

Himachal Pradesh Housing Board Act, 1972

10 of 1972

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Himachal Pradesh Housing Board Act, 1972

10 of 1972

(Received the assent of the Governor on the 20th April, 1972, and was published in R.H.P. Extra, dated the 21st April, 1972 at pp. 412-428) An Act to provide for measures to be taken to deal with and satisfy the need of housing accommodation. BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-third Year of the Republic of India as follows :-

CHAPTER 1 PRELIMINARY

1. Short Title And Commencement :-

- (1) This Act may be called the Himachal Pradesh Housing Board Act, 1972.
- (2) It extends to whole of the State of Himachal Pradesh.
- (3) It shall come into force at once.]

2. Definitions :-

- (1) In this Act, unless the context otherwise requires,-
 - (a) "adjoining area" means such area as may be specified to be an adjoining area under section 27 of this Act ;
 - (b) "Board" means the Himachal Pradesh Housing Board constituted under section 3 of this Act;
 - (c) "Board premises" means any premises belonging to, or vesting in, the Board or taken on lease by the Board or any premises which is entrusted to, or in the possession or control of, the Board for the purposes of this Act ;
 - (d) "building material" means such commodities or articles as are specified by the State Government by notification to be building materials for the purposes of this Act ;
 - (e) "bye-laws" means bye-laws made under section 54 of this Act ;
 - (f) "Chairman" means the Chairman of the Board;
 - (g) "Committee" means any Committee appointed under section 18 of this Act ;
 - (h) "Government or State Government" means the Government of the State of Himachal Pradesh ;
- 1. For Statement of Objects and Reasons see R.H.P.Extra., dated 19th April, 1972, p. 392. This Act replaces the H.P. Ordinance No. 2 of 1972, published in R.H.P.Extra., dated the 25th Feb., 1972. p.189-204.

2. Sub-section(3) Subs. vide Act No. 38 of 1976.

(i) "housing scheme" means a housing scheme framed under this Act;

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

(k) "local authority" means a Municipal Corporation/Municipal Committee/ Notified Area Committee established under the Capital of Himachal Pradesh (Development and Regulation) Act, 1968 (Act No. 22 of 1969) and the Himachal Pradesh Municipal Act, 1968 (19 of 1968) or a Gram Panchayat, Panchayat Samiti, Zila Parishad respectively constituted under the Himachal Pradesh Panchayati Raj Act, 1968, (19 of 1970);

(l) "master plan" means the master plan prepared and approved for any urban area by the Himachal Pradesh Government ;

(m) "member" means the Chairman 1 [, the Vice-Chairman] and other members of the Board;

(n) "notification" means a notification published in the Official Gazette;

(o) "premises" means any land whether used for agricultural purposes or non-agricultural purposes, or any building or part of a building and includes,-

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

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

(p) "prescribed" means prescribed by rules ;

(q) "programme" means the annual housing programme prepared by the Board under this Act ;

(r) "regulations means the regulations made under section 53 of this Act ;

(s) "rules" means rules made under section 52 of this Act ;

(t) "secretary" means the secretary of the Board;

[(tt) ?Vice-Chairman means the Vice-Chairman of the Board;]

(u) "year" means the year commencing on the 1st day of April and ending on the 31st day of March. 1. The ?, Vice-Chairman ins. vide H.P. Act No.1 of 1996 w.e.f. 9.11.1995.

2. Ins. vide H.P. Act No.1 of 1996 w.e.f. 9.11.1995.

(2) All words and expressions used but not defined in this Act shall have the same meaning as are assigned to them by the Himachal Pradesh Municipal Act, 1968, (19 of 1968).

CHAPTER 2 ESTABLISHMENT OF THE BOARD

3. Establishment And Constitution Of Board :-

(1) With effect from such date as the State Government may, by notification, appoint in this behalf, there shall be established for carrying out the purposes of this Act a Board to be known as the "Himachal Pradesh Housing Board", with headquarters at such place as the State Government may specify.

(2) The Board shall, by the name aforesaid, be a body corporate having perpetual succession and a common seal, and, subject to any restriction by or under this Act or the rules made thereunder, shall have the power to acquire, hold, administer and transfer property, movable or immovable and to enter into contracts, and shall by the said name sue or be sued and do all such things as are necessary for which it is constituted.

(3) For the purposes of this Act and the Land Acquisition Act, 1894, (Act No.1 of 1894) the Board shall be deemed to be a local body. 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 building for the purposes of this Act.

(4) The Board shall consist of a Chairman 2 [, Vice-Chairman] and such other members appointed by the State Government, namely :-

(a) Finance Secretary to the Government of Himachal Pradesh; Exofficio member,

(b) Secretary (Housing) to the Government of Himachal Pradesh; ex-officio member,

(c) Secretary (L.S.G.) to the Government of Himachal Pradesh; exofficio member,

[(d) Engineer-in-Chief , Himachal Pradesh Public Works Department; ex-officio member, 1. Subs. for the original Sub-section (4) by H.P. Act, No. 23 of 1974.

2 . The ?, Vice-Chairman ins. vide H.P.Act No.1 of 1996 w.e.f. 9.11.1995.

3 . Clauses (d) & (e) subs. vide H.P.Act No.1 of 1996 w.e.f. 9.11.1995. (e) Engineer-in-Chief, Himachal Pradesh Irrigation and Public Health Department; ex-officio member.]

(f) 3 non-official members appointed by the State Government, 1 [**].

(g) all members of Parliament from Himachal Pradesh who are members of the Consultative Committee attached to the Union Ministry of Works and Housing 2 [; and]

[(h) Secretary to the Board appointed under section 13.]

(5) The Chairman 4 [or the Vice-Chairman] or a member 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.

(6) Until the Board is established and constituted in accordance with the provisions of the preceding sub-sections, the State Government may constitute a Board consisting of one person, who shall be an officer of the State Government, to be appointed by the State Government and a Board so constituted shall, as from the commencement of this Act and for a period not exceeding one year from such commencement, be deemed to be the Board established and constituted for the purpose of carrying out all the provisions of this Act.

4. Non-Application Of Himachal Pradesh Urban Rent Control Act, 1971 :-

The Himachal Pradesh Urban Rent Control Act 1971 (23 of 1971), shall not apply nor shall be deemed to have ever applied, to any land or building belonging to or vesting in the Board under or for the purposes of this Act, and as against the Board to any tenancies or other like relationship created by the Board in respect of such land or building but shall apply to any land or building let to the Board.

5. Term Of Office Of The Chairman The Vice-Chairman And Non-Official Members :-

The Chairman 7 [, the Vice-Chairman] and the nonofficial members of the Board shall hold office during the pleasure of State Government.] 1. Word and= del. vide H.P. Act No. 3 of 1976.

2. Subs for the sign .= vide ibid.

3. Ins. vide ibid.

4. The words ?or the Vice-Chairman ins. vide H.P. Act No.1 of 1996 w.e.f. 9.11.1995.

5. Section 5 subs. vide H.P. Act No.10 of 1984.

6 The words?, Vice-Chairman ins. vide H.P. Act No.1 of 1996 w.e.f. 9.11.1995.

7. The word ?, Vice-Chairman ins. vide ibid. 1

5A. Duties Of The Vice-Chairman :- The Vice-Chairman of the

Board shall perform such duties and exercise such powers as may be assigned to, and conferred upon him, by the State Government.

6. Disqualification For Appointment On The Board :-

(1) A person shall be disqualified for being appointed or for continuing as the Chairman 2 [or the Vice Chairman] or member of the Board ; if he -

(a) has been convicted by a criminal court for an offence involving moral turpitude, unless such conviction has been set aside ;

(b) is an undischarged insolvent ;

(c) is of unsound mind ;

(d) is an officer or servant under the Board ;

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

(f) is a director or a 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 ;

(g) is not a citizen of India.

(2) A person shall not, however, be disqualified under clause (e) or clause (f) of sub-section (1) or be deemed to have any share or interest in any contract or employment within the meaning of those clauses, by reason only of his, or the incorporated company of which he is a director, secretary, manager or other salaried officer, having a share or interest in :-

(i) any sale, purchase, lease or exchange of immovable property or any agreement for the same ;

(ii) any agreement for the loan of money or any security for the payment of money only ;

(iii) any newspaper in which any advertisement relating to the affairs of the Board is inserted ;

(iv) the occasional sale to the Board up to a value not exceeding two thousand rupees in any one article in which he or the incorporated company regularly trades.

1. Section 5-A Ins. vide Act No. 1 of 1996 w.e.f. 9.11.1995.

2. The ?or the Vice-Chairman ins. ibid (3) A person shall not also be disqualified under clause (e) or clause (f) of sub-section (1) or be deemed to have any share or interest in any incorporated company which has any contract or employment with or on behalf of the Board by reason only of his being a share- holder of such company

:

Provided that such person discloses to the Government the nature and extent of the share held by him. Explanation.- For the purpose of clause (d) of sub-section (1), the Chairman 1 [or the Vice-Chairman] of the Housing Board shall not be deemed to be an officer or servant under the Board.

7. Remuneration To The Chairman And Members :-

(1) The Chairman 2 [and the Vice-Chairman] shall be paid such remuneration and allowances as may, from time to time, be fixed by the Government.

(2) Every member shall receive such allowances as may be fixed by the Government.

(3) The Allowances to the members and the remuneration to the Chairman 3 [and the Vice-Chairman] shall be paid from the fund of the Board. me, grant to the Chairm ppointed shall be deemed for all purpos

(a) bj t to any of the disqualifications mentioned in

(b) in writing to the Government and the same is accepted, or

8. Leave Of Absence For The Chairman And Appointment Of An Acting Chairman :-

(1) The Government may, from time to ti an such leave as may be admissible under the rules.

(2) Whenever there is a temporary vacancy in the office of the Chairman, the Vice-Chairman shall act as the Chairman during the period of such vacancy; and whenever there is no such Vice-Chairman, the Government may appoint a person to act as Chairman during the period of such vacancy and shall pay to such person such remuneration and allowances as may be fixed by them. The person so a es of this Act to be the Chairman.

9. Vacancy Of A Member :-

If a member,- becomes su ec section 6, tenders his resignation

1. The words ?or the Vice-Chairman ins. vide H.P.Act No.1 of 1996 w.e.f. 9.11.1995.

2. The words ?and the Vice-Chairman ins. vide ibid.

3 The words ?and the Vice-Chairman ins. vide ibid.

4. Section 8 Subs. vide ibid.

(c) is absent without the permission of the Board from three consecutive meetings of the Board, he shall cease to be a member,

from such date as the Government may declare.

10. Vacancy To Be Filled As Early As Practicable :-

Any vacancy of the Chairman 1 [, the Vice-Chairman] or a member of the Board shall be filled in as early as practicable 2 [xxxx]: Provided that during any such vacancy, the continuing members may act, as if no vacancy had occurred.

11. Proceedings Presumed To Be Good And Valid :-

No disqualification of or defect in the appointment of any person acting as Chairman 3 [, the Vice-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.

12. Temporary Absence Of Member :-

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 otherwise not involving the vacation of his appointment, the State Government may appoint another person to officiate for him and carry out his functions under this Act or any rule or regulation made thereunder.

13. Appointment Of Officers And Servants And Creation Of Posts :-

(1) The State Government may appoint a secretary of the Board on such terms and conditions of service as it may deem fit.

(2) The Board may create such other posts and appoint such other officers and servants thereto as it may consider necessary for the efficient discharge of its duties :

Provided that the previous sanction of the State Government shall be necessary,-

(a) for the creation of any post if either the minimum of the pay scale of the post exceeds 4 [one thousand rupees] per month or the maximum of the pay scale thereof exceeds 5 [one thousand, eight hundred and fifty] rupees per month; or

1. The words ?, the Vice-Chairman ins. vide H.P.Act No.1 of 1996 w.e.f. 9.11.1995.

2. The words and the term of such appointment shall be for the remainder of the term of the Chairman or the member, as the case may be= omitted vide Act No. 10 of 1984.

3. The words ?, the Vice-Chairman ins. vide H.P.Act No.1 of 1996 w.e.f. 9.11.1995.

4. Subs. for the words "eight hundred vide Act No. 13 of 1986.

5. Subs. for the words "one thousand, two hundred and fifty vide ibid.

(b) for the appointment, whether by promotion or otherwise of any person to such post if the initial pay thereof exceeds 1 [one thousand rupees] per month or the maximum of the pay scale of the post exceeds 2 [one thousand, eight hundred and fifty rupees] per month.

(3) Subject to the provisions of sub-section (1) the conditions of service, functions and duties of the officers and servants of the Board shall be such as may be determined by regulation.

14. Conditions Of Service Of Officers And Servants :-

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

15. Provident Fund :-

(1) The State Government shall establish contributory provident fund for the officers and servants of the Board and such provident fund shall be deemed to be a Government Provident Fund for the purposes of the Provident Funds Act, 1925, (19 of 1925), notwithstanding anything contained in section 8 thereof and such fund may be administered by such officers of the State Government, or of the Board, as the State Government may specify in that behalf.

(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.

16. Preparation And Maintenance Of Schedule Of Establishment :-

Before the first day of May of every year, the Board shall prepare and maintain a schedule of establishment as on the first day of April of that year showing,-

(i) the number, designations and grades and scales of pay of the officers and servants (other than the employees who are paid by the day or whose pay is charged to any temporary work), whom it considers necessary and proper to employ for the purposes of this Act ;

(ii) the amount and nature of the salary, fees and allowances to be

paid by the Board to each such officer or servant ; and

(iii) the amount to be paid by the Board towards leave salary, pension, provident fund or any other purpose in respect of each such officer or servant.

1. Subs. for the words ?eight hundred vide Act No. 13 of 1986.

2. Subs. for the words ? one thousand, two hundred and fifty vide ibid.

17. General Disqualification Of All 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, or in any employment under, by or on behalf of the Board, otherwise than as an officer or servant thereof, shall become or remain an officer or servant of the Board.

18. Appointment Of Committees :-

(1) Subject to any rules made in this behalf under this Act the Board may, from time to time, appoint one or more 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 discharged with due regard to the circumstances and requirements of particular local areas.

(2) Any Committee appointed under section (1) shall meet to discharge the functions assigned to it in such manner as may be directed by the Board.

CONDUCT OF BUSINESS

19. Meetings Of The Board :-

The Board shall meet and shall 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) an ordinary meeting shall be held once in every two months ;

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

(c) every meeting shall be presided over by the Chairman and in his absence by 1 [the Vice-Chairman and in the absence of both by] any member chosen by the meeting to preside for the occasion ;

(d) 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

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

20. Temporary Association Of Persons With The Board For Particular Purpose :-

(1) The Board may associate with itself any person whose assistance or advice it may desire for carrying into effect any of the provisions of this Act: Provided that the number of persons so associated shall not be more than three.

1. Ins. vide H.P.Act No.1 of 1996 w.e.f. 9.11.1995.

(2) A person associated with the Board under sub-section (1) for any purpose shall have the right to take part in the deliberations of the Board, relevant to that purpose but shall not have the right to vote.

(3) The State Government may, by order, depute its representatives to attend any meeting of the Board and to take part in the deliberations of the Board, on such items or subjects as the State Government may specify but such representatives shall not have the right to vote.

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 Contract :-

(1) Every contract shall be made on behalf of the Board by the Chairman 1 [or by an officer of the Board, as may be specified by the Board in a special or general order] :

Provided that,-

(a) no contract involving an expenditure of rupees ten lacs and more shall be made without the previous sanction of the State Government ; and

(b) no contract involving an expenditure of five thousand rupees and more shall, subject to clause (a) above 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 The Boards Power To Sanction Contract :-

Subject to any rule 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 an officer specified by it in the order.

24. Further Provisions As To Execution Of Contracts :-

(1) 2 [Every contract on behalf of the Board by the Chairman or any officer of the Board shall, subject to the provisions of the 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. 1. Ins. by H.P. Ord. No. 8 of 1975 (replaced by H.P. Act No. 3 of 1976).

2. Subs. for the original Sub-section by H.P. Ord. No. 8 of 1975 (replaced by H.P. Act No. 3 of 1976).

CHAPTER 3 HOUSING SCHEMES

25. Powers And Duties Of The Board To Undertake Housing Schemes :-

(1) Subject to the provisions of this Act and subject to the control of the State Government, the Board may from time to time incur expenditure and undertake works in any area in which this Act is in force for the framing and execution of such housing schemes as it may consider necessary.

(2) The housing scheme may be of one of the following types or combination of any two or more of such types or of any special features thereof, namely,-

(a) a house accommodation scheme;

(b) a city or town or village scheme;

(c) a land development scheme ;

(d) a subsidised industrial housing scheme 1 [;]

(e) an industrial area development scheme]

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

(4) The Board may, on such terms and conditions as may be agreed upon and with the previous approval of the State Government, take over for execution any housing scheme on behalf of a local authority or co-operative society or on behalf of an

employer when the houses are to be built mainly for the residence of his employees and the Board shall execute such schemes as if it had been provided for by this Act.

1. Subs. for the sign ?. vide H.P. Act No. 5 of 1979.
2. Clause (e) ins. vide H.P. Act No. 5 of 1979.

26. Ban On New Constructions, Additions Or Alteration In The Proposed Scheme Area :-

The Board shall, as soon as it frames and decides to execute any scheme either at its own instance or at the instance of the State Government or a local authority, the State Government may, at the request of the Board, publish a notification in the Official Gazette giving particulars and specifications of the scheme and declaring that the Board has decided to frame and execute the scheme together with a notice inviting every person interested to see the detailed plans and specifications of the scheme in the office of the Board on any working day within one month of the publication of the notice and upon such publication of such notification together with the notice as aforesaid, no person shall make any new construction in the area covered by the scheme or make any additions or alterations in any existing structure in the scheme area without the written permission of the Board.

27. Matters To Be Provided For By Housing Schemes :-

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

- (a) acquisition by purchase, exchange or otherwise of any property necessary for or affected by the execution of the scheme ;
- (b) acquisition by purchase, exchange or otherwise of any land, division of the same into plots and the sale thereof after developing it or otherwise to co-operative societies or other persons, in accordance with the scheme ;
- (c) laying or relaying out of any land comprised in the scheme;
- (d) distribution or re-distribution of sites belonging to owners of property comprised in the scheme ;
- (e) the closure or demolition of dwellings or portions of dwellings unfit for human habitation;
- (f) demolition of obstructive buildings or portions of buildings;
- (g) the construction and re-construction of buildings, their maintenance and preservation ;
- (h) sale, letting or exchange of any property comprised in the scheme;

- (i) construction and alteration of streets and back lanes ;
- (j) drainage, water-supply and lighting of the area included in the scheme ;
- (k) parks, playing fields and open spaces for the benefit of any area comprised in the scheme and the enlargement of existing parks, playing-fields, open spaces and approaches ;
- (l) 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;
- (m) accommodation for any class of inhabitants, industries, institutions, offices, local authorities, co-operatives or corporate bodies ;
- (n) advance of money for the purpose of the scheme ;
- (o) facilities for communication and transport ;
- (p) collection of such information and statistics as may be necessary for the purpose of this Act ; and
- (q) 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 and/or to the improvement or development of any area comprised in the scheme or any adjoining area or the general efficiency of the scheme.

Explanation.- For the purposes of this section the State Government may on the recommendations of the Board, by notification, specify area surrounding or adjoining the area included in a housing scheme to be the adjoining area.

28. Preparation And Submission Of Annual Housing Programme Budget And Establishment Schedule :-

(1) Before the first day of January, in each year the Chairman shall prepare and forward to the State Government in such form as may be prescribed after having the same got approved by the Board at a special meeting,-

- (i) a programme ;
- (ii) a budget for the next year ; and
- (iii) a schedule of the staff of officers and servants already employed and to be employed during the next year.

(2) The programme shall contain, -

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

- (ii) the particulars of any undertaking which the board proposes to organise or execute during the next year for the purposes of the production of building materials ; and
 - (iii) 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.

29. Sanction To Programme Budget And Establishment Schedule :-

The State Government may sanction the programme, budget and the schedule of the staff of officers and servants forwarded to it with such modification as it deems fit.

30. Publication Of Sanctioned Programme :-

The State Government shall publish the programme sanctioned by it under section 29 in the Official Gazette.

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 29 submit a supplementary programme and budget and the additional schedule of the staff, if any, to the State Government and the provisions of sections 29 and 30 shall apply to such supplementary programme.

32. Variation Of Programme By Board After It Has Been Sanctioned :-

The Board may, at any time, vary any programme or any part thereof sanctioned by the State Government : Provided that no such variation shall be made if it involves an expenditure in excess of ten per cent of the amount as originally sanctioned for the execution of any housing scheme included in such programme or affects its scope or purpose.

33. Sanctioned Housing Scheme To Be Executed :-

After the programme has been sanctioned and published by the State Government under sections 29 and 30 the Board shall, subject to the provisions of section 32, proceed to execute the housing schemes included in the programme.

34. Publication Of Housing Scheme In The Official Gazette :-

(1) Before proceeding to execute any housing scheme under section 33 the Board shall by notification publish the scheme. The

notification shall specify that the plan showing the area which is proposed to be included in the housing scheme and the surrounding lands shall be open to inspection of the public at all reasonable hours at the office of the Board.

(2) If within two weeks from the date of the publication of the housing scheme any person communicates in writing to the Board any suggestion or objection relating to the scheme, the Board shall consider such suggestion or objection and may modify the scheme as it thinks fit.

(3) The Board shall then by notification publish the final scheme. The notification shall specify that the plan showing the area included in the final schemes and the surrounding lands and other particulars as may be prescribed shall be open to inspection of the public at all reasonable hours at the office of the Board.

(4) The publication of a notification under sub-section (3) shall be conclusive evidence that the said scheme has been framed.

35. Transfer To The Board For Purchase Of Housing Scheme Of Land Vested In A Local Authority :-

(1) Whenever any street, square or other land, or any part thereof, situated in any area of a local authority and vested in a local authority is required for the purposes of any housing scheme included in the budget approved by the State Government, the Board shall give notice to the local authority concerned to transfer to it the required street, square or other land, or any part thereof as the case may be.

(2) Where the local authority concurs, such street, square or other land, a 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 local authority concerned decide the matter. The decision of the State Government shall be final. If the State Government decides that such street, square, land or part thereof, shall vest in the Board, it shall vest accordingly.

(4) The vesting of street, square, land or a part thereof under subsections (2) and (3) of this section shall be notified in the Official Gazette.

(5) Nothing in this section shall affect the duties and obligations of the local authority in respect of such street, square or land and the local authority concerned shall be liable to render all the municipal services usually provided by it in the land vested in the Board

under this section notwithstanding such vesting.

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

36. Power Of The Board To Turn Or Close Public Street Vested In It :-

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

(2) Whenever the Board discontinues the public use of, or permanently closes any public street or any part thereof, vested in it, 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.

(3) 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.

37. Vesting In Local Authority Of 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, metalled, flagged, channelled, severed and drained as required for the housing scheme approved by the State Government under section 29 ;

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

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

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

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

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

38. Other Duties Of The Board :-

(1) It shall be the duty of the Board to take necessary measures to maintain, allot, lease and otherwise use the Board premises and to collect rents, compensation and damages in respect thereof.

(2) The Board may,-

(i) provide technical advice to the State Government and scrutinise projects under housing schemes in the area to which this Act extends, when required by the State Government to do so ;

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

(iii) undertake comprehensive surveys of problems of housing; and

(iv) do all things for -

(a) unification, simplification and standardisation of building materials ;

(b) encouraging prefabrication and mass production of house components ;

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

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

39. Power To Exempt Schemes From Provisions Of Sections 28 To 33 :-

The State Government may by general or special order published in the Official Gazette, exempt any housing scheme undertaken by the Board from all or any of the provisions of sections 28 to 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 FINANCE, ACCOUNTS AND AUDIT

40. 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 Governments or a local authority or any individual or body, whether incorporated or not for all or any of the purposes of this Act.
- (3) The State Government may every year make a grant to the Board of a sum equivalent to the administrative expenses of the Board : Provided that the amount of such grant may be reduced or discontinued to the extent the financial position of the Board warrants.
- (4) 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 and all interests, profits and other moneys accruing to the Board shall constitute the fund of the Board.
- (5) Except as otherwise directed by the State Government all moneys and receipts specified in the foregoing provisions and forming part of the fund of the Board shall be deposited in the State Bank of India or in any Nationalised Bank or invested in such securities as may be approved by the State Government.
- (6) Such account shall be operated upon by such officers as may be authorised by the Board.

41. 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.

42. 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 twenty-five thousand rupees; and
 - (b) non-recurring expenditure not exceeding one lac rupees.
- (2) Where any sum is expended under circumstances of extreme urgency as provided in sub-section (1), a report thereof indicating the source from which it is proposed to meet the expenditure shall be made by the Board as soon as practicable to the State Government.

43. 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.

44. Power Of The Board To Borrow :-

- (1) The Board may, from time to time with the previous sanction of the State Government and subject to the provisions of this Act and to such conditions as may be prescribed in this behalf, borrow any sum required for the purposes of this Act.
- (2) The rules made by the State Government for the purposes of this section may empower the Board to borrow by issue of debentures and to make arrangements with bankers or the Life Insurance Corporation of India.
- (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.

45. 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 Housing Board accounts shall from time to time, once in every year be audited by the Examiner of Local Fund Audit or by such persons 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 in the prescribed manner and place copies thereof on sale at a reasonable price.
- (4) The Board shall comply with such directions as the State

Government may after perusal of the report of auditor, think fit to issue.

46. Current And Special Audit Of Accounts :-

(1) Notwithstanding anything contained in section 45, 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) Where an order is made under sub-section (1), the Board shall present or cause to be presented for audit such accounts and shall furnish to the person appointed under sub-section (1), such information as the said person may require for the purpose of audit and remedy or cause to be remedied the defects pointed out by such person, unless they are condoned by the State Government.

CHAPTER 5 MISCELLANEOUS

47. Annual Report :-

The Board shall prepare once in every year, in such form and at such time, as may be prescribed, an annual report, giving a true and full account of its activities during the previous year, and copies thereof shall be forwarded to the State Government.]

47A. Laying Of The Audit And Annual Report Before The State Legislature :- Soon after the submission of the audit report under sub-section (3) of section 45 and the annual report under section 47 by the Board, the State Government shall cause the said reports to be laid before the State Legislative Assembly:

Provided that where the reports are to be laid in the budget session those shall be laid on the Table of the House on the first sitting of the said session:

Provided further that the period intervening the close of the financial year to which reports pertain and the laying of reports, shall not exceed nine months.

48. Other Statements And Returns :-

The Board shall also submit to the State Government such statistics, returns, particulars, statements, documents or papers in regard to any proposed or existing scheme or relating to any

matter or proceedings connected with the working of the Board at such times and in such form and manner as may be prescribed or as the State Government may from time to time direct.

49. Power 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 enquiry;

(b) to make levels ;

(c) to dig or bore into the sub-soil ;

(d) to set boundaries and intended lines of work ;

(e) to make such levels, boundaries and lines of work 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 schemes sanctioned thereunder : Provided that,-

(i) no such entry shall be made between sunset and sunrise ;

(ii) no dwelling house and no public building which is used as a dwelling place, shall be so entered unless with the consent of the occupier thereof and without giving the said occupier at least twenty-four hours previous written notice of the intention to make such entry;

(iii) sufficient notice shall in every instance be given even when any premises may otherwise be entered without notice, to enable the inmates of any apartment appropriated to females to remove themselves to some part of the premises where their privacy may not be disturbed ; and

(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.

50. Notice Of Suit Against The Board :-

No person shall commence any suit against the Board or against any officer or servant 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 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.

51. Valuation Of Assets And Liabilities Of The Board :-

The Board shall at the end of every five years, have a valuation of its assets and liabilities made by a valuer appointed with the approval of the State Government :

Provided that it shall be open to the State Government to direct a valuation to be made at any time it may consider necessary.

52. Power To Make Rules :-

(1) The State Government may, by notification in the official Gazette make rules for carrying out the purposes of this Act.

(2) All rules made under this Act shall be subject to previous publication.

(3) 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 1 [and the Vice-Chairman] ;

(b) the rates of subscriptions and contributions and other conditions of the provident fund established under section 15;

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

(d) the form of the annual budget to be laid before the Board under section 28 and the other particulars to be contained therein ;

(e) the manner of publication of housing schemes included in the budget under section 29;

(f) the conditions subject to which the Board may borrow any sum under section 44;

(g) the manner of preparation, maintenance and publication of accounts under section 45 ;

(h) the date before which, the form in which, the interval at which and the matters on which reports shall be submitted under section 47 ;

(i) the time at which and the form and manner in which statistics, returns, particulars, statements, documents and papers shall be submitted under section 48 ;

(j) the manner in which the Board shall be superseded and reconstituted under section 61; and

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

(4) All rules made under this Act shall be laid as soon as may be after they are so made, before the House of the State Legislature, while it is in session, for a period of not less than fourteen days which may be comprised in one session or in two successive

sessions and, if before the expiry of the session in which they are so laid or of the session immediately following, the House of the State Legislature makes any modification in any of such rules or resolves that any such rule should not be made, such rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done thereunder.

53. Power To Make Regulations :-

(1) 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 building 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 Chairman, 1 [the Vice-Chairman,] members and other officers and servants of the Board under section 14; and
- (d) for regulating its procedure and the disposal of its business.

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

54. 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 contravention thereof shall be an offence.

(3) A bye-law made under this section may provide for any matter covered by a bye-law made under the Himachal Pradesh Municipal Act, 1968, (19 of 1968) and on publication of such bye-laws, any

bye-law made under sections 198 and 200 of the said Act shall cease to have effect as respects the matters covered by the bye-law made under this section, in the area where such bye-laws shall apply.

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

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

55. Penalty For Contravention Of Bye-Laws :-

Whoever contravenes a bye-law made under section 51 shall, on conviction be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

56. Penalty For Obstructing :-

If any person-

(a) obstructs or molests any person with whom the Board has entered into a contract, in the performance of 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 mark set up for the purpose of indicating any level or direction necessary to the execution of work 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.

57. Authority For Prosecution :-

Unless otherwise expressly provided, no court shall take cognisance 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 a general or special order in this behalf.

58. 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 (45 of 1860).

59. 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.

60. Governments Power To Give Directions To The 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, and it shall be the duty of the Board to comply with such directions.

61. 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, 37 [xxxxxxxxxx] 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.

62. Dissolution Of The Board :-

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

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

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

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

(3) Nothing in this section shall effect the liability of the State Government in respect of loans or debentures guaranteed under sub-section (5) of section 44.

63. Repeal And Savings :-

(1) The Himachal Pradesh Housing Board Ordinance, 1972, (Ordinance No. 2 of 1972) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.