



The Gujarat Housing Board Act, 1961

Act 28 of 1961

Keyword(s):

Adjoining Area, Betterment Charges, Building Materials, Housing Scheme, Municipal Body, Relevant Land Acquisition Law, Relevant Rent

Amendments appended: 29 of 1964, 1 of 1973, 13 of 1979, 8 of 1985

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The Gujarat Government Gazette

EXTRAORDINARY

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Separate paging is given to this Part in order that it may be filed as a separate compilation.

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The following Act of the Gujarat Legislature, having been assented to by the President on the 22nd June 1961, is hereby published for general information.

M. G. MONANI,
Secretary to the Government of Gujarat,
Legal Department.

GUJARAT ACT No. XXVIII OF 1961

(First published, after having received the assent of the President in the "Gujarat Government Gazette" on the 1st July 1961.)

An Act to consolidate and amend the law relating to the measures to be taken to deal with and satisfy the need of housing accommodation in the State of Gujarat.

It is hereby enacted in the Twelfth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Gujarat Housing Board Act, 1961.
- (2) It extends to the whole of the State of Gujarat.
- (3) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Short title,
extent and
commence-
ment.

Definition.

2. In this Act, unless there is anything repugnant in the subject or context,—

(1) "adjoining area" means such area as may be specified to be an adjoining area under section 25;

(2) "betterment charges" means the charges leviable under section 45;

(3) "Board" means the Housing Board constituted under section 3;

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

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

(6) "by-laws" means by-laws made under section 75;

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

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

(9) "Housing Scheme" means a Housing Scheme made under this Act;

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

(11) "local board" means a local board constituted under the Bombay Local Boards Act, 1923; Bom.
VI of
1923.

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

(13) "municipal body" means —

(1) a corporation constituted under the Bombay Provincial Municipal Corporations Act, 1949, or Bom.
LIX
of
1949.

(2) a municipality constituted under —

(a) the Bombay District Municipal Act, 1901, or that Act as applied to the Saurashtra area of the State of Gujarat. Bom.
III of
1901.

(b) the Bombay Municipal Boroughs Act, 1925, or that Act as applied to the Saurashtra area or the Kutch area of the State of Gujarat; Bom.
XVIII
of
1925.

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

(i) gardens, grounds and outhouses, if any, appertaining to such building or part of a building, and

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

(15) "prescribed" means prescribed by rules;

(16) "programme", means the annual housing programme prepared by the Board under section 27;

(17) "relevant land acquisition law" means —

(a) in the Bombay area and the Kutch area of the State of Gujarat, the Land Acquisition Act, 1894 as in force in those areas; I of
1894.

(b) in the Saurashtra area of the State of Gujarat the Land Acquisition Act, 1894 as applied to that area ;

(18) "relevant Rent Act" means —

(a) in the Bombay area of the State of Gujarat the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947 ;

(b) in the Saurashtra area of the State of Gujarat the Saurashtra Rent Control Act, 1951 ; and

(c) in the Kutch area of the State of Gujarat the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947 as applied in that area ;

(19) "regulations" means regulations made under section 74 ;

(20) "rules" means rules made under section 73 ;

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

(22) "Tribunal" means the Tribunal constituted under section 51 ;

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

CHAPTER II

ESTABLISHMENT OF THE BOARD

3. (1) With effect from such date as the State Government may, by Incorporation notification in the *Official Gazette*, appoint in this behalf there shall be established for the purposes of this Act a Board by the name of the Gujarat Housing Board.

(2) The Board shall be a body corporate having perpetual succession and a common seal and may sue and be sued in its corporate name and shall be competent to acquire and hold property both movable and immovable and to contract and do all things necessary for the purposes of this Act.

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

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

4. The relevant Rent Act,—

(a) notwithstanding anything contained therein shall not apply—

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

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

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

Non-appli-
cability of
relevant
Rent Act.

5. (1) The Board shall consist of the Chairman and six other members appointed by the State Government : Constitution of the Board.

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

Provided that the resignation shall not take effect until it is accepted.

Grant of
leave of
absence to
Chairman.

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

Disqualifica-
tion for
appointment
on Board.

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

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

(b) is of unsound mind,

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

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

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

(2) A person shall not, however, be disqualified under clause (d) or (e) of sub-section (1) or be deemed to have any share or interest in any contract or employment within the meaning of these clauses, by reason only of his or the incorporated company of which he is a director, secretary, manager or other salaried officer having a share or interest in any news-paper in which any advertisement relating to the affairs of the Board is inserted.

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

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

Term of
office and
conditions of
service of
members.

8. (1) Every member shall hold office for a period of three years from the date of his appointment :

Provided that after the expiry of the period of his appointment a person shall be eligible for re-appointment as a member.

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

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

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

Cessation of
membership.

9. If a member,—

(a) becomes subject to any of the disqualifications mentioned in section 7,

(b) tenders his resignation in writing to the State Government, or

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

10. Any vacancy of a member of the Board shall be filled in as early as practicable : as Vacancy to be filled as early as practicable.

Provided that during any such vacancy the continuing members may act, as if no vacancy had occurred.

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

12. If any member of the Board other than the Chairman is by infirmity or otherwise rendered temporarily incapable of carrying out his duties or absent on leave or on any other ground not resulting in the cessation of his membership, the State Government may appoint another person to officiate for him and carry out his functions under this Act or any rule or regulation made thereunder. Temporary absence of members.

13. The Board may appoint a Secretary, one or more Assistant Housing Commissioners and a Housing Commissioner and such other officers and servants, as it considers necessary for the efficient performance of its functions : Appointment of officers and servants.

Provided that the appointment of the Secretary, any Assistant Housing Commissioner and the Housing Commissioner and any other officer whose salary exceeds rupees one thousand per mensem shall be subject to the previous approval of the State Government.

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

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

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

16. 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. General disqualification of all officers and servants.

Appointment
of com-
mittees.

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

(2) Subject to any rules made under section 73, the Board may from time to time appoint one or more other Committees for the purpose of securing the efficient discharge of its functions and in particular for the purpose of securing that the said functions are exercised with due regard to the circumstances and requirements of particular local areas.

CONDUCT OF BUSINESS

Meetings of
Board.

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

(a) an ordinary meeting shall be held once at least every fortnight,

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

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

(d) all questions at any meeting shall be decided by a majority of the members present and in case of equality of votes, the person presiding shall have and exercise a second or casting vote, and

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

Procedure of
Committees.

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

(2) Any other Committee appointed under sub-section (2) of section 17 shall meet to discharge the functions assigned to it in such manner as may be directed by the Board.

CONTRACTS

Power to
make
contracts.

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

Execution of
contracts.

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

Provided that —

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

(b) no contract involving an expenditure of rupees three thousand and more shall, subject to clause (a) above, be made without the previous sanction of the Board.

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

22. Subject to any rules which the State Government may make in this behalf, the Board may by order direct that the power conferred on it under section 21 to sanction a contract shall be exercised by the Housing Commissioner or any other officer specified by it in the order.

Delegation of Board's power to sanction contracts.

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

Further provisions as to execution of contracts.

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

CHAPTER III

HOUSING SCHEMES

24. Subject to the provisions of this Act and subject to the control of the State Government, the Board may incur expenditure and undertake works in such local area as the State Government may by notification in the *Official Gazette* specify 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.

Duty of Board to undertake housing schemes.

25. (1) Notwithstanding anything contained in any other law for the time being in force, a housing scheme may provide for all or any of the following matters, namely :—

Matters to be provided for by housing schemes.

(a) the acquisition by purchase, exchange or otherwise of any property necessary for or affected by the execution of the scheme ;

(b) the laying out or relaying out of any land comprised in the scheme ;

(c) the distribution or re-distribution of sites belonging to owners of property comprised in the scheme ;

(d) the closure or demolition of dwellings or portions of dwellings unfit for human habitation ;

(e) the demolition of obstruct buildings or portions of buildings that are an obstruction ;

(f) the construction and re-construction of buildings ;

(g) the sale, letting or exchange of any property comprised in the scheme ;

(h) the construction and alteration of streets and back lanes ;

(i) drainage, water supply and lighting of the area included in the scheme ;

(j) parks, playing fields and open spaces for the benefit of any area comprised in the scheme or any adjoining area, and the enlargement of existing parks, playingfields, open spaces and approaches ;

(k) sanitary arrangements required for the area comprised in the scheme, including the conservation and prevention of any injury or contamination to rivers or other sources and means of water supply ;

(l) accommodation for any class of inhabitants ;

(m) the advance of money for the purposes of the scheme ;

(n) facilities for communication and transport ;

(o) the collection of such information and statistics as may be necessary for the purposes of this Act ;

(p) any other matter for which, in the opinion of the State Government it is expedient to make provision with a view to provide housing accommodation and to the improvement or development of any area comprised in the scheme or any adjoining area or the general efficiency of the scheme.

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

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

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

Bom. XXV-II of 1955.

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

Bom. XXV-II of 1955.

Preparation and submission of annual housing programme, budget and establishment schedule.

27. (1) Before the first day of December in each year, the Board shall prepare and forward to the State Government in such form as may be prescribed—

(i) a programme,

(ii) a budget for the next year,

(iii) a schedule of the staff of officers and servants already employed and to be employed during the next year.

(2) The programme shall contain,—

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

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

(c) such other particulars as may be prescribed.

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

Programme to be published for inviting suggestions and objections.

28. (1) The Board shall before forwarding the programme to the State Government under section 27 publish a draft of the programme in the *Official Gazette* and in such other manner as may be prescribed.

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

(3) The Board shall then forward the programme, the budget and the schedule of the staff of officers and servants to the State Government for sanction as required by section 27.

29. The State Government may sanction the programme, the budget and the schedule of the staff of officers and servants forwarded to it with such modifications as it deems fit. The programme, the budget and the schedule of the staff so sanctioned shall be laid before the State Legislature as soon as may be after the programme is published.

Sanction to programme, budget and establishment schedule.

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

Publication of sanctioned Programme.

31. The Board may, at any time, during the year, in respect of which a programme has been sanctioned under section 29, submit a supplementary programme and budget to the State Government and the provisions of sections 28, 29 and 30 shall apply to such supplementary programme.

Supplementary programme and budget.

32. The Board may at any time vary any programme or any part thereof included in the programme sanctioned by the State Government :

Variation of programme by Board after it is sanctioned.

Provided that no such variation shall be made if it involves an expenditure in excess of 10 per cent. of the amount as originally sanctioned for the execution of any housing scheme included in such programme of affects its scope or purpose.

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

Sanctioned housing schemes to be executed.

34. (1) Before proceeding to execute any housing scheme under section 33 the Board shall, by notification in the *Official Gazette*, publish the scheme. The notification shall specify that the plan showing the area which it is proposed to include in the housing scheme and the surrounding lands shall be open to inspection of the public at all reasonable hours at the office of the Board.

Publication of housing scheme in the *Official Gazette*.

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

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

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

Transfer to, for purposes of housing scheme of land vested in municipal body or local board. **35.** (1) Whenever any street, square or other land, or part thereof which is situated in any area within the jurisdiction of a municipal body or a local board and is vested in that municipal body or a local board, is within the area included in the programme sanctioned by the State Government and is required for the purposes of such housing scheme, the Board shall give notice accordingly to the municipal body or the local board.

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

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

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

Compensation in respect of land vested in the Board. **36.** (1) Where any land vests in the Board under the provisions of section 35 and the Board makes a declaration that such land shall be retained by the Board only until it reverts in the municipal body or the local board as part of a street or an open space under section 39, no compensation shall be payable by the Board to the municipal body or the local board, as the case may be, in respect of the land.

(2) Where any land vests in the Board under section 35 and no declaration is made under sub-section (1) in respect of the land, the Board shall pay to the municipal body or the local board, as the case may be, as compensation a sum equal to the value of such land.

(3) If, in any case where the Board has made a declaration in respect of any land under sub-section (1), the Board retains or disposes of the land contrary to the terms of the declaration so that the land does not revert in the municipal body, or the local board, as the case may be, the Board shall pay to the municipal body or the local board compensation in respect of such land in accordance with the provisions of sub-section (2).

Power of Board to turn or close public street vested in it. **37.** (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, provide some other reasonable means of access to be substituted in lieu of the use, by those entitled, of the street or part thereof and pay reasonable compensation to every person who is entitled, otherwise than as a mere member of the public, to use such street or part as a means of access and has suffered damage from such discontinuance or closing.

(3) In determining the compensation payable to any person under sub-section (2) the Board shall make allowance for any benefit accruing to him from the construction, provision or improvement of any other public street

at or about the same time that the public street or part thereof, on account of which the compensation is paid, is discontinued or closed.

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

38. If there is any dispute as to whether any compensation is payable under section 36 or as to the amount of compensation payable under section 36 or section 37, as the case may be, the matter shall be referred to the Tribunal.

Reference to Tribunal in case of dispute under section 36 or 37.

39. (1) Whenever the State Government is satisfied—

(a) that any street laid out or altered by the Board has been duly levelled, paved, metalled, flagged, channelled, sewered and drained in the manner provided in the programme sanctioned by the State Government under section 29, and

(b) that such lamps, lamp-posts and other apparatus as the municipal body, or the local board, as the case may be, considers necessary for the lighting of such street and as ought to be provided by the Board has been so provided, and

(c) that water and other sanitary conveniences have been duly provided in such street,

the State Government may declare the street to be a public street, and the street shall thereupon vest in the municipal body or local board, as the case may be, and shall thenceforth be maintained, kept in repair, lighted and cleaned by the municipal body or local board.

Vesting in municipal body or local board or streets laid out or altered and open space provided by the Board under housing scheme.

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

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

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

40. 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 things for—

Other duties of the Board.

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

(b) encouraging pre-fabrication and mass production of house components ;

(c) organising or undertaking the production of building materials required for the housing schemes ;

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

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

Board to assume management of requisitioned lands.

41. The Board shall, subject to the general control of the State Government, assume management of all such lands requisitioned by the State Government under the Bombay Land Requisition Act, 1948, or the Bombay Requisitioned Property (Continuance of Powers) (Saurashtra area) Act 1958 as the State Government may direct.

Bom. XXX III of 1948 Bom LVI of 1958.

Reconstitution of Plots.

42. A housing scheme may provide—

(a) for the formation of a reconstituted plot by the alterations of the boundaries of an original plot,

(b) with the consent of the owners that two or more original plots each of which is held in ownership in severalty or in joint ownership shall, with or without alteration of boundaries be held in ownership in common as a reconstituted plot.

(c) for the allotment of a plot to any owner dispossessed of land in furtherance of the housing scheme, and

(d) for the transfer of ownership of a plot from one person to another.

Power to exempt schemes from provisions of sections 27 to 34.

43. The State Government may, by general or special order published in the *Official Gazette*, exempt any housing scheme entrusted by it to the Board from all or any of the provisions of sections 27 to 34 (both inclusive) subject to such conditions, if any, as it may impose or may direct that any such provision shall apply to such scheme with such modifications as may be specified in the order.

CHAPTER IV

ACQUISITION AND DISPOSAL OF LAND

Power to purchase or lease by agreement.

44. (1) The Board may enter into an agreement with any person for the acquisition from him by purchase, lease or exchange, of any land which is needed for the purposes of a housing scheme or any interest in such land or for compensating the owners of any such right in respect of any deprivation thereof or interference therewith.

(2) The Board may also take steps for the compulsory acquisition of any land or any interest therein required for the execution of a housing scheme in the manner provided in the relevant land acquisition law and the acquisition of any land or any interest thereto for the purposes of this Act shall be deemed to be acquisition for a public purpose within the meaning of the said law.

Betterment charges.

45. (1) When by the making of a housing scheme the value of any land in the area comprised in the scheme will in the opinion of the Board increase 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 the 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 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 on half of such increase in value.

(3) Such betterment charges shall also be leviable in respect of any land not comprised in the scheme but adjacent to the area comprised in the scheme.

46. (1) The Board shall give notice in the prescribed form to every 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.

Notice to persons liable for betterment charges.

(2) After hearing such person or if such person fails to appear after the expiry of the period within which such 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 the Board the matter shall be referred to the Tribunal.

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

47. (1) Any person liable to pay betterment charges in respect of any land may at his option, instead of paying the same to the Board, execute an agreement with the Board to leave the payment outstanding as a charge on his interest in the land, subject to the payment in perpetuity of interest at such rate as may be prescribed.

Agreement for payment of betterment charges.

(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 and notwithstanding the execution of any mortgage or charge, created either before or after the commencement of this Act, be the first charge upon the interest of such person in such land.

48. All sums payable in respect of any land by any person in respect of betterment charges under section 45 or under an agreement under section 47 shall be recoverable on behalf of the Board as an arrear of land revenue.

Recovery of betterment charges.

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

Power to dispose of land.

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

Disputes regarding reconstitution of plots.

decision of the Board in the matter, he may inform the Board accordingly. The Board shall thereupon refer the matter to the Tribunal.

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

CHAPTER V

TRIBUNAL

Constitution
of the
Tribunal.

51. (1) The Tribunal shall consist of President and two assessors. The President shall be the District Judge. The assessors shall be appointed by the State Government.

(2) Each assessor of the Tribunal shall receive such remuneration as the State Government may determine. The remuneration shall be paid by the Board to the President of the Tribunal for distribution.

Duties of
the Tribunal.

52. The Tribunal shall —

- (a) decide whether any compensation is payable under section 36 ;
- (b) decide the amount of compensation in matters referred to it under section 38 ;
- (c) decide disputes relating to betterment charges referred to it under section 46 ;
- (d) decide disputes relating to the reconstitution of plots referred to it under section 50 and the amount of compensation to be awarded in consequence thereof ;
- (e) decide such other matters as may be prescribed by rules made in this behalf.

Powers of
President.

53. (1) In the hearing and decision of any matters referred to the Tribunal under this Act, —

- (a) if there is any disagreement between the President and the assessors of the Tribunal on a point of fact, the opinion of the majority shall prevail, and
- (b) if there is any disagreement between the President and the assessors of the Tribunal on a point of law or procedure, the assessors shall be bound by the opinion of the President.

(2) The decision of the President as to what is the question of law or fact shall be final.

Powers of
and proce-
dure before
Tribunal.

54. (1) In making inquiries under sections 36, 38, 46 and 50, the Tribunal shall have and exercise the same powers as are vested in a Civil Court in respect of —

- (a) a proof of facts by affidavits,
- (b) summoning and enforcing the attendance of any person and examining him on oath,
- (c) compelling the production of documents, and
- (d) issuing commissions for the examination of witnesses.

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

(3) Every order made by the Tribunal for the payment of money, not being money for the recovery of which provision has been made in section 48, and for the delivery of the possession or removal of any structure shall be enforced by the District Court in the jurisdiction of which the land comprised in the housing scheme is situate as if it was the decree of the said Court.

XLV of 1960. Code. (4) The proceedings before the Tribunal shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Indian Penal Code.

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

Decision of Tribunal to be final.

CHAPTER VI

POWER TO EVICT PERSONS FROM BOARD PREMISES

56. (1) If the competent authority is satisfied —

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

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

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

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

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

Power to evict certain persons from Board Premises.

the competent authority may, notwithstanding anything contained in any law for the time being in force, by notice served (i) by post or (ii) by affixing a copy of it on the outer door or some other conspicuous part of such premises, or (iii) in such other manner as may be prescribed, order that that person as well as any other person who may be in occupation of the whole or any part of the premises, shall vacate them within one month of the 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. If such person makes an application to the competent authority for extension of the period specified in the notice the competent authority may grant the same on such terms as to payment and recovery of the amount claimed in the notice as it deems fit. Any written statement put in by such person and documents produced in pursuance of such notice shall be filed with the record of the case and such person shall be entitled to appear before the authority proceeding in this connection by advocate, attorney or pleader. Such notice in writing shall be served in the manner provided for service of notice under sub-section (1).

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

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

Explanation.— For the purposes of this section and section 57, the expression “ unauthorised occupation ”, in relation to any person authorized to occupy any Board premises, includes the continuance in occupation by him or by any person claiming through or under him of the premises after the authority under which he was allowed to occupy the premises has been duly determined.

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

57. (1) Subject to any rules made by the State Government in this behalf without prejudice to the provisions of section 56 where any person is in arrears of rent payable in respect of any Board premises, the competent authority may, by notice served, (i) by post or (ii) by affixing a copy of it on the outer door or some other conspicuous part of such premises or (iii) in such other manner as may be prescribed, order such person to pay the same within such time not being less than ten days as may be specified in the notice. If such person refuses or fails to pay the arrears of rent within the time specified in the notice, such arrears may be recovered as arrears of land revenue.

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

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

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

58. (1) Without prejudice to the provisions of section 56, any person who is an employee of the State Government or a local authority and who has been allotted any Board premises, may execute an agreement in favour of the State Government providing that the State Government or the local authority, as the case may be, under or by whom he is employed, shall be

competent to deduct from the salary or wages payable to him such amount as may be specified in the agreement and to pay the amount so deducted to the Board in satisfaction of the rent due by him in respect of the Board premises allotted to him.

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

59. (1) Any person aggrieved by an order of the competent authority under section 56 or section 57 may, within one month of the date of the service of the notice under sub-section (1) of section 56 or sub-section (1) or (2) of section 57, as the case may be, prefer an appeal to the State Government: Appeal

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

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

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

60. No order made by the State Government or the competent authority in the exercise of any power conferred by or under this Chapter shall be called in question in any court and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Chapter. Bar of jurisdiction of Civil Courts.

CHAPTER VII

FINANCE, ACCOUNTS AND AUDIT.

61. (1) The Board shall have its own fund. Board's fund.

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

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

(4) Except as otherwise directed by the State Government, all moneys and receipts specified in the foregoing provisions and forming part of the fund of the Board shall be deposited in the Reserve Bank of India or in any scheduled bank or invested in such securities as may be approved by the State Government.

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

Explanation.—For the purposes of this section, the Reserve Bank of India shall mean the Reserve Bank of India constituted under the Reserve Bank of India Act, 1934, and a scheduled bank shall mean a bank included in the Second Schedule to the said Act. II of 1934.

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

63. (1) Where in the opinion of the Board, circumstances of extreme urgency have arisen, it shall be lawful for the Board to make in any year,—

(a) recurring expenditure not exceeding twenty-five thousand rupees,

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

(2) Where any sum is expended under circumstances of extreme urgency as provided in sub-section (1), a report thereof indicating the source from which it is proposed to meet the expenditure shall be made by the Board as soon as practicable to the State Government.

64. (1) The State Government may from time to time make subventions to the Board for the purposes of this Act on such terms and conditions as the State Government may determine.

(2) The State Government may from time to time advance loans to the Board on such terms and conditions not inconsistent with the provisions of this Act as the State Government may determine.

65. (1) The Board may from time to time, with the previous sanction of the State Government and subject to the provisions of this Act and to such conditions as may be prescribed in this behalf borrow any sum required for the purposes of this Act.

(2) Rules made by the State Government for the purposes of this section may empower the Board to borrow by the issue of debentures and to make arrangements with bankers.

(3) All debentures issued by the Board shall be in such form as the Board with the sanction of the State Government, may from time to time determine.

(4) Every debenture shall be signed by the Chairman and one other member of the Board.

(5) Loans borrowed and debentures issued under this section may be guaranteed by the State Government as to the re-payment of principal and the payment of interest at such rate as may be fixed by the State Government.

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

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

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

67. (1) Notwithstanding anything contained in section 66, the State Government may order that there shall be a concurrent audit of the accounts of the Board by such person as it thinks fit. The State Government may also direct a special audit to be made by such person as it thinks fit of the accounts of the Board relating to any particular transaction or a class of series of transactions or to a particular period.

Concurrent
and special
audit of
accounts.

(2) When an order is made under sub-section (1), the Board shall present or cause to be presented for audit such accounts and shall furnish to the person appointed under sub-section (1) such information as the said person may require for the purpose of audit.

CHAPTER VIII

MISCELLANEOUS

68. 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, and the State Government shall cause such report to be published in the *Official Gazette*. Every such report shall be laid before the State Legislature as soon as may be after it is published.

Reports.

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

Other state-
ments and
returns.

70. The Chairman or any person either generally or specially authorised by the Chairman in this behalf may, with or without assistants or workmen, enter into or upon any land, in order—

Powers of
entry.

- (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 boundaries and intended mark out lines of work,
- (e) to make such levels, boundaries and lines of works and cutting trenches, or

(f) to do any other thing, whenever it is necessary to do so for any of the purposes of this Act or any rules made or scheme sanctioned thereunder :

Provided that—

- (i) no such entry shall be made between sunset and sunrise ;
- (ii) no dwelling house and no public building which is used as a dwelling place, shall be so entered, unless with the consent of the occupier

thereof, and without giving the said occupier at least twenty-four hours' previous written notice of the intention to make such entry ;

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

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

Notice of
suit against
Board.

71. No person shall commence any suit against the Board or against any officer or servant of the Board or any person acting under the orders of the Board, for anything done or purporting to have been done in pursuance of this Act, without giving to the Board, officer or servant or person, as the case may be, two months' previous notice in writing of the intended suit and of the cause thereof, nor after six months from the date of the act complained of.

And in the case of any such suit for damages, if tender of sufficient amends shall have been made before the action was brought, the plaintiff shall not recover more than the amounts so tendered and shall pay all costs incurred by the defendant after such tender.

Quinquennial
valuation of
assets and
liabilities of
the Board.

72. The Board shall quinquennially have a valuation of its assets and liabilities made by a valuer appointed with the approval of the State Government :

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

Power to
make rules.

73. (1) The State Government may, by notification in the *Official Gazette* and subject to the condition of previous publication, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power such rules may be made for all or any of the following purposes, namely :—

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

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

(c) the manner and form in which contracts shall be entered into under section 23 ;

(d) the form of annual housing programme, budget and schedule of staff of officers and servants, particulars of housing schemes and other particulars to be contained in the programme under section 27 ;

(e) the other manner of publication of the draft of the programme under section 28 ;

(f) the form of notice under section 46 ;

(g) the rate of interest under section 47 ;

(h) the other matters to be decided by the Tribunal under section 52

- (i) the procedure to be followed by the Tribunal under section 54 ;
 - (j) the forms of notices under sections 56 and 57 and any other manner in which they may be served ;
 - (k) the procedure to be followed in taking possession of any Board premises under section 56 ;
 - (l) the manner in which damages under section 57 may be assessed ;
 - (m) the manner in which appeals may be preferred under section 59 and the procedure to be followed in such appeals ;
 - (n) the conditions subject to which the Board may borrow any sum under section 65 ;
 - (o) the manner of preparation, maintenance and publication of accounts under section 66 ;
 - (p) the date before which, the form in which, the interval at which and the matters on which reports shall be submitted under section 68 ;
 - (q) the time at which and the form and manner in which statistics, returns, particulars and statements shall be submitted under section 69 ;
 - (r) the manner in which the Board shall be superseded and reconstituted under section 83 ;
 - (s) any other matter which is or may be prescribed under this Act.
- (3) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made and shall be subject to such modifications as the Legislature may make during the session in which they are so laid, or the session immediately following.

74. The Board may from time to time, with the previous sanction of Regulations. the State Government, make regulations consistent with this Act and with any rules made under this Act —

- (a) for the management and use of buildings constructed under any housing scheme ;
- (b) the principles to be followed in allotment of tenements and premises ;
- (c) the remuneration and conditions of service of the Secretary, Housing Commissioner and other officers and servants of the Board under section 14 ;
- (d) for regulating its procedure and the disposal of its business.

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

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

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

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

76. Whoever contravenes a bye-law made under section 75 shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both. Penalty for contravention of bye-laws.

77. If any person ---

Penalty for obstructing, etc.

(a) obstructs, or molests any person with whom the Board has entered into a contract in the performance or execution by such person of his duty or of anything which he is empowered or required to do under this Act, or

(b) removes any mark set up for the purpose of indicating any level or direction necessary to the execution of works authorised under this Act.

He shall, on conviction, be punished with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.

Penalty for obstructing exercise of powers under Chapter VI.

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

Authority for prosecution.

79. Unless otherwise expressly provided, no court shall take cognisance of any offence punishable under this Act except on the complaint of, or upon information received from, the Board or some person authorised by the Board by general or special order in this behalf.

Members, officers and servants of the Board to be public servants.

80. All members, officers and servants of the Board shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code.

Protection of action taken under this Act.

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

Government's power to give directions to Board.

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

Default in performance of duty.

83. (1) If the State Government is satisfied that the Board has made default in performing any duty imposed on it by or under this Act, it may fix a period for the performance of that duty.

(2) If in the opinion of the State Government the Board fails or neglects to perform such duty within the period so fixed for its performance, it shall be lawful for the State Government, notwithstanding anything contained in section 8, to supersede and reconstitute the Board in the prescribed manner.

(3) After the supersession of the Board and until it is reconstituted the powers, duties and functions of the Board under this Act shall be carried on by the State Government or by such officer or officers as the State Government may appoint for this purpose.

Dissolution of the Board.

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

Provided that no such declaration shall be made by the State Government unless a resolution to that effect has been moved in and passed by the State Legislature.

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

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

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

(3) Nothing in this section shall affect the liability of the State Government in respect of loans or debentures guaranteed under sub-section (5) of section 65.

85. In the Bombay Building (Control on Erection, Re-erection or Conversion) Act, 1948 after section 14, the following new section shall be inserted, namely:—

Amendment
of Bcm.
XXXI of
1948.

“14A Notwithstanding anything contained in this Act, the State Government may direct that the powers conferred and duties imposed upon the Controller under this Act, shall in the area in which the Gujarat Housing Board Act, 1961 has come into force, be exercised and performed by the Housing Board constituted under the said Act”.

Delegation
of Controller's
powers to Housing
Board constituted
under Guj.
Act XXVIII
of 1961.

86. (1) On the date appointed under sub-section (1) of section 3 of this Act (hereinafter referred to as “the appointed day”) the Bombay Housing Board Act, 1948 and the Saurashtra Housing Board Act, 1954 (both referred to in this section as “the repealed Acts”) shall stand repealed.

Repeal and
consequential
provisions.

(2) On the appointed day the Gujarat Housing Board constituted under the Bombay Housing Board (Dissolution and Reconstitution) Order, 1960 and the Saurashtra Housing Board constituted under the Saurashtra Housing Board Act, 1954 (both referred to in this section as “the dissolved Boards”) shall stand dissolved and all the members of the dissolved boards shall vacate their office and on such dissolution the following consequences shall ensue, that is to say,—

(i) all rights of the dissolved Boards shall vest in the Board established under section 3 of this Act (hereinafter referred to as “the new Board”);

(ii) all property movable or immovable which immediately before the appointed day vested in the dissolved Boards shall, subject to the limitations and conditions, if any, attached thereto, vest in the new Board;

(iii) all sums due to the dissolved Boards on any account shall be sums due to the new Board and shall be realizable by the new Board in accordance with the law for the time being in force;

(iv) all debts, liabilities and obligations incurred, including any loans borrowed and debentures issued, by or on behalf of the dissolved Boards and subsisting immediately before the appointed day shall be deemed to have been incurred, borrowed and issued by the new Board in exercise

of the powers and functions conferred on it by this Act and shall be subject to the provisions of this Act and any guarantee for repayment of principal or payment of interest given before the appointed day by the State Government in respect of such loans and debentures shall be deemed to be a guarantee given under the relevant provisions of this Act and shall have effect accordingly;

(v) all contracts made and all matters and things undertaken by the dissolved Boards shall be deemed to have been made or undertaken by the new Board under this Act;

(vi) all prosecutions instituted by or on behalf of any of the dissolved Boards and all suits and other legal proceedings instituted by or against any such Board and pending immediately before the appointed day shall be continued and disposed of as if they had been instituted by, on behalf of or against the new Board under this Act or any other law for the time being in force;

(vii) all proceedings under the repealed Acts pending immediately before the appointed day before an authority or officer appointed under the repealed Acts shall stand transferred to the corresponding authority or officer competent to entertain such proceedings under this Act and shall be disposed of by such authority or officer under this Act;

(viii) all proceedings under the relevant land acquisition law pending immediately before the appointed day for the acquisition of land for the purposes of any of the dissolved Boards shall be deemed to be proceedings for acquisition of such land for the purposes of the new Board and shall be completed accordingly;

(ix) all officers and servants in the employ of the dissolved Boards shall stand allotted for service to the new Board and shall, until provision is otherwise made under the provisions of this Act, be subject to the conditions of service to which they were subject before the appointed day :

Provided that the conditions of service of any such officer or servant as applicable immediately before the appointed day shall not be varied to his disadvantage by the new Board except with the previous approval of the State Government.

(3) Anything done or action taken and any right, liability or obligation acquired, accrued or incurred under the repealed Acts and not covered by sub-section (2) shall respectively be deemed to have been done, taken, acquired, accrued or incurred under the corresponding provisions of this Act and the provisions of this Act shall apply thereto accordingly.

(4) The rules, regulations and bye-laws made under the Bombay Housing Board Act, 1948 and in force immediately before the appointed day shall in so far as they are not inconsistent with the provisions of this Act, be deemed to be made under this Act in relation to the whole of the State and shall continue in force accordingly until they are superseded by anything done or action taken under this Act.



The Gujarat Government Gazette
EXTRAORDINARY
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Vol. V]

TUESDAY, NOVEMBER 3, 1964/KARTIKA 12, 1886

Separate paging is given to this part in order that it may be
filed as a separate compilation

PART IV

Acts of the Gujarat Legislature and Ordinances promulgated
and Regulations made by the Governor.

The following Act of the Gujarat Legislature, having been assented to by the
Governor on the 31st October 1964 is hereby published for general informa-
tion.

AKBAR S. SARELA,
Secretary to the Government of Gujarat,
Legal Department.

GUJARAT ACT NO. 29 OF 1964.

(First published, after having received the assent of the Governor in the
"Gujarat Government Gazette" on the 3rd November 1964).

An Act, further to amend the Gujarat Housing Board Act, 1961.

It is hereby enacted in the Fifteenth Year of the Republic of India as follows :—

1. (1) This Act may be called the Gujarat Housing Board (Amendment) Act, 1964. Short and Comm
ment.
- (2) It shall come into force at once.

2. In the Gujarat Housing Board Act, 1961 (hereinafter referred to as "the Amendment of long ti
principal Act") for the long title the following shall be substituted, namely :— to Guj. XX
III of 19

Guj.
XXV.
III of
1961.

"An Act to consolidate and amend the law relating to the Housing Board in the State of Gujarat and its functions."

insertion of
section 72A
in Guj. XXV.
II of 1961.

3. After section 72 of the principal Act, the following new section shall be inserted, and shall be deemed always to have been inserted, namely :—

power of
board to Con-
struct build-
ings intended
for public pur-
poses on behalf
of Govern-
ment Local
authority or
corporation
owned or
controlled by
Government.

"72A. Notwithstanding anything contained in the foregoing provisions of this Act, it shall be lawful for the Board to undertake on behalf of the Government or a local authority or a corporation owned or controlled by the Government, subject to such terms and conditions including payment of cost as may be agreed upon in pursuance of a contract or otherwise, the construction of building intended to be used as a hospital, dispensary, school or for any other charitable purpose as may be entrusted to it by the Government or a local authority or such corporation :

Provided that no such construction shall be undertaken on behalf of a local authority or any such corporation except with the previous sanction of the State Government."



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Separate paging is given to this Part in order that it may
be filed as a separate compilation.

PART IV

Acts of the Gujarat Legislature and Ordinances promulgated and
Regulations made by the Governor.

The following Act of the Gujarat Legislature having been assented to by
the Governor on the 6th January, 1973 is hereby published for general
information.

S. S. SHAH,
Secretary to the Government of Gujarat,
Legal Department.

GUJARAT ACT NO. 1 OF 1973.

(First published after having received the assent of the Governor in the
"Gujarat Government Gazette" on the 12th January, 1973.

An Act further to amend the Gujarat Housing Board Act, 1961.

It is hereby enacted in the Twenty-third Year of the Republic of India as
follows :—

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

Short title
and
commence-
ment.

(2) It shall come into force on such date as the State Government may, by
notification in the *Official Gazette*, appoint.

Amendment
of section 2
of Guj.
XXVIII of
1961.

2. In section 2 of the Gujarat Housing Board Act, 1961 (hereinafter referred to as "the principal Act")—

I of
1894.

(1) after clause (10) the following clause shall be inserted, namely :—

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

(2) in clause (13), for sub-clause (2), the following sub-clause shall be substituted, namely :—

"(2) a municipality or a notified area committee constituted under the Gujarat Municipalities Act, 1963;"

Guj.
34 of
1964.

(3) clause (17) shall be deleted;

(4) for clauses (18) and (19), the following clauses shall be substituted, namely:—

"(18) "regulations" means regulations made under section 74;

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

Bom.
LVII
of
1947.

(5) after clause (22), the following clause shall be inserted, namely :—

"(22A) "urban area" means an area which for the time being is within the limits of a City, municipal borough or notified area constituted under any law for the time being in force;"

Amendment
of section 3
of Guj.
XXVIII of
1961.

3. In section 3 of the principal Act, in sub-section (3), the word "relevant" shall be deleted.

Amendment
of section 4
of Guj.
XXVIII of
1961.

4. In section 4 of the principal Act, the word "relevant" shall be deleted.

Amendment
of section 5
of Guj.
XXVIII of
1961.

5. In section 5 of the principal Act, in sub-section (1),—

(1) for the word "six" the word "ten" shall be substituted ;

(2) the following proviso shall be inserted, namely :—

"Provided that out of such ten other members two members shall be persons who possess technical knowledge and experience in the matter of construction of buildings."

Amendment
of section 8
of Guj.
XXVIII of
1961.

6. In section 8 of the principal Act, for sub-section (1), the following shall be substituted, namely :—

"(1) Every member shall hold office for such period not exceeding three years from the date of his appointment as the State Government may fix ;

Provided that after the expiry of the period of his appointment a person shall be eligible for re-appointment as a member."

7. After section 8 of the principal Act, the following new section shall be inserted, namely :—

Insertion
of new
section 8A
in Guj.
XXVIII of
1961.

“8A. If a member has been guilty of misconduct in the discharge of his duties or of any disgraceful conduct or abuses his position or makes persistent default in the performance of his duties and functions under this Act or has become incapable of performing his duties under this Act, the State Government may remove him from office after giving him an opportunity of being heard.”

Removal
of member
from office.

8. Section 9 of the principal Act shall be renumbered as sub-section (1) thereof and—

Amendment
of section 9
of Guj.
XXVIII of
1961.

(1) in sub-section (1) as so renumbered, for clause (b) the following clause shall be substituted, namely :—

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

(2) after sub-section (1) as so renumbered the following sub-section shall be added, namely :—

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

9. In the principal Act, for section 10 the following section shall be substituted, namely :—

Substitution
of section
10 of Guj.
XXVIII of
1961.

“10. Any vacancy of a member, due to death, resignation, removal, disability or disqualification or any other reason shall be filled in as early as possible :

Vacancies.

Provided that during any such vacancy the continuing members may act as if no vacancy had occurred.”

10. In section 13 of the principal Act, for the proviso the following proviso shall be substituted, namely :—

Amendment
of section 13
of Guj.
XXVIII of
1961.

“Provided that the appointment of a Housing Commissioner and of any other officer whose salary exceeds rupees one thousand four hundred per mensem shall be subject to the previous approval of the State Government.”

11. In section 15 of the principal Act, after sub-section (2) the following sub-section shall be added, namely :—

Amendment
of section 15
of Guj.
XXVIII of
1961.

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

Amendment
of section 16
of Guj.
XXVIII of
1961.

12. In section 16 of the principal Act,

(i) for the words "by or on behalf of the Board" where they occur for the first time the words and figures "by or on behalf of the Board or the Gujarat Rural Housing Board constituted under section 3 of the Gujarat Rural Housing Board Act, 1972," shall be substituted;

Guj.
22 of
1972.

(ii) for the words "by or on behalf of the Board" where they occur for the second time, the words "by or on behalf of any of the said two Boards" shall be substituted.

Amendment
of section 17
of Guj.
XXVIII of
1961.

13. In section 17 of the principal Act, after sub-section (2) the following sub-section shall be added, namely :

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

Amendment
of section 18
of Guj.
XXVIII of
1961.

14. In section 18 of the principal Act,

(I) before clause (a) the following clause shall be inserted, namely:

"(aa) the first meeting of the Board shall be called by the Chairman as soon as possible after its constitution under section 5;"

(2) in clause (a) for the words "once at least every fortnight" the words "once at least every month" shall be substituted.

Amendment
of section 21
of Guj.
XXVIII of
1961.

15. In section 21 of the principal Act, for the proviso to sub-section (I), the following proviso shall be substituted, namely:

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

Amendment
of section 24
of Guj.
XXVIII of
1961.

16. In section 24 of the principal Act, for the words "in such local area" the words "in such urban area" shall be substituted.

Insertion of
new sec-
tion 24A in
Guj.
XXVIII of
1961.

17. After section 24 of the principal Act, the following new section shall be inserted, namely:

Inclusion
of area
other
than urban
area in
Scheme.

"24A. If the Board while framing a housing scheme in respect of an urban area considers it necessary for the purpose of construction of houses under the scheme to include in the scheme a part of an area which is contiguous to such urban area but which is not an urban area, then, notwithstanding anything contained in section 24 or any other law for the time being in force, it shall be lawful for the Board, with the previous approval of the State Government, to include in the scheme such part and thereupon the part shall be deemed to be an urban area for the purposes of the scheme."

18. In section 25 of the principal Act, —
- (1) in sub-section (1),—
- (a) in clause (h) for the words “of streets and back lanes” the words “of roads, streets, backlanes, bridges, culverts and causeways” shall be substituted;
- (b) in clause (j) for the words “parks, playing fields” the words “shops, schools, parks, playing fields” shall be substituted ;
- (c) in clause (p) for the words “to provide housing accommodation” the words “to provide housing accommodation in any urban area” shall be substituted;
- (2) the following sub-section shall be added at the end, namely :—
- “(3) The Board may execute any of the matters provided in a housing scheme through any independent agency.”.
19. In section 26 of the principal Act, in sub-section (2) the following shall be added at the end, namely :—
- “Such decision shall be taken within a period of three months.”.
20. In section 27 of the principal Act, in sub-section (1), clause (iii) shall be deleted.
21. Section 28 of the principal Act shall be deleted.
22. For section 29 of the principal Act, the following section shall be substituted, namely :—
- “29. The State Government may sanction the programme and the budget forwarded to it with such modifications as it deems fit. The programme and the budget so sanctioned shall be laid before the State Legislature as soon as they may be after they are sanctioned.”.
23. Section 30 of the principal Act shall be deleted.
24. In section 31 of the principal Act, for the words and figures “sections 28, 29 and 30” the word and figures “section 29” shall be substituted.

Amendment
of section 25
of Guj.
XXVIII of
1961.

Amendment
of section 26
of Guj.
XXVIII of
1961.

Amendment
of section 27
of Guj.
XXVIII of
1961.

Deletion of
section 28 of
Guj.
XXVIII of
1961.

Substitution
of section 29
of Guj.
XXVIII of
1961.

Sanction
to
programme
and budget.

Deletion of
section 30 of
Guj.
XXVIII of
1961.

Amendment
of section 31
of Guj.
XXVIII of
1961.

- Amendment of section 32 of Guj. XXVIII of 1961. 25. In section 32 of the principal Act, for the proviso, the following proviso shall be substituted, namely :—
 “Provided that no such variation as affects the scope or purpose of any housing scheme included in such programme shall be made without the previous sanction of the State Government.”
- Amendment of section 33 of Guj. XXVIII of 1961. 26. In section 33 of the principal Act,—
 (1) the words “and published” shall be deleted;
 (2) for the words and figures “under sections 29 and 30” the words and figures “under section 29” shall be substituted.
- Deletion of section 34 of Guj. XXVIII of 1961. 27. Section 34 of the principal Act shall be deleted.
- Amendment of section 35 of Guj. XXVIII of 1961. 28. In section 35 of the principal Act,—
 (1) in sub-section (1)—
 (a) the words “or a local board” occurring at two places shall be deleted;
 (b) the words “or the local board” shall be deleted ;
 (2) in sub-sections (2), (3) and (4) and in the marginal note the words “or local board” shall be deleted.
- Amendment of section 36 of Guj. XXVIII of 1961. 29. In section 36 of the principal Act,—
 (1) the words “or the local board” and
 (2) the words “or the local board, as the case may be”
 wherever they occur shall be deleted.
- Amendment of section 39 of Guj. XXVIII of 1961. 30. In section 39 of the principal Act,—
 (1) the words “or the local board, as the case may be,”
 (2) the words “or local board, as the case may be” and
 (3) the words “or local board”,
 wherever they occur shall be deleted.
- Deletion of section 41 of Guj. XXVIII of 1961. 31. Section 41 of the principal Act shall be deleted.

32. In section 43 of the principal Act, the words "entrusted by it to the Board" shall be deleted. Amendment of section 43 of Guj. XXVIII of 1961.
33. In section 44 of the principal Act, in sub-section (2), the word "relevant" shall be deleted. Amendment of section 44 of Guj. XXVIII of 1961.
34. Sections 45, 46, 47 and 48 of the principal Act shall be deleted. Deletion of sections 45 to 48 of Guj. XXVIII of 1961.
35. For section 51 of the principal Act, the following section shall be substituted, namely:— Substitution of section 51 of Guj. XXVIII of 1961.
- "51. The District Judge for each district shall constitute the Tribunal for the purpose of exercising the powers and discharging the duties of the Tribunal under this Act." District Judge to be the Tribunal.
36. In section 52 of the principal Act, clause (c) shall be deleted. Amendment of section 52 of Guj. XXVIII of 1961.
37. Section 53 of the principal Act shall be deleted. Deletion of section 53 of Guj. XXVIII of 1961.
38. In section 54 of the principal Act, in sub-section (3) the words and figures "not being money for the recovery of which provision has been made in section 48" shall be deleted. Amendment of section 54 of Guj. XXVIII of 1961.
39. Section 55 of the principal Act shall be renumbered as sub-section (1) of that section and after sub-section (1) as so renumbered the following sub-section shall be added, namely:— Amendment of section 55 of Guj. XXVIII of 1961.
- "(2) The Tribunal shall endeavour to give its decision within six months from the date of the reference made to it."
40. In section 56 of the principal Act, in sub-section (1), in sub-clause (i) of clause (a), for the words "two months" the words "six months" shall be substituted. Amendment of section 56 of Guj. XXVIII of 1961.

Amendment
of section 60
of Guj.
XXVIII of
1961.

41. Section 60 of the principal Act shall be renumbered as sub-section (1) of that section and after sub-section (1) as so renumbered the following sub-section shall be inserted, namely:—

“(2) No Civil Court shall have jurisdiction to entertain any suit or proceeding in respect of the eviction of any person who is in unauthorised occupation of any Board premises or the recovery of the arrears of rent payable under sub-section (1) of section 57 or the damages payable under sub-section (2) of that section or any portion of such rent or damages.”.

Insertion of
new section
62A in Guj.
XXVIII of
1961.

42. In the principal Act, after section 62 the following section shall be inserted, namely:—

Revolving
Fund.

“62A. (1) Notwithstanding anything contained in section 61, the Board may create a fund to be called the Revolving Fund into which shall be credited all proceeds which may be received by or on behalf of the Board in respect of sales on instalments basis, of any building or any units therein, constructed or reconstructed by the Board under a housing scheme.

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

Amendment
of section
63 of Guj.
XXVIII of
1961.

43. In section 63 of the principal Act, in sub-section (1),—

(1) in clause (a) for the words “twenty five thousand rupees” the words “fifty thousand rupees” shall be substituted;

(2) in clause (b) for the words “one lac of rupees” the words “two laos of rupees” shall be substituted.

Amendment
of section 66
of Guj.
XXVIII of
1961.

44. In section 66 of the principal Act,—

(1) in sub-section (3) the words “in the prescribed manner” shall be deleted;

(2) after sub-section (4) the following sub-section shall be added, namely:—

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

Amendment
of section
68 of Guj.
XXVIII of
1961.

45. In section 68 of the principal Act—

(1) the words “and the State Government shall cause such report to be published in the *Official Gazette*” shall be deleted;

(2) for the words “after it is published” the words “after it is submitted” shall be substituted.

Amendment
of section
70 of Guj.
XXVIII of
1961.

46. In section 70 of the principal Act—

(1) for clause (d) the following clause shall be substituted, namely:—

“(d) to set out the boundaries and the intended outlines of work”

(2) in clause (ii) of the proviso the words "unless with the consent of the occupier thereof and" shall be deleted.

47. In section 72-A of the principal Act—

(1) after the words "owned or controlled by the Government" the words and figures "or a co-operative society registered or deemed to have been registered under the Gujarat Co-operative Societies Act, 1961," shall be inserted;

Guj. X
of
1962.

(2) after the words "or such Corporation" the words "or such co-operative society" shall be inserted;

(3) in the proviso, after the words "any such corporation" the words "or any such co-operative society" shall be inserted;

(4) in the marginal note, after the words "by Government" the words "or co-operative society" shall be inserted.

48. In section 73 of the principal Act, in sub-section (2)—

(1) after clause (b) the following clause shall be inserted, namely:—

"(bb) the allowances of members of a committee appointed under section 17;"

(2) in clause (d) for the words "annual housing programme, budget and schedule of staff of officers and servants", the words "annual housing programme and budget" shall be substituted;

(3) clauses (e), (f) and (g) shall be deleted;

(4) in clause (s) for the words "which is" the words "which is to be" shall be substituted.

49. After section 86 of the principal Act, the following new section shall be added, namely:—

"87. (1) Nothing in this Act shall affect the powers of the Board to complete, after the commencement of the Gujarat Rural Housing Board Act, 1972, the execution of any housing scheme or part thereof in any area outside the urban area, which may have been partly executed by it before such commencement in such area.

(2) Notwithstanding anything contained in sub-section (1) of section 8 but subject to other provisions of this Act a member holding office immediately before the commencement of the Gujarat Housing Board (Amendment) Act, 1972, shall continue to hold office for a period of three years from the date of his appointment."

Guj.
22 of
1972.

Guj. 1
of
1973.

Amendment
of section
73 of Guj.
XXVIII of
1961.

Insertion of
new section
87 in Guj.
XXVIII of
1961.

Savings.



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MONDAY, APRIL 2, 1979/CAITRA 12, 1901

Separate paging is given to this Part in order that it may
be filed as a separate compilation.

PART IV

**Acts of the Gujarat Legislature and Ordinance promulgated and
Regulations made by the Governor.**

The following Act of the Gujarat Legislature having been assented to by the Governor on the 31st March 1979 is hereby published for general information.

V. V. BEDARKAR,
Secretary to the Government of Gujarat,
Legal Department.

GUJARAT ACT NO. 13 OF 1979.

(First published after having received the assent of the Governor in the "Gujarat Government Gazette" on the 2nd April, 1979).

An Act further to amend the Gujarat Housing Board Act, 1961 for the purpose hereinafter appearing.

It is hereby enacted in the Thirtieth Year of the Republic of India as follows:—

- Guj. XXV-III of 1961.
1. This Act may be called the Gujarat Housing Board (Amendment) Act, Short title. 1979.
 2. In the Gujarat Housing Board Act, 1961, in section 2, for clause (22A), the following clause shall be substituted, namely:—

Amendment of section 2 of Guj. XXVIII of 1961.

“(22A) “urban area” means, an area which for the time being is within the limits of—

- (1) a city constituted under the Bombay Provincial Municipal Corporations Act, 1949 along with a peripheral area of five kilometres, or ^{Bom. LIX of 1949.}
- (2) a municipal borough constituted or deemed to be constituted under the Gujarat Municipalities Act, 1963 along with a peripheral area of five kilometres, or ^{Guj. 34 of 1964.}
- (3) a notified area constituted under the Gujarat Municipalities Act, 1963 along with a peripheral area of five kilometres, or ^{Guj. 34 of 1964.}
- (4) a nagar constituted under the Gujarat Panchayats Act, 1961 along with a peripheral area of three kilometres, or ^{Guj. VI of 1962.}
- (5) a development area or an urban development area declared under section 3 or 22 of the Gujarat Town Planning and Urban Development Act, 1976." ^{President's Act No. 27 of 1976.}
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Separate paging is given to this Part in order that it
may be filed as a separate compilation.

PART IV

**Acts of the Gujarat Legislature and Ordinance promulgated and
Regulations made by the Governor.**

The following Act of the Gujarat Legislature having been assented to
by the Governor on the 6th July, 1985 is hereby published for general
information.

J. P. VASAVADA,
Secretary to the Government of Gujarat,
Legal Department.

GUJARAT ACT NO. 8 OF 1985.

(First published, after having received the assent of the Governor in the
"Gujarat Government Gazette" on the 9th July, 1985).

AN ACT

Further to amend the Gujarat Housing Board Act, 1961.

It is hereby enacted in the Thirty-sixth Year of the Republic of India as
follows :—

1. (1) This Act may be called the Gujarat Housing Board (Amendment)
Act, 1985.
- (2) It shall be deemed to have come into force on the 1st December, 1982.

Short title
and commencing
date.

Amendment
of section 7
of Guj.
XXVIII of
1961.

2. In the Gujarat Housing Board Act, 1961, in section 7, after sub-section (1), the following sub-section shall be inserted, namely :—

Guj.
XXV;
III of
1961.

“(1-A) For the purpose of clause (a) of sub-section (1), a person shall not be deemed to hold office or place of profit under the Board by reason only that he is a Housing Commissioner.”.

Repeal.

3. The Gujarat Housing Board (Amendment (Second) Ordinance, 1985 is hereby repealed.

Guj.
Ord.
8 of
1985.