

Kerala State Housing Board Act, 1971

19 OF 1971

CONTENTS

CHAPTER 1 :- PRELIMINARY

1. Short title, extent and commencement
2. Definitions

CHAPTER 2 :- CONSTITUTION OF THE BOARD

3. Creation and incorporation of the Board
4. Constitution of the Board
5. Appointment of the Chairman and the members to be notified
6. The term of Office of the Chairman and members of the Board
7. Disqualifications for appointment as member of the Board
8. Honorarium and allowances of the Chairman
9. Leave of absence for the Chairman and appointment of an acting Chairman
10. Removal of non-official members
11. Filling of casual vacancies

CHAPTER 3 :-TRANSFER OF THE ASSETS AND LIABILITIES OF THE CITY IMPROVEMENT TRUST OR TWO PLANNING TRUSTS TO THE BOARD

12. Transfer of assets and liabilities of the City Improvement Trust to the Board
13. Transfer of provident, superannuation and other like funds to the Board
14. Effect of vesting of assets and liabilities of the City Improvement Trust
15. Transfer of service of existing employees of the City Improvement Trust to the Board
16. Transfer of assets and liabilities etc., of Town Planning Trusts

CHAPTER 4 :-OFFICERS AND MEMBERS OF THE STAFF OF THE BOARD

17. Grant of leave to the Secretary, appointment of Housing Board Engineer and other officers and servants of Board
18. Power to grant leave and punish servants of the Board
19. Service regulations
20. Maintaining schedule of establishment

- 21. Housing Units
- 22. Control and delegation by Chairman
- 23. Chairman may refer any question by the Board to the Government

CHAPTER 5 :- CONDUCT OF BUSINESS OF THE BOARD AND ITS COMMITTEES

- 24. Meetings of the Board
- 25. Temporary association of persons with the Board for particular purposes
- 26. Appointment and functions of Committees
- 27. Members of the Board or Committee or persons associated with the Board not to take part in proceedings in which they are personally interested
- 28. Acts of the Board or Committee not to be invalidated by informality, vacancy etc

CHAPTER 6 :- POWERS OF BOARD, CHAIRMAN AND SECRETARY TO INCUR EXPENDITURE ON SCHEMES AND ENTER INTO CONTRACTS

- 29. Powers of the Board and Secretary to incur expenditure:- Subject to budget provision and availability of funds, expenditure may be incurred on any single work or scheme for carrying out any of the purposes of this Act
- 30. Powers of Board and Secretary to approve estimates
- 31. Emergency powers of Chairman
- 32. Power to make and perform contracts
- 33. Agreements and security deposits
- 34. Further provisions as to execution of contracts and agreements
- 35. Singing of Instruments and the registration of such instruments

CHAPTER 7 :- HOUSING OR IMPROVEMENT SCHEMES

- 36. Power of the Board to undertake housing or improvement Schemes and incur expenditure
- 37. Power of Government to transfer any land belonging to or vested in them or acquired under the Kerala Land Acquisition Act, to the Board
- 38. Housing or improvement scheme when to be framed by the Board
- 39. Board may agree or refuse to frame and execute a housing or improvement scheme
- 40. Matters to be provided by housing or improvement schemes
- 41. Types of housing and improvement schemes
- 42. House accommodation scheme
- 43. Rebuilding Scheme
- 44. Rehousing or rehabilitation scheme
- 45. City or Town or Village expansion schemes
- 46. Street Scheme

- 47. Deferred street scheme
- 48. Land Development Scheme
- 49. General improvement scheme
- 50. Preparation, publication and transmission of notice as to housing or improvement schemes and supply of document to applicants
- 51. Transmission to the Board of representation by the concerned local authority as housing or improvement scheme
- 52. Notice regarding proposal to recover betterment fee
- 53. Publication of sanction of housing or improvement scheme
- 54. The Board to execute housing or improvement schemes soon after sanction
- 55. Alteration of a housing or improvement scheme after sanction
- 56. Transfer of Board for purposes of improvement scheme of building or land vested in local authority
- 57. Transfer of private street or square to Board for purpose of housing or improvement scheme
- 58. XXX XXX XXX
- 59. XXX XXX XXX
- 60. Bar to application of certain laws of local authority regarding closure
- 61. Repairs of streets vested in the Board
- 62. Transferring streets laid out or altered and open spaces provided by the Board under a housing or an improvement scheme
- 63. Prevention and restriction of traffic in street vested in the Board, during progress by work
- 64. Provision of facilities when work is executed by the Board in public streets vested in it
- 65. Power of the Board to turn or close public street or square vested in it
- 66. Power of the Board to retain lanes not meant for vehicular traffic
- 67. Other duties of the Board
- 68. Supervision and centage charges
- 69. Power of Government to call for the records of the Board and to modify, annul, etc.
- 70. Power to exempt

CHAPTER 8 :- ACQUISITION AND DISPOSAL OF LAND

- 71. Power to acquire land under the Land Acquisition Act
- 72. Power to purchase or lease by agreement
- 73. Power to dispose of land

CHAPTER 9 :-LEVY, ASSESSMENT AND RECOVERY OF BETTERMENT FEE

- 74. Payment of betterment fee
- 75. Assessment of betterment fee by the Board and notice to persons liable to such fee
- 76. Board to give notice to person liable to payment of betterment

fee

77. Agreement to make betterment fee a charge on land

78. Recovery of moneys payable in pursuance of sections 74,76 and 77

79. Agreement or payment of betterment fee not to bar acquisition under fresh declaration

CHAPTER 10 :-CONSTITUTION OF TRIBUNAL AND ITS FUNCTIONS

80. Constitution of a Tribunal for certain purposes

81. Officers and subordinates of the Tribunal

82. Payment by Board on account of Tribunal

83. Appeals from awards of Tribunal

84. Awards and orders of Tribunal to be executed by Civil Courts

CHAPTER 11 :-POWER TO EVICT PERSONS FROM BOARD PREMISES

85. Power to evict persons from Board Premises

86. Power to recover rent or damages as arrears of public revenue on land

87. Appeal

88. Rent to be recovered from deduction from salary or wages in certain cases

89. Bar of jurisdiction of Courts

CHAPTER 12 :- FINANCE

90. Boards fund

91. Subventions and loans to the Board

92. Power of the Board to borrow and lend

93. Guarantee by Government of loans

94. Form, Signature, Exchange, Transfer and effect of debenture

95. Payments to survivors of joint payees

96. Receipt by joint hold for interest or dividend

97. Priority of payments for interest and repayment of loans

98. Repayment of loans taken under section 92

99. Establishment and maintenance of sinking fund

100. Power to discontinue payments into sinking fund

101. Investment of Sinking fund

102. Application of sinking fund

103. Annual statement by trustees

104. Annual examination of sinking funds

105. Estimates of income and expenditure to be laid annually before the Board

106. Sanction of the Board to estimates

107. Approval of Government to estimates

108. Supplementary estimate

109. Adherence to estimate and maintenance of closing balance

110. Definition of Cost of management

- 111. Keeping of capital account and revenue account
- 112. Credits to capital account NT
- 113. Application of capital account
- 114. Credit to revenue account
- 115. Application of revenue account
- 116. Power to direct sale of securities in which any surplus of the revenue account is invested
- 117. Advance from revenue account to capital account
- 118. Advance from capital account to revenue account
- 119. Submission of abstracts of accounts to Government
- 120. Annual audit of accounts
- 121. Powers of auditor
- 122. Remuneration of auditors
- 123. Reports and information to be furnished by Auditor to the Board
- 124. Auditors report to be sent to each member and considered by Board
- 125. Board to remedy defects pointed out by auditor and to submit a report to Government
- 126. Accounts and audit report to be forwarded to Government and placed before the Legislative Assembly

CHAPTER 13 :- PENALTIES AND PROCEDURE

- 127. Penalty for removing fence etc, in streets
- 128. Penalty for building within street alignment or building line without permission
- 129. Penalty for failure to comply with requisition made by Auditor
- 130. Penalty for obstructing contractor or removing mark
- 131. Penalty , for breach of the provisions of the Act, etc
- 132. Compensation to be paid by offenders for damage caused by them
- 133. Punishment for acquiring share or interest in contract, etc with the Board
- 134. Procedure
- 135. Duty of Police Officers
- 136. Arrest of offenders
- 137. Powers of Secretary as to institution composition etc. of legal proceedings and obtaining legal advice
- 138. Protection of action taken in good faith
- 139. Notice of suit against Board etc
- 140. Proof of consent, etc., of Board or Chairman or Officer or subordinate of the Board
- 141. Power of Secretary to direct removal of unauthorised erections, etc.; within street alignment, etc
- 142. General power of the Board to pay compensation
- 143. Public notices how to be made known
- 144. Newspapers in which advertisement or notice is to be published
- 145. Stamping signature on notices or bills

- 146. Service how to be effected
- 147. Power to make surveys or contribute towards their cost
- 148. Power of entry

CHAPTER 14 :- MISCELLANEOUS

- 149. powers of the Board for facilitating movement of the population
- 150. The Chairman, members, officers and subordinates of the Board, the members of committees, deemed to be public servants
- 151. Contributions by Board towards leave allowances and pensions of officers and servants of the Central or State Government employed under this Act
- 152. Board and Chairman to exercise certain powers and functions under the Town Planning Act
- 153. Board and Chairman to exercise powers and functions of local authority and executive authority
- 154. Supply of documents and information to the Government
- 155. Submission of administration report to Government
- 156. Power of Government to give directions to the Board and local authorities
- 156A. Implementation of housing scheme for economically weaker sections
- 157. Suppression of the Board
- 158. Dissolution of the Board
- 159. The Board to be a local authority under the Kerala Land Acquisition Act and the Kerala Local Authorities Loans Act
- 160. Power to remove difficulties

CHAPTER 15 :- RULES AND REGULATIONS

- 161. Power to make rules
- 162. Power to make regulations

CHAPTER 16 :- SAVINGS

- 163. Savings

Kerala State Housing Board Act, 1971

19 OF 1971

An Act to provide for the organized direction and planning in the preparation and execution of housing and improvement schemes and for the establishment of a State Housing Board in the State of Kerala.

Preamble: WHEREAS it is expedient to provide for the organized direction and planning in the preparation and execution of housing and improvements schemes and for the establishment of a State Housing Board in the State of Kerala;

BE it enacted in the Twenty-second Year of the Republic of India as

follows:

CHAPTER 1 PRELIMINARY

1. Short title, extent and commencement :-

- (1) This Act may be called the Kerala State Housing Board Act, 1971.
- (2) It extends to the whole of the State of Kerala.
- (3) It shall be deemed to have come into force in the Trivandrum Taluk in Trivandrum District on the 5th day of March, 1971, and in the remaining areas int eh State it shall come in to force on such date as such Government may, by notification in the Gazette, appoint; and different dates may be appointed for different areas.

2. Definitions :-

In this Act, unless the context otherwise requires-

- (1) "betterment fee" means the fee declared to be payable under section 74 in respect of an increase in the value of land resulting from the execution of a housing or improvement scheme;
- (2) "Board" means the Kerala State Housing Board constituted under section 4;
- (3) "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 on control of, the Board or the purposes of this Act;
- (4) "Chairman" means the Chairman of the Board;
- (5) "Committee" means any committee appointed under section 26;
- (6) "Competent Authority" menas any person or authority authorised by the Government by notification in the Gazette, to perform the functions of the competent authority under Chapter XI for such area as may be specified in the notification;
- (7) "Housing Board Engineer" means the Housing Board Engineer appointed under section 17;
- (8) "Housing or improvement scheme" means a scheme framed under this Act and includes any of the types of schemes referred to in section 41;
- (9) "land" includes benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth;

16[(9A). Local authority means a Panchayat at any level constituted under the Kerala Panchayat Raj Act, 1994 (13 of 1994) or a

Municipality constituted under the Kerala Municipality Act, 1994 (20 of 1994).]

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

(11) "premises" means any land or 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;

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

(13) "regulations" means the regulations made under this Act;

(14) "rules" means the rules made under this Act;

(15) "Scheduled Castes" or "Scheduled Tribes" shall have the same meaning as in the Constitution of India.

(16) "Secretary" means the Secretary of the Board;

(17) "State" means the State of Kerala;

(18) "Tribunal" means the Tribunal constituted under section 80;

(19) "Year" means the financial year.

16 Inserted vide Act 16 of 2000

CHAPTER 2 CONSTITUTION OF THE BOARD

3. Creation and incorporation of the Board :-

The duty of carrying out the provisions of this Act shall, subject to the restrictions, conditions and limitations therein contained, be vested in a Board to be called "The Kerala State Housing Board"; and such Board shall be a body corporate and have perpetual succession and a common seal, and shall by the said name sue and be sued.

4. Constitution of the Board :-

The Board shall consist of a Chairman who shall be a non-official appointed by the Government and of the following other members, that is to say:-

(a) Housing Commissioner to the Government, ex-officio, who shall also be the Secretary of the Board,

(b) Four officials to be appointed by the Government, and (c) **16**

(a)[eleven] non-officials to be nominated by the Government, one of whom shall be an Engineer or Architect who possesses experience in housing and who is not employed by the Government or a local authority or a Corporation owned or controlled by the

Government and of whom at least two shall be persons belonging to Scheduled Castes or Scheduled Tribes **16(b)**[and of whom two shall be from among the Presidents or Chairpersons of the local authorities]

16(a)[Provided that the term of office of a member nominated from among the Presidents or Chairpersons of the local authorities shall be co terminus with the term of his office as such President or Chairperson.]

16(a) Substituted vide Act 16 of 2000

16(b) Inserted vide Act 16 of 2000

5. Appointment of the Chairman and the members to be notified :-

The appointment of the Chairman and the members shall be notified in the Gazette.

6. The term of Office of the Chairman and members of the Board :-

(1) The Chairman appointed under section 4 and a member nominated under clause (c) of the said section shall hold office for a term of three years from the date of his appointment or nomination, as the case may be and shall be eligible for re-appointment or renomination.

2. A member appointed under clause (b) of section 4 shall hold office during the pleasure of the Government.

3. The Chairman or any nominated member may resign his Chairmanship or membership by giving notice in writing to the Government but shall continue in office until his resignation is accepted by the Government.

7. Disqualifications for appointment as member of the Board :-

(1) A person shall be disqualified for being appointed as and for being, a member of the Board, if he-

(a) has been convicted by a criminal court for any offence involving moral delinquency and sentenced to imprisonment for a period of not less than two years, and period of five years has not elapsed from the date of expiry on the period of sentences;

(b) is an undischarged insolvent; or

(c) is of unsound mind; or
(d) is an officer or subordinate under the Board; or
(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 officer of any incorporated company which has any share or interest in any contract or employment with, by or on behalf of, the Board.

(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 officer, having a share or interest in -

(i) any sale, purchase, lease or exchange of immovable property or any agreement for the same; or
(ii) any agreement for the loan of a money or any security for the payment of money only; or
(iii) any newspaper in which any advertisement relating to the affairs of the Board is inserted; or
(iv) the occasional sale to the Board, to a value not exceeding two thousand rupees in any one year, of any article in which he or the incorporated company regularly trades.

(3) A person shall not also be disqualified under clause (e) or clause (f) of subsection (1) or be deemed to have any share or interest in any incorporated company which has any share or interest in any contract or employment with, by or on behalf of, the Board, by reason only of his being a share-holder or such company:

Provided that such person discloses to the Government the nature and extent of the shares held by him.

Explanation:- For the purposes of clause (d) of sub-section (1), the Chairman and Secretary shall not be deemed to be officers or subordinates of the Board.

8. Honorarium and allowances of the Chairman :-

The Chairman shall be paid such honorarium and allowances as may be fixed by the Government.

9. Leave of absence for the Chairman and appointment of an acting Chairman :-

(1) The Government may, from time to time, grant to the Chairman

such leave as may be admissible under the rules.

(2) Whenever there a temporary vacancy in the office of the Chairman, the Government may appoint a non-official member to act as Chairman during the period of such vacancy and shall pay to such person such honorarium and allowances as may be fixed by them. The person so appointed shall be deemed for all purposes of this Act to be the Chairman.

10. Removal of non-official members :-

(1) The Government may, by notification in the Gazette, remove any nonofficial member from office:-

(a) if he has, without the permission of the Board been absent from the meetings of the Board for any period exceeding three consecutive months or if within the said period less than three meetings have been held he absents himself from three consecutive meetings;

(b) if he has been absent from the meetings of the Board for any period exceeding that permitted under sub section (1) of section 11; or

(c) if he, being a legal practitioner, acts or appears on behalf of any person other than the Board in any civil, criminal or other legal proceedings in which the Board is interested, either as party or otherwise; or

(d) if he has, in the opinion of the Government, contravened the provisions of section 27; or

(e) if he, in the opinion of the Government, is unsuitable or has become incapable of acting as a member or has so abused his position as member as to render his continuance as such member detrimental to the public interest; Provided that before removing a member under this subsection, he shall be given a reasonable opportunity to show cause why he should not be removed.

(2) A non-official member removed under any of the provisions of clauses (a) to (d) of sub section (I) shall be disqualified for appointment as a member for a period of three years from the date of his removal unless otherwise ordered by the Government.

(3) A non-official member removed under clause (e) of subsection (I) shall not be eligible for re-appointment until he is declared by an order of the Government to be no longer ineligible.

11. Filling of casual vacancies :-

(1) The Board may permit any non-official member to absent

himself from its meeting for a period not exceeding six months.

(2) The casual vacancy in the office of a member who is permitted to be absent under subsection (1) may be filled by the Government and any person appointed to fill such vacancy shall enter upon office forthwith but shall hold office only so long as the vacancy lasts; Provided that the person so appointed is eligible for being appointed as a member to the office of the absent member in accordance with the provisions of section 4 and is not disqualified under section 7.

CHAPTER 3 TRANSFER OF THE ASSETS AND LIABILITIES OF THE CITY IMPROVEMENT TRUST OR TWO PLANNING TRUSTS TO THE BOARD

12. Transfer of assets and liabilities of the City Improvement Trust to the Board :-

(1) On the appointed day the Board of Trustees for the Improvement of the City of Trivandrum (hereinafter referred to as the City Improvement Trust) shall stand dissolved and all its assets and liabilities shall stand transferred to and vested in the Board.

(2) The assets of the City improvement Trust shall be deemed to include all rights and powers and all property, whether movable or immovable, belonging to or vested in the City Improvement Trust including in particular, cash balance, reserve funds, investments, deposits and all other interests and rights in or arising out of such property as may be in the possession of the City Improvement Trust and all books of account or documents kept or maintained by the City Improvement Trust; and the liabilities of the City improvement Trust shall be deemed to include all debts, liabilities and obligations of whatever kind then existing and pertaining to the City Improvement Trust. Explanation:- In this section and in sections 13, 14 and 15, "appointed day means the dated on which this Act comes into force in the City of Trivandrum.

13. Transfer of provident, superannuation and other like funds to the Board :-

(1) Where the City Improvement Trust has established a provident fund or superannuation fund or any other like fund for the benefit of its employees and constituted a trust in respect thereof (hereinafter referred to as the existing trust), the moneys standing to the credit of any such fund on the appointed day, together with

any other assets belonging to such funds, shall, subject to the provisions of subsection (2), stand transferred to and vested in the Board on the appointed day, free from any such existing trust.

(2) The Board shall, as soon as may be after the appointed day, constitute in respect of the moneys and other assets which are transferred to and vested in it under subsection (1), one or more trusts having objects as similar to the objects of the existing trust as may be practicable.

(3) Where all the moneys and other assets belonging to the existing trust are transferred to and vested in the Board under subsection (1), the trustees of such trust shall, as from the appointed day, be discharged from the trust, except as respects things done or omitted to be done before the appointed day.

14. Effect of vesting of assets and liabilities of the City Improvement Trust :-

(1) Unless otherwise expressly provided by or under this Act, all contracts, agreements and other instruments of whatever nature subsisting or having effect immediately before the appointed day and to which the City Improvement Trust is a party or which are in favour of the City Improvement Trust shall be of as full force and effect against or in favour of the Board, as the case may be enforced or acted upon as fully and effectually as if, instead of City Improvement Trust, the Board had been a party thereto or as if they had been entered into or issued in favour of the Board.

(2) If on the appointed day any suit, appeal or other legal proceedings of whatever nature by or against the City Improvement Trust is pending, then, it shall not abate, be discontinued or be in any way prejudicially affected by reason of the transfer to the Board of the assets and liabilities of the City Improvement Trust or of anything done under this Act, but the suit, appeal or other legal proceedings may be continued, prosecuted and enforced by or against the Board.

Explanation: For the purpose of this sub section, legal proceeding includes any proceeding under the Kerala Land Acquisition Act, 1961 (Act 21 of 1962)

15. Transfer of service of existing employees of the City Improvement Trust to the Board :-

(1) Every whole-time employee of the City Improvement Trust shall, on and from the appointed day, become an employee of the

Board with such designation as the Board may determine, and shall hold his office therein by the same tenure, at the same remuneration and on the same terms and conditions of service and with the same rights and privileges as to gratuity, if any, and other matters as he would have held the same if this Act had not been passed, and shall continue to do so unless and until his remuneration, terms and conditions are duly altered by the Board:

Provided that the tenure, remuneration and terms and conditions of service of any such employee shall not be altered to his disadvantage without the previous sanction of the Government:

Provided further that any service rendered by such employee, before the constitution of the Board shall be deemed to be service rendered under the Board.

(2) If any question arises as to whether any person was a whole-time employee of the City Improvement Trust immediately before the appointed day, the question shall be referred to the Government whose decision shall be final.

(3) Notwithstanding anything contained in the Industrial Disputes Act 1947 (Central Act 14 of 1947) or in any other law for the time being in force the transfer of the services of any employee of the City Improvement Trust to the Board shall not entitle any such employee to any compensation under that Act or other law, and no such claim shall be entertained by any court, tribunal or other authority.

16. Transfer of assets and liabilities etc., of Town Planning Trusts :-

(1) The Government may, by notification in the Gazette, direct that any Town Planning Trust constituted under the Town Planning Act (Act IV of 1108) or the Madras Town Planning Act, 1920 (Madras Act VII of 1920), in any area in which this Act comes into force, shall on and from the date specified in such notification stand dissolved and all its assets and liabilities shall upon such dissolution, stand transferred to and vested in the Board.

(2) Where any Town Planning Trust is dissolved and its assets and liabilities become transferred to and vested in the Board under sub section (1), the provisions of sections 12,13,14 and 15 of this Act shall, as far as may be, apply to such transfer and vesting.

(3) With effect on and from the date specified in the notification under sub section (1) in respect of an area, the provisions of Chapter IX of the Town Planning Act (Act IV of 1108) or as the

case may be of Chapter IX of the Madras Town Planning Act, 1920 (Madras Act VII of 1920), shall cease to be in force in such area.

CHAPTER 4 OFFICERS AND MEMBERS OF THE STAFF OF THE BOARD

17. Grant of leave to the Secretary, appointment of Housing Board Engineer and other officers and servants of Board :-

(1) The Government may from time to time grant to the Secretary such leave as may be admissible under the rules:

(2) Whenever there is a temporary vacancy in the office of the Secretary, the Chairman shall report the matter to the Government and the Government may make arrangements to fill up such vacancy.

(3) The Board may with the previous approval of the Government appoint Housing Board Engineer.

(4) The Board may sanction the creation of such posts in the establishment of the Board as it considers necessary for the efficient performance of its functions.

(5) The Secretary shall have the powers, in consultation with the Public Service Commission, to make appointments to the posts in the establishment of the Board and he shall exercise the powers in such manner as may be prescribed.

18. Power to grant leave and punish servants of the Board :-

(1) subject to such regulations as may be made under section 19 the power to grant leave to the officers and servants of the Board shall vest in the Secretary.

(2) Subject to such rules as may be prescribed if any officer or servant in the service of the Board is guilty of any breach of departmental rules or discipline or of carelessness, neglect of duty or other misconduct or is unfit the authority competent to appoint such officer or servant may impose the following penalties on him, namely:-

(a) censure;

(b) withholding of increments or promotion including stoppage at an efficiency bar;

(c) reduction to a lower post or time-scale or to a lower stage in a time-scale;

(d) fine;

(e) recovery from pay of the whole or part of any pecuniary loss caused to the Board;

(f) removal from the service of the Board which shall not be a disqualification for future employment;

(g) dismissal from the service of the Board which shall be a disqualification for future employment;

Provided that the punishment of fine shall be imposed only on the members of the last grade services and that infliction of heavy fines and frequent infliction of fines shall be avoided:

Provided further that a servant of the Central or State Government or of a local authority, whose services have been lent to the Board shall not be punished except by an authority which would have been competent to do so if his services were not so lent, but the Chairman or the Board shall be entitled to make all enquiry and report against such servant to such authority.

(3) The Secretary may, pending enquiry, suspend any officer or servant of the Board:

Provided that he shall forthwith report the matter to the authority competent to inflict punishment on such officer or servant under sub-section (2), if he is not such authority.

(4) Any officer or servant of the Board who is aggrieved by an order passed under sub-section (2) or sub-section (3) may, within two months from the date of receipt by him of such order, appeal to the Chairman if the order passed by the Secretary; and to the Government if the order is passed by the Board, and the Chairman or the Government, as the case may be, may pass such order on the appeal as he or they think fit.

(5) The Board may either suo motu or on an application call for and examine the record of any order passed by the Chairman under sub-section (4) for the purpose of satisfying itself as to the correctness, legality, propriety or regularity of such order and may pass such order with respect thereto as it thinks fit: Provided that no application for revision shall be entertained after the expiration of thirty days from the date on which the order sought to be revised was received by the applicant.

(6) The Government may either suo motu or on an application call for the Secretary's record of any order passed by the Board under sub-section (5), and review any such order and pass such order with respect thereto as they think fit: Provided that no application for review shall be entertained after the expiration of thirty days from the date on which the order sought to be reviewed was received by the applicant.

19. Service regulations :-

Subject to the provisions of this Act, the Board shall with the previous approval of the Government, make regulations-

(a) fixing the salary and allowances of the Secretary, Housing Board Engineer or servant from whom it may be deemed expedient to require security;

(b) fixing the amount and nature of security to be furnished by any officer or servant from whom it may be deemed expedient to require security;

(c) for regulating the grant of leave of absence, leave allowances and acting allowances to the officers and servants of the Board;

Provided that a servant of the Central or the State Government employees an officer or servant of the Board shall not be entitled to leave or leave allowances, otherwise than as laid down in the conditions of this service under the Central or the State Government relating to transfer to foreign service;

(d) for establishing and maintaining a provident funds, for compelling all or any of the officers or subordinates other than servants of the Central or the State Government respect of whom a contribution is paid under section 151 to subscribe to the fund at such rates and subject to such conditions as may be prescribed and for supplementing such subscriptions out of the funds of the Board;

(e) for determining the conditions under which the officers and servants or any of them shall on retirement receive ¹Pensions or compassionate allowances and the amount of such ² Pensions and compassionate allowances.

1 Substituted by Act 4 of 1991 2 Substituted by Act 4 of 1991

20. Maintaining schedule of establishment :-

The Board shall prepare and maintain a schedule of establishment before the 1st of May of every year, showing the number, designations and grades of the officers and subordinates (other than the employees who are paid by the day or whose pay is charged to temporary work), who it considers necessary and proper to employ for the purposes of this Act and also the amount and the nature of the salary, fees and allowances to be paid to each such officers or subordinate, contributions payable under section 151 in respect of each officer and servant as on the 1st of April of the same year.

21. Housing Units :-

(1) The Board shall establish a housing unit-

(a) for the area comprising the city of Trivandrum and any other areas specified by the Government by notification in the Gazette by the name "The Trivandrum Housing Unit";

(b) for the area comprising the city of Cochin and any other area specified by the Government by notification in the Gazette;

(c) for the area comprising the city of Calicut and any other area specified by the Government by notification in the Gazette; and

(d) with the approval of the Government for any other area for the efficient performance of its functions in that area.

(2) Every housing unit shall form part of the establishment of the Board and shall consist of such officers and servants as may be considered necessary by the Board.

(3) Every housing unit shall be in charge of an officers who shall be under the administrative control of the Chairman and shall also exercise such powers, and perform such duties and functions, as may be delegated to him by the Chairman under section 22.

22. Control and delegation by Chairman :-

(1) The Chairman shall exercise overall supervision and control over the acts and proceedings of all officers and subordinates of the Board.

(2) The Chairman may by general or special order in writing delegate to any officer of the Board, any of his powers, duties or functions under this Act or any rules or regulations made there under except those under section 24,94, 105 and 140.

(4) The exercise or discharge by any officer of any powers, duties or functions delegated to him under sub-section (2) shall be subject to such restrictions and limitations as may be imposed by the Chairman, and shall also be subject to his control and revision.

23. Chairman may refer any question by the Board to the Government :-

The Chairman may, in cases where he is satisfied that any decision of the Board cannot in public interest be implemented, refer such matter to the Government and the Government shall have power to issue such directions thereon as they deem fit. Such directions shall be binding on the Board.

CHAPTER 5 CONDUCT OF BUSINESS OF THE BOARD AND ITS COMMITTEES

24. Meetings of the Board :-

(1) The Board shall meet at such times and places and shall, subject to the provisions of sub-sections (2) and (3) observe such rules of procedure in regard to transaction of business at its meeting (including the quorum at meetings) as may be prescribed by regulations:

Provided that the Board shall meet at least once in a month:

(2) The Chairman or in his absence such member as may be chosen by the members present from among themselves shall preside at a meeting of the Board.

(3) All questions at any meeting of the Board shall be decided by a majority of the votes of the members present and voting and, in the case of an equality of votes the Chairman, or in his absence the person presiding shall have a second vote in addition to his first vote as a member of the Board.

(4) The proceedings of the meeting of the Board shall be forwarded to the Government in the department in charge of housing within seven days of every meeting.

25. Temporary association of persons with the Board for particular purposes :-

(1) The Board may associate with itself in such manner and for such purpose as may be prescribed by regulations, any person whose assistance or advice it may desire for the purpose of carrying into effect any of the provisions of this Act: Provided that the number of persons so associated shall not be more than five.

(2) A person associated with the Board under sub-section (1) for any purpose shall have the right to take part in the discussions of the Board relevant to that purpose, but shall not be named as a member for any other purpose:

(3) The Government may, by order, depute one or more officers of the Government to attend any meeting of the Board and to take part in the discussions of the Board, but such officer or officers shall not have the right to vote.

26. Appointment and functions of Committees :-

(1) The Board may, from time to time, appoint committees

consisting of such number of persons as it may think fit for the purpose of discharging such duties or performing such functions, and on such terms and conditions, as may be prescribed by regulations.

(2) The Chairman or such other person as he may nominate in this behalf shall be the president of the committee and the committee shall observe such rules of procedure in regard to transaction of business at its meetings as may be prescribed by regulations.

(3) All proceedings of the Committee shall be subject to confirmation by the Board.

27. Members of the Board or Committee or persons associated with the Board not to take part in proceedings in which they are personally interested :-

(1) A member or a person associated with the Board or a member of any committee who-

(a) has directly or indirectly, by himself or by any partner employer or employee, any such share or interest as is described in sub-section (1) of section 7 in respect of any matter, or

(b) has acted professionally in relation to any matter, on behalf of any person having therein any such share or interest as aforesaid, shall not vote or take part in any proceeding of the Board or any committee relating to such matter.

(2) If any member or any person associated with the Board under section 25 or any member of a committee appointed under section 26 has, directly or indirectly, any beneficial interest in any land situated in an area comprised in any housing or improvement scheme framed under this Act, or in an area in which it is proposed to acquire land for any of the purposes of this Act ;

(i) he shall at a meeting relating to such area, of the Board or any committee, inform the person presiding of the nature of such interest, and

(ii) he shall not take part in any proceeding relating to such area at a meeting of the Board or any committee.

(iii) He shall not take part in any proceeding relating to such area at a meeting of the Board or any committee.

(4) Nothing in sub-section (2) shall prevent any member or any person associated with the Board under section 25 or any member of a committee appointed under section 26 from voting on, or taking part in, the discussion of any resolution or question relating to any subject other than a subject referred to in that sub-section.

28. Acts of the Board or Committee not to be invalidated by informality, vacancy etc :-

No act done or proceeding taken under this Act by the Board or any Committee shall be invalidated merely on the ground-

- (a) of any vacancy or defect in the constitution of the Board or the Committee; or
- (b) of any defect or irregularity in the appointment of a person acting as a member thereof; or
- (c) of any defect or irregularity in such act or proceeding not affecting the merits of the case.

CHAPTER 6 POWERS OF BOARD, CHAIRMAN AND SECRETARY TO INCUR EXPENDITURE ON SCHEMES AND ENTER INTO CONTRACTS

29. Powers of the Board and Secretary to incur expenditure:- Subject to budget provision and availability of funds, expenditure may be incurred on any single work or scheme for carrying out any of the purposes of this Act :-

- (i) by the Secretary, in case such expenditure does not exceed one lakh of rupees; and
 - (ii) by the Board in other cases:
- Provided that the Secretary shall report the expenditure incurred by him under this section to the Board at its next meeting for approval.

30. Powers of Board and Secretary to approve estimates :-

The Board or the Secretary may accord approval to estimates for incurring expenditure on any work or schemes for carrying out any of the purposes of this Act subject to the like restrictions and conditions imposed on the Board or the Secretary, as the case may be, under section 29.

31. Emergency powers of Chairman :-

The Chairman may in cases of emergency, direct the execution of any work or the doing of any act which requires the sanction of the board and the immediate execution or doing of which is, in his opinion necessary for the service or safety of the public and may also direct that the expenses of executing the work or of doing the act shall be paid from the funds of the Board.

Provided that-

- (a) he shall not act under this section in contravention of any direction of the Board or the Government prohibiting the execution of any particular work or the doing of any particular act;
- (b) he shall report the action taken by him under this section and reasons therefore to the Board at its next meeting and shall also submit a copy of his report to the Government and the Board or the Government may issue such directions as it or they may deem fit on such report.

32. Power to make and perform contracts :-

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

33. Agreements and security deposits :-

- (1) Every contract shall be made on behalf of the Board by the Secretary or any other officer of the Board authorised by the Board.
- (2) The Secretary or the officer authorised under sub-section (1) shall take sufficient security deposit for the due performances of the contract.
- (3) Written agreements shall be executed for every contract, the value of which exceeds five hundred rupees.
- (4) Every contract made by the Secretary or the officer authorised under subsection (1) the value of which exceeds ten thousand rupees, shall be reported to the Board at its next meeting.

34. Further provisions as to execution of contracts and agreements :-

- (1) Subject to the provisions of sections 32 and 33 contracts or agreements shall be made or executed in accordance with such rules as may be prescribed.
- (2) A contract or agreement made or executed in contravention of the provisions of this Act or the rules or regulations made thereunder shall not be binding on the Board.

35. Signing of Instruments and the registration of such instruments :-

- (1) The Secretary or any officer of the Board authorised in writing by the Board in this behalf may sign on behalf of the Board any agreement or other instrument to be executed on behalf of the

Board.

(2) Notwithstanding anything contained in the Indian Registration Act, 1908 (Central Act 16 of 1908) it shall not be necessary for the Secretary or an officer of the Board referred to in sub-section (1) to appear in person or by agent at any registration office in any proceeding connected with the registration of any instrument executed by him in his official capacity or to sign as provided in section 58 of that Act.

(3) Where any instrument is so executed, the registering officer to whom such instrument is presented for registration may, if he thinks fit, refer to the Secretary or an officer of the Board referred to in sub-section (1) for information respecting the same and shall on being satisfied of the execution thereof, register the instrument.

CHAPTER 7 HOUSING OR IMPROVEMENT SCHEMES

36. Power of the Board to undertake housing or improvement Schemes and incur expenditure :-

(1) Subject to the provisions of this Act , the Board may ,from time to time, incur expenditure and undertake works for the preparation and execution of such housing or improvement schemes as it may consider necessary.

(2) The Government may, on such terms and conditions as they may think fit to impose, transfer to the Board the execution of any housing or improvement scheme not provided by this Act, and the Board shall thereupon undertake the execution of such schemes as if it had been provided for by this Act.

(3) The Board may , on such terms and conditions as may be agreed upon, take over for execution any housing or improvement scheme under taken by a local authority and the Board shall execute such scheme as if it had been provided for this by Act.

37. Power of Government to transfer any land belonging to or vested in them or acquired under the Kerala Land Acquisition Act , to the Board :-

Whenever the Government consider it expedient or necessary, for the purpose of clearance or improvement of any slum area, to transfer any land in such area belonging to or vested in them or acquired under the provisions of the Kerala Land Acquisition Act ,1961 (Act 21 of 1962), for the purposes of slum clearance, they may do so on such terms and conditions as they may think fit to

impose ; and direct the Board to undertake the clearance or improvement of that area and to frame and execute such housing or improvement scheme under this Act as the Government may, specify, and the Board shall thereupon undertake the same for execution as if it had had been provided for by this Act.

38. Housing or improvement scheme when to be framed by the Board :-

A housing or improvement scheme may be framed by the Board on its own motion or at the instance of the Government or a local authority.

39. Board may agree or refuse to frame and execute a housing or improvement scheme :-

(1) The Board may agree to frame and execute a housing or improvement scheme at the instance of a local authority if the Board is satisfied that such scheme is necessary and the funds at its disposal permit the framing and the execution of such scheme , or may refuse to frame and execute such Scheme if it is satisfied that it either unnecessary or not feasible or that it is otherwise unexecutable.

(2) Any local authority deeming itself aggrieved by the refusal of the Board under subsection (1) may, within two months from the date of receipt of the order of such refusal, appeal to the Government who may pass such orders thereon as they think fit , and it shall be the duty of the Board to give effect to such orders accordingly.

¹⁶[(3) At the instance of the local authority and with the approval of the Government, the Board shall frame and execute such Schemes for poramboke dwellers and homeless poor as may be proposed by any local authority and approved by Government.

(4) The expenses for execution of the scheme shall be met from a separate fund, namely the Relief Fund to be administered by the Board to which interested persons, institutions, Government owned companies and Corporations, the local authorities and the Board may contribute periodically.]

16 Inserted vide Act 16 of 2000

40. Matters to be provided by housing or improvement schemes :-

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

- (a) The acquisition by purchase , exchange, or otherwise, of any property necessary for or affected by the execution of the scheme ;
- (b) The laying or re-laying out of any land comprised in the scheme ;
- (c) The distribution or redistribution of sites belonging to owners of the property comprised in the scheme;
- (d) The closure or demolition of dwellings or portion of dwellings unfit for human habitation;
- (e) The demolition of obstructive buildings or portion of buildings.;
- (f) The construction and reconstruction of buildings;
- (g) The sale , lease or exchange of any property comprised in the scheme;
- (h) The construction and alteration of roads, streets, back lanes, bridges, culverts and causeways;
- (i) The draining, water supply and lighting of the streets included in the scheme;
- (j) The provision of open parks, playing fields, and open spaces for the benefit of any area comprised in the scheme or any adjoining area, and the enlargement of existing parks, playing fields; open spaces and approaches;
- (k) The provision of sanitary arrangements required for the area comprised in the scheme , including the conservation of and prevention of injury and contamination to rivers or other sources and means of water supply;
- (l) The provision of accommodation for any class of inhabitants ;
- (m) The advance of money for the purposes of the scheme;
- (n) The provision of facilities for communication and transport;
- (o) The collection of such information and statistics as may be necessary for the purposes of this Act;
- (p) The reclamation or reservation of lands for markets, gardens playing fields and afforestation;
- (q) The provision of schools, parks, swimming pools, restaurants, shops, markets, fuel depots, laundries , hair dressing saloons and other amenities in the scheme; and
- (r) Any other matter for which , in the opinion of the Government it is expedient to make provision with a view to provide house accommodation and to the improvement of any area comprised in the scheme, or of any adjoining area or the general efficiency of

the scheme.

Explanation.- For the purposes of this section, the Government may, by notification in the Gazette specify such area surrounding or adjoining the area included in a housing or improvement scheme to be the adjoining area.

41. Types of housing and improvement schemes :-

(1) Any housing and improvement scheme shall be of one of the following types , or combination of any two or more such types or of any special features thereof , that is to say:-

(a) A house accommodation scheme;

(i) For the poor sections of the people having an income not exceeding Rs. 2,000 per annum especially for scheduled castes and scheduled tribes.

(ii) For others.

(b) A rebuilding scheme;

(c) A rehousing rehabilitation scheme;

(d) A city or town or village expansion scheme;

(e) A street scheme;

(f) A deferred street scheme;

(g) A land development scheme;

(h) A general improvement scheme;

(i) An office accommodation scheme;

(j) An educational institution accommodation scheme;

(k) A health institution accommodation scheme; and

(l) A tourist accommodation scheme;

(2) Notwithstanding anything contained in sub-section (1), the Board may suo motu or at the instance of the Government frame a scheme or schemes for the grant of loans and advances to private individuals, local bodies or other organisations for housing purposes subject to such terms and conditions as may be laid down in the scheme or schemes:

16[1][(3) In respect of loans and advances to private individuals having government subsidy, the selection of beneficiaries shall be made by the local bodies on the basis of norms fixed by the Board and all complaints regarding the selection of the beneficiaries shall be settled by the Board, The local bodies shall render necessary assistance to the Board for the recovery of dues from the beneficiaries for such schemes.]

Provided that the terms and conditions of the schemes framed at the instance of the Government shall be subject to their approval:

Provided further that the provisions in sections 50 to 57 shall not apply to the schemes framed under this sub-section.

42. House accommodation scheme :-

(1) Whenever the Board is of opinion that it is expedient or necessary to meet the need for house accommodation in any area , the Board may frame a house accommodation scheme.

(2) Such scheme shall specify the lay out of the area where the houses are to be constructed.

(3) Such scheme may provide for the construction of houses and for the sale, leasing out or sale on hire purchase basis of any house so constructed.

(4) The Board may provide in the area roads ,streets, drainage, water supply, street lighting and other amenities.

43. Rebuilding Scheme :-

(1) Whenever it appears to the Board that any area is an insanitary area within the meaning of section 49 and that having regard to the comparative value of the buildings in such area and of the sites on which they are erected , the most satisfactory method of dealing with the area or any part thereof is a rebuilding scheme for the whole area or any part of it in accordance with the provisions of this section.

(2) A rebuilding scheme may provide for -

(a) the reservation of roads, streets, lanes and open spaces and the enlargement of the existing roads, streets, lanes and open spaces to such extent as may be necessary for the purposes of the scheme;

(b) the re-laying out of the sites of the area upon roads, streets, lanes and open spaces so reserved and enlarged;

(c) the payment of compensation in respect of any such reservation or enlargement and the formation of roads, streets, lanes and open spaces so reserved or enlarged;

(d) the reconstruction , alteration or demolition of the existing buildings and their appurtenances by the owners or by the Board in default of the owners, upon the sites as defined under the scheme;

(e) the advance to the owners, upon such terms and conditions as to interest , sinking fund, and other matters as may be provided under the scheme, of such sums, as may be necessary to assist them to reconstruct or alter existing buildings or to erect new buildings in accordance with the scheme; and

(f) the acquisition by the Board of any site or building comprised in the area included in the scheme.

44. Rehousing or rehabilitation scheme :-

Whenever the Board is of opinion that it is necessary for persons who-

(a) are displaced by the execution of any housing or improvement scheme sanctioned under this Act, or

(b) are likely to be displaced by the execution of any housing or improvement scheme which it is intended to frame under this Act, or

(c) are surplus in any scheme area, the board may frame a rehousing scheme for the construction, maintenance and management of such number of dwelling houses and shops as may be required , or may frame a rehabilitation scheme for providing such number of open plots with roads, streets, and open spaces as may be necessary.

45. City or Town or Village expansion schemes :-

(1) Whenever the Board is of opinion that it is expedient to control and provide for the future expansion or development of a city , town or village, the Board may frame 16Awith the previous approval of the local authority concerned] an expansion scheme and specify the time limit for the execution of such scheme.

(2) The expansion scheme may be framed in respect of an area which lies wholly within or wholly outside the limits of the city, town or village, or in respect of an area which lies partly within and partly outside the city, town or village.

(3) Such scheme shall specify the proposed lay out of the area to be developed and the purposes for which particular portions thereof are to be utilised.

(4) After any such scheme has come into force, no person shall ,without the previous permission of the Board, erect, re-erect, add to, or alter any building or wall within the area comprised in the scheme.

(5) If the Board refuses to grant permission to any person to erect, re-erect, add to, or alter, any building or wall on his land in the area afore said, and does not proceed to require such land within one year from the date of such refusal, the Boardshall pay reasonable compensation to such person , for any damage sustained by him in consequence of such refusal.

46. Street Scheme :-

(1) Whenever the Board is of opinion that for the purpose -

- (a) providing building sites, or
- (b) remedy defective ventilation, or
- (c) creating new or improving existing means of communication and facilities for traffic, or
- (d) affording better facilities for conservancy, it is expedient to lay out new streets or alter existing streets (including bridges, cause ways and culverts) in any area, the Board may frame a street scheme for such area 16B in consultation with the local authority concerned.]

(2) A street scheme may , within the limits of the area comprised in the scheme provide for the following matters , namely:-

- (a) the acquisition of any land which, in the opinion of the Board, is necessary for the street scheme;
- (b) the relaying out of all or any of the lands so acquired including the construction and reconstruction of buildings by the Board or by persons authorised by the Board in that behalf and the laying out, construction and alteration of streets and thoroughfares;
- (c) the draining, water supply and lighting of streets and thoroughfares so laid out , constructed or altered;
- (d) the raising, lowering, or reclamation of any land vested in or to be acquired by, the Board for the purposes of the scheme;
- (e) the provision of open spaces for the better ventilation of the area comprised in the scheme; and
- (f) the acquisition of any land adjoining any street, thoroughfare, or open space to be formed under the scheme.

47. Deferred street scheme :-

(1) Whenever the Board is of opinion that it is necessary to provide for the ultimate widening of any street by altering the existing alignments of such street to improved alignments to be prescribed by the Board, but that it is not necessary immediately to acquire all or any of the properties lying within the proposed improved alignments, the Board may frame a " deferred street scheme" prescribing an alignment on each side of the street and specify the time limit for the execution of such scheme.

(2) A deferred street scheme shall provide for the following matters namely:-

- (a) the acquisition of whole or any part of any property lying within

the prescribed street alignments within the time limit specified in the scheme which may be extended by the Board- from time to time: Provided that such time limit including the extension granted by the Board shall in no case exceed twenty years from the date of sanction of the scheme.

(b) the re-laying out of all or any such property including the construction and reconstruction of buildings by the Board or by any other person, and the formation and alignment of the street;

(c) the draining, water supply and lighting of the street so formed or altered.

(3) After a deferred street scheme has been sanctioned by the Board (a) no person shall, except with the written permission of the Board, erect, reerect, and to or alter any building or wall so as to make the same project into the prescribed alignment of the street;

(b) if the Board fails to acquire or to institute proceedings for the acquisition of any property within the prescribed alignment of any street within the time limit specified in the scheme or extended by it, the owner of such property may, at any time thereafter, give the Board notice requiring it to acquire or to institute proceedings for the acquisition of such property before the expiration of six months from the date of such notice, and thereupon the Board shall acquire the property accordingly; and if the Board fails to do so, it shall pay reasonable compensation to the owner for any damage sustained by him in consequence of such failure;

(c) before proceeding to acquire any property lying within the prescribed alignment of the street other than property regarding which it has received a notice under clause (b), the Board shall give six months notice to the owner of the intention to acquire such property;

(d) Notwithstanding anything contained in the Kerala Municipal Corporation Act, 1961 (Act 30 of 1961), Kerala Municipalities Act, 1960 (Act 14 of 1961), the Guruvayoor Township Act, 1961 (Act 43 of 1961), or in any notification issued under section 142 of the Kerala Panchayaths Act, 1960 (Act 32 of 1960), the Council of the Corporation of city or Municipal Council or the Guruvayoor Township Committee or a Panchayat shall not have the power to prescribe any alignment of a street within the limits of the scheme, and any such alignment previously prescribed within such limits shall cease to the alignment of the street.

48. Land Development Scheme :-

- (1) Whenever the Board is of opinion that it is expedient to provide building sites in any area , the Board may frame a land development scheme.
- (2) Such Scheme shall specify the proposed layout of the area to be developed and the purposes for which particular portions thereof are to be utilised.
- (3) The Board may provide for roads , streets, open spaces, drainage, water supply and street lighting and other amenities for the scheme area
- (4) The Board may lease out or sell, by outright sale or on hire purchase basis, the building sites in the scheme area.

49. General improvement scheme :-

Whenever it appears to the Board-

- (a) that in any area, any buildings used or intended or likely to be used as dwelling houses are unfit for human habitation , or
- (b) that danger to the health of the inhabitants of buildings in any area , or to buildings in the neighborhood of such area is likely to be caused by -
 - (i) the narrowness, closeness, or bad arrangement or condition of streets or buildings or groups of buildings in such area, or
 - (i) the want of light , air, ventilation or proper conveniences in such area, or
 - (ii) any other sanitary defects in such area, the Board may frame a General Improvement Scheme in respect of such area.

50. Preparation, publication and transmission of notice as to housing or improvement schemes and supply of document to applicants :-

- (1) When any housing or improvement schemes has been framed, the Board shall prepare a notice to that effect and specify -
 - (a) the boundaries of the area comprised in the scheme, and
 - (b) the place or places at which particulars of the scheme, a map of the area, and details of the land which it is proposed to acquire and of the land in regard to which it is proposed to recover a betterment fee, may be seen at reasonable hours.
- (2) The Board shall
 - [2][(a) cause the said notice to be published in the Gazette or in two daily news papers having wide circulation in the locality in which the area comprised in the scheme is situate , specifying the period up to which the objections will be received; and]

- (b) send a copy of the notice to the local authority concerned;
- (3) The Secretary shall cause copies of all documents referred to in clause (b) of sub-section (1) to be delivered to any applicant on payment of the fee fixed by the Board

51. Transmission to the Board of representation by the concerned local authority as housing or improvement scheme :-

The local authority to whom a copy of a notice has been sent under clause (b) of sub-section (2) of section 50 shall, within a period of sixty days from the receipt of the said copy, forward to the Board any representation which the local authority wishes to make regarding of the scheme.

52. Notice regarding proposal to recover betterment fee :-

(1) Within the three weeks following the day on which any notice is [3][published] under section 50 in respect of any housing or improvement scheme, the Board shall serve a notice in such form as may be prescribed on every person whose name appears in the assessment list of the local authority concerned as being primarily liable to pay property tax on any building or land in regard to which the Board proposes to recover betterment fee.

(2) A copy of the notice shall also be affixed in every such premise.

(3) Every such notice shall be signed by the Secretary or by a person duly authorised by him in that behalf.

(4) Any person on whom a notice under sub-section (1) has been served may, within thirty days from the service of the notice, make a representation in writing to the Board stating his objection to the scheme.

51. Furnishing of copies or extracts from the assessment book of the local authority -

The [16][4]Secretary of the local authority of a local authority shall, at the request of the Secretary, furnish him with a copy of, or an extract from, assessment list of the local authority.

52. Abandonment, modification or sanction of housing or improvement scheme-

(1) After considering the objections and representations, if any, received in pursuance of sub-section (1) of section 50, section 54 and sub-section (4) of section 52 and after hearing the persons who, having raised any such objections or made any such representations, desire to be heard, the Board may either abandon

or modify or sanction the scheme, or apply to the Government for sanction with such modifications, if any, as the Board may consider necessary if the cost of the scheme exceeds ten lakhs of rupees.

(2) The Government may sanction with or without modification, or may refuse to sanction or may return for reconsideration any housing or improvement scheme costing over ten lakhs of rupees submitted to them under sub-section(1) (3) If a scheme returned for reconsideration under sub-section (2) is modified by the Board, it shall be republished in accordance with section 50.

(a) in every case in which the modification affects the boundaries of the area comprised in the scheme, or involves the acquisition of any land not previously proposed to be acquired; and

(b) in every other case, where the modification is, in the opinion of the Board, of sufficient importance to require republication.

53. Publication of sanction of housing or improvement scheme :-

(1) Whenever the Board or the Government sanction a housing or improvement scheme, it shall be announced by notification in the Gazette. Provided that whenever the Board sanctions a scheme with modifications, if any, it shall cause notice to that effect to be published [5]weekly for two consecutive weeks in the Gazette and in two leading daily newspapers in the State.

(2) The publication of the notification or notice under sub-section (1) in respect of any scheme shall be conclusive evidence that the scheme has been duly framed and sanctioned.

(3) Any person aggrieved by the decision of the Board sanctioning a housing or improvement scheme may, within thirty days from the date of last publication in the Gazette of the said scheme appeal to the Government and the decision of the Government on such appeal shall be final and shall not be liable to be questioned in any court of law.

(4) The scheme shall come into force and shall have effect-

(a) where no appeal is preferred, under sub-section (3), on and from the expiry of the thirty days referred to in that sub-section; and

(b) where such appeal is preferred, on and from the date of the decision of the Government on such appeal.

54. The Board to execute housing or improvement schemes soon after sanction :-

As soon as may be after a housing or improvement scheme, other than a deferred street scheme or expansion scheme, has come in to force, the Board shall proceed to execute the same.

55. Alteration of a housing or improvement scheme after sanction :-

At any time after a housing or improvement scheme has been sanctioned by the Board or the Government as the case may be, and before it has been carried into execution, the Board may alter or cancel it: Provided that :-

(a) If any alteration is likely to increase the estimated net cost of executing a scheme by more than ten per cent of the total cost, or if any altered scheme is likely to cost more than ten lakhs of rupees, the alteration shall not be made without the previous sanction of the Government.

(b) If any alteration involves the acquisition, otherwise than by agreement, of any land not previously proposed to be acquired in the original scheme, the procedure [prescribed in the foregoing sections of this Chapter shall, so far as it may be applicable, be allowed as if the alteration were a separate scheme;

(c) If, owing to any alteration, any land not previously liable under the scheme to the payment of a betterment fee becomes liable to such payment it may be applicable, be followed in regard to such land;

Provided further that no scheme costing over ten lakhs of rupees shall be cancelled under this section without the previous sanction of the Government. Explanation:- For the purposes of this section, the term "alteration" shall be deemed to include a combination of two or more schemes framed or proposed to be framed and the expression "altered scheme" shall be deemed to include any scheme so combined.

56. Transfer of Board for purposes of improvement scheme of building or land vested in local authority :-

(1) Whenever any building or land or any street or any part thereof, which is situated within the jurisdiction of a local authority and is vested in such local authority, is within the area of any housing or improvement scheme, the Board shall give notice accordingly to that local authority and such building, land or street or any part thereof shall thereupon vest in the Board.

(2) where any land situated within the jurisdiction of a local

authority vests in the Board under the provisions of sub-section (1) and the Board makes a declaration that such land will be retained by the Board only until it reverts in the local authority as part of a street or an open space under section 62, no compensation shall be payable by the Board to the local authority in respect of that land.

(3) where any building or land vests in the Board under the provisions of subsection (1) and no declaration is made under subsection (2) in respect of the land, the Board shall pay to the local authority as compensation, a sum equal to the market value of such building or land as on the date on which the scheme comes into force under section 55 and where any building situated on the land in respect of which a declaration has been made by the Board under subsection (2) is vested in the Board under subsection (1), like compensation shall be payable in respect of such building by the Board.

(4) If, in any case, where the Board has made a declaration in respect of any land under subsection (2), the Board detains or disposes of the land contrary to the terms of the declaration, so that the land does not revert in the local authority, the Board shall pay, to the local authority, compensation in respect of such land in accordance with the provisions of subsection (3)

(5) If any question or dispute arises as to whether compensation is payable under subsection (3), or subsection (4), or as to the amount of such compensation or as to whether any building, land or street, or any part thereof, is required for the purposes of the scheme, the matter shall be referred to the Government whose decision shall be final.

57. Transfer of private street or square to Board for purpose of housing or improvement scheme :-

(1) Whenever any private street or square or part thereof which is not vested in the Board or in a local authority is required for executing any housing or improvement scheme, the Board shall cause to be affixed in a conspicuous place in or near such street or square or part, a notice signed by the Secretary and -

(a) stating the purpose for which the street or square or part thereof is required, and

(b) declaring that the Board will, on or after a date to be specified, in the notice, take over charge of such street or square or part, from the owner thereof, and shall simultaneously send a copy of

such notice to the owner of such street or square or part.

(2) After considering the objections, if any, received in writing before the date specified under clause (b) of sub section (1), the Board may take over charge of such street or square or part, and the small shall thereupon vest in the Board.

(3) When the Board alters or closes any private street or square or part thereof which has vested in it under sub section (2), it shall pay reasonable compensation to the previous owner for the loss of his rights therein.

(4) If the alteration or closing of such street or square or part causes damage or substantial inconvenience to owners of property adjacent thereto, or to residents in the neighborhood, the Board shall forthwith provide some other reasonable means of access for the use of persons who were entitled to use such street or square or part as a means of access for the use of persons who were entitled to use such a street or square or part as a means of access to any property or place and if the provision of such means of access does not sufficiently compensate any such owner or resident for such damage or inconvenience, the Board shall also pay him reasonable compensation.

58. XXX XXX XXX :-

59. XXX XXX XXX :-

60. Bar to application of certain laws of local authority regarding closure :-

16[(1) Where a street scheme or any other scheme has the approval of the local authority concerned, such of the provisions of the Kerala Municipality Act, 1994 (20 of 1994) and the Kerala Panchayat Raj Act, 1994 (13 of 1994) as relate to maintenance or repairs of public streets, closure of public streets or parts thereof diverting or turning public streets or parts thereof an in disposal of the land which is no longer required when any public street is permanently closed shall not apply to any street vested in the Board under such scheme.]

(2) Such of the Provisions of the enactments specified in sub-section (1) as relate to temporary closure of streets, precautions during repairs of streets and prosecution against removal of bars and lights shall not apply to the Board when any drain or premises vested in the local authority is opened or broken up by the Board or any public street is under construction by the the Board.

61. Repairs of streets vested in the Board :-

Whenever the Board allows any street vested in is to be used for public traffic , it shall keep the street in good repair and do all things necessary for the safety and convenience of persons using it.

62. Transferring streets laid out or altered and open spaces provided by the Board under a housing or an improvement scheme :-

(1) the Board may hand over any road or street to the local authority concerned after giving one months notice, when-

(a) any such road or street laid out or altered by the Board has been duly leveled, metalled, flagegd , channelled, sewered and drained in the manner provided in the scheme sanctioned by the Board or the Government under section 54.

(b) Lamp posts necessary for the lighting of such sheets have been provided by the Board; and

(c) Water and other sanitary conveniences have been duly provided in such streets.

(2) The local authority concerned may , after receiving the notice from the Board under sub-section(1), declare the street to be a public street; and the street shall thereupon vest in the local authority; and shall thenceforth be maintained, kept in repair , lighted and cleaned by the local

(3) When any open space for the purposes of ventilation or recreation has been provided by the Board in executing any housing or improvement scheme, it shall , on completion, be transferred to the local authority concerned by a resolution at the board and it shall there upon vest in the local authority concerned and thereafter be maintained by that local authority as its expense; 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-path therein, and if necessary to provide lamps and other apparatus for lighting it.

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

63. Prevention and restriction of traffic in street vested in the Board, during progress by work :-

(1) When any work which may lawfully be done is being executed by the Board in any street vested in it, the Board may direct that such street shall during the progress of such work, be either wholly or partially closed to traffic generally or to traffic of any specified description.

(2) When any such direction has been given, the Board shall set up in a conspicuous position in or near the street an order prohibiting traffic to the extent so directed , and fix such bars, chains, or posts across or in the street as it may think proper for preventing or restricting traffic therein.

64. Provision of facilities when work is executed by the Board in public streets vested in it :-

(1) When any work is being executed by the Board in any public street vested in it, the Board shall, so far as may reasonably be practicable, make adequate provision for-

(a) the passage or diversion of traffic;

(b) securing access to all premises approached from any such street; and

(c) any drainage, water supply , or means of lighting which is interrupted by reason of the execution of the work.

(2) The Board shall pay reasonable compensation to any person who sustains special damage by reason of the execution of any such work.

65. Power of the Board to turn or close public street or square vested in it :-

(1) The Board may-

(a) turn, divert, discontinue the public use of, or permanently close any public stretch vested in or any part thereof; or

(b) discontinue the public use of or permanently close any public square vested in it or any part thereof.

(2) Whenever the Board discontinues the public use or permanently closes any public street vested in it or any part thereof, it shall pay reasonable compensation to every person who has entitled, otherwise than as a member of the public, to use such street or part as means of access, and has suffered damage from such discontinuance or closing.

(3) Whenever the Board discontinues the public use of or permanently closes any public square vested in it or any part thereof, it shall pay reasonable compensation to every person who was

entitled, otherwise than as a member of the public, to use such square or part as a means of access.

(4) When any public street or square vested in the Board, or any part thereof, is permanently closed under subsection (1), the Board may sell or lease so much of the same as is no longer required.

66. Power of the Board to retain lanes not meant for vehicular traffic :-

Notwithstanding anything contained in section 64, the Board may retain any lane not meant for vehicular traffic and may enter into an agreement with the local authority concerned or any other person for the supervision, repair, lighting and general management of any lane so retained.

67. Other duties of the Board :-

It shall also be the duty of the Board to take measures with a view -

- (1) to plan and co-ordinate all housing activities in the State, and to ensure expeditious and efficient implementation of housing or improvement scheme in the State ;
- (2) to provide technical advice and scrutinise all projects under housing or improvement schemes sponsored or assisted by the Central or the State Government.
- (3) to maintain, allot, lease and otherwise use plots, buildings and other properties of the Board or the Government, and to collect rents from the properties under the control and management of the Board and repay loans to the Central and State Governments ;
- (4) to set up a research section for the purpose of expediting the construction of, and cheapening the cost of building, and
- (5) to organise and run workshops and stores for manufacture, sale stockpiling and supply of building materials required for housing or improvement schemes.

68. Supervision and centage charges :-

The Board may include in the cost of any housing or improvement scheme framed by it or any other work undertaken by it, supervision and centage charges at such rates as may be fixed by it : Provided that the rate so fixed shall not be more than twelve and a half per cent of the cost of the scheme or work.

69. Power of Government to call for the records of the

Board and to modify, annul, etc. :-

(1) Notwithstanding anything contained in the foregoing provisions of this Chapter, the Government may, at any time in the case of any housing or improvement scheme which is proposed to be framed or which has been framed by the Board or which is being executed by it, call for and examine the records of the Board relating to such scheme and if, after making the examination and after considering the representations, if any, of the Board and the local authority concerned, it appears to the Government that such scheme should be modified, annulled or remitted for reconsideration to the Board or that such scheme should be executed with modifications, they may pass orders accordingly :

Provided that the Government shall not order the modification or the annulment of a scheme under this section without giving the person likely to be adversely affected by such an order a reasonable opportunity of being heard.

(2) The Government may stay the execution of any such scheme pending the exercise of their powers under subsection (1) in respect thereof.

(3) Any housing or improvement scheme which has already come into force but has been modified by the Government under subsection (1) shall have effect as if it has been duly sanctioned by the Board under section 54. The scheme as modified shall be published in accordance with the provisions of section 55 and on such publication the scheme so modified shall come into force and shall have effect.

70. Power to exempt :-

The Government may in public interest, by notification in the Gazette, exempt, subject to such conditions and restrictions as may be specified in such notification, any housing or improvement schemes, from all or any of the provisions of this Chapter.

CHAPTER 8 ACQUISITION AND DISPOSAL OF LAND

71. Power to acquire land under the Land Acquisition Act :-

Any land or any interest therein required by the Board for any of the purposes of this Act may be acquired under the provisions of the Kerala Land Acquisition Act, 1961 (Act 21 of 1962).

72. Power to purchase or lease by agreement :-

The Board may enter into agreement with any person for the acquisition from him by purchase, lease or exchange, of any land or any interest therein which may be acquired under section 71: Provided that if the value of such land or interest exceeds fifty thousand rupees, the Board shall not enter into such agreement without the previous approval of the Government.

73. Power to dispose of land :-

- (1) The Board may retain or may lease, sell, exchange or otherwise dispose of any land vested in or acquired by it under this Act.
- (2) Whenever the Board decides to lease or sell any land acquired by it under this Act from any person,--
 - (a) it shall give notice by advertisement in one of the leading local newspapers in the State, and
 - (b) it shall offer to the said person, or his heirs, executors or administrators, a prior right to take on lease or to purchase such land for an amount or at a rate to be fixed by the Board, if the Board considers that such an offer can be made without detriment to the carrying out the purposes of this Act.
- (3) If in any case two or more persons claim to have the prior right referred to in clause (b) of sub-section (2) preference shall be given to the person who agrees to pay the highest amount or rate for the land, not being less than the amount or rate fixed by the Board under that clause.

CHAPTER 9 LEVY, ASSESSMENT AND RECOVERY OF BETTERMENT FEE

74. Payment of betterment fee :-

- (1) When by the execution of a housing or improvement scheme, any land in the area comprised in the scheme which is not required for the execution thereof will, in the opinion of the Board, be increased in value, the Board, in framing the scheme, may declare that betterment fee shall be payable by the owner of the land or any person having an interest therein in respect of the increase in value of the land resulting from the execution of the scheme.
- (2) Such increase in value shall be the amount by which the value of the land on the completion of the execution of the scheme estimated as if the land were clear of buildings, exceeds the value of the land prior to the execution of the scheme estimated in the

like manner, and the betterment fee shall be onehalf of such increase in value.

(3) The Board may, with the previous approval of the Government, declare that such betterment fee shall also be payable in respect of any land not comprised in the scheme but is adjacent to the area comprised in the scheme if such land will be increased in value consequent on the execution of a housing or improvement scheme in the area comprised in the scheme. Provided that the Board shall, before declaring that any betterment fee shall be payable under this sub-section, serve a notice in such form as may be prescribed on every person whose name appears in the assessment list of the local authority concerned as being primarily liable to pay property tax on any building or land in regard to which the Board proposes to declare that such betterment fee shall be payable, and thereupon the provisions of sub-section (2), (3) and (4) of section 52 shall apply to every notice served under this proviso.

75. Assessment of betterment fee by the Board and notice to persons liable to such fee :-

(1) When it appears to the Board that a housing or improvement schemes sufficiently advanced to enable the amount of the betterment fee to be determined, the Board shall by a resolution passed in this behalf declare that for the purpose of determining such fee the execution of the scheme shall be deemed to have been completed and shall thereupon give notice in writing to every person on whom a notice in respect of land to be assessed has been served under clause (a) of sub-section (1) of section 52 or to the successor-ininterest of such person, as the case may be, that the Board proposes to assess the amount of the betterment fee payable in respect of such land under section 74.

(2) The Board shall then assess the amount of betterment fee payable by each person concerned, after giving such person an opportunity to be heard and such person shall, within one month from the date of receipt of notice in writing of such assessment from the Board, inform the Board in writing whether or not he accepts the assessment.

(3) When the assessment proposed by the Board is accepted by the person concern within the period specified in sub-section (2), such assessment shall be final.

(4) If the person concerned does not accept the person concerned does not accept the assessment made by the Board or fails to

inform the Board as required under sub-section (2) within the period specified therein, the matter shall be referred to the Tribunal (5) The Tribunal shall, after holding an inquiry, and after hearing the person concerned, assess the amount of betterment fee payable by the person.

76. Board to give notice to person liable to payment of betterment fee :-

When the amount of all betterment fees payable in respect of land in the area comprised in the scheme and in respect of land not comprised in the scheme referred in sub section (3) of section 74 has been determined under section 75, the Board shall, by a notice in writing to be served on all persons liable to such payment, fix a date by which such payment shall be made, and interest at the rate of four and a half per cent per annum upon any amount outstanding shall be payable from that date:

Provided that any person liable as aforesaid may make payment, if he so chooses, in such number of annual instalments not exceeding ten as the Board may determine.

77. Agreement to make betterment fee a charge on land :-

(1) Any person liable to pay a betterment fee in respect of any land may, at his option, instead of paying the same to the Board, execute an agreement with the Board to leave the payment outstanding as a charge on his interest in the land, subject to the annual payment in perpetuity of interest at the rate of six per cent per annum, or the rate fixed by the Board from time to time subject to the approval of the Government, the first annual payment of such interest to be made one year from the date referred to in section 76.

(2) Every payment due from any person in respect of a betterment fee and every charge referred to in subsection (1) shall notwithstanding anything contained in any other enactment and notwithstanding the extension any mortgage, or other charge whether legal or equitable, created either before after the commencement of this Act, be the first charge upon the interest of such person in each land subject to the prior payment of the basic tax under the Kerala Land Tax Act, 1961 and the Plantation Tax payable under the Kerala Plantation (Additional Tax) Act, 1960

(3) If any installment of interest due under an agreement executed in pursuance of sub section (1) be not paid on the date on which it is

due, the betterment fee shall become payable on that date, in addition to the said installment.

(4) At any time after an agreement has been executed in pursuance of sub section (1), any person may pay off the charge created thereby, with the interest due up to the date of such payment.

(5) When agreement in respect of any land has been executed by any person in pursuance of sub-section (1), no suit with respect to such agreement shall be brought against the Board by any other person (except an heir, executor or administrator of the person first aforesaid) claiming to have an interest in the land.

78. Recovery of moneys payable in pursuance of sections 74,76 and 77 :-

All moneys payable in respect of any land by any person in respect of a betterment fee under section 74 or section 76 or by any person under an agreement executed in pursuance of subsection (1) of section 77 shall, together with interest due upto the date of realisation, be recoverable by the Board from the said person or his successor-in-interest in such land, as an arrear of public revenue due on land.

79. Agreement or payment of betterment fee not to bar acquisition under fresh declaration :-

If any land in respect of which the payment of a betterment fee has been accepted in pursuance of sub-section (3) of section 75 or in respect of which an agreement regarding the betterment fee has been executed under section 77, be subsequently required for any of the purposes of this Act, the payment or agreement shall not be deemed to prevent the acquisition of the land under the Kerala Land Acquisition Act, 1961 (Act 21 of 1962)

CHAPTER 10 CONSTITUTION OF TRIBUNAL AND ITS FUNCTIONS

80. Constitution of a Tribunal for certain purposes :-

(1) Notwithstanding anything contained in the Kerala Land Acquisition Act, 1961 (Act 21 of 1962), the Government may constitute a Tribunal for the purpose of performing the functions of the Court with reference to the acquisition of land for the Board under the said Act, for deciding disputes relating to levy or assessment of betterment fee and for deciding such other matters

as may be prescribed.

(2) The Tribunal shall consist of one person only who shall be a judicial officer not below the rank of a subordinate Judge.

(3) The Tribunal shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (Central Act 5 of 1908).

81. Officers and subordinates of the Tribunal :-

The Tribunal may, with the previous sanction of the Government, appoint such officers and subordinates as it considers necessary for carrying on its business and the remuneration and other conditions of service of such officers and subordinates shall be such as may be prescribed.

82. Payment by Board on account of Tribunal :-

The amount necessary for the payment of remuneration, salaries, allowances and other contributions payable to the judicial officer appointed as the Tribunal and of the officers and subordinates of the Tribunal shall be paid out of the funds of the Board.

83. Appeals from awards of Tribunal :-

(1) Notwithstanding anything to the contrary contained in the Kerala Land Acquisition Act, 1961 (Act 21 of 1962), but subject to the provisions of subsection

(2) the award of the Tribunal in relation to the acquisition of land shall be deemed to be the award of the court under the said Act.

(2) Any person who does not agree to the amount of the compensation awarded by the Tribunal for the land acquired for the Board under the Kerala Land Acquisition Act, 1961 (Act 21 of 1962), or to the persons to whom it is payable or to the apportionment of the compensation amount, those persons may, within sixty days from the date of the award of the Tribunal prefer an appeal to the High Court.

Provided that the High Court may entertain the appeal after the expiry of the said period of sixty days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(4) Any award of the Tribunal referred to in subsection (1) shall, subject to subsection (2) and any decision of the Tribunal on any matter referred to it under this Act shall not be liable to be

questioned in any court of law.

84. Awards and orders of Tribunal to be executed by Civil Courts :-

Every award of the Tribunal and every order made by the Tribunal for the payment of money, for the delivery of possession or for removal of any structure shall be enforced by the Subordinate Judges Court having jurisdiction over the area in which the land concerned in the proceedings of the Tribunal is situate as if it were the decree of the said court.

CHAPTER 11 POWER TO EVICT PERSONS FROM BOARD PREMISES

85. Power to evict persons from Board Premises :-

(1) If the competent authority is satisfied -

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

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

(ii) sub-let, without the permission of the Board, the whole or any part of such premises; or

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

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

(2) Before an order under subsection (1) is made against any person the competent authority shall inform the person, by notice in writing and served in the manner provided for service of notice under subsection (1) of the grounds on which the proposed order is to be made and give him a reasonable opportunity to offer an explanation and to produce evidence, if any, and to show cause why such order should not be made within a period to be specified in such notice.

(3) The competent authority may, on application, grant extension

of the period specified in such notice on such terms as to payment and recovery to the amount claimed in the notice as he deems fit.

(4) Any written statement put in by such person and documents produced in pursuance of such notice shall be filed with the records of the case, and such person shall be entitled to appear in the proceeding either in person or by pleader.

(5) If any person refuses or fails to comply with an order made under subsection (1), the competent authority may evict that person from, and take possession of the Premises and may for that purpose use such force as may be necessary.

(6) If a person who has been ordered to vacate any premises under sub-clause (i) or (ii) or clause (a) of sub section (1) within one month of the date of service of the notice or such longer time as the competent authority may allow, pays to the Board the rent in arrears or carries out or otherwise complies with the terms contravened by him to the satisfaction of the competent evicting such person under subsection (5) cancel its order made under subsection (1) and thereupon such person shall hold the premises on the same terms on which he held them immediately before such notice was served on him.

Explanation :- For the purposes of this section and section 86, the expression "unauthorised occupation" in relation to any person authorised to occupy any Board premises, includes the continuance in occupation by him or by any person claiming through or under him of the premises after the authority under which he was allowed to occupy the premises has been duly determined.

86. Power to recover rent or damages as arrears of public revenue on land :-

(1) Subject to any rules made by the Government in this behalf and without prejudice to the provisions of section 85, where any person is in arrears of rent payable in respect of any Board Premises, the competent authority may by notice served (i) by registered post, or (ii) by affixing a copy of it on the outer door or some other conspicuous part of such premises, or (iii) in such other manner as may be prescribed, order that person to pay the same within such time not being less than ten days as may be specified in the notice. If such person refuses or fails to pay the arrears of rent within the time specified in the notice, such arrears may be recovered as arrears of public revenue due on land.

(2) Where any person is in unauthorised occupation of any Board

premises the competent authority may, in the prescribed manner, assess such damages on account of the use and occupation of the premises as it may deem fit, and may, by notice served in the manner provided for services of notice under subsection (1), order that person to pay the damages within such time as may be specified in the notice. If any person refuses or fails to pay the damages within the time specified in the notice, the damages may be recovered from him as arrears of public revenue due on land.

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

87. Appeal :-

(1) Any person aggrieved by an order of the competent authority under section 85 or section 86 may, within one month from the date of service of the notice of such order, prefer an appeal to the Government: Provided that the Government may entertain the appeal after the expiry of the said period of one month, if they are satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

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

(3) On such appeal being preferred, the Government may stay the execution of the order of the competent authority for such period and on such conditions as they think fit.

88. Rent to be recovered from deduction from salary or wages in certain cases :-

(1) Subject to the provisions of section 85 any person who is an employee of the Government or local authority and who has been allotted any Board premises may execute an agreement in favour of the Board providing that the Government or the local authority as the case may be, under or by whom he is employed shall be competent to deduct from the salary or wages payable to him such amount as may be specified in the agreement and to pay the

amount so deducted to the Board in satisfaction of the rent due by him in respect of the Board premises allotted to him.

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

89. Bar of jurisdiction of Courts :-

No order made by the Government or the competent authority in the exercise of any power conferred by or under this chapter shall, be called in question in any court and no injunction shall be granted by any court or other authority in respect of any taken or to be taken in pursuance of any power conferred by or under this chapter.

CHAPTER 12 FINANCE

90. Boards fund :-

(1) The Board shall have its own fund..

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

(3) All moneys received by or on behalf of the Board by virtue of this Act, all proceeds of land or any other kind of property sold by the Board, all rents and all interest; profits and other moneys accruing to the Board shall constitute the fund of the Board.

(4) Subject to the provisions of subsection (5) all moneys and receipts specified in the foregoing provisions and forming part of the fund of the Board shall be deposited into the public accounts of the Government under such detailed head of account as may be prescribed, and the said account shall be operated upon by such officers of the Board as may be authorised by the Board and in such manner as may be prescribed:

Provided that the Board may invest any sums not required for immediate use in such securities or debenture as may be approved the Government.

(5) Notwithstanding anything contained in subsection (4) the Board may deposit in the Reserve Bank of India or in any scheduled bank

any amount not exceeding such sum as may be prescribed for the operation of an account with such bank, and such account shall be operated upon of such officers of the Board as may be authorised by the Board and in such manner as may be prescribed.

Explanation.-For the purpose of this section, the Reserve Bank of India shall mean the Reserve Bank of India constituted under the Reserve Bank of India Act, 1934 (Central Act 2 of 1934), and a scheduled Bank shall mean a bank included in the Second Schedule to the said Act.

91. Subventions and loans to the Board :-

The Government, may from time to time make subventions or advance oars to the Board purposes of this Act on such terms and conditions as the Government determine.

92. Power of the Board to borrow and lend :-

(1) Subject to the provisions of the Act, the Board may, from time to time, borrow money required for the purposes of this Act, from the public or from any corporation owned or controlled by the Central or State Government.

(2) Whenever the borrowing of any sum of money has been approved by the Government, the Board may instead of borrowing such sum or any part thereof from the public, take credit from any bank or any corporation owned or controlled by the Central or State Government on a cash account to be kept in the name of the Board to the extend of such sum or part thereof, and may, with the previous sanction of the Government, grant mortgages of all or any of the properties vested in the Board by way of security for such credit.

(3) Subject to such conditions and limitations as may be prescribed and with the previous approval of the Government, the Board may, for the promotion and execution of any housing or improvement scheme under this Act, enter into financial arrangements with any bank or other financial institutions approved by the Government or with the Life Insurance Corporation of India established under section 3 of the Life Insurance Corporation Act, 1956 (Central Act 31 of 1956).

(4) Subject to the provision of this Act and to such conditions and limitation as may be prescribed, the Board may, out of its funds, grant loans and advances on such terms and conditions as it may determine, to any co-operative society registered or deemed to be

registered under the law relating to co-operative societies for the time being in force in the State to any other person for the construction of houses.

93. Guarantee by Government of loans :-

The Government may guarantee, in such manner as they think fit, the payment of the principal and interest of any loan proposed to be raised by the Board on debentures of either the principal or the interest.

Provided that the Government shall, so as any such guarantee are in force, lay before the Legislature in every year during the budget session, a statement of the guarantees, if any, given during the current year and up-to-date account of the total sums, if any, which have been paid out of the Consolidated Fund of the State by reason of any such guarantee or paid into the said Fund towards repayment of any money so paid out.

94. Form, Signature, Exchange, Transfer and effect of debenture :-

(1) Whenever money is borrowed by the Board on debentures the debentures shall be in such form as the Board may with the previous sanction of the Government specify.

(2) All debentures shall be signed by the Chairman and either by the Secretary or by any one of the ex-officio members of the Board.

(3) The holder of any debenture in any form specified under sub-section (1) may obtain in exchange therefor a debenture in any other form specified in the manner provided in sub-section (1) and upon such term as the Board may determine.

(4) Every debenture issued by the Board shall be transferable by endorsement, unless some other mode of transfer is specified therein.

(5) All coupons attached to debentures issued under this Act shall bear the signature of the Chairman; and such signature may be engraved lithographed or impressed by mechanical process.

95. Payments to survivors of joint payees :-

When any debenture or security issued or granted under this Act is payable to two or more persons jointly, and either or any of them dies, then, notwithstanding anything contained in section 45 of the Indian Contract Act, 1872 (Central Act 9 of 1872), the debenture or

security, shall be payable to the survivor or survivors of such persons:

Provided that nothing in this section shall affect any claim by the representative of the deceased person against such survivor or survivors.

96. Receipt by joint hold for interest or dividend :-

Where two or more persons are joint holders of any debenture or security issued or granted under this Act, any payment made to the first mentioned person therein of any dividend or interest payable in respect of such debenture, or security shall be a full discharge of the liability of the Board in respect of such dividend or interest.

97. Priority of payments for interest and repayment of loans :-

All payments due from the Board for interest on, or the repayment of, loans shall be made in priority to all other payments due from the Board.

98. Repayment of loans taken under section 92 :-

Every loan taken by the Board shall be repaid by the Board within the period agreed upon by the Board and subject to the provisions of sub-section (2) of section 115 by such of the following methods as may be approved by the Government, namely-

- (a) from a sinking fund established under section 99 in respect of the loan; or
- (b) by paying in equal yearly or half-yearly installments of principal or of principal and interest, throughout the said period; or
- (c) if the Board has, before borrowing money on debentures, reserved by public notice, a power to pay off the loan by periodical installments and to select by lot the particular debenture to be discharged at particular periods, then, by paying such installments at such periods; or
- (d) from money borrowed for the purpose; or
- (e) partly from the sinking fund established under section 99 in respect of the loan, and partly from money borrowed for the purpose.

99. Establishment and maintenance of sinking fund :-

- (1) Whenever a loan has to be repaid from a sinking fund, the

Board shall establish such a fund and shall pay into it every year until the loan is repaid, a sum so calculated that if regularly paid throughout the period agreed upon by the Board, it would, with accumulations in the way of compound interest, be sufficient after payment of all expenses, to pay off the loan at the end of the period

(2) The rate of interest on the basis of which the sum referred to in subsection (1) shall be calculated, shall be such as may be prescribed.

100. Power to discontinue payments into sinking fund :-

Notwithstanding anything contained in section 99, if at any time the sum standing at credit of the sinking fund established for repayment of any loan is of such an amount that if allowed to accumulate at the rate of interest prescribed under subsection (2) of that section it will be sufficient to repay the loan at the end of the period agreed upon by the Board, then the Board may discontinue further annual payment into such fund.

101. Investment of Sinking fund :-

(1) All moneys paid into any sinking fund shall, as soon as possible, be invested by the Board in-

(a) Government securities; or

(c) Securities guaranteed by the Central or State Government; or

(c) debentures issued by any local authority; or

(d) Debentures issued by the Board of trustees of the Ports in the State; or

(e) Debentures issued by the Board in the joint names of the Examiner of Local Fund Accounts, Kerala, and the Accountant General, Kerala, to be held by them in trust for the repayment of the loan for which the Sinking fund was established.

(2) All dividends and other sums received in respect of any such investment shall, as soon as possible after receipt, be paid into the sinking fund and invested in the manner laid down in sub-section (1).

(3) Any, investment made under this section may, from time to time, subject to the provisions of subsection (1), be varied or transposed.

102. Application of sinking fund :-

The two trustees referred to in sub-section (1) of section 101 in whose names any sinking fund is invested may, from time to time, apply the same, or any part thereof in or towards the discharge of the loan or any part of the loan for which such sinking fund was established and until such loan is wholly discharged, shall not apply the same for any other purpose.

103. Annual statement by trustees :-

(1) The two trustees referred to in sub-section (1) of section 101 shall at the end of every year, transmit to the Chairman, a statement showing

(a) the amount which has been invested during the year under section 101 ;

(b) the date of the last investment made previous to the transmission of the statement

(c) the aggregate amount of the securities held by them;

(d) the aggregate amount which has, up to the date of the statement, been applied under section 102 in or towards repaying loans ; and

(e) the aggregate amount already paid into each sinking fund.

(2) Every such statement shall be laid before the Board and published in the Gazette

104. Annual examination of sinking funds :-

(1) The Accountant General Kerala, shall examine the said sinking funds every year and ascertain whether the cash and current value of the securities at credit of such funds are actually equal to the amount which would have accumulated, investments been regularly made and had the rate of interest as originally estimated been obtained therefrom.

(2) The Board shall forthwith pay into any sinking fund any amount which the Accountant General may certify to be the deficiency therein after examination as aforesaid, unless the Government specially sanction gradual readjustment.

105. Estimates of income and expenditure to be laid annually before the Board :-

(1) The Chairman shall; at a special meeting to be held in the month of February in each year, lay before the Board an estimate of the income and expenditure of the Board for the next ensuing

year.

(2) Every such estimate shall make provision for the due fulfillment of all liabilities of the Board, and for the efficient administration of Act.

(3) Every such estimate shall differentiate capital and revenue funds, and shall be prepared in such form, and shall contain such details, as Government may, from time to time, prescribe.

(4) Every such estimate shall be completed and printed and a copy thereof sent, by post or otherwise, to each member at least ten clear days before the date of the meeting at which the estimate is to be laid before the Board.

(5) A revised budget, if any, including all the expenditure not covered in the original budget estimate, shall be laid before the Board at a special meeting to be held in the month of December in each year:

106. Sanction of the Board to estimates :-

The Board shall consider every estimate so laid before it and shall sanction the same, either without modification or with such modification as it may think fit.

107. Approval of Government to estimates :-

(1) Every such estimate sanctioned by the Board, shall be submitted to the Government, who may at any time within three months after receipt of the same, -

(a) approve the estimate, or

(b) disallow the estimate or any portion thereof, and return the estimate to the Board for amendment.

(2) If any estimate is so returned to the Board, it shall further proceed to amend it and shall resubmit the estimate as amended to the Government who may then approve it.

108. Supplementary estimate :-

(1) The Board may, at any time during the year for which for which any estimate has been sanctioned, cause a supplementary estimate to be prepared and laid before it at a special meeting.

(2) The provisions of sub-sections (3) and (4) of section 105 and of sections 106 and 107 shall apply to every supplementary estimate.

109. Adherence to estimate and maintenance of closing balance :-

(1) No sum shall be expended by or on behalf of the Board unless the expenditure of the same is covered by a current budget grant or can be met by the re-appropriation or by drawing on the closing balance.

(2) The closing balance shall not be reduced below such limit as may be fixed in this behalf by the Government, from time to time.

(3) The following items shall be exempted from the provisions of sub-sections (1) and (2), namely :-

a) refund of moneys belonging to contractors or other persons held in deposit, and of moneys collected by or credited to the Board by mistake;

b) payment due under a decree or order of a Court or under an award of the Tribunal;

c) sums payable under a compromise of any suit or other legal proceedings or claim effected under this Act;

d) sums payable under this Act by way of compensation; and

e) payments required to meet any pressing emergency.

(4) Whenever any sum exceeding ten thousand rupees is expended under clause

(e) of sub-section (3), the Chairman shall forthwith report the circumstances to the Board explaining how it is proposed to cover the expenditure.

110. Definition of Cost of management :-

(1) The expression "cost of management" as used in the following sections in this Chapter means-

(a) the honorarium, salary and house-rent and conveyance allowance, if any, of the Chairman, Secretary and the Housing Board Engineer, and any other allowances and any contributions payable to or it in respect of them ;

(b) the salaries, fees and allowances and contributions paid in respect of officers and subordinates of the Board referred to in sections 8,9,17,19 and 21 ;

(c) the remunerations of other employees of the Board except employees who are paid by the day or whose pay is charged to temporary work;

(d) all payments made under section 82 on account of the Tribunal; and

(e) all office expenses incurred by the Board or the Tribunal.

(3) The expression office expenses in clause (e) of sub-section (1)

means expenses incurred for carrying on office work, and includes the rent of office buildings, the provision of furniture therefor, charges the printing and stationery, catering charges incurred in connection with meetings and conferences held by or on behalf of the Board and contributions towards welfare and recreation of the Boards staff.

111. Keeping of capital account and revenue account :-

The Board shall keep a capital account and a revenue account.

(2) The capital account shall show separately all expenditure incurred by the Board on each housing or improvement scheme.

112. Credits to capital account :-

There shall be credited to the capital account -

- (a) all sums (except interest) received by way of betterment fees under this Act ;
- (b) all moneys received on account of loans taken by the Board in pursuance of this Act ;
- (c) all moneys received as grants by the Board for purposes of this Act, from the Central or State Government ;
- (d) all moneys received by the Board on account of repayment of loans and advances granted under section 92 ;
- (e) the proceeds of the sale of any land belonging to the Board, which was purchased out of any such loans or grants ;
- (f) where any land was purchased out of an advance from the revenue account, the portion of the proceeds of the sale of such land which remains after crediting to the revenue account the amount of such advance ;
- (g) the proceeds of the sale of any movable property (including securities for money invested from the capital account) belonging to the Board ;
- (h) all lump sum received from any Government in aid of the capital account;
- (i) all moneys received by the Board in connection with leases for any term exceeding forty years ;
- (j) all sums, if any, which the Government direct under subsection (2) of section 115 to be credited to the capital account ; and
- (k) all moneys realised from the sale of securities by direction of the Government under section 116.

113. Application of capital account :-

The moneys credited to the capital account shall be held by the board in trust and shall be applied to -

- (a) meeting all costs of framing and executing housing or improvement schemes ;
- (b) meeting the cost of acquiring lands for carrying out any of the purposes of this Act ;
- (c) meeting the cost of constructing buildings required for carrying out any of the purposes of this Act ;
- (d) the repayment of loans from money borrowed in pursuance of this Act ;
- (e) granting of loans and advances under sections 41 and 92 ;
- (f) making payments in pursuance of section 149 otherwise than for interest or for expenses of maintenance or working ;
- (g) making or contributing towards the cost of survey in pursuance of section 147 ;
- (h) meeting such proportion of the cost of management as may be prescribed by the Board ; and
- (i) temporarily making good the deficit, if any, in the revenue account at the end of any year.

114. Credit to revenue account :-

There shall be credited to the revenue account

- (a) all interest received in pursuance of section 77 or section 78
- (b) all annually recurring sums received from the Central or State Government in aid of the funds of the Board ;
- (c) all compensations received by the Board under section 132;
- (d) all moneys received by the Board in connection with any term not exceeding forty years;
- (e) all rents of land vested in the Board
- (f) all rents of buildings vested in the Board ;
- (g) the supervision and centage charges obtained by the Board under section 68 ;
- (h) all interest on loans and advances granted by the Board under sections 41 and 92 ; and
- (i) all other receipts by the Board which are not required by section 112 to be credited to the capital account.

115. Application of revenue account :-

- (1) The moneys credited to the revenue account shall be held by the Board in trust, and shall be applied to(

a) payment of all charges or payments towards interest on sinking fund due on account of any loan taken in pursuance of this Act; and all other charges incurred in connection with such loans;

(b) payment of all sums due from the Board in respect of rates and taxes imposed by the local authority concerned, upon the land vested in the Board ;

(c) payment of cost, if any, of maintaining a, separate establishment for the collection of rents and other proceeds of land vested in the Board ;

(d) payment of all sums towards the cost of establishment of Tribunal under section 82 ;

(e) payment of all sums which the Government may direct to be paid to any auditor under section 122;

(f) payment of the cost of management excluding such proportion thereof as may be debited to the capital account under clause (h) of section 113 ; and

(g) payment of all other sums due from the Board, other than those which are required by section 113 to be disbursed from the capital account.

(2) The surplus, if any, remaining after making the payments referred to in sub section (1) shall, subject to the maintenance of a closing balance as required by subsection (2) of section 109, be invested in the manner laid down in section 101 towards the service of any loans outstanding after the expiry of sixty years from the commencement of this Act, unless the Government otherwise direct.

116. Power to direct sale of securities in which any surplus of the revenue account is invested :-

If at any time after any surplus referred to in sub section (2) of section 115 has been invested, the Board is satisfied that the investment is not needed for the service of any loan referred to in that sub section, the Board may with the approval of the Government, sell the securities held under the investment.

117. Advance from revenue account to capital account :-

(1) Notwithstanding anything contained in section 115 the Board may advance any sum standing at the credit of the revenue account for the purpose of meeting Capital expenditure.

(2) Every such advance shall be refunded to the revenue account as soon as may be practicable.

118. Advance from capital account to revenue account :-

(1) Any deficit in the revenue account at the end of any year may be made good by an advance from the capital account after obtaining the approval of the Government.

(2) Every such advance shall be refunded to the capital account in the following year.

119. Submission of abstracts of accounts to Government :-

At the end of every year, the Board shall submit to the Government an abstract of the accounts of its receipts and expenditure for such year.

120. Annual audit of accounts :-

The accounts of the Board examined and audited once in every year by such auditor as the Government may appoint in this behalf.

121. Powers of auditor :-

The said auditor may

(a) by summons in writing require production of any document the perusal or examination of which he believes necessary for the elucidation of the accounts

(b) by summons in writing require any person who has the custody or control of any such document or who is accountable therefore to appear in person before him; and

(c) require any person so appearing, to make and sign a declaration with respect to such document or to answer any question or to prepare and furnish any statement relating thereto.

122. Remuneration of auditors :-

The Board shall pay to the said auditor such remuneration as the Government may direct.

123. Reports and information to be furnished by Auditor to the Board :-

(1) The said auditor shall

(a) report to the Board and to the Government any material impropriety or irregularity which he may observe in the expenditure, or in the recovery of moneys due to the Board or in

the accounts ;

(b) furnish to the Board such information as it may, from time to time, require concerning the progress of his audit ;

(c) report to the Chairman any loss or waste of money or property owned by or vested in, the Board caused by neglect or misconduct, with the names of persons directly or indirectly responsible for such loss or waste and ;

(d) submit to the Chairman a final statement of audited accounts, together with a report on the result of the audit; and duplicate copies thereof to the Government, within a period of three months from the end of the year or within such other period as the Government may allow in that behalf

(2) (a) The said auditor may disallow every item contrary to law and surcharge the same on the person making of illegal payment; and may charge against any person responsible thereof the amount of any deficiency or loss incurred by the negligence or misconduct of that person or of any sum which ought to have been, but is not, brought into account by that person and shall, in every such case, certify the amount due from such person

Explanation.-It shall not be open to any person whose negligence or misconduct has caused or contributed to any such deficiency or loss to contend that notwithstanding his negligence or misconduct the deficiency or loss would not have occurred but for the negligence or misconduct of some other person.

(b) The said auditor shall state in writing the reasons for his decision in respect of every disallowance, surcharge or charge and furnish a copy thereof by registered post to the person against whom it is made.

(c) If the person to whom a copy of the decision is so furnished refuses to receive it, he shall nevertheless be deemed to have been duly furnished with the copy, within the meaning of clause (b) and the of fourteen days fixed in subsections (3) and (4; shall be calculated from the date of such refusal.

3. Any person aggrieved by a disallowance, surcharge or charge made under subsection (2) may, within fourteen days after he has been furnished with a copy of the decision of the auditor, either (a) apply to the court of the Subordinate Judge or if there is no Subordinate Judge's Court having jurisdiction, to the Court of the District Judge to set aside such disallowance, surcharge or charge, in which case the Court may, after taking such evidence as it thinks necessary, confirm, modify or remit such disallowance; surcharge or charge with such orders as to costs as it may think proper in the

circumstances, or (b) in lieu of such application, appeal to the Government who shall pass such orders as they think fit.

(6) Every sum certified to be due from any person by the auditor under this Act, shall be paid by such person to the Board within fourteen days after he has been furnished with a copy of the decision of the auditor unless within that time such person has applied to the Court or appealed to the Government against the decision under subsection (3) and such sum if not paid, or such sum as the Court or the Government shall declare to be due, shall be recoverable on an application made by the Board to the Court in the same way as an amount decreed by it.

(7) Notwithstanding anything contained in this section, the Government may at any time direct that the recovery of the whole or any part of the amount certified to be due from any person by the auditor under this Act shall be waived if in their opinion, such a course is necessary considering all the circumstances of the case.

124. Auditors report to be sent to each member and considered by Board :-

The Chairman shall cause the report mentioned in clause (d) of sub section (1) of section 123 to be printed and shall forward a printed copy thereof to each member and shall bring such report before the Board for consideration at its next meeting.

125. Board to remedy defects pointed out by auditor and to submit a report to Government :-

It shall be the duty of the Board to remedy forthwith any defects or irregularities that may be pointed out by the auditor and to submit a report thereon to the Government.

126. Accounts and audit report to be forwarded to Government and placed before the Legislative Assembly :-

(1) The accounts of the Board as certified by the Auditor together with the audit report thereon shall be forwarded annually to the Government, and the Government may issue such instruction to the Board in respect thereof as they deem fit, and the Board shall comply with such instructions.

(2) The Government shall-

(a) cause the accounts of the Board together with the audit report thereon forwarded to them under subsection(1) to be laid annually

before the Legislative Assembly; and

(b) cause the accounts of the Board to be published in the prescribed manner and make available copies thereof on sale at a reasonable price.

CHAPTER 13 PENALTIES AND PROCEDURE

127. Penalty for removing fence etc, in streets :-

If any person without lawful authority infringes any order given, or removes any bar, chain or post fixed under subsection (2) of section 63, he shall be punishable with fine which may extend to fifty rupees.

128. Penalty for building within street alignment or building line without permission :-

If any person, without the permission of the Board erects, re-erects, adds to or alters any wall or building so as to make the same project into the street alignment or beyond the building line prescribed by any deferred street scheme, development scheme or town expansion scheme, he shall be punishable

(a) with fine which may extend, in the case of a wall or masonry building, to five hundred rupees and in any other case, to fifty rupees and

(b) with further fine which may extend, in the case of wall or masonry building, to one hundred rupees and, in any other case to ten rupees, for each day after the first during which the projection continues

129. Penalty for failure to comply with requisition made by Auditor :-

If any person fails to comply with any requisition made by the auditor under. section, 121, he shall be punishable-

(a) with fine which may extend to one hundred rupees, and

(b) in the case of a continuing failure, with fine which may extend to fifty rupees for each day after the first during which the failure continues.

130. Penalty for obstructing contractor or removing mark :-

If any person -

(a) obstructs or molests any person with whom the Chairman or the

officer authorised under section 33 has entered into a contract on behalf of the Board, in the performance or execution by such person of his duty or of anything which he is empowered or required to do by virtue or in consequence of this Act or any rule or regulation made thereunder ; or

(b) removes any mark set up for the purpose of indicating any level or direction necessary for the execution of works authorised by this Act or any rule or regulation made or scheme sanctioned thereunder, he shall be punishable with fine which may extend to two hundred rupees

131. Penalty , for breach of the provisions of the Act, etc :-

Whoever contravenes any of the provisions of this Act or of any rule or regulation made or scheme sanctioned thereunder shall, If no other penalty is for such contravention, be punishable -

(a) with fine: which may extend to one hundred rupees, and

(b) in the case of a continuing contravention, with fine which may extend to fifty rupees for each day after the first during which the contravention continues

132. Compensation to be paid by offenders for damage caused by them :-

(1) When any person is convicted of any offence under this Act or any regulation made thereunder, the Magistrate convicting such, person may on application made in this behalf by the Board or by its, subordinate authorised by it in this behalf, call upon such person forthwith to show cause as to why he should not pay compensation to the Board for the damage caused by his act or omission in respect of which he is convicted. ,

(2) The Magistrate shall record and consider any cause which such person may show and if the Magistrate, after making such enquiry as he may think fit, is satisfied that such person is liable to pay compensation may direct that compensation of such amount, not exceeding one thousand rupees, as he may determine, be paid by such person to the Board

(3) The amount of compensation directed to be paid under subsection (2), shall, if it be not paid forthwith, be recovered as if it were a fine imposed by the Magistrate on such person.

133. Punishment for acquiring share or interest in contract, etc with the Board :-

If any member, or any officer or subordinate of the Board directly or indirectly, by himself or by any partner, employer or employee, otherwise than as such member, officer or subordinate, any share or interest in any contract of employment with, by or on behalf of the Board (not being a share or interest which, under section 7, it is permissible for a member to have without being thereby disqualified for being appointed a member) he shall be deemed to have committed the offence made punishable by section 168 of the Indian Penal Code (Central Act 45 of 1860)

134. Procedure :-

(1) No court shall take cognizance of any offence punishable under this Act or any rule or regulation made thereunder unless complaint of such offence is made within six months next after the commission, thereof. ,

(2) No court inferior to that of a Magistrate of the first class shall try any offence punishable under this Act.

135. Duty of Police Officers :-

It shall be the duty of every Police officer

(a) to co-operate with the Secretary for carrying in to effect and enforcing the provisions of this Act or any rule made thereunder;

(b) to communicate without delay to the proper officer or subordinate of the Board any information which he receives of a design to commit or of the commission of any offence against this Act or any rule made thereunder; and

(c) to assist the Secretary or any officer or subordinate of the Board reasonably demanding his aid for the lawful exercise of any power vesting in the Secretary or in such officer or subordinate under this Act or any rule made thereunder.

136. Arrest of offenders :-

(1) Any Police officer not below the rank of a head constable may arrest any person who commits in his presence any offence against this Act or any rule or regulation made thereunder, if the name or address of such person be unknown to him, and if such person on demand declines to give his name or address or gives a name or address which such officer has reason to believe to be false.

(2) No person so arrested shall be detained in custody after his ture

name and address are ascertained, or for any longer time than is necessary for bringing him before a Magistrate, In no case shall such detention exceed twenty-four hours from the time of arrest without the order of a Magistrate.

137. Powers of Secretary as to institution composition etc. of legal proceedings and obtaining legal advice :-

The Secretary may, subject to the control of the Board-

- (a) institute, defend or withdraw from legal proceedings under this Act or any rules or regulations made thereunder;
- (b) compound any offence against this Act or any rules or regulations made thereunder which under any for the time being in force or any rule prescribed by the Government, may lawfully be compounded;
- (c) admit, compromise or withdraw any claim made under this Act or any rules or regulations made thereunder; and
- (d) obtain such legal advice and assistance as he may, from time to time, think it necessary or expedient to obtain, or as may be desired by the Board to obtain, for any of the purposes referred to in the foregoing clauses of this section, or for securing the lawful exercise or discharge of any power or duty vested in or imposed upon the Board or any officer or subordinate of the Board.

138. Protection of action taken in good faith :-

No suit prosecution or other legal proceeding shall lie against the Government, the Board or any committee thereof or any officer or servant of the Government or any officer or subordinate of the Board for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or regulation made thereunder.

139. Notice of suit against Board etc :-

No suit shall be instituted against the Board, or any member, or any officer or subordinate of the Board, or any person acting under the direction of the Board or of Chairman or of any officer or subordinate of the Board in respect of any act done or intended to be done under this Act or any rule or regulation made thereunder, until the expiration of sixty days next, after written notice has been delivered or left at the Boards office or the place of abode of such member, officer, subordinate or person, stating the cause of action,

the name and place of abode; of the intending plaintiff and the relief which he claims, and the plaint must contain a statement that such notice has been so delivered or left.

140. Proof of consent, etc., of Board or Chairman or Officer or subordinate of the Board :-

Whenever, under this Act or any rule or regulation made thereunder, the doing or the omission to do anything or the validity of anything depends upon the approval, sanction, consent, concurrence, declaration, opinion or satisfaction of

(a) the Board or the Chairman, or

(b) any officer or subordinate of the Board, a written document signed in case (a) by the Chairman, and in case (b) by the said officer or subordinate, conveying or setting forth such approval, sanction, consent, concurrence, declaration, opinion or satisfaction, shall be sufficient evidence of such approval, sanction, consent, concurrence, declaration, opinion or satisfaction.

141. Power of Secretary to direct removal of unauthorised erections, etc.; within street alignment, etc :-

(1) The Secretary may, by a written notice, require the owner for the time being of the wall or building referred to in section 128, to stop further work on such wall or building and to alter or demolish the same in such manner and within such time as may be specified in the notice.

(2) Where the alteration or demolition directed by any such notice is not carried out as directed therein, the Secretary may cause the wall or building or portion thereof to be altered or demolished, as the case may be, and he may recover the expense incurred in so doing from the owner for the time being, in such manner as may be prescribed.

142. General power of the Board to pay compensation :-

In any case not otherwise expressly provided for in this Act, the Board may pay reasonable compensation to any person, who sustains damage by reason of the exercise of any of the powers vested by or under this Act in the Board or the Chairman or any officer or subordinate of the Board.

143. Public notices how to be made known :-

Every public notice given under this Act or any rule or regulation made thereunder shall be in writing over the signature of the Secretary, and shall be widely made known in the locality to be affected thereby, by, affixing copies thereof in conspicuous public places within the said locality, or by publishing the same by beat of drum or by advertisement in leading daily newspapers and by any other: means the Secretary may think fit. Every such notice shall also be published by affixture in the notice board of the Boards Office or sub-office.

144. Newspapers in which advertisement or notice is to be published :-

Whenever it is provided by this Act or any rule or regulation made thereunder that notice shall be given by advertisement in leading daily newspapers, or that a notification or any information shall be published in leading daily newspapers such notice, notification or any information shall be inserted, if practicable, in at least one English daily newspaper and two daily newspapers published in the local language of the area having circulation in such area.

145. Stamping signature on notices or bills :-

Every notice or bill, which is required by this Act or by any rule or regulation made thereunder to bear the signature of the Secretary or any other member or of any officer or subordinate of the Board, shall be deemed to be properly signed if it bears a facsimile of the signature of the Secretary or of such other member or of such officer or subordinate, as the case may be, stamped thereupon.

146. Service how to be effected :-

When any notice, bill or other document is required by this Act or any rule or regulation made thereunder to be served upon or issued or presented to any person, such service, issue or presentation shall be effected-

- (a) by giving or tendering such document to such person; or
- (b) if such person is not found, by leaving such document at his last known place of abode, or by giving or tendering the same to some adult member of his family; or
- (c) If his address elsewhere is known, by forwarding such document to him by registered post under cover bearing the said address; or

(d) if none of the means aforesaid be available, by causing a copy of such document to be affixed on some conspicuous part of the building or land, if any, to which the document relates.

147. Power to make surveys or contribute towards their cost :-

The board may-

- (a) cause the survey of any land to be made, whenever it considers that a survey is necessary or expedient for carrying out any of the purposes of this Act; or
- (b) contribute towards the cost of any such survey is made by any other local authority.

148. Power of entry :-

(1) The Secretary or any person either generally or specially authorised by the Secretary in this behalf may, with or without assistants or workmen, enter into or upon any land, in order-

- (a) To make any inspection , survey, measurement, valuation or inquiry;
- (b) To take levels;
- (c) To dig or bore into the subsoil;
- (d) To set out boundaries and intended lines of work;
- (e) To do any other thing whenever it is necessary to do so for any of the purposes of this Act or any rule or regulation made or schemes sanctioned thereunder or any scheme when the Board intends to frame thereunder: Provided that-
- (a) No such entry shall be made between sunset or sunrise;
- (b) No such dwelling house, and no public building or hut which is used as a dwelling place , shall be so entered, except with the consent of the occupier thereof, without giving the said occupier at least twenty four hours previous written notice of the intention to make such entry;
- (c) Sufficient notice shall, in every instance, be given, even when any premises any otherwise be entered without notice, to enable the inmates of any apartment appropriated to women to remove themselves to some part of the premises where their privacy will not be disturbed;
- (d) Due regards 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 usage of the occupants of the premises entered.

(2) Whenever the Secretary or a person authorised under sub-section (1) enters into or upon any land in pursuance of that sub-section, he shall, at the time of such entry, pay or tender payment for all necessary damage to be done as aforesaid; and, in case of dispute as to the sufficiency of the amount so paid or tendered, he shall at once refer the dispute to the Board whose decision shall be final

CHAPTER 14 MISCELLANEOUS

149. powers of the Board for facilitating movement of the population :-

With a view to facilitating the movement of the population in and around any city, town or village, the Board may, from time to time,-

(1) Subject to any condition it may think fit to impose-

(a) guarantee the payment from the funds at its disposal of such sums as it may think fit, by way of interest on capital expenditure on the construction, maintenance or working of any means of locomotion; or

(b) make such payments as it may think fit from the said funds, by way of subsidy to persons undertaking to provide, maintain and work any means of locomotion; or

(2) either singly or in combination with any other person, construct, maintain and work any means of locomotion, under the provisions of any law applicable thereto; or

(3) construct or widen, strengthen or otherwise improve bridges: Provided that no guarantee or subsidy shall be made under clause (1), and no means of locomotion shall be constructed, maintained or worked under clause

(2), without the sanction of the Government.

150. The Chairman, members, officers and subordinates of the Board, the members of committees, deemed to be public servants :-

The Chairman, the members, officers and subordinates of the Board, the members of Committees, the Tribunal and all other persons entrusted with the execution of any functions under this Act, 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 (Central

151. Contributions by Board towards leave allowances and pensions of officers and servants of the Central or State Government employed under this Act :-

The Board shall be liable to pay such contribution for the leave salary, pension or provident fund of any officer or servant for the Central or State Government employed as an officers or subordinate of the Board, or as the Tribunal or as an officer or subordinate of the Tribunal, as the case may be, as may be required by the conditions of this service under the Central or State Government to be paid by him or on his behalf.

152. Board and Chairman to exercise certain powers and functions under the Town Planning Act :-

In any area in respect of which a housing or improvement scheme is in force, the Government may, by notification in the Gazette, declare that from such date as may be specified therein, the powers and functions exercisable by a local authority or its executive authority under the law relating to town planning for the time being in force in the State shall not be exercised by it and that subject to such restriction and modifications, if any, as may be specified in the notification, such powers and functions shall be exercised by the Board or the Chairman, as the case may be

153. Board and Chairman to exercise powers and functions of local authority and executive authority :-

In any area in respect of which a housing or improvement scheme, is in force, the Government may by notification in the Gazette declare that for the period during which such scheme remains in force and subject to such restrictions and modifications, if any, as may be specified in the notification, the powers and functions exercisable by a local authority or its executive authority under the enactment constituting such local authority shall be exercised by the Board or the Chairman, or any person authorised by the Chairman as the case may be.

154. Supply of documents and information to the Government :-

The Secretary shall, if so directed by the Government forward to

them a copy of all the papers which were laid before the Board for consideration at any meeting and furnish any return, statement, estimates, statistics or other information regarding any matter under the control of the Board, a report of any such matter and a copy of any documents in charge of the Secretary.

155. Submission of administration report to Government :-

1) As soon as may be after the first day of April in every year and not later than such date as may be fixed by the Government the Board shall submit to the Government a detailed report of the administration during the proceeding year in such form as the Government may direct.

(2) The Chairman shall prepare such report and the Board shall consider the report and forward the same to the Government with its resolution thereon, if any.

156. Power of Government to give directions to the Board and local authorities :-

(1) The Government may give the Board such directions as in their opinion are necessary or expedient for carrying out the purposes of this act, after giving an opportunity to the Board to state its objections if any, to such directions and after considering the said objections, and it shall thereupon be the duty of the Board to comply with such directions.

(2) The Government may give any local authority such directions as in their opinion are necessary or expedient for enabling the Board to carry out the purposes of this Act, after giving an opportunity to the local authority concerned to state its objections, if any, to such directions and after considering the said objections, and it shall thereupon be the duty of the local authority to comply with such directions.

156A. Implementation of housing scheme for economically weaker sections :-

(1) Any scheme intended to benefit the economically weaker sections in the rural or urban area may be planned by the Board in association with the local authority concerned and as far as possible shall be executed by such local authority with the technical advice of the Board, if so required.

(2) The local authority may prepare and implement schemes for

rural or urban housing for economically weaker sections in which case the Board shall render necessary technical advice.]

157. Suppression of the Board :-

(1) If the Government are of opinion that the Board is unable to perform, or has persistently made default in the performance of the duty imposed on it by under this Act or has exceeded or abused its powers, they may, by notification in the Gazette, supersede the Board for such period as may be specified in the notification:

Provided that before issuing a notification under this sub-section, the Government shall by notice require the Board to show cause within such period as may be specified in the notice why it should not be superseded and shall consider the explanations and objections if any, of the Board.

(2) Upon the publication of a notification under sub-section (1) superseding the Board-

(a) the Chairman and all other members of the Board shall as from the date of supersession, vacate their offices as such;

(b) all the powers and duties which may, by or under the provisions of this Act, be exercised or performed by or on behalf of the Board and the Chairman, shall, during the period of supersession, be exercised and performed by such authority or person as the Government may direct;

(c) all funds and other property vested in the Board shall during the period of supersession, vest in the authority or person referred to in clause (b); and

(d) all liabilities legally subsisting and enforceable against the Board shall be enforceable against the authority or person referred to in clause (b) to the extent of the funds and properties vested in it or him.

(3) On the expiration of the period of supersession specified in the notification issued under subsection (1), the Government may-

(a) extend the period of supersession for such further period as they may consider necessary; or

(b) reconstitute the Board in the manner provided in section 4.

158. Dissolution of the Board :-

(1) If the Government for any reason are of opinion that it is not necessary to continue the Board, they may, by notification in the Gazette dissolve the Board from such date as may be specified in the notification.

(2) Upon the publication of a notification under subsection (1) dissolving the Board, -

(a) the Chairman and all the other members of the Board shall, as from the date of dissolution, vacate their offices as such;

(b) all the powers and duties which may, by or under the provisions of this Act, be exercised and performed by or on behalf of the Board and the Chairman shall, as from the date of dissolution, be exercised and performed by the Government or such authority or person as they may appoint in this behalf;

(c) all funds and other property vested in the Board shall vest in the Government; and

(d) all liabilities legally subsisting and enforceable: against the Board shall be enforceable against the Government to the extent of, the funds and properties vested in them.

(3) Nothing in this section shall affect the liability of the Government in respect of debentures guaranteed under section 93.

159. The Board to be a local authority under the Kerala Land Acquisition Act and the Kerala Local Authorities Loans Act :-

The Board shall be deemed to be a local authority for the purposes of the Kerala Land Acquisition Act, 1961 (21 of 1962) and the Kerala Local Authorities Loans Act, 1963 (30 of 1963).

160. Power to remove difficulties :-

(1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, as occasion may require, by order, do anything not inconsistent with the provisions of this Act which appears to them necessary or proper for the purpose of removing the difficulty.

(2) Every order issued under subsection (1) shall be laid as soon as may be after it is issued, before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions and if before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the order or decides that the order should not be issued the order 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 done under that order.

CHAPTER 15 RULES AND REGULATIONS

161. Power to make rules :-

(1) The Government may make rules for the purpose of carrying into effect the provisions of this Act.

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

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

(b) the accounts to be maintained by the Board;

(c) the allowances of non-official members of the Board or of any Committee;

(d) the returns, statements, reports and accounts to be submitted to the Government by the Board;

(e) the mutual relationship of the Board and other local authority in any matter in which they are jointly interested;

(f) the fees payable for copies of, or extracts from, the assessment books of the local authorities concerned furnished to the Secretary;

(g) the guidance of the Board and public officers in carrying out the purposes of this Act.

;3) All rules made under this Act shall be published in the 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.

(4) Every rule made under subsection (1) shall be laid as soon as may be after it is made, before the Legislative Assembly, while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid, or the session immediately following the Legislative Assembly makes any modification in the rule or decides that the rule should not be issued the 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 done under that rule.

162. Power to make regulations :-

(1) The Board may, by notification in the Gazette make regulations not inconsistent with this Act and the rules made thereunder, for the purpose of giving effect to the provisions of this Act. 1[Provided that the regulations relating to person may be made either, prospectively or retrospectively]

- (2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for-
- (a) all matters expressly required or allowed by this Act to be prescribed by regulations;
 - (b) the association of persons with the Board under section 25;
 - (c) the appointment of persons to be members of committees under section 26;
 - (d) the delegation of powers or duties of the Board to the committees or to the Chairman;
 - (e) the duties and conduct of officers and subordinates of the Board and of other persons employed by the Board under this Act for carrying out any of the purposes of this Act;
 - (f) (f). The welfare and recreation of the staff of the Board and the contributions to be made therefore; .
 - (g) the fees payable for the copies of documents, estimates and plans furnished by any of its officers and subordinates under this Act,
 - (h) the management, reservation in allotment, use and regulation of dwellings and plots under any housing or improvement scheme;
 - (i) the efficient conduct of the affairs of the Board.
- (3) No regulation or its cancellation or modification shall have effect until the same shall have been approved and confirmed by the Government.

CHAPTER 16 SAVINGS

163. Savings :-

Notwithstanding the expiry of the Kerala State Housing Board Ordinance, 1970 (24 of 1970) -

- (a) anything done or any action taken in exercise of any powers conferred by or under the said Ordinance shall be deemed to have been done or taken in exercise of the powers conferred by or under the corresponding provision of this Act;
 - (b) anything done or any action taken after such expiry and before the date of publication of this Act in the Gazette which could have been done or taken under the said Ordinance if it had not expired, shall be deemed to have been done or taken under this Act; or
 - (c) any investigation, legal proceeding or remedy which could have been instituted, continued or enforced under the said Ordinance if it had not expired, may be instituted, continued or enforced under the corresponding provision of this Act.
- (2) The expiry of the Kerala State Housing Board Ordinance 1970,

shall not-

- (a) affect any right, privilege, obligation or liability acquired, accrued or incurred under the said Ordinance; or
- (b) affect any penalty or punishment incurred in respect of any offence committed under the said Ordinance; or
- (c) affect any investigation, legal proceedings, or remedy in respect of any such right, privilege, obligation, liability, penalty, or punishment and any such investigation, legal proceedings or remedy may be instituted, continued or enforced, and any such penalty or punishment may be imposed under the provisions of this Act.

(3) Notwithstanding anything contained in this Act, no person shall be convicted of any offence under this Act for having committed the same after the 22nd April 1971, and before the date of publication of this Act in the Gazette.