

**Madhya Pradesh Griha Nirman Mandal Adhiniyam, 1972****3 of 1972**

## CONTENTS

**CHAPTER 1 :- Preliminary**

1. Short Title And Extent
2. Definition

**CHAPTER 2 :- Establishment of Board**

3. Establishment Of Madhya Pradesh Housing Board
4. Constitution Of Board
- 4A. Establishment Of Madhya Pradesh Gramin Avas Mandal
- 4B. Constitution Of The Board
- 4C. Function Of The Gramin Avas Mandal
5. Disqualification For Appointment As Member Of Board
6. Term Of Office
7. Commencement Of Term Of Office Of Member
8. Resignation Of Member
9. Conditions Of Service Of Chairman
10. Effect. Of Subsequent Disqualification
11. Filling Up Of Casual Vacancies
12. Vacancies, Etc. Not To Invalidate Proceedings

**CHAPTER 3 :- Officers and Members of Staff of Board**

13. Housing Commissioner
14. Appointment Of Officers And Servants Of Board
15. Conditions Of Service Of Officers And Servants
16. Promotion And Punishment Of Officers And Servants Of Board
17. Service Regulation
18. Provident Fund
19. Control And Delegation By Chairman
20. General Disqualifications Of All Officers And Servants

**CHAPTER 4 :- Conduct of Business of Board and its Committees**

21. Meetings Of Board
22. Quorum
23. Appointment And Functions Of Committees

**CHAPTER 5 :- Powers of Board, Chairman and Housing Commissioner to incur Expenditure on Housing Schemes and enter**

into Contracts

24. Power To Board To Incur Expenditure

25. Powers Of Board, Chairman And Housing Commissioner To Approve Estimates

26. Emergency Powers Of Board

27. Emergency Powers Of Chairman

28. Power To Make And Perform Contracts

29. Agreements And Security Deposits

30. Further Provision As To Execution Of Contracts And Agreements

## **CHAPTER 6 :- Housing Scheme**

31. Duty Of Board To Undertake Housing Schemes

32. Power Of Board To Undertake Housing Schemes Or To Entrust Its Work To Government Or Non-Government Body

33. Matters To Be Provided For By Housing Schemes

34. Land Development Scheme

## **CHAPTER 7 :- Annual Housing Programme and Budget Estimates**

35. Preparation Of Annual Housing Programme, Budget And Establishment Schedule

36. Supplementary Programme And Budget

37. Variation Of Programme By Board

## **CHAPTER 8 :- Transfer of Land by Corporation, Improvement Trusts etc.**

38. Transfer To Board For Purposes Of Housing Scheme Of Land Vested In Local Authority

39. Compensation In Respect Of Land Vested In Board

40. Power Of Board To Turn Of Close Public Street Vested In It

41. Reference To Arbitration In Case Of Dispute Under Section 39 Or 40

42. Vesting In Local Authority Of Streets Laid Out Or Altered And Open Space Provided By Board Under Housing Scheme

42A. Rendering Of Financial Assistance To Local Authorities Etc. On A Direction By State Government

## **CHAPTER 9 :- Other Duties of the Board**

43. Measures To Expediting And Cheapening Of Construction

44. Measures To Ensure Expeditious And Efficient Implementation Of Housing Schemes In State

45. Reconstitution Of Plots

46. Disputes Regarding Reconstitution Of Plots

47. Supervision And Centage Charges

## **CHAPTER 10 :- Acquisition and Disposal of Land**

48. Power To Purchase Or Lease By Agreement

- 49. Acquisition Of Land
- 50. Power To Dispose Of Land

**CHAPTER 11 :- Assessment and Recovery of Betterment Charges**

- 51. Betterment Charges
- 52. Notice To Persons Liable For Betterment Charges
- 53. Agreement For Payment Of Betterment Charges
- 54. Recovery Of Betterment Charges

**CHAPTER 12 :- Power to evict Persons from Board Premises**

- 55. Power To Evict Certain Persons From Board Premises
- 56. Power To Recover Rent Or Damage As Arrears Of Land Revenue
- 57. Appeal
- 58. Rent To Be Recovered From Deduction From Salary Or Wages In Certain Cases
- 59. Bar Of Jurisdiction Of Courts

**CHAPTER 13 :- Finance, Account and Audit**

- 60. Boards Fund
- 61. Subventions And Loans To Board
- 62. Power Of Board To Borrow And Lend
- 63. Guarantee By State Government Of Loans
- 64. Form Of Debentures
- 65. Payment To Survivors Of Joint Payees
- 66. Receipt By Joint Holder For Interest Or Dividend
- 67. Priority Of Payments For Interest And Repayment Of Loans
- 68. Repayment Of Loans
- 69. Establishment And Maintenance Of Sinking Funds
- 70. Powers To Discontinue Payment Into Sinking Fund
- 71. Investment Of Sinking Fund
- 72. Application Of Sinking Fund
- 73. Contingency Fund Of Board
- 74. Accounts And Audit
- 75. Reports
- 76. Other Statements And Returns

**CHAPTER 14 :- Penalties and Procedure**

- 77. Penalty -If Any Person
- 78. Penalty For Breach Of Provisions Of This Act Etc
- 79. Compensation To Be Paid By Offenders For Damage Caused By Them
- 80. Punishment For Acquiring Share Or Interest In Contract Etc. With Board
- 81. Procedure
- 82. Arrest Of Offenders
- 83. Protection Of Action Taken In Good Faith
- 84. Notice Of Suit Against Board Etc
- 85. Proof Of Consent Etc. Of Board Or Housing Commissioner Or

## Chairman

86. General Power Of Board To Pay Compensation

87. Public Notice How To Be Made Known

88. Stamping Signature On Notice Or Bills

89. Service Of Notice Etc. How To Be Effected On Owner Or Occupier Of Premises

90. Service Of Notice Etc. How To Be Effected On Any Person Otherwise Than As Owner Or Occupier Of Premises

91. Power To Make Survey, Or Contribute Towards Their Cost

92. Power Of Entry

## **CHAPTER 15 :- Miscellaneous**

93. Power Of Board For Facilitating Movement Of Population

94. Members, Officers And Servants Of Board And Committee Demand To Be Public Servants

95. Contribution By Board Towards Leave Allowance And Pensions Of Servants Of The Central Or State Government Employed Under This Act

96. Supply Of Documents And Information To State Government

97. Submission Of Administration Report To State Government

98. Power Of State Government To Give Directions To Board And Local Authorities

99. Money Due To Board Recoverable As Arrears Of Land Revenue

100. Super Session Of The Board

101. Dissolution Of Board

## **CHAPTER 16 :- Rules, Regulations and Byelaws**

102. Power Makes To Rules

103. Power To Make Regulations

104. Power To Make Byelaws

## **CHAPTER 17 :- Repeal and Savings**

105. Consequence To Ensure An Establishment Of Board

106. Repeal

## **Madhya Pradesh Griha Nirman Mandal Adhiniyam, 1972**

### **3 of 1972**

[Received the assent of the President on the 21st January, 1973, assent first published in the "Madhya Pradesh Gazette, Extraordinary on the 22nd January, 1973] An Act to provide for the incorporation and regulation of Housing Boards in the State of Madhya Pradesh for the purpose of taking measures to deal with and satisfying the need of housing accommodation and for matters connected there- with. Be it enacted by the Madhya Pradesh Legislature in the Twenty-third Year of the Republic of India as

follows:-

## CHAPTER 1

### Preliminary

#### **1. Short Title And Extent :-**

(1) This Act may be called the Madhya Pradesh Griha Nirman MandaI Adhiniyam, 1972.

(2) It extends to the whole of Madhya Pradesh.

#### **2. Definition :-**

In this Act, unless the context otherwise requires, -

(1) "Adjoining area" means such area as may be specified to be an adjoining area under section -33;

(2) "Betterment charges" means the charges leviable under section 51;

(3) "Board" means the Madhya Pradesh Housing Board established under section 3 of the Madhya Pradesh Gramin Avas MandaI established under section 4- A, as the case may be;

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

(5) "Byelaws" means byelaws made under section 104.

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

(7) "Competent authority" means any person authorized by the State Government, by notification, to perform the functions of the competent authority under Chapter XII for such area as may be specified in the notification and shall be a person who is holding or has held an office, not lower in rank than that of a Deputy Collector, or Executive Engineer under the Board;

(8) "Housing Commissioner" means the Housing Commissioner appointed under section 13;

(9) "Housing Scheme" means a Housing Scheme made under this Act and included a land development scheme prepared under section 34;

(10) "Improvement Trust" means a Trust established under the Madhya Pradesh Town Improvement Trusts Act, 1960 (No,14 of 1961);

(11) "Land" includes benefits arising out of land and things attached to the earth or permanently fastened to anything attached to the earth;

(12) "Land adjacent to the area" means such land as may be

specified to be the land adjacent to the area under submission (3) of section 51;

(13) "Local authority means a Municipal Corporation, Municipal Council, Notified Area Committee, Zila Panchayat, Janapada Panchayat, Gram Panchayat or Town Area Committee, as the case may be;

(14) "Member" means a member of the Board and includes the Chairman;

(15) "Premises" means any land or building or part of a building and includes-

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

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

(16) "Programme" means the annual housing programme prepared by the Board under section (35)

(17) "Regulations" means regulations made under section 103;

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

## CHAPTER 2

### Establishment of Board

#### **3. Establishment Of Madhya Pradesh Housing Board :-**

The State Government shall, by notification, establish with effect from such date, as may be specified therein, a Board by the name of the Madhya Pradesh Housing Board, which shall be a body corporate having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and dispose of property and to contract, and may, by the said name, sue and be sued.

#### **4. Constitution Of Board :-**

The Board shall consist of the Chairman who shall be appointed by the State Government and the following other members, namely

(a) Secretary to the Government of Madhya Pradesh in charge of each of the following departments or his nominee, namely :-

(i) Housing Department

(ii) Finance Department

(b) Chairman, Housing and Urban Development Corporation, New Delhi or his nominee;

(c) Engineer-in-Chief, Public Works Department;

(d) Two members of the State Legislative Assembly to be appointed by the State Government;

- (e) Director, Town and Country Planning or his nominee;
- (f) Two non-officials to be appointed by the State Government.
- (g) One person prominent in the field of Housing, Engineering, Architecture or Town Planning to be appointed by the State Government.
- (h) Housing Commissioner;

CHAPTER IIA Establishment of Madhya Pradesh Gramin Avas Mandal
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#### **4A. Establishment Of Madhya Pradesh Gramin Avas Mandal**

:-

The State Government shall, by notification, establish with effect from such date as may be specified therein, a Board by the Name of the Madhya Pradesh Gramin Avas Mandal which shall be a body corporate having perpetual succession and a common seal with power, subject to provisions of this Act, to acquire, hold and dispose of property and to contract and may be the said name sue and be sued.

#### **4B. Constitution Of The Board :-**

(1) The Board established under section 4-A shall consist of a Chairman and a Vice-Chairman who shall be appointed by the State Government and the following other members namely :-

(a) Secretary to the Government of Madhya Pradesh incharge of the following departments or his nominee not below the rank of Deputy Secretary, namely;

- (i) Housing Department;
- (ii) Finance Department;
- (iii) Revenue Department;
- (iv) Rural Development Department;
- (v) Tribal Welfare Department;

(b) Chairman, Housing and Urban Development Corporation, New Delhi, or his nominee;

(c) Director, Town and Country Planning, Madhya Pradesh or his nominee;

(d) The Superintending Engineer, Rural Engineering Services, Madhya Pradesh.

(e) Two members of the State Legislative Assembly to be appointed by the State Government;

(f) Two experts in the field of architecture, Sociology or Tribal Welfare to be appointed by the State Government;

(g) Two non-official members to be appointed by the State Government;

(h) Commissioner, Gramin Avas Mandal,

(2) The Commissioner, Gramin Avas Mandal shall act as the member Secretary of the Madhya Pradesh Gramin Avas Mandal,

#### **4C. Function Of The Gramin Avas Mandal :-**

(1) The Board established under section 4-A shall be charged with the function of and be responsible for carrying out the provisions of this Act, essentially in the rural areas of the State, Explanation. -In this section, the expression "rural area" means an area other than the area included within the limits of a municipal corporation or municipal council or a notified area Committee constituted under the Madhya Pradesh Municipal Corporation Act, 1955 (No, 23 of 1956) and the Madhya Pradesh Municipalities Act, 1961 (No, 37 of 1961),

(1) The Vice-Chairman shall, for all purposes of the Act, be deemed to be a member, He shall preside over the meetings of the Board in the absence of the

Chairman and exercise such powers and perform such functions of the Chairman as the Chairman may direct, The provisions of section 9 shall apply to Vice-Chairman as they apply to a Chairman,

(2) The Housing Commissioner shall act as the member Secretary of the Board,

#### **5. Disqualification For Appointment As Member Of Board :-**

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

(a) holds any office or place of profit under the Board;

(b) is of unsound mind;

(c) is an un-certificated bankrupt or an un-discharged insolvent;

(d) is or has been convicted of any offence involving moral turpitude;

(e) has been removed or dismissed from the service of the Union or State Government on a charge of corruption or bribery;

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

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

Explanation -A person shall be deemed to have incurred disqualification under clause (f) or (g) by reason of-

(i) his or of the incorporated company of which he is a Director, Secretary, Manager or other salaried officer, having a share or interest in any newspaper in which any advertisement relating to the affairs of the Board is inserted, or

(ii) his being a share-holder in or a member of any incorporated or registered company or society which has any share or interest in any contract or employment with, by or on behalf of, the Board, subject to the condition that such person discloses to the State Government the nature and extent of the shares held by him.

#### **6. Term Of Office :-**

The term of the office of every member other than ex-officio members shall be three years: Provided that a member of the Legislative Assembly (appointed) under clause (d) of subsection (I) of section 4 shall cease to be a member on his ceasing to be a member of the Legislative Assembly.

#### **7. Commencement Of Term Of Office Of Member :-**

(I) The names of the members shall be notified in the Gazette by the State Government and the term of office of each of them shall



commence on such date as may be specified. in the notification.

(2) A person ceasing to be a member by reason of the expiry of his term of office shall, if otherwise qualified, be eligible for re-appointment.

#### **8. Resignation Of Member :-**

The Chairman or any non-official member may resign his office by writing under his hand addressed to the State government but he shall continue in office until his resignation is accepted by that Government.

#### **9. Conditions Of Service Of Chairman :-**

(1) The Chairman may either be an honorary officer or a salaried officer of the Board.

(2) The salaried Chairman shall be a whole time officer of the Board and his emoluments and conditions of service shall be such as may be prescribed.

(3) Every member shall received such allowance as may be prescribed.

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

#### **10. Effect. Of Subsequent Disqualification :-**

(1) If a member -

(a) becomes subject to any of the disqualifications mentioned in section 5;

(b) absent himself during three consecutive meetings of the Board except with the leave of the Board;

(1) he shall cease to be a member and his seat shall become vacant with effect from a date to be notified in the Gazette by the State Government.

(2) No member shall cease to be member under sub-section

(1) until the pre- scribed authority on its own motion or on an application made to it by any person in this behalf decides that such a member has incurred the disqualification on any of the grounds specified therein and communicates the decision in relation thereto, to such member; Provided that no order shall be passed by the prescribed authority under the sub-section against any member without giving him a reasonable opportunity of being heard.

(3) Any person aggrieved by the decision of the prescribed authority under sub-section (2) may within thirty days from the

date of the communication to him of such decision appeal to the State Government. The order passed by the prescribed authority shall, subject to the decision of the State Government in appeal, be final.

**11. Filling Up Of Casual Vacancies :-**

In the event of the death, resignation or disqualification of a member, a casual vacancy shall be deemed to have occurred in his office and such vacancy shall be filled in, as soon as may be, by the appointment, of a person thereto as member, who take office forthwith and shall hold such office for the unexpired term of his predecessor.

**12. Vacancies, Etc. Not To Invalidate Proceedings :-**

Not Act or proceeding of the Board shall be invalid merely by reason of-

- (a) any vacancy in or defect in the constitution of the Board, or
- (b) any defect in the appointment or qualification of any person acting as a member of the Board, or
- (c) any defect or irregularity in the procedure of the Board not affecting the merit of the case.

**CHAPTER 3**

Officers and Members of Staff of Board

**13. Housing Commissioner :-**

(1) There shall be a Housing Commissioner to the Board who shall be the principal executive officer of the Board and subject to the overall control of the Board and the Chairman, all other officers and servants of the Board shall be subordinate to him.

(2) The Housing Commissioner shall be appointed by the State Government and his salary and other conditions of service shall be such as may be prescribed.

**14. Appointment Of Officers And Servants Of Board :-**

The Board may appoint a Chief Engineer, a Chief Accounts Officer, an Estate Manager and such other officers and servants as it considers necessary for the efficient performance of its functions;

**15. Conditions Of Service Of Officers And Servants :-**

(1) The remuneration and other conditions of service of the officers and servants of the Board appointed under section 14, shall be such as may be determined by regulations.

(2) Until regulations are made under sub-section (i) the remuneration and conditions of officers and servants of the Board shall be governed by the rules, orders and instructions relating to remuneration and conditions of service applicable to the officers and servants of the corresponding grade in the service of the State Government.

#### **16. Promotion And Punishment Of Officers And Servants Of Board :-**

(1) subject to any regulations made under section 17, the power of making promotions to posts in the service of the Board, or granting leave to officers and servants holding such posts or censuring, fining, withholding, promotions from, reducing, suspending, removing or dismissing such officers, and servants for any breach of departmental rules or discipline or for carelessness, unfitness, neglect of duty or misconduct, and of discharging such officers and servants from the service of the Board for any other sufficient reason shall be exercised by such authorities as may be prescribed by the regulations. Provided 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 so punished except by an authority which would have been competent to do so if his services had not been so lent, but prescribed authority shall be entitled to make an enquiry and to report against such servant to the Central or State Government or local authority, as the case may be.

(2) Any officer or servant of the Board who is aggrieved by an order passed under subsection (1) may, within two months from the date of receipt by him of such order, appeal -

(a) to the Board, if the order was passed by the Housing Commissioner or Chairman; and

(b) to the State Government if the order was passed by Board.

#### **17. Service Regulation :-**

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

(a) fixing the salary and allowances of the officers and servants of the Board.

(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 State Governments employed as 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 his services under the Central or State Government, as the case may be, relating to transfer to foreign service;

(d) for regulating the subscriptions to the provident fund established under section 18 and other matters relating thereto;

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

### **18. Provident Fund :-**

(1) The Board shall establish a provident fund for Housing Commissioner, officers and servants of the Board and such provident fund (hereinafter in this section called the said fund) shall notwithstanding anything contained in section 8 of the Provident Fund Act. I 925(No. of 19 of 1925), be deemed to be a Board Provident Fund for the purposes of the said Act.

(2) The Board shall in respect of each of its employees who is a subscriber to the said fund, pay into the said fund, such portion of the contribution and in such manner as government may, from time to time determine.

### **19. Control And Delegation By Chairman :-**

(I) the Chairman shall exercise supervision and control over the acts and proceedings of the Housing Commissioner and all officers and servants of the Board and subject to the foregoing sections and subject also to such control and supervision as may be prescribed, shall decide all questions relating to the service of the said officers and servants and their salaries, allowances, benefits and privileges,

(2) The Chairman may, by general or special order in writing, delegate to the Housing Commissioner or 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 sections 21 and 87. Provided that the Chairman shall not delegate -

(a) his powers under sections 24 and 25 to incur expenditure and to approve estimates for any single work or doing of any act the value of which exceeds five lakhs of rupees.

(b) any of his powers under section 16 to any officer in respect of any employee of the Board unless such employee was appointed by

such officer or any subordinate of such officer by virtue of a delegation of Chairmans power to appoint under section 14.

(3) 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.

(4) Against any order of nature referred to in sub-section (2) of section 16, passed by an officer to whom the Chairmans power in that behalf has been delegated, an appeal shall lie to the Board, and if the Chairman has himself revised the order of such officer, an appeal shall lie to the Board against the order of the Chairman.

## **20. General Disqualifications Of All Officers And Servants :-**

No person who has directly or indirectly by Himself or his partner or agent any share or interest, " in any contract, by or on behalf of the Board or in any employment under, by or on behalf of the Board otherwise than as an officer or servant thereof, shall become or remain an officer or servant of the Board.

### **CHAPTER 4**

Conduct of Business of Board and its Committees

## **21. Meetings Of Board :-**

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

- (a) an ordinary meeting shall generally be held once every three months;
- (b) the Chairman may, whenever he thinks fit, call special meeting;
- (c) every meeting shall be presided over by the Chairman and in his absence by any member chosen by the members present for the meeting to be preside for the occasion;
- (d) all questions at any meeting shall be decided by a majority of the members present and in case of equality of votes, the person presiding shall have and exercise a second or casting vote;
- (e) the minutes of the proceedings of each meeting shall be recorded in a book to be provided for the purpose.

## **22. Quorum :-**

(1) The quorum for a special meeting shall be of five members and that for an ordinary meeting shall be of four members.

(2) If at any special or ordinary meeting of the Board a quorum is

not present, the Chairman shall adjourn the meeting to such other day as he may think fit, and the business which would have been brought before the original meeting, if there had been a quorum present, -shall be brought before and transacted at the adjourned meeting, whether there is quorum present thereat or not.

### **23. 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 and procedure in regard to transaction of business at its meeting as may be prescribed by regulations.

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

### **CHAPTER 5**

Powers of Board, Chairman and Housing Commissioner to incur Expenditure on Housing Schemes and enter into Contracts

### **24. Power To Board To Incur Expenditure :-**

Subject to the budget provision, availability of funds and other provisions of this Act, the expenditure may be incurred on any single work or scheme for carrying out any of delegate to the Committee, Committee of the Board, the Housing Commissioner or any other officer of the Board of the power to incur expenditure upto such limits on any single work or scheme as may be prescribed by regulations.

### **25. Powers Of Board, Chairman And Housing Commissioner To Approve Estimates :-**

The Board, the Chairman or the Housing Commissioner, as the case may be, may accord approval to estimates for incurring expenditure on any work doing of any act for carrying out any of the purposes of this Act subject to like restrictions and conditions imposed on the Board, the Chairman or the Housing Commissioner, as the case may be, under section 24.

### **26. Emergency Powers Of Board :-**

(1) Where in the opinion of the Board circumstances have arisen

which require immediate action, it shall be lawful for the Board to incur in any year recurring or non-recurring expenditure, not withstanding the fact that such expenditure has not been included in its annual programme or supplementary programme sanctioned by the State Government or the variation of the programme made under section 37,

(2) The expenditure under sub-section (1) shall be made from out of the Contingency Fund established under section 73,

### **27. Emergency Powers Of Chairman :-**

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

(a) He shall not act under the section in contravention of a direction, if any, of the Board or the State 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 the reasons thereof to the Board at its next meeting and shall also submit a copy of his report to the State Government and the Board, or the State Government may issue such direction as it may deem fit on such report.

### **28. 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.

### **29. Agreements And Security Deposits :-**

(1) Every contract shall be made on behalf of the Board by the Housing Commissioner.

(2) The Housing Commissioner shall take sufficient security deposits for the due performance of the contract.

(3) Written agreements shall be executed for all contracts the value of which exceeds five hundred rupees.

(4) Every contract made by the Housing Commissioner, the value of which exceeds ten thousand rupees, shall be reported to the Board at its next meeting. Provided that a contract with any person or institution or organization outside India may be made on behalf of

the Board by such other person also as the Board may specially authorise in this behalf.

### **30. Further Provision As To Execution Of Contracts And Agreements :-**

(1) Subject to the provisions of sections 28 and 29 the contracts and 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.

#### **CHAPTER 6**

#### **Housing Scheme**

### **31. Duty Of Board To Undertake Housing Schemes :-**

Subject to the provisions of this Act and subject to control of the State Government, the Board may incur expenditure and undertake works in any area to which this Act applies for the framing and execution of such housing schemes as it may consider necessary from time to time or as may be entrusted to it by the State Government

### **32. Power Of Board To Undertake Housing Schemes Or To Entrust Its Work To Government Or Non-Government Body :-**

The Board may, subject to such rules and conditions as may be prescribed, undertake execution of work of housing schemes on behalf of a local authority or Cooperative Housing Society or employers or labour in industries or any other body, whether Government or otherwise, and also may entrust execution of its Housing Schemes to such bodies, as and when necessary.

### **33. Matters To Be Provided For By Housing Schemes :-**

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

- (a) the acquisition by purchase, exchange or otherwise of any property necessary for an affected by, the execution of the scheme;
- (b) the laying or relaying out of any land comprised in the scheme;
- (c) the distribution or redistribution of sites belonging to owners of 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 portions of buildings;
  - (f) the construction and reconstruction of buildings;
  - (g) the sale, letting or exchange of any property comprised in the scheme;
  - (h) the construction and alteration of sheets and back lines;
  - (i) the provision of the draining, water supply and lighting of the area included in the scheme;
  - (j) The provision of parks, playing fields, open spaces for benefit of any area comprised in the scheme or any adjoining area and the enlargement of existing parks playing fields open space and approaches;
  - (k) the provision of sanitary arrangements required for the area comprised in the scheme, including the conservation and prevention of any injury or contamination to rivers or other sources and means of water supply;
  - (l) 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 statistic as may be necessary for the purposes of this Act;
  - (p) any other matter for which, in the opinion of the State Government, it is expedient to make provision with a view to provide any housing accommodation and to the making of improvement or development of any area comprised in the scheme or any adjoining area or the general efficiency of the scheme.
- Explanation -For the purposes of this section, the State Government may on the recommendation of the Board by notification specify such area surrounding or adjoining the area included in a housing scheme to be the adjoining area.

### **34. 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 utilized.
- (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 out-right sale or on hire

purchase basis, the building sites in the scheme area.

## CHAPTER 7

### Annual Housing Programme and Budget Estimates

#### **35. Preparation Of Annual Housing Programme, Budget And Establishment Schedule :-**

(1) Before the first day of December in each financial year, the Board shall prepare and forward-

- (i) a programme,
- (ii) a budget for the next financial year;
- (iii) a schedule of the staff of officers and servants already employed and to be employed during the next financial year; to the State Government in such form as may be prescribed.

(2) The programme shall contain -

- (a) such particulars of housing schemes which the Board proposes to execute ,whether in part or whole during the next financial year as may be prescribed;
- (b) the particulars of any undertaking which the Board proposes to organize or execute during the next financial year for the purpose of the production of building materials; and .
- (c) such other particulars as may be prescribed. Provided that if the State Government so directs before the date referred to in sub-section

(1) the housing scheme in the programme shall include any matter which in its opinion it is necessary to provide for and execute on a basis of priority.

(3) The budget shall contain a statement showing the estimated receipts and expenditure on capital and revenue accounts for the next financial year, and shall have to be sanctioned by the State Government, If The Board is indevted to the State Government.

#### **36. Supplementary Programme And Budget :-**

The Board, may at any time, during the year in respect of which a programme has been prepared and forwarded to the State Government under section 35 forward a supplementary programme and budget to the State Government. Provided that where the Board is indebted to the State Government, such supplementary programme and budget shall have to be sanctioned by the State Government.

#### **37. Variation Of Programme By Board :-**

The Board may at any time vary any programme or any part

thereof included in the programme forwarded to the State Government under section 35; Provided that no such variation shall be made if it involves an expenditure in excess of fifteen percent of the amount originally provided for the execution of any housing scheme included in such programme or affects its scope or purpose; Provided further that where the Board is indebted to the State Government, no such variation shall be made except with the previous sanction of the State Government.

#### CHAPTER 8

Transfer of Land by Corporation, Improvement Trusts etc.

### **38. Transfer To Board For Purposes Of Housing Scheme Of Land Vested In Local Authority :-**

(1) Whenever any street, square or other land or part thereof vested in any local authority is included in the programme and is required for the purposes of carrying on such housing schemes in accordance with the programme the Board shall give notice accordingly to the local authority concerned.

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

(3) Where the local authority concerned refuses to give any such land for the purposes of sub-section (I), the matter may be referred to the State Government by the Board, and the State Government may, after giving a hearing to both parties, issue any direction in the matter which shall be binding on both parties.

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

### **39. Compensation In Respect Of Land Vested In Board :-**

(I) Where any land vests in the Board under the provisions of section 38 and the Board makes a declaration that such land, shall be retained by the Board only until it reverts in the local authority concerned as part of a street or an open space under section 42, no compensation shall be payable by the Board to the local authority in respect of that land.

(2) Where any land vests in the Board under section 38 and no declaration is made under sub-section (I) in respect of the land, the Board shall pay to the local authority concerned compensation determined in accordance with the provisions of this Act.

(3) If in any case where the Board has made a declaration in

respect of any land under subsection (1) the board retains or disposes of the land contrary to the terms of the declaration so that the land does not revert in the local authority, the Board shall pay to the local authority compensation in respect of such land in accordance with the provisions of sub-section (2).

**40. Power Of Board To Turn Of Close Public Street Vested In It :-**

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

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

(3) In determining the compensation payable to any person under sub-section (2), the Board shall make allowance for any benefit accruing to him from the construction, provision or improvement of any other public street at or about the same time when the public street or part thereof, on account of which the compensation is paid, is discontinued or closed (4) When any public street vested in the Board is permanently closed under sub-section (1), the Board may sell or lease so much of the same as is no longer required,

**41. Reference To Arbitration In Case Of Dispute Under Section 39 Or 40 :-**

(1) If there is any dispute as to whether any compensation payable under section 39 or section 40, as the case may be, the matter shall be referred to a Board of Arbitration consisting of

(i) a nominee of the Board,

(ii) a nominee of the other party to the dispute, and

(iii) a person who holds or has acted as, a Judicial Officer in the Proceedings not below the rank of an Additional District Judge to be appointed by the State Government,

(2) The Board of Arbitration shall follow such procedure in the proceeding before it and follow such principles or apportioning the

cost of proceedings as may be prescribed.

(3) An appeal shall lie to the High Court against the award of the Board of Arbitration.

(4) Save as provided in this section and any rules made there under, nothing in any law for the time being in force shall apply to the arbitrations under this section.

(5) The State Government may make rules for the purpose of carrying into effect the provisions of this section.

#### **42. Vesting In Local Authority Of Streets Laid Out Or Altered And Open Space Provided By Board Under Housing Scheme :-**

Whenever the State Government is satisfied-

(a) that any street laid out or altered by the Board has been dully levelled, paved, metalled flagged, channeled, sewerred and drained in the manner provided in the programme; .

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

(c) that water and other sanitary convenience have been duly provided in such street; The State Government may declare the street to be a public street and the street shall thereupon vest in the local authority concerned and shall thenceforth be maintained, kept in repair, lighted and cleaned by the said authority.

(2) When any open space for purpose of ventilation or recreation has been provided by the Board in executing any housing scheme it shall on completion be transferred to the local authority concerned, by resolution of the Board and shall thereupon vest in, and be maintained at, the expenses of the local authority; Provided that the local authority may require the Board, before any such open space is so transferred to enclose, level, turf, drain and layout such space and provide footpaths therein and, if necessary, to provide lamps and other apparatus for lighting it.

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

#### **42A. Rendering Of Financial Assistance To Local Authorities Etc. On A Direction By State Government :-**

The State Government may direct the Board to render financial assistance to local authorities. The Improvements Trusts, Development Authorities including Special

Area Development Authorities and other statutory bodies, as may be notified by the State Government in this behalf, which under- take the function or activity of development of urban areas or construction of houses as a part of housing programme under any enactment for the time being in force and upon receipt of such direction it shall be the duty of the Board to render financial assistance in accordance with the directions. Explanation -In this section

(i) "Town Improvement Trust" means Town Improvement Trust established and constituted under the Madhya Pradesh Town Improvement Trust Act, 1960 (No. 14 of 1960);

(ii) "Development Authority" or "Special Area Development Authority" means "Town and Country Development Authority" or "Special Area Development Authority", as the case may be constituted under the Madhya Pradesh Nagar Tatha Gram Nivesh Adhiniyam, 1973 (No.23 of 1973);

(iii) "Housing Programme" includes slums clearance sewage system, electric installations, lighting and connections, water supply system, construction of roads of such other purpose as may be notified by the State Government in this behalf; or from the International Bank for Reconstruction and Development (IBRD) or any other inter-Governmental agency functioning under the United Nations Organization. Subject to such conditions and limitation may from time to time, specify or for the purposes of the Act. "With the International Bank for Reconstruction and Development (IBRD) or any other inter Governmental agency functioning under the United Nations Organisations. or with any Bank or other financial institutions approved by the State Government or with the Life Insurance Corporation of India established under section 5 of the Life Insurance Corporation Act, 1966 (No.1 of 1956)".

#### CHAPTER 9

##### Other Duties of the Board

### **43. Measures To Expediting And Cheapening Of Construction :-**

It shall be the duty of the Board to take measures with a view to expediting and cheapening construction of buildings and the Board may for that purpose do all thing; for -

- (a) Unification, simplification and standardization of building materials;
- (b) encouraging pre-fabrication and mass publication of housing components;
- (c) organizing or undertaking the production of building materials required for the housing scheme;
- (d) encouraging research for discovering cheap building materials and evolving new methods of economic construction;
- (e) securing a steady and sufficient supply of workmen trained in the work of construction of buildings.

### **44. Measures To Ensure Expeditious And Efficient Implementation Of Housing Schemes In State :-**

It shall also be tile duty of the Board to take measures

- (i) to plan and co-ordinate all housing activities in the State, and to ensure expeditious and efficient implementation of housing schemes in the State;

- (ii) to provide technical advice and scrutinize all projects under housing schemes sponsored or assisted by the Central or State Government;
- (iii) to maintain, allot, lease and otherwise use plots, buildings and other properties of the Board and to fix and to refix rent and to collect rents from the properties under the control and management of the Board and repay loans to the State and Central Government;
- (vi) to set up a research section for the purpose of expediting the construction of and cheapening the costs of buildings; and
- (v) to organise and run workshops and stores for manufacture, sale, stock, pulling and supply of building material required for housing schemes.

#### **45. Reconstitution Of Plots :-**

A housing scheme may provide -

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

#### **46. Disputes Regarding Reconstitution Of Plots :-**

- (1) Where by the making of housing scheme, any plots comprised in the area included in the scheme are reconstituted or any person is dispossessed any person affected by such reconstitution or dispossession may apply to the Board for compensation.
- (2) The Board may, after making such enquiry as it thinks fit, decide whether the applicant is entitled to any compensation and if so to what ment.
- (3) If any person is aggrieved by the decision of the Board he may apply to the Board to refer the matter to the Board of Arbitration to be constituted in accordance with section 41 and the Board shall, thereafter, refer the matter to arbitration.
- (4) The Board of Arbitration shall, then, after making an enquiry determine the amount of compensation and direct the Board to pay the same to the person entitled

#### **47. Supervision And Centage Charges :-**

The Board may include in the cost of any housing or improvement scheme or land development 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 twenty-three percent of the scheme of work.

#### **CHAPTER 10**

#### **Acquisition and Disposal of Land**

#### **48. Power To Purchase Or Lease By Agreement :-**

the Board may enter into agreement with any person for the acquisition from him by purchase, lease change of any land which is needed for the purposes of a housing scheme by interest in such land or for compensating the owners of any such land interest in respect of any deprivation thereof or interference there with.

#### **49. Acquisition Of Land :-**

(1) The Board may also take steps for the compulsory requisition of any land or any interest therein required for the execution of a housing scheme in the manner provided in the Land Acquisition Act, 1894 (No.1 of 1894), and the acquisition of any land or any interest therein for the purpose of this Act shall be deemed to be acquisition for a public purpose with in. the meaning of the Land Act 1894 (No.1 of 1894).

(2) The Board shall be deemed to be a local authority for the purpose of Land Acquisition Act, 1894 (No.1 of 1894).

#### **50. Power To Dispose Of Land :-**

(I) Subject to any rules made by the State Government under this Act, the Board may retain or may lease, sell, exchange or otherwise dispose of any land, building or other property vesting in it and situate in the area comprised in any housing scheme or in any adjoining area.

(2) Whenever the Board decides to lease or sell any land acquired by it under this Act from any person, it -

(a) may give notice by advertisement in one of the leading local newspaper in the State; and

(b) 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 of 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 11

#### Assessment and Recovery of Betterment Charges

### **51. Betterment Charges :-**

(1) When by making of housing scheme any land in the area comprised in the scheme will in the opinion of the Board be increase in value, the Board in framing the scheme may declare that betterment charges shall be payable by the owner of the land or any person having an interest therein in respect of the increase in value of land 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 housing scheme, estimated as if the land were clear of the buildings exceeds the value of the land prior to the execution of the scheme estimated in like manner and the betterment charges shall be one half of such increase in value.

(3) The Board may, with the previous approval of the State Government declare that such betterment charges 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 scheme in the area comprised in the scheme.

### **52. Notice To Persons Liable For Betterment Charges :-**

(1) The Board shall give notice in the prescribed form to any person who is the owner of or has interest in the land in respect of which the betterment charges are to be levied and shall give such person an opportunity to be heard.

(2) After hearing such person or if such person fails to appear after the expiry of the period, within which person is required to appear before the Board, the Board shall proceed to assess the amount of betterment charges.

(3) Where the assessment of betterment charges proposed by the Board is accepted by the person concerned within the period prescribed, the assessment shall be final.

(4) If the person concerned does not accept the assessment proposed by Board, the matter shall be referred to the Collector.

(5) the Collector shall, after holding an enquiry and after hearing the person concerned, assess the amount of the betterment charges payable by the person.

### **53. Agreement For Payment Of Betterment Charges :-**

(1) Any person liable to pay betterment charges in respect of 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 payment in perpetuity of interest at such rate as may be prescribed.

(2) Every payment due from any person in respect of betterment charges and every charge referred to in sub-section (1) shall, notwithstanding anything contained in any other enactment for the time being in force and notwithstanding the execution of any mortgage or charge created either before or after the 21st day of November, 1972 be the first charge upon the interest of such person in such land, subject to the prior payment of land revenue, if any, due to the Government on such land.

### **54. Recovery Of Betterment Charges :-**

All sums payable in respect of any land by any person in respect of betterment charges under section 51 or by any person under an agreement under section 53 shall be recoverable on behalf of the Board as an arrear of land revenue.

## **CHAPTER 12**

Power to evict Persons from Board Premises

### **55. Power To Evict Certain Persons From Board Premises :-**

(1) Not-with-standing anything to the contrary contained in any other law for the time being in force 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) sublet 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 under which he is authorised to occupy such premises, or

(b) that any person is in unauthorised occupation of any Board

Premises; the competent authority may, by notice served in the manner laid down in section 89 or 90, 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 said premises shall vacate them within one month of the date of the service of the notice.

(2) Before an order under sub-section (1) is made against any person, the competent authority shall inform the person, by notice in writing of the grounds on which the proposed order is to be made and give him a reasonable opportunity of tendering an explanation and producing evidence, if any and to show cause why such order should not be made within a period to be specified in such notice.

(3) The competent authority may on an application, grant extension of the period specified in such notice on such terms as to payment and recovery of the amount claimed in the notice as he deemed 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 an authorised agent 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 purposes use for cause to be used such force as may be necessary

(6) If a person who has been ordered to vacate any premises under sub-clause (1) or subclause (in) of clause (a) of sub-section (1) within one month of the date of service of the notice or such longer time as the competent authority may allow pays to the Board the rent in arrears or carries out or otherwise complies with the terms contravened by him to the satisfaction of the competent authority, as the case may be, competent authority shall, in lieu of evicting such person under sub-section (5), cancel, its order made under sub-section (1), and thereupon such person shall hold the said premises on the same terms on which he held them immediately before such notice was served on him. Explanation - For the purposes of as section and section 56, 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 Board premises after the authority under which he was all allowed to occupy the said

premises has been duly determined.

**56. Power To Recover Rent Or Damage As Arrears Of Land Revenue :-**

(1) Subject to any rules made by the State Government in this behalf and with out prejudice to the provisions of section 55, where any person is in arrears of rent payable in respect of any Board premises, the competent authority may by notice served in the manner laid down in section 89 or 90 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 from him as arrears of land revenue.

(2) Where any person is in unauthorised occupation of any Board premises, the competent authority, may in the prescribed manner assess such damages on account of the use and occupation of the premises as it may deem fit, and may by notice served in the manner referred to in sub-section (1) order that person to pay the damages within the such time specified in the notice. If any person refuses or fails to pay the damages within the time specified in tile notice, the damages may be recovered from him as arrears of land revenue.

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

**57. Appeal :-**

(1) Any person aggrieved by an order of the competent authority under section 55 or 56 may within one month from the date of service of the notice of such order, prefer an appeal to the State Government; Provided that State Government may entertain the appeal after the expiry of the said period, of one month, if it is satisfied that the appellant, was prevented by sufficient cause, from filing the appeal in time.

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

State Government shall be final.

**58. Rent To Be Recovered From Deduction From Salary Or Wages In Certain Cases :-**

(1) Subject to the provisions of section 55 any person who is an employee of the Central or State Government or a local authority or a private employer and who has been allotted any Board premises may execute an agreement in favour of the Board providing that the Central or State Government or the local authority or the private employer, 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 Central or State Government or local authority or private employer, as the case may be, shall if so, required by the Board by requisition in writing, make the deduction of the amount specified in the requisition in accordance with the agreement and pay the amount so deducted to the Board.

**59. Bar Of Jurisdiction Of Courts :-**

Order made by the State Government or the competent, authority, as the case may be in the exercise of any power conferred by or under this Chapter shall not be called in question in any court and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Chapter.

**CHAPTER 13**

Finance, Account and Audit

**60. Boards Fund :-**

(1) The Board shall have its own fund.

(2) The Board may accept grants, subventions, donations and gifts from the Central or State Government or a local authority, or any individual or body, whether incorporated or not, for all or any of the purpose 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) Except as otherwise directed by the State Government all moneys and receipts specified in the foregoing provisions and forming part of the fund of the Board shall be deposited in -

(a) the Reserve Bank of India; or

(b) any Scheduled Bank, or

(c) any subsidiary Bank of the State Bank of India; or

(d) the Madhya Pradesh State Co-operative Bank Limited; or invested in such securities as may be approved by the State Government.

(5) Such account shall be operated upon by such officers as may be authorised by the Board. Explanation- For 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 (No. 2 of 1934) and scheduled bank shall mean a bank included in second schedule to the said Act.

#### **61. Subventions And Loans To Board :-**

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

#### **62. Power Of Board To Borrow And Lend :-**

(1) Subject to the provisions of this Act the Board may, from time to time, advance any sum standing at the credit of the Board and, with the previous sanction of the State Government, 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) When ever the borrowing of any sum of money has been approved by the State 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 extent of such sum or part thereof, and may with the previous sanction of the State 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 State Government the Board may for the promotion and execution of any housing scheme under this Act, enter into financial arrangements with any bank or other

financial institutions approved by the State Government or with the Life Insurance Corporation of India established under section 5 of the Life Insurance Corporation Act, 1956 (No. 1 of 1956).

(4) Subject to the provisions of this Act, and to such conditions and the limitations as may be prescribed, the Board may out of its funds grant loans and advances or such terms and conditions as it may determine, to any Co-operative Society registered or deemed to be registered under the Madhya Pradesh Co-operative Societies Act, 1960 (No. 17 of 1961) or to any other person for the construction of houses.

### **63. Guarantee By State Government Of Loans :-**

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

### **64. Form Of Debentures :-**

When ever 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 State Government, specify.

### **65. Payment 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 any of them dies, then notwithstanding any thing contained in section 45 of the Indian Contract Act, 1872 (No.9 of 1872), the debenture or security shall be payable to the survivor or survivors of such person: Provided that nothing in this section shall affect any claim by the representative of the deceased person against such survivor or survivors.

### **66. Receipt By Joint Holder 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 any one of the holders 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.

### **67. 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.

## **68. Repayment Of Loans :-**

Every loan taken by the Board shall be repaid by the Board within the period agreed upon by the Board by such of the following methods as may be approved by the State Government, namely

- (a) Front sinking fund established under section 69 in respect of the loan; or
- (b) By paying in equal yearly or half yearly installments of principal or of principal and interest through out the said period; or
- (c) If the Board has before borrowing money or debentures, reserved by the public notices, a power to pay off the loan by periodical installments and to select by lot the particular debentures to be discharged at particular periods then, by paying such installments in respect of such debentures at such periods,
- (d) from money borrowed for the purpose ; or
- (c) partly from the sinking fund established under section 69 in respect of loan, and partly from money borrowed for the purpose.

## **69. Establishment And Maintenance Of Sinking Funds :-**

(1) Whenever loan has to be repaid from a sinking fund, the Board shall establish such 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 that 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.

## **70. Powers To Discontinue Payment Into Sinking Fund :-**

Not-with-standing anything contained in section 69, if at any time the sum standing at the credit of the sinking fund established for repayment of any loan is of such amount that if allowed to accumulate at the rate of interest prescribed under sub-section (2) of that section, it will be sufficient to repay the loan at the end of the period agreed upon the Board, then the Board may discontinue further annual payment into such fund.

## **71. 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



- (b) securities guaranteed by the Central or State Government; or
- (c) debentures issued by any local authority, or
- (d) debentures issued by the Board.

(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 under this section may, from time to time subject to the provisions of sub-section (1) be varied or transposed.

## **72. Application Of Sinking Fund :-**

The Board may from time to time apply the sinking fund or any part thereof, in or towards the discharge of the loan or any part of the loan, which such sinking fund was established, and until such loan is wholly discharged, shall not apply the same for any other purpose.

## **73. Contingency Fund Of Board :-**

(1) there shall be established a fund of nature of an imprest entitled the Contingency Fund of the Board into which shall be paid from and out of the Fund of the Board a sum of Ten Lakhs of rupees.

(2) The fund shall be held on behalf of the Board by the Housing Commissioner and no advances shall be made out of the Fund, except for the purpose of meeting unforeseen expenditure under section 26, pending authorisation of such expenditure by the Board in accordance with section 36.

(3) For the purpose of carrying out the object of this section the Board may make regulations regulating all matters connected with or ancillary to the custody of, payment of moneys into and withdrawal of money from the fund.

## **74. Accounts And Audit :-**

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

(2) The Board shall cause its accounts to be audited annually by such person as the State Government may direct.

(3) As soon as the accounts of the Board have been audited the Board shall send a copy thereof together with a copy of the report of the auditor thereon to the State Government and shall cause the

accounts to be published in the prescribed manner and place copies thereof on sale at a reasonable price.

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

#### **75. Reports :-**

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

#### **76. Other Statements And Returns :-**

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

### **CHAPTER 14**

#### **Penalties and Procedure**

#### **77. Penalty -If Any Person :-**

(a) obstructs or molests any person with the whom the Housing Commissioner has entered into a contact on behalf of 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 to the execution of works authorised by this Act or any rule or regulations made or scheme sanctioned thereunder; he shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to one thousand rupees or with both.

#### **78. Penalty For Breach Of Provisions Of This Act Etc :-**

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

(a) with imprisonment for a term which may extend to three months of with fine which may extend to one thousand rupees, or with both;

(b) in case of a continuing contravention, with fine which may

extend to fifty rupees for each day after the first during, which the contravention continues.

**79. 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 rule or regulation or byelaw made there-under, the Magistrate convicting such person may on application made in this behalf by the board or by its officer or servant 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 inquiry as he may think fit, is satisfied that such person is liable to pay compensation may direct 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.

**80. Punishment For Acquiring Share Or Interest In Contract Etc. With Board :-**

Where-

(a) Any member of the Board, acquires directly or indirectly any share or interest in any contract or employment with, under by or on behalf of the Board of which he is a member, not being a share or interest which it is permissible under section 5 to have without being thereby disqualified for being elected or appointed as or for being a member of the Board; or

(b) any officer or servant of the Board acquires directly or indirectly by himself or his agent any share or interest in any contract by or on behalf of the Board, or in any employment under, by or on behalf of the Board, in contravention of section 20, such member, officer or servant shall be deemed to have committed an offence made punishable by section 168 of the Indian Penal Code, 1860 (No,45 of 1860).

**81. Procedure :-**

(1) No court shall take cognizance of any offence punishable under

this Act or any rule or regulation or byelaw made there-under 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.

**82. Arrest Of Offenders :-**

Any police officer not below the rank of Assistant Sub-Inspector may arrest any person who commits in his presence, any offence against this Act, or any rule or regulation or bye-law made there-under, if the name or address of such person be unknown to him, and if such person on demand declined to give his name or address, or gives a name or address which such officer has reason to believe to be false.

**83. Protection Of Action Taken In Good Faith :-**

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

**84. Notice Of Suit Against Board Etc :-**

No suit shall be instituted against the Board or any member, or any officer or servant of the Board or any person acting under the direction of the Board, or of the Chairman or of any officer or servant of the Board in respect of any act done or intended to be done under this Act or any rule or regulation or byelaw made there-under 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 the Chairman such officer or servant 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.

**85. Proof Of Consent Etc. Of Board Or Housing Commissioner Or Chairman :-**

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

(a) The Board or Chairman or Housing Commissioner;

(b) Any officer or servant of the Board; a written document signed in case

(a) by the Chairman and in case

(b) by the said officer or servant, 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.

**86. General Power Of Board To Pay Compensation :-**

In any case not other wise 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 servant of the Board.

**87. Public Notice How To Be Made Known :-**

Every public notice given under this Act, or any rule or regulation or byelaw made there-under shall be in writing over the signature of the Housing Commissioner or any officer or servant of the Board duly authorised by him in writing in that behalf and shall be widely made known in the locality to be effected 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 or by any two or more of these means and by any other means that the Housing Commissioner may think fit. Every such notice shall also be published by affixture in the notice board of the Boards office or sub-office.

**88. Stamping Signature On Notice Or Bills :-**

Every notice or bill, which is required by this Act or by any rule or regulation or byelaw made there-under to bear the signature of the Chairman or any other member or Housing Commissioner or any officer or servant of the Board, shall be deemed to be properly signed if it bears a facsimile signature of the Chairman or of such other member or of Housing Commissioner or such officer or servant, as the case may be stamped thereupon.

**89. Service Of Notice Etc. How To Be Effected On Owner Or Occupier Of Premises :-**

When any notice, bill schedule, summons other document is required by this Act or any rule, regulation or byelaw made there-under to be served upon or issued or presented to any persons as owner or occupier of any land or building, in so far as it concerns that land or building, the service or issue or prosecution thereof shall be affected either -

(a) By giving or tendering to any person whose name has been

entered in the assessment list as the owners or one of the owners of the property concerned, or to the occupier thereof; or

(b) If the owner or occupier or no one of the owners or occupiers is not found, by giving or tendering the said notice, bill schedule, summons or other document to some adult member or servant of the family of the owner or occupier, or of any of the owners or occupiers; or

(c) By causing the said notice, bill schedule summons or other document to be affixed on some conspicuous part of the land or building to which the document relates; or

(d) By delivering at some post office, the said notice, bill, schedule, summons, or other document under cover addressed by the description of the owner or, occupier of ... (here describing the property concerned) without further name or description of the person concerned and obtaining a certificate of posting the same from the post office; or

(e) By any one or more of these methods.

#### **90. Service Of Notice Etc. How To Be Effected On Any Person Otherwise Than As Owner Or Occupier Of Premises**

**:-**

When any notice bill, schedule, summons or other documents is required by this Act or by any rule, regulation or byelaws made there-under, to be served upon or issued or presented to any person, otherwise than as owner or occupier of any land or building such service, issue or presentation shall be effected -

(a) By delivering at some post office the said notice, bill, schedule, summons or other such documents under cover bearing the address of the person concerned and obtaining therefore a certificate of posting; or

(b) By giving or tendering to such person the said notice, bill schedule, summons or other such documents; or

(c) By both methods.

#### **91. Power To Make Survey, Or Contribute Towards Their Cost :-**

The Board may -

(a) causes the survey of any land to be made, whenever it consider that a survey is necessary or expedient for carrying out any of the purposes of this Act

(b) contribute towards the cost of any such survey may by any other local authority.

## **92. Power Of Entry :-**

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

(a) to make any inspection, survey, measurement, valuation or inquiry,

(b) to take levels;

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

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

(e) to mark such levels, boundaries and lines by placing marks and cutting trenches; or

(f) to do anything whenever it is necessary to do so for any of the purposes of this Act or any rule or regulation or byelaw made or scheme sanctioned there-under or any scheme which the Board intends to frame there-under; Provided that -

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

(ii) no dwelling houses, 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.

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

(iv) due regard shall always be had, so far as may be compatible with the exigencies of the purpose for which the entry is made to the social and religious usages of the occupants of the premises entered.

(2) Whenever, the Housing Commissioner or a person authorised under subsection (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 15**

### **Miscellaneous**

### **93. Power Of Board For Facilitating Movement Of 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 such conditions as it may think fit to impose -

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

(b) make such payments as it may think fit from the said funds, by way or subsidy to person under taken to provide, maintain and work 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 State Government.

### **94. Members, Officers And Servants Of Board And Committee Demand To He Public Servants :-**

All members, officers and servants of the Board, the members of committees, and all her persons entrusted with the execution of any function 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, 1860 (No. 45 of 1860).

### **95. Contribution By Board Towards Leave Allowance And Pensions Of Servants Of The Central Or State Government Employed Under This Act :-**

The Board shall be liable to pay such contributions for the leave salary, pension or provident fund of any officer or servants of the Central or State Government employed as Chairman, Housing Commissioner or as an officer or servant of the Board, as may be required by the conditions of his service under the Central or State Government to be paid by him or on his behalf.

### **96. Supply Of Documents And Information To State Government :-**

The Chairman shall, if so directed by the State Government forward



to the State Government a copy of all the papers which were laid before the Board for consideration in any meeting and furnish any return, statement, estimate, statistics, or other information regarding any matter under the control of the Board, report of any such matter and a copy of any document in charge of the Chairman.

**97. Submission Of Administration Report To State 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 State Government, the Board shall submit to the State Government a detailed report of the administration during the preceding year in such form as the State Government may direct.

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

**98. Power Of State Government To Give Directions To Board And Local Authorities :-**

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

(2) The State Government may give any local authority such directions as in its 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.

**99. Money Due To Board Recoverable As Arrears Of Land Revenue :-**

All moneys recoverable by the Board under this Act or under any agreement which provides for recovery of any amount payable there-under as arrears of land revenue shall be recoverable as arrears of land revenue.

**100. Super Session Of The Board :-**

(1) If the State Government is of opinion that the Board is unable to perform or has persistently made default in the performance of the duty imposed on it by or under this Act or has exceeded or abused its powers, it may by notification, supersede the Board for such period as may be specified in the notification; Provided that before issuing a notification under this sub-section, the State 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 explanation 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 the members of the Board shall as from the date of super session, 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 such super session, be exercised and performed by such authority or person as the State Government may direct;

(c) all funds and other property vested in the Board shall during the period of super session 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 the funds and properties vested in it or him.

(3) On the expiration of the period of super session specified in the notification issued under sub-section (1) the State Government may-

(a) extend the period of super session for such further period as it may consider necessary or

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

### **101. Dissolution Of Board :-**

(1) The State Government may by notification, declare that, with effect from such date as may be specified in the notification the Board shall be dissolved; Provided that no such declaration shall be made by State Government unless a resolution to that effect has been moved in and passed by the Madhya Pradesh Legislative Assembly.

- (2) With effect from the date specified in the notification under subsection (1) (a) all properties, funds and dues which are vested in or realisable by the board shall vest in and be realisable by the State Government; and
- (b) all liabilities enforceable against the Board shall be enforceable against the State Government to the extent of the properties, funds and dues vested in and realised by the State Government.
- (3) Nothing in this section shall affect the liability of the State Government in respect of loans or debentures guaranteed under section 63.

#### CHAPTER 16

#### Rules, Regulations and Byelaws

### **102. Power Makes To 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 of the foregoing power such rules may provide for -
- (a) all matters expressly required or allowed by this Act to be prescribed;
- (b) (i) emoluments and other conditions of service of the Chairman under subsection (2) of section 9;
- (ii) allowances to be paid to the members of the Board under subsection (3) of section 9.
- (c) authority to be prescribed under section 10;
- (d) control and supervision to which Chairman shall be subject while exercising powers under section 19 (1),
- (e) manner in which contracts or agreements shall be executed under section 30;
- (f) terms and conditions subject to which Board shall undertake work of housing under section 32;
- (g) i) form in which annual housing programme budget and establishment schedule shall be forwarded to the State Government under section 35(1).
- (ii) particulars in which programme shall contain under section 35(2) (a); and
- (iii) other particulars under section 35(2) (c), (h) regulation of disposal of land, building or other property vesting in the Board under section 50 (i) rate of interest under section 53(1),
- (j) rate of interest under section 69(2)
- (k) form in which annual statement of accounts including the profit

and loss account and the balance sheet shall be prepared by the Board under section 74(a);

(l) the date by which, the form in which, intervals, at which and the matters on which report shall be submitted to the Board under section 75;

(m) the form, in which, the time by which and the manner in which statistical returns, particulars or statements shall be submitted to the State Government under section 76.

(3) Every rule made under this Act, shall be laid on the table of Legislative Assembly.

### **103. Power To Make Regulations :-**

(1) The Board may, by notification, make regulations not inconsistent with this Act and the rules made there under for the purpose of giving effect to the provisions of this Act.

(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 appointment of persons to be members of committees under section 23;

(c) the procedure to be followed by a committee at its meeting,

(d) the creation of posts and delegation of powers and duties of the Board to the Chairman, the Housing Commissioner, any other officer or Committee of the Board.

(e) the duties and conduct of officers and servants 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) 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 the documents, estimates and plans furnished by any of its officers and servants under this Act;

(h) the management, use and regulation of dwellings constructed under any housing 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 State Government.

### **104. Power To Make Byelaws :-**

(1) The Board may make byelaws, not inconsistent with this Act

which may be necessary or expedient for the purposes of carrying out duties and functions under this Act:

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

(3) No byelaw made by the Board shall come into force until it has been confirmed by the State Government with or without modification.

(4) All byelaws made under this section shall be published in the Gazette.

#### CHAPTER 17

#### Repeal and Savings

### **105. Consequence To Ensure An Establishment Of Board :-**

(1) As from the date specified for the establishment of the Board in the notification under section 3, the following provision shall have effect, namely-

(i) The Madhya Pradesh Housing Board constituted under the Madhya Pradesh Housing Board Act, 1950 (No.43 of 1950), shall cease to exist;

(ii) the administration of the Board shall vest in the Administrator who shall be appointed by the State Government;

(iii) the Administrator shall be deemed to be the Board and shall exercise the powers and perform the duties conferred or imposed by or under this Act on the Board, the Chairman and Housing Commissioner; Provided that the Administrator shall cease to exercise the powers and perform the duties conferred or imposed by or under this Act on the Housing Commissioner with effect from the date the Housing Commissioner is appointed in accordance with the provisions of this Act;

(iv) all assets and liabilities of the Board referred to in clause (i) shall vest in the Board established under section 3;

(v) all employees belonging to and under the control of the Board referred to in clause (i) immediately before the date specified under section-3 shall be deemed to be the employees of the Board established under section 3; Provided that the terms and conditions of service of such employees shall not until altered by a competent authority after giving an opportunity to the employee of being heard, be less favourable than those admissible to them while in service of the Board referred to in clause (i);

(vi) all records and papers belonging to the Board referred to in clause (i) shall vest in and be transferred to the Board established

under section 3;

(vii) the Madhya Pradesh Housing Board Act 1950 (No. 43 of 1950) shall stand repealed; Provided that things done or omitted to be done and action taken by any authority by or under the provisions of the Act so repealed shall be deemed to have been done and taken under this Act.

(2) The Administrator shall cause to hold office in the date specified in the notification under sub-section(1) of section 7 for commencement to the term Chairman and members of the Board.

(3) Any person appointed Administrator under sub-section (1) shall receive from the Board fund for his services such pay and allowances as may be fixed by the Government.

**106. Repeal :-**

The Madhya Pradesh Girha Nirman Mandal Adhyadesh, 1972 (No.8 of 1972) is hereby repealed.