

GUJARAT SLUM AREAS (IMPROVEMENT, CLEARANCE AND REDEVELOPMENT) ACT, 1973

11 of 1973

[8th May, 1973]

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GUJARAT SLUM AREAS (IMPROVEMENT, CLEARANCE AND REDEVELOPMENT) ACT, 1973

11 of 1973

[8th May, 1973]

An Act to provide for the improvement and clearance of Slum areas in the State of Gujarat and for their development; and for matters connected with the purposes aforesaid. It is hereby enacted in the Twenty-fourth 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 Slum Areas (Improvement, Clearance and Redevelopment) Act, 1973.

(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; and different dates may be appointed for different areas.

2. Definitions :-

In this Act, unless the context otherwise requires,

(a) "Board" means the Gujarat Slum Clearance Board established under Section 21 ;

(b) "building" includes a house, out-house, stable, latrine, shed, hut and other enclosure or structure whether of masonry, bricks, wood, mud, metal or any other material whatsoever, whether used as a dwelling or otherwise; and also includes verandas, fixed platforms, plinths, doorsteps, electric meters, walls including compound walls and the fencing and the like but does not include plant or machinery comprised in a building;

(c) "Court" means.

(i) in the City of Ahmedabad, the Ahmedabad City Civil Court; and

(ii) elsewhere, the Court of Civil Judge (Senior Division) having

jurisdiction and if there is no such Court, the District Court having jurisdiction;

(d) "erection" in relation to a building includes extension, alteration or re-erection;

(e) "Housing Board" means the Housing Board constituted under the Gujarat Housing Board Act, 1961 (Guj. XXVJII of 1961) or the Rural Housing Board constituted under the Gujarat Rural Housing Board Act, 1972 (Guj. 22 of 1972), or both, as the case may be;

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

(g) "occupier" includes

(i) any person who for the time being is paying or is liable to pay to the owner the rent or any portion of the rent of the land or building in respect of which such rent is paid or is payable;

(ii) an owner in occupation of, or otherwise using, his land or building;

(iii) a rent-free tenant of any land or building;

(iv) a licensee in occupation of any land or building; and

(v) any person who is liable to pay to the owner damages for the use, and occupation of any land or building;

(h) "owner" includes any person, who is receiving or is entitled to receive the rent of any land or building, whether on his own account or on behalf of himself and others or as an agent, trustee, executor, administrator, receiver or guardian or who is entitled to receive the rent, if the land or building were let to a tenant;

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

(j) "prescribed authority" means such authority or person as the State Government may by notification in the Official Gazette appoint as the prescribed authority for the purposes of this Act;

(k) "Rent Act" means the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947 (Bom. LVII of 1947);

(1) "slum area" means any area declared to be a slum area under sub-section (1) of Section 3 ;

(m) "slum clearance" means the clearance of any slum area by the demolition and removal of buildings therefrom;

(n) "slum clearance area" means any slum area declared to be a slum clearance area under Section 11 ;

(o) "work of improvement" in relation to any building in a slum area includes the execution of any one or more of the following works, namely:

(i) necessary repairs;

(ii) structural alterations;

(iii) provision of light points, water-taps and bathing places;

(iv) construction of drains, open or covered;

(v) provision of latrines, including conversion of day latrines into flush latrines;

(vi) provision of additional or improved fixtures or fittings;

(vii) opening up or paving of court yards;

(viii) removal of rubbish;

(ix) replotting or realignment of streets; and

(x) any other work including the demolition of any building or any part thereof which in the opinion of the prescribed authority is necessary for executing any of the works specified above.

CHAPTER 2

Declaration of Slum Areas

3. Declaration of slum areas :-

(1) Where the State Government is satisfied:

(a) that any area is a source of danger to the health, safety or morals of the inhabitants of that area or of its neighbourhood, by reason of the area being low-lying, insanitary, squalid, overcrowded or otherwise, or

(b) that the buildings in any area, used or intended to be used for human habitation are

(i) in any respect, unfit for human habitation; or

(ii) by reason of dilapidation, overcrowding, faulty arrangement and

design of such buildings, narrowness or faulty arrangement of streets, lack of ventilation, light or sanitation facilities, or any combination of these factors, detrimental to safety, health or morals, it may, by notification in the Official Gazette, declare such area to be a slum area and such declaration shall also be published in that area in such other manner as may be prescribed.

(2) In determining whether a building is unfit for human habitation, for the purposes of this Act, regard shall be had to its condition in respect of the following matters, that is to say.

(i) repair,

(ii) stability,

(iii) freedom from damp,

(iv) natural light and air,

(v) water-supply,

(vi) drainage and sanitary conveniences,

(vii) facilities for storage, preparation and cooking of food and for the disposal of waste water.

CHAPTER 3

Prevention of Growth of Slums

4. Registration of building in slum areas :-

(1) The owner or occupier of every building situated in any slum area shall send to the prescribed authority a statement in prescribed form and within prescribed period and containing such particulars as may be prescribed for the purpose of enabling the State Government to prevent effectively the growth of slums or to provide for the improvement and clearance of slum areas.

(2) Where on receipt of the statement under sub-section (1), the prescribed authority, after making such inquiry as it deems fit, is satisfied about the correctness of the statement, it shall register the building in a register maintained for the purpose and containing such particulars as may be prescribed and shall issue, in the prescribed form, a registration certificate to the owner or occupier of the building.

5. Registration on erection of buildings in slum areas :-

(1) The prescribed authority may, by notification in the Official

Gazette, direct that no person shall erect any building in a slum area except with the previous permission in writing of the prescribed authority.

(2) Every notification issued under sub-section (1) shall cease to have effect on the expiration of two years from the date thereof except as respects things done or omitted to be done before such cesser.

(3) Every person desiring to obtain permission referred to in sub-section (1) shall make an application in writing to the prescribed authority, in such form and containing such information in respect of the erection of the building to which the application relates as may be prescribed.

(4) On receipt of such application, the prescribed authority, after making such enquiry as it considers necessary shall, by order in writing :

(a) either grant the permission subject to such terms and conditions, if any, as may be specified in the order, or

(b) refuse to grant such permission :

Provided that before making an order refusing such permission, the applicant shall be given a reasonable opportunity to show cause why the permission should not be refused.

(5) Nothing contained in sub-section (1) shall apply to

(a) any works of improvement required to be executed by a notice under sub-section (1) of Section 6 or in pursuance of an undertaking given under sub-section (2) of Section 9 ; or

(b) the erection of any building in any area in respect of which a notification has been issued under Section 11 .

(6) Any person aggrieved by an order of the prescribed authority refusing to grant the permission under sub-section (4), may within such time as may be prescribed, prefer an appeal to the State Government and State Government shall, after hearing the appellant, decide such appeal and its decision shall be final.

CHAPTER 4

Improvement of slum Areas

6. Power of prescribed authority to require execution of works of improvement to slum areas :-

(1) Where the prescribed authority is satisfied that at a reasonable expense

(a) any slum area or any part thereof is capable of being improved so as not to be a source of danger to the health, safety or morals of the inhabitants of that area; or

(b) any building being unfit for human habitation in a slum area can be rendered fit for human habitation. It may serve upon the owner of the slum area or part thereof or of the building, as the case may be, a notice requiring him within such time not being less than sixty days, as may be specified in the notice, to execute the works of improvement specified therein :

Provided that where the owner of the building is different from the owner of the land on which the building stands and the works of improvement required to be executed relate to provision of water-taps, bathing places, construction of drains, open or covered, as the case may be, provision of flush latrines or removal of rubbish and such works are to be executed outside the building, the notice shall be served upon the owner of the land.

(2) In addition to serving a notice under sub-section (1) on the owner concerned, the prescribed authority may serve a copy of the notice on any other person having an interest in the slum area or part thereof or the building or the land on which the building stands, whether as a lessee, mortgagee or otherwise.

(3) In determining for the purposes of this Act, whether at a reasonable expense the slum area or part thereof can be improved or the building can be rendered fit for human habitation, regard shall be had to- the estimated cost of the works of improvement of the slum area or part thereof or of the works necessary to render the building fit for human habitation and the value which it is estimated that the slum area or part thereof or the building will have when such works are completed.

7. Power to execute works of improvement to slum areas and to recover Expenses :-

(1) Where a notice under sub-section (1) of Section 6 is not complied with, within the time specified in the notice, the prescribed authority may after the expiry of such date itself execute the works required to be executed by the notice.

(2) All expenses incurred by the prescribed authority under this section, together with interest, at such rate as the State Government may, by order, fix from the date when a demand for the expenses is made until payment, may be recovered by the prescribed authority from the owner of the slum area or part thereof or of the building or of the land on which the building stands, as the case may be, as arrears of land revenue and all such expenses and interest shall constitute a charge upon the slum area or part thereof or the building or the land on which the building stands, as the case may be :

Provided that if the owner proves that he

(a) is receiving the rent merely as agent or trustee for some other person; and

(b) has not in his hands on behalf of that other person sufficient money to satisfy the whole demand of the prescribed authority; his liability shall be limited to the total amount of the money which he has in his hands as aforesaid.

8. Expenses of maintenance of Works of improvement etc., to be recoverable from the occupiers of the land or building :-

(1) Where works of improvement have been executed in relation to any land or building in a slum area in pursuance of the provisions of Section 6 and SECTION 7 , the expenses incurred by the prescribed authority, or by any local authority, in connection with the maintenance of such works of improvement or the enjoyment of amenities and conveniences rendered possible by such works, may be recovered from the occupier or occupiers of the land or buildings as arrears of land revenue.

(2) The amount of expenses referred to in sub-section (1) shall be determined by order by the prescribed authority and in the case of expenses incurred by the local authority, the prescribed authority shall consult the local authority before passing an order determining the amount of expenses incurred by the local authority.

9. Power of prescribed authority to order demolition of building unfit for human habitation :-

(1) Where the prescribed authority on a report from the Board, the

local authority concerned, the housing Board or an officer authority by the State Government for this purpose or on other information in its possession is satisfied that any building in a slum area is unfit for human habitation and is not capable at a reasonable expense of being rendered so fit, it shall serve upon the owner of the building and upon any other person having an interest in the building, whether as lessee, mortgagee or otherwise, a notice to show cause, within such time as may be specified in the notice, as to why an order of demolition of the building should not be made.

(2) If any of the persons upon whom a notice has been served under sub-section (i) appears in pursuance thereof before the prescribed authority and gives an undertaking to that authority that such person shall, within such period as may be specified by the authority, execute such works of improvement in relation to the building as will, in the opinion of that authority, render the building fit for human habitation or that it shall not be used for human habitation until the prescribed authority on being satisfied that it has been rendered fit for human habitation, cancels the undertaking, the prescribed authority shall not make any order of demolition of the building.

(3) If no such undertaking as is mentioned in sub-section (2) is given, or if, in a case where any such undertaking has been given, any work of improvement to which the undertaking relates is not carried out within the specified period or the building is at any time used in contravention of the terms of the undertaking, the prescribed authority shall forthwith make an order of demolition of the building, requiring that the building shall be vacated within a period to be specified in the order not being less than five days from the date of the order and that it shall be demolished within four weeks after the expiration of that period :

Provided that, before any such order is made, the prescribed authority shall as far as practicable secure accommodation in advance for housing the occupiers who may be dishoused as a result of such demolition.

10. Procedure to be followed where demolition order has been made :-

Where an order of demolition of a building under Section 9 has been made, the owner of the building or any other person having an interest therein shall demolish that building, within the period mentioned in sub-section (3) of Section 9 ; and if the building is

not demolished within that time, the prescribed authority shall demolish the building and subject to the provisions of Section 49 sell the materials thereof.

CHAPTER 5

Slum Clearance and Re-Development

11. Power to declare any slum area to be a slum clearance area :-

Where the State Government, on a report from the Board, the prescribed authority, the local authority concerned, the Housing Board or an officer authorised by the State Government in this behalf is satisfied as respects any slum area that the most satisfactory method of dealing with the conditions in the area is the clearance of such area by the demolition of all the buildings in the area it may, by notification, in the Official Gazette, declare the area to be a slum clearance area, that is to say, an area to be cleared of all buildings in accordance with the provisions of this Act. The notification shall be given wide publicity in such manner as may be prescribed : Provided that before issuing such notification the State Government shall call upon the owners of the lands and buildings in such slum area to show cause why such declaration should not be made : Provided further that if the State Government considers it necessary to do so, it may specify in such declaration any building in the slum area which is not unfit for human habitation or dangerous or injurious to safety, health or morals as a building to be excluded from the slum clearance area and the building so excluded shall not be required to be demolished.

12. Obligation to clear slum area and demolish buildings :-

When a slum area has been declared to be a slum clearance area under Section 11 , occupiers of buildings included in that area shall be required to vacate them within such period as may be specified in the declaration and the owners of such buildings in that area shall demolish the buildings in that area before the expiration of such period after the period specified for vacating the buildings as may be prescribed.

13. Power to clear slum clearance areas :-

If any slum clearance area is not so cleared by the demolition of the buildings therein before the expiration of the period mentioned in Section 12 , the prescribed authority shall enter and demolish the buildings therein and, subject to the provision of Section 49 , sell the materials thereof.

14. Owner may redevelop :-

(1) Subject to the provisions of this Act and of any other law for the time being in force in relation to town-planning and to the erection of buildings, where a notification under Section 11 has been issued, the owner of any land in the slum clearance area to which the notification applies may re-develop the land in accordance with plans approved by the prescribed authority and subject to such restrictions and conditions (including a condition with regard to the time within which the re-development shall be completed), if any, as that authority may think fit to impose:

Provided that an owner who is aggrieved by a restriction or condition so imposed on the user of his land or by a subsequent refusal of the prescribed authority to cancel or modify any such restriction or condition may, within such time as may be prescribed, appeal to the State Government and the State Government shall make such order in the matter as it thinks proper and its decision shall be final.

(2) No person shall commence or cause to be commenced any work in contravention of a plan approved or a restriction or condition imposed under sub-section (1).

15. Power of prescribed authority to redevelop clearance area :-

(1) Notwithstanding anything contained in sub-section (1) of Section 14, the prescribed authority may, at any time, after the land has been cleared of the buildings in accordance with the foregoing provisions of this Chapter but before the work of re-development of that land has been commenced by the owner, by order, determine to re-develop at its own cost the land if that authority is satisfied that it is necessary in the public interest to do so.

(2) where land has been cleared of the buildings in accordance with the foregoing provisions of this Chapter, the prescribed authority, if it is satisfied that the land has been or is being re-developed by the owner thereof in contravention of plans approved by the authority or any restrictions or conditions imposed under section (1) or Section 14, or has not been re-developed within the time if any, specified under such conditions, may, by order, determine to re-develop the land:

Provided that before passing an order under sub-section (1) or sub-section (2), the owner shall be given a reasonable opportunity to show cause why the order should not be passed.

16. Rules to provide for transfer to previous occupants :-

Subject to the provisions of this Act. the State Government may, by rules, provide for or regulate the transfer of persons who immediately before the declaration of any slum area to be a slum clearance area, were occupying lands or buildings in that area to lands or buildings in any other area or to lands or buildings in such slum clearance area after its re-development and the condition of such transfer.

CHAPTER 6

Protection of Tenants in Slum areas from Eviction

17. Proceedings for eviction of tenants not to be taken without permission of the prescribed authority :-

(1) Notwithstanding anything contained in any other law for the time being in force, no person shall, except with the previous permission in writing of the prescribed authority,

(a) institute, after the commencement of this Act any suit or proceeding for obtaining any decree or order for the eviction of a tenant from any building or land in a slum area; or

(b) where any decree or order is obtained in any suit or proceeding instituted before such commencement for the eviction of a tenant from any building or land in such area, execute such decree or order.

(2) Every person desiring to obtain the permission referred to in sub-section (1) shall make an application in writing to the prescribed authority in such form and containing such particulars as may be prescribed.

(3) On receipt of such application, the prescribed authority after giving an opportunity to the parties of being heard and after making such summary enquiry into the circumstances of the case as it thinks fit, shall by order in writing, either grant or refuse to grant such permission.

(4) In granting or refusing to grant permission under sub-section (3), the prescribed authority shall take into account the following factors, namely:

- (a) whether alternative accommodation within the means of the tenant would be available to him if he were evicted;
- (b) whether the eviction is in the interest of improvement and clearance of the slum area.
- (c) such other factors, if any, as may be prescribed.

(5) Where the prescribed authority refuses to grant the permission, it shall record a brief statement of the reasons for such refusal and furnish a copy thereof to the applicant.

(6) Any person aggrieved by an order of the prescribed authority refusing to grant the permission under sub-section (3) may, within such time as may be prescribed, prefer an appeal to the State Government and the State Government may, after hearing the applicant, decide such appeal and its decision shall be final.

18. Restoration of possession of premises vacated by a tenant :-

(1) Where a tenant in occupation of any building in a slum area vacates any building or is evicted therefrom on the ground that it is required for the purpose of executing any work of improvement or for the purpose of re-erection of the building, the tenant may, within such time as may be prescribed, file a declaration with the prescribed authority that he desires to be replaced in occupation of the building after the completion of the work of improvement or re-erection of the building, as the case may be.

(2) On receipt of such declaration, the prescribed authority shall, by order, require the owner of the building to furnish to it, within such time as may be prescribed, the plans of the work of improvement or re-erection of the building and estimates of the cost thereof and such other particulars as may be necessary and shall, on the basis of such plans and estimates and particulars, furnished, if any, and having regard to the provisions of sub-section (3) of Section 19 and after holding such enquiry as it may think fit, provisionally determine the rent that would be payable by the tenant if he were to be replaced in occupation of the building in pursuance of the declaration made by him under sub-section (1).

(3) The rent provisionally determined under sub-section (2) shall be communicated in the prescribed manner to the tenant and the owner.

(4) If the tenant, after the receipt of such communication, intimates in writing to the prescribed authority within such time as may be prescribed that when he is replaced in occupation of the building in pursuance of the declaration made by him under sub-section (1), he would pay to the owner, until the rent is finally determined under Section 19, the rent provisionally determined under sub-section (2), the prescribed authority shall direct the owner to replace the tenant in occupation of the building after completion of the work of improvement or re-erection of the building, as the case may be, and the owner shall be bound to comply with such direction.

19. Rent of building in slum area :-

(1) Where any building in a slum area is let to a tenant after the execution of any work of improvement or after it has been re-erected the rent of the building shall be determined in accordance with the provisions of this section.

(2) Where any such building is let to a tenant other than a tenant who is placed in possession of the building in pursuance of a direction issued under sub-section (4) of Section 18, the tenant shall be liable to pay to the owner,

(a) if the Rent Act in force in the area in which the building is situated and is applicable to that building, the rent determined in accordance with the provisions of that Act or the agreed rent whichever is less;

(b) if the said Act is not in force in such area, such rent as may be agreed to between the owner and the tenant.

(3) Where any such building is let to a tenant in pursuance of a direction issued under sub-section (4) of Section 18, the tenant shall be liable to pay to the owner

(a) if any work of improvement has been executed in relation to the building, an annual rent of a sum equivalent to the aggregate of the following amounts, namely :

(i) the annual rent the tenant was paying immediately before he vacated the building for the purpose of execution of the work of improvement;

(ii) six per cent, of the cost of the work of improvement;

Explanation : For the purpose of this clause the cost of the land shall be deemed to be a sum equivalent to the market value of the land on the date of commencement of the re-erection of the building.

(4) The rent payable by a tenant in respect of any building under sub-section (3) shall, on an application made by the tenant or the owner, be determined by the authority referred to in sub-section (5) :

Provided that an application for determination of such rent by the owner or the tenant shall not, except for sufficient cause, be entertained by such authority after the expiry of ninety days from the date of completion of the work of improvement or re-erection of the building, as the case may be.

(5) The authority to which the application referred to in sub-section (4) shall be made, shall be,

(a) where the Rent Act is in force in the area in which the building is situated, the authority to whom applications may be made for fixing of rents of buildings situate in that area; and for the purpose of determining the rent under this section that authority may exercise all or any of the powers it has under the said Act and the provisions of the said Act including provisions relating to appeals shall apply accordingly;

(b) if the said Act is not in force in that area, such authority as may be specified by rules made in this behalf by the State Government and such rules may provide for the procedure to be followed by that authority in determining the rent and also for appeals against the decision of such authority.

(6) Where the rent is finally determined under this section, then the amount of rent already paid by the tenant under Section 18 shall be adjusted against the rent so finally determined and if the amount so paid falls short of or is in excess of, the rent finally determined, the tenant shall pay the deficiency or be entitled to a refund, as the case may be.

20. Chapter not to apply to tenants of certain buildings :-

Nothing in this Chapter shall apply to, or in relation to a tenant of, any building situated in a slum area and belonging to the State Government or Board or any local authority.

21. Establishment of Slum Clearance Board :-

(1) With effect on and from such date as the State Government may by notification in the Official Gazette, appoint in this behalf, there shall be established a Board to be called the Gajarat Slum Clearance Board.

(2) The Board shall be a body corporate having perpetual succession and a common seal, and shall, by the said name sue and be sued, 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.

22. Constitution of the Board :-

(1) The Board shall consist of a Chairman and such number of other official and non-official members not exceeding fifteen as may be prescribed.

(2) The Chairman and other members of the Board shall be appointed by the State Government.

(3) No act or proceeding of the Board shall be invalid by reason only of the existence of any vacancy among its members or any defect in the appointment of a member thereof.

23. Conditions of service of members :-

The terms and conditions of the service of the members of the Board shall be such as may be prescribed.

24. (1) The Secretary to the Board shall be appointed by the State Government :-

(2) The Secretary shall be the Chief Executive Officer of the Board.

(3) The Board may appoint such other officers and servants as it considers necessary for the efficient performance of its functions.

25. Conditions of service of officers and servants :-

(1) The pay and other conditions of service of the officers and servants of the Board shall be such as may be prescribed.

(2) Where any officer or servant of the Housing Board is appointed as an officer or servant of the Board, his conditions of service (including conditions as to pay, provident fund, pension and

gratuity) shall be subject to such rules as may be made in this behalf by the State Government.

26. General disqualification of members, officers and servants :-

No person who has directly or indirectly by himself, or his partner or agent, any share or interest in any contract by or on behalf of the Board shall become or remain a member or officer or servant of the Board.

27. Functions of the Board :-

The functions of the Board shall be

(a) to exercise the powers of the prescribed authority in cases where the State Government has, by notification in the Official Gazette, directed that the powers of the prescribed authority shall be exercised by the Board;

(b) to advance loans to the owners and occupants in slum areas for carrying out improvements or repairs and the Board shall be competent to raise funds for this purpose;

(c) to operate schemes relating to development of open lands into plots in slum areas, with all the public amenities and utility services;

(d) such other functions as may be prescribed.

28. 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 lands 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 amount 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 (1 of 1934); and a scheduled bank shall mean a bank included in the Second Schedule to the said Act.

29. Application of the Fund :-

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

30. Subventions 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.

31. 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) 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.

32. 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 the 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.

33. Concurrent and special audit of accounts :-

(1) Notwithstanding anything contained in Section 32 , 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 transactions relating 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.

34. No disqualification in certain cases :-

No person shall be disqualified for being chosen as, or for being, a member of the Legislative Assembly of the State by reason only of the fact that he is a Chairman or a member of the Board.

35. Power of Board to make regulations :-

The Board may make regulations in regard to its meetings and the conduct of its business.

36. Board to comply with direction of Government :-

It shall be the duty of the Board to comply with such directions as the State Government may from time to time issue either generally or in regard to any particular matter.

CHAPTER 8

Miscellaneous

37. Board to exercise the powers of prescribed authority :-

The State Government may, by notification in the Official Gazette, direct that any power exercisable by the prescribed authority under this Act, may be exercised by the Board in such cases, and subject to such conditions, if any, as may be specified in the notification and on the issue of such notification, the prescribed authority shall not exercise the power in respect of the matters specified in such notification.

38. Service of notices and orders :-

(1) Save as otherwise provided in this Act and subject to the provisions of this section and of any rules made in this behalf every notice issued or order made under this Act shall

(a) in the case of any notice or order of a general nature or affecting a class of persons, be published in the Official Gazette;

(b) in the case of any notice or order affecting a corporation, firm, or other body or association of persons, be served in the manner provided for the service of summons in rule 2 of Order XXIX or rule 3 of Order XXX, as the case may be, in the First Schedule to the Civil Procedure Code, 1908 (V of 1908); and

(c) in the case of any notice or order affecting an individual person be served on such person.

(i) by delivering or tendering it to that person; or

(ii) if it cannot be so delivered or tendered, by delivering or tendering it to the head of the office in which such person is employed, or to any adult male member of the family of such person, or by affixing a copy thereof on the outer door or on some conspicuous part of the premises in which that person is known to have last resided or carried on business or personally worked for

gain; or

(iii) failing service by any of the means aforesaid, by post or by affixing a copy of the said notice or order on some conspicuous part of the land or building to which it relates.

(2) Where the notice or order cannot be served without undue delay, due to any dispute in the ownership of the land or building or due to the person for whom the notice or order is intended being not readily traceable, the notice or order may be served by publishing it in the Official Gazette, and where possible, by affixing a copy thereof on some conspicuous part of the land or building to which it relates.

39. Power of entry :-

It shall be lawful for any person authorised by the prescribed authority in this behalf to enter into or upon any land or building in any slum area or slum clearance area with or without assistants or workmen, in order to make any enquiry, inspection, measurement, valuation or survey, or to execute any work which is authorised by or under this Act or which it is necessary to execute for any of the purposes or in pursuance of any of the provisions of this Act or of any rule or order made thereunder.

40. Power of inspection :-

(1) The State Government may, by general or special order, authorise any person

(a) to inspect any drain, latrine, urinal, cesspool, pipe, sewer or channel in or on any land or building in a slum area or slum clearance area, and in his discretion to cause the ground to be opened for the purpose of preventing or removing any nuisance arising from the drain, latrine, urinal, cesspool, pipe, sewer or channel, as the case may be;

(b) to examine works under construction in the slum area or to take levels or to remove, test, examine, replace or read any meter.

(2) If on such inspection the opening of the ground is found to be necessary for the prevention or removal of a nuisance, the expenses thereby incurred shall be paid by the owner or occupier of the land or building, but if it is found that no nuisance exists or that no nuisance would have arisen but for such opening, the ground or portion of any building, drain, or other work opened,

damaged or removed, for the purpose of such inspection shall I be filled in, reinstated, or made good, as the case may be, by the State Government at its own cost.

41. Power to enter land, adjoining land where work is in progress :-

(1) Any person authorised by the State Government in this behalf may, with or without assistants or workmen, enter on any land within forty-five metres of any work authorised by or under this Act for the purpose of depositing thereon any soil, gravel, stone or other materials, or for obtaining access to such work or for any other purpose connected with the carrying on of the same.

(2) The person so authorised shall, before entering on any land under sub-section (1), state the purpose thereof, and shall, if so required by the occupier or owner, fence off so much of the land as may be required for such purpose.

(3) The person so authorised shall, in exercising any power conferred by this section, do as little damage as may be, and compensation shall be payable by the State Government to the owner or occupier of such land or to both for any such damage, whether permanent or temporary, in accordance with such rules as may be made in this behalf.

42. Power to enter into buildings :-

It shall be lawful for any person authorised by the prescribed authority in this behalf to enter into any place or to open to cause to be opened any door, gate or other barrier

(a) if he considers the opening thereof necessary for the purpose of such entry; and

(b) if the owner or occupier is absent, or being present refuses to open such door, gate or barrier.

43. Entry to be made in the day time :-

No entry authorised by or under this Act shall be made except between the hours of sunrise and sunset.

44. Occupiers or owners consent ordinarily to be obtained :-

Save as provided in this Act, no land or building shall be entered into without the consent of the occupier, or if there be no occupier, of the owner thereof, and no such entry shall be made without

giving the said occupier or owner, as the case may be, at least twentyfour hours' written notice of the intention to make such entry :

Provided that no such notice shall be necessary if the place to be inspected is a shed for cattle or a latrine, urinal or a work under construction.

45. Power of eviction :-

Notwithstanding anything contained in this Act, where the prescribed authority is satisfied either upon a representation from the owner of a building or upon other information in its possession that the occupants of the building have not vacated it in pursuance of

(i) any notice, order or direction issued by the prescribed authority; or

(ii) any notice or direction issued by the owner,

the prescribed authority shall, if satisfied that such eviction is necessary to carry out the purpose of this Act, by order, direct the eviction of the occupants from the building, in such manner within such time as may be specified in the order, and may for that purpose use or cause to be used such force as may be necessary:

Provided that, before making any order under this section, the prescribed authority shall call upon the occupants of the building to show cause why they should not be evicted therefrom.

46. Power to remove dangerous or offensive trades from slum areas :-

The prescribed authority may, by order in writing, direct any person carry- ing on any dangerous or offensive trade in a slum area to remove the trade from that area within such time as may be specified in the order: Provided that before making any order under this section the prescribed authority shall call upon the person carrying on the trade to show cause why the order should not be made.

47. Appeal :-

(1) Except as otherwise expressly provided in this Act, any person aggrieved by any notice, order or direction issued by the prescribed authority may, within such time as may be prescribed, appeal to the State Government.

(2) Every appeal under this Act shall be made by petition in writing accompanied by a copy of the notice, order or direction appealed against.

(3) On the admission of an appeal, all proceedings to enforce the notice, order or direction and all prosecutions for any contravention thereof shall be held in abeyance pending the decision on the appeal and if the notice, order or direction is set aside on appeal, disobedience shall not be deemed to be an offence.

(4) No appeal shall be decided under this section unless the appellant has been heard or has had a reasonable opportunity of being heard.

(5) The decision of the State Government on appeal shall be final and shall not be questioned in any court.

48. Order of demolition of buildings in certain cases :-

Where the erection of any building has been commenced; or is being carried out, or has been completed, in contravention of any restriction or conditions imposed under Section 14 or of a plan for the redevelopment of any slum clearance area or in contravention of any notice, order or direction issued under this Act, the prescribed authority may, in addition to any other remedy that may be resorted to under this Act or under any other law for the time being in force, make an order directing that such building shall be demolished by the owner thereof, within such time, not exceeding sixty days, as may be specified in the order, and on the failure of the owner to comply with the order within the time specified the prescribed authority may itself cause the building to be demolished and subject to the provisions of Section 49 , sell the materials thereof :

Provided that, before making any order under this section, the prescribed authority shall call upon the owner to show cause why the order should not be made

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49. Disposal of proceeds of sale of materials of demolished buildings and recovery of expenses :-

(1) Where the materials of any building demolished by the prescribed authority, under Section 10 , SECTION 13 orSECTION 48 are sold the prescribed authority shall apply the proceeds of such sale in or towards payment of the expenses incurred by that

authority under that section and pay any surplus accruing from such sale to the owner or other person entitled thereto, on demand made within twelve months from the date of sale. If no such demand is made, such surplus shall be deposited with the State Government or any other authority specified by it.

(2) Any expenses referred to in sub-section (1), if not satisfied out of the sale proceeds of the materials of any building referred to in that sub-section, may be recovered by the prescribed authority from the owner of the building or any other person having an interest therein, as arrears of land revenue.

50. Penalties :-

(1) Any person who

(a) commences or causes to be commenced any work in contravention of any restriction or condition imposed under Section 14 or of any plan for the re-development of a slum clearance area; or

(b) contravenes or fails to comply with any other provision of this Act or of any rule made thereunder or of any notice, order or direction issued under this Act,

(2) Any person who obstructs any person authorised by or under this Act to enter into or upon any land or building or molests such person after such entry shall be punishable with fine which may extend to one thousand rupees.

51. Offences by companies :-

(1) If the person committing an offence under this Act is a company every person, who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence, and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge, or that he exercised all due diligence to prevent the commission of the offence.

(2) Notwithstanding anything contained in sub-section (1), where

an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation. For the purpose of this section

(a) 'company' means a body corporate and includes a firm or other association of individuals, and

(b) 'director' in relation to a firm means a partner in the firm.

52. Prosecution and trial of offences :-

(1) No prosecution for any offence punishable under this Act shall be instituted except with the previous sanction of the prescribed authority.

(2) No Court inferior to that of a Magistrate for the City in the City of Ahmedabad and elsewhere a magistrate of the first class shall try any offence punishable under this Act.

53. Bar of jurisdiction of Civil Courts :-

Save as otherwise expressly provided in this Act, no Civil Court shall have jurisdiction in respect of any matter which the State Government or the prescribed authority is empowered by or under this Act, to determine 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 Act.

54. Members of prescribed authority, to be public servants :-

The persons constituting the prescribed authority shall be deemed to be public servants within the meaning of Section 21 of the Indian Penal Code, 1860 (XLV 1860).

55. Indemnity :-

No suit, prosecution or other legal proceeding shall lie against the State Government, the prescribed authority or any officer or person for anything which is, in good faith, done or intended to be done in pursuance of this Act or of any rule or order made thereunder.

56. Delegation of powers of State Government :-

(1) The State Government may, by notification in the Official Gazette, authorise any authority or officer to exercise any of the powers vested in it by or under this Act (except the power to make rules under Section 58).

(2) The exercise of any power delegated under sub-section (1) shall be subject to such restrictions and conditions as may be prescribed or as may be specified in the notification under sub-section (1) and also to control and revision by the State Government or by such officer as may be empowered by the State Government in this behalf. The State Government shall also have power to control and revise the acts or proceedings of any officer so empowered.

57. Act to override other laws :-

The provisions of this Act and the rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force, or any custom, usage, or contract or decree or order of a Court or other authority.

58. Power to make rules :-

(1) The State Government may make rules for carrying out all or any of the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for or regulate

(a) all matters expressly required or allowed by this Act to be prescribed;

(b) the fees payable in respect of any application or statement under this Act.

(c) the manner of authentication of notices, orders and other instruments of the prescribed authority; and

(d) the preparation of a plan for the development of any slum area or slum clearance area and matters to be included in such plan.

59. Publication of the rules, the date of the commencement of the rules and notifications and placing of rules and notifications on the table of the Legislature :-

(1)

(a) All rules made under this Act shall be published in the Official Gazette and, unless they are expressed to come into force on a

particular day, shall come into force on the day on which they are so published.

(b) All notifications issued under this Act shall unless they are expressed to come into force on a particular day, come into force on the day on which they are published.

(2) All rules made and all notifications issued under this Act shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made or issued and shall be subject to rescission by the Legislature, or to such modification as the Legislature may make during the session in which they are so laid or the session immediately following.

(3) Any rescission or modifications so made by the State Legislature shall be published in the Official Gazette, and shall thereupon take effect.

60. Cesser of corresponding laws :-

Where any area is declared to be a slum area or a slum clearance area, then, as from the date of any such declaration the provisions of any law corresponding to the provisions of this Act in relation to the slum area or as the case may be, in relation to the slum clearance area in force immediately before the said date shall, save as otherwise provided in this Act, cease to be in force in such slum area or as the case may be, such slum clearance area but so long only as such declaration remains in force.