exceeding three years from the date of his appointment as the State Government may fix: Provided that after the expiry of the period of his appointment a person shall be eligible for re-appointment as a member.

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

(3) The Chairman may hold office in an honorary capacity or on payment of remuneration. If any remuneration is to be paid by the Chairman, such remuneration and other conditions of service shall be such as may be prescribed.

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

**9. Removal of member from office :-**

If a member has been guilty of misconduct in the discharge of his duties or of any disgraceful conduct or abuses his position or makes persistent default in the performance of his duties and functions under this Act or has become incapable of performing his duties under this Act, the State Government may remove him from office after giving him an opportunity of being heard.

**10. Cessation of membership :-**

(1) If a member

(a) becomes subject to any of the disqualifications mentioned in Section 7 .

(b) tenders his resignation in writing to the State Government and such resignation is accepted by the State Government, or

(c) is absent without the permission of the Board from all the meetings of the Board for a period of two successive months, he shall cease to be a member.

(2) In every case where a dispute arises as to whether a member has ceased to be a member or not it shall be decided by the State Government after giving an opportunity of being heard to the member concerned.



**11. Vacancies :-**

Any vacancy of a member, due to death, resignation, removal, disability or disqualification or any other reason shall be filled in as early as possible : Provided that during any such vacancy the continuing members may act as if no vacancy had occurred.

**12. Proceedings presumed to be good and valid :-**

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

**13. Temporary absence of members :-**

If any member of the Board other than the Chairman is by infirmity or otherwise rendered temporarily incapable of carrying out his duties or is absent on leave or on any other ground not resulting in the cessation of his membership, 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 functions.

**14. Appointment of officers and servants :-**

The Board may appoint a Secretary, one or more Rural Assistant Housing Commissioners and a Rural Housing Commissioner and such other officers and servants as it considers necessary for the efficient performance of its functions: Provided that the appointment of a Rural Housing Commissioner and of any other officer whose salary exceeds rupees one thousand and four hundred per mensem shall be subject to the previous approval of the State Government.

**15. Conditions of service of officers and servants :-**

The remuneration and other conditions of service of the Secretary Rural Housing Commissioner and other officers and servants of the Board shall be such as may be determined by regulations.

**16. Provident Fund :-**

(1) The State Government shall establish a provident fund for the Secretary, Rural Housing Commissioner and other officers and servants of the Board, and such provident fund (hereinafter called the said fund) shall, notwithstanding anything contained in S.8 of the Provident Fund Act, 1925 (XIX of 1925), be deemed to be a Government Provident Fund for the purposes of the said Act.

(2) The Board shall in respect of each of its employees who is a

subscriber to the said fund, pay into the said fund such portion of the contribution in such manner as the State Government may from time to time determine.

(3) It shall be lawful for the Board to utilize the moneys in the said fund to defray the cost of executing any housing scheme, subject to such restriction as to the amount to be so utilized as the State Government may, from time to time, by order specify, having regard to the probable requirements, within reasonable proximity of time, of the Board for paying the amount from the said fund to the depositors.

**17. General disqualification of all officers and servants :-**

No person who has directly or indirectly by himself or his partner or general agent any share or interest in any contract, by or on behalf of this Board, or the Gujarat Housing Board constituted under S.3 of the Gujarat Housing Board Act, 1961, (Guj. XXVIII of 1961) or in any employment under, by or on behalf of any of the said two Boards otherwise than as an officer or servant thereof, shall become or remain an officer or servant of the Board.

**18. Appointments of Committees :-**

(1) The State Government may appoint a Rural Housing Advisory Committee. The functions of such Rural Housing Advisory Committee shall be advisory and such as may be determined by the State Government.

(2) Subject to any rules made under Section 68, the Board may from time to time appoint one or more other Committees for the purpose of securing the efficient discharge of its functions and in particular for the purpose of securing that the said functions are exercised with due regard to the circumstances and requirements of particular local areas.

(3) The members of a Committee appointed under this section shall receive such allowances as may be prescribed. Conduct of Business.

**19. Meetings of Board :-**

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

(a) the first meeting of the Board shall be called by the Chairman

as soon as possible after its constitution under Section 5 ; (b) an ordinary meeting shall be held once at least <sup>1</sup> [in every three months];

(c) the Chairman may, whenever, he thinks fit, call special meetings;

(d) every meeting shall be presided over by the Chairman and in his absence, by any member chosen by the meeting to preside for the occasion;

(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; and

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

1. These words were substituted for the words "every months" by Guj. 18 of 1977, s. 2.

## **20. Procedure of Committees :-**

(1) The Rural Housing Advisory Committee shall meet to discharge the functions assigned to it in such manner as may be directed by the State Government:

(2) Any other Committee appointed under sub-section (2) of Section 18 shall meet to discharge the functions assigned to it in such manner as may be directed by the Board. Contracts.

## **21. Power to make contracts :-**

The Board may enter into and perform all such contracts as it may consider necessary or expedient for carrying out any of the purposes of this Act.

## **22. Execution of contracts :-**

(1) Every contract shall be made on behalf of the Board by the Chairman :

Provided that no contract involving an expenditure of rupees twenty five thousand or more shall be made without the previous sanction of the Board.

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

**23. Delegation of Boards power to sanction contracts :-**

Subject to any rules which the State Government may make in this behalf, the Board may by order direct that the power conferred on it under Section 22 to sanction a contract shall be exercised by the Rural Housing Commissioner or any other officer specified by it in the order.

**24. Further provisions as to execution of the contracts :-**

(1) Every contract by the Chairman on behalf of the Board shall, subject to the provision of this section, be entered into in such manner and form as may be prescribed.

(2) A contract not executed as provided in this section and the rules made thereunder shall not be binding on the Board.

**CHAPTER 3**

**Housing Schemes**

**25. Duty of Board to undertake housing schemes :-**

Subject to the provisions of this Act and subject to the control of the State Government the Board may incur expenditure and undertake works in such rural area as the State Government may by notification in the Official Gazette specify for the framing and execution of such housing schemes, including the housing schemes administered by the Social Welfare department of the State Government at the commencement of this Act, as it may consider necessary from time to time or as may be entrusted to it by the State Government.

**26. Inclusion of area other than Rural area in scheme :-**

If the Board while framing a housing scheme in respect of a rural area considers it necessary for the purpose of construction of houses under the scheme to include in the scheme a part of an area which is contiguous to such rural area but which is not a rural area, then, notwithstanding anything contained in Section 25 or any other law for the time being in force, it shall be lawful for the Board, with the previous approval of the State Government to include in the scheme such part and thereupon the part shall be deemed to be a rural area for the purposes of the scheme.

**27. Matters to be provided for by housing schemes :-**

(1) 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 or affected by the execution of the scheme;
- (b) the laying out or relaying out of any land comprised in the scheme;
- (c) the distribution or re-distribution of sites belonging to owners of property comprised in the scheme;
- (d) the closure or demolition of dwellings or portions of dwellings unfit for human habitation;
- (e) the demolition of obstruct buildings or portions of buildings that are an obstruction;
- (f) the construction and re-construction of buildings :
- (g) the sale, letting or exchange of any property comprised in the scheme;
- (h) the construction and alteration of roads, streets, backlanes, bridges, culverts and cause-ways;
- (i) drainage, water supply and lighting of the area included in the scheme;
- (j) shops, schools, parks, playing fields and open spaces for the benefit of any area comprised in the scheme or any adjoining area and the enlargement of existing parks, playing fields, open spaces and approaches;
- (k) sanitary arrangements required for the area comprised in the scheme, including the conservation and prevention of any injury or contamination to rivers or other sources and means of water supply;
- (l) accommodation for members of Scheduled Castes Scheduled Tribes, any socially and educationally backward classes of people, agricultural labourers, economically weaker sections of the people and any other class of inhabitants;
- (m) the advance of money for the purposes of the scheme;
- (n) facilities for communication and transport;
- (o) the collection of such information and statistics as may be necessary for the purposes of this Act;
- (p) any other matter for which, in the opinion of the State

Government it is expedient, to make provision with a view to provide housing accommodation in rural areas and to the improvement or development of any area comprised in the scheme or any adjoining area or the general sufficiency of the scheme.

(2) For the purposes of this section, the State Government may, on the recommendation of the Board, by notification in the Official Gazette specify area surrounding or adjoining the area included in a housing scheme to be the adjoining area.

(3) The Board may execute any of the matters provided in a housing scheme through any independent agency. (2) Sub-section (1) shall apply to every variation or abandonment of a contract or estimate as well as to an original contract or estimate. (2) Sub-section (1) shall apply to every variation or abandonment of a contract or estimate as well as to an original contract or estimate.

**28. No housing scheme to be made for area included in improvement scheme or be inconsistent with town planning scheme :-**

(1) No housing scheme shall be made under this Act for any area for which an improvement scheme has been sanctioned by the State Government under any enactment for the time being in force for the constitution of a municipal corporation for any area in the State of Gujarat, nor shall any housing scheme made under this Act contain anything which is inconsistent with any of the matters included in a town planning scheme sanctioned by the State Government under the Bombay Town Planning Act, 1954 (Bom. XXVII of 1955) or any corresponding law in force in any part of the State.

(2) If any dispute arises whether a housing scheme made under this Act includes any area included in an improvement scheme sanctioned under any such enactment as aforesaid or contains anything inconsistent with any matter included in a town planning scheme sanctioned under the Bombay Town Planning Act, 1954 (Bom. XXVII of 1955) or any corresponding law in force in any part of the State, the decision of the State Government shall be final. Such decision shall be taken within a period of three months.

**29. Preparation and submission of annual housing programme and budget :-**

(1) Before the first day of December in each year, the Board shall

prepare and forward to the State Government in such form as may be prescribed

(i) a programme;

(ii) a budget for the next year.

(2) The programme shall contain

(a) such particulars of housing schemes which the Board proposes to execute whether in part or whole during the next year as may be prescribed;

(b) the particulars of any undertaking which the Board proposes to organize or execute during the next year for the purpose of the production of building materials; and

(c) such other particulars as may be prescribed.

(3) The budget shall contain a statement showing the estimated receipts and expenditure on capital and revenue accounts for the next year.

**30. Sanction to programme and budget :-**

The State Government may sanction the programme and the budget forwarded to it with such modifications as it deems fit. The programme and the budget so sanctioned shall be laid before the State Legislature as soon as may be after they are sanctioned.

**31. Supplementary programme and budget :-**

The Board may, at any time, during the year, in respect of which a programme has been sanctioned under Section 30 submit a supplementary programme and budget to the State Government and the provisions of Section 30 shall apply to such supplementary programme.

**32. Variation of programme by Board after it is sanctioned :-**

The Board may at any time vary any programme or any part thereof included in the programme sanctioned by the State Government: Provided that no such variation as affects the scope or purpose of any housing scheme including in such programme shall be made without the previous sanction of the State Government.

**33. Sanctioned housing scheme to be executed :-**

After the programme has been sanctioned by the State

Government under Section 30 , the Board shall, subject to the provisions of Section 32 proceed to execute the housing schemes included in the programme.

**34. Transfer for purposes of housing scheme of land vested in panchayat :-**

(1) Whenever any street, square or other land or part thereof which is situated in any area within the jurisdiction of a panchayat and is vested in that panchayat is within the area included in the programme sanctioned by the State Government and is required for the purposes of such housing scheme, the Board shall give notice accordingly to that panchayat.

(2) Where the panchayat concurs, such street, square or other land or part thereof shall vest in the Board.

(3) Where there is any dispute the matter shall be referred to the State Government. The State Government, shall after hearing the panchayat concerned, decide the matter. The decision of the State Government shall be final. If the State Government decides that such street, square or land shall vest in the Board, it shall vest accordingly.

(4) Nothing in this section shall affect the rights or powers of the panchayat in or over any drain or water-works in such street, square or land.

**35. Compensation in respect of land vested in the Board :-**

(1) Where any land vests in the Board under the provisions of Section 34 and the Board makes a declaration that such land shall be retained by the Board only until it reverts in the panchayat as part of a street or an open space under Section 38 no compensation shall be payable by the Board to the panchayat in respect of the land.

(2) Where any land vests in the Board under Section 34 and no declaration is made under sub-section (1) in respect of the land the Board shall pay to the panchayat as compensation a sum equal to the value of such land.

(3) If, in any case where the Board has made a declaration in respect of any land under sub-section (1), the Board retains or disposes of the land contrary to the terms of the declaration so that the land does not revert in the panchayat, the Board shall pay to



the panchayat compensation in respect of such land in accordance with the provisions of sub. section (2).

**36. Power of board to turn or close public street vested in it :-**

(1) The Board may turn, divert, discontinue the public use, or permanently close, any public street vested in it or any part thereof.

(2) Whenever the Board discontinues the public use of, or permanently closes any public street vested in it or any part thereof, it shall as far as practicable, provide some other reasonable means of access to be substituted in lieu of the use, by those entitled, of the street or part thereof and pay reasonable compensation to every person who is entitled, otherwise than as a mere member of the public, to use such street or part as a means of access and has suffered damage from such discontinuance or closing.

(3) In determining the compensation payable to any person under sub-section (2) the Board shall make allowance for any benefit accruing to him from the construction, provision or improvement of any other public street at or about the same time that the public street or part thereof, on account of which the compensation is paid, is discontinued or closed.

(4) When any public street vested in the Board is permanently closed under sub-section (1), the Board may sell or lease so much of the same as is no longer required by it.

**37. Reference to the Tribunal in the matter of disputes under section 35 or 36 :-**

If there is any dispute as to whether any compensation is payable under Section 35 or as to the amount of compensation payable under section Section 35 or section Section 36 , as the case may be, the matter shall be referred to the Tribunal.

**38. Vesting in panchayat streets laid out or altered and open space provided by the Board under housing scheme :-**

(1) Whenever the State Government is satisfied

(a) that any street laid out or altered by the Board has been duly levelled paved, mettaled, flagged, channelled, sewerred and drained in the manner provided in the programme sanctioned by the State

Government under Section 30 , and

(b) that such lamps, lamp-posts and other apparatus as the panchayat considers necessary for the lighting of such street and as ought to be provided by the Board has been so provided, and

(c) that water and other sanitary conveniences have been, duly provided in such street, the Government may declare the street to be a public street, and the street shall thereupon vest in panchayat and shall thenceforth be maintained, kept in repair, lighted and cleaned by the panchayat.

(2) When any open space for purposes of ventilation or recreation has been provided by the Board in executing any housing scheme it shall on completion be transferred to the panchayat concerned by resolution of the Board, and shall thereupon vest in and be maintained at the expense of the panchayat:

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

(3) If any difference of opinion arises between the Board and the panchayat in respect of any matter referred to in the foregoing provision of this section, the matter shall be referred to the State Government whose decision shall be final.

### **39. Other duties of the Board :-**

It shall be the duty of the Board to take measure with a view to expediting and cheapening construction of buildings and the Board may for that purpose 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 required for the housing schemes;

(d) encouraging research for discovering cheap building materials and evolving new methods of economic construction;

(e) securing a steady and sufficient supply of workmen trained in the work of construction of buildings.

#### **40. Reconstitution of plots :-**

A housing scheme may provide

- (a) for the formation of a reconstituted plot by the alterations of the boundaries of an original plot;
- (b) with the consent of the owners that two or more original plots each of which is held in ownership in severally or in joint ownership shall, with or without alteration of boundaries be held in ownership in common, as a reconstituted plot;
- (c) for the allotment of a plot to any owner dispossessed of land in furtherance of the housing scheme; and
- (d) for the transfer of ownership of a plot from one person to another.

#### **41. Power to exempt schemes from provisions of sections 29 to 33 :-**

The State Government may, by general or special order published in the Official Gazette, exempt any housing scheme from all or any of the provisions of Section 29 to Section 33 (both inclusive) 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.

#### **CHAPTER 4**

Acquisition and disposal of Land

#### **42. Powers to purchase or lease by agreement :-**

- (1) The Board may enter into an agreement with any person for the acquisition from him by purchase, lease or exchange of any land which is needed for the purposes of a housing scheme or any interest in such land or for compensating the owners of any such right in respect of any deprivation thereof or interference therewith.
- (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 law and the acquisition of any land or any interest thereto for the purposes of this Act shall be deemed to be acquisition for a public purpose within the meaning of the said law.

#### **43. Power to dispose of land :-**

Subject to any rules made by the State Government under this Act, the Board may retain, lease, sell, exchange or otherwise dispose of,

any land, building or other property vesting in it and situate in the area comprised in any housing scheme sanctioned under this Act.

**44. Disputes regarding reconstitution of plots :-**

(1) Where by the making of a housing scheme any plots, comprised in the area included in the scheme are reconstituted or any person is dispossessed, any person affected by such reconstitution or dispossession may apply to the Board for compensation. The Board may after making such inquiry, as it thinks fit, decide whether the applicant is entitled to any compensation and if so to what extent. If the person is dissatisfied with the decision of the Board in the matter he may inform the Board accordingly. The Board shall thereupon refer the matter to the Tribunal.

(2) The Tribunal shall then after making an inquiry determine the amount of compensation and direct the Board to pay the same to the person entitled.

**CHAPTER 5**

**Tribunal**

**45. District Judge to be the Tribunal :-**

The District Judge for each district shall constitute the Tribunal for the purpose of exercising the powers and discharging the duties of the Tribunal under this Act.

**46. Duties of the Tribunal :-**

The Tribunal shall

- (a) decide whether any compensation is payable under Section 35 ;
- (b) decide the amount of compensation in matters referred to it under Section 37 ;
- (c) decide disputes relating to the reconstitution of plots referred to it under Section 44 and the amount of compensation to be awarded in consequence thereof;
- (d) decide such other matters as may be prescribed by rules made in this behalf.

**47. Power of and procedure before Tribunal :-**

(1) In making inquiries under Section 35 , Section 37 and Section 44 , the Tribunal shall have and exercise the same powers as are vested in a Civil Court in respect of

(a) proof of facts by affidavits.

(b) summoning and enforcing the attendance of any person and examining him on oath.

(c) compelling the production of documents, and

(d) issuing commissions for the examination of witnesses.

(2) In all proceedings before the Tribunal, the Tribunal shall follow such procedure as may be prescribed.

(3) Every order made by the Tribunal for the payment, of money and for the delivery of the possession or removal of any structure shall be enforced by the District Court in the jurisdiction of which the land comprised in the housing scheme is situated as if it was the decree of the said court.

(4) The proceedings before the Tribunal shall be deemed to be judicial proceedings within the meaning of Section 193 of the Indian Penal Code, 1860 and 228 of the Indian Penal Code, 1860(XLV of 1860).

#### **48. Decision of Tribunal to be final :-**

(1) The decision of the Tribunal on any matter referred to it under this Act shall be final and shall not be questioned in any court of law.

(2) The Tribunal shall endeavour to give its decision within six months from the date of the reference made to it.

#### **CHAPTER 6**

##### **Power to Evict Persons from Board Premises**

#### **49. Power to evict certain persons from Board Premises :-**

(1) If the competent authority is satisfied

(a) that the person authorised to occupy any Board premises has

(i) not paid rent lawfully due from him in respect of such premises for a period of more than six months, or

(ii) subject, without the permission of the Board the whole or any part of such premises, or

(iii) otherwise acted in contravention of any of the terms, express or implied under which he is authorised to occupy such premises, or

(b) that any person is in unauthorised occupation of any Board premises, the competent authority may, notwithstanding anything contained in any law for the time being in force, by notice served (i) by post, or (ii) by affixing a copy of it on the outer door or some other conspicuous part of such premises, or (iii) in such other manner as may be prescribed, order that person as well as any other person who may be in occupation of the whole or any part of the premises, shall vacate them within one month of the service of the notice.

(2) Before an order sub-section (1) is made against any person the competent authority shall inform the person by notice in writing of the grounds on which the proposed order is to be made and give him a reasonable opportunity of tendering an explanation and producing evidence, if any, and to show cause why such order should not be made, within a period to be specified in such notice. If such person makes an application to the competent authority for extension of the period specified in the notice the competent authority may grant the same on such terms as to payment and recovery of the amount claimed in the notice as it deems fit. Any written statement put in by such person and documents produced in pursuance of such notice shall be filed with the records of the case and such person shall be entitled to appear before the authority proceeding in this connection by advocate, attorney or pleader. Such notice in writing shall be served in the manner provided for service of notice under sub-section (1). :

(3) If any person refuse or fails to comply with an order made under sub-section (1), the competent authority may evict that person from and take possession of, the premises and may for that purpose use such force as may be necessary.

(4) If a person, who has been ordered to vacate any premises on the grounds mentioned in sub-clause (i) or (ii) of clause (a) of sub-section (1) within one month of the date of service of the notice or such longer time as the competent authority may allow, pays to the Board, the rent in arrears or carries out or otherwise complies with the terms contravened by him to the satisfaction of the competent authority as the case may be, the competent authority shall, in lieu of evicting such person under sub-section (3), cancel its order made under sub-section (1) and thereupon such person shall hold the premises on the same terms on which he held them immediately before such notice was served on him.

Explanation. For the purposes of this section and Section 54 the expression 'unauthorised occupation' in relation to any person authorised to occupy any Board premises, includes the continuance in occupation by him or by any person claiming through or under him of the premises after the authority under which he was allowed to occupy the premises has been duly determined.

**50. Power to recover rent or damages arrears of land revenue :-**

(1) Subject to any rules made by the State Government in this behalf without prejudice to the provisions of Section 49 where any person is in arrears of rent payable in respect of any Board premises, the competent authority may, by notice served, (i) by post, or (ii) by affixing a copy for it on the outer door or some other conspicuous part of such premises, or (iii) in such other manner as may be prescribed, order such person to pay the same within such time not being less than ten days as may be specified in the notice. If such person refuses or fails to pay the arrears of rent within the time specified in the notice such arrears may be recovered as arrears of land revenue.

(2) Where any person is in unauthorised occupation of any Board premises the competent authority may, in the prescribed manner assess such damages, on account of the use and occupation of the premises as it may deem fit, and may by notice served (i) by post, or (ii) by affixing a copy of it on the outer door or some other conspicuous part of such premises, or (iii) in such other manner as may be prescribed, order that person to pay the damages within such time as may be specified in the notice. If any person refuses or fails to pay the damages within the time specified in the notice, the damages may be recovered from him as arrears of land revenue.

(3) No order shall be made under sub-section (2) until after the issue of a notice in writing to the person calling on him to show cause, within a reasonable period to be specified in such notice why such order should not be made and until his objections, if any, and any evidence he may produce in support of the same have been considered by the competent authority.

**51. Rent to be recovered from deductions from salary or wages in certain cases :-**

(1) Without prejudice to the provisions of Section 49 , any person

who is an employee of the State Government or a local authority and who has been allotted any Board premises, may execute an agreement in favour of the State Government providing that the State Government or the local authority, as the case may be, under or by whom he is employed, shall be competent to deduct from the salary or wages payable to him such amount as may be specified in the agreement and to pay the amount so deducted to the Board in satisfaction of the rent due by him in respect of the Board premises allotted to him.

(2) On the execution of such agreement the Government or a local authority, as the case may be, shall, if so required by the Board by requisition in writing make the deduction of the amount specified in the requisition from the salary or wages of the employees specified in the requisition in accordance with the agreement and pay the amount so deducted to the Board.

## **52. Appeal :-**

(1) Any person aggrieved by an order of the competent authority under Section 49 or Section 50 may, within one month of the date of the service of the notice under sub-section (1) of Section 49 or sub-section (1) or (2) of Section 50 , as the case may be, prefer an appeal to the State Government :

Provided that the State Government may entertain the appeal after the expiry of the said period of one month, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) On receipt of an appeal under sub-section (1), the State Government may, after calling for a report from the competent authority, and after making such further inquiry, if any, as may be necessary, pass such orders, as it thinks fit and the order of the State Government shall be final.

(3) Where an appeal is preferred under sub-section (1) the State Government may stay the enforcement of the order of the competent authority for such period and on such conditions as it thinks fit.

## **53. Bar of jurisdiction of Civil Courts :-**

(1) No order made by the State Government or the competent authority in the exercise of any power conferred by or under this



Chapter shall be called in question in any court and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Chapter.

(2) No Civil Court shall have jurisdiction to entertain any suit or proceeding in respect of the eviction of any person who is in unauthorised occupation of any Board premises or the recovery of the arrears of rent payable under sub-section (1) of Section 50 on the damages payable under sub-section (2) of that section or any portion of such rent or damages.

#### CHAPTER 7

Finance, Accounts and Audit

### **54. Boards fund :-**

(1) The Board shall have its own fund.

(2) The Board may accept grants, subventions, donations and gifts from the Central or 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) All moneys received by or on behalf of the Board by virtue of this Act, all proceeds of land or any other kind of property sold by the Board, all rents, betterment charges and all interest, profits and other moneys accruing to the Board shall constitute the fund of the Board.

(4) 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 scheduled bank or invested in such securities as may be approved by the State Government.

(5) Such account shall be operated upon by such officers as may be authorised by the Board.

Explanation, For purposes of this section, the Reserve Bank of India shall mean the Reserve Bank of India constituted under the Reserve Bank of India Act, 1934, (11 of 1934) and a scheduled bank shall mean a bank included in the second Schedule to the said Act.

### **55. Application of the land :-**

All property, fund and all other assets vesting in the Board shall

beheld and applied by it, subject to the provisions and for the purposes of this Act.

**56. Revolving Fund :-**

(1) Notwithstanding anything contained in Section 54 , the Board may create a fund to be called the Revolving Fund into which shall be credited all proceeds which may be received by or on behalf of the Board in respect of sales on instalment basis, of any building or any units therein, constructed or reconstructed by the Board under a housing scheme.

(2) The Revolving Fund shall be held and applied solely for the purpose of construction or reconstruction of buildings under a housing scheme.

**57. 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. (b) non-recurring expenditure not exceeding two lacs of rupees, notwithstanding the fact that such expenditure has not been included in its annual programme or supplementary programme sanctioned by the State Government or the variation of the programme made under Section 32 .

(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.

**58. Subvention and loans 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.

**59. Power of Board to of borrow :-**

(1) The Board may from 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) 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 re-payment of principal and the payment of interest at such rate as may be fixed by the State Government.

#### **60. 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 accounts to be audited annually by such person as the State Government may direct.

(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 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.

(5) The annual audited statement of accounts together with Report of the Auditor received by the State Government under sub-section (3) shall be laid before the State Legislature as soon as may be after they are published.

#### **61. Concurrent and special audit of accounts :-**

(1) Notwithstanding anything contained in Section 60 , 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.

#### CHAPTER 8

##### Miscellaneous

#### **62. Reports :-**

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. Every such report shall be laid before the State Legislature as soon as may be after it is published.

#### **63. Other statements and returns :-**

The Board shall also submit to the State Government such statistics, returns, particulars or statements in regard to any proposed or existing housing schemes at such times and in such form and manner as may be prescribed or as the State Government may from time to time direct.

#### **64. Powers of entry :-**

The Chairman or any person either generally or specially authorised by the Chairman in this behalf may, with or without assistants or 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 out the boundaries and the intended outlines of work,

(e) to mark such levels, boundaries and lines of works and cutting trenches, or

(f) to do any other thing, whenever it is necessary to do so for any 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, 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 even when any premises may otherwise be entered without notice, to enable the inmates of any apartment set apart for females 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.

**65. Notices of suit against Board :-**

No person shall commence any suit against the Board or against any officer or servant 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 servant or person as the case may be, 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. And in the case of any such suit for damages, if tender of sufficient amount shall have been made before the action was brought, the plaintiff shall not recover more than the amounts so tendered and shall pay all costs incurred by the defendant after such tender.

**66. Quinquennial valuation of assets and liabilities of the Board :-**

The Board shall quinquennially 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.

**67. Power of Board to construct buildings intended for public purpose on behalf of Government local authority or corporation owned or controlled by Government :-**

Notwithstanding anything contained in the foregoing provisions of this Act, it shall be lawful for the Board to undertake on behalf of the Government or a local authority or a corporation owned or

controlled by the Government or a Co-operative society registered or deemed to have been registered under the Gujarat Co-operative Societies Act, 1961 , (Guj. XI of 1962) subject to such terms and conditions including payment of cost as may be agreed upon in pursuance of a contract or otherwise the construction of building intended to be used as a hospital, dispensary, school or for any other charitable purpose as may be entrusted to it by the Government or a local authority or such corporation: Provided that no such construction shall be undertaken on behalf of a local authority or any such corporation except with the previous sanction of the State Government.

**68. 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 be made for all or any of the following purposes, namely;

(a) the allowances of members and remuneration and conditions of service of the Chairman under Section 8 ;

(b) the rates of subscriptions and contributions and other conditions of the provident fund established under Section 16 ;

(c) the allowances of members of a Committee appointed under Section 18 ;

(d) the manner and form in which contracts shall be entered into under Section 24 ;

(e) the form of annual housing programme and budget particulars of housing schemes and other particulars to be contained in the programme under Section 29 ;

(f) the other matters to be decided by the Tribunal under Section 46 ;

(g) the procedure to be followed by the Tribunal under Section 47 ;

(h) the forms of notices under Section 49 and Section 50 and any other manner in which they may be served;

(i) the procedure to be followed in taking possession of any Board

premises under Section 49 ;

(j) the manner in which damages under Section 50 may be assessed;

(k) the manner in which appeals may be preferred under Section 52 and the procedure to be followed in such appeals;

(l) the conditions subject to which the Board may borrow any sum under Section 58 ;

(m) the manner of preparation, maintenance and publication of accounts under Section 60 ;

(n) the date before which, the form in which, the interval at which and the matters on which reports shall be submitted under Section 62 ;

(o) the time at which and the form and manner in which statistics, returns, particulars and statements shall be submitted under Section 63 ;

(p) the manner in which the Board shall be superseded and reconstituted under Section 78 ;

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

(3) All rules made under, this section shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made and shall be subject to such modifications as the State Legislature may make during the session in which they are so laid, or the session immediately following.

### **69. Regulations :-**

The Board may from 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

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

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

(c) the remuneration and conditions of service of the Secretary, Housing Commissioner and other officers and servants of the Board under Section 15 ;

(d) for regulating its procedure and the disposal of its business.

**70. Power to make bye laws :-**

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

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

(3) No bye-law made by the Board shall come into force until it has been confirmed by the State Government with or without notification-

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

**71. Penalty for contravention of bye laws :-**

Whoever contravenes a bye-law made under Section 70 shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend upto one thousand rupees or with both.

**72. 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 by such person of his duty or of anything which he is empowered or required to do under this Act, or

(b) removes any marks 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.

**73. Penalty for obstructing exercise of powers under Chapter VI :-**

Any person who obstructs the lawful exercise of any power conferred by or under Chapter VI, shall, on conviction, be punished with fine which may extend to one thousand rupees.

**74. 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.

**75. Members, officers and servants of the Board to be public servants. :-**

All members, officers and servants 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, 1860 (XIV of 1860).

**76. Protection of action taken under this Act :-**

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

**77. Governments power to give directions 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, after giving an opportunity to the Board to state its objections, if any, to such directions and after considering the said objections it shall be the duty of the Board to comply with such directions.

**78. 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 notwithstanding anything contained in Section 8, to supersede and reconstitute the Board in the prescribed manner.

(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.

**79. 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 : Provided that no such declaration shall be made by the State Government unless, a

resolution to that effect has been moved in and passed by the State Legislature.

(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 59 .

**80. Restriction on operation of Gujarat Housing Board :-**

Save as otherwise expressly provided in the Gujarat Housing Board Act, 1961 (Guj. XXV III of 1961) the Gujarat Housing Board constituted under that Act shall not with effect on and from the commencement of this Act; frame or execute a Housing scheme in any rural area :

Provided that nothing in this section shall affect the powers of that Board to complete any Housing scheme in any rural area which may have been partly executed by that Board in such area before such commencement.